



SUMMARY OF THE VIRGINIA WIC PROGRAM

WIC is a short-term intervention program designed to strengthen families by influencing lifetime nutrition and health behaviors in a targeted, high-risk population. The Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) Program is funded through the U.S. Department of Agriculture (USDA) and is operated through local health departments, satellite and mobile clinics.

WIC provides high-quality nutritional care and food to pregnant or postpartum women and children up to age five. The program provides milk, cheese, eggs, juice, cereal, dried beans or peas, peanut butter and iron-fortified formula that supply crucial nutrients such as protein, iron, calcium, and vitamins A and C essential to this population.

WIC's combination of nutrition education, nutritious foods, breastfeeding support, and health care oversight provides not only immediate food benefits, but education that influences healthy eating habits for a lifetime. WIC is unique in that the program mandates ongoing nutrition education for all participants and/or caretakers of participants. This is provided individually and in groups by trained nutrition educators.

In May 2002 more than 129,000 Virginians were participating in the WIC Program. The participants include: 32,421 infants, 64,003 children from age 1 up to age 5, and 32,717 pregnant/postpartum/breastfeeding women. Virginia's WIC Program has an estimated potential participation of 177,395 based on data from USDA. The Program is currently in the process of contracting to estimate potential eligibles based on 2000 census data.

The USDA grant to Virginia for Federal Fiscal Year (FFY) 2002 is \$79 million. This breaks down to \$59 million for food, \$18 million for health care services and administration, and \$2 million in discretionary grants for special projects. The program is estimating another \$17 million in food dollars from its infant formula rebate program. However, \$2 million of food funds not estimated to be spent was voluntarily returned to USDA in July of this year. This will bring projected total program revenues in Virginia for FFY 2002 to \$94 million. WIC is not an entitlement program, and participation is limited by the grant funding level.

The program coordinates service delivery and outreach efforts and resources with private and public services as well as other Department of Health divisions. In addition to coordination of services and outreach, it provides all participants with comprehensive referral information on medical and social service resources.

Eligibility for the program is based upon four categories: residential eligibility, categorical eligibility, income eligibility (185 percent of poverty) and nutritional need based on a medical/nutritional assessment. WIC participants receive food instruments, or "checks", for WIC foods that can be redeemed at any of the 980 grocery stores, commissaries and drug stores that participate in the program. In FFY 2001, Virginia WIC processed over 4.3 million WIC food instruments, and these retailers received nearly \$77 million from Virginia WIC program payments.

Research findings have shown WIC to be highly effective. Children participating in WIC are more likely to have a regular source of medical care and are better immunized. Pregnant women participating in WIC receive earlier prenatal care. Numerous studies have shown that pregnant women who participate in WIC have longer pregnancies, leading to fewer

premature births; give birth to fewer low and very low birth-weight babies; experience fewer fetal and infant deaths; seek prenatal care earlier in pregnancy; and consume more key nutrients such as iron, protein, calcium and Vitamin C. In addition:

- Low-income children not enrolled in the WIC Program have a higher prevalence of anemia than those who are enrolled. The anemia rate among children at the WIC six-month re-certification is 16% lower than the rate at the WIC initial screening.
- Four and five-year-olds whose mothers participated in WIC during pregnancy have achieved better vocabulary test scores than children whose eligible mothers did not receive WIC benefits. Children who participated in WIC after their first birthday have achieved better digital memory test scores than children who did not participate in WIC

In economic terms, every dollar spent on WIC saves \$3.50 in medical costs. This has equated to \$334 million in averted medical costs for Virginia.

- It costs approximately \$520 a year for a pregnant woman in WIC. Every dollar spent on pregnant women in WIC produces \$1.92 to \$4.21 in Medicaid savings for newborns and their mothers.
- It costs, on average, \$22,000 per pound to raise a low and very low birth-weight baby to normal weight. It costs only \$40 per pound to provide WIC prenatal care benefits.

WIC promotes breastfeeding as the preferred method of infant feeding. Breastfeeding helps mothers feel close to their babies. Breast milk contains all the nutrients babies need plus antibodies and immune factors that protect them against infections. Current research shows that breastfed infants have higher IQs and less obesity than babies not breastfed. The Virginia WIC program has had great success in that over the past ten years the breastfeeding initiation rates have risen among Virginia WIC women from 24.0% to 47.8%. Even more significantly, women still breastfeeding their infants at six months has increased from 3.6% to 21.1%.

Installation of a new statewide WIC information system, WICNet, will be completed in mid-August 2002. WICNet provides WIC client case management, nutritional risk assessment, identification of appropriate food packages, and issuance of client checks to acquire the foods. Funded by USDA, the system uses a client server model with a central database of client demographic, medical, nutritional, and financial data. WICNet enhances operational efficiency and streamlines the application process for clients and WIC staff. The WICNet system has been designed to meet the following criteria:

- Focus on customer service
- Improve service delivery
- Improve the quality of information and decision-making
- Provide comprehensive accessibility regardless of location or time

WICNet provides an increased capacity to produce data and reports for state program management and information for federal review and oversight of the state WIC program.

In summary, WIC enables parents to properly feed their children during the critical early years of growth and development. This promotes normal growth, reduces levels of anemia, and improves diets. WIC improves access to regular health care services and demonstrates significant savings in health care costs. Most importantly, it provides resources that benefit the individuals served and their families for the rest of their lives.

Virginia WIC Program

WIC Program Representatives Addresses

If you have any questions or comments, please contact the Representative in your area. To determine the appropriate Representative for your area, see the map on the back. **Please do not call your local health department for assistance.** The local health department staff is not trained to answer your questions.

Representative	Territory	Address	Phone/Fax Number
Freda Bolling	Southeast	PO Box 2448, Suite 132 Richmond, VA 23219 fbolling@vdh.state.va.us	(804) 692-0187 (804) 371-6162 (Fax)
Gregory Chappell	Southwest	Roanoke Health Dept 515 8th Street. Roanoke, VA 24016 gchappell@vdh.state.va.us	(540) 857-6522 (540) 857-6524 (Fax)
Ephraim Ewing	Central	PO Box 2448, Suite 132 Richmond, VA 23219 eeewing@vdh.state.va.us	(804) 786-1920 (804) 371-6162 (Fax)
June Thompson	Northern	PO Box 2262 Purcellville, VA 20134 jthompson@vdh.state.va.us	(540) 338-3679 (540) 338-3781 (Fax)
Dennis Woodard	Eastern	PO Box 2448, Suite 132 Richmond, VA 23219 dwoodard@vdh.state.va.us	(804) 371-2904 (804) 371-6162 (Fax)

Other Members of the Food Access Compliance Team:

Sheila Brewer	Vendor	PO Box 2448, Suite 132	(804) 692-0741
Manager		Richmond, VA 23219	(804) 371-6162 (Fax)
		sbrewer@vdh.state.va.us	

Mailing Address: **Division of WIC and Community Nutrition Services**
PO Box 2448, Room 132
Richmond, VA 23218
Phone: (804) 786-5420
Fax: (804) 371-6162 or (804) 692-0223

Web Site: <http://www.vahealth.org/wic/index.htm>

Vendor Manual for the Virginia WIC Program

(Special Supplemental Food Program for Women, Infants and Children)

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Effective Date: June 1, 2003

Supersedes: July 1, 2001 Revision

Purpose:

The Abbreviated Administrative Review is an informal meeting permitted when an authorized retail store (or applicant) including his/her representative appeals a State Agency adverse action as prescribed in §246.18. The representative for the State Agency is the Division Director or his/her designee. The retail store may directly represent him/herself or be represented by legal counsel. Although legal counsel may represent the retail store, this meeting is an informal exchange and no legal formalities and/or actions will be employed.

The Abbreviated Administrative meeting between the Division Director, Food Access Team Lead and the retail store provides an opportunity to the retail store to resolve misunderstandings, and to define or consolidate the issues to be addressed during a Full Administrative Review Appeal Hearing, if applicable. The Abbreviated Administrative Review is the only option available for certain types of actions outlined in this policy. If the retail store is being retained in lieu of disqualification, then this meeting may be a time to review the terms and conditions associated with a money penalty fine (retained in lieu of disqualification), if applicable.

Policy:

The State Agency must provide an abbreviated administrative review to retail stores that appeal the following adverse actions:

- a. Denial of authorization based on a State Agency-established retail store selection criterion, if the basis of the denial is a WIC State Agency sanction or a Food Stamp Program withdrawal of authorization or disqualification;
- b. Denial of authorization based on the State Agency's retailer limiting criteria;
- c. Denial of authorization because a retail store submitted its application outside the timeframes during which applications are being accepted and processed, as established by the State Agency;
- d. Denial of authorization based on the retail store selection criteria for business integrity or for a current Food Stamp Program disqualification or civil money penalty for hardship;
- e. Termination of the Retailer Agreement because of a change in ownership or location or cessation of operations;
- f. Termination of the Retail Agreement because the retail store failed to meet the existing Selection and Authorization criterion, including but not limited to remaining price competitive and # of participants served standards, etc.;

- g. Disqualification based on a trafficking conviction;
- h. Disqualification based on the imposition of a Food Stamp Program civil money penalty for hardship; and
- i. Disqualification or civil money penalty imposed in lieu of disqualification based on a mandatory sanction imposed by another WIC State Agency.

The State Agency must provide a retail store written notification of any adverse action, the procedures to follow for an abbreviated administrative review, the cause(s) for and the effective date of the action, and an opportunity to provide a written response. An abbreviated administrative review is granted when a retail store submits a written request for a State Agency reconsideration. For some denied authorization and adverse action decisions the only administrative recourse available to the retail store is the Abbreviated Administrative Review meeting. (See Policy 1.1 for other State Agency actions which are not subject to a Full Administrative Appeal Hearing.)

Procedures:

1. The retail store/applicant has fifteen (15) calendar days from the date of receipt of the disqualification, denied authorization or adverse action to submit in writing a request for an Abbreviated Administrative Review meeting. Once an Abbreviated Administrative Review meeting has been held, the retail store will be advised if their adverse action/appeal situation is eligible for a Full Administrative Appeal Hearing.
2. Upon receipt of the retail store's acceptance of an Abbreviated Administrative Review meeting, the State Agency will telephone the retail store to confirm a date, time and place for this meeting. Failure to attend this meeting on the scheduled date and/or time will lead to the retail store forfeiting its rights to any further administrative reviews.
3. The retail store will have one opportunity to reschedule the Abbreviated Administrative Review time or date established by the State Agency. All requests to reschedule an Abbreviated Administrative Review must be in writing at least five (5) calendar days before the scheduled meeting, unless a qualified emergency occurs. It will be the Division Director's discretion to determine if the no show reason or emergency warrants a second opportunity to reschedule the meeting.
4. If the retail store representative is more than 15 minutes late from the agreed upon meeting start time, then this will be counted as a meeting "no show". This outcome means that the retail store has forfeited his/her rights to the Abbreviated Administrative Review meeting.
5. All Abbreviated Administrative Review meetings will be held in Richmond, VA. If traveling to the Richmond state office will create an undue hardship on the retail store owner/representative (i.e., travel distance greater than 3 hour drive – one

way), then the store may request a videoconferencing meeting. This option is only available if state resources (including a facility) can be used to host the videoconference. The retail store will be instructed on the closest available videoconference location that s/he must travel to.

6. During the Abbreviated Administrative Review meeting the following considerations may be discussed:
 - a. Resolution or the simplification of the issues;
 - b. Acknowledgment of the pertinent facts;
 - c. Distribution of investigative report copies or any other matters which may aid in the resolution of the issues at hand and eliminate the need for a Full Administrative Appeal Hearing (if applicable);
 - d. Terms and conditions of a possible monetary penalty fine (if applicable) for authorized retail stores being retained in lieu of disqualification.
 7. The Division Director or his/her designee will conduct the Abbreviated Administrative Review Meeting, as soon as possible, after receiving a written appeal request.
 8. **Authorized retail stores may continue to conduct WIC business until a decision has been rendered from the Abbreviated Administrative Review or until a Full Administrative Appeal Hearing decision (if applicable) has been rendered.**
 9. If, as a result of the Abbreviated Administrative Review Meeting, the Division Director and/or his/her designee finds that the information upon which it based its decision is incorrect, or if for any other reason decides that the original determination was inappropriate, he/she may reverse or modify the Agency's original determination. If, however, the State Agency finds the original determination was appropriate, the determination shall remain in effect, unless it is appealed and reversed through the Full Administrative Appeal Hearing process, if applicable.
 10. Per CFR 246.18(a)(2), **if the retail store does not request an Abbreviated Administrative Review Meeting, denial of authorization and disqualification is effective fifteen (15) calendar days after receiving the notice of adverse action.**
 11. If an Abbreviated Administrative Review meeting is requested, and held, a State Agency representative will provide written notification of the review decision, including the basis for the decision, within sixty (60) days of the date of receipt of the request for an Abbreviated Administrative Review Meeting.
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12. This State Agency's written decision will identify any new determinations and reasons supporting the outcome from the Abbreviated Administrative Review meeting. If there are any points of disagreement between the State Agency and the retail store from this Abbreviated Administrative Review Meeting, these issues should be submitted in writing by the retail store, within 10 calendar days after the retail store receives the written notification. This additional documentation will become part of the case file turned over to the Adjudication Officer, if applicable. Otherwise, the State Agency will assume

the terms, conditions and factual overview outlined in the abbreviated administrative review decision were accurate and accepted by the retail store.

13. All telephone and in-person conversations pertaining to the Abbreviated Administrative Review Meeting between the retail store and the State Agency representative shall be documented using the appropriate Agency file documentation form.
14. The Abbreviated Administrative Review Meeting decision of the State Agency's actions covered within this policy are final State Agency actions and not subject to further judicial/administrative review, unless the issue is eligible for a Full Administrative Appeal Hearing.

ACTIONS NOT SUBJECT TO AN ABBREVIATED ADMINISTRATIVE REVIEW MEETING:

The State Agency will NOT provide an abbreviated Administrative Review meeting to stores that appeal the following actions:

1. The validity or appropriateness of the State Agency's retail store limiting or selection criteria; or denial of authorization based on that criteria;
2. The validity or appropriateness of the State Agency's participant access criteria and the State Agency's participant access determinations;
3. The State Agency's determination whether a retail store had an effective policy in place to prevent trafficking and that the ownership of the retail store was not aware of, did not approve of, and was not involved in such conduct;
4. The expiration of a Retailer Agreement. If a retailer is not offered the opportunity to be reauthorized, the retailer must apply in writing for an application, and if denied, the retail store may appeal the denied authorization decision. Such notification shall be provided to participating retail stores not less than fifteen (15) calendar days in advance of the Agreement expiration date.
5. Disputes regarding food instrument payments and "Vendor Claims"; and
6. A Food Stamp Program (FSP) disqualification, which results in a disqualification from the WIC Programs

References:

Federal Regulation 7 C.F.R. 246.18
Full Administrative Appeal Hearing (1.1)
Administrative Appeal Process Request Form
Sanction Classification System (15.0)
Standard and Corporate Retailer Agreement

Virginia WIC Program Administrative Appeal Process Request Form

Store/Applicant Name			
Contact Person Name:			
Mailing Address:			
Daytime Telephone #	()	Email Address:	
Type of Adverse Administrative Actions (check one category only)	<ul style="list-style-type: none"> Denied WIC Program Authorization WIC Program Disqualification Food Stamp Program Disqualification Other _____ (please specify) 		<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Reasons/Factors Supporting Appeal Request:			
Submitted by:		Date:	

Return to: Administrative Appeal Request
 Virginia Department of Health
 Division of WIC and Community Services
 1500 East Main Street, Room 132
 Richmond, VA 23219

For WIC Program Use Only

WIC Authorization/Applicant ID _____	Date Request Received: _____
Eligible for a Full Administrative Appeal Hearing	Yes: No: <input type="checkbox"/> <input type="checkbox"/>
Reviewed by: _____	Date: _____

Policy: 1.1

Subject: Administrative Appeal Process

Section: Full Administrative Appeal Hearing

Effective Date: June 1, 2003

Supersedes: June 1, 2000 Revision

Purpose:

According to Federal Regulation 7C.F.R. Section 246.18, retail stores/applicants may request a Full Administrative Appeal Hearing when a WIC authorized retail store is disqualified or when any other adverse action as designated herein, is taken which affects the store's participation in the WIC Program. The purpose of this policy is to outline the rights conveyed to the retail store by the Commonwealth of Virginia in applying this federal requirement.

Policy:

The State Agency must provide written notification of an adverse action, the procedures to follow to obtain a full administrative review, the cause(s) for, and the effective date of the action. The State Agency must then provide Full Administrative Appeal Hearings to retail stores that appeal the following adverse actions:

- a. Denial of authorization based on the retail store selection criteria for competitive price or for minimum variety and quantity of authorized supplemental foods and/or on a determination that the retail store is attempting to circumvent a sanction;
- b. Termination of the Retailer Agreement for cause;
- c. Program disqualification; and
- d. Imposition of a fine or a civil money penalty in lieu of disqualification.

Procedure:

The following are State Agency procedures for handling a Full Administrative Appeal Hearing for retail stores that submit a written appeal request:

1. To initiate a Full Administrative Appeal Hearing, the retail store or authorized representative shall submit in writing his/her request to the State Agency within fifteen (15) calendar days of receipt of the notice of disqualification or adverse action. The retail store must specifically state the reasons why she/he is requesting a Full Administrative Appeal Hearing. The retail store may use the Request for an Administrative Appeal Process Request Form or a letter (or email note) to submit a written request. If the adverse action is eligible for a Full Administrative Review, the retail store may request both an Abbreviated and Full Administrative Appeal Hearing at the time it submits a written appeal request.
2. The retail store may directly represent him/herself or be represented by legal counsel.

Policy: 1.1

Subject: Administrative Appeal Process

Section: Full Administrative Appeal Hearing

3. Requests for a Full Administrative Appeal Hearing should be addressed to:
Virginia Department of Health – Attn: Administrative Appeal Process
Division of WIC and Community Nutrition Services
1500 East Main Street, Room 132
Richmond, VA 23219
4. The retail store shall be given the opportunity to present its case and at least one opportunity to reschedule the Full Administrative Appeal Hearing date upon the State Agency receiving a written request at least five (5) calendar days before the scheduled hearing date.
5. The retail store shall be given the opportunity to cross-examine adverse witnesses and examine the relevant evidence upon which the State Agency's action is based upon prior to the Appeal Hearing. When necessary to protect the identity of WIC Program investigators, such examination may be conducted behind a protective screen or using other electronic options.
6. **Authorized retail stores being disqualified may continue to conduct WIC business until a decision has been rendered from the Full Administrative Appeal Hearing; this adverse action shall be postponed by the State Agency pending the outcome of the hearing.** This postponement does not relieve the retailer of the responsibility of complying with all WIC Program policies, procedures, rules and USDA regulations during this period.
7. The State Agency will schedule a Full Administrative Appeal Hearing providing all parties involved sufficient advance notice of not less than ten (10) calendar days to prepare for the Hearing. The Hearing shall be rescheduled once if requested in writing by the retailer "or if other problems prevent it from being held as initially planned". The rescheduled date shall be within four (4) weeks of the original scheduled hearing date. Adequate advance notice of the time and place of the Full Administrative Appeal Hearing will be provided to all parties involved to allow sufficient time to prepare for the review.
8. Per CFR 246.18(a)(2), if the retail store does not request a Full Administrative Appeal Hearing, disqualification is imposed effective fifteen (15) calendar days after receiving the State Agency's notice of adverse action.
9. The State Agency will notify the retail store of the scheduled hearing date not less than ten (10) calendar days in advance of the actual hearing date and the retailer's rights regarding the Full Administrative Appeal Hearing process.

Policy: 1.1

Subject: Administrative Appeal Process

Section: Full Administrative Appeal Hearing

10. If a Full Administrative Appeal Hearing is requested, and held, a State Agency representative will provide written notification of the review decision, including the basis for the decision, within ninety (90) days of the date of receipt of the request. According to the evidence presented at the Hearing, an impartial decision-maker, such as an official Adjudication Officer, will determine if the State Agency has

correctly applied Federal and state statutes, regulations, policies, and procedures governing the WIC Program.

11. If a request is made for an adverse action that is not eligible for a Full Administrative Appeal Hearing, the retail store will be offered an Abbreviated Administrative Meeting, as long as the adverse action qualifies for such an alternative process. (See Policy 1.0 - Abbreviated Administrative Review)
12. All Full Administrative Appeal Hearings are held in Richmond, VA.
13. All written Full Administrative Appeal Hearing decisions are the final State Agency action and is not subject to further judicial review.

A Full Administrative Appeal Hearing request shall not be denied or dismissed unless:

- a. The request to the State Agency is not postmarked within fifteen (15) calendar days of the appellant's receipt of the notice of disqualification or adverse action.
- b. The request to the State Agency was submitted by an individual that does not have the legal and/or delegated authority to represent the owner.
- c. The retailer or his/her authorized representative withdraws the request in writing.
- d. The retailer or his representative fails, without good cause, to appear at the scheduled hearing date/time. If a retail store fails to appear at the designated time and location, after being given a 15 minute grace period, then the store loses their right to have a Full Administrative Appeal Hearing and/or rescheduling the hearing, unless they can provide documentation which justifies their tardiness and/or failure to appear.
- e. The retailer and/or representative exhausts his/her opportunity to have the hearing rescheduled on a date within four weeks of the original hearing date.
- f. The retailer requests a review of "State Agency Actions" covered **only** under the Abbreviated Administrative Review Process (See Policy 1.0 - Abbreviated Administrative Review).

Subject: Administrative Appeal Process

Section: Full Administrative Appeal Hearing

ACTIONS NOT SUBJECT TO A FULL ADMINISTRATIVE APPEAL HEARING:

The State Agency will **NOT** provide a Full Administrative Appeal Hearing to retail stores that appeal the following actions:

1. The validity or appropriateness of the State Agency's retail store limiting or selection criteria; or denial of authorization based on that criteria;
2. The validity or appropriateness of the State Agency's participant access criteria and the State Agency's participant access determinations;
3. The State Agency's determination whether a retail store had an effective policy in place to prevent trafficking and that the ownership of the retail store was not aware of, did not approve of, and was not involved in such conduct;
4. The expiration of a Retailer Agreement. If a retailer is not offered the opportunity to be reauthorized, the retailer must apply in writing for an application, and if denied, the retail store may appeal the denied authorization decision. Such notification shall be provided to participating retail stores not less than fifteen (15) calendar days in advance of the Agreement expiration date.
5. Disputes regarding food instrument payments and "Vendor Claims"; and
6. A Food Stamp Program (FSP) disqualification, which results in a disqualification from the WIC Program.

References:

Abbreviated Administrative Review Policy 1.0
Administrative Appeal Process Request Form

Subject: Communications

Section: State Agency Relationship with Retailers

Effective Date: August 1, 2002

Purpose: To identify the various levels of communications between the Virginia WIC Program, individual and corporate retail stores related to WIC Program policies, procedures and operational issues.

Procedures:

General Communications

1. Retail stores are encouraged to regularly contact (via telephone, facsimile transmission, U.S. mail, e-mail) their assigned Agency Representative with any Program participation questions, comments, participant complaints, reimbursement questions or any other concerns pertaining to the Virginia WIC Program.
2. Retail stores must not contact local WIC staff with questions related to reimbursement issues, participant's food instrument prescriptions, authorization status inquiries, etc. since local WIC staff are not responsible for providing this type of support to retail stores. There is no assurance that information given at the local WIC office level is accurate and reflects actual retail store management policies and procedures.
3. When contacting the State WIC office (Richmond location) by telephone with a question, retail stores should record the name of the person s/he spoke with and when, in case additional follow up is required.
4. There are times when the retailer must comply with Program requirements and send in written communication to the State WIC Program within a specified time. For example, the retail store Agreement identifies that any change in ownership, hours of operations, voluntarily withdrawal, or other conditions affecting WIC Program authorization and/or peer group designation must be submitted in writing within 15 calendar days to the State WIC Program (please refer to the Retail Store Agreement for other changes that require written notification).
5. A self-addressed postcard can be mailed to the State WIC Program by the retail store to notify the State Agency of certain status changes. Once received by the State WIC Program, this postcard will be used to void or terminate the store's authorization status. If the self-addressed postcard is not available, the retail store may submit a letter via US Mail or by facsimile transmission to the State WIC Program.

Subject: CommunicationsSection: State Agency Relationship with Retailers

Written Communications

1. With any/all written communications sent by a retail store it must include the following information so that appropriate follow up action can be taken, specifically: store's full name, WIC authorization number, contact person name, daytime telephone number, email address, facsimile number (if applicable) and mailing address (if different than store mailing address).
2. The State Agency shall maintain complete files for each authorized store participating in the Program. These centralized "retail store" files are located in the Richmond, VA central office. These centralized files shall include, but are not limited to, retailer written requests for an application, pre-authorization visit results, submitted price lists, minimum stocking documentation, signed original Agreement, amendments and/or waivers, Vendor Claim documentation, applicant denial letter, if applicable, complaints, monitoring forms, status change documentation, compliance investigation reports, sanction notices, Training Letter of Intent, etc.
3. All authorized stores' central files and written correspondence shall be retained for a minimum of five years. If any litigation, Vendor Claim, audit or other actions involving these records has been started before the end of the five year period, these records shall be kept until all issues are resolved, or until the end of the five year period, whichever is later.
4. All correspondence retained in the State Agency's centralized files pertaining to a store's authorization, redemption, and/or compliance history is considered confidential and is protected under Federal regulations. This does not preclude access to these files by state, local and Federal personnel who are responsible for the management and administration of the WIC and Food Stamp Programs.
5. Stores may request in writing copies of records and correspondence maintained on their individual stores. The State Agency may charge an administrative fee to cover the cost of providing these copies. Retail stores can make prior arrangements with the Vendor Manager and come to Richmond in order to review their store's centralized files.
6. The State Agency shall maintain complete files for each inactive store (e.g. terminated, voluntarily withdrawals, disqualified, etc.). Inactive retail store files are maintained for a minimum of two years and then purged using a secure document destruction option. These "retail store" files are located in the Richmond, VA central office.
7. The State Agency sends written correspondence to retail stores via regular US Mail. Some examples of routine correspondences sent to retail stores includes but is not limited to: general program updates, Working With WIC Retailer Bulletin, public informational meeting announcements, price survey mailings, compliance investigative notices (no violations letters) etc.
8. The State Agency sends non-routine written correspondence via certified mail to affected retail stores and corporate contacts, including but not limited to denied authorization letter (if applicable), warning letters; compliance investigation letters with "chargeable" violations, disqualification letter, administrative appeal hearing findings, high risk and other status change correspondence.

Subject: Communications

Section: State Agency Relationship with Retailers

9. Any written correspondence that may result in an adverse action being taken against a retail store such as administrative removals and State Agency initiated terminations are sent via certified mail.

Reference:

- Retail Store Agreement and Application Form
- Retail Store Manual – Who and How to Contact the WIC Program
- Complaint Handling Policy (3.0)
- Reimbursement of Returned WIC Food Instruments Policy (9.0)
- Post Payment Review of WIC Food Instruments Policy (9.1)
- Retailer Selection and Authorization Policy (14.0)
- Sanction Classification System Policy (15.0)

Subject: CommunicationsSection: WIC Program Retail Store Manual

Effective Date: August 1, 2002

Purpose: The Retail Store Manual is designed to communicate policy and procedural issues that affect retail stores participating in the Virginia WIC Program. A complete Retail Store Manual includes: policy and procedures insert pages, WIC Approved Food List, Cashier Training Guide and a copy of the Retail Store Agreement or attachment form for corporate sponsored stores.

Procedures:

Retail Store Manual for the Virginia WIC Program

1. The WIC Program Retail Store Manual is the primary resource used to communicate operational, procedural and program compliance issues affecting retail stores. **Each authorized retail store must keep a current copy of the Retail Store Manual at the store location.** An extra copy of the Retail Store Manual may be purchased for off-site use. Stores that are authorized under an individual retail store Agreement are required to keep the signed copy of the retail store Agreement in their manual.
2. One copy of the Retail Store Manual is provided to each WIC authorized store at no charge. If an authorized store is unable to locate their Retail Store Manual, then a replacement Retail Store Manual may be purchased by sending a \$20.00 money order or cashier check to the Vendor Manager.
3. Stores with a corporate retail store Agreement with the State WIC Program may request one or more copies of the Retail Store Manual for use by support staff located at their corporate offices.
4. Periodically, individual policies may be updated and distributed to all WIC authorized retail stores to reflect Federally mandated regulatory changes and other State WIC Program requirements. Retail stores are responsible for keeping their WIC Program Retail Store Manual updated when policy updates are mailed to them.
5. Draft policies are labeled in the “supersedes section” with the text “Draft”. Copies of “Draft” policies are included in the Retail Store Manual, when a United States Department of Agriculture (USDA) approved policy does not exist. The State WIC Program’s administrative procedures will be governed by these “Draft” policies, until an approved one is available.
6. Policy replacement pages and new section dividers will be distributed to all retail stores during each contract reauthorization period.
7. Commonly used retail store forms are included in the Retail Store Manual.

Retail Store Management Policy Development

1. As the WIC Program's business needs evolve, new policies may need to be developed. Policies that have a potential financial impact upon retail stores will be published in a "Draft" format. To ensure the soundness of policies before they are finalized, the State WIC Program will solicit the opinions of retail stores, both formally and informally into the policy development process. Depending upon the impact of a policy and procedural change, the State WIC Program may hold public informational meetings to explain policy changes and their possible impact upon stores. Retail stores will have an opportunity to provide either written or verbal comments on these "draft" policies before the State WIC Program finalizes them. The State WIC Program will give a minimum of 30 calendar days to retail stores to submit their written comments on "draft" policies. After reviewing any comments received, it is ultimately the State WIC Program that makes the final decision on any operational and procedural policy changes.
2. New policies and procedures that may have a significant financial impact (e.g., Sanction Classification, Selection and Authorization, Minimum Food Stocking Requirement, etc.) on a store's decision to remain in the Program will be mailed to all authorized stores. Unless the State Agency receives written notification within 30 calendar days from a participating store, after this mailing has been completed, it is assumed the retail store agrees and accepts the policy changes being implemented.
3. Both United States Department of Agriculture (USDA) and the Virginia Office of the Attorney General must review all retail store management policies before they are fully "enforceable through WIC Program administrative procedures.
4. A copy of approved policies that have not been included in the standard policy pages directly distributed to retail stores may be requested by writing to the State WIC Program or may be obtained via the Virginia Department of Health's Agency website address: <http://www.vdh.state.va.us>.
5. The State Agency will send a copy of any relevant policies with any written correspondence that supports the State Agency taking any adverse administrative actions against a retail store, including but not limited to: Program disqualification, termination, high risk status changes etc.

WIC Approved Food List

1. WIC authorized stores must place a copy of the most recent Virginia WIC approved food list at each cash register.
2. When the WIC Program has made significant changes to the food list, then a revised food list is printed and distributed to all retail stores, corporate offices, participants, state and local WIC staff.

Policy: 2.1

Subject: Communications

Section: WIC Program Retail Store Manual

3. The food list provides general WIC approved food guidelines. The WIC food instrument may be custom-tailored (i.e., non-standard products, quantities, sizes, etc) to meet the unique nutritional requirements of a participant and must be the ultimate document used to identify what food/formula have been prescribed to a specific participant. **If a store has questions about a food item not stated on the WIC Approved Food list, they must accept the food instrument and immediately contact their assigned Agency Representative. The retail store will be paid for these food instruments, as long as these food instruments meet all other Program check handling requirements.** If the food instrument was printed with a prescription error by the local WIC agency, then the State Agency will make every reasonable effort to pay the deposited food instrument and flag it for further internal, administrative follow up.

Cashier Training Guide/Other Training Resources

1. A copy of the Cashier Training Guide must be located in the Retail Store Manual.
2. Retail Stores may obtain extra copies of the WIC Food List and Cashier Training Guide by submitting a Retail Store Material/Supply Request form.

References:

- Retail Store Agreement and Application Form
- Retail Store Material/Supply Request Form
- Retailer Advisory Committee Policy (2.2)
- Retail Store Training Policy (11.0)

Policy: 2.2

Subject: Communications

Section: Retailer Advisory Committee

Effective Date: January 1, 2003

Purpose:

The Retailer Advisory Committee serves as a communication forum between authorized WIC retail stores, corporate retail entities, professional trade organizations, major food distributors/suppliers and the Virginia WIC Program. This Committee provides both formal and informal feedback to the State Agency on existing policies and procedures, policy changes, overall program goals and objectives that impact the retailer community. **This Committee's role is exclusively advisory and is not a policy-making body.**

Individuals who serve on this Committee agree to represent the interest and viewpoint of multiple stores authorized in the Program. This outcome is achieved by soliciting comments from the stores s/he represents and bringing operational issues to WIC Program management's attention.

Procedures:

1. The Retailer Advisory Committee shall consist of members who are selected to serve as representatives from their respective region or corporation. Representatives from four regions shall serve on this Committee. This geographical regional breakdown includes:
 - Northern
 - Central
 - Eastern
 - Southwest
2. The Retailer Advisory Committee shall consist of 19 members. The advisory committee membership makeup includes:
 - Peer Group One (4)
 - Peer Group Two (4)
 - Peer Group Three & Five (8)
 - Professional Trade Association/ Major Distributors & Suppliers (3)
3. For Peer Groups 1 and 2 advisory committee candidates shall receive twenty different signatures from WIC authorized retail owners or managers within the candidate's region. The State Agency selection of members will consider those candidates that have submitted diversity in location, size and type of retailers he/she plans to represent.

Subject: Communications

Section: Retailer Advisory Committee

4. Peer Groups 1 and 2 candidates that fail to obtain the twenty signatures minimum may still submit their nomination form to the State Agency by the stated due date. The State Agency reserves the final approval decision pertaining to each candidate's suitability to serve on this committee. The State Agency will notify in writing the selection decision for each candidate nominated.
5. For Peer Groups 3 and 5 (i.e., corporate chains), candidates shall be exempt from the required signature process. These type of stores are expected to bring a statewide perspective to the committee decision-making process.
6. An open invitation will exist for interested commissaries and **pharmacies** to participate in the Retailer Advisory Committee process. A copy of the Advisory committee agenda will be sent to commissaries and **pharmacies** contact persons known to the State WIC Program.
7. Peer Groups 1 and 2 candidates must submit a nomination form with the required signatures by the **15th** of October for consideration for the upcoming year. Peer Groups 3 & 5 corporate entities must submit to the Vendor Manager the name, mailing address, telephone and facsimile number and email addresses of their representatives by October **15th** each year.
8. The State WIC Program will notify the eight corporate entities that are eligible to participate on the advisory committee. The eight business entities will be selected based upon number of participants served by their corporate-sponsored stores participating in the WIC Program. Only one representative from each business entity will serve on the Committee. The selected corporate entities may decline participating on the Committee. The State WIC Program will offer these "open" positions to other interested corporate entities.
9. All committee members term will commence as of January 1, 2003. Half the committee members shall serve a one year term and half shall serve a two year term. A member may serve after the expiration of the member's term until a successor has taken a seat on the committee.
10. All committee members representing retail stores must own/operate stores that are WIC authorized, except Professional Trade Association/major distributor and/or supplier representatives.
11. Committee members failing to attend two meetings during a single calendar year may have their membership status terminated. If this outcome occurs then the State WIC Program will solicit a replacement from the region/peer group affected.
12. Committee members may send a substitute to these quarterly meetings, if s/he is unable to attend. In selecting a substitute, it is the committee members' responsibility to debrief the substitute on his/her expected participation role.

Subject: Communications

Section: Retailer Advisory Committee

13. Meetings shall be held at least quarterly (March, June, September and December). A State WIC Program Agency Representative shall serve as the meeting facilitator. The State Agency will make arrangements for the physical location of the Retailer Advisory Committee meetings.
14. The Retailer Advisory Committee shall elect a Chairperson that will work with the Vendor Manager to identify agenda items for the quarterly meetings.
15. The Retailer Advisory Committee meetings are open to other State, local WIC Program staff and invited guest presenters to attend. Observers must schedule seating reservations prior to attending a meeting. Observers may not participate in meeting activities; address questions or solicits response from members while a meeting is in progress.
16. All Retailer Advisory Committee member's name and a mailing address will be posted on the agency's web site for all retail stores to access.
17. The Retailer Advisory Committee meetings notes and minutes will be posted on the agency's web site for all retail stores to access.

Reference:

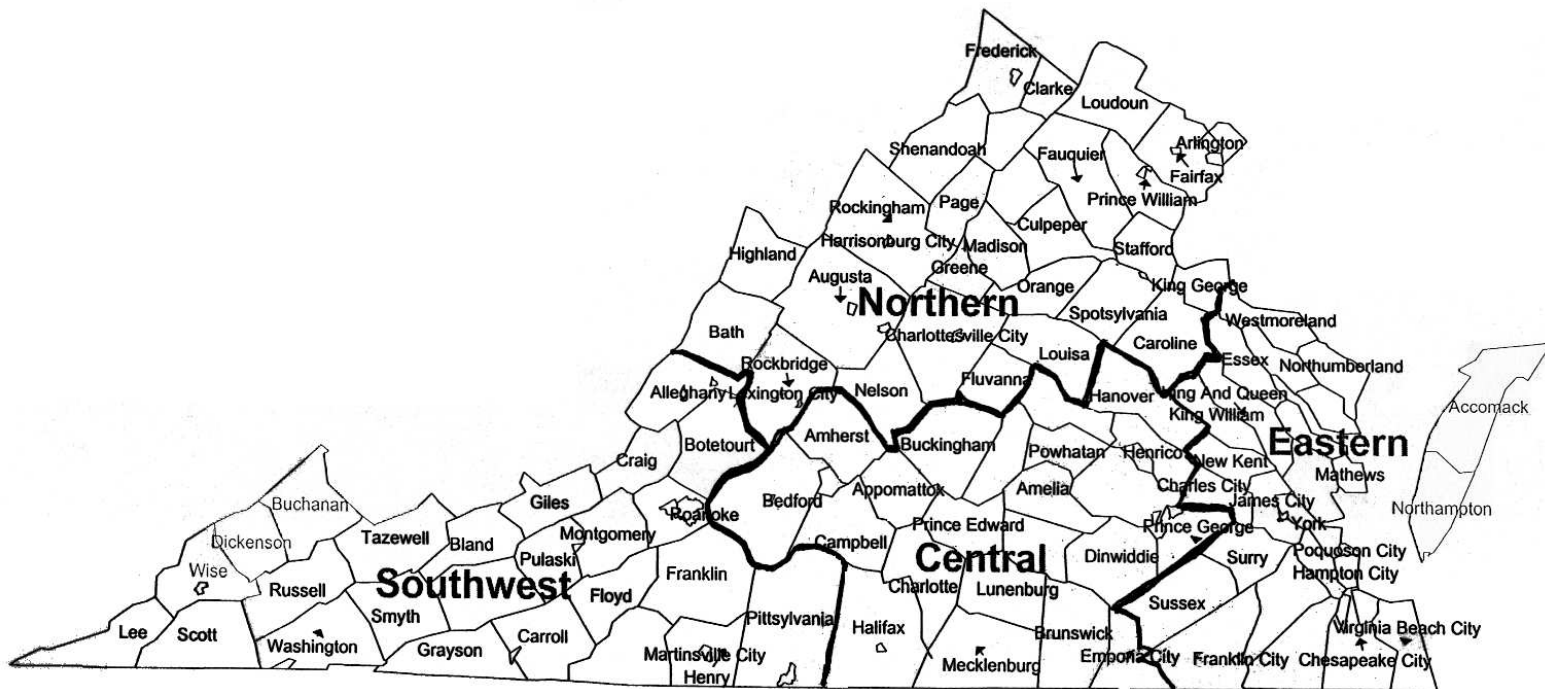
- FORMS – Retailer Advisory Committee Regions
- FORMS – Retailer Advisory Candidate Signatures

**VIRGINIA DEPARTMENT OF HEALTH
DIVISION OF WIC & COMMUNITY NUTRITION SERVICES
WIC Program Retailer Advisory Committee Nomination**

We, the undersigned as an authorized Virginia WIC retailer, by my signature hereby respectfully propose the selection of _____ as a member of the Retailer Advisory Committee for the region _____ / _____ peer group for the term beginning _____. The WIC retail owner or manager in their own handwriting shall execute signatures on the candidate nomination form. All incorrect WIC numbers or the same retail store more than once on this nomination form shall make that undersigned invalid.

	WIC NUMBER	RETAILER NAME	PERSONS NAME (print)	DATE
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				
13.				
14.				
15.				
16.				
17.				
18.				
19.				
20.				

Advisory Committee Regions



Policy: 2.3

Subject: Communications
Retailer Bulletin

Section: Working With WIC

Effective Date: August 1, 2002

Purpose: The State Agency communicates policy and procedural changes, training issues, WIC food instrument processing tips and cashier reminders and alerts affecting retail stores in an informational newsletter.

Procedures:

Working With WIC Retailer Bulletin

8. The WIC Program publishes and distributes a newsletter to all authorized stores, corporate contacts, local health districts, state WIC staff and other interested parties. This newsletter is published at least bi-annually.
9. Distributed newsletters should be saved and placed in the Retail Store Manual in the Communications section for future reference and training purposes. Retail stores are strongly encouraged to make this resource readily available to all employees responsible for WIC business operations and handling WIC transactions. ***The Working With WIC Retailer Bulletin is an educational tool used to inform retail stores and other interested parties about WIC Program changes and compliance issues.***
10. A special edition of the ***Working With WIC Retailer*** Bulletin will be used to document annual training has been provided to retail stores as required in federal regulations, §246.12(i)(1).
11. Retail stores are encouraged to contact their assigned Agency Representative with story ideas and/or topics that should be considered for future editions.

References:

Retail Store Training Policy (11.0)

Policy: 3.0

**Subject: Complaints
Procedures**

Section: Handling ComplaintsEffective Date: August 1, 2002
Revision

Supersedes: July 1, 2001

Purpose: The State and local WIC agencies maintain a system of accepting, documenting and investigating all written complaints submitted by retail stores, participants and the public.

The Virginia WIC Program is interested in knowing about specific problems retail stores may experience with participants using their checks. Identifying check handling errors involving WIC participants and submitting a complaint form, when appropriate, enables the WIC Program to follow up and take administrative, educational and counseling actions. The Local Agency discusses all submitted complaints with the participant identified and reviews correct procedures. The Virginia WIC Program sanctions WIC participants as well as retail stores that abuse or misuse the Program.

The State Agency strongly encourages retail stores to use the complaint handling process to help it ensure Program integrity and consistent service to eligible WIC participants. The State Agency recognizes that some retail stores are reluctant to submit complaints about participants, since they are concerned about creating a negative customer shopping experience. However, the complaint handling process is the State Agency's way to educate and remind WIC participants about their responsibilities using WIC checks. This process helps the State Agency identify those participants that require additional training or counseling from the Local Agency. Failure to submit written complaints about participant's behavior and/or educational or training needs reinforces the undesired behavior.

The scope of this policy is to identify the retail store's and State Agency's roles in handling complaints. This policy also provides an overview of the administrative procedures taken by the State Agency on complaints submitted by participants pertaining to service barriers experienced at stores handling WIC transactions. Please note: these procedures also apply to non-authorized retail stores who mistakenly accept WIC checks from participants.

Procedures:

1. The State Agency shall handle complaints according to the nature of the complaint.
 - a. Generally, the State Agency will refer all complaints (WIC form #387) of participant irregularities to the Local Agency for further investigation and

disposition. **(See Policy 3.1 Procedures for Handling Complaints against WIC Participants for details.)** The State Agency has established sanctioning guidelines for the Local Agencies to apply in these cases.

- b. The State Agency will investigate and follow-up on submitted complaints (WIC form #345) that identifies retail store irregularities. This follow up includes, but is not limited to, contacting the store by telephone, in writing or in-person to discuss the nature of the complaint. The State Agency will not give to the retail store specific information, which identifies the name of the participant submitting the complaint. **(See Policy 3.2 Procedures for Handling Complaints against WIC Authorized Retailers for details.)**

Policy: 3.0

**Subject: Complaints
Procedures**

Section: Handling Complaints

- c. The State Agency will forward all complaints of civil rights irregularities to the Secretary of Agriculture as required by federal regulation **(See Federal Regulations 7CFR Parts 246.8).**

References:

- Federal Regulations 7CFR Parts 246.8 and 246.12
- FORMS - Retailer Agreement and Application form
- Retailer Selection and Authorization Policy (14.0)
- Sanction Classification System Policy (15.0)
- FORMS - Vendor Complaint Form (WIC #387)
- Virginia WIC Program Procedure Manual
- FORMS - WIC Program Complaint Form/Side A: Complaint Against Vendor (WIC #345)

Policy: 3.1

**Subject: Complaints
Participants**

Section: Handling Complaints against WIC

Effective Date: August 1, 2002
Revision

Supersedes: July 1, 2001

Purpose: *To identify the procedure that retail stores should use to submit complaints or to request additional training of a WIC participant, caretaker, parent and/or proxy.*

Summary of Procedures:

- ❖ Retailer completes complaint form (WIC #387) or other written communications – see FORMS section.
- ❖ Make sure to include all essential identifying information on the participant and a complete description of the incident.
- ❖ Retailer should forward complaint to the Vendor Manager.
- ❖ The State Agency will take appropriate action according to its established guidelines.
- ❖ The State Agency may acknowledge receipt of a complaint, but will not provide feed back to retailer on specific action taken with a participant.

Details of Procedures:

1. The **Vendor Complaint Form** (WIC #387) or other written communication will be used to report all essential facts and information regarding an incident of undesirable participant behavior, which takes place related to handling a WIC transaction. ***The State Agency recommends that retail stores use this form to submit complaints or to request additional training of a WIC participant.***
2. Essential facts that must be completed with all submitted complaints include:
 - a. **Vendor's (Retail Store) Authorization Number**
 - b. Store Name, Address and Telephone number (*in case additional questions exist*)
 - c. **Family ID #**
 - d. Local Agency Code
 - e. A complete description of the incident or type of follow up being requested.

The Family ID # and Local Agency Code are located in the top left-hand corner of each WIC food instrument. Complaints submitted without all essential facts hinder the State and Local Agency's abilities to take definitive, preventive actions.

Policy: 3.1

**Subject: Complaints
Participants**

Section: Handling Complaints against WIC

3. The retail store should keep a copy of the Vendor Complaint Form (#387). The retailer should mail the original complaint form to:

Attn: Vendor Manager
Division of WIC and Community Nutrition Services
PO Box 2448, Room 132
Richmond, VA 23218

4. The State Agency distributes all written complaints (WIC #387) to the Local Agencies for further investigation and follow-up. (The retailer should attach to the complaint form a copy of the deposited and returned WIC food instrument if available.)
5. If an authorized retail store has accepted an ineligible WIC food instrument (e.g., WIC food instrument was used before the valid spend through dates) and has not deposited it, the retailer should send the original food instrument, with an accompanying complaint form (WIC #387) to the State Agency. The State Agency may consider these food instruments and approve them for reimbursement using the ACH (Automatic Clearinghouse) direct deposit process.
6. The State Agency shall follow-up on each written complaint (WIC #387). Depending upon the nature of the complaint, this follow up action may include a written response sent to the participant, telephone call(s) or documentation placed in the participant's file. **The State Agency considers the specific administrative action taken by the Local Agency on any specific complaint confidential. Therefore the Virginia WIC Program will not communicate back to the retail store the specific follow up action taken based upon the submitted complaint.** The Virginia Program Procedures Manual outlines the specific administrative actions a Local Agency is expected to take. A copy of this policy is available to retail stores, upon request.
7. The State Agency shall monitor its Local Agency's compliance in performing the appropriate follow-up on all submitted vendor complaints.
8. The State Agency also encourages retail stores to contact the Program to report **suspected** program non-compliance that may exist with participants. The complainant may provide this information anonymously and by telephone. Persons making these types of complaints should direct them to the State Agency's Program Fraud and Abuse Coordinator. Examples of situations that may fall into this category include:
 - a. Customers who store personnel suspect are WIC participants attempting to return formula for cash, credit or exchange,
 - b. Participants attempting to sell their food instrument(s) for cash, etc.

References: Federal Regulations 7CFR Parts 246.8 and 246.12
FORMS – Vendor Complaint Form WIC ID #387
Virginia WIC Program Procedure Manual

Policy: 3.2

Subject: Complaints
Retailers

Section: Handling Complaints against WIC

Effective Date: August 1, 2002
Revision

Supersedes: July 1, 2001

Purpose: The State Agency maintains a system of accepting, documenting and investigating all written complaints submitted by WIC participants and Local Agency staff against retail stores.

Summary of Procedures:

- ❖ Participant completes a complaint form (WIC #345) or other written communications. Some participants may require assistance from the Local Agency in completing the form.
- ❖ Make sure to include all essential identifying information on the retailer, store personnel involved (including name), and a complete description of the incident.
- ❖ If possible, a store receipt from the WIC purchase should be attached to the complaint form, to ensure appropriate follow up action can be taken.
- ❖ Participant should forward complaint to the Vendor Manager.
- ❖ The State Agency will take appropriate action according to its established guidelines.
- ❖ The State Agency may acknowledge to the participant that it has received the complaint, if additional background information is needed for follow up purposes.

Details of Procedures:

1. The **WIC Program Complaint Form/Side A: Complaint Against Vendor** (WIC #345) or other written communication will be used to report all essential facts and information regarding incident(s) of a WIC-authorized retail store's adverse action/behavior related to handling a WIC transaction. ***WIC participants and Local Agency staff primarily use this form to report service issues identified at an individual retail store.***
2. If the complaint involves a ***major, critical or serious violation*** of WIC Program policies or procedures, as outlined in the Sanction Classification System policy, the State Agency shall select these stores for covert compliance investigation monitoring. Some common examples of the types of complaints that fall into this category include but are not limited to:

- Store personnel requires a participant to pay for food(s) purchased because a WIC check was rejected for payment;
- Store personnel requires a WIC participant to return food(s) purchased because a WIC check was rejected for payment;
- Store sells to a WIC participant expired or out of date formula/food item(s).

Policy: 3.2**Subject: Complaints
Retailers****Section: Handling Complaints against WIC**

3. The State Agency shall instruct the retailer on the correct procedures for handling these types of situations. The State Agency will send a written warning letter to the store documenting the complaint, but will not assess sanction points or a monetary penalty fine. However, the State Agency shall select the store for additional compliance investigation to validate the complaint.
4. If the complaint involves a **technical program violation** of WIC Program policies or procedures, the State Agency shall seek corrective action only, if applicable. Some common examples of technical violation complaints submitted by participants include but are not limited to:
 - Store personnel refuses to sell a WIC approved food(s) to participants;
 - Participant feels s/he was not treated with courtesy and respect while using his/her WIC check(s);
 - Cashier or store personnel requires participant to sign his/her WIC check(s) before writing in a dollar amount of the sale;
 - Participant is required to purchase a store brand or the store inappropriately limits his/her purchasing choice of a WIC approved food item(s)/formula;
 - Store personnel refuses to accept coupons for WIC purchases.
5. The State Agency follows up on all complaints within twenty (20) working days, after it receives the complaint. This follow-up action may include contacting the WIC participant, retail store and local health agency to obtain additional information or sending a written warning letter to the store. The State Agency shall base the administrative action it takes on the nature of the complaint and shall file the complaint in the retail store's central file for future reference. The State Agency will consider a store's documented complaint history during the contract reauthorization process. This history may affect the store's authorization status.
6. If a the State Agency receives three or more written complaints of a technical program violation made by different individuals against a store within a twelve consecutive month period, it shall conduct a compliance investigation of the store.

Policy: 3.2

**Subject: Complaints
Retailers**

Section: Handling Complaints against WIC

7. The State Agency encourages retail stores to contact the Virginia WIC Program to report ***suspected*** program non-compliance that may exist at other authorized and non-authorized retail stores. The complainant may provide this information anonymously and by telephone. Persons making these types of complaints should direct them to the Vendor Compliance Coordinator or Vendor Manager. The State Agency will make reasonable efforts to validate these complaints through compliance investigation monitoring activities.

Reference:

- FORMS - WIC Program Complaint Form /Side A (WIC #345)
- General Complaint Procedure Policy (3.0)
- Retailer Procedures for Submitting a Complaint Against Participants Policy (3.1)

Policy: 4.0

**Subject: Contract Agreement and Application
Retailer (Vendor)**

**Section: Extension of
Contract**

Agreement

Effective Date: August 1, 2002
Revision

Supersedes: July 1, 2001

Purpose: A fully executed Retailer Agreement must be on file in the State Office (Richmond) for all Virginia WIC authorized retail stores. The Retailer Agreement can be either an individual (Standard) or Corporate Agreement granting authorization. Under limited circumstances, as outlined below, an extension of the existing Agreement will be made by the State Agency.

Policy:

1. In the event a participating retailer's existing contract agreement expires and an Administrative Appeal is being pursued by the retailer, a new contract agreement will not be offered to the retailer. The State Agency shall grant an extension from the September 30 ending date up to four (4) months.
2. The State Agency will hold the retailer responsible for all WIC Food Instruments cashed during this time, accordingly to all specifications outlined in the Retailer Agreement and any general instructional updates sent to participating retailers.
3. The State Agency will proceed to terminate retailers whose hearing decision is in favor of the state.
4. If the hearing decision is in favor of the retailer, the State Agency will proceed to process the retailer's new Agreement and Application form to determine if the store meets the selection and authorization criteria.

Procedures:

1. The State Agency will send a letter via certified mail to the retailer specifying an extension is being granted and the time period associated with the extension. If the retailer does not agree with the terms and conditions associated with the extension, he/she must respond in writing (within 15 days of receipt) that the terms are not being accepted. If the retailer uses this option, the Retailer Agreement becomes immediately null and void.
2. Once a hearing decision is rendered, the State Agency will send a letter specifying disqualification dates or a new Retailer Agreement will be mailed (whichever applies).
3. If the retailer is disqualified, the State Agency will terminate the store's WIC authorization, after written notice is provided.

Reference:

Vendor's (Retailer's) Right of Appeal Policy

FORMS – Standard Retailer Contract Agreement and Application form

FORMS – Corporate Retailer Contract Agreement and Application form

Policy: 4.1

Subject: Contract Agreement and Application
Authorization

Section: Temporary

Effective September 1, 2003

Purpose: In the event of a natural disaster, officially declared by the Governor, the WIC Program may offer temporary authorization to stores not authorized under the existing Corporate Retailer Agreement. This option exists for corporate entities that have a valid Corporate Retailer Agreement in place with the State Agency. Stores covered under a Standard Retailer Agreement, which authorizes a single physical location, are not eligible for this option.

Policy:

5. In the event of a natural disaster the WIC Program may grant emergency, short term authorization (no longer than 60 calendar days) to individual stores associated with a single corporate entity to accept WIC food instruments.

Procedures:

1. The WIC Program will contact, in writing, the operational corporate contact to request the additional background information needed to issue a temporary authorization stamp and setup a "Vendor Record in its computer system.
2. The WIC Program will notify the corporate entity in writing the expected duration of the store(s) short term (emergency) authorization status.
3. Emergency authorization will not be granted after the fact or when an individual store mistakenly accepts WIC checks, even though it is not authorized by the WIC Program. An official request and acceptance of WIC Program authorization under the existing Corporate Retailer Agreement must be in place for corporate sponsored stores to be eligible for emergency authorization.
4. A natural disaster or an official Governor declared emergency may require the State Agency to authorize corporate sponsored stores to begin accepting WIC food instruments before they have received their individually assigned WIC authorization stamp. The State Agency will ensure that food instruments accepted by the retail stores, prior to them receiving their individual authorization stamp, are processed using appropriate edit parameters by its banking contractor.
5. The State Agency will hold the retailer and corporate entity responsible for all WIC Food Instruments used during this time, accordingly to all specifications outlined in the Retailer Agreement and any general instructional updates sent to participating retailers.
6. The State Agency will provide 15 calendar days written notification to the individual store and corporate entity before their temporary/emergency authorization status is terminated. The termination of a store's emergency

authorization status is not eligible for either a full or abbreviated administrative appeal.

Reference: Unauthorized Retail Store (9.3)

Retailer Selection and Authorization Policy (14.0)

FORMS – Corporate Retailer Contract Agreement and Application form

Policy: 5.0

Subject: Enrollment
Procedures

Section: Application and Enrollment

Effective Date: August 1, 2001
Revision

Supersedes: July 1, 2001

Purpose:

The State Agency, as required by federal regulations, must authorize an adequate number of retail stores to ensure reasonable availability and convenient accessibility to WIC participants. The purpose of this policy is to identify the process the State Agency will use to accept retail store's applications, and to enroll, train, and support newly authorized stores.

The State Agency shall apply this policy to all types of stores seeking Virginia WIC Program authorization, (i.e., small independently owned retailers, chain retailers, and commissaries). Stores undergoing a *Change of Ownership* must apply for Program authorization based upon these same procedures.

Procedure:**1. Requesting an application packet**

- a. The applicant requests an application packet in writing or walk-in.
- b. The State Agency will mail the application packet to the applicant. A copy of the Application and Enrollment Procedures and the Retailer Selection and Authorization policies will be sent as part of the application package. The applicant should keep both of these policies for future reference.
- c. The applicant will return the completed application packet (forms only) to the State Agency for review.
- d. Applicants who submit incomplete application forms or don't answer all requested questions might delay the State Agency's abilities to review and make selection decisions pertaining to their status.
- e. After completing the initial review of the completed application, the State Agency will send applicants selected for further authorization consideration, a WIC Program Retailer Selection and Training Letter.

2. Minimum stocking visit

- a. Applicants selected for further authorization consideration must pass an unannounced on-site minimum-stocking visit made by an Agency

Representative. The State Agency typically conducts this visit within two weeks after it notifies the applicant that his/her store has met the **initial** selection qualifications of the Program.

- b. Applicants that are unable to complete the unannounced minimum stocking visit within 30 calendar days of receiving a Selection Letter will be denied WIC Program authorization.

Policy: 5.0

Subject: Enrollment
Procedures

Section: Application and Enrollment

- c. After passing the on-site visit, the Agency Representative shall provide the applicant with a starter packet of training materials. This packet includes the **Vendor Manual for the Virginia WIC Program**, Cashier Training Guide, **Working with WIC** video, window decals, WIC approved food lists, shelf labels, Training Test letter and Training Test #1.

3. Training

- a. It is the applicant's responsibility to view the **Working with WIC** video that outlines basic Program requirements. This video gives an overview of the WIC Program, instructions on using the WIC approved food list, and check (food instrument) redemption procedures. This video also covers monitoring, training, support services available, the Sanction Classification System policy and penalties for non-compliance.
- b. After viewing this video, reading the **Vendor Manual for the Virginia WIC Program** and Cashier Training Guide, a responsible store representative (i.e., owner or manager) must complete a training test. The applicant must complete and return the self-administered training test within **30** calendar days after the on-site visit made by the Agency Representative. If the applicant fails to return the test within 15 calendar days, the State Agency will follow-up by telephone and allow an additional 15 calendar days to return the test.

If the applicant fails to return the training test within **30** calendar days after the on-site visit made by the Agency Representative, then the State Agency will send a Denied Authorization Letter to the store.

- c. The applicant must meet the passing requirement identified in the training test packet before the State Agency makes a final decision on the store's authorization status.

If the applicant fails the training test, the State Agency shall give the applicant an opportunity to take a second test. The State Agency may deny authorization to applicants who fail the second version of the training test.

- d. It is the owner's or manager's responsibility to train all cashiers and staff on proper WIC procedures **within two weeks** after receiving an Authorization Status (final approval) Letter. If the applicant is unable to meet this timeframe, it is his/her responsibility to call his/her Agency Representative immediately. Failure to comply with this requirement may lead to the State Agency's withdrawal of its authorization decision.
- e. It is the applicant's responsibility to train all cashiers and staff on the proper WIC procedures. Support towards this effort is available from the State Agency, upon request. The applicant should make these arrangements, if desired, with the Agency support person assigned to the store. The State Agency's representative may be contacted to obtain additional training materials, training videos, tip cards, etc. Applicants should not accept any WIC Food Instruments until they have fully trained all staff in handling WIC transactions.

Policy: 5.0

**Subject: Enrollment
Procedures**

Section: Application and Enrollment

4. Final authorization

- a. An applicant must not accept WIC Food Instruments until all criterion listed below have been met:
 - Pass the minimum stocking visit;
 - Pass the self-administered training test;
 - Receive an Authorization Status (final approval) Letter;
 - Receive a copy of the Agency signed Retailer Contract Application & Agreement Form;
 - Receive a WIC Program authorization stamp/number issued by the State Agency;
 - Properly train all staff handling WIC transactions.
- b. The State Agency expects newly authorized stores to begin accepting WIC Food Instruments within two weeks, after meeting all authorization requirements outlined in this policy. If a store will not be able to begin accepting WIC Food Instruments within two weeks after completing all Agency requirements, the store must notify the State Agency in writing of this delay. Failure to comply with this requirement may lead to the State Agency's withdrawal of its authorization decision.
- c. It is the applicant's responsibility to complete all necessary store level administrative procedures such as identifying WIC approved foods and programming registers to flag non-WIC items within two weeks after completing all other Agency requirements. Failure to comply with this requirement may lead to the State Agency's withdrawal of its authorization decision.

5. Probationary status

- a. The State Agency shall consider all newly authorized retail stores as "*Probationary*" for a one-year period. This one-year period begins from the date the retail store receives the Authorization Status (final approval) Letter. During this period, the State Agency shall conduct increased monitoring and compliance investigations of these retail stores as outlined in the Monitoring Visit and the Sanction Classification System Policies.
- b. The State Agency may extend the probationary period as deemed appropriate based upon unsatisfactory monitoring (the assignment of 10 or more educational points) and compliance results. However, the State

Agency may only extend the probationary period **once** for an additional six months. After the six-month extension period has expired, the State Agency will determine what administrative action it shall take (i.e., change of status or disqualify the retailer).

- c. After one year of continuous participation in the Virginia WIC Program, the State Agency expects newly authorized retailers to meet the ***minimum performance threshold*** as specified in the Retailer Selection and Authorization Policy (#14.0, Section III, Administrative Removal).

Policy: 5.0

**Subject: Enrollment
Procedures**

Section: Application and Enrollment

6. Application denials

- a. If the applicant fails any Program requirement (i.e., minimum stocking visit, training, etc.) or General Requirement and Conditions outlined in the Retailer Contract Application and Agreement form, the State Agency shall provide written notification of these deficiencies and terminate the retail store's application. The applicant is eligible to reapply in six (6) months, after receiving this written notification.
- b. Applicants not selected for authorization will be sent a Denial Authorization Letter, plus a copy of the Retailer's (Vendor) Right of Appeal policy.

References:

- Application and Enrollment Checklist
- Federal Regulations 7CFR Part 246.12
- FORMS – Retailer Contract Agreement and Application form
- Retailer's (Vendor) Right of Appeal Policy (1.0)
- Monitoring Visits (8.0)
- Minimum Food Stocking Requirement Policy (10.0)
- FORMS – Minimum Food Stocking Requirement Form WIC V10A
- Change of Ownership of WIC Retail Stores Policy (12.0)
- Retailer Selection and Authorization Policy (14.0)
- Sanction Classification System Policy (15.0)

Policy: 5.0

Subject: Enrollment
Procedures

Section: Application and Enrollment

Virginia WIC Program
APPLICATION AND ENROLLMENT CHECKLIST

STEPS TO COMPLETE VA WIC AUTHORIZATION	WHO	TIMETABLE	STATUS
1. Requests an application packet in writing.	Applicant	Various	Completed √
2. Completes all required forms and returns them to WIC.	Applicant	Various	
3. Reviews applications and determines <u>initial</u> selection qualifications.	WIC Program	Once per month. (2 nd wk of month)	
4. Sends letter to applicant acknowledging <u>initial</u> selection (if applicable).	WIC Program	2-3 business days.	
5. Makes an unannounced stocking visit, if store meets initial selection qualifications. WIC Program leaves training and starter supplies, i.e., training videos, Vendor Manual and other training materials.	WIC Program	Within 2 weeks of initial selection.	
6. Store owner/manager completes mandatory interactive training .	Applicant	Varies (Should be within 2 weeks)	
7. Store Manager trains his/her cashiers and other staff regarding proper WIC procedures. <i>(If unable to complete training of staff within 2 weeks the retailer must notify WIC in writing.)</i>	Applicant	Should be within 2 weeks from Step 6 above	
8. Training Reporting form submitted to State WIC Office that confirms training has been completed.	WIC Program or Certified WIC Trainer	Varies	
9. Final Authorization acknowledgment letter and stamp mailed to applicant.	WIC Program	Varies	
➤ <i>Remember: You must not accept any WIC Food Instruments until your store has received its WIC Authorization Stamp and all staff handling WIC Food Instruments are fully trained.</i>	Applicant	Total timetable for approval is 2-3 months, depending largely on the applicant.	

❖ ***To monitor where you are in the application and enrollment process, we recommend you use this checklist. It might be helpful to record the date for those activities you are responsible for completing.***

Policy: 6.0

Subject: High Risk Retailers

Effective Date: March 1, 2003
August 1, 2002

Supersedes:

Policy: The State Agency shall provide and maintain a system to identify High Risk Retailers. The State Agency shall ensure on-site monitoring, further compliance investigations, and appropriate sanctioning of these retailers to prevent and alleviate program abuse. The State Agency can designate a retail store as **high risk**, **potential high risk** or **non-high risk** based upon the factors outlined in this policy.

Procedures:

HIGH RISK RETAILER

1. A high-risk designation means the retailer has had verified problems in complying with WIC Program requirements. The length of the high-risk designation is typically one year, but it may be extended, if the State Agency documents a pattern of non-compliance such as repeated technical violations. The State Agency shall apply the high risk designation in accordance with the following:
 - a. Any retailer who has been disqualified from the Program, reapplied and been granted reauthorization shall be designated a High Risk Retailer for one year from the date of reauthorization.
 - b. Any retailer who has been the subject of compliance investigations by the State Agency and has been cited for serious and/or major violations of the Sanction Classification System policy; but has not been disqualified (i.e., retained in lieu of disqualification) from the Program shall be designated a High Risk Retailer. The retailer shall be flagged as high risk for one year from the date the State Agency completes its investigation and notifies the Retailer of the violations observed.
 - c. Any retailer who has been the subject of compliance investigations by the State Agency and has been cited for five (5) or more technical violations of the sanction policy shall be designated a High Risk Retailer. The one-year period begins from the date the State Agency completes its investigation and sends written notice of the fifth (5) technical program violation.
 - d. Any retailer who has been disqualified from the Program and has filed an appeal will automatically be designated a High Risk Retailer until the outcome of the Administrative Appeal hearing.
2. High Risk Retailers shall be monitored by compliance buys and on-site monitoring visits.
 - a. On-site monitoring visits by the State Agency shall be made at least every six months.

Policy: 6.0

Subject: High Risk Retailers

- b. All High Risk Retailers shall be the subject of compliance buys done by the State Agency. If additional program violations are documented, the State Agency shall issue appropriate sanctions and take administrative actions. **(See Sanction Classification System Policy #15.0)**
- 3. All retailers designated as high risk shall receive written notification from the State Agency of this status change. Exception: *If disqualification actions have been taken against an authorized retailer and s/he submits an appeal request, a separate status change written notice will not be sent. The Agency's acceptance of the retailer's appeal request automatically establishes this Retailer as high risk.*

POTENTIAL HIGH RISK RETAILER

1. The potential High Risk Retailer may be identified by lack of experience, prior history of violations, and possibly marginal activities, including but not limited to the following:
 - a. Newly authorized retailers, with less than one year of WIC history;
 - b. Stores flagged as "High Volume" based upon number of participants served using redemption history;
 - c. Retailers suspected of "overcharging" the Program based on documented complaints;
 - d. Retailers suspected of:
 - selling ineligible items in lieu of authorized supplemental foods;
 - discounting WIC Program checks for cash; and
 - providing change to participants.
 - e. Suspected cases of non-authorized retailers redeeming WIC Program checks through an authorized Retailer;
 - f. Complaints of suspected abuse or violations;
 - g. Questionable redemption patterns as identified through the Variance and other performance monitoring reports available;
 - h. Questionable redemption patterns as identified from actual redeemed checks, i.e., over-maximum amount checks, etc.
 - i. Retail stores that are reauthorize after meeting a WIC Program or Food Stamp Program disqualification and/or suspension;
 - j. Agency observations during on-site monitoring visits (i.e., educational points issued);
 - k. Request(s) received for an investigation (external agency sources);
 - l. Retailers suspected of non-compliance with the WIC Mandatory Federal sanctions.
2. The State Agency shall conduct compliance buys on selected retail stores identified as potential high risk. If violations are observed, the State Agency will designate the retailer High Risk and conduct follow-up compliance buys to apply appropriate sanctions. If no violations are observed, the State Agency will continue normal compliance of these Retail stores.

Policy: 6.0

Subject: High Risk Retailers

3. Potential High Risk Retailers will receive written notification of a designation change only if its status is changed to high risk.

NON HIGH RISK RETAILER

1. The State Agency shall conduct compliance buys on at least 5% of retailers identified as non-high risk. Non-high risk retailers will be randomly selected annually across peer groups 1, 2, 3 & 5 (food stores) for investigations. The State Agency will take appropriate administrative actions as outlined in the Sanction Classification System policy 15.0.

Management Monitoring Reports

1. Various management-monitoring reports are used to evaluate a participating retailer's redemption history and compliance pattern. The State Agency uses monthly a Variance Report to analyze the redemption history of retailers. This report tracks the "Low Amount of Variation in Food Instrument Prices." This report includes: retailer's authorization number, name, city/county code, peer group, Program Representative, food instrument type(s), total number of checks redeemed, low and high variance indicators. The State Agency randomly selects certain high volume redeemed check types for analysis purposes.
2. The Quarterly Profile Report is used by the State Agency to select potential High-Risk and High Volume retail store locations. An indicator of possible program abuse includes retail stores that have a large number of redeemed food instruments outside of the local health district/agency.
3. The High Volume Retailer Report is used by the State Agency to select potential High Risk Retailers and may be used to select retailers for investigations. An indicator of possible program abuse includes retail stores that have a high monetary redemption volume compared to other comparable size stores.
4. Other management reports (as available) are used to augment the potential high-risk selection process.

References:**7 C.F.R. 246.12(j)(2)(3)**

Retailer's (Vendor's) Right of Appeal Policy (1.0)

Monitoring Visits Policy (8.0)

Peer Group Classification Policy (13.0)

Retailer Selection and Authorization Policy (14.0)

Sanction Classification System (15.0)

Inadequate Participant Access Relating to Retail Store Management Policy (15.2)

Policy: 7.0

Subject: Miscellaneous Educational Buys	Section:	Retailer	Self-
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Effective Date: August 2, 2002
Revision

Supersedes: July 1, 2001

Purpose: Retailer self-educational buys are based on using undercover, anonymous shoppers from the corporation partnership or other resources. These shoppers visit WIC authorized retailers portraying WIC customers. The objective is for the employer to determine if cashiers are properly handling WIC food instruments, how WIC customers are being treated, and to reduce technical program violations. The option to conduct retailer self-educational buys is only offered to corporate retailers that have a corporate Retail Store Agreement with the WIC Program.

1. Retailer self-educational buys can improve the authorized retailers' level of program compliance with all procedural requirements in handling WIC Program transactions.
2. Retailer self-educational buys provide the opportunity for the retailer to become partners with the WIC Program by direct involvement of the corporation employees in self "policing" for compliance.
3. Retailer self-educational buys assure immediate retailer awareness of compliance or non-compliance and its sources.
4. Retailer's self-educational buyers will be able to observe the interpersonal skills of those serving customers and may enable both the WIC Program and the retailer to improve the customer service rendered to WIC participants in general.

Policy:

1. The State Agency encourages corporate retail stores to participate in the Retailer Self-Educational Buy Program to gain first-hand knowledge about their stores' WIC performance, compliance, and to develop more effective training strategies for store personnel.
2. Retailers must be approved by the State Agency to conduct self-educational buys. A self-education buy agreement must be signified and approved by the Virginia WIC Program to participate in this portion.
3. To support the retailers in this endeavor, the State Agency will assume the following responsibilities:

- a. Assign a WIC Program Project Coordinator to work with the designated corporate contacts;
- b. Provide Training on “How to Conduct Buys”; see attached training program outline;
- c. Provide blank WIC food instruments, identification folders and other materials needed;
- d. Provide on-the-job practical experience/training for the educational buyers;
- e. Provide technical and administrative support as needed.

Policy: 7.0

Subject: Miscellaneous	Section:	Retailer	Self-
Educational Buys			

4. A corporate retailer approved for this initiative agrees to the following requirements and responsibilities:
 - a. To identify one educational buy coordinator and two trainees;
 - b. To attend a one-day training session on “How to Conduct Self-Educational Buys”;
 - c. To be held accountable in meeting all provisions of the signed Virginia Self- Educational Buy Agreement;
 - d. To send out a notice to all corporate-sponsored stores explaining the purpose and goals related to conducting self-educational buys, prior to implementing the process. The WIC Program Project Coordinator should receive a copy of this notice.
 - e. To select retailers within the corporation for self-educational buys;
 - f. To provide self-educational trainees with corporate identification;
 - g. If non-WIC purchases are to be made at the same time as the self-educational buy, to provide the buyer with the funds for these purchases;
 - h. To complete at least twenty (20) educational buys during a pre-established time period;
 - i. To complete any debriefing requirements agreed upon with the State Agency, i.e. attend a debriefing meeting; submit a written summary of self-educational buy results and any training initiatives taken as a result of “Lessons Learned” from this endeavor;
 - j. To reconcile and hand deliver all WIC food instruments and ID Folders borrowed from the WIC Program at the conclusion of the project (see Self-Educational Buy Agreement);
 - k. To report to the WIC Program Project Coordinator any lost/stolen food instruments within 48 hours, once identified. If any of these food instruments are redeemed, the corporate office will be held financial liable and will reimburse the State Agency for any ineligible expenses incurred.

Procedures:

TRAINING

1. The State Agency will identify a project coordinator who will periodically conduct a one-day training workshop. The workshop will provide the attendees with the necessary skills and knowledge for conducting self-educational buys.

Policy: 7.0

Subject: Miscellaneous Educational Buys	Section:	Retailer	Self-
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2. After attending the structured training workshop, the educational buyer trainee will participate in a supervised self-educational buy. The supervised self-educational buy is done with either the project coordinator or an experienced self-educational buyer.
3. Initial buys are to be “safe buys” meaning that all products selected by the self-educational buyer for check-out will be WIC Approved non-perishable items. During subsequent buys, non-WIC approved foods may be added to the purchase selection.
4. The self-educational buyer must appear to be a WIC participant, parent or guardian. A female of parenting age will attract less attention.
5. Before a buyer conducts a self-educational buy, the following must be completed:
 - a. An investigative report cover page will be completed for each buy prior to entering the store.
 - b. The food instrument (FI) number(s) and other identifying information will be recorded on the cover page of the buy report. Fictitious information will be used about the participant and endorser.
 - c. A WIC ID Folder will be completed and signed using the fictitious name of the person who will endorse the food instrument.
6. The buyer enters the store and proceeds to use their WIC ID Folder and approved food list to select only WIC approved non-perishable foods. The initial buys are to be “safe buys” only.
7. After making the purchase selection, the buyer will separate WIC-approved Foods by food instrument if using more than one WIC food instrument and from personal items. Keep the I.D. folder out of sight. The buyer tells the cashier that this is a WIC purchase. The buyer relies on the cashier to guide her/him through the WIC transaction
8. The buyer will observe the cashier’s handling of the WIC food instrument in the following areas:
 - a. Were the dates verified?
 - b. Did the cashier check the items to see if WIC approved?

- c. Did the cashier check to see if the quantity or size was appropriate?
- d. Did the cashier enter the total amount, in ink?
- e. After entering the total, did the cashier request a signature?
- f. Did the cashier request to see the I.D. folder?
- g. Did the cashier give a receipt?
- h. Was a sales tax charged?
- i. Did the cashier return the I.D. folder?
- j. Was the cashier courteous and helpful?
- k. Was management called for assistance?
- l. Was the management staff courteous and helpful?

Policy: 7.0

Subject: Miscellaneous Educational Buys	Section:	Retailer	Self-
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9. The educational buyer might elect to check these compliance issues: minimum stocking requirements; visibility of the WIC Window Decal; correct placement of WIC approved shelf labels. If these compliance areas are checked, the results should be noted on the investigative report.
10. The buyer will exit the store and immediately record the observations on the investigative report. He or she should note if the prices charged match the receipt given and posted shelf prices.
11. The buyer or designated corporate coordinator will take the groceries back into the store, request to see the manager on duty, present his/her corporate I.D. card, and explain the findings from the buy. Show the manager the receipt to identify the checkout lane and cashier.
12. The manager will return the used WIC food instrument(s) to the coordinator in exchange for the groceries. If personal items were purchased, these items may also be returned for cash. The used food instrument will be reattached to the corresponding food instrument stub.

REPORTING

1. The educational buyer submits all written reports to the corporate coordinator.
2. The coordinator will report the findings to the appointed corporate headquarters designee, i.e., training department, district manager. A summary of the results should be compiled for submission to the WIC Program Project coordinator. In the summary, any educational interventions taken by the corporation as a result of the self-educational buy results should be identified.
3. All questions should be directed by the corporate coordinator to the assigned WIC Program Project Coordinator.
4. A summary must be submitted to the Project Coordinator by the agreed upon deadline.
5. At the end of the project all WIC food instruments and ID Folders will be hand delivered to the Self-Educational Buy Project Coordinator.

References:

Minimum Stocking Requirement Policy #10.0

Retailer Sanction Policy #15.0

FORMS - WIC Self-Educational Buy Agreement WIC #V07

Policy: 7.0

Subject: Miscellaneous Educational Buys	Section:	Retailer	Self-
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EDUCATIONAL BUYS TRAINING PROGRAM OUTLINE
ONE DAY SESSION

- I. Program Background
 - A. Policy and Procedure 7.0
 - 1. Purpose and Benefits
- II. The WIC Participant
 - A. "WIC Cashier Training 1999 Video – Module 1
- III. Issuing WIC Food instruments and ID Folder
(Coordinator's Responsibility)
- IV. How to Conduct Self-Educational Buys
 - A. Initial Buys – Safe Buys
 - B. Subsequent Buys
 - C. Buy Observations
 - 1. Cashier's following check handling procedures
 - 2. Cashier/on duty manager's customer service skills
- V. Completing Investigative Report
- VI. Selection of Retailers to Shop and Number of Buys (Coordinator Responsibility)
- VII. Case Studies
 - A. What to do in problem situations
 - B. How to provide feedback to the store manager
- VIII. Educational Buy Practicum
 - A. First Buy – Program Coordinator or Educational Buy Coordinator works with trainee and observes the educational buy
 - 1. Feedback on observations is provided
 - B. Subsequent buys, following first successful buy, trainee is on his or her own**

References:

Vendor Manual – Sanction Policy
 Cashier's Training Guide
 Cashier's WIC Tip Card
 "Checking Out WIC" Video

Investigative Report
Manual WIC-Net Food Instrument
WIC I D Folders

Policy: 7.1

Subject: Miscellaneous
Acronym and Logo

Section: Use of the WIC

Effective Date: August 1, 2002

Purpose: To identify State agency guidelines for authorized retail stores, food manufacturers, distributors and suppliers on when, how, by whom and any special circumstances under which the WIC acronym and/or logo may be used.

Policy:

1. The United States Department of Agriculture (USDA) has authority to regulate the use of the acronym "WIC" and the WIC logo. This authority is documented in 42 U.S.C. 1786, 15 U.S.C. 1051 et seq., and 7 CFR Part 246. The guidelines for use of the "WIC" acronym and logo by retail stores, food manufacturers and distributors have been delegated by USDA to the State Agency (FNS INSTRUCTION 800-2).
2. Retail stores or applicants are not permitted to use either the acronym "WIC", "W.I.C." or the WIC logo, including close facsimiles thereof, in total or in part, either in their official name in which the store is registered or in the name under which it does business, if different. The purpose of this restriction is to avoid giving the impression to participants and/or the general public that the business is owned and/or operated by the WIC State agency and/or that the business is officially endorsed and preferred by the State. Retail store's primary trade name signage and/or advertisement materials can not use the acronym "WIC" or "W.I.C.".
3. Retail stores or applicants are not permitted to use the term "WIC" as part of their official verbal store salutation (greeting), recorded answering machine or voicemail message(s).
4. Under no circumstances should authorized stores use the WIC logo, including close facsimiles thereof, in total or in part in their signage, advertisement and educational materials, brochures, posters, etc.
5. It is acceptable for authorized stores use the "WIC" acronym under the following limited circumstances:
 - a. On secondary signage only to identify the retail as an authorized WIC retailer. Examples of statements permissible for stores to use, include:
"WIC-Approved Foods Sold here", WIC Authorized Store",
"WIC Checks Accepted here" or "WIC Accepted here".

No written approval by the State Agency is needed by authorized stores to use any of the examples cited above.

Policy: 7.1

Subject: Miscellaneous
Acronym and Logo

Section: Use of the WIC

Any deviations from the examples stated in this policy need to be approved in writing by the State agency. The State agency's criteria for approving alternative statements is: "does the statement apply to any/all stores authorized to accept WIC checks." A listing of "unapproved" terms is available from the State Agency, upon request.

- b. To identify authorized WIC foods by attaching channel strips or shelf talkers stating "WIC approved" or "WIC eligible" on the store shelves. The State Agency must approve channel strips or shelf talkers provided by food manufacturers and distributors before retail stores are permitted to use them.
- c. To provide in-house educational materials used to train either cashiers/store personnel and/or WIC participants. Prior written approval from the State Agency must be obtained before a retail store is permitted to use the WIC acronym, including close facsimiles.
6. For any posted signs a retail store's primary/trade name must be displayed first and secondary signage (text) afterwards.
7. The physical size/lettering of any customized secondary signage (on or in close proximity to the store premises) used by authorized retail stores identifying their Program participation status must not be significantly smaller than the actual store's posted business (trade) name. Any secondary signage text used should be at least 50% smaller. When using this option the store should provide the sign's height and length dimensions in their written request. The State Agency must provide written approval to the retail store before the final sign layout is used.
8. Retail stores authorized by the Virginia WIC Program must display the official WIC window decal or alternative signage, approved by the State Agency, in a place conspicuously visible to the general public.
9. Local health district staff, participants and other authorized retail stores are encouraged to bring to the State Agency's attention any violations of the use of the WIC acronym/logo by any retail store(s). Any violations of this policy may result in the WIC Program's decision to decline to renew a retail store's authorization or to disqualify an authorized store. To ensure a store's continued authorization as a WIC authorized store, it's the store owner's/manager's responsibility to ensure all employees and agents of the store understand and adhere with all requirements outlined in this policy.

10. Food manufacturers, distributors and suppliers are not permitted to use the WIC acronym or logo in the packaging of their products, since WIC approved foods are different State to State. Food manufacturers, distributors and suppliers must receive written approval from the State Agency before using either the WIC acronym or logo. The State Agency will pursue legal actions against companies identified as non-compliant.

Policy: 7.1

Subject: Miscellaneous
Acronym and Logo

Section: Use of the WIC

11. Retail stores must bring to the State Agency's attention food manufacturers, distributors, suppliers, etc. that violate the protected status of the WIC acronym or logo.
12. Food manufacturers, distributors and suppliers must receive approval from the State Agency to supply/sell channel strips or shelf talkers that use either the WIC acronym or logo to authorized retail stores. In developing either shelf talkers and channel strips, the final design used should be visual and help low literacy WIC customers more easily recognize products that are specifically approved by the Virginia WIC Program.

References:

Retailer Contract Agreement and Application Form

FNS Instruction 800-2

Policy: 8.0

Subject: Monitoring Visits
Retail Stores

Section: **Monitoring of**

Effective Date: August 1, 2002
Revision

Supersedes: July 1, 2001

Policy:

1. The State Agency will insure that on-site reviews of WIC retail stores will be conducted. Authorized stores will be selected for on-site monitoring based upon the following factors:
 - a. All stores, which have been, determined as High Risk and/or High Volume will have a minimum of two on-site visits per calendar year.
 - b. All probationary stores shall have at least two (2) on-site monitoring visits during their first year of WIC authorization.
 - c. The Agency Representative (store monitor) will select a representative sample of all other stores. A total of 5% (including High-Risk, High Volume and Probationary stores) shall have an on-site monitoring visit per federal fiscal year.
2. All on-site monitoring visits, regardless of purpose and type of store will be unannounced.
3. The store monitor serving the area where the store is geographically located will be responsible for on-site monitoring and follow-up of that store.
4. All store monitoring on-site visits will be documented by the use of the WIC Program Vendor Review Form (WIC 317) in accordance with instructions developed by the State Agency.
5. The store monitor's role is to serve as a support resource to authorized retailers. The store monitoring visits include: educating the retailer about WIC Program requirements, the specific means toward compliance, alerting the retailer on performance, administrative, plus service delivery issues, and the needed corrective actions that must to be taken to assure compliance and proper reimbursement.
6. The State Agency's Compliance Investigative Coordinator and Vendor Manager will exclusively handle the assignment of sanction points and fines. During on-site visits, the store monitor will issue educational points for observed and documented program violations.

7. The educational point values of any observed program violations are outlined in the Sanction Classification System Policy (15.0).
8. Retail stores that fail to meet the minimum food stocking requirements during two separate on-site visits will be flagged for further management review and administrative action, including program disqualification.

Policy: 8.0

Subject: Monitoring Visits
Retail Stores

Section: **Monitoring of**

9. The State Agency will be responsible for maintaining a separate file for each authorized store. These centralized retail store files should contain the following information:
 - a. WIC Program Retail Store Review Forms and follow-up notes;
 - b. WIC Price Lists;
 - c. Letters written to the State Agency by the retailer;
 - d. Assignment sheets with related store or submitted complaint forms;
 - e. The State Agency copy of the current Standard Retail store Application, Agreement and Attachment Forms;
 - f. All written correspondences including warning and disqualification letters, etc.;
 - g. Documentation of any store-specific training provided, special problems, supplementary information or fines imposed, or any other relevant notes or information pertaining to contacts with the store;
 - h. The store monitor shall use the Vendor Account Service File Documentation form (WIC #396) to record supplementary information (if applicable) pertaining to a store's status or training/support requirements.

Procedures:

1. A monitoring report, which identifies all visits regardless of type, shall be prepared annually to insure that 5% of all stores have been monitored.
2. The store monitor will conduct on-site visits at all High Risk, High Volume and Probationary stores (see High Risk Retailer Policy).
3. The WIC Program Retail Store Review Form or a documented record will be completed for every on-site monitoring conducted by the store monitor (see FORMS section). The original Program Retail Store Review Form shall be sent to and retained in the store's centralized file located at the State office.
4. When arriving at a store to conduct a monitoring visit, the store monitor should request to speak with the store owner/manager or representative. The store monitor informs the store owner/manager or representative that an on-site monitoring review will include a minimum stocking assessment. The store monitor shall extend an invitation to the store representative to accompany him/her on the stocking review. The store representative is not required to accompany the store monitor when the minimum stocking assessment is being completed. The results from the minimum stocking

assessment and visit should be reviewed with the store representative at the conclusion of the on-site visit.

Policy: 8.0

Subject: Monitoring Visits
Retail Stores

Section: **Monitoring of**

5. Specific non-compliance issues shall be addressed during the on-site visit. Any follow-up corrective action should be documented on the Program Review form. All noteworthy observations and follow up actions should be noted in the comment section of the Review form. These issues should be discussed with the store representative, when feasible.
6. Additional training needs including request for videos, tip cards, and other materials should be documented on the Retail Store Material/ Supply request form (see FORMS section).
7. All actions pertaining to store monitoring (forms, correspondence, non-routine telephone contacts, etc.) will be recorded in the store's centralized file maintained at the State office.
8. During these onsite-monitoring visits, the store monitor may collect and verify that the store's shelf prices are competitive and reasonable.
9. See Policy 8.1 for follow-up requirements and program review form instructions.
10. Probationary stores (with less than one year WIC authorization) may require additional monitoring as designated by the State agency.

References:

Federal Regulations **7 CFR Part 246.12(j)**.
FORMS - Standard Retailer/Corporate Agreement and Application form
FORMS - Virginia WIC Program Retailer Review Form WIC #317
WIC Program Retail Store Review Form Instructions (8.1)
High Risk Retailer Policy (6.0)
Minimum Food Stock Requirement Policy(10.0)
Sanction Classification System (15.0)

Policy: 8.1

Subject: Monitoring Visits
Instructions

Section: **WIC Program Retailer Review Form**

Effective Date: August 1, 2002
Revision

Supersedes: July 1, 2001

GENERAL

1. The WIC Program Retailer Review Form (WIC 317) is a tool to be used in completing on-site monitoring visits, the enrollment of new stores, as well as in the investigation and follow-up of high-risk and high-volume WIC retail stores, hereinafter referred to as “store(s)”. The questions indicate specific areas that must be reviewed during the monitoring process. The monitoring visit may be used for price collection and/or price verification purpose. Although most of the questions may be asked verbatim, some shall be answered through observations made by the store monitor (Agency Representative) and through rephrasing the questions to clarify their intent.
2. Information shall be obtained through observation and interview. Follow-up may be done over the phone in certain situations. Stores shall not be given the form to complete themselves. This is important in order to insure the accuracy of information obtained. Additional questions may be asked at the discretion of the store monitor in line with any special issues identified by the State Agency. Comments and explanatory information regarding each question on the form are detailed below, in the sequence in which they appear on the form.

WIC RETAIL STORE INFORMATION

1. The first section of the WIC Program Retailer Review Form requires the specific Store (**Retailer Name**), assigned **Retailer** (authorization) **Number**, **Date** of review, **Number of Registers** and **Purpose of Monitoring Visit**. All WIC Program Retailer Review forms should have this background information completed.
2. The store monitor shall complete the other identified information from observation and from interviewing store personnel.

GENERAL REQUIREMENTS

1. Stocking Requirements (minimum inventory) should be reviewed through observation of the specific food items and determining if stocking requirements have been met. Actual counts of stocking deficiencies should be recorded, if the store does not meet the minimum stocking requirements. If any stale dated items are identified while checking a specific type of food

product, do not count these items. The store monitor must make a notation in the comment area identifying the type of food(s) and quantity that was stale dated.

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2. The assignment of Educational Points is as follows:

<i>Program Violation:</i>	<i>Educational Points:</i>	<i>Additional Actions:</i>
a. Failed minimum stocking requirement: one (1) item	five (5)	Written warning in the comments field
b. Failed minimum stocking requirement: two (2) or more items	ten (10)	Flag for management review Written warning in the comments field
c. No WIC approved window decal	Zero (0)	Correct and note on WIC 317 Form
d. No prices on items or prices not posted	five (5)	Identify which food items affected
e. Sanitary Condition	Zero (0)	Referral to Dept. of Agriculture - Vendor Manager assigns points, if applicable.
f. Current Food List not present	Zero (0)	Correct and note on WIC 317 Form
g. No or outdated WIC Program Vendor Manual	Zero (0)	Note on WIC 317 Form. (Replacement cost for Vendor Manual is \$20.00)

3. All noteworthy observations, potential/suspected program violations and follow-up actions should be noted in the comments section of the Program Review form (WIC 317).

FOLLOW UP REQUIREMENTS

1. A new WIC Program Retailer Review form should be completed for any follow up visits made to a retail store. The Program Retailer Review form should be flagged "f/u" contact in the "Purpose of Visit" section. Each deficiency from the earlier visit should be checked in the follow up contact. Any problem(s) uncovered during an on-site monitoring visit should be discussed with the store owner/manager or representative. These findings shall be documented on the WIC Program Retailer Review Form and corrective action(s) required should be addressed according to the following:

<i>Educational Points:</i>	<i>Action:</i>
0	a. No additional follow up required.
5	b. Documents program deficiencies on WIC Program Retailer Review Form and in comment section identify specific corrective actions recommended.
10	c. Another on-site follow up visit should be made within 45

	calendar days after the initial visit.
15 +	d. WIC Program Review Form should be flagged for State Agency review. Another on-site follow up visit should be made within 45 calendar days after the initial visit.

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2. When repeat problem(s) or program violations are identified during a follow-up visit, the State Agency should be informed of these results by flagging the Retailer Review Form. The State Agency shall send a letter to the store notifying them of these repeat offenses. The State Agency may issue sanction points (warnings) or take other administrative actions based upon these documented problems.

OTHER REQUIREMENTS:

Question 1 – The minimum food stocking requirement should be checked and any deficiencies noted - see Minimum Food Stocking Policy.

Question 2 – A window decal identifying participation in the Virginia WIC Program is **mandatory**. If the state issued decal is not displayed and there is another method used to tell the public that the store participates in the WIC Program, record the alternate method in the Comments section.

Question 3 - Prices of all WIC foods must be stamped or posted in plain view, especially check prices are posted for formula, eggs, milk and cheese.

Question 4 – Sanitary conditions and mechanical refrigeration are program requirements. Observe public areas of the store for evidence of trash, insects, or vermin and general cleanliness. Identify any observations or deficiencies in the Comments section.

Question 5 – It is a program requirement for the current Virginia WIC Approved Food List to be at all cash registers. Observation is used to determine if cashiers have access to the Food List. If multiple cash registers exist check a random sample of counters for the current food list. Discard any outdated food list, if applicable.

Question 6 – A State furnished Vendor Manual (teal colored) must be kept at the store. The Vendor Manual is considered complete if it includes copies of the following policies and materials:

• Cashier Training Guide	• Reimbursement of Returned WIC Retailer Food Instruments
• Change of Ownership Policy	• Sanction Classification System

<ul style="list-style-type: none"> • Minimum Food Stocking Requirement Policy 	<ul style="list-style-type: none"> • Selection and Authorization Policy
<ul style="list-style-type: none"> • Monetary Penalty Guidelines – Disqualification 	<ul style="list-style-type: none"> • Retailer’s Right of Appeal Policy
<ul style="list-style-type: none"> • Monetary Penalty – In Lieu of Disqualification 	<ul style="list-style-type: none"> • Vendor (Retailer) Conference Policy

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Question 7 – The WIC authorization stamp should be kept at the store. If the authorization stamp is kept elsewhere, the store monitor should document the off-site location on the Program Review form. The print image of the authorization stamp should be checked to ensure its legibility for reimbursement purposes.

Question 8 – The retailer must allow the store monitor to review any undeposited and rejected WIC food instruments, which are at the store. The store monitor should carefully observe each WIC food instrument for correct completion techniques. Errors shall be explained and discussed so corrective action can be taken.

Policy Review Section

Question A – The retailer must require the Virginia WIC Program Identification Folder for all transactions. The Retailer should be reminded to visually confirm possession of a WIC Identification Folder. WIC Identification Folders are the only acceptable form of identification and must be requested by stores at each shopping trip. Stores may not require and request telephone numbers or addresses of participants to accept a WIC food instrument. Do not compare signatures.

Question B – The retailer must sell to WIC customers only foods listed from the current Virginia WIC Approved Food List. Participants may decline foods of their choice (except infant formula). Declining foods is not permissible if the store does not stock the item.

Question C – The cashier enters the price of the total sale (no Sales Tax) and then requires the WIC participant to sign the food instrument on the right side. (This question may be rephrased--“At what point in a WIC transaction is the price recorded on the food instrument,” or “When do customers sign their food instruments?”) Should the price of the food instrument need altering, this must be done at the time of the transaction and in the presence of the WIC participant. Alteration procedures are addressed in the **Cashier Training Guide**.

Question D – The cashier must provide the WIC customer a sales receipt at the time of the transaction, unless expressly declined by the WIC participant. Sales Tax is not to be charged.

Question E – Retailers must not charge WIC customers more than other customers. No separate pricing policy for WIC customers.

Question F – There is no money to be exchanged during or after the WIC transaction. Food instrument replacements (reimbursements) are only through approved State Office procedures. (This question may be used to reveal whether cash or credit is being given for WIC food instruments. It also may be used to determine what a store does when a WIC food is not available.)

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Question G – Civil Rights regulations must always be observed.

Question H – WIC Procedures are to be implemented by store management for all staff. The owner (manager) is responsible for the actions of his/her staff.

Comments Section – This section of the form should be used as an opportunity to educate stores and to emphasize any summary comments which need to be made. Not only negative points should be addressed, but also any positive observations should be included. Specific recommendations should be clarified in this section.

Other considerations, which may be addressed in this section, include:

- Have deficiencies cited during past monitoring visits been corrected;
- What happens when store personnel are requested to make a substitution by WIC customers;
- What happens when a WIC customer attempts to purchase ineligible foods;
- What happens when a WIC customer attempts to purchase non-food items;
- What happens when all items on a WIC customer's food instrument are not available.

Miscellaneous:

1. It is the store monitor's responsibility to identify and document all program violations and questionable business practices found during the on-site monitoring visit. These observations must be noted on the WIC Program Retailer Review form (317).
2. If a program violation can be corrected before the store monitor leaves, this item should be corrected and noted with a "C" (Corrected) on the Retailer Review form.
3. The numeric value of all educational points documented by the store monitor should be noted on the Retailer Review form. A total number of educational points issued (if applicable) should be listed after category #8 (entitled "Total number of Educational Points awarded?").

4. The store monitor should be prepared to leave “critical” educational materials at the store’s location, i.e., updated Vendor Manual policies (e.g., Sanction Classification System), food lists, window decal etc. during his/her on-site visit. These items should be noted with a “C” on the Retailer Review form.

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5. For suspected sanitary and mechanical refrigeration problems the store monitor should request an independent written evaluation by the local health district/department. This follow up action should be noted on the Retailer's review form. It is the store monitor's responsibility to follow up with the appropriate local health district/department to obtain this independent evaluation. A copy of this written evaluation should be placed in the retailer's file upon receipt.
6. The store monitor should review any available WIC food instruments on-site. If any WIC food instruments are issues that could lead to program fraud (i.e., unsigned WIC food instrument(s), food instruments accepted before the spend between these dates(s), food description and/or quantity altered, etc.) these issues should be discussed with the retailer and documented on the Retailer Review form. The store monitor should not confiscate any improperly accepted WIC food instruments. The food instrument number should be recorded on the Program Review form. The retailer should be warned that the State Agency will issue a "stop payment" on these WIC food instruments. This follow up action will result in these food instruments being returned unpaid. The Program Review form should be flagged for management review.
7. To finalize the visit, problems and required corrective actions shall be discussed with appropriate store personnel; next steps should be identified in the Comments section. The store contact person signs the form and indicates his/her title just below the confirmation statement. The store monitor signs the form on the bottom. The original (first) Program Review form is sent to the State Office on a weekly monthly basis. The yellow (second) copy of the form is left with the retailer and should be kept in the Vendor Manual's front pocket. The store monitor retains the pink copy (third). All follow-up actions required by the State Office should be highlighted. If the store manager/owner is unavailable (and 10 or more educational points were issued) the Retailer Review Form should be signed by the person-in-charge of the store. The Retailer Program Review form should be mailed to the store manager/owner within 5 business days after the on-site visit.

Reference:

Monitoring of Retail Stores (8.0)
Minimum Food Stocking Requirement Policy (10.0)
Sanction Classification System Policy (15.0)

FORMS – Virginia WIC Program Retailer Review Form WIC#317

Policy: 9.0

Subject: Reimbursement
Returned WIC

Section: Reimbursement of

Food Instruments

(FIs)

Effective Date: September 1, 2002
2001 Revision

Supersedes: July 1,

Purpose: Identify the parameters for reimbursing authorized retail stores for returned and undeposited WIC food instruments (FIs).

Definitions:

1. A **redeemed food instrument** (WIC check) was paid in full, according to the amount requested by the retail store.
2. A **returned food instrument** can be either partially paid (e.g., return reason = "Unreasonable \$ Amount" or "Over the Max") or denied payment (e.g., participant signature missing).
3. A **processed food instrument (FI)** is either fully paid based upon the requested amount; or partially paid (an amount less than originally requested) or returned unpaid due to a **fatal processing error** condition, e.g., participant signature missing.
4. An **undeposited food instrument** was never deposited in the store's depository bank and sent to the WIC Program's banking contractor for processing and payment consideration. For instance, a store may be concerned that a food instrument will be returned unpaid, if deposited through the normal payment process, e.g., participant signed the back of the WIC FI rather than in the designated area on the front, lower right-hand side.
5. An **ACH** (Automatic Clearinghouse) credit is a method used to reimburse stores for certain types of processed FIs (i.e., "Unreasonable \$ Amt." error conditions). A credit is made to the store's designated bank account and routing number using the Automatic Clearinghouse (ACH) process.
6. Any references to **participants** include the various types of individuals authorized by the Program to use a WIC food instrument, such as participants, parents, caretaker or proxy.

Policy:

A Food Access Consultative Team member of the State Agency is authorized to approve returned WIC FIs for payment. Any reference to State Agency herein refers to a member of the Food Access Consultative area, unless stated otherwise.

A WIC food instrument (FI) that is returned can be reviewed and approved for an ACH credit (direct deposit) only. The original returned or undeposited FI(s) must be submitted to the State Agency for review. The originally returned WIC food instrument is the only document required for State Agency consideration.

An undeposited food instrument can be reviewed and approved for an ACH credit payment.

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Subject: Reimbursement
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(FIs)

Administrative Procedures:

A returned FI approved for an ACH credit must have either a signature or the initials of the State Agency representative who reviewed and approved it for ACH payment.

1. Reimbursement Guidelines – Undeposited Food Instruments

- a. For review and approval consideration, the State Agency must receive all undeposited FI(s) within 60 days of the first date printed on the check, unless stated otherwise in this policy. This date is referred to as the “*First Date to Spend*” or “*Spend Check Between These Dates*”, depending upon the type of WIC FI. The Vendor Manager or Division Director only can approve any exceptions to this rule.
- b. A retail store must submit a written request for payment on undeposited WIC FIs that are beyond the 60-day period, based upon the first date printed on the FI. To secure payment on undeposited WIC FIs exceeding \$500 requires written approval from the Food and Nutrition Services regional office.
- c. For amounts less than \$500, the Vendor Manager or Division Director may grant a one-time exception per calendar year. Specific reasons supporting this exception must be documented in the store’s central file. To pursue this exception an authorized retail store must provide a written request to the State Agency requesting a one-time exception to receive payment for undeposited FIs that normally would be rejected by the banking contractor. The Vendor Manager or Division Director will consider the merits of granting a one-time exception on a case-by-case basis.
- d. One-time exception on undeposited FIs can be approved for an ACH credit payment. The banking edits to be used by the State Agency include: valid vendor number, authorized vendor, “reasonable \$ amount” as screened by the maximum allowable for a specific peer group/food instrument type, etc. A payment credit is given at either the peer group maximum or the requested amount, whichever is lower

2. ACH – Direct Deposit Requirements

- a. The WIC retailer must be authorized to receive an ACH credit. A current ACH Authorization Agreement form must be on file at the State Agency with a valid bank name, routing and account numbers. A retail store must submit an ACH Authorization Agreement form to the State Agency, which identifies any bank changes to his/her routing/account number at least two weeks prior to the effective date of the change. A “voided” check must be submitted with the ACH Authorized Agreement form. A blank Authorization Agreement form may be found in the FORMS section of this manual or obtained by contacting the State Agency.

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(FIs)

- b. The bank routing and account numbers must be added and validated (prenote tested) in the banking contractor's database system before being used for ACH processing.

3. Returned WIC Food Instrument (FI) Second Review

- a. If a WIC FI has been submitted to the State Agency for review and after review it is determined the FI is not eligible for an ACH credit, the original FI is returned to the retailer with a Rejected Food Instrument Return Form.

4. Returned WIC Food Instrument (FI) Approved for ACH Credit – Status Questions

- a. After a returned WIC FI has been approved for an ACH credit payment, inquiries about the payment status of a FI should be directed to the State Agency.

5. Returned WIC Food Instrument (FI) – Special Handling

- a. Occasionally, an original returned WIC FI will not be available as the source document for issuing an ACH credit (i.e., check lost). Under these circumstances, it may be necessary to have the Vendor Manager or Division Director authorize an ACH credit to a Retailer using a Memorandum for file and image FI copy. This Memorandum must be submitted to the banking contractor with an explanation made supporting the reason for making an ACH credit payment. The banking contractor will retain a copy of this documentation. A copy of the Memorandum will be kept in a central location within the State Agency.

6. Banking Fees

- a. Retail stores are responsible for all bank handling fees and charges associated with doing business with the WIC Program. If the retail store believes the bank return fees incurred are due to a computer processing error made by the Program, the retailer must submit supporting documentation to the State Agency for further investigation. The State Agency will determine if the source of error was due to a computer processing error or other factors (which

prohibit the State Agency from compensating the retail store for this type of fee).

7. Complaint Forms and Undeposited WIC Food Instrument (FI)

- a. For selected error conditions (e.g., altered FIs, Over \$125 – Default Max, Cashed Early, Cashed Late, Signature in Pencil, etc.), a retail store may submit undeposited FIs to the State Agency for payment consideration. A complaint form should be submitted with these undeposited WIC FIs, so appropriate follow up with the participant can be taken.

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8. Complaint Forms and Returned Unpaid WIC Food Instrument (FI)

- a. For all WIC FIs returned unpaid due to a cashier “fatal” processing error, (i.e., failed to obtain the participant’s signature at the time the purchase was made), these returned FIs will not be paid. A retail store can still send these returned WIC FIs into the State Agency so administrative actions can be taken with the WIC participant, but these returned WIC food instruments will not be paid.

9. Missing Signature

- a. If a participant fails to sign his/her WIC FI at the time when the purchase of either food products (and/or) /formula is made, the retailer will not be paid for those items purchased. This type of fatal processing error represents a financial loss to the retail store. Obtaining the signature at the time of purchase represents a confirmation that the exchange of food occurred and “acknowledges” the dollar amount being requested for payment to the retail store. Furthermore, retail store personnel may not contact either directly and/or indirectly the WIC participant, local agency or State Agency to request that the participant/payee return to the store to sign the WIC FI. To sign the WIC FI without the direct exchange of food/formula undermines program integrity requirements.

10. Banking Encoding Error

- a. If a banking contractor screening error is made, the WIC Food Instrument will be eligible for an ACH credit, as long as all other processing conditions are met.

11. Reimbursement Questions

- a. Retail stores must contact their assigned Agency Representative if they have Reimbursement Policy questions. Reimbursement questions should never be directed to local agency WIC Program staff, as they lack the authority and knowledge to advise retail store on these matters.

Prepayment Edit Procedures:

Type of Error

1. These procedures comply with the mandatory areas of Food Instrument (FI) review outlined in 246.12(k)(l). The State Agency's banking contractor performs the prepayment edits outlined in this section.
2. Fatal redemption (processing) errors are not subject to reimbursement consideration unless approved by the Vendor Manager or Division Director as a one-time exception. Please refer to the individual error type descriptions to identify which prepayment edits are **Fatal Error** conditions and are not eligible for payment.

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(FIs)

3. Retail store should carefully read each prepayment edit category and its corresponding description to ensure their compliance with Program policies. Historical redemption reports have shown that "*Missing Vendor #*", *Illegible Vendor #* and "*unreasonable \$ amount*" errors are the most common reasons why WIC FIs are returned unpaid.

Altered

1. Examples of altered FIs include modifications to the "Spend Between these Dates", quantity, product description and/or participant's name areas. These deposited WIC FIs will not be approved for payment. Any exceptions to this rule have to be approved by the Vendor Manager or Division Director only.

Unreasonable \$ Amount

1. All deposited WIC food instruments are subject to price adjustments. A **price adjustment** is made by the State Agency's banking contractor in accordance with the Retail Store Agreement to the purchase price of food instruments after they have been submitted by the retail store for payment. A price adjustment is made to ensure that the payment made for the foods purchased comply with the State Agency's competitive pricing requirements. Food instruments identified, as being over the peer group/food instrument type maximum will be subject to a price adjustment.
2. The State Agency uses a food cost redemption file to screen deposited WIC FIs for reasonable amounts. Food instruments flagged as "unreasonable" will

be stamped and returned (unpaid) via the banking system to the Retailer. The store may incur an additional charge by their depository bank for handling this type of FI. These returned FIs will have an error message, ***“RETURNED - Reduced \$ Amt. Applied if ACH Authorized”*** stamped on them. **The Retailer does not have to submit these FIs to the WIC Program for approval and review. An ACH credit is automatically applied to the Retailer’s account within two weeks of the initial processing.** A remittance statement is sent to the Retailer that identifies the ACH credit(s) made and the original FI series number(s) affected.

3. Upon request, authorized WIC retail stores flagged by their corporate headquarters will have a consolidated remittance statement sent to a central contact/location. A single ACH credit transfer, which totals multiple returned “Unreasonable \$ Amount” FIs across individual corporate sponsored stores, is made to an account/routing number which has been identified by the corporate headquarters contact. Corporate sponsored stores should contact their corporate office to find out the internal procedures that apply on how returned WIC food instruments and their corresponding ACH credits will be communicated to them. Corporate retail stores who have consolidated their check recovery operations should advise their individual stores as to how to reconcile their accounting records for these returned WIC FIs.

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Subject: Reimbursement
Returned WIC

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Food Instruments

(FIs)

1. ***Returned FIs flagged as “Unreasonable \$ Amount” will automatically be paid at the maximum amount established by the WIC Program for the individual peer group/food instrument type via the ACH process.*** The WIC Program will perform post payment reviews of FIs paid above the maximum to determine if an overpayment was made to stores. Any post payment reviews that identifies the WIC Program overpaid the store for deposited WIC FIs will be repaid. An “overpayment” letter will be sent to the store/corporate contact demanding repayment for the overpayment amount. (see Post Payment Review Policy (9.1) for additional information.)
2. FIs returned as “Unreasonable \$ amount” may be eligible for a payment adjustment, if the retail store can provide supporting documentation that the FIs level established for a specific FI type/peer group was not reasonable based upon the actual foods (i.e., product size) approved for purchase. This additional justification must be submitted in writing within 60 days of the first to spend. A register receipt or other comparable documentation must accompany this reconsideration request. If an error is made by the WIC Program in establishing a “reasonable” reimbursement level for a deposited food instrument type/peer group, an adjusted ACH payment may be approved. If an adjusted payment is subsequently made by the WIC Program, after being researched, any bank return fees applicable to these returned FIs are the responsibility of the retail store.

Missing Vendor

1. **Authorized stores must use an Agency supplied WIC authorization stamp. The Agency supplied stamp must be used on the front of all deposited WIC FIs in the area labeled “VA WIC VENDOR NO.”** If a retail store fails to comply with the requirements, it may stamp these returned FIs and resubmit them via the banking system. These returned FIs must be resubmitted within 90 days of the *first date to spend*. *No review and approval by the State Agency is necessary for these food instruments. The banking contractor will automatically pay these FIs, if they meet all other prepayment screening criteria.*
2. Retail store must use their assigned WIC authorization stamp. If a store fails to use the stamp and hand writes their authorization number on their deposited WIC food instruments, these food instruments will be returned unpaid.

3. The State Agency may take administrative action against retail stores that have a higher than acceptable level of food instruments presented for payment without the required WIC authorization stamp. These administrative actions may include but are not limited to requiring the store to pay for this additional processing cost. During the contract reauthorization process, the State Agency may take into consideration the number and frequency of FIs deposited that required a second presentation, due to the missing vendor # error condition, in making its retail store authorization and selection decisions.
4. **Each deposited FI must also have a store endorsement imprinted on the back of the FI which identifies the full store name, i.e., Main Supermarket #123, Corner Market, etc.**

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Section: Reimbursement of

Food Instruments

(FIs)

Unauthorized Retail Store

1. All processed food instruments are screened to ensure the retail store is authorized to participate in the Program. If a retail store should have been authorized when the WIC FIs were presented for payment, these FIs can be approved for an ACH credit. Any food instruments returned for unauthorized vendor should be researched by the State Agency to determine if a system or workflow processing error occurred. If the State Agency confirms that its data files have been properly updated, then the retail store may be instructed to redeposit these returned food instruments. (See Unauthorized Retail Store Policy (9.3) for additional information).

Illegible Vendor

1. All digits of the WIC authorization number assigned to the retail store must be clearly legible and readable. FIs returned and stamped with the error message "illegible vendor #" can be stamped and redeposited within 90 days of the "first date to spend" or the beginning date identified in the "Spend between these dates" area. Prior to redepositing these FIs, the retail store can hand write (in pen) the WIC authorization number on their deposited WIC food instruments, in the area designated for the stamp image or re-stamp the FIs. *WIC FIs returned with this error message do not have to be reviewed and approved by the State Agency. The banking contractor will automatically pay these FIs, if they meet all other prepayment screening criteria. **It is the retail store's responsibilities to order a replacement stamp only through an Agency designated supplier when the stamp image is blurred, unreadable or illegible.***

Over \$125 – Default Max

1. If a food instrument maximum does not exist for a specific peer group/food instrument type, then an overall \$125.00 account maximum will be used. A deposited WIC FI without a food instrument maximum that has a total requested \$ value that is greater than \$125.00 will be returned (unpaid) to the retail store's depository bank. In order to receive payment a retail store must submit the returned FI to the State Agency for review. The retail store must submit written documentation with the FI that justifies why a payment exception should be made. An example of a WIC prescription which may be approved for payment are special formula or medical food checks. The

Vendor Manager or State Agency designee will notify the store if a payment exception will be granted and in what amount. If the FI is approved for payment, the payment will be released through the ACH process.

2. The retailer should make a copy of all FIs that are greater than the account maximum (\$125.00), prior to sending them to the State Agency for payment consideration. The State Agency will follow up with the local health district and participant, using this documentation.

Policy: 9.0

**Subject: Reimbursement
Returned WIC**

Section: Reimbursement of

Food Instruments

(FIs)

Cashed Early

1. A FI deposited in the Retailer's bank before the first date to spend or prior to the "spend between these dates" will be returned unpaid and stamped with an error message. (Fatal Error)

Missing Signature

1. The participant, parent, caretaker or proxy must sign in the designated area the WIC FIs at the time when the approved foods were purchased. If the participant/payee fails to sign the right signature box, then the WIC FI will be returned unpaid. (Fatal Error)
2. If the participant uses a "X" as a valid signature (and this notation is identified on their WIC ID folder), then these returned food instruments can be approved for ACH payment by the Vendor Manager or Division Director.
3. If the participant, parent, caretaker or proxy signs the FI on the left side (or outside of the designated area) the banking contractor will accept this signature. This type of procedural error will not cause the WIC FI to be returned unpaid for "missing signature".

Signature in pencil

1. The participant/payee signed the WIC FI using pencil, then the FI will be returned unpaid and stamped with an error message. (Fatal Error)

Amount written in pencil

1. If the retailer or his/her agent (i.e., cashier) filled in the payable amount using pencil, then the FI will be returned unpaid and stamped with an error message. (Fatal Error)

Stop Payment

1. The State Agency will notify Retailers of any major stop payment incidences of lost or stolen WIC FIs. If a Retailer accepts a “stop payment” FI after being notified, then these FIs will not be approved for an ACH credit. Conversely, if the State Agency fails to notify the Retailer and the FIs are presented for payment and returned, then these FIs will be eligible for an ACH credit. ***It is the retailer’s responsibility to submit the original (returned) FI(s) to the State Agency for review and payment consideration.***

Cashed Late

1. A Food Instrument accepted by the retailer’s bank 30 calendar days after the last date to spend will be returned unpaid and stamped with an error message. (Fatal Error)

Policy: 9.0

**Subject: Reimbursement
Returned WIC**

Section: Reimbursement of

Food Instruments

(FIs)

Food Instrument Previously Considered

1. Any Food Instrument previously processed and returned unpaid will be returned unpaid upon second submission to the banking contractor, (Fatal Error) unless approved by the Vendor Manager or Division Director as a payment exception.

References:

ACH Authorization Form
Cashier Training Guide
Post Payment Review – WIC Food instruments Policy (9.1)
Retailer WIC Authorization Rubber Stamp (10.7) and Form
Rejected Food Instrument Return Form

Policy: 9.1

Subject: Reimbursement
– WIC

Section: Post Payment Review**Food Instruments****(FIs)**

Effective Date: September 1, 2002
2001 Revision

Supersedes: July 1,

Purpose:

Identify general parameters under which the State Agency conducts post payment reviews of processed WIC food instruments in order to detect processing procedural errors and overpayments. §246.12 (k)(1) - (3).

Policy:

The review of processed food instruments may lead to identifying food instruments that were overpaid and/or non-compliant with established food instrument-handling procedures. An Agency Representative is authorized to review processed WIC food instruments to evaluate if the designated banking contractor properly reimbursed WIC Program food instruments.

Retail Stores Procedures:

1. The State Agency must select WIC food instruments for post payment review within one year of the "first date" printed on the food instrument. The State Agency must initiate a "Vendor Claim" collection within 120 calendar days of either the date of detection of the review or investigation giving rise to the "Vendor Claim", whichever is later
2. The State Agency will determine what selection criterion will be used to complete these post payment reviews. These criterion may include but are not limited to: high volume food instruments processed/redeemed; high risk store designation; high volume stores; probationary stores; FIs paid 20% or more over the established FI type/Peer Group maximum; special formula FIs, randomly selected food instruments; food instruments redeemed at/above a certain dollar amount, etc.
3. Processed WIC FIs selected for post-payment reviews are evaluated either on-line or the original paid food instrument is pulled by the banking contractor and returned to the State Agency. This review process may lead to the Program identifying WIC FIs that were improperly reimbursed. If an overcharge ("Vendor Claim") is identified, the State Agency will send an overcharge letter and a copy of the paid food instrument to the individual store or corporate contact requesting repayment of the overcharge.

4. The State Agency will recoup the overcharge amount identified from the post-payment review process. In accordance with §246.12(h)(3)(ix) regulations, for gross overcharge incidences (greater than 100% of the average value of a specific food instrument), the State Agency may deny the entire payment amount and establish a claim for the full purchase price of the FI with an overcharge.

Policy: 9.1

**Subject: Reimbursement
– WIC**

Section: Post Payment Review

Food Instruments

(FIs)

5. Retail stores will be given thirty (30) calendar days to repay any documented overcharges. Failure to pay or respond to this initial notice may lead to further administrative actions, to include but not limited to a one-year disqualification. A pattern of documented overcharges may lead to a three-year disqualification, depending upon the severity/frequency level identified.
6. To dispute a Vendor Claim levied by the State Agency, the retail store must contact in writing either their assigned Agency Representative or the State Agency within 30 calendar days upon receipt of the overpayment letter. In this written communication the retail store must provide documentation that explains the reasons supporting their dispute. The State Agency will respond in writing within 30 calendar days on the disposition of the Vendor Claim after reviewing the documentation provided by the retail store.
7. After the thirty-day period has elapsed and if no payment or written correspondence has been received disputing the Vendor Claim, the State Agency will send a second and final written letter, via “certified mail” to the store. The retail store will be given an additional 15 calendar days from the date of receipt of the final notice to remit payment. This letter will identify what administrative action, including Program disqualification will occur.
8. A monetary penalty fine will not be assessed for Vendor Claims repayments.. A retail store paying a Vendor Claim detected from the post payment review process does not protect the store from having further administrative action being taken; including being selected for a covert compliance investigation.

Banking Contractor Procedures:

1. The post-payment review process may lead to the Program identifying WIC food instruments that were improperly reimbursed by the banking contractor. A random selection of processed WIC FIs are reviewed either on-line or the original paid FI is pulled by the banking contractor and returned to the State Agency. The selection process of FIs reviewed may include but is not limited to: stores designated as “high risk”; “high volume”; probationary retail stores; food instrument type redeemed at/above a certain dollar amount; and other criterion as determined by the State Agency. If an overcharge (“Vendor Claim”) is identified, the State Agency will notify in writing the banking contractor. Repayment of the overcharge via an adjustment will be made by the banking contractor to the WIC Program.

2. A credit adjustment will be applied to the WIC Program's account and the banking contractor will apply this adjustment on the next month's reconciliation statement.
3. Retail stores are not financial liable to repay these types of processing errors directly back to the WIC Program. The store's depository bank will reconcile this type of error directly with the retail store affected.

Policy: 9.1

Subject: Reimbursement
– **WIC**

Section: Post Payment Review

Food Instruments

(FIs)

References:

Reimbursement of Returned WIC Food Instruments (9.0)
Cashier Training Guide
Sanction Classification System Policy (15.0)

Policy 9.2 Food Type Maximums is NOT included because it could not be cut and pasted into this document.

Policy: 9.3

Subject: Reimbursement
Stores

Section: Unauthorized Retail

Effective Date: September 1, 2002
2001 Revision

Supersedes: July 1,

Purpose: Provide guidelines to unauthorized retail stores for handling returned and/or undeposited WIC food instruments.

Policy: The Retailer must be authorized (at a specific fixed permanent location) to participate in the Virginia WIC Program. A signed Retail Store Agreement must be on-file for any store to accept and be paid for a redeemed WIC food instrument. A retail store that mistakenly accepts a WIC food instrument and the store is not authorized to participate in the Program **will not be reimbursed for any food instruments redeemed by a WIC participant**. The retail store may send these food instruments to the State Agency, so the local health district can counsel the participants, accordingly.

Procedure:

1. Unauthorized stores that send in documentation (i.e., a returned and/or undeposited food instrument) that a WIC participant, parent, caretaker or proxy used at an unauthorized retail store will be advised that they will not be paid for the food(s) purchased.
2. The State Agency will follow up with the local agency so that appropriate counseling of the WIC participant, parent, caretaker or proxy can be taken.
3. Unauthorized retail stores that demonstrate a repeat pattern (e.g., more than three separate incidences during a consecutive 12 month period) of accepting WIC FI may be selected for a compliance investigation. Documented occurrences of an unauthorized store accepting WIC FIs can result in the store receiving sanction points and/or a civil monetary penalty fine, as outlined in the Sanction Classification Policy.

References:

Reimbursement of Returned WIC Food Instruments Policy (9.0)
Handling Complaints Against WIC Participant Policy (3.1)
Sanction Classification System Policy (15.0)

Policy: 10.0

Subject: Retailer's Rights and Responsibilities

Section: Minimum Food Stocking Requirement

Effective Date: August 1, 2003

Purpose: To establish the retailer's responsibility in meeting the mandatory minimum stocking requirement, as well as the State Agency's role in monitoring program compliance.

Procedure:

1. For all store locations, the retailer agrees to keep his/her shelves stocked or immediately available on-site the Virginia minimum food stocking requirement at all times during the contract agreement period. Furthermore, the retailer agrees to **meet or exceed** this minimum stocking requirement. Failure to maintain this minimum stocking requirement could lead to a denied application or penalty fine being assessed.
2. The retailer agrees to have on the shelf for purchase a reasonable choice of authorized WIC approved foods. The specific brands, package size(s) and quantities required are listed on the Virginia Minimum Stocking Requirement form and the current WIC Approved Food list.
3. The Virginia WIC Program has established minimum stocking requirements for the following food categories:

• Infant Cereal	• Eggs
• Infant Formula	• Cereals
• Milk	• Juice
• Peanut Butter	• Cheese
4. Peer Group 1 stores only that have been authorized for more than three years may request an exemption to the minimum food stocking requirement for selected formula products. **The waiver/reduction request form must be submitted and approved by the WIC Program, before it becomes effective.** See the FORMS section for a copy of the form.
5. WIC approved foods must be located in an area readily accessible to WIC participants or immediately available (at the retail store location). Outdated food will not be counted in minimum stocking evaluation completed by a State Agency Authorized Representative.
6. The State Agency (or Authorized Representative) will conduct unannounced compliance visits throughout the contract period to determine if a retailer continuously and consistently meets the Virginia minimum stocking requirement.
7. **The prices of all WIC approved food items, must be plainly marked on the product or shelf, or posted in the immediate area where the food items are kept.**

Reference:

FORMS - Minimum Food Stocking Requirement Form

Policy: 10.1

Subject: Retailer's Rights and Responsibilities
Interest

Section: Conflict of

Effective Date: August 1, 2002
Revision

Supersedes: July 1, 2001

Policy: Authorized WIC retail stores shall ensure that no conflict of interest exists between an authorized WIC retail store and any local, state, or federal WIC agency, as stated in the Virginia WIC Program Retail Store Agreement. This includes, but is not limited to documentation of employees and/or spouses who are also employees of a local, state, or federal WIC Agency.

Procedure:

1. The State Agency requires that all authorized WIC retail stores identify and report any member of the store's ownership, management, or operations staff that is directly or indirectly associated with the WIC Program. To ensure that all potential conflicts of interests are identified and reported, the retail store must complete the attached "Potential Conflict of Interest Reporting Form" for each category listed. This form shall be completed when requested by, or as deemed necessary by the State Agency. Failure to file this form in the time frame designated by the State Agency could result in termination of WIC authorization.
2. A retail store may voluntarily submit the "Potential Conflict of Interest Reporting Form" and request a written risk evaluation and response related to the "potential conflict" situation.

PLEASE NOTE: Dismissal from employment or failure to hire based solely on an individual's involvement with the WIC Program is discriminatory and is not permissible under the Virginia WIC Program Vendor Contract.

References:

FORMS - Potential Conflict of Interest – Reporting Form WIC #V10.1
WIC Regulation 7 CFR Part 246.12
Standard Retailer/Corporate Retail Store Agreement and Application form

Policy: 10.2

**Subject: Rights and Responsibilities
Manufacturer's**

**Section: Sales Tax,
Coupons, and Customer**

Discount Card

Effective Date: August 1, 2002
DRAFT

Supersedes: June 1, 2000

Policy:

Authorized WIC retailers shall ensure that they never charge the WIC Program sales tax on a WIC transaction. However, WIC customers may be required to pay the applicable sales tax related to the use of coupons or customer discount cards to obtain free or reduced items.

Procedure:

1. The United States Department of Agriculture (USDA) and the State Agency require that all retail stores do not charge sales tax on any WIC purchase by a WIC participant or authorized representative (WIC customer). The only exception is the possible use of coupons or customer discount cards to obtain free or reduced items.

Retailers should utilize a cash register with a "tax exempt" or "WIC" key that automatically removes sales tax from the purchase.

2. Retailers are required to treat WIC customers as they would other customers. This includes the use of manufacturers', store coupons, or customer discount cards. Any applicable sales tax required by the use of coupons or customer discount cards to take advantage of offers such as "buy one, get one free," (or buy one at half price) is the responsibility of the customer. Money should not change hands for any other reason with a WIC sales transaction.
 - a. **WIC customers are encouraged to use customers discount cards with their WIC purchases.**

Example 1: A WIC customer wishes to use her customer discount card with her WIC food instruments. Cashier should ring up the sale as usual and use the customer discount card as with any other customer. If there are reduced items in the transaction, no money changes hands; the cashier fills in the reduced price on the WIC food instrument.

Example 2: The store is offering "buy one, get one free" on Cheerios. A WIC customer wishes to take advantage of this offer using a customer discount card. The cashier should ring up the sale as usual. DO NOT count the extra ounces against 36 oz. maximum on the WIC food instruments (even if the sale rings up as half off each box). **If sales tax is required on the additional box(es), the WIC customer is required to pay it or not take advantage of the special offer.**

Policy: 10.2

Subject: Rights and Responsibilities
Manufacturer's

Section: Sales Tax,

Coupons, and Customer

Discount Card

- b. **WIC customers may use coupons to reduce the price of WIC items purchased with WIC food instruments.**

Example 3: The WIC customer has a coupon for \$0.50 off the infant formula specified on her WIC food instruments. She may use this coupon. The cashier should ring up the sale as usual and deduct the \$0.50 from the total WIC sale. No money changes hands. The customers may NOT receive the \$0.50 in cash.

- c. **WIC customers may also use coupons to obtain other items that are free or reduced in price even if the free or reduced items are not WIC approved.**

Example 4: The WIC customer has a coupon for a free pound of bananas with the purchase of a box of Kellogg's Corn Flakes. The cashier should ring up the sale as usual. If sales tax is required on the bananas it is the customer's responsibility to pay the tax.

Example 5: The WIC customer has a coupon for half off disposable diapers with the purchase of the infant formula specified on her WIC food instruments. The cashier should ring up the sale as usual and ONLY write on the WIC food instruments the price of the WIC approved foods specified. The customer must pay the required half-price for the diapers and the sales tax. *Note: non-WIC items can not be charged to the WIC Program.*

Sanction:

Retail stores that charge sales tax or incorrectly handle manufacturer's coupons during a compliance investigative buy will be assessed a Class A violation and a fine of \$100.

Reference:

Federal Regulations 7 CFR Part 246.12

Virginia WIC Retailer Contract

Cashier Training Guide

Sanction Classification System (15.0)

Policy: 10.3

Subject: Retailer's Rights and Responsibilities

Section: Solicitation

Effective Date: August 1, 2002

Supersedes: July 1, 2001

Purpose:

To identify State agency guidelines for authorized retail stores soliciting WIC participants' business. WIC participants and local agency staff have expressed concerns regarding aggressive solicitation by WIC authorized stores in the vicinity of WIC clinic sites. In many instances, participants have reported a level of intimidation or harassment, which has resulted in participants/proxies' restricted abilities or comfort level entering/exiting WIC clinic site(s). The consequences of this type of behavior create an unfavorable atmosphere for participants/local agency staff.

To explain and clarify this policy, the Virginia WIC Program is adhering to the following definitions of terms, "vicinity" and solicitation".

*The **vicinity of the local agency or clinic site** means any area near, in the neighborhood of, or in the surrounding areas of the clinic site. At a minimum, a 20-foot buffer/neutral zone shall apply. Retail stores or their agents can not make direct/indirect contact with WIC participants/proxies within 20 feet of the WIC Clinic facility entrance/exit.*

***Solicitation** is approaching with information or otherwise enticing any WIC participant/proxy to attempt to influence her/his decision to choose a particular authorized retail store to purchase WIC authorized foods.*

Policy:

1. Retail stores or their agents are not permitted to distribute flyers, business cards, or any other self-promotional materials to WIC participants on the premise/property where a local WIC clinic is located or services delivered.
2. Flyers, pamphlets or any other type of promotional materials that promote shopping at one WIC authorized store over another one shall not be posted in/near the local WIC clinic premise/property.
3. Inducements or "freebies" shall not be given to local WIC clinic staff/participants which may give the public and/or WIC participants the impression that a special business relationship exists between the WIC

Program and any authorized store. WIC staff must not engage in any behavior that directs or encourages participants to shop at a particular WIC authorized store.

4. Retail stores are expected to comply with local ordinances that outline acceptable solicitation practices within their community.

Policy: 10.3

Subject: Retailer's Rights and Responsibilities

Section: Solicitation

5. WIC participants are encouraged by the local agency to report aggressive marketing efforts that either intimidate or unduly pressure WIC participants to shop at certain stores. Local agency and participant complaints of this nature may lead to administrative action. Any violations of this policy may result in the WIC Program's decision to decline to renew a retail store's Agreement or to disqualify an authorized store. To ensure a store's continued authorization as a WIC authorized store, it's the store owner's/manager's responsibility to ensure all employees and agents of the store understand and adhere to all requirements outlined in this policy.

References:

Retail Store Agreement and Application Forms
Service Delivery Policy (10.6)

Policy: 10.4

Subject: Retailer's Rights and Responsibilities
Submission

Section: Price Survey

Requirements

Effective Date: August 1, 2002
Revision

Supersedes: July 1, 2001

Purpose: To identify State agency guidelines for authorized retail stores on when and how periodic price data will be collected.

Policy: Retail stores authorized for Virginia WIC Program participation are expected to charge a "reasonable" price throughout the contract period for WIC-approved foods purchased by participants. The State Agency periodically collects and analyzes shelf and posted prices of selected food(s) to assure this outcome. ***Stores whose prices are determined to be non/less competitive in contrast to similar WIC authorized stores are subject to having their Retail Store Agreement with the Program terminated.***

Procedure:

1. The State Agency primarily uses a paper Price Survey form to collect prices for selected WIC approved foods. For stores covered under a corporate contract agreement, an electronic data worksheet format is used.
2. Pricing data is collected during initial application to the Program and throughout the contract period (both on a scheduled and on-demand basis).
3. Failure to submit prices as demanded by the State Agency may lead to the termination of the store's Program authorization.
4. Prices submitted are subject to on-site verification by Agency staff.
5. Providing the State Agency with incomplete and/or inaccurate prices may lead to administrative actions being taken, including the retail store's contract being terminated and/or application being denied.
6. Price data will be collected at least two times during a calendar year. For retail stores with 1-3 and 4-7 cash registers (including Specialty stores), and commissaries a price survey form should be automatically submitted based upon the regional location of the store and due date specified below:

Region:

Due Date:

Tidewater, Southern Virginia	April 1 st and
October 1 st	
Central Virginia and Northern Virginia	January 1 st and July
1 st	

7. If a store is unsure which schedule applies to them, the store should check with their assigned Agency Representative.

Policy: 10.4

**Subject: Retailer's Rights and Responsibilities
Submission**

Section: Price Survey

Requirements

8. Stores failing to submit their prices within 30 calendar days of the stated due date will receive a written warning letter. Stores that fail to comply, after receiving one written warning letter, may have their WIC Program authorization status terminated.
9. Between reporting periods, price increases/decreases for WIC-approved foods do not have to be submitted to the State Agency before they become effective.
10. Either the store owner, manager or person with the designated authority should complete the Price Survey form. The survey form should be postmarked and mailed by the stated due date.
11. Stores whose submitted prices are determined to be non-competitive will be given a single opportunity to resubmit their prices. Failure to resubmit the store's prices within the specified due date may lead to administrative actions being taken, including the store's WIC Program authorization being terminated.
12. If the store's prices are still determined, to be non-competitive (in either/both the infant and adult food packages), after the second price submission evaluation, then the store's WIC Program authorization must be terminated.

Reference:

Virginia WIC Program Price Survey Form WIC #V10.4
Peer Group Classification Policy (13.0)
Retailer Selection and Authorization Policy (14.0)
Standard/Corporate Retailer Contract Agreement and Application forms

Policy: 10.5

Subject: Retailer's Rights and Responsibilities	Section: Participant Confidentiality
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Effective Date: August 1, 2002

Supersedes: July 1, 2001 Revision

Policy:

Participant information must remain confidential to ensure compliance with federal regulations and to protect the right to privacy of WIC participants. Confidentiality requirements apply to information provided by a participant and that is based on direct observation by store personnel.

Authorized WIC retailers shall ensure that they maintain participant confidentiality. This includes, but is not limited to the prohibition of retailers from collecting personal information from WIC participants, making personal contacts with WIC participants after the WIC transactions has occurred, or sharing information on participant identification with third parties. (Third parties do not include WIC Program State, local and federal agency representatives who have a legitimate business interest in the services provided to participants.)

Procedure:

1. The United States Department of Agriculture (USDA) and the State Agency require that all retail stores keep confidential all WIC customers' identities and personal information. Retailers should not ask for personal information to transact a WIC sale, nor use the information on the WIC food instrument for building client files without the customer's knowledge or permission. Retailers should not provide WIC customers' identities or personal information to third parties with the exception of WIC Program State, local or federal agency representatives.
2. The retailer has the right to use all available information including data from a WIC transaction to make a complaint of criminal activity to law enforcement authorities. However, the retailer should not give personal information regarding a WIC participant to such authorities investigating unrelated incidents, not related to a WIC transaction.
3. Retailers must accept the WIC ID Folder as the only required type of identification.

Example: Retailers may not ask for the WIC customer's telephone number, address, social security number or other such personal information as might be requested with other non-cash transaction. Such information is confidential.

4. The State Agency must not provide to a retail store participant identifiable information regarding a complaint investigation, unless the participant expressly gives permission to do so.

Policy: 10.5

Subject: Retailer's Rights and Responsibilities

Section: Participant Confidentiality

5. Retailers must not share any identifying information regarding WIC customers with third parties except in making a specific complaint of participant misconduct regarding a WIC transaction.

(The disclosure of WIC participant information is limited to persons directly connected with the administration and enforcement of the WIC Program, including those investigating or prosecuting violations under federal, state or local authority.)

Example: A retailer must give all available identifying information regarding a WIC customer to the State Agency in filing a complaint or in filing a police report alleging criminal activity by a WIC customer (when using a WIC check). However, retailers must request that investigating authorities seeking confidential participant information, not related to the WIC transaction, contact the State Agency to obtain confidential participant information under any other circumstances.

6. Requested data in aggregate or summary form that excludes any items that would identify WIC participants may be granted only upon approval by the State Agency. These requests must be submitted in writing to the State Agency.

Sanction:

1. Retail stores that seek or give confidential information regarding a WIC participants to a third party may be assessed a Class A violation and a \$100 fine under the Sanction Classification System policy.
2. Retail stores that violate any of the provisions outlined in this policy may be assessed a Class A violation and a \$100 fine under the Sanction Classification System Policy.

Reference:

Complaint Handling Policy (3.0)
 Federal Regulations 7 CFR Part 246.26 (d)
 Virginia WIC Retailer Contract
 Sanction Classification System (15.0)

Policy: 10.6

Subject: Retailer's Rights and Responsibilities

Section: Service Delivery

Effective Date: August 1, 2002
Revision

Supersedes: July 1, 2001

Purpose: To identify State agency guidelines for authorized retail stores selling WIC approved foods to participants. The State Agency authorizes stores to sell WIC approved foods to participants from a permanent, fixed store location.

Procedure:

6. Retail stores authorized by the Program must be located in a permanent fixed location. (The State Agency will not accept applications from mobile retailers.)
7. Any authorized retail store whose actual (or projected) annual food sales is 51% or more from the Virginia WIC Program shall not pay for or subsidize home transportation services, "free" delivery/taxi, shuttle services for WIC participants, unless said service has been approved in writing by the State agency. This statement applies to both pick up from a home residence and return transportation after shopping at the store. If a transportation service option has been approved, any change to the scope of service, availability or eligibility requirements for said service shall be communicated in writing to the State agency, at least 30 calendar days prior to the change(s) being implemented.
8. Authorized retail stores whose customer base is the general public can offer home transportation service, free or subsidized delivery/taxi service, shuttle services, if these same services are offered to the general public. The store's customer service policy in providing this service has to be consistently applied to all of its customers, including WIC participants.
9. Retail stores shall not add to the overhead expenses or food cost charged to the WIC Program the cost of offering said type of "delivery" services outlined in paragraphs 2 and 3.
10. This policy does not prohibit any retail store from carrying participant's WIC purchases to a participant's/ proxy's car or vehicle.
11. No authorized retail stores can deliver foods to be purchased using a WIC food instrument to a participant's home residence. Participants must go to an approved location as identified in the store's contract agreement with the Program to use their WIC food instruments.
12. Using an Internet retail grocer is an ineligible type of service delivery.

13. Retail stores shall not offer drive-through window service for making WIC purchases. For any and all services provided to participants he/she must take physical delivery of purchased foods at the time when the WIC food instrument is signed by the participant/proxy. The participant's signature on the WIC food instrument represents a confirmation that all items charged to the Agency have been purchased.
14. Retail store may accept WIC food instruments at any checkout lane that accepts personal checks, credit/debit transactions, and/or cash. Cash Only check out lanes are exempt from handling WIC checks. For stores offering a self-checkout service, it is optional whether these stores accept WIC checks at these types of registers. All stores who accept WIC checks at self-check out lanes are expected to follow all WIC Program administrative procedures outlined in the Cashier Training Guide. It is especially critical to ensure that the cashier confirms that a WIC participant purchases only those food items prescribed by the Program. The participant/proxy's signature must be obtained after the dollar amount has been written in on the food instrument.

References:

- Cashier Training Guide
- Retail Store Agreement and Application form
- Solicitation Policy (10.3)

Policy: 10.7**Subject: Retailer's Rights and Responsibilities**
Authorization

Section: Retailer WIC

Rubber Stamp

Effective Date: August 1, 2002**Supersedes: July 1, 2001 Revision**

Purpose:

The Virginia WIC Program assigns a unique 4-digit authorization number to all stores. Redemption history is tracked based on the 4-digit authorization number. It is critical that a clear stamp impression of all four digits appears on the front of every WIC food instrument deposited and/or submitted for payment.

The objective of this policy is to enable Retailers to re-order additional and/or replacement stamps directly from *"the authorized State vendor"* contracted to supply rubber stamps in accordance with the specifications outlined in the State contract. Rubber stamps should not be duplicated or reproduced from any other source than *"the authorized State vendor"*. Outside suppliers are not allowed to reproduce these stamps. Failure to comply with this policy may lead to a store being denied payment for redeemed WIC food instruments and/or program disqualification.

Procedure:

1. Retailers are mailed a WIC authorization stamp at the time of enrollment and are entitled to one (1) replacement stamp per year of their contract period. A maximum of three (3) replacement stamps will be issued at no cost to the Retailer during a single contract period. Stamps returned/replaced for manufacturer defects will not be charged to the retailer and/or State agency. Stores designated, as *"high volume"* retailers will receive a letter and bonus stamp in October of each calendar year during the contract period.
2. Retailers may obtain approval from the State Agency to order additional and/or multiple stamps in excess of the above stated maximum at a prepaid cost of \$10.00 each (includes shipping costs). Retailers must submit in writing their request for this exception being made. A written request may be submitted by e-mail to the Vendor Manager or by letter.
3. Retailers are responsible for placing the order directly to *"the authorized State Vendor"* for lost, damaged, and/or replacement stamps without delay to ensure timely submission of food instruments for prompt reimbursement and to avoid payment refusal.
4. Retailers are responsible for the use and care of their WIC authorized stamp. They should keep the rubber stamp in a safe place, cleaned and preferably use a fabric inepad.
5. The Virginia WIC Program will identify to Retailers the current *"authorized State Vendor"* for reproduction of WIC authorization stamps, and provide instructions for placing orders via written, verbal, or electronic communication. See the Replacement Order Form that is located in the FORMS section.

Policy: 10.7

Subject: Retailer's Rights and Responsibilities Authorization	Section:	Retailer	WIC
Rubber Stamp			

6. Retailers are responsible for verifying the accuracy of the replacement stamp immediately upon receipt. In the event of a delay in shipping or an inaccurate stamp is received (i.e. wrong authorization number), the Retailer should contact ***“the authorized State Rubber Stamp Vendor”*** to make the necessary corrections. Under no circumstances should a store use an inaccurate stamp in depositing its WIC food instruments.
7. If additional problems or concerns exist, Retailers may contact their assigned Agency Representative for additional assistance.

Reference:

**Retailer Contract Agreement and Application Form
FORMS – Replacement Order**

Policy: 10.8

Subject: Retailer's Rights and Responsibilities Material/Supply	Section:	Retail	Store
		Request	

Effective Date: August 1, 2002

Supersedes: July 1, 2001 Revision

Purpose: To ensure retail stores, corporate support personnel and field staff have a mechanism to order replacement supplies and educational materials.

Procedure:

1. **Retail stores/corporate support staff should complete the material/supply request form and mail or send by facsimile transmission the completed form to the State Office. The specific quantity being requested should be printed on the request form, plus the information that identifies who should receive the requested supplies.**
2. **Retail stores and/or corporate offices that want to purchase an additional copy of the Vendor Manual for the Virginia WIC Program should submit a money order or cashier's check for \$20.00 with their request form. Failure to send in this payment will result in the Agency being unable to fulfill the request for this item.**
3. **During on-site monitoring visits, if the Agency Representative wants to request supplies/materials to be sent to a store, this form will be completed and attached to the 317 (Program Review) form. The State Office's support team will handle the order fulfillment process, so it is important the completed form has all pertinent information written on it.**
4. **To ensure prompt service, stores and/or the requestor must fill in all pertinent information. Please allow 2-3 weeks for the Agency to process and send out any supply/material requests.**
5. **Retail stores should not submit requests for replacement rubber stamps using this form.**

Reference:

Rubber Stamp Policy: 10.7

FORMS – Retail Store Material/Supply Request Form (WIC #V10.8)

Policy: 11.0

**Subject: Store Training
Training**

Section: Retailer

Effective Date: August 1, 2002
Revision

Supersedes: July 1, 2001

Purpose:

The Retailer Agreement requires that all participating retailers/or an authorized store representative accepts interactive training and instructions, annually. This individual is responsible for training all store personnel handling WIC transactions. Mandatory training is required for:

- All retail stores at the time of their initial WIC authorization.
- All retail stores for reauthorization.
- Retail stores designated as **High Risk (see High Risk Retailer Policy # 6.0)**.
- Follow-up to compliance investigations, where significant violations are identified; as determined by the **Sanction Classification System #15.0**.
- To ensure program integrity as deemed necessary by the State Agency.

Policy:

The State Agency shall ensure that training and training materials are provided to all authorized WIC retail stores. An Agency Representative is assigned to each authorized retailer and is available to serve as a consultant or training resource. Training shall be designed to prevent Program errors or abuse, reduce reimbursement errors, and promote the delivery of quality services to WIC participants, caretakers, parents and proxies.

I. STATE AGENCY TRAINING**A. Retail Stores for Which the State Agency Is the Trainer:**

1. Retail stores with a Standard Retailer Agreement;
2. Retail stores with a Corporate Retailer Agreement that **do not** participate in the Certified WIC Retailer Trainer Program;
3. Retail stores designated as high risk; or
4. Retail stores retained in lieu of disqualification or suspected of Program fraud.

B. Timing of Training:

1. Federal regulations §246.12(h)(3)(xi) requires at least one authorized store representative must participate in training annually, which may include interactive training. The Virginia WIC Program's Retailer Bulletin will be used as a tool to document this requirement has been met.
2. State Agency provides training materials pertaining to WIC Program policies and procedures to all retail stores or authorized retailer representatives at initial authorization and reauthorization.
3. Retail stores or their authorized representative are responsible for training all store personnel (including office support staff) involved in handling WIC transactions.
 - a. New cashiers
 - b. All personnel whenever significant WIC Program policies and procedures change occur.
 - c. Cashiers involved in documented compliance investigation violations.
4. Agency Representatives provide training during routine monitoring visits to retail stores or their authorized representative at time of the on-site visit.
5. Upon request, Agency Representative may provide training assistance to retail store management or customer service managers during normal business hours.
6. State Agency will review internal training tools developed by retailer, such as tip cards, training guides, and the like, to assure accuracy.
7. State Agency will consult in the development of internal training tools and tailored duplication of State Agency training materials, and encourages retailer to develop customized training tools for its own stores.
8. Retailers not fluent in English must provide their own translator to assist with mandatory training and scheduled on-site training.

Policy: 11.0

Subject: Store Training
Training

Section: Retailer

II. CERTIFIED WIC RETAILER TRAINING

A. Retailers for Which a Certified WIC Retailer Trainer Is the Trainer:

1. Retail stores with a Corporate Retailer Agreement participating in Certified WIC Retail Trainer Program (referred to as “trainee”).
2. The Corporate office designates one or more individuals to become Certified WIC Retail Trainers, who are assigned a State Agency Representative.

B. Certification:

1. Trainee agrees to accept responsibility to train all retail store staff (including office support staff) involved in handling WIC transactions and shall provide training at the time of initial WIC Retailer Contract Authorization and contract re-authorization.
2. Trainee must successfully complete all requirements associated with Certified WIC Retailer Trainer Certification Program conducted by the State Agency.
 - a. State Agency may provide hard copy of training materials to trainees, who must pass written examination with a score of 90 percent or better: or
 - b. State Agency may offer group training at a central location; or
 - c. Trainee may take interactive computer-based training module for Certified WIC Retailer Trainers and must pass post-test with a score of 90 percent or better; and
 - d. Conduct a demonstration training session on site with their assigned State Agency Representative as observer;
 - e. Pass an oral examination to demonstrate working knowledge of the following:
 - (i) WIC Program Policies and Procedures in the *Vendor Manual for the Virginia WIC Program and Cashier Training Guide*.

- (ii) Available training resources (e.g., “Checking out WIC” training video, WIC approved food list, tip cards).
- (iii) WIC State Agency and Retailer responsibilities and requirements set forth in Corporate Retailer Agreement.
- (iv) Knowledge of all requirements regarding proper reimbursement procedures.

Policy: 11.0

**Subject: Store Training
Training**

Section: Retailer

3. Requirements of Certified Trainers:

- a. Trainers must be recertified or new trainers become certified as necessary:
 - (i) For new contract period
 - (ii) For Corporate Retailer's personnel changes affecting Certified Trainer
 - (iii) As deemed necessary by State Agency
- b. Certified trainers shall facilitate training sessions for contract renewal and shall conduct mandatory training at the time of initial authorization of a new retailer.
- c. Certified Trainers shall report to the State Agency, on the attached Certified WIC Retailer Trainer Reporting Form, the type of training conducted, the date of the training, attendees, and other information requested.
- d. Certified Trainers shall file their reports promptly:
 - (i) For training conducted at the time of initial WIC authorization, within ten working days of the date of training.
 - (ii) For training conducted for contract reauthorization, within thirty working days of the date of training.
- 4. Certified Trainers are encouraged to develop internal training tools, such as tip cards, training guides, etc., or duplicate and customize State Agency training materials, and shall submit these resources to the State Agency for review to ensure their accuracy and completeness.
- e. Certified Trainers may request consultation with their assigned State Agency Representative at any time to assist in the development of training materials.

Reference:

Federal Regulations 7 CFR Part 246.12
 High Risk Retailer Policy #6.0
 Sanction Classification System #15.0

Policy: 12.0

Subject: Status Change
Structure

Section: Change of Business

Retail Stores

Effective Date: **August 1, 2003**

Supersedes: July 1, 2001 Revision

Policy:

1. Authorized WIC retail stores shall provide the State Agency with advance written notice (at least 15 calendar days) prior to any business structure changes. If the retail store fails to provide this written notification to the State Agency within 90 calendar days of the actual change, then the State Agency may pursue administrative remedies, including terminating with cause the Retailer's Agreement.
2. The State Agency will evaluate each reported status change to determine if it qualifies as a business structure status change, as outlined in (CFR 246.12(h) (3) (xvii). Some examples of business structure changes may include a corporate name change; a corporate management or organizational structure change; and so forth. These examples are not inclusive. The State Agency will evaluate each request for a business structure change and determine if it qualifies as a status exception under this policy.
3. Instances where there is a "**change of ownership**" i.e., where the principal owner(s), corporate officers of the business and/or corporation have legally and/or permanently changed, then this type of change will nullify the existing Retailer Agreement with the WIC Program. The new owner and store manager of the business/corporation will have to reapply for WIC Program authorization; and subsequently submit their qualifications and a new application for evaluation based upon the existing retail store selection and authorization criteria.

Procedure:

1. If a business structure change is approved, then the State Agency will update its business records/data files to reflect the business structure change; and advise the retail store in writing that they may continue to accept WIC food instruments at the same physical store location identified in the original, signed Retailer Agreement.
2. If the status change does not qualify as a business structure change, then the State Agency will advise the retail store of this fact; as well as send a written notification 15 calendar days prior to terminating the existing contract.

Reference:

WIC Regulation 7 CRF Part 246.

Policy: 12.1

Subject: Status Change

**Section: Closings and Relocation of
WIC Retail****Stores**

Effective Date: August 1, 2003

Supersedes: October 1, 2002 Revision

Purpose: To identify the parameters when a WIC authorized store can retain their authorization status and continue using an assigned **WIC authorization ID/stamp**.

Policy:

The State Agency will follow a standard procedure when notified that an authorized WIC retail store will relocate or cease participation in the WIC Program. In order to assure continuation of services, proper redemption of deposited FIs, and maintenance of accurate information of WIC retail stores, the State Agency will follow the procedures outlined in this policy.

Procedure:**Permanent Closing**

Authorized WIC retail stores shall give the State Agency written notice of the store's permanent closure within fifteen (15) calendar days before the actual closed date takes place. Failure to notify the State Agency in writing of such closure may result in the State Agency taking administrative action, including terminating for cause the store's **WIC authorization ID/stamp**.

1. When the State Agency receives notification that a retail store will cease participation due to a permanent closing (**store is closed for business 62 calendar days or more**), a termination from the WIC Program will be initiated. The State Agency shall:
 - a. Schedule and execute the removal of the retail store from the master list of active retail stores and the retailer's authorization number will be flagged as an "*unauthorized retailer*" in the banking system.
 - b. Notify the retail store of the effective date of termination from the WIC Program. This letter will state that the retailer may no longer accept or deposit food instruments after a specific date and time.
 - c. Resolve and act upon all retail store requests for extension or pending Administrative Appeal Hearings and/or Reviews prior to removing a retailer's **WIC authorization ID/stamp**.

Policy: 12.1

Subject: Status Change

**Section: Closings and Relocation of
WIC Retail****Stores****Temporary Closures:**

1. Authorized retail stores shall give the State Agency advanced written notice, at least 15-calendar days of any short term closures. A store term closure is defined as the store being closed for more than 15-consecutive calendar days. Failure to notify the State Agency in writing of this type of change in status may result in the State Agency taking administrative action, including terminating the store's authorization.
2. Temporary closing of a retail store, for purposes of this policy, is defined as,
 - a) The retail store is not open for business more than 15 calendar days and less than 61 calendar days due to building damage, repairs and/or renovations, sanitation violations, natural disaster, property access restrictions, road damage or temporary barriers.
3. The written notice sent to the State Agency by the retail store shall include an actual and/or projected start date and end date of the temporary closure, address and active (day-time) telephone number to contact the owner during the period of temporary closure.
4. When the State Agency receives notification that a retail store is temporary closing the State Agency shall:
 - a) Schedule and execute the removal of the retail store from the master list of active WIC retail stores and the WIC retailer's authorization from the banking system.
 - b) Notify the retail store of the effective date of temporary termination from the WIC Program. The State Agency will advise the retailer that s/he may no longer accept or deposit food instruments during this period of temporary closure.
5. Retail stores shall give the State Agency advanced written notice (i.e., at least 15 calendar days) to request that a store's **WIC authorization ID/stamp** status be reactivated, after a temporary closure.
6. Retail stores must request and [submit an updated price survey form](#) and [undergo a pricing evaluation to ensure the store's prices qualify for continued Program authorization](#), as outlined in the Retail Store Selection and Authorization Policy (14.0).

Policy: 12.1

Subject: Status Change

**Section: Closings and Relocation of
WIC Retail**

Stores

7. When the State Agency receives a [updated price survey form](#) from a temporary closed retail store and there is no change in ownership or [key store](#) personnel, then the State Agency shall:
 - a) Review the retail store application and determine initial selection qualifications (see Selection and Authorization Policy 14.0).
 - b) Notify the retail store and advise the store of the Agency's authorization and selection decision.
 - c) Schedule an on-site review (if applicable) within 15 calendar days, after a selection decision had been made.
 - d) Conduct an on-site monitoring review for minimum stocking requirements, [verify submitted](#) shelf prices, and document sanitary conditions and refrigeration. If the results of the on-site review are satisfactory, the retailer will be allowed to continue its authorization under its [previously assigned WIC authorization ID/stamp](#). Materials such as shelf labels, authorized food lists, window decals, etc., will be provided at this time.
 - e) Reinstate the retail store's authorization number in the master list of active WIC retail stores. The WIC retail store will be assigned their previous authorization number.
 - f) Send written notification to the retail store of the effective start date of their WIC Program authorization and when the retailer may begin accepting food instruments. Under no circumstances should a store resume accepting WIC checks prior to receiving this written confirmation of their authorization status.

Relocation:

1. Authorized WIC retail stores shall give the State Agency written notice of the store's relocation within fifteen (15) calendar days of action. Failure to notify the State Agency in writing of such actions may result in the State Agency taking administrative action, including terminating for cause the store's Program authorization.
2. Relocation of a retail store, for purposes of this policy, is defined as,
 - a) A WIC retail store's physical location changes within the [same](#) geographical trade [county/city](#) area (urban locations = 1 mile or less from original site; suburban/rural locations – 5 miles or less from the original location) and there is no change in ownership, [pricing](#) structure or personnel;
 - b) the store remains open for business within 14 calendar days or less after moving to a different building/location;
 - c) the store is not permanently closed for business.

Policy: 12.1

Subject: Status Change

**Section: Closings and Relocation of
WIC Retail**

Stores

3. Authorized retail stores who relocate shall provide advanced written notice to the State Agency. This written notice shall include a date of relocation to the new location; the physical mailing address of the new location and an active (day-time) telephone number to contact the owner during and after the period of relocation.
4. When the State Agency receives notification that a retail store is relocating within the same [city/county](#) trade service area and there is no change in ownership, pricing structure or personnel the State Agency shall:
 - a) [Assign a new WIC authorization ID/stamp for the new retail store location \(for stores with both a trade name change and physical address change only\).](#) For store relocations that do not involve a store name change, but just a location change, then these stores will be allowed to continue using their previously assigned [WIC authorization ID/stamp](#).
 - b) Schedule an on-site review at the WIC retail store's new location.
 - c) Conduct an on-site monitoring review for minimum stocking requirements, collect shelf prices, and document sanitary conditions and refrigeration. If the results of the on-site review are satisfactory, the State Agency will mail [the retailer a new WIC authorization ID/stamp](#). The Agency Representative will provide materials such as shelf labels, authorized food lists, window decals, etc, if applicable. The retail store may have to discontinue accepting WIC food instruments until they have their newly assigned [WIC authorization ID/stamp](#).
5. The State Agency must ensure that the new location still meets the criterion outlined in the Retail Store Selection and Authorization Policy (14.0). Failure to meet all selection criteria, [including being price competitive](#), may lead to the store's authorization being terminated.

References:

Enrollment (5
Minimum Foo
Selection and
Standard and

Policy: 13.0

Subject: State Agency Responsibilities

Section: Peer Group Classification

Effective Date: August 1, 2003

Supersedes: July 1, 2001 Revision

Purpose: The State Agency will classify all retailers during the selection and authorization process. A store's assigned peer group will be used for program compliance and monitoring, reimbursement and management reporting purposes. This classification system has been established to enable the state and local agencies to effectively monitor and manage the number of participating retailers.

Procedure:

1. Program eligibility is contingent upon the retail store meeting all General Requirements outlined in the Standard and Corporate Retail Store Agreements.
2. Based on the information submitted in the Retail Store Application form the State Agency will classify all retailers into one of the following Peer Groups:

Peer Group	Description
1	A group of retail stores with 1-3 cash registers.
2	A group of retail stores with 4-7 cash registers or "Specialty Stores" (only serving WIC Participants).
3	A group of retail stores with 8 or more cash registers/or stores with a corporate contract.
4	A group of retail stores whose customers are government personnel (Military Commissaries) or provide exempt infant formula products only.
5	High Volume Stores (A group of retail chain stores authorized under a corporate contract that services the highest number of WIC Participants) over a State designated period (e.g. one-year).
6	Special Formula contractors.

3. A retailer can not be classified in more than one Peer Group.
4. When classifying a retailer, the State Agency may use a store's assigned peer group to determine the following: competitive pricing comparisons for selection and authorization purposes; development of reimbursement amount averages/maximums per Peer Group; compliance monitoring selection; level of mandatory Retail Store training required. The State Agency is not limited to the above uses in the effective monitoring/management of participating retailers.
5. **The retailer is required to provide written notification to the State Agency, if the number of cash registers changes (increase/decrease) during the contract period.** Cash register is defined as any device used to record food product transactions only. The retailer must provide this written notice at least fifteen (15) days before the change becomes effective.

Policy: 13.0

Subject: State Agency Responsibilities

Section: Peer Group Classification

6. The State Agency will provide written notification to the retail store if their Peer Group designation changes, due to volume of business considerations (e.g. change from Peer Group 3 to Peer Group 5).
7. The State Agency reserves the right to establish/change the criteria used to identify Peer Group 5 (i.e., high volume chain retail stores authorized under a corporate contract), based upon redemption data. For instance, the criteria presently used reflects 40 retail stores that services the highest number of WIC participants based upon redemption data for a one year period.
8. Retailers classified in Peer Group 5 (high volume) shall remain in this classification for one year. Retailers in this classification may request in writing a re-evaluation of their status after six months. If their volume of business has dropped below the established level for this classification and remained at that level for 3 months or longer, the State Agency may consider a change in Peer Group. If a change in Peer Group is warranted, the State Agency shall notify the affected retailer in writing before the change becomes effective.

Reference:

Standard/Corporate Retailer Agreement and Application Forms
 Reimbursement Policy (9.0)
 Retailer Selection and Authorization Policy (14.0)

Policy: 14.0

Subject: Selection/Authorization

Section: Retailer Selection and Authorization

Effective Date: October 1, 2003
Revision

Supersedes: August 1, 2002

Purpose:

The State Agency as required by Federal regulations must authorize only an adequate number of WIC retail stores to ensure reasonable availability to WIC participants and to ensure effective State Agency management, oversight and review of its authorized retail stores. The Retailer Selection and Authorization Policy identifies the *optimal* retailer-to-participant ratio and establishes those factors the State Agency will use when selecting appropriate retail stores. In accordance with the stated ratio, but responsive to competing factors to effectively manage the Program, the State Agency will authorize those retailers and applicants best qualified to serve the needs of WIC participants in the Commonwealth. The State Agency completes a periodic review of all authorized retailers' qualifications, compliance and redemption history at least every three years.

Pricing competitiveness evaluations are done throughout the contract period.

Definitions:

Retailer means a sole proprietorship, a partnership, a cooperative association or a corporation operating one or more stores authorized by the State Agency to provide authorized supplemental foods to WIC participants under a retail food delivery system. Each store operated by a business entity constitutes a separate retail location and must be authorized separately from other stores operated by the business entity.

Retail Store Authorization means the process by which the State Agency assesses, selects and enters into an Agreement with stores that apply or subsequently reapply to be authorized.

Retail Store Selection Criteria means the criteria established by the State Agency to select individual retail stores for authorization consistent with the requirements in 246.12(g)(3).

General Requirements: applicants and authorized stores must meet **all** of the following conditions:

3. Be Food Stamp authorized at the time of application, unless the applicant is necessary to ensure adequate participant access, and remain in good standing.
4. Be currently WIC authorized or eligible for authorization as a new applicant or eligible after demonstrating compliance with a WIC disqualification requirement (if applicable).
5. Be in operation as a business at the time of application or within 45 days of application.
6. Meet all local, state and federal requirements, including sanitation and building code regulations.
7. Accept WIC food instruments within 15 calendar days after meeting all State Agency authorization requirements.

8. Be needed to ensure adequate WIC participant access, as determined by the State Agency.
9. Maintain a minimum number of participants served as established by the State Agency to assure provisions of WIC services are rendered to a sufficient number of WIC participants, after one year of continuous WIC participation.
10. Maintain the mandatory minimum WIC approved food stocking requirement in the customer shopping area or immediately available on-site.

Policy: 14.0

Subject: Selection/Authorization

Section: Retailer Selection and Authorization

11. Be open for business at least 48 hours per week and a minimum of 6 days per week.
12. Be located in a fixed, permanent location. (The State Agency will not authorize mobile retailers.).
13. Comply with all financial and corrective actions identified from prior WIC authorization.
14. Participate in the Virginia WIC Program's direct deposit process used for returned food instrument reimbursement.
15. Be located at the address indicated on the Retailer's Agreement form and application and this shall be the site at which the WIC customer selects supplemental foods.
16. Have no business-related felony or first degree misdemeanors, including criminal conviction for a program violation, by the Retailer itself, any of its current employees whose duties include handling WIC Program food instruments, or owners, officers, directors or partners.
17. Not have any owner(s), or manager(s) who are employed, or who have a spouse, child or parent who is employed by the State WIC Program and/or local WIC agency serving the country in which the Retailer conducts business.

The State Agency reserves the right to exclude authorizing certain types of non conventional service providers, i.e., internet e-commerce providers, home delivery providers, etc. WIC purchases must be made in a retail environment where a participant/proxy acknowledges at the time of the transaction that s/he received the foods being charged to the WIC Program.

Retailer Classes:

Each retailer will be assigned to a peer group (class). This classification is important and accuracy is essential, since it will determine the reimbursement level used for processing WIC checks. In addition, pricing comparisons will be made among retailers of the same classification for selection and authorization purposes. It is the retailer's responsibility to provide written notification to the State Agency if the number of cash registers changes.

The State Agency will classify all retailer-applicants as follows:

Peer Group 1	A group of retail stores with 1-3 cash registers.
Peer Group 2	A group of retail stores with 4-7 cash registers, plus "Specialty Stores" (only service WIC participants).
Peer Group 3	A group of retail stores with 8 or more cash registers/or stores with a corporate contract.
Peer Group 4	A group of retail stores whose customers are government personnel (Military Commissaries)
Peer Group 5	High Volume Stores (A group of retail chain stores that services the largest number of WIC Participants) over a State designated period (i.e. one year).
Peer Group 6	Special Formula Contractor, i.e., CAP

Subject: Selection/Authorization

Section: Retailer Selection and Authorization

I. Selection:

Retail Store Limiting Criteria means the criteria established by the State Agency to determine the maximum number and distribution of retail stores it authorized pursuant to 246.12(g)(2). A maximum of 1,000 retail slots exists to service WIC participants. The State Agency's overall service goal is 150 participants to 1 participating retailer located within a specific trade area. For selected service areas, with a higher concentration of participants, the ratio is 250 participants to 1 authorized retail store location (see Retailer Slots Available by Local Agency). The State Agency shall establish criteria to limit the number of stores it authorized and apply its limiting criteria consistently throughout its jurisdiction in accordance with 246.(a)14(ii) as included in the State Plan.

Under **7 C.F.R. 246.12 e (3)**, the State Agency considers the impact of authorization decisions on small businesses (i.e., Peer Group 1 stores). The State Agency will reserve 25% of available slots for Peer Group 1 retailers.

Trade Area:

The State Agency establishes an adequate number of retail slots available for each trade area. The city/county where the retail store is located is used by the State Agency to identify the store's primary trade area. In those incidences where a compact and contiguous WIC population exists, a five-mile radius may be used by the State Agency to evaluate the geographical boundaries of retailer-applicants. The five (5) mile radius considered by the State Agency may cross contiguous city/county boundaries. A retail store can provide additional documentation for the State Agency's consideration, if objective data identifies the store's trade area to be broader than the standard city/county comparison base used.

As part of the Selection and Authorization process, the State Agency will evaluate the Competitive Pricing, History and Location of all retailer-applicants.

The State Agency accepts and processes authorization applications throughout the year. Retail stores with the highest composite score will be offered available retail slots. If the retailer-applicant is not competitively approved for one of the slots available, the retailer-applicant may apply again, no sooner than six (6) months after submitting an application. The retailer-applicant must submit a new written request to the State Agency for an application. The State Agency will not maintain an applicant waiting list.

New retailer stores, without any prior WIC history, will have a probationary status during their first year. After the first year, the State Agency will evaluate the store's status (History). If this assessment identifies a History with a point value of zero (0), one (1) or two (2), the State Agency will evaluate the store's status for possible termination actions. See Parts A and B for an explanation of the scoring mechanism to be used.

Policy: 14.0

Subject: Selection/Authorization

Section: Retailer Selection and Authorization

A. Competitive Pricing:

In accordance with Federal regulations 246.12(g)(3)(i), the State Agency shall establish competitive price selection criteria and use price limitations on amount paid to retail stores. Price limitations shall ensure that retail stores are not paid at levels that would make them ineligible for authorization.

A price comparison of retailer-applicants will be made using submitted retail store prices of currently authorized retailers in the same peer group. The State Agency will use for comparison purposes two of the most frequently used food instrument types: one typical of a women's and infant's food package. The State Agency will use the following criteria for the initial **Pricing Point Value** scoring.

Description	Price Comparison Range	Pricing Point Value
Non Competitive Pricing	Peer Group Average, plus 21% or more	0.0
	Peer Group Average, plus 16-20.9%	0.5
	Peer Group Average, plus 10-15.9%	1.0
Less Competitive Pricing	Peer Group Average, plus 6-9.9%	1.5
	Within 5% +/- of the Peer Group Average	2.0
Price Competitive	Peer Group Average, minus 6-9.9%	2.5
Best Pricing	Peer Group Average, minus 10% or more	3.0

Applicants and/or retail stores must have a minimum Pricing Point Value of 1.5 or higher to be authorized and remain in good standing. ***Applicants/retail stores whose combined score is 1.0 or less are considered non-competitive and will be either denied authorization or have their contract terminated.***

A second step of the pricing analysis is that individually the prices submitted for the infant food package, woman's food package or contract formula prices must fall within the 1.5-3.0 (Point Value Score) range for authorization and selection purposes. If an applicant and/or retail store has a woman or infant food package or other contract formula products that are considered "non competitive" the store will be given a single opportunity to re-submit their prices. The State Agency will provide the applicant/retail store with average price range applicable for the store's assigned peer group/food package type or contract formula product. It is the applicant and/or retailer's decision if s/he wants to adjust his/her prices. After the second price submission, if the food package or contract formula prices still do not fall within the 1.5-3.0 range, the applicant/store will be denied authorization or contract terminated.

The State Agency shall immediately terminate the retailer's Agreement if it determines the retailer fails to meet and/or maintain a competitive pricing score (1.5 or higher), providing false and/or inaccurate pricing information. The State Agency routinely collects

and analyzes a store's prices throughout the contract period. Authorized stores are expected to remain price competitive throughout the contract period to ensure their continued Program authorization.

Policy: 14.0

Subject: Selection/Authorization

Section: Retailer Selection and Authorization

B. History:

The State Agency will use the following criteria for scoring **History**.

Poor History	<ul style="list-style-type: none"> Food Stamp disqualified or sanctioned (civil money penalty paid) or WIC disqualified within one year An unacceptable business integrity profile 	zero (0) point
Marginal History	<ul style="list-style-type: none"> Retail stores with a low dollar volume and/or participant caseload Retailers meeting WIC or Food Stamp disqualification requirements 14 or more educational points from Program Representative monitoring visits within the past contract period. Six (6) or more technical program violations and/or major or federally mandated violations documented within the current retailer agreement period. 	one (1) point
High Risk	<ul style="list-style-type: none"> High Risk Retailers due to a hardship qualified status only. (High Risk is based on compliance investigations resulting in 5 or more technical violations. Refer to High Risk Retailer Policy 6.0 for other factors that will determine a store's status being changed) 	two (2) points
No History	<ul style="list-style-type: none"> Retail stores with no prior WIC experience 	two (2) points
Retailer in Good Standing	<ul style="list-style-type: none"> No major or federally mandated violations 5 or fewer technical program violations 13 or fewer educational points assessed within past contract period 	three (3) points

History information will be taken from the WIC application and documentation kept by the State Agency.

C. Location:

The State Agency's overall service goal is 150 participants to 1 participating retailer located within a specific trade area. For selected service area with a higher concentration of participants the ratio is 250 participants to 1 authorized retail store location (see Retailer Slots available by Local Agency). All retailer-applicants will compete for the limited number of slots available in their specific trade area. The attached Retailer Slot Available by City/County chart identifies the optimal number of slots available to achieve this service objective. If there are no slots available within the

retailers' trade area, the State Agency will evaluate whether any exception criteria apply for retailer-applicants with Competitive or Best Pricing scores (see EXCEPTIONS section.)

Policy: 14.0

Subject: Selection/Authorization

Section: Retailer Selection and Authorization

The State Agency will evaluate and adjust accordingly the retailer to participant ratio for each trade area, biannually.

The local WIC Program Agency will be given an opportunity to comment on the number of retail slots allocated to their trade area for adjustments of available retail slots based on clear and convincing evidence.

Scoring:

The final determination will be objectively made using the following weighted score:

Competitive Pricing	70%
History	30%
Overall Score:	100%

In its scoring the State Agency has given a greater weight value to competitive pricing to ensure “reasonably priced” retail stores are selected over more costly stores. Additionally, participating stores selected for authorization should be able to demonstrate an acceptable record in complying with WIC Program requirements. New stores with no prior WIC history shall provide the State Agency, upon request, a written plan to demonstrate their store-wide compliance training program that will assure performance obligations. The State Agency will consider these factors in its selection and authorization decisions.

Bonus Considerations:

The State Agency will recognize compliance initiatives and technological solutions that retailer-applicants have in place to more effectively service WIC participants. From the State Agency perspective these factors help reduce the operational costs associated with administering the WIC Program, while improving customer service rendered to WIC participants. Some examples of bonus criteria will be:

1. Implementation of front-end (cash register) technology that result in a less than 1% returned WIC food instrument error ratio including, but not limited to the processing of post-dated, and stale-dated checks, maximum dollar value prompts, etc...
2. Implementation of front-end technology that automatically identifies WIC-approved foods.
3. Implementation of a technological solution that electronically imprints the store's WIC authorization number on the face of the WIC Program check, thereby reducing/eliminating checks rejected for *no vendor stamp*.

Policy: 14.0

Subject: Selection/Authorization

Section: Retailer Selection and Authorization

The State Agency reserves the option to identify additional initiatives and technological solutions that shall be added to the above categories based on its dynamic customer service priorities and directions.

Retailer-applicant(s) with the highest overall score (Pricing and History), plus consideration of the bonus criteria identified above will be selected for available slots in a specific trade area. If the number of retailer-applicants in a specific trade area exceeds the available slots, the State Agency may offer these slots to those retailers whose store location is most accessible to WIC participants. For retail stores with prior WIC Program experience, the State Agency will consider the number of participants served as shown in the Quarterly Profile Report as an indicator of “accessibility”. For retail stores without prior WIC experience, the retailer must provide WIC population estimates.

Retailer-applicants must meet all General Requirements and obtain a minimum score of 1.5 (Pricing) and 1 (History) to be considered for WIC authorization. All retailer-applicants will receive written notification of their selection status.

Retailer-applicants that are not selected will receive a copy of Retailer's Right of Appeal Policy with their denied authorization notice.

II. Exceptions:

Under advisement by the United States Department of Agriculture, the State Agency has been conferred with the sole authority to adjust the number of participating retailer slots available for participating retailers. It is the State Agency's responsibility under federal law to determine what makes up a *reasonable* trade area. The State Agency uses WIC caseload and redemption data to determine retail slots and a reasonable trade area delimitation. The State Agency will consider the following factors in making any exceptions:

1. High volume of complaints received by a local WIC Program Agency or State Agency about customer services rendered by participating retailers in a specific trade area.
2. Geographic access issues in rural, urban and suburban communities.
3. Promotion of competition in saturated areas by the authorization of competitively priced new retailers. (Pricing Score equal to or greater than 2.5).
4. The State Agency uses redemption data to identify specifically those authorized stores with the highest volume (Peer Group 5); and retailer-applicants located within a “*reasonable*” distance, (i.e., within a one mile suburban/urban environment; within a 5 miles rural environment) will be evaluated for exception authorization.

The State Agency reserves the option to use other exceptions that promote the goals and service objectives of the Program and population served.

Policy: 14.0

Subject: Selection/Authorization

Section: Retailer Selection and Authorization

III. Administrative Removal:

Twice a year the State Agency will evaluate low WIC revenue earned or small number of participants served. After one year authorized retailers with continuous participation (does not include “change/modification of ownership”) must meet the minimum performance threshold. Participating retailers who fail to meet the minimum threshold as determined by the State Agency’s Quarterly Profile Report will be terminated.

A retailer is considered low volume based upon the following indicators:

Number of Participants Served per Quarter

1. Fewer than 25 participants per Peer Group 1 retailers
2. Fewer than 50 participants served per Peer Group 2 retailers.
3. Fewer than 150 participants served for Peer Group 3 and 5 retailers.
4. No minimum for Commissaries.

OR**WIC Program Revenue Earned per Quarter**

1. \$500 WIC business per quarter for Peer Group 1 retailers.
2. \$1000 WIC business per quarter for Peer Group 2 retailers.
3. \$2000 WIC business per quarter for Peer Group 3 and 5 retailers.
4. No minimum for Commissaries.

Depending on the State Agency’s service needs the performance thresholds identified above may change.

Retail stores shall comply with the retailer selection criteria throughout the agreement period, including any changes to the criteria. Using the current retailer selection criteria, the State Agency may reassess the retailer’s authorization status at any time during the Agreement period. The State Agency will terminate the retail store’s Agreement, if the retailer fails to meet the current retailer selection criteria.

IMPORTANT: A retail store-applicant will be ineligible for authorization, if it fails any of the following Program Requirements:

- to pass an unannounced minimum stocking visit;
- does not attend mandatory training;
- or pass a training enrollment requirement;

A retail store is provided written notification of his/her selection contingent upon their successful completion of all Program requirements.

Policy: 14.0

Subject: Selection/Authorization	Section: Retailer Selection and Authorization
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References:

- Standard and Corporate Retailer Contract Agreement and Application Form
7 C.F.R. 246.12 e(3)
- Minimum Food Stock Requirement Policy (10.0)
- Peer Group Classification Policy (13.0)
- High Risk Retailer Policy (6.0)

Attachments:

- Virginia WIC Program Retailer Slots Available by Local Agency

VIRGINIA WIC PROGRAM SUMMARY, Page 145

L/A Code	Local Agency Name	District	Retailers	Enrollmen t	Slots	Avai lable
510	ALEXANDRIA	Alexandria	14	2,352	16	2
005/580	ALLEGHENY - COVINTON	Allegahany	4	389	3	-1
023	BOTETOURT (+)	Allegahany	3	240	4	1
560	CLIFTON FORGE	Allegahany	1	185	1	0
045	CRAIG (+)	Allegahany	1	140	2	1
161	ROANOKE CO./VINTON	Allegahany	3	327	2	-1
775	SALEM	Allegahany	6	781	5	-1
013	ARLINGTON (#)	Arlington	15	4,057	16	1
017	BATH	Central Shenandoah	0	68	0	0
530	BUENA VISTA	Central Shenandoah	1	207	1	0
660/165	HARRISONBURG/ROCKINGHAM	Central Shenandoah	13	2,069	14	1
091	HIGHLAND	Central Shenandoah	2	35	0	-2
678/163	LEXINGTON/ROCKBRIDGE	Central Shenandoah	4	408	3	-1
790/015	STAUNTON/AUGUSTA	Central Shenandoah	8	970	6	-2
820	WAYNESBORO	Central Shenandoah	4	921	6	2
009	AMHERST	Central Virginia	5	591	4	-1
011	APPOMATTOX	Central Virginia	4	383	3	-1
515	BEDFORD	Central Virginia	6	773	5	-1
031	CAMPBELL	Central Virginia	8	1,066	7	-1
680	LYNCHBURG	Central Virginia	15	1,684	11	-4
550	CHESAPEAKE	Chesapeake	24	3,912	16	-8
041	CHESTERFIELD (+)	Chesterfield	23	3,002	21	-2
570	COLONIAL HEIGHTS	Chesterfield	3	268	2	-1
145	POWHATAN	Chesterfield	2	147	1	-1
053	DINWIDDIE	Crater	4	397	3	-1
081	GREENSVILLE	Crater	4	498	3	-1
670	HOPEWELL	Crater	3	890	6	3
730	PETERSBURG	Crater	7	1,288	9	2
149	PRINCE GEORGE	Crater	2	639	4	2
181	SURRY	Crater	1	175	1	0
183	SUSSEX	Crater	3	312	2	-1
027	BUCHANAN (+)	Cumberland Plateau	7	682	7	0
051	DICKENSON (+)	Cumberland Plateau	9	359	4	-5
167	RUSSELL	Cumberland Plateau	7	733	5	-2
185	TAZEWELL(+)	Cumberland Plateau	11	2,116	16	5
001	ACCOMACK	Eastern Shore	8	1,256	8	0
131	NORTHAMPTON	Eastern Shore	5	586	4	-1
059	FAIRFAX (#)	Fairfax	47	10,201	41	-6
650	HAMPTON (#)	Hampton	17	3,952	16	-1
036	CHARLES CITY	Hanover	2	195	1	-1
075	GOOCHLAND	Hanover	2	177	1	-1
085	HANOVER	Hanover	7	744	5	-2
127	NEW KENT	Hanover	3	177	1	-2
087	HENRICO	Henrico	28	3,787	25	-3
105	LEE (+)	Lenowisco	9	727	7	-2
169	SCOTT	Lenowisco	8	669	4	-4
195	WISE (+)	Lenowisco	14	1,511	11	-3
043	CLARKE	Lord Fairfax	1	86	1	0
069/840	FREDERICK/WINCHESTER	Lord Fairfax	11	1,407	9	-2
139	PAGE	Lord Fairfax	3	510	3	0

VIRGINIA WIC PROGRAM SUMMARY, Page 146

171	SHENANDOAH	Lord Fairfax	4	662	4	0
187	WARREN	Lord Fairfax	2	553	4	2
107	LOUDOUN	Loudoun	10	1,278	9	-1
021	BLAND	Mount Rogers	1	204	1	0
520	BRISTOL	Mount Rogers	6	525	4	-3
035	CARROLL	Mount Rogers	5	686	5	0
640	GALAX (+)	Mount Rogers	6	716	6	0
077	GRAYSON	Mount Rogers	2	317	2	0
173	SMYTH (+)	Mount Rogers	7	980	8	1
191	WASHINGTON (+)	Mount Rogers	8	908	7	-1
197	WYTHE (+)	Mount Rogers	11	741	7	-4
063	FLOYD	New River	2	211	1	-1
071	GILES (+)	New River	4	308	3	-1
121	MONTGOMERY	New River	9	954	6	-3
155	PULASKI	New River	5	548	4	-1
750	RADFORD	New River	4	257	2	-2
710	NORFOLK (#)	Norfolk City	35	9,049	36	1
700	NEWPORT NEWS (#)	Peninsula	24	4,354	17	-7
830	JAMES CITY/WMBRG	Peninsula*	8	801	5	-3
199/735	YORK/POQUOSON	Peninsula*	7	2,082	14	7
007	AMELIA	Piedmont	1	296	2	1
029	BUCKINGHAM (+)	Piedmont	3	365	4	1
037	CHARLOTTE (+)	Piedmont	5	371	4	-1
049	CUMBERLAND (+)	Piedmont	3	246	4	1
111	LUNENBURG (+)	Piedmont	4	339	4	0
135	NOTTOWAY (+)	Piedmont	4	422	4	0
147	PRINCE EDWARD	Piedmont	7	561	4	-3
590/143	DANVILLE - PITTSYLVANIA	Pittsylvania/Danville	20	2,947	20	0
740	PORTSMOUTH (#)	Portsmouth	18	3,792	15	-3
153	PRINCE WILLIAM (#)	Prince William	29	5,184	21	-8
033	CAROLINE	Rappahannock	3	535	4	1
630	FREDERICKSBURG	Rappahannock	4	668	4	0
099	KING GEORGE	Rappahannock	3	340	2	-1
177	SPOTSYLVANIA	Rappahannock	9	1,047	7	-2
179	STAFFORD	Rappahannock	6	1,163	8	2
047	CULPEPER	Rappahannock/Rapidan	4	737	5	1
061	FAUQUIER	Rappahannock/Rapidan	4	667	4	0
113	MADISON	Rappahannock/Rapidan	2	196	1	-1
137	ORANGE	Rappahannock/Rapidan	4	543	4	0
157	RAPPAHANNOCK	Rappahannock/Rapidan	2	99	1	-1
760	Richmond (#)	Richmond City	40	6,403	26	-14
770	ROANOKE	Roanoke City	22	2,944	20	-2
025	BRUNSWICK (+)	Southside	5	630	6	1
083	HALIFAX (+)	Southside	7	1,015	9	2
117	MECKLENBURG (+)	Southside	7	890	7	0
540/003	C'VILLE - ALBERMARLE	Thomas Jefferson	14	2,179	15	1
065	FLUVANNA	Thomas Jefferson	4	271	2	-2
079	GREENE	Thomas Jefferson	2	308	2	0
109	LOUISA	Thomas Jefferson	3	505	3	0
125	NELSON	Thomas Jefferson	3	298	2	-1
057	ESSEX	Three Rivers	3	268	2	-1
073	GLOUCESTER	Three Rivers	4	546	4	0

VIRGINIA WIC PROGRAM SUMMARY, Page 147

097	KING & QUEEN	Three Rivers	1	139	1	0
101	KING WILLIAM	Three Rivers	3	175	1	-2
103	LANCASTER	Three Rivers	3	255	2	-1
115	MATHEWS	Three Rivers	1	145	1	0
119	MIDDLESEX	Three Rivers	3	165	1	-2
133	NORTHUMBERLAND	Three Rivers	3	268	2	-1
159	RICHMOND CO.	Three Rivers	3	180	1	-2
193	WESTMORELAND	Three Rivers	4	471	3	-1
810	VA BEACH (#)	Virginia Beach	49	8,631	35	-14
067	FRANKLIN	West Piedmont	7	998	7	0
089/690	HENRY/M'VILLE	West Piedmont	15	2,141	14	-1
141	PATRICK	West Piedmont	4	394	3	-1
620	FRANKLIN CITY	Western Tidewater	3	561	4	1
093	ISLE OF WIGHT	Western Tidewater	4	590	4	0
175	SOUTHAMPTON	Western Tidewater	4	228	2	-2
800	SUFFOLK	Western Tidewater	10	2,072	14	4
STATE	TOTALS		918	139,371	803	-115
			Retailers	Caseload	Slots	Available

Vendor count is based on data from January 2003 vendor list.

Enrollment is based on October 2002 participation plus 10%.

The number of slots for most Local Agencies is base on 1 retailer per 150 participants.

The number of slots allocated to larger Local Agencies (3,900+ participants) identified with a pound sign (#) is base on 1 retailer per 250 participants.

The number of slots for several Local Agencies were adjusted to no more than 2 above the number available by enrollment. Local Agencies with a plus (+) requested an increase allocation.

**James City/Williamsburg and York/Poquoson combined with Newport News.*

Policy: 14.1

Subject: Retailer Selection and AuthorizationSection: **Business Integrity**

Effective Date: August 1, 2003

Purpose:

The State Agency must consider the **business integrity** of a Retailer and/or a retail store applicant (hereafter referred to as "Retailer"). Activities which indicate a lack of business integrity include but are not limited to the following: fraud, antitrust violations, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, and obstruction of justice. The State Agency may add other types of convictions or civil judgments to this list at its discretion. In determining the business integrity of a Retailer, the State Agency may rely solely on facts already known to it, information given by the Retailer on its retail store application, and/or information documented during the course of the period covered by the Retailer Agreement.

The State Agency is not required to perform background checks of its Retailers. The State Agency will verify the business integrity of a Retailer by collecting data from other agencies, including but not limited to Food Nutrition Services, e.g., the Food Stamp Program.

Unless denying the Retailer would result in inadequate participant access, the State Agency may not authorize a Retailer if, during the last six years, the Retailer or any of its current owners, officers, or managers have been convicted of or had a civil judgment entered against them for any activity indicating a lack of business integrity.

Policy:

The State Agency shall consider the Retailer's business integrity when determining eligibility for selection as a WIC authorized retail store.

The State Agency shall have the right to terminate a Retailer for WIC Program participation based on any substantive information reflecting a negative business integrity outcome.

The retail store owner and/or manager shall notify the State Agency in writing if he/she has been notified by another state and/or federal agency that formal investigative/administrative actions are being taken against the retail store. The retail store owner and/or agent of the owner must provide the State Agency a copy of the final resolution of any external investigation within fifteen (15) calendar days. Failure to provide such notification to the State Agency within the stated time period shall be considered a breach of the Retailer Agreement, rendering the Agreement subject to termination.

Policy: 14.1

Subject: Retailer Selection and Authorization

Section: **Business Integrity****Policy:**

The State Agency will establish business integrity criteria for any Retailer to be awarded a Retailer Agreement authorizing the transaction and redemption of WIC food instruments. A Retailer must comply with business integrity criteria throughout the Retailer Agreement period:

- a. The Retailer must be free of any conflict of interest issues, as defined by applicable State laws, and/or regulations and policies between a retail store applicant and the State Agency.
- b. The Retailer must have and maintain a satisfactory compliance history with any and all USDA Food and Nutrition Services (FNS) programs, e.g. Food Stamps.
- c. The Retailer must have a satisfactory sanitation history as determined by Commonwealth of Virginia food establishment regulations. A negative sanitation history may include, but is not limited to:
 1. temporary closings due to unsanitary conditions; and/or
 2. current or unmet work orders for corrective action.
- d. There must be no evidence of an attempt by the applicant to circumvent a period of disqualification, a Civil Money Penalty, or a fine imposed for any violation of federal WIC regulations and/or state WIC policies and procedures.
- e. There must be no evidence of the commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, or obstruction of justice; and
- f. There must be no evidence of any violation of Federal, State and/or local consumer protection laws or other laws relating to alcohol, tobacco, firearms, controlled substances, and/or gaming licenses.

Policy: 14.1

Procedures:

1. The State Agency randomly verifies information submitted via the application process, and performs due diligence to ensure business integrity standards are maintained.
2. This verification process may include contacting other State and Federal Agencies to identify any business integrity issues.
3. Incomplete or inaccurate application information may render the Retailer Agreement subject to termination.
4. Retail stores covered under a Corporate Retailer Agreement are required to complete and sign the Business Integrity Questionnaire. This form must be completed only if any store covered under the Corporate Retailer Agreement has a “yes” response to any of the questions outlined on the form.

References:

Business Integrity Questionnaire
Conflict of Interest Policy (10.1)
Inadequate Participant Access Relating to Retail Store Management Policy (15.2)
Retailer Selection and Authorization Policy (14.0)
CFR 246.12 (g)(3)(iii) *Business Integrity*

Policy: 15.0

Subject: Sanctions/Compliance
Classification System

Section: Sanction

Effective Date: August 1, 2003
 1, 2003

Supersedes: March

Scope:

It is very important that Retailers and their employees understand and follow the rules and regulations governing the Virginia Special Supplemental Food Program, for Women, Infants, and Children (WIC). Only with cooperation can State WIC Program assure nutritional benefits to the greatest possible number of women, infants and children. Regulatory violations are in direct opposition to the goals of the WIC Program and may result in the Retailer's being fined, assessed a Civil Money Penalty (CMP), ***disqualified and losing its FOOD STAMP authorization as well.***

The Commonwealth of Virginia has a Compliance Consulting and Investigation Service whose primary purpose is to identify WIC Program abuse and to investigate fraud. The primary method of investigating abuse is through compliance buys. A buy is an investigation "involving an undercover visit in which an individual poses as a WIC participant and purchases foods in order to determine the Retailer's compliance or non-compliance with WIC Program regulations." The Retailer is intentionally not informed at any time during these visits. The buy identifies specific areas which indicate a need for change in the Retailer's business practice to prevent program errors, abuse and to confirm possible involvement of unauthorized Retailers. The buy will be used to validate and document the occurrence of violations, and to monitor a Retailer's compliance with Program rules and requirements. The State WIC Program will send an annual mass mailing notice to each Retailer reminding them of the State WIC Program's right to conduct "covert" compliance investigations.

A compliance investigation may consist of up to five (5) compliance buys. Compliance buys may be conducted randomly or on those Retailers suspected of violating Agreement requirements and Federal regulations. The retailer will not be notified that his/her store is under investigation until all buys have been completed. If a violation is observed during the first or second buy(s), a minimum of three (3) buys or a maximum of five (5) buys will be conducted, as needed. One documented violation may result in a money penalty (fine). The Retailer will be subject to sanctions for all program errors and/or abuse uncovered after the investigation closes.

The WIC Program will disqualify any Retailer who has been disqualified from the Food Stamp Program (FSP) under the 2000 WIC/Food Stamp Program Retailer Disqualification Final Rule. The WIC disqualification is for the same length of

time as the FSP disqualification and can begin at a later date than the FSP disqualification. **A FSP disqualification, which results in a disqualification from WIC, is not subject to an Administrative Appeal Hearing (a separate administrative review) under the WIC Program.** In order for the FSP to take reciprocal disqualification action in response to a WIC disqualification, the WIC disqualification must be based on one (1) of the WIC Mandatory Federal Sanctions. If a pattern is required, more than one (1) incident of the violation must be documented. Retailers should refer to the individual sanction classes to determine which violations require a pattern.

Policy: 15.0

Subject: Sanctions/Compliance
Classification System

Section: Sanction

The WIC Program must disqualify a Retailer for the violations documented herein, unless the State Agency (SA) determines that such disqualification would result in inadequate participant access. A Civil Money Penalty (CMP) may be offered in lieu of disqualification when inadequate participant access (as determined by the State WIC Program) would otherwise occur. The CMP is used in situations in which the disqualification of a Retailer would cause a **hardship, not just an inconvenience** to participants (**see Inadequate Participant Access Policy**). CMPs must be calculated using the regulatory formula. The State WIC Program will change the status of High Risk (HR) for any Retailer who has received a FSP CMP or WIC Program CMP in lieu of disqualification.

If a Retailer fails to pay the CMP, the State WIC Program must disqualify the Retailer for a period equal to the sanction for which the CMP was assessed. A CMP payment does not relieve the Retailer of financial liability for previous compliance issues such as outstanding overcharge payments or overdue reimbursements due to the sale of unauthorized foods. These outstanding liabilities must be paid, in addition to the CMP. Retail Stores will be given thirty calendar days to repay any documented overcharges. Failure to respond may lead to further administrative actions, including a one-year disqualification.

Sanctions are documented for all violations observed (State and Mandatory Federal Sanctions) during a compliance visit. **The Retailer will be charged for all violations documented, including repeat offenses.** The WIC Program will assess State Agency sanctions, beginning with the **first** buy, and maintain records of sanctions, CMPs and Technical Fines (Class A) assessed against each Retailer. Any past program sanctions that have now been eliminated from our Sanction Classification System will not be converted into the Retailer's compliance history. For instance, if a Retailer was previously sanctioned for *"fails to verify the signature on the participant's ID Folder against the required signature on the WIC food instrument,"* the State WIC Program will not use this eliminated sanction to determine what future administrative action will be taken. A Retailer can request, in writing, a summary of his/her store's program sanctions and corresponding time period during which these sanctions will remain active.

Policy:

A copy of the **Federal Regulations 7 C.F.R. §246.12(h)(xx)** which further outlines Program abuse issues can be obtained by contacting either your assigned Program Representative or the state WIC agency .

1. Retailer Violations of the Virginia WIC Program

- a. Any Retailer, who, in the course of a transaction involving a WIC food instrument, commits any of the sanctionable acts specified in this policy shall be liable for CMPs, technical fines and/or disqualification. The State WIC Program must implement a reciprocal WIC disqualification as a result of a Food Stamp Program (FSP) disqualification.

Policy: 15.0

**Subject: Sanctions/Compliance
Classification System**

Section: Sanction

- b. Retailer who commits fraud, or abuses the WIC Program is liable for prosecution under applicable Federal, State, or local laws. Those who willfully misapply, steal, or fraudulently obtain WIC funds shall be subject to a fine of not more than **\$25,000 in accordance with 7 C.F.R. §246.12(h)(xx)**, or imprisonment for not more than five (5) years, or both, if the value of funds is \$100 or more. If the value of funds is less than \$100, then the penalty shall not be more than \$1,000, imprisonment for not more than one (1) year, or both.
- c. Any sanctions or disqualification of a Retailer from participation in another USDA Food and Nutrition Service (FNS) shall result in one to three years, six years or permanent disqualification from the WIC Program depending on the violation noted in Class A – Class D. The length of disqualification must correspond to the period for which the Retailer was disqualified from FSP.
- d. The State WIC Program may assess a fine, CMP and/or disqualify a Retailer based on the State WIC Program's Sanction Classification System for program abuse and failure to adhere to rules, regulations, policies and procedures. The total period of disqualification imposed for State Agency violations, identified as part of a **single investigation**, may not exceed one (1) year. The State WIC Program reserves the right to waive a disqualification requirement, if inadequate participant access exists. The WIC Program based upon compliance investigation results assesses sanctions, CMPs and fines. However, the WIC Program's Division Director, Vendor Manager or Vendor Compliance Coordinator can issue sanctions based on documentation obtained from verifiable sources, i.e., Local Health District complaints, monitoring review results, etc. The Retailer will receive written notification of any sanctions issued by the State WIC Program.
- e. If the Retailer fails to comply with any program requirement specified in the **Retailer Agreement**, his/her non-compliance may lead to administrative action being taken including disqualification by the State WIC Program. This classification system identifies selected violations. Any non-compliance with the Retailer Agreement observed during compliance buys will be included in the final compliance buy result letter sent to the Retailer.

- f. If program violations are observed during an on-site overt monitoring visit, the store monitor will issue “Educational Points”. The store monitor will document and advise the Retailer of any non-compliant violations on the Program Review Form used (see **Monitoring Visit Policy 8.0.**) Educational points issued can be used to flag Retailers for compliance investigations.

Policy: 15.0

Subject: Sanctions/Compliance
Classification System

Section: Sanction

- g. For WIC Mandatory Federal Sanctions, the CMPs must be calculated using the regulatory formula. The total amount of civil money penalties imposed for violations investigated as part of a single investigation shall not exceed \$40,000. CMPs cannot exceed \$10,000 per violation and \$40,000 per investigation. If more than one investigation, a CMP must be imposed for each violation (the formula shall not exceed \$10,000/\$40,000 limits when calculating the CMP). **If a Retailer fails to pay the CMP, the State WIC Program must disqualify the Retailer for a period equal to the violation for which the CMP was assessed 7 C.F.R. §246.12(I)(6).**

2. Inadequate Participant Access

- a. Any FSP disqualification will result in a WIC disqualification, unless the State WIC Program determines inadequate participant access exists and imposes a CMP in lieu of disqualification. WIC disqualification will be the same length of time as the FSP disqualification. It may, however, begin at a later date than the FSP disqualification. It is not subject to review under the WIC Program administrative appeal process. The criteria the State WIC Program uses to determine inadequate participant access are outlined in the **Inadequate Participant Access Relating to Retail Store Management Policy (#15.2) and Monetary Penalty Guidelines, in lieu of Disqualification Policy (#15.4).**

3. Abbreviated Administrative Review

- a. Depending on the violations observed, the Retailer may request an informal "Abbreviated Administrative Review". This Review will be held once the compliance investigation is completed and the Retailer has received a final compliance buy notice. At that time, the program violations observed will be reviewed with the Retailer. See **Abbreviated Administrative Review Policy (#15.1)** for further information about this option.

Procedure:

- 1. The Retailer sanction classification process incorporates a Class A to Class D system. The State WIC Program will determine the type and level of sanctions to be applied against Retailers that violate Program standards, depending on the severity, nature and/or recurrence of a violation.

Voluntary withdrawal or non-renewal in lieu of disqualification is not permitted for WIC Mandatory Federal Sanctions. **The State WIC Program may use voluntary withdrawal or non-renewal for State Agency sanctions only.**

2. The State WIC Program may assess a civil money penalty (CMP) and/or disqualify a Retailer for failure to adhere to rules, regulations, policies and procedures. **A \$100 technical fine shall be assessed for all documented violations that do not meet the pattern threshold** (see **7 C.F.R. §246.12(I)(2)**). Failure to pay a CMP within the stated due date may lead to the Retailer being disqualified.

Policy: 15.0

**Subject: Sanctions/Compliance
Classification System**

Section: Sanction

If a Retailer fails to pay the CMP, the State WIC Program must disqualify the Retailer for a period equal to the violation for which the CMP was assessed. Class A and Class B Violations have an active life of One Year. A Class C Violation has an active life of Three Years. A Class D Violation has an active life of Six Years or Permanent Disqualification. The effective date on which these violations become active is determined by the documented date on the final compliance investigation notice.

3. **No written warning is required to impose a WIC Mandatory State and/or Federal Sanction.** After the investigation is completed, the Retailer will be notified of all violations and administrative action to be taken. Every incidence of a state or federal mandated violation, including repeat occurrences, will be documented. Documented WIC Mandatory Federal Sanctions will count toward the establishment of a pattern of non-compliance. The final compliance buy results letter will identify any and all program non-compliance observed, and the expected corrective action to be taken by the Retailer. If the Retailer does not comply with the corrective action noted in this letter, he/she may be subject to further administrative actions.
4. Once the Retailer receives a final compliance buy results letter, he/she can request in writing a copy of the receipt obtained from the individual compliance buys, and generic information about the case, if applicable. This documentation is available, upon request, only after the compliance investigation has been closed.
5. After the Retailer receives a final compliance buy results letter, he/she must remit any non-compliance fine payments within 30 calendar days to the State WIC Program. A cashier's check or money order should be mailed to:

**Virginia Dept. of Health – WIC Program
Monetary Penalty Payment
1500 East Main Street – Suite 132
Richmond, VA 23219**

6. At the conclusion of the compliance investigation, the State WIC Program will send a letter of notification to Retailers documenting any WIC Mandatory Federal or State Agency sanctions. The effective date of disqualification will be identified in this letter. A copy of the **Retailer's Abbreviated Administrative Review policy (1.0)** will be sent with this letter of notification. The State WIC Program must notify the FSP within fifteen (15) calendar days after a Retailer's opportunity to file an administrative appeal regarding a mandatory sanction has either expired or been exhausted.

Policy: 15.0

Subject: Sanctions/Compliance
Classification System

Section: Sanction

7. A Retailer may apply for WIC authorization after he/she has completed the disqualification requirement. There is no automatic reinstatement. The Retailer will have to meet the WIC Program's selection and authorization requirements at the time the application is received. The Retailer's application will be reviewed under the same criteria as all other Retailers applying for WIC Program authorization. In addition, if selected and authorized, the Retailer will be deemed a High Risk Retailer for its first year (see **Retailer Selection and Authorization Policy 14.0** and **High Risk Retailer Policies 6.0** for more information).
8. The State WIC Program will send written notification to all Retailers who participated in a compliance investigation during which no program violations were observed. An acknowledgment letter will be sent at the conclusion of the investigation. **Findings will be forwarded to the Retailers at the conclusion of the investigation.**
9. ***Minimum Food Stocking Requirement and On-Site Monitoring:*** If a Retailer fails to maintain the minimum food stocking requirement (***any food category***) during a monitoring visit made by a WIC Program Representative, and this violation is documented ***twice*** within a consecutive twelve month period, the State WIC Program will issue a ***Class A (04)*** program violation and \$100 penalty fine. A warning letter and penalty fine statement will be sent to the Retailer documenting this performance issue. If this same deficiency is noted a third time, the State WIC Program will take further administrative action including taking disqualification actions against the non-compliant Retailer and issue a ***Class B (02)*** violation. If a Retailer fails to maintain the minimum food stocking requirement (***two or more: any combination of food categories***) during an on-site monitoring visit and this outcome is documented ***twice*** within a consecutive twelve month period, the State WIC Program will issue a ***Class B (04)*** program violation, which will result in the Retailer being disqualified for one year. If a Retailer has a combination of the above categories, the one year disqualification period will apply.
10. If a Retailer accumulates 1-4 technical program violations, s/he can request on-site remedial training, if desired. If a Retailer accumulates 5-7 technical program violations, attendance at a remedial training session is mandatory. The Retailer must contact the assigned Program Representative within thirty (30) calendar days to make arrangements to attend a mandatory training class. **A training "Letter of Intent" from the owner/corporate officer outlining a corrective action plan and expected implementation date(s) to correct and prevent future occurrences of violations must be sent to**

the State WIC Program within thirty (30) calendar days after the mandatory training has been completed. The training “Letter of Intent” must include specifics, i.e., who will be trained, date of training, topics to be covered/training content, sample test and/or training outline used. Failure to submit a training “Letter of Intent” to correct program compliance performance may lead to the State WIC Program taking disqualification actions.

Policy: 15.0

Subject: Sanctions/Compliance
Classification System

Section: Sanction

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11. If a Retailer has previously been assessed a violation for any of the WIC Mandatory Federal Sanctions and a second mandated sanction occurs during subsequent compliance investigation(s), the disqualification period will be doubled (e.g., first occurrence will be a three year disqualification, second occurrence will be a six year disqualification).
 12. If a Retailer has previously been assessed a violation for any of the WIC Mandatory Federal Sanctions and a third Mandatory Federal sanction occurs during a subsequent compliance investigation, the disqualification period will be doubled (e.g., first occurrence will be a three year disqualification, second occurrence will be a six year disqualification, third occurrence will be a twelve year disqualification). A CMP shall not be imposed in lieu of disqualification for the third or subsequent sanctions for WIC Mandatory Federal sanctions.
 13. If multiple State Agency and Mandatory Federal sanctions occur during an investigation, both the State Agency and Mandatory Federal Sanctions must be included in the notice of administrative action (charge letter). The State Agency sanctions should be imposed in situations where a Mandatory Federal Sanction is not upheld on administrative appeal.
 14. The State WIC Program reserves the right to seek civil and criminal prosecution of WIC Retailers for any program abuse including but not limited to all instances of dealing in stolen or lost food instruments, trading cash and other inappropriate commodities for food instruments, and/or cases in which there exists evidence of a clear business practice to improperly obtain WIC funds, and/or other practices meeting the definition of fraud as defined under the Commonwealth of Virginia Statues.

Policy: 15.0

**Subject: Sanctions/Compliance
Classification System**

Section: Sanction

Class A Technical Program Violations \$100 Fine

Technical Program Violations represent procedural and food instrument handling deficiencies identified from compliance investigative buys. Scope: **\$100 Fine For Up To Seven (7)** Class A Technical Program Violations shall be enforced. Beginning with the **first** compliance buy result(s), the Retailer is required to pay a penalty fine for each violation observed, including repeat incidents of the same violation. These requirements are outlined in the **Retailer Agreement**, under **Retailer's Responsibilities**.

State Agency Sanctions

The Retailer:

- (01) Accepts a WIC food instrument before the "Spend Check Between These Dates" as printed on the food instrument;
- (02) Fails to offer participants the same courtesies offered to other customers (i.e., accepting Retailer or manufacturer's coupons); requiring a participant to wait more than 10 minutes for management approval, review or handling of a WIC food instrument, etc.;
- (03) Limits participants in their choices of WIC foods (e.g., allowing only a Retailer brand of cheese or other WIC foods not restricted to the "least expensive" brand); The "least expensive" brand applies only to milk;
- (04) Fails to maintain minimum food stocking requirement in the customer area or immediately available to the customer area (e.g., storage area): deficient stock of Contract infant formula or of one WIC approved food (see PROCEDURE section, paragraph #9 for additional information);

- (05) Fails to fill in the WIC food instrument price using **black or blue ink** before the participant signs the food instrument;
- (06) Charges the WIC Program sales tax on a WIC purchase;
- (07) Fails to witness the participant's signature after the dollar amount has been entered on the food instrument;
- (08) Fails to give a receipt to participants for all WIC purchases, unless expressly declined by the participant;
- (09) Fails to display prices of authorized foods on the foods, on the shelves in close proximity to the foods, or in the immediate area where the foods are kept;
- (10) Substitutes another WIC eligible food **other than that prescribed on the WIC food instrument**, for a WIC approved food (e.g., jumbo eggs, more expensive milk).

Policy: 15.0

Subject: Sanctions/Compliance
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Class A Technical Program Violations \$100 Fine

- (11) Charges the WIC Program for a quantity that is greater than the quantity allowable on the WIC food instrument (e.g., charging for 40 ounces of WIC approved cereal when only 36 ounces is allowed);
- (12) Substitutes non-contract formula, when a contract formula is prescribed on the WIC food instrument (three (3) documented incidences will warrant a Class B One Year Disqualification;
- (13) Violates participant confidentiality by collecting personal information from WIC participants, making personal contacts with WIC participants after the WIC transaction has occurred, or sharing information on participant identification with third parties;
- (14) Must accept coupons from WIC customers to reduce the dollar total of WIC items purchased, if they accept coupons from other customers.

Subject: Sanctions/Compliance
Classification System

Section: Sanction

Class B Serious Program Violations One Year Disqualification

Serious Program Violations represent deficiencies that can lead to deficient food stock, provision of ineligible foods, including outdated foods, and program integrity shortfalls. Scope: One Year Disqualification for **one incident** of a State Agency Sanction Class B violation **or eight or more** Technical Program Violations (Class A). One Year Disqualification for **three documented incidences** of a WIC Mandatory Federal Sanction shall be enforced. These requirements are outlined in the **Retailer Agreement**, under **Retailer's Responsibilities**.

C. State Agency Sanctions

The Retailer:

- (01) Forges a participant's signature onto a WIC food instrument;
- (02) Fails to comply with instructions to correct violations or corrective actions documented in Retailer's Letter of Intent;
- (03) Fails to submit a required price list of WIC authorized foods as demanded by the State WIC Program;
- (04) Fails to maintain minimum food stocking requirement in the customer area or immediately available to the customer area: deficient stock two or more different food items (see PROCEDURE section, paragraph #9 for additional information);
- (05) Discriminates against WIC participants on the basis of race, color, national origin, age, sex or disability;
- (06) Fails to pay an administrative fee, compliance fine, overcharge or CMP interest as requested by the State WIC Program;
- (07) Fails to attend mandatory WIC Program training, after having the opportunity to reschedule once;
- (08) Accepts WIC food instrument(s) during a period of disqualification or prior to authorization.
- (09) Threatens or inflicts physical harm and/or commits verbal harassment against a WIC Program State Agency, local Agency staff and/or a participant using Program benefits.

- (10) Provides false and/or incomplete information, including pricing data, in the Retailer Agreement, application and other documents used by the State Agency to review a store's selection status;

WIC Mandatory Federal Sanctions

- (10) Substitutes a non-eligible food(s)/size from that which is prescribed on the WIC food instrument;
- (11) Charges the WIC Program for supplemental food(s) provided in excess of those listed on the WIC food instrument.

Subject: Sanctions/Compliance
Classification System

Section: Sanction

Class C Critical Program Violations
Three Year Disqualification

Critical Program Violations represent a more serious pattern or type of program non-compliance. Scope: Three Year Disqualification for three incidences of a Class C Critical Program Violation shall be enforced. A Retailer with **three or more** critical program violations (unless stated otherwise) during a single investigation, including repeat incidences of the same violation. These requirements are outlined in the **Retailer Agreement**, under **Retailer's Responsibilities**.

D. WIC Mandatory Federal Sanctions

The Retailer:

- (01) Receives, transacts or redeems WIC food instrument(s) outside of authorized channels, including the use of an unauthorized Retailer. (This violation includes situations in which a Retailer, who owns more than one store, not all of which are authorized, accepts WIC food instrument(s) at an unauthorized store and redeems them through an authorized Retailer);
- (02) Substitutes non-food items for WIC foods, e.g. detergents, kitchen items, etc.;
- (03) Provides cash or credit, in whole or in part, for a WIC food instrument;
- (04) Claims reimbursement in excess of documented inventory;
- (05) Writes in the space provided (Actual Dollar Amount of Sale) a total higher than the actual shelf prices of those items authorized by the WIC food instrument and/or purchased by the WIC participant, or charging participants more for supplemental WIC food(s) than non-WIC customers or charging more than the current shelf or posted price (overcharging);
- (06) Charges WIC Program for supplemental foods not received by the WIC participant; **(three (3) or more items not purchased and charged for during a single investigation will warrant a Three Year Disqualification)**;
- (07) Sells cigarettes, tobacco products or alcoholic beverages for WIC food instrument(s). **Only one documented occurrence is sufficient for imposition of this sanction.**

Subject: Sanctions/Compliance
Classification System

Section: Sanction

Class D Major Program Violations

Six Year or Permanent Disqualification

Major Program Violations represent deficiencies that directly or indirectly contribute to Program abuse and fraud. Scope: Six Year Disqualification or Permanent Disqualification for one incidence of a Class D Major Program Violation shall be enforced: a Six Year Disqualification for an administrative finding of trafficking or illegal sales imposed State WIC Program and a permanent disqualification for a conviction of trafficking or illegal sales imposed by a criminal court. These requirements are outlined in the **Retailer Agreement**, under ***Retailer's Responsibilities***.

WIC Mandatory Federal Sanctions

The Retailer:

- (01) Shall receive a Six Year Disqualification for an administrative finding of trafficking or illegal sales. **One documented occurrence is sufficient for imposition of this sanction.** Administrative finding* refers to a sanction imposed by the State WIC Program that is not supported by a criminal conviction;
- (02) Shall receive Permanent Disqualification** for a conviction of trafficking or illegal sales. **One documented occurrence is required to impose this sanction.** Conviction refers to an action by a criminal court.

* For these mandated sanctions, "Retailers convicted of trafficking/illegal sales" an administrative finding of "trafficking/illegal sales," and the sale of alcohol or alcoholic beverages or tobacco products, "only one incidence is sufficient to warrant a mandatory sanction.

** "Trafficking/Illegal Sales" is the buying or selling of food instruments for cash; exchanging food instruments for fire arms, ammunition, explosives, or controlled substances (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802). When disqualification is permanent, it shall be effective the date of notice of the administrative action. The Retailer shall not be entitled to receive any compensation for revenues lost as a result of such violation.

References:

7 C.F.R. §246.12

High Risk Retailer Policy

Inadequate Participant Access Relating to Retail Store Management Policy

Monetary Penalty Guidelines

Monitoring Visit

Retailer Agreement and Application Form

Retailer Selection and Authorization Policy

Retailer (Retailer) Conference Policy

Policy: 15.0

Subject: Sanctions/Compliance
Classification System

Section: Sanction

Effective Date: August 1, 2003
 1, 2003

Supersedes: March

Scope:

It is very important that Retailers and their employees understand and follow the rules and regulations governing the Virginia Special Supplemental Food Program, for Women, Infants, and Children (WIC). Only with cooperation can State WIC Program assure nutritional benefits to the greatest possible number of women, infants and children. Regulatory violations are in direct opposition to the goals of the WIC Program and may result in the Retailer's being fined, assessed a Civil Money Penalty (CMP), ***disqualified and losing its FOOD STAMP authorization as well.***

The Commonwealth of Virginia has a Compliance Consulting and Investigation Service whose primary purpose is to identify WIC Program abuse and to investigate fraud. The primary method of investigating abuse is through compliance buys. A buy is an investigation "involving an undercover visit in which an individual poses as a WIC participant and purchases foods in order to determine the Retailer's compliance or non-compliance with WIC Program regulations." The Retailer is intentionally not informed at any time during these visits. The buy identifies specific areas which indicate a need for change in the Retailer's business practice to prevent program errors, abuse and to confirm possible involvement of unauthorized Retailers. The buy will be used to validate and document the occurrence of violations, and to monitor a Retailer's compliance with Program rules and requirements. The State WIC Program will send an annual mass mailing notice to each Retailer reminding them of the State WIC Program's right to conduct "covert" compliance investigations.

A compliance investigation may consist of up to five (5) compliance buys. Compliance buys may be conducted randomly or on those Retailers suspected of violating Agreement requirements and Federal regulations. The retailer will not be notified that his/her store is under investigation until all buys have been completed. If a violation is observed during the first or second buy(s), a minimum of three (3) buys or a maximum of five (5) buys will be conducted, as needed. One documented violation may result in a money penalty (fine). The Retailer will be subject to sanctions for all program errors and/or abuse uncovered after the investigation closes.

The WIC Program will disqualify any Retailer who has been disqualified from the Food Stamp Program (FSP) under the 2000 WIC/Food Stamp Program Retailer Disqualification Final Rule. The WIC disqualification is for the same length of

time as the FSP disqualification and can begin at a later date than the FSP disqualification. **A FSP disqualification, which results in a disqualification from WIC, is not subject to an Administrative Appeal Hearing (a separate administrative review) under the WIC Program.** In order for the FSP to take reciprocal disqualification action in response to a WIC disqualification, the WIC disqualification must be based on one (1) of the WIC Mandatory Federal Sanctions. If a pattern is required, more than one (1) incident of the violation must be documented. Retailers should refer to the individual sanction classes to determine which violations require a pattern.

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The WIC Program must disqualify a Retailer for the violations documented herein, unless the State Agency (SA) determines that such disqualification would result in inadequate participant access. A Civil Money Penalty (CMP) may be offered in lieu of disqualification when inadequate participant access (as determined by the State WIC Program) would otherwise occur. The CMP is used in situations in which the disqualification of a Retailer would cause a **hardship, not just an inconvenience** to participants (**see Inadequate Participant Access Policy**). CMPs must be calculated using the regulatory formula. The State WIC Program will change the status of High Risk (HR) for any Retailer who has received a FSP CMP or WIC Program CMP in lieu of disqualification.

If a Retailer fails to pay the CMP, the State WIC Program must disqualify the Retailer for a period equal to the sanction for which the CMP was assessed. A CMP payment does not relieve the Retailer of financial liability for previous compliance issues such as outstanding overcharge payments or overdue reimbursements due to the sale of unauthorized foods. These outstanding liabilities must be paid, in addition to the CMP. Retail Stores will be given thirty calendar days to repay any documented overcharges. Failure to respond may lead to further administrative actions, including a one-year disqualification.

Sanctions are documented for all violations observed (State and Mandatory Federal Sanctions) during a compliance visit. **The Retailer will be charged for all violations documented, including repeat offenses.** The WIC Program will assess State Agency sanctions, beginning with the **first** buy, and maintain records of sanctions, CMPs and Technical Fines (Class A) assessed against each Retailer. Any past program sanctions that have now been eliminated from our Sanction Classification System will not be converted into the Retailer's compliance history. For instance, if a Retailer was previously sanctioned for *"fails to verify the signature on the participant's ID Folder against the required signature on the WIC food instrument,"* the State WIC Program will not use this eliminated sanction to determine what future administrative action will be taken. A Retailer can request, in writing, a summary of his/her store's program sanctions and corresponding time period during which these sanctions will remain active.

Policy:

A copy of the **Federal Regulations 7 C.F.R. §246.12(h)(xx)** which further outlines Program abuse issues can be obtained by contacting either your assigned Program Representative or the state WIC agency .

4. Retailer Violations of the Virginia WIC Program

- a. Any Retailer, who, in the course of a transaction involving a WIC food instrument, commits any of the sanctionable acts specified in this policy shall be liable for CMPs, technical fines and/or disqualification. The State WIC Program must implement a reciprocal WIC disqualification as a result of a Food Stamp Program (FSP) disqualification.

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- c. Retailer who commits fraud, or abuses the WIC Program is liable for prosecution under applicable Federal, State, or local laws. Those who willfully misapply, steal, or fraudulently obtain WIC funds shall be subject to a fine of not more than **\$25,000 in accordance with 7 C.F.R. §246.12(h)(xx)**, or imprisonment for not more than five (5) years, or both, if the value of funds is \$100 or more. If the value of funds is less than \$100, then the penalty shall not be more than \$1,000, imprisonment for not more than one (1) year, or both.
- c. Any sanctions or disqualification of a Retailer from participation in another USDA Food and Nutrition Service (FNS) shall result in one to three years, six years or permanent disqualification from the WIC Program depending on the violation noted in Class A – Class D. The length of disqualification must correspond to the period for which the Retailer was disqualified from FSP.
- d. The State WIC Program may assess a fine, CMP and/or disqualify a Retailer based on the State WIC Program's Sanction Classification System for program abuse and failure to adhere to rules, regulations, policies and procedures. The total period of disqualification imposed for State Agency violations, identified as part of a **single investigation**, may not exceed one (1) year. The State WIC Program reserves the right to waive a disqualification requirement, if inadequate participant access exists. The WIC Program based upon compliance investigation results assesses sanctions, CMPs and fines. However, the WIC Program's Division Director, Vendor Manager or Vendor Compliance Coordinator can issue sanctions based on documentation obtained from verifiable sources, i.e., Local Health District complaints, monitoring review results, etc. The Retailer will receive written notification of any sanctions issued by the State WIC Program.
- e. If the Retailer fails to comply with any program requirement specified in the **Retailer Agreement**, his/her non-compliance may lead to administrative action being taken including disqualification by the State WIC Program. This classification system identifies selected violations. Any non-compliance with the Retailer Agreement observed during compliance buys will be included in the final compliance buy result letter sent to the Retailer.

- f. If program violations are observed during an on-site overt monitoring visit, the store monitor will issue “Educational Points”. The store monitor will document and advise the Retailer of any non-compliant violations on the Program Review Form used (see **Monitoring Visit Policy 8.0.**) Educational points issued can be used to flag Retailers for compliance investigations.

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- g. For WIC Mandatory Federal Sanctions, the CMPs must be calculated using the regulatory formula. The total amount of civil money penalties imposed for violations investigated as part of a single investigation shall not exceed \$40,000. CMPs cannot exceed \$10,000 per violation and \$40,000 per investigation. If more than one investigation, a CMP must be imposed for each violation (the formula shall not exceed \$10,000/\$40,000 limits when calculating the CMP). **If a Retailer fails to pay the CMP, the State WIC Program must disqualify the Retailer for a period equal to the violation for which the CMP was assessed 7 C.F.R. §246.12(I)(6).**

5. Inadequate Participant Access

- b. Any FSP disqualification will result in a WIC disqualification, unless the State WIC Program determines inadequate participant access exists and imposes a CMP in lieu of disqualification. WIC disqualification will be the same length of time as the FSP disqualification. It may, however, begin at a later date than the FSP disqualification. It is not subject to review under the WIC Program administrative appeal process. The criteria the State WIC Program uses to determine inadequate participant access are outlined in the **Inadequate Participant Access Relating to Retail Store Management Policy (#15.2) and Monetary Penalty Guidelines, in lieu of Disqualification Policy (#15.4).**

6. Abbreviated Administrative Review

- b. Depending on the violations observed, the Retailer may request an informal "Abbreviated Administrative Review". This Review will be held once the compliance investigation is completed and the Retailer has received a final compliance buy notice. At that time, the program violations observed will be reviewed with the Retailer. See **Abbreviated Administrative Review Policy (#15.1)** for further information about this option.

Procedure:

- 15. The Retailer sanction classification process incorporates a Class A to Class D system. The State WIC Program will determine the type and level of sanctions to be applied against Retailers that violate Program standards, depending on the severity, nature and/or recurrence of a violation.

Voluntary withdrawal or non-renewal in lieu of disqualification is not permitted for WIC Mandatory Federal Sanctions. **The State WIC Program may use voluntary withdrawal or non-renewal for State Agency sanctions only.**

16. The State WIC Program may assess a civil money penalty (CMP) and/or disqualify a Retailer for failure to adhere to rules, regulations, policies and procedures. **A \$100 technical fine shall be assessed for all documented violations that do not meet the pattern threshold (see 7 C.F.R. §246.12(I)(2)).** Failure to pay a CMP within the stated due date may lead to the Retailer being disqualified.

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If a Retailer fails to pay the CMP, the State WIC Program must disqualify the Retailer for a period equal to the violation for which the CMP was assessed. Class A and Class B Violations have an active life of One Year. A Class C Violation has an active life of Three Years. A Class D Violation has an active life of Six Years or Permanent Disqualification. The effective date on which these violations become active is determined by the documented date on the final compliance investigation notice.

- 17. No written warning is required to impose a WIC Mandatory State and/or Federal Sanction.** After the investigation is completed, the Retailer will be notified of all violations and administrative action to be taken. Every incidence of a state or federal mandated violation, including repeat occurrences, will be documented. Documented WIC Mandatory Federal Sanctions will count toward the establishment of a pattern of non-compliance. The final compliance buy results letter will identify any and all program non-compliance observed, and the expected corrective action to be taken by the Retailer. If the Retailer does not comply with the corrective action noted in this letter, he/she may be subject to further administrative actions.
18. Once the Retailer receives a final compliance buy results letter, he/she can request in writing a copy of the receipt obtained from the individual compliance buys, and generic information about the case, if applicable. This documentation is available, upon request, only after the compliance investigation has been closed.
19. After the Retailer receives a final compliance buy results letter, he/she must remit any non-compliance fine payments within 30 calendar days to the State WIC Program. A cashier's check or money order should be mailed to:

**Virginia Dept. of Health – WIC Program
Monetary Penalty Payment
1500 East Main Street – Suite 132
Richmond, VA 23219**

20. At the conclusion of the compliance investigation, the State WIC Program will send a letter of notification to Retailers documenting any WIC Mandatory Federal or State Agency sanctions. The effective date of disqualification will be identified in this letter. A copy of the **Retailer's Abbreviated Administrative Review policy (1.0)** will be sent with this letter of notification. The State WIC Program must notify the FSP within fifteen (15) calendar days after a Retailer's opportunity to file an administrative appeal regarding a mandatory sanction has either expired or been exhausted.

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21. A Retailer may apply for WIC authorization after he/she has completed the disqualification requirement. There is no automatic reinstatement. The Retailer will have to meet the WIC Program's selection and authorization requirements at the time the application is received. The Retailer's application will be reviewed under the same criteria as all other Retailers applying for WIC Program authorization. In addition, if selected and authorized, the Retailer will be deemed a High Risk Retailer for its first year (see **Retailer Selection and Authorization Policy 14.0** and **High Risk Retailer Policies 6.0** for more information).
22. The State WIC Program will send written notification to all Retailers who participated in a compliance investigation during which no program violations were observed. An acknowledgment letter will be sent at the conclusion of the investigation. **Findings will be forwarded to the Retailers at the conclusion of the investigation.**
23. **Minimum Food Stocking Requirement and On-Site Monitoring:** If a Retailer fails to maintain the minimum food stocking requirement (**any food category**) during a monitoring visit made by a WIC Program Representative, and this violation is documented **twice** within a consecutive twelve month period, the State WIC Program will issue a **Class A (04)** program violation and \$100 penalty fine. A warning letter and penalty fine statement will be sent to the Retailer documenting this performance issue. If this same deficiency is noted a third time, the State WIC Program will take further administrative action including taking disqualification actions against the non-compliant Retailer and issue a **Class B (02) violation**. If a Retailer fails to maintain the minimum food stocking requirement (**two or more: any combination of food categories**) during an on-site monitoring visit and this outcome is documented **twice** within a consecutive twelve month period, the State WIC Program will issue a **Class B (04)** program violation, which will result in the Retailer being disqualified for one year. If a Retailer has a combination of the above categories, the one year disqualification period will apply.
24. If a Retailer accumulates 1-4 technical program violations, s/he can request on-site remedial training, if desired. If a Retailer accumulates 5-7 technical program violations, attendance at a remedial training session is mandatory. The Retailer must contact the assigned Program Representative within thirty (30) calendar days to make arrangements to attend a mandatory training class. **A training "Letter of Intent" from the owner/corporate officer outlining a corrective action plan and expected implementation date(s) to correct and prevent future occurrences of violations must be sent to**

the State WIC Program within thirty (30) calendar days after the mandatory training has been completed. The training “Letter of Intent” must include specifics, i.e., who will be trained, date of training, topics to be covered/training content, sample test and/or training outline used. Failure to submit a training “Letter of Intent” to correct program compliance performance may lead to the State WIC Program taking disqualification actions.

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25. If a Retailer has previously been assessed a violation for any of the WIC Mandatory Federal Sanctions and a second mandated sanction occurs during subsequent compliance investigation(s), the disqualification period will be doubled (e.g., first occurrence will be a three year disqualification, second occurrence will be a six year disqualification).
26. If a Retailer has previously been assessed a violation for any of the WIC Mandatory Federal Sanctions and a third Mandatory Federal sanction occurs during a subsequent compliance investigation, the disqualification period will be doubled (e.g., first occurrence will be a three year disqualification, second occurrence will be a six year disqualification, third occurrence will be a twelve year disqualification). A CMP shall not be imposed in lieu of disqualification for the third or subsequent sanctions for WIC Mandatory Federal sanctions.
27. If multiple State Agency and Mandatory Federal sanctions occur during an investigation, both the State Agency and Mandatory Federal Sanctions must be included in the notice of administrative action (charge letter). The State Agency sanctions should be imposed in situations where a Mandatory Federal Sanction is not upheld on administrative appeal.
28. The State WIC Program reserves the right to seek civil and criminal prosecution of WIC Retailers for any program abuse including but not limited to all instances of dealing in stolen or lost food instruments, trading cash and other inappropriate commodities for food instruments, and/or cases in which there exists evidence of a clear business practice to improperly obtain WIC funds, and/or other practices meeting the definition of fraud as defined under the Commonwealth of Virginia Statues.

Policy: 15.0

Subject: Sanctions/Compliance
Classification System

Section: Sanction

Class A Technical Program Violations \$100 Fine

Technical Program Violations represent procedural and food instrument handling deficiencies identified from compliance investigative buys. Scope: **\$100 Fine For Up To Seven (7)** Class A Technical Program Violations shall be enforced. Beginning with the **first** compliance buy result(s), the Retailer is required to pay a penalty fine for each violation observed, including repeat incidents of the same violation. These requirements are outlined in the **Retailer Agreement**, under **Retailer's Responsibilities**.

State Agency Sanctions

The Retailer:

- (01) Accepts a WIC food instrument before the "Spend Check Between These Dates" as printed on the food instrument;
- (02) Fails to offer participants the same courtesies offered to other customers (i.e., accepting Retailer or manufacturer's coupons); requiring a participant to wait more than 10 minutes for management approval, review or handling of a WIC food instrument, etc.;
- (03) Limits participants in their choices of WIC foods (e.g., allowing only a Retailer brand of cheese or other WIC foods not restricted to the "least expensive" brand); The "least expensive" brand applies only to milk;
- (04) Fails to maintain minimum food stocking requirement in the customer area or immediately available to the customer area (e.g., storage area): deficient stock of Contract infant formula or of one WIC approved food (see PROCEDURE section, paragraph #9 for additional information);

- (05) Fails to fill in the WIC food instrument price using **black or blue ink** before the participant signs the food instrument;
- (06) Charges the WIC Program sales tax on a WIC purchase;
- (07) Fails to witness the participant's signature after the dollar amount has been entered on the food instrument;
- (08) Fails to give a receipt to participants for all WIC purchases, unless expressly declined by the participant;
- (09) Fails to display prices of authorized foods on the foods, on the shelves in close proximity to the foods, or in the immediate area where the foods are kept;
- (11) Substitutes another WIC eligible food **other than that prescribed on the WIC food instrument**, for a WIC approved food (e.g., jumbo eggs, more expensive milk).

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Class A Technical Program Violations \$100 Fine

- (11) Charges the WIC Program for a quantity that is greater than the quantity allowable on the WIC food instrument (e.g., charging for 40 ounces of WIC approved cereal when only 36 ounces is allowed);
- (15) Substitutes non-contract formula, when a contract formula is prescribed on the WIC food instrument (three (3) documented incidences will warrant a Class B One Year Disqualification;
- (16) Violates participant confidentiality by collecting personal information from WIC participants, making personal contacts with WIC participants after the WIC transaction has occurred, or sharing information on participant identification with third parties;
- (17) Must accept coupons from WIC customers to reduce the dollar total of WIC items purchased, if they accept coupons from other customers.

Subject: Sanctions/Compliance
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Section: Sanction

Class B Serious Program Violations One Year Disqualification

Serious Program Violations represent deficiencies that can lead to deficient food stock, provision of ineligible foods, including outdated foods, and program integrity shortfalls. Scope: One Year Disqualification for **one incident** of a State Agency Sanction Class B violation **or eight or more** Technical Program Violations (Class A). One Year Disqualification for **three documented incidences** of a WIC Mandatory Federal Sanction shall be enforced. These requirements are outlined in the **Retailer Agreement**, under **Retailer's Responsibilities**.

E. State Agency Sanctions

The Retailer:

- (01) Forges a participant's signature onto a WIC food instrument;
- (02) Fails to comply with instructions to correct violations or corrective actions documented in Retailer's Letter of Intent;
- (03) Fails to submit a required price list of WIC authorized foods as demanded by the State WIC Program;
- (04) Fails to maintain minimum food stocking requirement in the customer area or immediately available to the customer area: deficient stock two or more different food items (see PROCEDURE section, paragraph #9 for additional information);
- (05) Discriminates against WIC participants on the basis of race, color, national origin, age, sex or disability;
- (06) Fails to pay an administrative fee, compliance fine, overcharge or CMP interest as requested by the State WIC Program;
- (07) Fails to attend mandatory WIC Program training, after having the opportunity to reschedule once;
- (11) Accepts WIC food instrument(s) during a period of disqualification or prior to authorization.
- (12) Threatens or inflicts physical harm and/or commits verbal harassment against a WIC Program State Agency, local Agency staff and/or a participant using Program benefits.

- (13) Provides false and/or incomplete information, including pricing data, in the Retailer Agreement, application and other documents used by the State Agency to review a store's selection status;

WIC Mandatory Federal Sanctions

- (10) Substitutes a non-eligible food(s)/size from that which is prescribed on the WIC food instrument;
- (11) Charges the WIC Program for supplemental food(s) provided in excess of those listed on the WIC food instrument.

Subject: Sanctions/Compliance
Classification System

Section: Sanction

Class C Critical Program Violations
Three Year Disqualification

Critical Program Violations represent a more serious pattern or type of program non-compliance. Scope: Three Year Disqualification for three incidences of a Class C Critical Program Violation shall be enforced. A Retailer with **three or more** critical program violations (unless stated otherwise) during a single investigation, including repeat incidences of the same violation. These requirements are outlined in the **Retailer Agreement**, under **Retailer's Responsibilities**.

F. WIC Mandatory Federal Sanctions

The Retailer:

- (01) Receives, transacts or redeems WIC food instrument(s) outside of authorized channels, including the use of an unauthorized Retailer. (This violation includes situations in which a Retailer, who owns more than one store, not all of which are authorized, accepts WIC food instrument(s) at an unauthorized store and redeems them through an authorized Retailer);
- (02) Substitutes non-food items for WIC foods, e.g. detergents, kitchen items, etc.;
- (03) Provides cash or credit, in whole or in part, for a WIC food instrument;
- (04) Claims reimbursement in excess of documented inventory;
- (05) Writes in the space provided (Actual Dollar Amount of Sale) a total higher than the actual shelf prices of those items authorized by the WIC food instrument and/or purchased by the WIC participant, or charging participants more for supplemental WIC food(s) than non-WIC customers or charging more than the current shelf or posted price (overcharging);
- (06) Charges WIC Program for supplemental foods not received by the WIC participant; **(three (3) or more items not purchased and charged for during a single investigation will warrant a Three Year Disqualification)**;
- (07) Sells cigarettes, tobacco products or alcoholic beverages for WIC food instrument(s). **Only one documented occurrence is sufficient for imposition of this sanction.**

Policy: 15.1

Subject: Sanctions/Compliance
Conference

Section: Vendor (Retailer)

Effective Date: August 1, 2002

Supersedes: July 1, 2001 Revision

Purpose:

1. The Vendor Conference is an informal meeting permitted only when the vendor¹ or his/her representative requests an Administrative Appeal hearing. The representative for the State Agency is the Vendor Manager (or Program Director). The vendor may directly represent him/herself or be represented by legal counsel. The meeting between the State Agency and the vendor is optional and provides an opportunity to the vendor to resolve misunderstandings, and to define or consolidate the issues to be addressed during the Administrative Appeal process. If the vendor is being disqualified, the meeting may be a time to review the terms and conditions associated with a money penalty fine (retained in lieu of disqualification), if applicable.
2. The State Agency will inform denied applicants and persons with concerns stemming from other Agency actions of the opportunity for a Vendor Conference. A Vendor Conference is granted based on the vendor requesting such an informal meeting. Although legal counsel may represent the vendor, this meeting is an informal exchange and no legal formalities and/or actions will be employed. The vendor can proceed to an Administrative Appeal hearing, if the Vendor Conference fails to resolve the dispute/issue at hand.

Procedure:

1. The vendor has fifteen (15) days from the date of receipt of the disqualification or adverse action notice to request in writing a vendor conference.
2. Upon receipt of the vendor's acceptance of a Vendor Conference, the State Agency will telephone the vendor to confirm a date, time and place for the informal meeting. The vendor will have one opportunity to reschedule the Vendor Conference time or date established by the State Agency, if a legitimate business reason exists.
3. If a Vendor Conference is requested, the retailer has agreed to waive his/her right to a written notification of the Agency's decision regarding his/her appeal within 60 days from the date of receipt of the request for a hearing.
4. During the Vendor Conference the following considerations may be discussed:
 - a. the resolution or the simplification of the issues;
 - b. acknowledgment of the pertinent facts;

¹ Vendor refers to the legal representative of the store or applicant.

Policy: 15.1

**Subject: Sanctions/Compliance
Conference**

Section: Vendor (Retailer)

- c. distribution of investigative report copies or any other matters which may aid in the resolution of the issues at hand and eliminate the need for an Administrative Appeal hearing;
- d. For vendors being retained in lieu of disqualification, the terms and conditions of a possible monetary penalty fine (if applicable).
5. It is recommended that the State Agency conduct the optional Vendor Conference as soon as possible after receiving an acknowledgment of the vendor's interest in this informal meeting.
6. Authorized vendors may continue to conduct WIC business until a decision has been rendered from the Vendor Conference or until an Administrative Appeal hearing decision has been rendered.
7. If, as a result of the Vendor Conference, the State Agency finds that the information upon which it based its decision is incorrect, or if for any other reason the representative decides that the original determination was inappropriate, he/she may reverse or modify the Agency's determination. If, however, the State Agency finds the original determination was appropriate, the determination shall remain in effect, unless it is appealed and reversed through the Administrative Appeal process.
8. The State Agency representative will provide a decision (within 10 business days) to the vendor after the Vendor Conference has been held.
9. This written decision will identify any new determinations and reasons supporting the outcome from the Vendor Conference. If there are any points of disagreement between the State Agency and the vendor from this Vendor Conference, these issues should be submitted in writing by the vendor, within 10 business days after the vendor receives the written notification. This additional documentation will become part of the case file turned over to the Adjudication Officer. Otherwise, the State Agency will assume the terms, conditions and factual overview outlined in the Vendor Conference decision were accurate and accepted by the vendor.
10. If the vendor elects to continue pursuing an Administrative Appeal hearing, the determination from the Vendor Conference will become part of the case file record.
11. All telephone and in-person conversations pertaining to the Vendor Conference and Administrative Appeal process between the vendor and the State Agency representative shall be documented using the appropriate Agency file documentation form.

Policy: 15.1

Subject: Sanctions/Compliance
Conference

Section: Vendor (Retailer)

Reference:

Federal Regulation 7 C.F.R. 246.18

Vendor's (Retailer's) Right of Appeal Policy 1.0

Sanction Classification System 15.0

FORMS - Standard and Corporate Retailer Contract Agreement and Application form

Policy: 15.2

Subject: Sanctions/Compliance
Access

Section: Inadequate Participant

Relating to Retail

Store Management

Effective Date: August 1, 2002
Revision

Supersedes: July 1, 2001

Purpose:

Inadequate participant access is determined on a case-by-case basis. Inadequate participant access will be a factor when considering whether to assess a civil money penalty against a retail store in lieu of disqualification or when considering to waive individual selection criteria for authorization of a retail store or placing a store on probation during authorization or reauthorization. Only the State Agency, neither the local agency nor the retail store, shall determine what constitutes inadequate participant access. Participant convenience and preference are not legitimate issues for a retail store to raise when appealing a State Agency decision.

Prior to taking disqualification actions, the State Agency will complete a written Inadequate Participant Access Analysis. The State Agency completes this assessment for all sanctions warranting Program disqualification (both State Agency and Mandatory Federal Sanctions).

Procedure:

To be considered inadequate participant access rather than “participant inconvenience”, the State Agency must find that one of the following conditions is indicated:

1. A significant number of WIC participants, generally twenty-five (25) or more, would be required to travel an unreasonable distance to another retail store. Unreasonable distance is defined as five (5) or more miles (one-way) in rural or urban/suburban localities. All localities considered “cities” by the State Agency will be designated as suburban/urban locations.
2. The retail store serves twenty-five (25) or more WIC participants whose specific nationality could not be properly served due to a language barrier by another retail store located within a reasonable distance. A reasonable one-way distance is defined as 5 miles or less (rural location) and one-mile or less (urban/suburban locations).

3. Physical barriers or conditions, which would make normal travel to another, authorized WIC Program retail store impossible or dangerous. Examples of such barriers or conditions include: an unbridged river, an expressway, an airport, geographical terrain or actual neighborhood boundaries.
4. A retail store is serving a participant who has a physical disability that cannot be accommodated by alternative stores. This will only be considered as inadequate participant access if the participant, and not the proxy has made the WIC Program purchases more than one-half of the time in the previous six (6) months.

Policy: 15.2

**Subject: Sanctions/Compliance
Access**

Section: Inadequate Participant

Relating to Retail

Store Management

An example of this type of inadequate participant access would occur when a wheel-chair bound participant regularly shops at a store with a wheel chair ramp and other stores in the areas are not wheel chair accessible.

5. A retail store is serving twenty-five (25) or more WIC participants whose unique cultural/ethnic dietary needs can not be properly served by another retail store located within reasonable distance as delineated in this policy.
6. A store's participant level in relationship to other approved stores in the vicinity based on the following data may be considered by the State Agency in determining hardship:

Peer Group (Class)	# of Participants Served – Quarterly
1	100
2	200
3	300
4 ²	Not Applicable
5	300

7. For rural locations only, the State Agency reserves the right to use WIC Program revenue earned (in lieu of # of participants served) during the previous two quarters to evaluate a particular store's hardship status.
8. The State Agency will complete an inadequate participant access assessment, as needed. See FORMS section – Inadequate Participant Access Assessment Form. The State Agency will obtain feedback from the local health district (i.e., District WIC Coordinator or his/her designee) on those service issues identified in this policy.
9. The Inadequate Participant Access Assessment Form will only list one alternative retailer located within the stated geographic radius (i.e., 5 miles). A more comprehensive listing of retailers will be available as an attachment, if needed.
10. An Inadequate participant access determination will remain in effect for one year; or until the retailer is disqualified for additional abuse (if applicable);

² Peer Group 4 consists of **Pharmacies** and Commissaries. **Pharmacies** participate in the WIC Program to provide limited services, i.e., special formula request; whereas, Commissaries service a restricted customer base, military personnel and dependents.

terminated or the State Agency determines that inadequate participant access no longer exists. The retailer shall receive written notice of the one year period begin and end dates. After the one year period has elapsed, the State Agency will evaluate the store's status and decide if another one year hardship status is warranted. The Agency will send written notification to the retail store if the Agency's decision about the store's status is considered adverse.

Policy: 15.2

Subject: Sanctions/Compliance
Access

Section: Inadequate Participant

Relating to Retail

Store Management

Reference:

FORMS – Inadequate Participant Access Assessment Form WIC #V15.2

High Risk Retailer Policy 6.0

Peer Group Classification Policy 13.0

Retailer's Selection and Authorization Policy 14.0

Monetary Penalty Guidelines – In Lieu of Disqualification Policy 15.4

Policy: 15.3

Subject: Sanctions/Compliance
Penalty Guidelines -

Section: Monetary

Disqualification

Effective Date: August 1, 2002
Revision

Supersedes: July 1, 2001

Purpose:

Identify the parameters under which the State Agency will assess a monetary penalty against an abusive and/or non-compliance retail store, specifically:

1. The retail store has participated in the Administrative Appeal process, the State agency's disqualification decision has been upheld and a disqualification action will apply. An overcharge violation may have occurred from the compliance buy investigation.

Procedure:**Vendor (Retailer) Disqualified**

1. The retail store has participated in the Administrative Appeal hearing process and the Adjudication Hearing Officer's findings confirm that the disqualification actions being taken by the State Agency are appropriate, then a monetary penalty can be assessed. As cited under 7 CFR 246.12(h) (1)(xx) of the Federal regulations, retailers who willfully misapply, steal or fraudulently obtain WIC funds shall be subject to a fine of not more than \$10,000 or imprisonment for not more than five years or both if the value of funds is \$100 or more. If the value of funds is less than \$100 then the penalties have a fine of not more than \$1,000 or imprisonment for not more than one year or both. The value of funds is based on the overcharge amount identified from the compliance investigation.
2. If appropriate, the Commonwealth of Virginia, acting for the State agency, may take legal action against abusive retailers in cooperation with federal, state and local authorities.
3. **A flat penalty fine may be assessed** against any retail store disqualified, resulting from an Adjudication Hearing Officer's findings. For two or more documented overcharges a maximum penalty fine of \$ 999.00 may be assessed. Conversely, if only one overcharge incident was identified, then a penalty fine of \$500 may be assessed.

4. The State Agency will send a “Penalty Fine” notice (certified mail) to the retailer after the Adjudication Officer’s findings are available. This notice will identify the liability due (based on compliance buy charge discrepancies identified) and the penalty amount applicable.
5. For instances where no charge discrepancies (including under charges) exist, the State Agency will pursue disqualification actions only against a non-compliant retail store. A penalty fine will not be assessed.
6. If the retailer elects not to pursue an administrative appeal (and an overcharge violation was identified from the completed compliance investigation) a penalty fine will not be assessed.

Policy: 15.3

Subject: Sanctions/Compliance
Penalty Guidelines -

Section: Monetary

Disqualification

7. The chart below summaries the above action points.

Administrative Appeal Hearing Held	Administrative Appeal Hearing Results – Disqualified	Documented Charge Discrepancies via Compliance Buys	Penalty Fine Accessed?	Type of Penalty
Yes	Yes	Yes	Yes	\$500 - \$999
Yes	No	Yes	Yes	Varies ³
No	N/A ⁴	Yes	No	N/A
No	N/A	No	No	N/A

Payment of Monetary Penalties

2. The State Agency must receive a lump sum payment of the penalty within 30 calendar days after the final determination letter is sent to the retailer. The specific dates and amount due will be identified in the final determination letter sent to the retailer.

³ See Monetary Penalty Guidelines – In Lieu of Disqualification

⁴ N/A = Not Applicable

Monetary Penalty Guidelines – In Lieu of Disqualification (15.4)

FORMS – Standard and Corporate Contract Agreement and Application
 Form

1. The lump sum payment must be paid by certified check or money order. The check should be made out to: **Virginia WIC Program** and sent to the Vendor ManagerReference: Sanction Classification System Policy (15.0)

Policy: 15.4

Subject: Sanctions/Compliance
Penalty Guidelines -

Section: Monetary

In Lieu of

Disqualification

Effective Date: March 1, 2003
2002

Supersedes: August 1,

Purpose:

Identify the parameters under which the State Agency will assess a Civil Monetary Penalty (CMP) against an abusive and/or non-compliance retail store, specifically:

1. The Retailer has received a “Final Compliance Investigation Determination” letter and the State Agency substantiates that paying a monetary penalty, in lieu of being disqualified, is in the best interest of the Program and/or WIC participants served⁵.

Vendor (Retailer) – In Lieu of Disqualification

1. As cited under **7 C.F.R. §246.12(h)(3)(xx)** of the Federal regulations, retail stores who willfully misapply, steal or fraudulently obtain WIC funds shall be subject to a fine of not more than **\$25,000** or imprisonment for not more than five years or both if the value of funds is \$100 or more. If the value of funds is less than \$100 then the penalties have a fine of not more than \$1,000 or imprisonment for not more than one year or both. The value of funds is based on the overcharge amount identified from completed compliance buys.
2. If appropriate, the Commonwealth of Virginia, acting for the State Agency, may take legal action against abusive retailers in cooperation with federal, state and local authorities.
3. Retail stores convicted of trafficking, or have received an administrative finding of trafficking or illegal sales, and/or are permanently disqualified from the Food Stamps Program will be disqualified from the WIC Program. ***Stores with these types of Program violations are ineligible to be retained in lieu of disqualification; since they are unable to meet all General Requirements outlined in the Retailer Contract Agreement.***
4. For retail stores with either Mandatory Federal and/or State Agency sanctions that warrant disqualification actions being taken, the State Agency will complete an inadequate participant access analysis. The State Agency will send a “Final Compliance Investigation Determination” letter and

⁵ See Inadequate Participant Access Policy

Civil Monetary Penalty statement (certified mail) to the retail store. If the State Agency determines inadequate participant access exists, this Final Compliance Investigation Determination” letter will identify the store is being retained in-lieu of disqualification. The determination letter will identify the financial liability due (based on the compliance investigation results only) and the CMP applicable.

Policy: 15.4

Subject: Sanctions/Compliance
Penalty Guidelines -

Section: Monetary

In Lieu of

Disqualification

Payment of Monetary Fine (in lieu of disqualification) – *Procedure for WIC Mandatory Federal Sanctions*

A Retailer with documented administrative findings of WIC Mandatory Federal Sanctions that warrant WIC Program disqualification actions may be retained in lieu of disqualification. The Retailer may be given the option to pay a civil monetary penalty fine (*excluding convictions and administrative findings of trafficking and illegal sales and permanent FSP disqualification*).

1. The State Agency will consider such factors as: impact upon WIC Program participants (i.e., inadequate participant access), documented and verifiable corrective actions taken to improve compliance performance, etc. in making its determination when paying a monetary penalty (in lieu of disqualification) is appropriate. This policy identifies the guidelines the State Agency uses for calculating the CMP, according to regulatory requirements.
2. By paying the CMP, the retailer will be kept on the WIC Program and be flagged as a “High Risk” Retailer⁶. Failure to pay the CMP amount assessed by the specified and/or agreed upon due date(s) will lead to the store being disqualified according to the time period associated with the type of documented Mandatory Federal or State Agency Sanction schedule outlined in the Sanction Classification System policy.
3. CMPs can not exceed **\$10,000 per violation/\$40, 000 per investigation**.
4. If more than one Mandatory Federal Sanction (and the pattern threshold is met, if applicable) is documented during a single investigation, a CMP must be imposed for each “qualified” violation (up to the \$10,000 per violation/\$40,000 per investigation maximum limit.)
5. Within the first year of paying a CMP, if any additional Mandatory Federal Sanctions (meeting the pattern threshold) are documented from subsequent compliance investigation(s), then the calculated CMP will be doubled (up to the maximum allowable). Doubling of the CMP amount will occur for repeat or different documented Mandatory Federal Sanctions meeting the pattern threshold. If Mandated Federal Sanctions are documented by the State Agency a third time within a three-year consecutive period, the retailer will not have an option of paying an additional CMP, even when inadequate participant access exists. The State Agency will triple the disqualification period for this type of repeated Program compliance history.
6. The State Agency must notify in writing the Food and Nutrition Services Program (Food Stamp Office) within 15 calendar days, after assessing a CMP to a retail store retained in-lieu of disqualification.
7. The formula used to calculate the CMP for Mandatory Federal Sanctions is a regulatory requirement and is not subject to administrative appeal review/reduction.

⁶ See High Risk Retailer Policy (6.0)

Policy: 15.4

Subject: Sanctions/Compliance
Penalty Guidelines -

Section: Monetary

In Lieu of

Disqualification

Procedure for Assessing Monetary Penalty – Payment of Monetary Fine (in lieu of being Disqualified) – *Procedure for WIC Mandatory Federal Sanctions*

1. A CMP can be assessed either before or after an Administrative Appeal hearing is held. To determine if the non-compliance retail store is eligible, the State Agency completes an inadequate participant assessment. The retail store will be required to attend a mandatory **Abbreviated Administrative Review**. By participating in the **Abbreviated Administrative Review**, the retail store has waived its right to the required time limit for the Administrative Appeal hearing.

The **Abbreviated Administrative Review** will be used to offer the alternative of a CMP (if applicable). The store will be informed of the following:

- a. The amount of the CMP (as determined by procedures outlined in this policy).
- b. The method of payment of the penalty available to the store.
- c. The time limits which were waived by the store concerning the Administrative Appeal hearing when the **Abbreviated Administrative Review** was accepted.
- d. That acceptance/payment of the CMP does not relieve the store of its obligations to resolve identified problems or protect the store from future sanctions or continued non-compliance.
- e. That the State Agency reserves the right to make a press release concerning the actions taken.
- f. That the store has fifteen (15) days after the **Abbreviated Administrative Review** to accept in writing the terms and conditions associated with the CMP.

2. From the **Abbreviated Administrative Review**, if the State Agency decides that paying a penalty fine is not a suitable option; the reasons for this decision will be documented and communicated to the retail store.
3. If the State Agency determines from evidence presented via the Administrative Appeal process (or **Abbreviated Administrative Review**), there are special circumstances that warrant a modification of the original disqualification period, and then the State Agency reserves the right to adjust the disqualification period and CMP.

Policy: 15.4

Subject: Sanctions/Compliance
Penalty Guidelines -

Section: Monetary

In Lieu of

Disqualification

Procedure for Calculating Monetary Payment – Procedure for WIC Mandatory Federal Sanctions

1. All Mandatory Federal Sanctions CMP fines issued by the State Agency will be calculated using a standard, regulatory defined formula. The CMP amount shall not exceed \$10,000 per violation/\$40,000 per compliance investigation, even if the formula indicates that a higher penalty is warranted. The formula is as follows:

Step 1: Multiply 10% (.10) times the average quarterly redemption⁷ for the most recent six (6) month period prior to the scheduled disqualification date.

Step 2: Multiply the product of Step 1 by the number of months of the disqualification period.

Example 1: Store A qualifies for a one-year disqualification period based upon one documented (e.g., Class B (09) violation) Mandatory Federal Sanction. The State Agency has determined that inadequate participant access will exist with Store A's WIC Program disqualification. A determination letter is sent to the retailer January 14, 2001.

A CMP in lieu of disqualification would be calculated as follows:

Identify WIC reimbursement July 1 – September 30, 2000 and October 1 – December 31, 2000 using the Vendor Quarterly Profile reports available for these two periods. The total WIC reimbursement amount was \$30,000 for this six month period.

For Class B (09) Violation:

$$\$30,000 \div 6 = \$5,000 \times .10 = \$500.00$$

$$\$500.00 \times 12 \text{ months} = \$6,000$$

Total CMP assessed from this single compliance investigation = \$6,000

⁷ Determine the retail store's average monthly redemption, using the Quarterly Profile report, for at least 6 month period, ending with the month immediately preceding the month during which the notice of administrative action is dated.

Example 2: From a single compliance investigation, two different Class B (09 & 10) Mandatory Federal Sanctions were documented and the State Agency's determines inadequate participant access exists; Store B qualifies for a one-year disqualification period. In the Final Compliance Investigation Determination letter, a CMP amount would be calculated as follows:

Identify WIC reimbursement July 1 – September 30, 2000 and October 1 – December 31, 2000 using the Vendor Quarterly Profile reports available for these two periods. The total WIC reimbursement amount was \$30,000 for this six month period.

Policy: 15.4

Subject: Sanctions/Compliance
Penalty Guidelines -

Section: Monetary

In Lieu of

Disqualification

For Class B (09) Violation:

$$\$30,000 \div 6 = \$5,000 \times .10 = \$500.00$$

$$\$500.00 \times 12 \text{ months} = \$6,000$$

For Class B (10) Violation:

$$\$30,000 \div 6 = \$5,000 \times .10 = \$500.00$$

$$\$500.00 \times 12 \text{ months} = \$6,000$$

Total CMP assessed from this single compliance investigation = \$12,000

Example 3: A second compliance investigation is conducted at Store A and documents a second qualifying Mandatory Federal Sanction, (Class B (09)). The State Agency's inadequate participant access analysis again supports that the disqualification of this store would have a negative impact upon WIC participants. Store A qualifies to be retained in lieu of disqualification. The one year disqualification period is "doubled" = two years (24 months). A determination letter is sent identifying a two-year disqualification period should apply, and the store is being retained in lieu of disqualification.

A CMP in lieu of disqualification would be calculated as follows:

The WIC reimbursement level for the prior six months was \$35,000.

$$\$35,000 \div 6 = \$5833 \times .10 = \$583$$

$$\$583 \times 24 \text{ months} = \$13,992$$

Total CMP assessed from this second compliance investigation = \$13,992.

2. Retail stores with less than 6 months of WIC revenue and experience would not be eligible to be retained in lieu of disqualification.
3. The State Agency can make no reduction in the maximum CMP amount, since this formula is defined in Federal regulations.

Procedure for Calculating Monetary Payment - *Procedure for State Agency Sanctions*

1. For State Agency Sanctions, the same type of formula calculation applies as outlined in Procedure D. State Agency sanction calculations will use a 5% multiplier, rather than 10% required for Mandatory Federal Sanctions in order to determine the maximum CMP applicable.

Policy: 15.4

Subject: Sanctions/Compliance
Penalty Guidelines -

Section: Monetary

In Lieu of

Disqualification

2. For State Agency Sanctions only, during the **Abbreviated Administrative Review**, the State Agency may adjust the penalty amount based upon the best interests of the Program and its participants. However, the amount will not be reduced below 50% of the assigned penalty. For corporate-sponsored stores participating in the Self-Educational Buy pilot, a reduction in the State Agency Sanction fine amount assessed may be made by the Vendor Manager, if the corporate office commits to conducting additional self educational buys at the store experiencing program violations. This penalty fine reduction will only be made when both parties agree upon the terms, conditions and deliverables.
3. Retail stores with less than 6 months of WIC revenue and experience would not be eligible to be retained in lieu of disqualification.

Payment of Monetary Penalties

1. The payment of the monetary penalty must be made by one of the following methods as determined by the State Agency:
 - a. A lump sum payment of the penalty which must be received within 30 days after acceptance of the penalty fine; or
 - b. By installment payment which will be of equal amounts.

The State Agency must receive the first installment within 30 calendar days after acceptance of the monetary fine. The final payment must be received within 120, 240 and 360 days from the due date of the first payment (determined on a case-by-case basis by the State Agency). If a store fails to make any scheduled installment payment by the due date, the State Agency will notify the store (by certified mail) that the balance of the penalty is due in full within 15 days or disqualification action will be implemented.

- c. All payments (either lump sum or installments) must be made by certified checks or money order. The checks should be made out to: **Virginia WIC Program** and sent to the Vendor Manager.

- d. For installment payments, the retail store will be charged interest. The retailer will be informed about the interest amount due, once a payment schedule is established.
2. CMP funds collected from the retail stores are considered Program Income.

Reference:

- High Risk Retailers Policy (6.0)
- Sanction Classification System Policy (15.0)
- Vendor's (Retailer's) Conference (15.1)
- Inadequate Participant Access Relating to Retail Store Management (15.2)

