

10A NCAC 43D .0706 VENDOR PEER GROUPS

Vendor applicants and authorized vendors shall be placed into peer groups as follows:

- (1) When annual WIC supplemental food sales are not yet available, vendor applicants and authorized vendors, excluding chain stores, stores under a WIC corporate agreement, military commissaries, and free-standing pharmacies, shall be placed into peer groups based on the number of cash registers in the store until annual WIC supplemental food sales become available. The following are the peer groups based on the number of cash registers in the store:
 - Peer Group I - - zero to two cash registers;
 - Peer Group II - - three to five cash registers; and
 - Peer Group III - - six or more cash registers.WIC sales figures of new vendors shall be reviewed six months from authorization. A vendor whose first six months of WIC sales exceed twenty five thousand dollars (\$25,000) shall be placed in a peer group in accordance with the dollar thresholds of Item (2) of this Rule.
- (2) Authorized vendors for which annual WIC supplemental food sales are available, excluding chain stores, stores under a WIC corporate agreement, military commissaries, and free-standing pharmacies, shall be placed into peer groups as follows, except as provided in Item (9) of this Rule:
 - Peer Group I - - two thousand dollars (\$2,000) to twenty five thousand dollars (\$25,000) annually in WIC supplemental food sales at the store;
 - Peer Group II - - greater than twenty five thousand dollars (\$25,000) but not exceeding seventy five thousand dollars (\$75,000) annually in WIC supplemental food sales at the store;
 - Peer Group III - - greater than seventy five thousand dollars (\$75,000) but not exceeding three hundred thousand dollars (\$300,000) annually in WIC supplemental food sales at the store; and
 - Peer Group IV - - greater than three hundred thousand dollars (\$300,000) annually in WIC supplemental food sales at the store.
- (3) Chain stores, stores under a WIC corporate agreement (20 or more authorized vendors under one agreement), military commissaries, and free-standing pharmacies, including free-standing pharmacy chain stores and free-standing pharmacies participating under a WIC corporate agreement, shall be placed into peer groups as follows:
 - Peer Group IV - - chain stores, stores under a WIC corporate agreement (20 or more authorized vendors under one agreement), and military commissaries; and
 - Peer Group V - - free-standing pharmacies, including free-standing pharmacy chain stores and free-standing pharmacies participating under a WIC corporate agreement.
- (4) "Annual WIC supplemental food sales" is the dollar amount an authorized vendor redeems in WIC food instruments and cash-value vouchers within a 12-month period.
- (5) In determining a vendor's peer group designation based on annual WIC supplemental food sales under Item (2) of this Rule, the state agency shall look at the most recent 12-month period of redemption data.
- (6) The state agency may reassess an authorized vendor's peer group designation at any time during the vendor's agreement period and place the vendor in a different peer group if upon reassessment the state agency determines that the vendor is no longer in the appropriate peer group.
- (7) If the state agency determines that a vendor applicant is expected to be a predominantly WIC vendor as defined in Rule .0202 of this Subchapter, the vendor application shall be denied. The store must wait 90 days to reapply for vendor authorization. The state agency shall apply the methodology set forth in 7 CFR 246.12(g)(4)(i)(E) for determining whether a vendor applicant is expected to be a predominantly WIC vendor.
- (8) If at any time during a vendor's authorization the state agency determines that the vendor has become a predominantly WIC vendor as defined in Rule .0202 of this Subchapter, the vendor's WIC Vendor Agreement shall be terminated. The store must wait 90 days to reapply for vendor authorization. The state agency shall apply the methodology set forth in 7 CFR 246.12(g)(4)(i)(F) for determining whether an authorized vendor has become a predominantly WIC vendor.
- (9) A vendor applicant previously authorized in a peer group under Item (2) of this Rule that is being reauthorized following the nonrenewal or termination of its agreement or disqualification or

withdrawal from the WIC Program shall be placed into the same peer group the vendor applicant was previously in under Item (2) of this Rule, provided that no more than one year has passed since the nonrenewal, termination, disqualification or withdrawal. If more than one year has passed, the vendor applicant shall be placed into a peer group in accordance with Item (1) of this Rule.

*History Note: Authority G.S. 130A-361; 7 C.F.R. 246; 42 U.S.C. 1786;
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Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 23, 2017.*