

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Commission for Public Health

RULE CITATION: 10A NCAC 43D .0201

**DEADLINE FOR RECEIPT: Friday, September 19, 2025**

**PLEASE NOTE:** *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*FYI: The approach you take to specifying where to find incorporated materials (p. 3 line 11) pursuant to G.S. 150B-21.6 is not one I believe the Commission has considered before. I do not have a change to request, but intend to specifically bring this to the Commission's attention who may have a change to request.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Seth Ascher  
Commission Counsel  
Date submitted to agency: September 15, 2025

1 10A NCAC 43D .0201 is amended as published in 39:23 NCR 1502-1516 as follows:

2  
3 **SECTION .0200 - WIC PROGRAM GENERAL INFORMATION**

4  
5 **10A NCAC 43D .0201 DESCRIPTION**

6 The ~~Nutrition Services Branch~~ North Carolina Department of Health and Human Services, Division of Child and  
7 Family Well-Being, Community Nutrition Services Section is responsible for the administration of the WIC Program  
8 in North Carolina.

9  
10 *History Note: Authority G.S. 130A-361; 7 C.F.R. 246;*

11 *Eff. July 1, 1981;*

12 *Amended Eff. October 1, 2009; December 6, 1991; November 1, 1990;*

13 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*  
14 *23, ~~2017~~, 2017;*

15 *Amended Eff. April 1, 2026.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Commission for Public Health

RULE CITATION: 10A NCAC 43D .0203

**DEADLINE FOR RECEIPT: Friday, September 19, 2025**

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The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*You do not indicate that the items listed in paragraph (a) are incorporated by reference, and I believe that is what you are intending to do. Add language to satisfy G.S. 150B-21.6.*

*For example, if this is what you intend, you could change (b) to something like: "The documents listed in Paragraph (a) of this Rule **are incorporated by reference, including subsequent amendments and editions, and** are . . ."*

*The Commission has previously determined that a link like you provide on line 12 is not sufficient to specify where to find the incorporated material. Consider doing what you did in .0201 instead, providing a link to the eCFR and a similar link for the U.S.C.*

*Note that this will resolve potential incorporation problems that I did not raise in this RFC in a number of other rules: 10A NCAC 43D .0207, 10A NCAC 43D .0411, 10A NCAC 43D .0501, 10A NCAC 43D .0707, 10A NCAC 43D .0708, 10A NCAC 43D .0709, 10A NCAC 43D .0902,*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Seth Ascher  
Commission Counsel

Date submitted to agency: September 15, 2025

1 10A NCAC 43D .0203 is amended as published in 39:23 NCR 1502-1516 as follows:

2  
3 **10A NCAC 43D .0203 REFERENCES**

4 (a) The State agency shall administer the WIC program in accordance with:

5 (1) 42 U.S.C. 1786; and

6 (2) 7 C.F.R. 246.1 through 246.28, United States Department of Agriculture, Food and Nutrition  
7 Service, Special Supplemental Nutrition Program for Women, ~~Infants~~ Infants, and Children.

8 (b) The documents listed in Paragraph (a) of this Rule are available for inspection at the ~~Division of Public Health,~~  
9 ~~Women's and Children's Section, Nutrition Services Branch~~ North Carolina Department of Health and Human  
10 Services, Division of Child and Family Well-Being, Community Nutrition Services Section at 5601 Six Forks Road,  
11 Raleigh, NC 27609 during regular business hours, Monday through Friday from ~~8:00 AM to 5:00 PM.~~ 8:00 AM to  
12 5:00 PM, and online at [www.ncdhhs.gov/newic](http://www.ncdhhs.gov/newic).

13  
14 *History Note: Authority G.S. 130A-361;*

15 *Eff. July 1, 1981;*

16 *Amended Eff. October 1, 2017; October 1, 2009; April 1, 1984; April 1, 1982;*

17 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*  
18 *23, ~~2017,~~ 2017;*

19 *Amended Eff. April 1, 2026.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Commission for Public Health

RULE CITATION: 10A NCAC 43D .0205

**DEADLINE FOR RECEIPT: Friday, September 19, 2025**

***PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*It appears that this rule is purely about the internal management of an agency, and thus not within the definition of a rule under G.S. 150B-2(8a)a. Am I missing something?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 10A NCAC 43D .0205 is amended as published in 39:23 NCR 1502-1516 as follows:

2  
3 **10A NCAC 43D .0205 POLICIES: GUIDELINES AND MANUALS**

4 (a) The state agency shall promulgate policies, guidelines and manuals to facilitate operation of the WIC Program in  
5 accordance with the contract with FNS, the guidelines and instructions issued by FNS in policy letters and  
6 management evaluations, and the North Carolina State WIC Program Plan of Operations and the rules contained in  
7 this Subchapter.

8 (b) The policies, guidelines and manuals maintained under (a) of this Rule are available for inspection at the state  
9 agency during regular business ~~hours.~~ hours, and online at [www.ncdhhs.gov/ncwic](http://www.ncdhhs.gov/ncwic).

10  
11 *History Note: Authority G.S. 130A-361;*

12 *Eff. July 1, 1981;*

13 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*  
14 *23, ~~2017~~, 2017;*

15 *Amended Eff. April 1, 2026.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Commission for Public Health

RULE CITATION: 10A NCAC 43D .0304

**DEADLINE FOR RECEIPT: Friday, September 19, 2025**

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In reviewing this Rule, the staff recommends the following changes be made:

*Are there any additional criteria to what is listed in lines 5-7 of this rule?*

*If so, where are they identified?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 10A NCAC 43D .0304 is amended as published in 39:23 NCR 1502-1516 as follows:

2  
3 **10A NCAC 43D .0304 EXPANSION OF LOCAL WIC PROGRAMS**

4 Local WIC agencies that plan to increase the number of persons served shall submit a written request to the ~~Nutrition~~  
5 ~~Services Section.~~ Community Nutrition Services Section. The availability of funds and the Affirmative Action Plan  
6 contained in the North Carolina State WIC Program Plan of Operation will be considered in making the decision to  
7 approve or deny the request.

8  
9 *History Note: Authority G.S. 130A-361;*

10 *Eff. July 1, 1981;*

11 *Amended Eff. December 6, 1991; November 1, 1990;*

12 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*  
13 *23, ~~2017~~, 2017;*

14 *Amended Eff. April 1, 2026.*



REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Commission for Public Health

RULE CITATION: 10A NCAC 43D .0410

**DEADLINE FOR RECEIPT: Friday, September 19, 2025**

**PLEASE NOTE:** *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*On line 6, you do not need "which are incorporated by reference in Rule .0202 of this subchapter".*

*On line 15, is 21 U.S.C 802 incorporated elsewhere? If not, incorporate it here.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 10A NCAC 43D .0410 is amended as published in 39:23 NCR 1502-1516 as follows:

2  
3 **10A NCAC 43D .0410 PARTICIPANT VIOLATIONS AND SANCTIONS**

4 (a) The State agency shall assess a claim for the full value of Program benefits that have been obtained or disposed  
5 of improperly as the result of a participant violation. "Participant violation" means those violations listed in 7 C.F.R.  
6 246.2 which are incorporated by reference in Rule .0202 of this Subchapter. A claim shall not be paid by offsetting  
7 the claim against future Program benefits.

8 (b) The following participant violations committed by a participant, parent or caretaker of an infant or child  
9 participant, or proxy shall result in a one-year disqualification of the participant from the WIC Program, except as  
10 provided in Paragraphs (c) and (d) of this Rule:

- 11 (1) Exchanging ~~food instruments, cash value vouchers or supplemental food for cash;~~ eWIC card,  
12 benefits, or supplemental food for cash;  
13 (2) Exchanging ~~food instruments, cash value vouchers or supplemental food~~ eWIC card, benefits, or  
14 supplemental food for alcohol, alcoholic beverages, tobacco products, firearms, ammunition,  
15 explosives, or controlled substances as defined in 21 U.S.C. 802;  
16 (3) A claim for dual participation resulting from intentional misrepresentation;  
17 (4) Intentionally making false or misleading statements or intentionally misrepresenting, concealing, or  
18 withholding facts to obtain Program benefits;  
19 (5) Any participant violation for which a claim of one hundred dollars (\$100.00) or more is assessed;  
20 (6) A second or subsequent claim assessed for any participant violation, regardless of the dollar amount.  
21 The second or subsequent claim does not have to be for the same participant violation as the initial  
22 claim to result in a one-year disqualification; and  
23 (7) Physical harm to clinic or vendor staff.

24 (c) The one-year disqualification referenced in Paragraph (b) of this Rule shall not be imposed against the participant  
25 if a claim is assessed and full payment is made, or a repayment schedule is agreed upon within 30 days of receipt of a  
26 written demand for repayment of the claim for the improperly obtained or disposed of Program benefits.

27 (d) The one-year disqualification referenced in Paragraph (b) of this Rule shall not be imposed against the participant  
28 if the participant is an infant, child, or under age 18 and the state or local agency approves the designation of a proxy  
29 for the participant. Designation of a proxy shall be approved if the proxy:

- 30 (1) is at least 18 years of age;  
31 (2) presents proof of identification in the form of a government-issued photo identification card, work  
32 or school identification card, health benefits or social services program card, social security card,  
33 birth certificate, or a pay stub or utility bill no more than 60 days old;  
34 (3) has written authorization from the participant or the parent or caretaker of an infant or child  
35 participant; and  
36 (4) ~~will not be serving as proxy for more than two families at the same time; and~~

1       ~~(5)(4)~~ will be the person who transacts the ~~food instruments, supplemental food~~ benefits or cash-value  
2       benefits.

3       (e) Except as provided in Subparagraphs (b)(5) and (b)(6) of this Rule, the following participant violations committed  
4       by a participant, parent or caretaker of an infant or child participant, or proxy shall result in a written warning for the  
5       first violation and the assessment of a claim for the full amount of any improperly obtained or disposed of Program  
6       benefits:

- 7           (1)       Exchanging ~~food instruments, cash value vouchers or supplemental food~~ eWIC card, benefits or  
8           supplemental food for credit;  
9           (2)       Exchanging ~~food instruments, cash value vouchers or supplemental food~~ eWIC card, benefits or  
10          supplemental food for non-food items, other than alcohol, alcoholic beverages, tobacco products,  
11          firearms, ammunition, explosives, or controlled substances as defined in 21 U.S.C. 802; and  
12          (3)       Exchanging ~~food instruments, cash value vouchers or supplemental food~~ eWIC card, benefits or  
13          supplemental food for unauthorized food items, including supplemental foods in excess of those  
14          listed on the participant's ~~food instrument.~~ available benefit balance.

15       For the violations listed in this Paragraph, failure to pay a claim in full or agree to a repayment schedule within 30  
16       days of receipt of a written demand for repayment of a claim, shall result in a 90-day disqualification of the participant,  
17       unless the participant is an infant, child, or under age 18 and the state or local agency approves the designation of a  
18       proxy for the participant in accordance with Paragraph (d) of this Rule.

19       (f) The occurrence of a second or subsequent participant violation listed in Paragraph (e) of this Rule shall result in a  
20       one-year disqualification of the participant and the assessment of a claim for the full amount of any improperly  
21       obtained or disposed of Program benefits. The second or subsequent violation does not have to be the same as the  
22       initial violation to result in a one-year disqualification. The one-year disqualification shall not be imposed against the  
23       participant if full payment is made, or a repayment schedule is agreed upon within 30 days of receipt of a written  
24       demand for repayment of a claim. Additionally, the one-year disqualification shall not be imposed against the  
25       participant if the participant is an infant, child, or under age 18 and the state or local agency approves the designation  
26       of a proxy for the participant in accordance with Paragraph (d) of this Rule.

27       (g) Threatening physical harm to or verbal abuse of clinic or vendor staff by a participant, parent or caretaker of an  
28       infant or child participant, or proxy shall result in a written warning for the first occurrence of this violation. A second  
29       occurrence within a 12-month period shall result in a 90-day disqualification of the participant, unless the participant  
30       is an infant, child, or under age 18 and the state or local agency approves the designation of a proxy for the participant  
31       in accordance with Paragraph (d) of this Rule.

32       (h) For any disqualification imposed under this Rule, a participant may reapply for Program participation if during  
33       the period of the disqualification full payment is made or a repayment schedule is agreed upon, or in the case of a  
34       participant who is an infant, child, or under age 18, the state or local agency approves the designation of a proxy in  
35       accordance with Paragraph (d) of this Rule.

36       (i) The participant has a right to a fair hearing in accordance with Section .0900 of this Subchapter for sanctions  
37       imposed under this Rule.

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*History Note: Authority G.S. 130A-361; 7 C.F.R. 246; 42 U.S.C. 1786;*  
*Eff. July 1, 1983;*  
*Amended Eff. November 1, 1990;*  
*Temporary Amendment Eff. July 1, 2002;*  
*Amended Eff. October 1, 2009; August 1, 2004;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*  
*23, ~~2017~~, 2017;*  
*Amended Eff. April 1, 2026.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Commission for Public Health

RULE CITATION: 10A NCAC 43D .0501

**DEADLINE FOR RECEIPT: Friday, September 19, 2025**

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In reviewing this Rule, the staff recommends the following changes be made:

*7 C.F.R. 246.10 is included in the potential incorporation in 10A NCAC 43D .0203. So if you incorporate in .0203, you do not need "which is" on line 6 and lines 7 through 10.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Seth Ascher  
Commission Counsel  
Date submitted to agency: September 15, 2025

1 10A NCAC 43D .0501 is amended as published in 39:23 NCR 1502-1516 as follows:

2  
3 **SECTION .0500 – WIC PROGRAM FOOD PACKAGE**  
4

5 **10A NCAC 43D .0501 SUPPLEMENTAL FOODS**

6 (a) The foods that may be provided to WIC program participants are specified in 7 C.F.R. 246.10, which is  
7 incorporated by reference including any subsequent amendments and editions. This material is available for inspection  
8 at the Department of Health and Human Services, ~~Division of Public Health,~~ Division of Child and Family Well-  
9 Being, 5601 Six Forks Road, Raleigh, North Carolina 27609 and may be obtained from ~~Nutrition Services~~ the  
10 Community Nutrition Services Section at no cost.

11 ~~(b) The following exclusions from the food package have been adopted by the North Carolina WIC Program:~~

12 ~~(1) mackerel and sardines;~~

13 ~~(2) goat milk; and~~

14 ~~(3) dried fruits and vegetables.~~

15 ~~(e)(b)~~ The State agency may exclude foods ~~other than those described in Paragraph (b) of this Rule~~ if it determines  
16 such foods to be inappropriate for provision as supplemental foods through the WIC Program as a result of their cost,  
17 nutritional composition, packaging, statewide availability, participant redemption data, or promotion in a manner  
18 which is contrary to the purpose of the program as contained in 7 C.F.R. 246.1.

19  
20 *History Note: Authority G.S. 130A-361; 7 C.F.R. 246.10; 42 U.S.C. 1786;*

21 *Eff. July 1, 1981;*

22 *Amended Eff. October 1, 1993; October 1, 1990; July 1, 1989; October 1, 1988;*

23 *Temporary Amendment Eff. July 1, 2002;*

24 *Amended Eff. October 1, 2009; August 1, 2004;*

25 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*  
26 *23, 2017;*

27 *Amended Eff. April 1, 2026; March 1, 2020.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Commission for Public Health

RULE CITATION: 10A NCAC 43D .0702

**DEADLINE FOR RECEIPT: Friday, September 19, 2025**

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In reviewing this Rule, the staff recommends the following changes be made:

*7 C.F.R. 246.10 is included in the potential incorporation in 10A NCAC 43D .0203. So if you incorporate in .0203, you do not need "which is" and the language following on line 6.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 10A NCAC 43D .0702 is amended as published in 39:23 NCR 1502-1516 as follows:

2  
3 **10A NCAC 43D .0702 ISSUANCE OF FOOD BENEFITS**

4 (a) Local WIC agencies shall issue WIC program food benefits to program participants in a manner which ensures  
5 that participants can receive the supplemental foods that have been prescribed for them in accordance with 7 C.F.R.  
6 246.10, which is incorporated by reference with all subsequent amendments and editions.

7 (b) Local WIC agencies shall issue food benefits and shall retain documentation of issuance. ~~The documentation of~~  
8 ~~issuance shall include the dated signature of the authorized individual receiving the food benefits, as set out in~~  
9 ~~Subparagraph (c) of this Rule.~~

10 (c) Food benefits shall be issued only to the participant, the participant's parent, the participant's guardian, the  
11 participant's caretaker, a proxy, or a representative of the program completing a compliance buy.

12  
13 *History Note: Authority G.S. 130A-361; 7 C.F.R. 246.2; 7 C.F.R. 246.10; 42 U.S.C. 1786;*

14 *Eff. July 1, 1981;*

15 *Amended Eff. April 1, 2001;*

16 *Temporary Amendment Eff. July 1, 2002;*

17 *Amended Eff. October 1, 2009; August 1, 2004;*

18 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*  
19 *23, 2017;*

20 *Amended Eff. April 1, 2026; March 1, 2020.*



REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Commission for Public Health

RULE CITATION: 10A NCAC 43D .0707

**DEADLINE FOR RECEIPT: Friday, September 19, 2025**

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In reviewing this Rule, the staff recommends the following changes be made:

*42 U.S.C. 1786 is included in the potential incorporation in 10A NCAC 43D .0203. So if you incorporate in .0203, you do not need "which is" and the language following on lines 19 and 20.*

*On p. 4, line 2, the "or" should be at the end of the previous line.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 10A NCAC 43D .0707 is amended as published in 39:23 NCR 1502-1516 as follows:

2  
3 **10A NCAC 43D .0707 VENDOR APPLICANTS**

4 To become authorized as a WIC vendor, a vendor applicant shall comply with the following vendor selection  
5 criteria:

- 6 (1) A vendor applicant shall complete a WIC Vendor Application, as set forth in Item (20) of this Rule,  
7 a WIC Price List, as set forth in Item (4) of this Rule, and a WIC Vendor Agreement, as set forth in  
8 7 C.F.R. 246.12(h)(3). A vendor applicant shall submit its current highest shelf price for each WIC  
9 supplemental food listed on the WIC Price List, as set forth in Item (4) of this Rule.
- 10 (2) A vendor applicant, at the time of application and throughout the term of authorization, shall  
11 submit all completed forms to the local WIC agency, except that a corporate entity operating under  
12 a WIC corporate agreement shall submit one completed WIC corporate agreement and the WIC  
13 Price Lists to the State agency and a separate WIC Vendor Application for each store to the local  
14 WIC agency. A corporate entity operating under a WIC corporate agreement may submit a single  
15 WIC Price List for those stores that have the same prices for WIC supplemental foods in each  
16 store, rather than submitting a separate WIC Price List for each store.
- 17 (3) A vendor applicant shall purchase all infant formula, exempt infant formula, and WIC-eligible  
18 nutritionals directly from:
- 19 (a) The sources specified in 42 U.S.C 1786(h)(8)(A)(ix), which is incorporated by  
20 reference with all subsequent amendments and editions;
- 21 (b) Retail food stores that purchase directly from the sources referenced in Sub-item (3)(a)  
22 of this Item; or
- 23 (c) A source on another state's list of approved infant formula sources as verified by  
24 that state's agency.
- 25 A vendor applicant shall make available to the State or local WIC agency invoices or receipts  
26 documenting purchases of all infant formula, exempt infant formula, and WIC-eligible nutritionals.  
27 Receipts and invoices shall satisfy the requirements of Sub-items (24)(a) through (24)(c) of Rule  
28 .0708 of this Section. A vendor applicant shall not be authorized if within the last year the vendor  
29 applicant had a previous WIC Vendor Agreement terminated for failure to purchase infant formula,  
30 exempt infant formula, or WIC-eligible nutritionals from the sources specified in this Item. A vendor  
31 applicant shall not be authorized if within the last year the vendor applicant had a previous WIC  
32 Vendor Agreement terminated for providing infant formula, exempt infant formula, or WIC-eligible  
33 nutritionals to WIC customers that was not purchased from the sources specified in this Item.
- 34 (4) A vendor applicant's current highest shelf price for each WIC supplemental food listed on the WIC  
35 Price List shall not exceed the maximum price set by the State agency for each supplemental food  
36 within that vendor applicant's peer group, except as provided in Sub-item (4)(b) of this Item. The  
37 maximum price for each supplemental food shall be established as follows:

- (a) The most recent prices submitted through the EBT system by authorized vendors within the same peer group shall be used to determine the maximum price for each supplemental food. The maximum price shall be two standard deviations above the average current highest shelf price of each supplemental food within a vendor peer group. The State agency shall reassess the maximum price set for each supplemental food at least four times a year.
- (b) If any of the vendor applicant's price(s) on its WIC Price List exceed the maximum price(s) set by the State agency for that applicant's peer group, the State agency shall send the applicant written notice. Within 30 days of the date of receipt of the written notice, the vendor applicant may resubmit price(s) that it will charge the State WIC Program for those foods that exceeded the maximum price(s). If none of the vendor applicant's resubmitted prices exceed the maximum prices set by the State agency, the vendor applicant shall be deemed to have met the requirements of Item (4) of this Rule. If any of the vendor applicant's resubmitted prices still exceed the maximum prices set by the State agency, or the vendor applicant does not resubmit prices within 30 days of the date of receipt of the written notice, the agency shall send the applicant a written notice of denial. The vendor applicant shall wait 90 days from the date of receipt of the written denial to reapply for authorization.
- (5) A vendor applicant shall pass an announced monitoring review by the local WIC agency to determine whether the store has minimum inventory of supplemental foods as specified in Item (17) of Rule .0708 of this Section. A vendor applicant that fails this review shall be allowed a second opportunity for an unannounced monitoring review within 14 days. If the applicant fails both reviews, the application shall be denied in writing and the applicant shall wait 90 days from the date of the second monitoring review before submitting a new application
- (6) A vendor applicant shall either attend or cause a manager or another authorized store representative to attend WIC Vendor Training provided by the local WIC agency prior to vendor authorization and ensure that the vendor applicant's employees receive instruction in WIC program procedures and requirements.
- (7) An applicant shall mark the current shelf prices of all WIC supplemental foods on the foods or have the prices posted on the shelf or display case at all times.
- (8) The store shall be at a single, fixed location within North Carolina. The store shall be located at the address indicated on the WIC vendor application and shall be the site where WIC supplemental foods are selected by the WIC customer.
- (9) A vendor applicant shall use point of sale (POS) terminals to support the WIC Program that are deployed in accordance with the minimum lane coverage provisions of 7 C.F.R. 246.12(z)(2)(ii).
- (10) The store shall be open throughout the year for business with the public at least six days a week for at least 40 hours per week between 8:00 a.m. and 11:00 p.m.

- (11) The store shall not use the acronym "WIC" or the WIC logo, including facsimiles, in total or in part, in the official name under which the business is registered or in the name under which it does business.
- (12) A vendor applicant shall not submit false, erroneous, or misleading information in an application to become an authorized WIC vendor or in subsequent documents submitted to the state or local WIC agency. A vendor applicant shall not be authorized if within the last year the vendor applicant had a previous WIC Vendor Agreement terminated for submitting false, erroneous, or misleading information.
- (13) The owner(s), officer(s), or manager(s) of a vendor applicant shall not be employed, or have a spouse, child, or parent who is employed by the State WIC program, or the local WIC program serving the county where the vendor applicant conducts business. A vendor applicant shall not have an employee who handles or transacts WIC food benefits who is employed, or has a spouse, child, or parent who is employed by the State WIC program or the local WIC program serving the county where the vendor applicant conducts business. Such situations present a conflict of interest.
- (14) WIC vendor authorization shall be denied if in the last six years any of the vendor applicant's 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, including 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, as set out in 7 C.F.R 246.12(g)(3)(ii). For purposes of this Item, "convicted" or "conviction" includes:
- (a) a plea of guilty;
  - (b) a verdict or finding of guilt by a jury, judge, magistrate, or adjudicating body, tribunal, or official, either civilian or military;
  - (c) a plea of no contest, nolo contendere, or the equivalent; or
  - (d) entry of a prayer for judgment continued following a conviction as defined in this Item is the same as a conviction for purposes of this Item.
- (15) A vendor applicant shall not be authorized if it is currently disqualified from the ~~Supplemental Nutrition Assistance Program ("SNAP")~~ NC Food and Nutrition Services (FNS) (formerly known as the Supplemental Nutrition Assistance Program ["SNAP"]) or it has been assessed a ~~SNAP~~ FNS/SNAP civil money penalty for hardship and the disqualification period that otherwise would have been imposed has not expired.
- (16) A vendor applicant, excluding chain stores and stores under a WIC corporate agreement that have a separate manager on site for each store, shall not have an owner who holds a financial interest in any of the following:
- (a) a SNAP FNS/SNAP vendor that is disqualified from participation in SNAP FNS/SNAP or has been assessed a civil money penalty for hardship in lieu of disqualification and the time period during which the disqualification would have run, had a penalty not been paid, has

1 not expired;

2 or

- 3 (b) another WIC vendor that is disqualified from participation in the WIC Program or has been  
4 assessed a monetary or civil money penalty pursuant to G.S. 130A-22(c1), Paragraph (e)  
5 or Paragraph (f) of Rule .0710 of this Section as the result of violation of Paragraphs (a)  
6 or (b) of Rule .0710 of this Section and if assessed a penalty, the time during which the  
7 disqualification would have run, had a penalty not been assessed, has not expired.

8 The requirements of this Item shall not be met by the transfer or conveyance of financial interest  
9 during the period of disqualification. Additionally, the requirements of this Item shall not be met  
10 even if such transfer or conveyance of financial interest in a ~~SNAP FNS/SNAP~~ vendor under Sub-  
11 item (16)(a) of this Item ends the disqualification period applicable to that ~~SNAP FNS/SNAP~~ vendor  
12 earlier than the disqualification period otherwise would have expired. The requirements of this Item  
13 shall apply until the time the ~~SNAP FNS/SNAP~~ vendor disqualification otherwise would have  
14 expired.

- 15 (17) A vendor applicant, excluding free-standing pharmacies, shall have ~~SNAP FNS/SNAP~~ authorization  
16 for the store as a prerequisite for WIC vendor authorization and shall provide its ~~SNAP FNS/SNAP~~  
17 authorization number to the State agency.

- 18 (18) A vendor applicant shall not become authorized as a WIC vendor if the store has been disqualified  
19 from participation in the WIC Program and the disqualification period has not expired. A vendor  
20 applicant shall not be authorized as a WIC vendor if any of the vendor applicant's owner(s),  
21 officer(s) or manager(s) currently has or previously had a financial interest in a WIC vendor that  
22 was assessed a claim by the WIC Program and the claim has not been paid in full.

- 23 (19) A vendor applicant shall enter into contract with the State WIC Program's EBT processor or a  
24 certified third party processor prior to WIC authorization and comply with all requirements detailed  
25 in the EBT or third party processor's Vendor Agreement.

- 26 (20) A WIC Vendor Application shall include the following information:

- 27 (a) The store name, physical address, and hours of operation;  
28 (b) The type of ownership under which the vendor operates;  
29 (c) The names and contact information of owners or officers;  
30 (d) Annual food sales data and percentages for the following tender types: cash, credit, debit,  
31 ~~SNAP FNS/SNAP~~, and WIC;  
32 (e) The store's ~~SNAP FNS/SNAP~~ authorization number and history of ~~SNAP FNS/SNAP~~  
33 participation, if a retail grocery store; and  
34 (f) Other information that the store is required to provide to the State agency in accordance  
35 with 7 C.F.R. 246.12.

36 For a food retailer or free-standing pharmacy to participate in the WIC Program, a current WIC Vendor Agreement  
37 shall be signed by the vendor, the local WIC agency, and the State agency. If an application for status as an authorized

1 WIC vendor is denied, the applicant is entitled to an administrative appeal as described in Section .0800 of this  
2 Subchapter.

3  
4 *History Note:* Authority G.S. 130A-361; 7 C.F.R. 246; 7 C.F.R. 246.12(g)(3); 7 C.F.R. 246.12(g)(3)(ii); 7 C.F.R.  
5 246.12(h)(3)(xix); 7 C.F.R. 246.12(t); 42 U.S.C. 1786;  
6 Eff. February 1, 2013;  
7 Amended Eff. October 1, 2017;  
8 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December  
9 23, 2017;  
10 Amended Eff. April 1, 2026; March 1, 2020.

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Commission for Public Health

RULE CITATION: 10A NCAC 43D .0804

**DEADLINE FOR RECEIPT: Friday, September 19, 2025**

***PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*On line 7, the updates statutory citation is missing a hyphen: "G.S. 150B-42"*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 10A NCAC 43D .0804 is amended as published in 39:23 NCR 1502-1516 as follows:

2  
3 **10A NCAC 43D .0804 CONTINUATION OF PARTICIPATION**

4 Except as provided in 42 U.S.C. 1786(o)(2) and 7 C.F.R. 246.18(a)(2) and (a)(3)(iii), the participation of a local WIC  
5 agency or authorized WIC vendor in the WIC program may continue during an administrative appeal. Except as  
6 provided in 42 U.S.C. 1786(o)(2) and 7 C.F.R. 246.18(a)(2) and (a)(3)(iii), the adverse action shall become effective  
7 upon issuance of a final agency decision pursuant to ~~G.S. 150B-36~~ G.S. 150B 42 which upholds the adverse action.

8  
9 *History Note: Authority G.S. 130A-361; 7 C.F.R. 246.18; 42 U.S.C. 1786;*

10 *Eff. July 1, 1981;*

11 *Amended Eff. July 1, 1986;*

12 *Temporary Amendment Eff. July 1, 2002;*

13 *Amended Eff. July 1, 2004;*

14 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*  
15 *23, ~~2017~~, 2017;*

16 *Amended Eff. April 1, 2026.*



REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Commission for Public Health

RULE CITATION: 10A NCAC 43D .0905

**DEADLINE FOR RECEIPT: Friday, September 19, 2025**

**PLEASE NOTE:** *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*Line 14 has an unnecessary indent or spaces.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 10A NCAC 43D .0905 is amended as published in 39:23 NCR 1502-1516 as follows:

2  
3 **10A NCAC 43D .0905 REQUEST FOR A FAIR HEARING**

4 a) A request for a fair hearing is any expression that conveys a desire to present a case contesting an action that  
5 results in an individual's denial of participation, or disqualification from the program or a claim against an individual  
6 for repayment of the cash value of improperly issued Program benefits. This request may be made to any of the  
7 following:

- 8 (1) the agency official;  
9 (2) the agency director of the local WIC agency;  
10 (3) the WIC director of the local WIC agency;  
11 (4) any person serving in one of the above three roles in the absence of the agency official, agency  
12 director or WIC director.

13 b) If the request is not made directly to the agency official, the individual receiving the request shall immediately  
14 notify the agency official of the request by ~~telephone.~~ email.

15 c) All requests shall be documented in writing.

16 (1) If the original request is made in writing, the individual receiving the request shall retain  
17 a photocopy and send the original copy to the agency official ~~immediately following the~~  
18 ~~telephone call.~~ immediately.

19 (2) If a verbal request is received, the individual receiving the request shall document the request in  
20 writing, including:

- 21 (A) the applicant's or participant's name;  
22 (B) the name of the individual making the request:  
23 (i) their mailing address;  
24 (ii) telephone number; and  
25 (iii) relation to the applicant or participant;  
26 (C) the date of the request; and  
27 (D) the cause for the request along with the name, title, and signature of the person writing  
28 the documentation.

29 ~~The original copy of this documentation shall be sent to the official agency immediately following the telephone~~  
30 ~~call with a copy being retained by the sender.~~

31 d) The request for a fair hearing may be made by the individual affected by the action or the individual's parent,  
32 caretaker, or any other person acting on his or her behalf.

33 e) If an individual or an individual's parent, caretaker, or any other person acting on his or her behalf expresses  
34 verbally the desire for a fair hearing to a state or local agency staff member not authorized to accept a request, that  
35 staff member shall provide assistance in contacting the individuals who can accept a fair hearing request.

36 f) The request for a fair hearing must be made within 60 days from the date the applicant or participant is given  
37 notice of the action. If the notification is mailed, this time period shall begin on the date the notification was mailed.

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*History Note: Authority G.S. 130A-361; 150B-22; 7 C.F.R. 246.9; 42 U.S.C. 1786;*  
*Eff. July 1, 1981;*  
*Amended Eff. November 1, 1990;*  
*Temporary Amendment Eff. July 1, 2002;*  
*Amended Eff. July 1, 2004;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*  
*23, ~~2017~~ 2017;*  
*Amended Eff. April 1, 2026.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Commission for Public Health

RULE CITATION: 10A NCAC 43D .0906

**DEADLINE FOR RECEIPT: Friday, September 19, 2025**

**PLEASE NOTE:** *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*On line 6 you use "their" while on lines 12 and 14 you kept "his or her". This should be consistent, unless you are intending a different meaning.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Seth Ascher  
Commission Counsel  
Date submitted to agency: September 15, 2025

1 10A NCAC 43D .0906 is amended as published in 39:23 NCR 1502-1516 as follows:

2  
3 **10A NCAC 43D .0906 DENIAL OR DISMISSAL OF A REQUEST**

4 The hearing officer shall deny or dismiss a hearing if:

- 5 (1) the request is not received within 60 days of the date of notification of the action;
- 6 (2) the request is withdrawn in writing by the appellant or ~~his or her~~ their representative;
- 7 (3) the request is verbally withdrawn by the appellant or the appellant's parent, caretaker, or any other
- 8 person acting on his or her behalf during conversation with the agency Official. Within 10 days of
- 9 this verbal withdrawal request the agency official shall send a letter to the appellant and the local
- 10 WIC agency summarizing the events which lead to the withdrawal of the request. This letter shall
- 11 include notification of the appellant's right to reinstate the request for a fair hearing;
- 12 (4) the appellant or the appellant's parent, caretaker, or any other person acting on his or her behalf fails
- 13 to appear at the scheduled hearing, unless the failure to appear was due to circumstances beyond the
- 14 control of the appellant or his or her representative;
- 15 (5) the request is made in reference to the tailoring of the food package; or
- 16 (6) the initial action assessing a claim for the cash value of improperly issued Program benefits or
- 17 denying participation or disqualifying from the program has been reversed by the local WIC agency
- 18 or the state agency, resulting in the provision of program benefits to the appellant.
- 19 (7) the individual has been denied participation by a previous hearing and cannot provide evidence that
- 20 circumstances relevant to Program eligibility have changed in such a way as to justify a hearing.
- 21

22 *History Note: Authority G.S. 130A-361; 150B-22; 7 C.F.R. 246.9; 42 U.S.C. 1786;*

23 *Eff. July 1, 1981;*

24 *Amended Eff. November 1, 1990;*

25 *Temporary Amendment Eff. July 1, 2002;*

26 *Amended Eff. July 1, 2004;*

27 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*

28 *23, ~~2017~~ 2017;*

29 *Amended Eff. April 1, 2026.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Commission for Public Health

RULE CITATION: 10A NCAC 43D .0907

**DEADLINE FOR RECEIPT: Friday, September 19, 2025**

**PLEASE NOTE:** *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*On line 13, what is a categorical ineligibility?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 10A NCAC 43D .0907 is amended as published in 39:23 NCR 1502-1516 as follows:

2  
3 **10A NCAC 43D .0907 CONTINUATION OF BENEFITS**

4 (a) WIC program benefits shall be continued during the appeal of the following actions when the request for a hearing  
5 is received within 15 days of notification of the action:

- 6 (1) disqualification from the program for abuse during a certification period; or  
7 (2) determination of ineligibility during a certification period due to ~~categorical ineligibility or~~  
8 ~~residential ineligibility; or~~ a change in income eligibility or residential eligibility.  
9 ~~(3) other terminations during a certification period.~~

10 (b) WIC program benefits shall not be continued when a fair hearing is requested:

- 11 (1) in any of the situations in Paragraph (a) of this Rule if the request is made more than 15 days after  
12 the date of notification; or  
13 ~~(2) by determination of ineligibility during a certification period due to categorical ineligibility; or~~  
14 ~~(2)(3)~~ by applicants who are denied benefits at the initial or subsequent determination of WIC eligibility  
15 if the previous certification period has expired.

16 (c) When benefits are continued due to a request for a fair hearing as specified above, the individual shall continue to  
17 receive benefits until an adverse hearing decision is reached or the certification period expires, whichever occurs first.

18  
19 *History Note: Authority G.S. 130A-361; 150B-22; 7 C.F.R. 246.9; 42 U.S.C. 1786;*

20 *Eff. July 1, 1981;*

21 *Temporary Amendment Eff. July 1, 2002;*

22 *Amended Eff. July 1, 2004;*

23 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*  
24 *23, ~~2017~~, 2017;*

25 *Amended Eff. April 1, 2026.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Commission for Public Health

RULE CITATION: 10A NCAC 43D .0911

**DEADLINE FOR RECEIPT: Friday, September 19, 2025**

**PLEASE NOTE:** *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*On line 17, can't they appeal to an ALJ under 150B-22? Or is there an exception I am missing?*

*If so, you need to account for that somehow in this rule.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.



1 10A NCAC 43D .0911 is amended as published in 39:23 NCR 1502-1516 as follows:

2  
3 **10A NCAC 43D .0911 DECISION**

4 (a) The fair hearing decision shall be made by the hearing official and shall be based only on the oral and documentary  
5 evidence presented at the hearing and applicable state statutes and rules, and federal laws and regulations and shall be  
6 made ~~a~~ as part of the hearing record by the hearing officer.

7 (b) The hearing official shall notify in writing the aggrieved party, any designated representative of the aggrieved  
8 party, the local WIC agency and the ~~Nutrition Services Branch~~ Community Nutrition Services Section of the decision  
9 within 45 days from the date of the request for the hearing.

10 (c) If the decision is in favor of the aggrieved party and benefits were denied or discontinued, benefits shall begin  
11 within two business days after the issuance of the decision.

12 (d) If the decision is in favor of the agency, as soon as administratively feasible any continued benefits shall be  
13 terminated as decided by the hearing official.

14 (e) The hearing officer shall prepare a recording of testimony and exhibits, or an official report containing the  
15 substance of what transpired at the hearing which, together with all papers and requests filed in the proceeding and  
16 the written fair hearing decision, shall constitute the exclusive hearing record.

17 (f) The decision shall be binding on the local WIC agency.

18 (g) All hearing records shall be retained for three years.

19 (h) Upon request by any member of the public a copy of all hearing records and decisions in a form that does not  
20 identify individuals (appellant or local agency) shall be prepared by the ~~Nutrition Services Branch~~ Community  
21 Nutrition Services Section and be available for inspection and copying.

22  
23 *History Note: Authority G.S. 130A-361; 150B-22; 7 C.F.R. 246.9; 42 U.S.C. 1786;*

24 *Eff. July 1, 1981;*

25 *Amended Eff. December 6, 1991;*

26 *Temporary Amendment Eff. July 1, 2002;*

27 *Amended Eff. July 1, 2004;*

28 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*  
29 *23, ~~2017~~ 2017;*

30 *Amended Eff. April 1, 2026.*