

Estimate of the Information Collection Burden for the Special Supplemental Nutrition Program for Women, Infants and Children (OMB #0584-0043)

This document explains the calculation of the information collection burden for the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) under OMB #0584-0043, as revised to reflect adjustments and program changes regarding the WIC Vendor Cost Containment Final Rule. This includes adjustments and program changes in response to comments on the WIC Vendor Cost Containment Interim Rule, 70 FR 71708, November 29, 2005, which contained new requirements affecting sections 246.4(a) and 246.12(g) of the WIC regulations. The resulting recalculations are highlighted below in bold, and are also reflected in the attached spreadsheet.

Nine commenters, all State agencies, addressed the administrative burden of the interim rule. However, only two of these State agencies suggested different burden hours than set forth in the interim rule. One of these State agencies stated that at least one-half of a staff position would be needed to manage ongoing reporting activities, without indicating how this staff time would be distributed between the different reporting burdens set forth in the preamble of the interim rule, including the burdens which have been modified in the final rule. Similarly, the other State agency stated that eight new staff had been requested to address the new administrative needs resulting from the interim rule, including all of the reporting burdens, but also to address the administrative needs unrelated to vendor cost containment - the State agency's emerging Electronic Benefits Transfer (EBT) system. Although lacking in specificity, these comments indicate that FNS may have underestimated the reporting burden hours for the interim rule. As a result, the burden hours per response have been substantially increased in most of the related information collection categories, and one program change has also been made, as discussed in greater detail below.

All nine of these State agencies stated that implementation of the interim rule had required a substantial increase in the administrative burden, citing particular requirements of the interim rule, including the requirements to weight food instrument redemption amounts in cost neutrality assessments; collect food prices from vendors at least every six months following authorization; document the above-50-percent vendor status for all vendors; document the above-50-percent vendor status for pharmacies; and to conduct quarterly cost neutrality assessments for State agencies which do not have automated systems for performing statistical analyses. The information collection burden hours have also been adjusted due to these comments, as discussed below.

AFFECTED PUBLIC: STATE AND LOCAL AGENCIES

REPORTING REQUIREMENTS

1. Section 246.4 requires that by August 15 of each year, as a prerequisite for the receipt of funds from the Food and Nutrition Service (FNS), the State agency must submit all substantive changes to its State Plan to FNS for approval. In the previous submission, FNS estimated that each State agency needed 119.33 burden hours annually to update its State Plan. The total annual burden estimated for this provision was 10,740 burden hours (90 State agencies x 119.33 burden hours per year). **Adjustments related to the State Plan-related information collection requirements contained in the WIC Vendor Cost Containment Final Rule would increase this estimate by 1,375 burden hours, raising the total for all State Plan requirements to 12,115 burden hours (90 State agencies x 134.61 hours = 12,115).**

Section 246.4(a)(14)(xv) requires that the State Plan must 1) describe the State agency's vendor peer group system, competitive price criteria, and allowable reimbursement levels to demonstrate that the State agency is in compliance with the cost containment provisions in § 246.12(g)(4); 2) provide information on non-profit above-50-percent vendors that the State agency has exempted from competitive price criteria and allowable reimbursement levels in § 246.12(g)(4)(iv); 3) include justification and documentation supporting the State agency's request for an exemption from the vendor peer group requirement in § 246.12(g)(4), which must be re-approved triennially; 4) include information required by §246.12(g)(4)(vi) to certify the State agency's vendor cost containment system for a State agency which authorizes above-50-percent vendors, which must be re-approved triennially; and, 5) include detailed assurances to FNS annually to show that the State agency's vendor cost containment system meets the requirements in §246.12(g)(4)(i) if the State agency authorizes above-50-percent vendors. The FNS review of the §246.4(a)(14)(xv) of the interim rule led to revisions of the estimated information collections for most of these provisions, as discussed below:

- First, the State agency must include in the State Plan a description of the vendor peer group system and allowable reimbursement levels. FNS estimated in the interim rule that 356 annual burden hours would result from this requirement (89 State agencies x 4 burden hours per year). **In consideration of the comments, the estimated average burden hours per response was raised from 4 to 8 burden hours, resulting in 720 burden hours (90 x 8 = 720).**
- Second, the State agency must include information on any non-profit vendors that it plans to exempt from the competitive price criteria and allowable reimbursement levels that are applicable to other retail vendors. FNS estimated in the interim rule that this requirement would result in 5 annual burden hours (5 State agencies x 1 burden hour per year). FNS has not been notified by any State agency that it has authorized a non-profit above-50-percent vendor. FNS does not

know if any State agencies will elect to authorize such vendors in the future. Thus the current estimate of the number of State agencies and annual burden hours related to this notification requirement will remain unchanged at 5 annual burden hours.

- Third, State agencies seeking an exemption from the vendor peer group system requirement must submit a justification and documentation to support their request. FNS estimated 80 annual burden hours for this requirement in the interim rule (30 State agencies x 8 burden hours/3 or every three years). In consideration of the comments, FNS has changed its estimate in the final rule to 16 burden hours/3 or every three years. Also, 42 State agencies actually requested exemptions, higher than the 30 estimated by FNS for the interim rule. **Thus FNS now estimates that this requirement will result in 224 annual burden hours ((42 x 16 = 672) ÷ 3 = 224).**
- Fourth, a State agency that authorizes vendors that derive more than 50 percent of their annual food sales revenue from WIC food instruments (“above-50-percent vendors”) must provide information to FNS triennially on their methodology for ensuring that average payments per food instrument to such vendors do not exceed average payments per food instrument to comparable vendors. (Vendors which are not above-50-percent vendors are referred to as “regular vendors.”) FNS previously estimated 173 annual burden hours for this requirement (65 State agencies x 8 burden hours/3). FNS expects that certification and exemption requests in the future will only involve amendments and / or updating information for most State agencies. Further, FNS has eliminated the requirement for weighting food instrument redemption amounts in the cost neutrality assessment process, which four State agencies had described as burdensome in their comments; this has become optional in the final rule. Even so, in consideration of the comments, FNS has increased its estimate of burden hours per response from 8 to 16. (Also, 32 State agencies actually needed certification, not 65.) **Thus FNS estimates a total of 171 annual burden hours for this fourth requirement ((32 State agencies x 16 burden hours per response = 512) ÷ 3 = 170.66 annual burden hours, rounded up to 171).**
- Fifth, each State agency must provide detailed assurances to FNS annually that its methodology for reimbursing above-50-percent achieves cost neutrality. FNS previously estimated that 65 State agencies would authorize above-50-percent vendors and thus be required to submit information for certification. FNS previously estimated 260 annual burden hours for this requirement (65 State agencies x 4 burden hours per year). However, as noted above, 32 State agencies actually needed certification, not 65. Also, in consideration of the comments, as above, FNS has increased its estimate of burden hours per response from 8 to 16. **Thus FNS estimates a total of 256 annual burden hours for this fifth requirement (32 State agencies x 8 burden hours per response = 256 annual burden hours).**

Altogether, $720 + 5 + 224 + 171 + 256 = 1,376$ new State Plan annual burden hours; $1,376 \div 90 = 15.2888$ new State Plan annual burden hours per State agency; 119.33 previous total State Plan annual burden hours per State agency + 15.2888 new State Plan annual burden hours per State agency = 134.6188 new total State Plan annual burden hours per State agency; 134.6188 new total State Plan annual burden hours per State agency $\times 90 = 12,115.692$ new total State Plan burden hours for all State agencies, rounded up to $12,116$, as a result of the final rule's revisions for §246.4(a)(14)(xv).

2. Section 246.5(b) requires each organization interested in being authorized as a local agency to submit an application to the State agency. The average local agency agreement is for two years; there are 1870 local agencies; therefore, FNS estimates each year that half (935) local agencies submit applications. Each application requires 2 burden hours to complete. Thus, 935 local agencies $\times 2$ burden hours per application = $1,870$ annual burden hours for this provision, which has not changed since the last submission.
3. Section 246.6 requires the State agency to enter into a signed agreement with each local agency, health and human service agency, and private physician that performs WIC functions. The average local agency agreement is for two years; therefore, FNS estimates each year that half which is 935 local agencies sign agreements with the State agency. Each agreement requires 1.5 burden hours to complete. Thus FNS estimates $1,403$ annual burden hours for this provision (935 local agencies $\times 1.5$ burden hours per agreement), which has not changed since the last submission.
4. Section 246.7(f)(2)(iii)(A) allows the State agency to extend the 10-day period of notification of eligibility for special nutritional risk applicants to 15 days when the local agency provides written justification of the need for such an extension. Currently, all State agencies have developed policies under which such an extension may be provided. FNS estimates that each year one-sixth or 312 of all local agencies make written requests for such extensions. Each request for an extension requires 0.25 burden hours to complete. FNS estimates 78 annual burden hours for this provision (312 local agencies $\times 0.25$ burden hours per request) which has not changed since the last submission.
5. Sections 246.7(i) and 246.10(d)(1) (formerly 10(c)(1)(v)) require that 1) in §246.7(i), pertinent certification data be collected and recorded by the local agency on a form (or forms) provided by the State agency (usually in the form of computer software) and that participants be notified of their rights and responsibilities, including notification of termination for failure to pick up food instruments, notification of disqualification and notification of expiration of each certification period; and 2) in §246.10(d)(1), that medical documentation must be obtained in order to provide participants with infant formula not covered by the State agency's infant formula rebate contract. (The former §246.10(c)(1)(v) was redesignated as §246.10(d)(1) by the Food Packages Interim Rule, 72 FR 68966, December 6, 2007.)

Monthly WIC participation is $5,940,588$ women and children participants ($1,949,149$ women + $3,991,439$ children) and $2,035,817$ infants ($7,976,404$ total participants).

Women and children participants are certified twice per year and infants are certified once per year. FNS estimates that the collection of certification data and the provision of appropriate notifications require ten minutes (0.17 burden hours) per participant and further estimates that 1 percent (0.01) of all infant certifications require an additional two minutes (0.03 burden hours) for the documentation required to issue an infant formula that is not covered by the State agency's infant formula rebate contract.

Thus FNS estimates 2,019,800 total annual burden hours for the certification of women and children under § 246.7(i) ($5,940,588 \times 2 = 11,881,176 \div 1,870$ local agencies = 6,354 per local agency $\times 0.17$ burden hours per response = 2,019,800); 346,089 total annual burden hours for the certification of infants under § 246.7(i) ($2,035,817 \div 1,870 = 1,088.67 \times 1,870 = 2,035,816.8$ rounded up to 2,035,817 $\times 0.17 = 346,088.89$ rounded up to 346,089); and 611 total annual burden hours for the medical documentation needed for infants to receive non-rebate infant formula under § 246.10(d)(1) ($20,358$ infants $\div 1,870 = 10.88$ rounded up to 11 $\times 1,870 = 20,357.99$, rounded up to 20,358 $\times 0.03 = 610.73$ rounded up to 611).

These calculations have not changed since the last submission.

6. Section 246.7(j)(9) requires that when the State agency must suspend or terminate the program benefits of any participant during the participant's certification period due to shortages in program funds, the State agency must issue an advance notice to all affected participants. The State agency is also required to notify FNS prior to taking such action. FNS estimates that 4 State agencies may need to take such action per year. FNS further estimates that providing this notice to FNS would require 0.09 burden hours. Thus FNS estimates the total annual burden for this notice to FNS to be 0.36 burden hours (4 State agencies per year $\times 0.09$ burden hours per notice). This has not changed since the last submission.
7. Section 246.7(k) requires the State agency to ensure that Verification of Certification (VOC) cards are issued to participating migrants and to other participants who are likely to relocate during the certification period. FNS further estimates that issuing these cards to 7,976,404 participants would require 0.09 burden hours. FNS estimates the total annual burden for this provision to be 15,004 burden hours ($7,976,404$ participants $\times 0.0209 = 166,706.84$ needing VOC cards, rounded up to 166,707 $\div 1,870 = 89.14$ participants provided VOC cards per local agency $\times 1,870 = 166,706.99$ rounded up to 166,707 $\times .09 = 15,003.63$ rounded up to 15,004). This has not changed since the last submission.
8. Section 246.10(b)(1) requires State agencies to identify foods that are acceptable for use in the Program in accordance with program regulations. This includes identifying which foods, substitutions, brands and packaging the State will authorize for use in the Program. State agencies conduct such food reviews and submit food lists as part of their annual State Plan. FNS estimates that 40 burden hours are needed for each State agency to comply with this provision. FNS estimates 3,600 total annual burden hours for this provision (90 State agencies $\times 40$ burden hours per State agency). This has not changed since the last submission.

9. Section 246.11(d)(2) requires each local agency to develop and submit an annual nutrition education plan to the State agency. FNS estimates that 40 burden hours are needed for each local agency to comply with this provision. FNS estimates 74,800 total annual burden hours for this provision (1,870 local agencies x 40 burden hours per local agency). This has not changed since the last submission.
10. Section 246.12(g)(4)(i) of the Vendor Cost Containment Interim Rule, 70 FR 71708, November 29, 2005, requires a State agency to annually collect information needed to determine whether currently authorized vendors and new vendor applicants derive or may be expected to derive more than 50 percent of their annual food sales revenue from WIC food instruments. FNS previously estimated that each State agency will need 2 burden hours to collect the information required to assess a vendor's status. **In consideration of the comments on the interim rule, FNS has increased this from 2 to 4 burden hours.**

Further, FNS annually provides each State agency with a report comparing the WIC redemptions to the redemptions of the Supplemental Nutrition Assistance Program (SNAP, formerly the Food Stamp Program) for each of its vendors which is authorized by SNAP; most WIC-authorized retail vendors are also authorized by SNAP. If a vendor's SNAP redemptions exceed its WIC redemptions, that vendor is considered to be a regular vendor, not an above-50-percent vendor. Thus far, this report has shown that 88 percent of the WIC-authorized vendors have more redemptions than WIC redemptions, thus eliminating the need for State agencies to obtain further documentation from these vendors. As a result, the need for further documentation only concerns 12 percent of the authorized vendors - 5,640 vendors (12 percent x 47,000 = 5,640).

Regarding the 5,640 authorized vendors whose above-50-percent status must be documented, there are about 62.66 such vendors per each State agency ($5,640 \div 90 = 62.6666$). **Previously, FNS estimated 11,280 annual burden hours for this provision, based on 90 State agencies x 62.6666 x 2 hours. FNS now estimates 22,560 burden hours for State agencies ($90 \times 62.6666 \times 4 \text{ hours} = 22,559.976$, rounded up to 22,560) for this provision.**

11. Section 246.12(g)(4)(ii)(B) of the Vendor Cost Containment Interim Rule requires State agencies to collect the shelf prices for WIC-approved foods from authorized retail vendors twice annually. **FNS previously estimated 94,000 annual burden hours for the State agencies for this provision, based on 1 burden hour per response, and assuming that each State agency on average would collect the shelf prices from 522.22 vendors twice annually ($47,000 \div 90 = 522.22$; $522.22 \times 2 = 1,044.44$ vendors per State agency per year; $1,044.44 \times 90 = 93,999.996$, rounded up to 94,000). However, in consideration of comments on the interim rule, FNS now bases this calculation on 2 burden hours per response.**

Also, the FNS estimate will now assume 70 State agencies, not 90, because this provision has been modified in the final rule to permit exemptions. As indicated in the Regulatory Impact Analysis, 67 percent of the State agencies collected vendor

prices at least twice per year before the interim rule. Thus the exemptions would involve some proportion of 30 State agencies, 33 percent of the 90 State agencies ($0.33 \times 90 = 29.7$, rounded up to 30). FNS estimates that as many as one half of these State agencies may be granted exemptions, i.e., 15 State agencies. Thus 75 State agencies ($90 - 15 = 75$) will need to collect vendor shelf prices biannually under §246.12(g)(4)(ii)(B), 83.3333 percent of the 90 State agencies, and 83.3333 percent of the vendors - 39,167 vendors - will need to submit prices twice a year ($83.33 \times 47,000 = 39,166.665$). This results in 1,044.44 vendors per State agency per year ($39,167 \div 75 = 522.22$; 522.22×2 price collections = 1,044.44).

Thus FNS estimates 156,666 annual burden hours for the State agencies ($75 \times 1,044.44 \times 2$) for this provision.

12. As noted above, §246.12(g)(4)(ii)(B) of the Vendor Cost Containment Final Rule revised this provision of the interim rule by adding that FNS may grant State agencies exemptions from this requirement; FNS estimates that 15 State agencies will request exemptions, as explained above. FNS also estimates that requesting an exemption under this provision will require 16 burden hours per response, the same number of burden hours per response used in the estimate for the exemption requests under §246.4(a)(14)(xv). Thus FNS estimates 240 (15×16) annual burden hours for the exemption requests under §246.4(g)(4)(ii)(B). This is the only program change in burden hours related to the Vendor Cost Containment Final Rule; all of the other changes in the burden hours related to this rule are adjustments.
13. Section 246.12(i)(1) requires the State agency to conduct annual retail vendor training to assure that retail vendors have knowledge of program rules and procedures. FNS estimates that developing the content of retail vendor training materials requires 8 burden hours per State agency. FNS further estimates that it takes 2 burden hours to provide training to each vendor. FNS estimates 720 hours for developing the training (90 State agencies \times 8 burden hours = 720) and 94,000 annual burden hours for conducting the training ($47,000$ vendors \div $90 = 522.22 \times 90 = 46,999.99$ rounded up to $47,000 \times 2$ burden hours = $94,000$). This has not changed since the last submission.
14. Section 246.12(j)(4) requires that each year the State agency conduct compliance investigations of five percent or 2,350 retail vendors. State agencies use a variety of resources to conduct compliance investigations, including State agency staff, contractor staff, local agency staff, law enforcement staff and staff of other WIC State agencies. For each compliance investigation, the State agency is required to conduct either two compliance buys or one inventory audit per retail vendor. FNS estimates that it takes 1 burden hour to conduct a compliance buy and 2 burden hours to conduct an inventory audit, which results in a total of 2 burden hours per compliance investigation (either 2 compliance buys \times 1 burden hour or 1 inventory audit \times 2 burden hours). FNS estimates 4,700 annual burden hours for this provision ($47,000$ retail vendors \times $.05 = 2,350 \div 90 = 26.11 \times 90 = 2,349.99$ rounded up to $2,350 \times 2$ burden hours per compliance investigation = $4,700$). This has not changed since the last submission.

15. Section 246.12(o) requires the State agency to develop and implement procedures to document the handling of complaints by participants and vendors. FNS estimates that 10,000 complaints are received a year from participants and vendors nationwide. FNS further estimates it takes 1 burden hour to process each complaint. The total annual burden estimated for this provision is 10,000 burden hours (10,000 complaints ÷ 90 = 111.11 x 90 = 10,000 x 1 burden hour per complaint = 10,000) which has not changed since the previous submission.
16. Section 246.12(q) requires the State agency to identify the disposition of all food instruments as either issued or voided and as either redeemed or unredeemed. Many State agencies currently track their food instrument inventories and disposition through their management information systems. The total annual burden estimated for this provision is 3,600 burden hours (90 State agencies x 40 burden hours). This has not changed since the last submission.
17. Section 246.14(d)(1) requires the State agency to seek FNS approval of costs for automated data processing systems, capital expenditures over \$25,000 and management studies performed by outside agencies, departments and consultants. FNS estimates that each year it receives an average of 15 requests for such approvals and that each request requires 160 burden hours for the State agency to document and submit. The total annual burden estimated for this provision is 2,400 annual burden hours (15 requests per year x 160 burden hours per request) which has not changed since the previous submission.
18. Section 246.16(d) requires the State agency to allocate WIC funds to local agencies based on claims submitted at least quarterly by the local agency. FNS estimates that State agencies distribute funds to 1,870 local agencies 4 times per year each distribution of funds requires 2 burden hours to complete. FNS estimates the total annual burden for this provision to be 14,960 annual burden hours (1,870 x 4 x 2 =14,960) which has not changed since the last submission.
19. Section 246.17(c)(1) requires FNS to provide written notification of disqualification to all 90 State agencies that fail to comply with program requirements. This provision also requires the State agency to provide written notification to local agencies that it determines have failed to comply with program requirements.

FNS estimates that 10 local agencies will be disqualified per year. FNS further estimates that preparing and providing a written notice of disqualification requires 8 burden hours per notice. FNS estimates the total annual burden for this provision to be 80 burden hours (10 local agency disqualifications per year ÷ 90 = 0.1111, therefore; 9.99 x 8 burden hours per notice = 79.9 rounded up to 80) which has not changed since the previous submission.
20. Section 246.19(a) requires the State agency to develop and submit a corrective action plan in response to an FNS management evaluation report. The FNS goal is to conduct management evaluations on all functional areas of the program for all State agencies

within a four-year cycle ($0.25 \times 90 = 22.5$ State agencies, rounded up to 23). FNS estimates that each corrective action plan takes approximately 40 burden hours to develop. FNS estimates 920 annual burden hours for this provision ($0.25 \times 90 = 23$ State agencies \times 40 burden hours per corrective action plan = 920). This has not changed since the last submission.

21. Section 246.19(b)(5) requires the State agency to review target areas specified by FNS during local agency reviews. Section 246.19(b)(3) requires the State agency to conduct monitoring reviews of each local agency at least once every two years, which means that each year half (0.5) of all local agencies will be reviewed. FNS estimates that the State agency will be required to address targeted areas during local agency reviews once every four years (0.25). FNS further estimates that it takes 2 burden hours for the State agency to address targeted areas during local agency reviews and report the results of the targeted reviews to FNS. FNS estimates 468 total annual burden hours for this provision ($1,870 \div 90 = 20.77$ local agencies \times 0.5 = 10.39 \times 0.25 = 2.60 \times 2 burden hours = 5.20 \times 90 = 468 annual burden hours) which has not changed since the last submission.
22. Section 246.20(a)(2) requires the State agency to develop and submit a corrective action plan to FNS addressing the findings of USDA Office of the Inspector General (OIG) State or local agency audits. FNS estimates that each year OIG performs 4 audits of WIC State and local agencies. FNS further estimates that each audit response requires 40 burden hours to complete. Thus FNS estimates the total annual burden for this provision to be 160 burden hours (4 audits per year \times 40 burden hours per audit response) which has not changed since the last submission.

RECORDKEEPING REQUIREMENTS

1. Section 246.12(g)(11) requires WIC State agencies to annually provide authorized WIC retail vendors a list of State-licensed infant formula wholesalers, distributors and retailers, and FDA-registered infant formula manufacturers. FNS has provided the list of FDA-registered manufacturers to State agencies. A State agency would contact the licensing agency in its State to obtain a list of the other suppliers. A State agency could satisfy this requirement by linking its web site to the list of licensed suppliers on the web site of the State's licensing agency. The total annual burden hours for the list requirement is estimated at 4,500 (90 State agencies \times 50 burden hours per response = 4,500 total annual burden hours). This has not changed since the last submission.
2. Section 246.12(h)(1)(i) requires the State agency to enter into written agreements with retail vendors. State agencies require the vendor to submit a signed vendor agreement with the completed application form. The average retail vendor agreement is for two years; therefore, FNS estimates that each year half of all retail vendors (23,500) will submit applications. FNS further estimates that each application requires 1 burden hour to collect and record in the State agency's recordkeeping system; most State agencies use an electronic management information system for this purpose. FNS estimates 23,500

annual burden hours for this provision for State agencies (23,500 retail vendors ÷ 90 State agencies = 261.11 vendors per State agency; 261.11 vendors x 90 State agencies x 1 burden hour per application/agreement = 23,500 annual burden hours for this provision). This has not changed since the last submission.

3. Section 246.12(h)(8) would require WIC State agencies to establish a process for approving incentive items which above-50-percent vendors may provide to WIC participants or other customers. Under the Vendor Cost Containment Interim and Final Rules, all State agencies which authorize above-50-percent vendors must have their vendor cost containment systems certified by FNS; 32 State agencies obtained this certification. FNS estimates that half of these State agencies (16) will either prohibit incentive items altogether or will provide their above-50-percent vendors with a pre-approved list, so that these State agencies will not have a recordkeeping burden regarding incentive items. Also, current FNS data shows that there are about 1,700 above-50-percent vendors. Since half of the State agencies authorizing these vendors will either prohibit incentive items or provide the pre-approved list, FNS also estimates that half of these vendors (850) will not have a reporting burden regarding incentive items. Accordingly, an estimate of 850 total annual burden hours has been submitted to OMB for the incentive items restrictions in this final rule (850 above-50-percent vendors ÷ 16 State agencies = 53.125 above-50-percent vendors per State agency; 16 x 53.125 x 1 hour per response = 850 total annual burden hours). This has not changed since the last submission.

4. Section 246.12(i)(4) requires the State agency to document the content of its vendor training and the participation of its vendors in the training. FNS estimates that documenting the content of and participation in vendor training takes the State agency 2 burden hours per year. FNS estimates 180 annual burden hours for this provision (90 State agencies x 2 burden hours per year). This has not changed since the last submission.
5. Section 246.12(j)(6) requires the State agency to document the routine monitoring visits it conducts on its vendors. Section 246.12(j)(2) requires the State agency to conduct routine monitoring visits of five percent (0.05) of its vendors each year. FNS estimates that each routine monitoring visit takes 1 burden hour to document. FNS estimates 2,350 annual burden hours for this provision (47,000 vendors ÷ 90 = 522.22 x 0.05 = 26.11 annual routine monitoring requirement per State agency x 1 burden hour per visit = 26.11 x 90 = 2,349.99, rounded up to 2,350). This has not changed since the last submission.
6. Section 246.12(j)(6) requires the State agency to document the compliance investigations it conducts on its vendors. Section 246.12(j)(4) requires the State agency to conduct compliance investigations of five percent (0.05) of its vendors each year. For each compliance investigation, the State agency is required to conduct either two compliance buys or one inventory audit per vendor. FNS estimates that it takes 1 burden hour to document a compliance buy and 2 burden hours to document an inventory audit, which results in 2 burden hours per compliance investigation (either 2 compliance buys x 1 burden hour, or 1 inventory audit x 2 burden hours). FNS estimates 4,700 annual burden

hours for this provision ($47,000 \text{ vendors} \div 90 = 522.22 \times 0.05 = 26.11$ annual investigation requirement per State agency $\times 2$ burden hours per investigation = $522.22 \times 90 = 4,699.8$, rounded up to 4,700). This has not changed since the last submission.

7. Section 246.12(1)(3) requires the State agency to notify a vendor in writing when an investigation reveals an initial violation for which a pattern of violations must be established in order to impose a sanction before another violation is documented, unless the State agency determines notifying the vendor would compromise an investigation. Prior to imposing a sanction for a pattern of violations State agency would either provide a notice to the vendor or document in the vendor file the reason(s) that such notice would compromise an investigation. Approximately 2,300 vendors investigated annually commit violations involving a pattern. FNS estimates the 1 burden hour per response for this activity, for an annual total for all 90 State agencies of 2,300 burden hours ($2,300 \text{ vendors} \div 90 = 25.55$ annual notice actions per State agency $\times 1$ burden hour per notice action = $25.55 \text{ burden hours per State agency} \times 90 \text{ State agencies} = 2,299.5$, rounded up to 2,300). This has not changed since the last submission.
8. Section 246.23(c)(1) requires the State agency to maintain documentation on file regarding the disposition of cases involving improperly obtained or improperly disposed of benefits that result from participant violations. FNS estimates that this recordkeeping requirement takes the State agency 5 burden hours per year. FNS estimates 450 annual burden hours for this provision ($90 \text{ State agencies} \times 5 \text{ burden hours per year}$). This has not changed since the last submission.
9. Section 246.25(a) requires both the State and local agency to maintain full and complete records regarding financial operations and food delivery systems. However, such recordkeeping actually occurs at the State agency level because of the use of centralized MIS systems. FNS estimates that this recordkeeping requirement takes the State or local agency 2 burden hours per month. FNS estimates 47,040 total annual burden hours for this provision ($90 \text{ State agencies} + 1,870 \text{ local agencies} = 1,960 \times 2 \text{ burden hours per month} \times 12 \text{ months per year}$). This has not changed since the last submission.
10. Section 246.25(a) requires the State and local agency to maintain full and complete records regarding nutrition education. The local agency enters the data into a system hosted at the State agency level. FNS currently estimates annual participation of women and children is 5,940,588 (1,949,149 women + 3,991,439 children) and participation of infants is 2,035,817 (7,976,404 total participants). FNS further estimates that documenting nutrition education contacts takes 1 minute (0.017 burden hours) per participant. Women and children receive nutrition education twice per year ($5,940,588 \times 2 = 11,881,176 \times 0.017 \text{ burden hours} = 201,979.99$ rounded up to 201,980 burden hours) and infants receive nutrition education once per year ($2,035,817 \text{ infants} \times 1 \times 0.017 \text{ burden hours} = 34,609 \text{ burden hours}$).

Thus the total annual burden hours currently estimated for women and children nutrition education contacts per year for this provision is 201,980 ($1,870 \text{ local agencies} \times 6,354 \text{ nutrition education contacts per local agency} = 11,881,176 \times 0.017 \text{ burden hours per}$

contact = 201,980) and the total annual burden hours currently estimated for infant nutrition education contacts is 34,609 which has not changed since the last submission.

11. Section 246.25(a) requires the State and local agency to maintain full and complete records regarding fair hearing procedures. However, such recordkeeping actually occurs at the State agency level because most fair hearings are conducted at the State agency level. FNS estimates that documentation of the fair hearing procedures takes 0.25 burden hours per State or local agency. FNS estimates 490 annual burden hours for this provision (1,870 local agencies + 90 State agencies = 1,960 x 0.25 burden hours per State or local agency) which has not changed from the last submission.

AFFECTED PUBLIC: INDIVIDUALS & HOUSEHOLDS: APPLICANTS FOR
PROGRAM BENEFITS

REPORTING REQUIREMENTS

1. Sections 246.7(i) and 246.10(d)(1) require that 1) in §246.7(i) pertinent certification data be collected from women participants or the parents or guardians of infant and child participants (typically a participant herself) and recorded by the local agency on a form(s) provided by the State agency (usually in the form of computer software); and, 2) in §246.10(d)(1) that medical documentation must be obtained from the parents or guardians of infant participants in order for the program to provide these infants participants with infant formula not covered by the State agency's infant formula rebate contract.

The WIC Program certification process has been designed to avoid duplication. The income eligibility of most participants is established by showing the local agency a benefit or identification card which had been provided to the participant by other programs including Medicaid, SNAP, Temporary Assistance for Needy Families (TANF) and State-administered programs with income criteria similar to WIC's. An applicant is income-eligible for WIC based on participation or other family members' participation in one of those programs. Typically, the mother shares this information with the local agency regarding herself and her children all at one time; a separate process is not needed for obtaining this information regarding each individual participant. Monthly WIC participation is 5,940,588 women and children participants (1,949,149 women + 3,991,439 children) and 2,035,817 infants (7,976,404 total participants). Thus, each of the 1,949,149 women participants provides this information to the local agency one time.

Women and children participants are certified twice per year and infants are certified once per year. FNS estimates that providing certification data to the local agency require three minutes (0.05 burden hours) on average per participant and further estimates that 1 percent (0.01) of all infant certifications require an additional two minutes (0.03 burden hours) for the documentation required to issue an infant formula that is not covered by the State agency's infant formula rebate contract.

To conclude, FNS estimates 292,983 total annual burden hours for applicants under §246.7(i) and §246.10(d)(1), as follows:

- 194,915 total annual burden hours for the application of women and children for program benefits under § 246.7(i): $1,949,149 \times 2 \times 0.05 = 194,915$.
- 97,457 total burden hours for the application of infants for program benefits under § 246.7(i): $1,949,149 \times 0.05 = 97,457$.
- 611 total annual burden hours for providing the medical documentation needed for infants to receive non-rebate infant formula under § 246.10(d)(1): $0.01 \times 2,035,813 = 20,358$; $20,358 \times 0.03 = 611$.

This has not changed since the last submission.

AFFECTED PUBLIC: BUSINESS: RETAIL VENDORS

REPORTING REQUIREMENTS

1. Section 246.12(g)(4)(i) of the Vendor Cost Containment Interim and Final Rules require a State agency to collect information needed to determine whether currently authorized vendors and new vendor applicants derive or may be expected to derive more than 50 percent of their annual food sales revenue from WIC food instruments. FNS estimates 1 vendor burden hour per response for this requirement.

FNS annually provides each State agency with a report comparing the WIC redemptions to the redemptions of the Supplemental Nutrition Assistance Program (SNAP) for each of its vendors which is authorized by SNAP. If a vendor's SNAP redemptions exceed its WIC redemptions, that vendor is considered to be a regular vendor, not an above-50-percent vendor. Thus far, this report has shown that 88 percent of the WIC-authorized vendors have more SNAP redemptions than WIC redemptions, thus eliminating the need for State agencies to obtain further documentation from these vendors. As a result, the need for further documentation only concerns 12 percent of the authorized vendors - 5,640 vendors ($12 \text{ percent} \times 47,000 = 5,640 \times 1 \text{ hour} = 5,640 \text{ burden hours}$).

Thus FNS estimates 5,640 burden hours for vendors for this provision. This has not changed since the last submission.

2. Section 246.12(g)(4)(ii)(B) of the Vendor Cost Containment Interim and Final Rules require State agencies to collect the shelf prices for WIC-approved foods from authorized retail vendors twice annually. FNS estimated that twice annually each vendor would need 1 burden hour to report shelf prices.

FNS previously estimated 94,000 annual burden hours for the vendors (47,000 vendors x 2 collections x 1 burden hour) for this provision. However, as explained

above in #11 on the reporting burden of State and local agencies, FNS now estimates that 39,167 vendors will be subject to this requirement because the final rule enables State agencies to obtain exemptions from this requirement. Also, since the burden hours per response has been increased from 2 to 4 for State agencies, the burden hours per response for vendors has been increased from 1 to 2. Accordingly, the new annual burden for vendors will be 156,666 burden hours (39,167 vendors x 2 collections per year x 2 burden hours per collection = 156,666 total annual burden hours).

3. Section 246.12(h) requires the State agency to enter into written agreements with retail vendors. State agencies require the vendor to submit a signed vendor agreement with the completed application form. The average retail vendor agreement is for two years; therefore, FNS estimates that each year half (0.5) of all retail vendors will submit application/agreement forms. FNS further estimates that each application/agreement form requires 1 burden hour for the vendor to complete. Thus FNS estimates 23,500 burden hours for this provision for vendors (47,000 retail vendors x 0.5 of all retail vendors per year x 1 burden hour per application). This has not changed since the last submission.
4. Section 246.12(h)(8) requires above-50-percent vendors to request approval from their WIC State agencies for incentive items which these vendors may provide to WIC participants or other customers. Of the approximately 1,700 above-50-percent vendors, FNS estimates that half of this number (850) will need to make such requests because half of the 32 State agencies which authorize above-50-percent vendors are expected to either disallow such incentive items altogether, or to provide the above-50-percent vendors with a list of acceptable incentive so that vendors do not need to make a request. FNS also estimates that this reporting burden will involve 1 hour per response. Thus FNS estimates an annual reporting burden of 850 hours for vendors as a result of this provision (850 vendors x 1 burden hour per response = 850 annual reporting hours). This has not changed since the last submission.