

Economic Impact Statement

LSA Document #09-47

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses**Description of the Rule:**

The Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) was established by federal law in 1972. It is designed to improve the nutritional status of eligible persons.

WIC provides services to pregnant women, postpartum women, breastfeeding women, infants, and children up to age five. By helping provide proper nutrition at the beginning of life, WIC seeks to prevent serious health problems that can last a lifetime.

The U.S. Department of Agriculture (USDA) provides 100 percent of the funds to operate this program. The Indiana State Department of Health (ISDH) is authorized by USDA to administer the WIC program in Indiana. ISDH contracts with local agencies to provide WIC services in their communities. Each local agency has agreements with local pharmacies and groceries to provide supplement foods to WIC participants.

This rule amends [410 IAC 3.6-1](#) through [410 IAC 3.6-6](#) to add new definitions, modify the selection of vendor procedures, modify department sanctions, update and modify minimum stocking requirements, and modify documents incorporated by reference. The changes have been approved by USDA. ISDH is mandated by USDA to notify WIC vendors of these changes

Per USDA regulations, notification of program changes, the state agency must notify vendors of changes to federal or state statutes, regulations, policies, or procedures governing the program before the changes are implemented. The state agency should give as much advance notice as possible.

Per USDA regulations, compliance with vendor agreement, statutes, regulations, policies, and procedures, the vendor must comply with the vendor agreement and federal and state statutes, regulations, policies, and procedures governing the program, including any changes made during the agreement period.

Economic Impact on Small Businesses:**1. Estimate of the number of small businesses, classified by industry sector, that will be subject to the proposed rule:**

[IC 4-22-2.1-4](#) defines a small business as any person, firm, corporation, limited liability company, partnership, or association that:

- (1) is actively engaged in business in Indiana and maintains its principal place of business in Indiana;
- (2) is independently owned and operated;
- (3) employs one hundred (100) or fewer full-time employees; and
- (4) has gross annual receipts of five million dollars (\$5,000,000) or less.

155 grocery stores and pharmacies.

2. Estimate of the average annual reporting, record keeping, and other administrative costs that small businesses will incur to comply with the proposed rule:

There should be no change in the annual cost to comply with the changes in the rule.

3. Estimate of the total annual economic impact that compliance with the proposed rule will have on all small businesses subject to the rule:

The small businesses that wish to participate in the program will share in \$10 million in retail WIC sales. There may be minimal cost up-front for stores to stock the minimum stock requirements, but that will be reimbursed when the product is sold.

4. Statement justifying any requirement or cost that is imposed on small businesses by the rule, and not expressly required by the statute authorizing the agency to adopt the rule, or any other state or federal law:

The additional retail sales gained by small businesses (estimated at \$10,000,000 total) participating in this program exceeds the cost to comply.

5. Regulatory Flexibility Analysis:

Other factors considered:

A. Establishment of less stringent compliance or reporting requirements for small businesses.

Less stringent requirements cannot be used because the requirements are based on federal regulations.

B. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses.

Less stringent requirements cannot be used because the requirements are based on federal regulations.

C. Consolidation or simplification of compliance or reporting requirements for small businesses.

There are no reporting requirements for small businesses. Compliance requirements are as simple as can be to comply with federal regulations.

D. Establishment of performance standards for small businesses instead of design or operational standards imposed on other regulated entities by the rule.

USDA requires the performance standards be the same for all vendors.

E. Exemption of small businesses from part or all of the requirements or costs imposed by the rule.

Only businesses wishing to participate in the program have to comply with the regulations. USDA requires all businesses that wish to participate in the program to comply with all requirements.

Posted: 10/14/2009 by Legislative Services Agency

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