



Food and  
Nutrition  
Service

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**DATE:** September 8, 2023

**SUBJECT:** Oversight of Infant Formula Purchase Requirements in the Special Supplemental Nutrition Program for Women, Infants and Children (WIC).

**TO:** Regional Directors  
Supplemental Nutrition Division

WIC State Agency Directors  
All WIC State Agencies

Dear WIC State Agency Directors –

We would like to take this opportunity to discuss stolen infant formula which may be offered for resale to online platforms, warehouses, and retail stores. Infant formula is a common target for theft due to its high demand and value and FNS is communicating the following guidance to remind WIC State agencies and WIC authorized vendors of our ongoing commitment to ensure the safety of infant formula purchased in the WIC Program, and to prevent stolen infant formula from being purchased with WIC benefits. WIC State agencies and WIC authorized vendors are critical partners in safeguarding the health of WIC infants through oversight of infant formula purchases.

Stolen infant formula may constitute a health hazard for a variety of reasons, not limited to having been improperly stored, or tampered with (e.g., labels or use-by dates changed), which can impact the product's safety, cause a loss of nutrients in the product, and potentially threaten the health of recipients.

According to WIC Program regulations, WIC State agencies must provide vendors with a list of names and addresses of approved infant formula wholesalers, distributors, and retailers, and infant formula manufacturers registered with the Food and Drug Administration (FDA), at least annually.<sup>1</sup> WIC State agencies must notify vendors that they may only purchase infant formula from sources on the list<sup>2</sup> and must provide this list in writing, or by other effective means.<sup>1</sup>

Additionally, WIC State agencies must only authorize vendors that purchase infant formula from sources included on the State agency's list,<sup>3</sup> and if a vendor is found out of compliance, the State agency must terminate the vendor agreement.<sup>4</sup> If a WIC State agency has established a sanction for vendors obtaining infant formula from businesses not on the list, it must follow its sanction schedule.<sup>5</sup> A

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<sup>1</sup> [7 CFR 246.12\(g\)\(10\)](#)

<sup>2</sup> [7 CFR 246.12\(g\)\(10\)\(i\)](#)

<sup>3</sup> [7 CFR 246.12\(g\)\(3\)\(i\)](#)

<sup>4</sup> [7 CFR 246.12\(h\)\(3\)\(xvii\)](#); [7 CFR 246.12\(h\)\(3\)\(xxv\)](#)

<sup>5</sup> [7 CFR 246.12\(l\)\(2\)](#)

summary of the requirements and best practices for oversight can be found at <https://www.fns.usda.gov/wic/infant-formula-suppliers-tip-sheet>.

In support of their continued oversight of these purchase requirements, FNS recommends that WIC State agencies review infant formula invoices during routine monitoring visits, and/or conduct inventory audits on infant formula to verify that vendors have purchased infant formula from sources included on the State agency's list. WIC State agencies may even develop a high risk indicator to identify those vendors that may be more likely to purchase infant formula from an unallowable source. Promising practices may include an indicator based on the type of infant formula supplier used, or a past history of non-compliance. By continuing or implementing integrity measures to validate infant formula purchases by WIC vendors, State agencies are protecting the health and safety of the benefits provided to participants.

FNS recognizes that WIC State agencies have shown recent flexibility regarding minimum stocking requirements (MSRs) due to the infant formula shortage caused by COVID-19 and exacerbated by the 2022 infant formula recall. However, WIC State agencies are expected to remain committed to ensuring the safety of infant formula purchased in the WIC Program. WIC State agencies should continue to work with their vendor community to inform them of the issue, collect their feedback on what they may be seeing, and take every opportunity to reiterate the importance of these requirements (e.g., during training opportunities<sup>6</sup>).

USDA FNS will continue to monitor this situation and support WIC State agencies in their efforts to ensure the safety of infant formula purchased in the WIC Program. To report fraud, call 800-424-9121 or visit <https://www.usda.gov/oig/hotline>. Any WIC State agency with questions regarding this letter should contact its respective [FNS Regional Office](#).

Sincerely,

*Sara Olson*

Sara Olson  
Director  
Policy Division  
Supplemental Nutrition and Safety Programs

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<sup>6</sup> [7 CFR 246.12\(i\)\(2\)](#)