POLICY:

The Local Agencies are responsible for the collection of returned formula, the donation of appropriate formulas and the disposal of special formulas.

PROCEDURE:

A. When formula is returned to WIC

Participants occasionally return formula bought with WIC benefits to the WIC Program, because WIC foods cannot be exchanged at the store for food, formula, cash or credit. All contract formula and certain special formulas (designated below) should be donated to community emergency food programs, such as food pantries. Local Agencies are directed to consult the Code of West Virginia Good Samaritan Food Donation Act, a state law enacted to encourage participation in food donation programs by providing a statutory framework to protect food donators from liability for their good faith efforts:

A nonprofit organization is not subject to civil liability or criminal liability arising from the nature, age, packaging or condition of apparently wholesome food or an apparently fit grocery product which the nonprofit organization received as a donation in good faith from a person or gleaner for ultimate distribution without profit or gain to needy individuals: Provided, That this limitation on liability does not apply to an injury to or the death of an ultimate user or recipient of the food or grocery product which results from an act or omission of the nonprofit organization which constitutes gross negligence or intentional misconduct.

B. WIC formulas appropriate for donation

1. The following formulas listed under both **a. Contract Formulas** and **b. Exempt Infant Formula and WIC Eligible Nutritionals** on the WIC formulary would be appropriate to donate:

a. Contract Formulas:

Similac Advance Similac Soy Isomil Similac Total Comfort

Similac Sensitive Similac for Spit-Up

b. Exempt Infant Formula (special formulas) and WIC Eligible Nutritionals:

Similac Alimentum Nutramigen Neosure

Ensure Pediasure

2. Local Agency staff should inspect returned formula containers for visible defects and should check the label to ensure that the "use-by-date" has not expired. Infant

formula that is expired, opened or that is visibly dented or damaged should be discarded and **must not** be distributed to community emergency food programs.

- 3. Local Agency staff must store returned formula in a secure location that is out of view to WIC participants and ensure that the formula is protected from spoilage, infestation, damage or other conditions that may damage the wholesomeness or degrade the nutritional value or safety of the formula.
- 4. Local Agency staff must document each time formula is accepted for donation from a participant (see **Policy 3.06 Voiding eWIC Benefits**) and each time formula is donated to a community emergency food program (see **Attachment #1**).

C. WIC formulas not appropriate for donation

- 1. Formulas not specifically named and included in **Section B. 1.** are not appropriate for donation. These formulas should be discarded and **must not** be distributed to community emergency food programs.
- 2. Staff must document each time formula is discarded (see **Attachment #2**).

ATTACHMENTS:

- 1. Formula Donation Tracking Form
- 2. Formula Disposal Tracking Form

REFERENCES:

- 1. West Virginia Code 55-7D-1 Good Samaritan Food Donation Act
- 2. WIC Regulations 246.12