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State of California—Health and Human Services Agency
California Department of Public Health



GAVIN NEWSOM
Governor

12/6/2019

REGULATORY BULLETIN 2019-02

NOTICE OF FINAL ACTION

Subject

Final Action on the Notice of Proposed Changes posted as [Regulatory Alert 2019-02](#) on 8/1/2019, which is available on the WIC “Laws & Regulations” webpage at:
<https://www.cdph.ca.gov/Programs/CFH/DWICSN/CDPH%20Document%20Library/LawsandRegulations/RegulatoryAlertandResources/Regulatory%20Alert%202019-02.pdf>

Date of Adoption

The Final Action will be effective 1/5/2020.

Stakeholder Comments and Responses

Please see Attachment 1 of this Regulatory Bulletin for the stakeholder comments and the Department’s responses.

Regulation

Article 4. Vendor Authorization Criteria

71100 Minimum Stocking Requirements

(a) For authorization in the Program, all vendors and vendor applicants must, at all times, maintain on the premises of the vendor or vendor applicant’s store location WIC authorized supplemental foods in the amounts listed in subsections (b)(1) through (b)(15) below. WIC authorized supplemental foods stocked by vendors and vendor applicants must be quality food items, as defined in section 70750, to be counted towards the minimum stocking requirements in subsections (b)(1) through (b)(15).

(b) Inventory must be stocked on store shelves in the public area of a vendor’s store where merchandise is available for purchase unless subsection (b)(10)(A) or (b)(12)(B)



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allows specific quantities of stock to be kept in storage on the premises of the store location. For purposes of this regulation, inventory shall not include inventory on order that has not been delivered. Each vendor and vendor applicant must stock, at a minimum, the following:

(1) Bottled Juice and Concentrate.

(A) Eight (8) sixty-four (64) ounce bottles of authorized shelf stable juice; or

(B) Ten (10) eleven and one-half (11.5) or twelve (12) ounce containers of authorized frozen juice concentrate.

(2) Breakfast Cereal. At least one hundred forty-four (144) total ounces of any four (4) different types or brands of authorized cereal. Of the total ounces, one (1) type must be a twelve (12) ounce size box and one (1) type must be an eighteen (18) ounce size box. Two (2) of the types or brands must be listed as cereals which contain fifty-one percent (51%) or more whole grain by weight in section 82100.

(3) Canned Fish.

(A) Twelve (12) five (5) ounce cans of authorized types of tuna; or

(B) Four (4) fifteen (15) ounce cans of authorized types of sardines; or

(C) Twelve (12) five (5) ounce cans, ten (10) six (6) ounce cans, or four (4) fourteen and three-quarters (14.75) ounce cans of authorized types of salmon; or

(D) Four (4) fifteen (15) ounce cans of authorized types of mackerel.

(4) Cheese. At least four (4) sixteen (16) ounce packages of any combination of authorized types of cheese.

(5) Dry Beans, Peas, or Lentils. At least six (6) sixteen (16) ounce packages of any combination of authorized dry beans, peas, or lentils.

(6) Eggs. At least four (4) one (1) dozen containers of authorized types of eggs.

(7) Fresh Bananas. Eight (8) authorized fresh yellow bananas.

(8) Fruits and Vegetables.

(A) Forty dollars (\$40) worth of a combination of:

1. Five (5) varieties of authorized fresh fruits; and

2. Five (5) varieties of authorized fresh vegetables.

(B) Any combination of at least forty dollars (\$40) worth of three (3) varieties of authorized canned or frozen fruits.

(C) Any combination of at least forty dollars (\$40) worth of three (3) varieties of authorized canned or frozen vegetables.

(D) Dollar amounts for fruits and vegetables in subsections (b)(8)(A) through (b)(8)(C) will be calculated based on the vendor's shelf price.

(E) For the purposes of subsections (b)(8)(A) through (b)(8)(C), "variety" means distinctly different types of fruits or vegetables. For example, a variety of frozen fruits may include authorized frozen strawberries, blueberries, and raspberries. However, a variety does not include different packaging or cuts of the same type of fruit. For example, a variety of canned fruit does not include authorized canned pineapple chunks, pineapple slices, and crushed pineapple. A variety of frozen and canned fruits may include frozen blueberries and canned peaches, but does not include frozen peaches and canned peaches.

(9) Infant Cereal. Two (2) sixteen (16) ounce containers and two (2) eight (8) ounce containers of any authorized brand and type of infant cereal.

(10) Infant Formula. The authorized primary contract brand milk-based infant formula in powdered form currently under contract with the Department, pursuant to section 82600, in the following quantity:

(A) Twenty (20) authorized size containers of the authorized primary contract brand milk-based infant formula in powdered form currently under contract with the Department. Of the twenty (20) containers, at least ten (10) must be on the shelf with the remainder kept in storage on the premises. For example, if the vendor stocks ten (10) containers on the shelf, no less than ten (10) containers must be in storage on the premises.

(11) Infant Fruits and Vegetables. Fifty-six (56) authorized four (4) ounce containers of infant fruits and vegetables.

(12) Milk.

(A) Six (6) one (1) gallon containers of authorized fluid whole milk; and

(B) Fourteen (14) one (1) gallon containers of any combination of two percent (2%), one percent (1%), or nonfat authorized fluid milk. Of the fourteen (14) one (1) gallon containers, at least ten (10) must be on the shelf with the remainder kept in storage on the premises. For example, if the vendor stocks ten (10) one

(1) gallon containers on the shelf, no less than four (4) one (1) gallon containers must be in storage on the premises; and;

(C) Two (2) half-gallon containers of any combination of two percent (2%), one percent (1%), or nonfat authorized fluid milk.

(13) Peanut Butter. At least four (4) sixteen (16) to eighteen (18) ounce containers of authorized types of peanut butter.

(14) Whole Grains. At least six (6) sixteen (16) ounce packages of authorized whole grains, which must include:

(A) At least two (2) sixteen (16) ounce packages of one hundred percent (100%) whole wheat bread loaves; and any combination of four (4) sixteen (16) ounce packages of:

1. At least two (2) sixteen (16) ounce packages of soft corn tortillas (white or yellow); or
2. At least two (2) sixteen (16) ounce packages of oatmeal or oats; or
3. At least two (2) sixteen (16) ounce packages of brown rice; or
4. At least two (2) sixteen (16) ounce packages of whole wheat pasta.

(c) A vendor who fails to meet the stocking requirements in this section at any time shall be issued a written notice of the vendor's failure to meet authorization criteria. If, after thirty (30) days from the date of the notice and within a twenty-four (24) month period from the date of the notice, the vendor subsequently fails to meet the stocking requirements of this section, the vendor shall have demonstrated a pattern of failure to meet minimum stocking requirements and shall be disqualified from participation in the program for a period of one (1) year for failure to meet authorization criteria.

Attachment 1

Amendments to Section 71100: Minimum Stocking Requirements Stakeholder Comments and Responses to Comments

**California Special Supplemental Nutrition Program
for Women, Infants, and Children**

December 6, 2019

Health and Safety Code section 123322 authorizes the California Department of Public Health (CDPH) to establish vendor authorization criteria for the California Special Supplemental Nutrition Program Women, Infants, and Children (WIC Program) using a regulatory bulletin process. The Department is utilizing this process to adopt these regulations. This document is intended to provide responses to stakeholder comment(s) on the proposed amendments to Section 71100: Minimum Stocking Requirements, as specified in Regulatory Alert 2019-02.

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How to Use this Document

This document consists of a written stakeholder letter provided during the stakeholder comment period between August 1 and August 21, 2019. This document also includes the Department's response to the stakeholder comment.

This document contains a reproduction of the individual written stakeholder letter and each stakeholder comment has been enumerated in the margin of each letter. Comments are denoted using a numbering system that identifies the stakeholder's letter and the specific comment number within each letter. For example, comment 4.5 refers to the fifth comment in stakeholder Letter 4. Responses to each of these comments follow each stakeholder letter and use a corresponding numbering system. This means that response 4.5 addresses comment 4.5 in stakeholder Letter 4.

When the Department adds clarification text, it is indicated with underlining. Text that has been deleted is indicated with ~~strike through~~. For this final action on Regulatory Alert 2019-02, no revisions or clarifying text were added.

Written Comment Letters Received

The Department received comment letters regarding the proposed regulations in Regulatory Alert 2019-02, Amendments to Section 71100: Minimum Stocking Requirements, from the following organizations:

1. Bodega Latina Corp, August 1, 2019, with attachment, StockingRequirementCertification.pdf

Letter 1: Bodega Latina Corp

From: [Denisa Mendoza](#)
To: [WICRegulations](#)
Subject: RE: Regulation Proposal: Amendments to Section 71100: Minimum Stocking Requirements
Date: Thursday, August 01, 2019 3:40:17 PM
Attachments: [image001.png](#)
[StockingRequirementCertification.pdf](#)

Good afternoon,

Will we receive a new stocking requirement certificate with the new changes? Please advise.

Thank you,

Denisa Mendoza

Executive Assistant to Jack Hook, CFO

562-616-8916

Bodega Latina Corp.

14601B Lakewood Blvd. Paramount, CA 90723

[elsupermarkets.com](#) | [fiestamart.com](#)



1.1

Letter 1 Attachment (StockingRequirementCertification.pdf)

EFFECTIVE DECEMBER 10, 2018	
MINIMUM STOCKING REQUIREMENTS	
Refer to the WIC Authorized Food List Shopping Guide, March 28, 2016, for product specifications and WIC Bulletin Regulation 71100 for regulation detail	
<p>FOOD CATEGORY: BOTTLED JUICE AND CONCENTRATE JUICE (8) 64-ounce bottles of authorized shelf-stable juice OR (10) 11.5 or 12-ounce containers of authorized frozen juice concentrate</p>	<p>FOOD CATEGORY: FRUITS AND VEGETABLES Thirty-eight dollars (\$38) worth of a combination of: Five (5) varieties of authorized <i>fresh fruit</i> Five (5) varieties of authorized <i>fresh vegetables</i> AND Any combination of at least thirty-eight dollars (\$38) worth of three (3) varieties of authorized <i>canned or frozen fruits</i> AND Any combination of at least thirty-eight dollars (\$38) worth of three (3) varieties of authorized <i>canned or frozen vegetables</i> *Different packaging or cuts of the same fruit or vegetable are NOT considered a variety</p>
<p>FOOD CATEGORY: BREAKFAST CEREAL At least (144) total ounces of any (4) different types or brands of authorized cereal. Of the total ounces, (1) type must be a (12) ounce size box and (1) type must be an (18) ounce size box. Two of the types or brands must be listed as cereals which contain (51%) or more whole grain by weight in the WIC Authorized Food List and Shopping Guide.</p>	<p>FOOD CATEGORY: INFANT CEREAL (2) 16-ounce containers AND (2) 8-ounce containers of any authorized brand and type of infant cereal</p>
<p>FOOD CATEGORY: CANNED FISH Tuna.....(12) 5-ounce cans of authorized types of tuna OR Sardines.....(4) 15-ounce cans of authorized types of sardines OR Salmon.....(12) 5-ounce cans of authorized types of salmon OR (10) 6-ounce cans OR (4) 14.75-ounce cans OR Mackerel.....(4) 15-ounce cans authorized types of mackerel</p>	<p>FOOD CATEGORY: INFANT FORMULA Authorized primary contract brand milk-based infant powdered formula.....(20) authorized size containers (10) on the shelf, and (10) on the premises</p>
<p>FOOD CATEGORY: CHEESE (4) 1-pound packages of any combination of authorized types of cheese</p>	<p>FOOD CATEGORY: INFANT FRUITS AND VEGETABLES (56) 4-ounce containers OR (64) 3.5-ounce containers</p>
<p>FOOD CATEGORY: PEANUT BUTTER (4) 16 to 18-ounce containers of authorized types of peanut butter</p>	<p>FOOD CATEGORY: DRY BEANS, PEAS OR LENTILS (8) Pounds of any combination of authorized 1-pound packages OR (8) pounds in bulk</p>
<p>FOOD CATEGORY: EGGS (4) one dozen containers of authorized types of eggs</p>	<p>FOOD CATEGORY: FRESH BANANAS (8) authorized <i>fresh</i> yellow bananas</p>
<p>FOOD CATEGORY: MILK Whole.....(6) one gallon containers of authorized fluid whole milk AND (14) one gallon containers of any combination of 2% reduced fat, 1% low fator nonfat authorized fluid milk..... (14) one gallon (10) on the shelf (4) on the premises AND (2) half-gallon containers of any combination of 2% reduced fat, 1% low fator nonfat authorized fluid milk.....</p>	<p>FOOD CATEGORY: WHOLE GRAIN 100% whole wheat bread loaves....(2) 1-pound packages AND Any combination of (4) pounds of: (2) 1-pound packages of white or yellow soft corn tortillas OR (2) 1-pound packages or (2) pounds of bulk oatmeal or oats OR (2) 1-pound packages or (2) pounds of bulk brown rice OR (2) 16-ounce packages of whole-wheat pasta</p>

Response to Letter 1

- 1.1 The commenter is asking if vendors will receive an updated version of the document currently titled “StockingRequirementCertification.pdf” with the changes to WIC Bulletin Regulation (W.B.R.) section 71100, Minimum Stocking Requirements.

Following the effective date of the final changes, the Department will post an updated version of this document at:

<https://www.cdph.ca.gov/Programs/CFH/DWICSN/Pages/Grocers/AuthorizedVendors.aspx>.

The revised document will reflect the amended version of the Minimum Stocking Requirements.