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July 16, 2021

REGULATORY BULLETIN 2021-01

NOTICE OF FINAL ACTION

Subject

Final Action on the Notice of Proposed Changes posted as [Regulatory Alert 2021-01](#) on May 28, 2021.

Date of Adoption

The Final Acton will be effective September 1, 2021.

Stakeholder Comments and Responses

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

Regulation

Article 5. WIC Authorized Food List

82400 WIC Authorized Food List: Eggs

(a) Eggs Category

- (1) Any brand of non-organic white, large, chicken eggs sold in cartons of twelve (12) or one (1) dozen is authorized in the Eggs Category.
- (2) The following types of eggs are never authorized for purchase as part of the Eggs Category:
 - (A) Powdered eggs;
 - (B) Liquid eggs;
 - (C) Specialty eggs other than cage-free eggs, such as vitamin-enriched, pastured, low cholesterol, or DHA-enriched eggs;
 - (D) Organic eggs; and
 - (E) Eggs sold within California that do not have all legally required labeling, markings, or statements on the container or package.

Feedback

Stakeholders may provide feedback regarding the impact of this Final Action and any policy adjustments to be considered by the Department after implementation.



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Comments may be sent electronically with the Bulletin number in the subject line to WICregulations@cdph.ca.gov.

Attachment 1

Regulatory Bulletin 2021-01 WIC Authorized Food List Stakeholder Comments and Responses to Comments

**California Special Supplemental Nutrition Program for
Women, Infants, and Children
July 16, 2021**

Health and Safety Code section 123322 authorizes the California Department of Public Health (Department) to establish regulations regarding authorized foods for the California Special Supplemental Nutrition Program for Women, Infants, and Children using a regulatory bulletin process. The Department is utilizing this process to amend existing section 82400 of the WIC Bulletin Regulations. This document is intended to provide responses to stakeholder comments on the proposed amendments specified in [Regulatory Alert 2021-01](#).

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Written Comments Received

The Department received two stakeholder comments via email from the following individuals/organizations in response to the Department's proposed amendments to Section 82400 of the WIC Authorized Food List regulations in Regulatory Alert 2021-01:

1. Shawn Sekel, Contra Costa County WIC, June 2, 2021
2. Steve Koch, NuCal Foods Inc., June 10, 2021

Comments Received and Responses

In response to Regulatory Alert 2021-01, the Department received two stakeholder comments via email. The Department thanks these commenters for participating in the regulatory process and providing input on the proposed regulations. Please read below for the Department's responses to the comments received.

1. **Comment:** I am writing to express that I am in favor of the proposed change to include cage free eggs as a WIC authorized food.

Cage-free eggs are increasingly available and are becoming so common place that it is sometimes difficult to find eggs that are not cage-free in a market. This will be even more true once the Health and Safety code section 25990 goes into effect January 2022.

Thank you for considering my opinion in your decision.

Response: Thank you for your comments. We appreciate your interest in the California WIC Program and your support for the proposed amendments.

2. **Comment:** Thank you for the webinar and the documented plans to address the new law coming soon.

Comment - We have a few customers and there may be many in the state that will want to convert away from conventional eggs and into the prop 12 compliant Cage Free eggs before Jan 2022 (we have some that are converting 9/1). You mention that the final action will be posted no later than October 15 which is well past when many of the retailers will need to make a decision as to when they convert to Cage Free or keep a conventional egg for the WIC program. We have been working with retailers for over a year on their transition plans and are planning material purchases out through the end of the year now so I encourage you to publish your final action as soon as possible so retailers and suppliers have enough time to adjust to your final program timing.

Thank you!

Response: Thank you for your comments. As specified on page one of Regulatory Bulletin 2021-01, the Department's Final Action will take effect on September 1, 2021. As of this date, cage-free eggs that meet the amended authorization criteria may be added to the WIC Authorized Product List.