



KAREN L. SMITH, MD, MPH
Director and State Public Health Officer

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



EDMUND G. BROWN JR.
Governor

March 30, 2018

REGULATORY BULLETIN 2018-01

NOTICE OF FINAL ACTION

Subject

Final Action on the Notice of Proposed Changes posted as [Regulatory Alert 2018-01](#) on February 2, 2018 at:
<https://www.cdph.ca.gov/Programs/CFH/DWICSN/CDPH%20Document%20Library/LawsandRegulations/RegulatoryAlertandResources/Regulatory%20Alert%202018-01-ADA.pdf>.

Date of Adoption

The Final Action will be effective April 30, 2018.

Stakeholder Comments and Responses

No stakeholder comments were received regarding this regulatory action.

Regulation

Article 5. WIC Authorized Food List

82000 WIC Authorized Food List Definitions

- (a) For the purposes of this article, the following definitions apply:
- (1) *Any Brand Foods.* Any Brand Foods are foods in a CDPH Food Category or Subcategory that does not identify authorized foods by Brand~~/~~ or by Brand and product name.
 - (A) Authorized Any Brand Foods for paper food instruments are ones that meet the qualifying authorization criteria specified in a CDPH Food Category or Subcategory.
 - (B) Authorized Any Brand Foods for Electronic Benefit Transfer (EBT) food instruments are ones that:
 1. Meet the qualifying authorization criteria specified in the CDPH Food Category or Subcategory; and
 2. Are included in the Department's Authorized Product List (APL).
 - (2) *Authorized Product List.* The Authorized Product List or APL is an electronic file of all Universal Product Codes (UPCs) and Price Look-Up codes (PLUs) for foods authorized by the Department.



CDPH Women, Infants and Children (WIC) Division
3901 Lennane Drive MS 8600 Sacramento, CA 95834
P.O. Box 997375 MS 8600 Sacramento, CA 95899-7375
(916) 928-8500 [Division Website](#) (www.wicworks.ca.gov)



- (3) *Brand.* Brand is the company name under which a food product is advertised as being marketed or sold.
- (4) *Brand Specific Foods.* Brand Specific Foods are foods in a CDPH Food Category or Subcategory that identifies authorized foods by Brand or by Brand and product name.
 - (A) Authorized Brand Specific Foods for paper food instruments are ones that:
 1. Are identified in a CDPH Food Category or Subcategory by Brand or by Brand and product name; and
 2. Meet the additional authorization criteria for that CDPH Food Category or Subcategory, such as container type, flavor, or fat level.
 - (B) Authorized Brand Specific Foods for EBT food instruments are ones that:
 1. Are identified in a CDPH Food Category or Subcategory by Brand or by Brand and product name;
 2. Meet the additional authorization criteria for that CDPH Food Category or Subcategory, such as container type, flavor, or fat level; and
 3. Are included in the Department's APL.
- (5) *California Department of Public Health Food Category.* California Department of Public Health Food Category or CDPH Food Category is the Department's classification of foods by type as listed in the headings of W.B.R. sections 82050-83000. CDPH Food Categories include: Bottled Juice; Breakfast Cereal; Canned Fish; Canned Mature Beans; Cheese; Concentrate Juice; Dry Beans, Peas, or Lentils; Eggs; Fresh Bananas; Fruits and Vegetables; Infant Cereal; Infant Formula; Infant Fruits and Vegetables; Infant Meats; Milk; Peanut Butter; Soy; Tofu; Whole Grains; and Yogurt. CDPH Food Categories may be Any Brand and/or Brand Specific.
- (6) *California Department of Public Health Food Subcategory.* California Department of Public Health Food Subcategory or CDPH Food Subcategory is a classification of foods within a CDPH Food Category in which multiple subtypes of foods are authorized, e.g., the CDPH Whole Grains Food Category includes the Brown Rice, Bulgur, Corn Tortillas, Oatmeal or Oats, Whole Grain Barley, Whole Wheat Bread, Whole Wheat Pasta, and Whole Wheat Tortillas Subcategories. Each CDPH Food Subcategory has its own authorization criteria. CDPH Food Subcategories may be Any Brand or Brand Specific.
- (7) *Department.* Department means the California Department of Public Health (CDPH), which administers the California Special Supplemental Nutrition Program for Women, Infants, and Children.
- (8) *Non-material Changes.* Non-material Changes are changes to the Brand or product name of ~~to~~ an authorized ~~in~~ food product. Non-material Changes do not affect authorization of a food product.

- (9) *Price Look-Up Codes.* Price Look-Up codes or PLUs are standard codes published by the International Federation of Produce Standards (IFPS) for produce.
- (10) *WIC Authorized Food List.* The WIC Authorized Food List or WAFL is the compilation of foods that meet the authorization criteria listed in sections 82050-83000. Under an EBT food instrument system, the WAFL is the compilation of foods meeting the authorization criteria listed in sections 82050-83000 that are included in the APL.
- (11) *WIC Authorized Food List Shopping Guide.* The “WIC Authorized Food List Shopping Guide” is a document printed by the Department to help participants and vendors identify authorized foods and is intended for educational purposes only. The “WIC Authorized Food List Shopping Guide” does not create any rights, obligations, affirmative duties, or replace or supersede the regulations in this Article.
- (12) *WIC Program.* The WIC Program and WIC are defined as the California Special Supplemental Nutrition Program for Women, Infants, and Children.

82025 WIC Authorized Food List: Authorized Product List Submissions

- (a) Under an EBT food instrument system, both Brand Specific and Any Brand Foods must be listed by UPC or PLU in the Department’s APL for authorization.
 - (1) Any Brand Food products that meet the W.B.R. Food Category authorization criteria may be submitted for inclusion in the APL at any time.
 - (2) Brand Specific Food products will be added to the APL only when the Department adopts or amends regulations relating to the Brand Specific Food Category or Subcategory, however, products for currently-authorized Brand Specific Foods may be submitted for inclusion in the APL at any time if:
 - (A) A food manufacturer introduces a new UPC for an authorized Brand Specific Food, including new UPCs resulting from Non-material Changes or UPCs for new sizes of products that are authorized by Brand and product name when a range of sizes are authorized in a CDPH Food Category or Subcategory; or
 - (B) A food manufacturer introduces a new product that meets current authorization criteria in a CDPH Food Category or Subcategory in which products are authorized only by Brand.
 - (3) In order to submit a food product for inclusion in the APL, the submitting stakeholder must:
 - (A) Provide the Department with detailed information about the product in order for the Department to make a determination about the product’s eligibility for authorization. Submission elements include, but are not limited to, the following:
 - 1. Electronic image of product packaging that includes front label, back label, nutrition facts panel, ingredient listing, and UPC;

2. Submitting Company Name;
 3. Submitting Company Contact Information;
 4. UPC;
 5. Brand Name;
 6. Product Name;
 7. Product Size;
 8. Applicable product characteristics, e.g.; container type, noting the presence of sweeteners, fat-level, pasteurization-status, etc.
- (B) If a product is submitted by a food manufacturer's employee or agent, the manufacturer must notify the Department in writing of all product changes and the effective date of the changes. Examples of product changes include, but are not limited to, changes in container size, ingredients, product name, or discontinuance of a product.
- (4) Unless a Brand Specific Food product is being authorized by a WIC Bulletin Regulation as specified in subsection (a)(2), a food product that the Department determines meets both federal and state food authorization criteria will be added to the APL within thirty business days from the date of the Department's written notification of the food product's authorization for inclusion in the APL.
 - (5) The Department shall remove products from the APL when they are discontinued or if after a review of the product, the Department determines that the product no longer meets federal and/or state food authorization criteria. After the Department makes the determination, the product may be removed from the APL at any time.
 - (6) Authorized fruits and vegetables that have PLUs assigned by IFPS will be automatically included by the Department in the APL. Stakeholders may contact the Department requesting the addition of IFPS PLUs if an IFPS PLU is not included in the APL.

Feedback

Stakeholders may provide feedback regarding the impact of this Final Action and any policy adjustments to be considered by the Department after implementation. Comments may be sent electronically with the Bulletin number in the subject line to WICRegulations@cdph.ca.gov.