



SUSAN FANELLI
Acting Director

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



GAVIN NEWSOM
Governor

August 1, 2019

REGULATORY ALERT 2019-02

NOTICE OF PROPOSED CHANGES TO THE CALIFORNIA WIC PROGRAM

Purpose

The California Department of Public Health (CDPH) is informing stakeholders of the California Special Supplemental Nutrition Program for Women, Infants, and Children (WIC Program) of CDPH's plan to amend the WIC Bulletin Regulations, Article 4, section 71100, Minimum Stocking Requirements, pursuant to Health and Safety Code section 123322.

Stakeholder Workgroup Information

In accordance with Health and Safety Code section 123322, CDPH will meet with stakeholders by webinar on August 15, 2019, to receive input on the proposed amendments to the WIC Vendor Authorization Criteria (VAC). If you are interested in participating in this stakeholder webinar, please send an e-mail by close of business on August 8, 2019, with the subject line reading "VAC Stakeholder RSVP" to WICRegulations@cdph.ca.gov, with the following information included in the body of the e-mail:

Name:

Company Name (if applicable):

Address:

E-mail Address:

Stakeholder Group Represented: (Stakeholders can include but are not limited to currently authorized WIC vendors, owners or representatives of a non-WIC



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
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authorized store, manufacturers, WIC local agency representatives, WIC participants, advocates, and consumer groups.)

CDPH will contact you by August 9, 2019, with details on how and when to attend the webinar workgroup meeting.

Comment Period

CDPH will accept written comments regarding the adoption of the proposed action. The comment period will be open until August 21, 2019. Send your comments electronically to the following e-mail address: WICRegulations@cdph.ca.gov.

PLEASE NOTE: All information submitted with your written comments on these proposed regulations becomes public information. Please do not include any information you do not want published, including personal contact information or other private information, in your comments.

If this proposed action is not withdrawn, CDPH will publish its final action, including responses to the comments received, on its website no later than 120 days after the end of the comment period.

Nature of the Regulation

To become or continue operating as an authorized vendor, vendors or vendor applicants must meet and remain in compliance with authorization criteria throughout the agreement period. (7 C.F.R. § 246.12(g), (h).) CDPH is proposing to amend the criteria used for vendor authorization by Regulatory Bulletin.

The proposed amendments would update the minimum stocking requirements to reflect changes to the WIC Authorized Food List and increase the minimum dollar amount of fruits and vegetables that vendors and vendor applicants are required to stock.

Proposed Regulation

Article 4. Vendor Authorization Criteria

71100 Minimum Stocking Requirements.

(a) For ~~participation~~authorization in the Program, all vendors and vendor applicants ~~locations~~ must, at all times, maintain on the premises of the vendor or vendor applicant's store or authorized location WIC authorized supplemental foods in the amounts listed in subsections (b)(1)- through (b)(15) below ~~of WIC authorized supplemental foods~~. 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) allows specific quantities of stock allowed to be kept in storage on the premises of that the store location, are specified in subsections (b)(10) and (12). For purposes of this regulation, inventory shall not include inventory on order that has not been delivered. Each vendor and vendor applicant ~~vendor~~ 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 ~~a~~ 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) ~~one~~ sixteen (16) ounce ~~pound~~ packages of any combination of authorized types of cheese.

(5) Dry Beans, Peas, or Lentils. At least six (6) sixteen (16) ounce ~~packages~~ ~~pounds~~ of any combination of authorized dry beans, peas, or lentils, ~~in either one (1) pound packages or six (6) pounds in bulk~~.

(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) ~~Thirty-eight~~Forty dollars (~~\$38~~\$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 ~~thirty-eight~~forty dollars (~~\$38~~\$40) worth of three (3) varieties of authorized canned or frozen fruits.

(C) Any combination of at least ~~thirty-eight~~forty dollars (~~\$38~~\$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, ~~as defined~~ in 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.

~~(A) Fifty-six (56) authorized~~ four (4) ounce containers of infant fruits and vegetables. ~~;~~ ~~or~~

~~(B) Sixty-four (64) three and a half (3.5) ounce containers.~~

(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~~pounds~~ of authorized whole grains, which must include:

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

1. At least two (2) ~~one~~sixteen (16) ounce ~~pound~~ packages of ~~white or yellow~~ soft corn tortillas (white or yellow); or
2. At least two (2) ~~one~~sixteen (16) ounce ~~pound~~ packages ~~of or two (2) pounds~~ of bulk oatmeal or oats; or
3. At least two (2) ~~one~~sixteen (16) ounce ~~pound~~ packages ~~of or two (2) pounds~~ of bulk 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.

Reason for the Regulation

The reasons for this amendment are included in Attachment 1 to this notice.

Authority

Federal:

The Child Nutrition Act of 1966, Title 42 of the United States Code, section 1786 (Public Law 89-645, Section 17), as amended, establishes the federal authority under which states may administer the WIC Program through local agencies. The WIC Program was established as a result of a Congressional finding that substantial numbers of pregnant, postpartum and breastfeeding women, infants, and young children up to the age of five (5) from families with eligible income are at special risk with respect to their physical and mental health by reason of inadequate nutrition, health care, or both. The purpose of the WIC Program is to provide supplemental foods, nutrition education, and health care referrals for these populations.

In fulfilling this objective, the WIC Program is funded and administered by the United States Department of Agriculture (USDA), Food and Nutrition Service, pursuant to 7 Code of Federal Regulations, part 246.

The WIC Program is also subject to federal memoranda and directives from USDA.

State:

The California WIC Program was established under the authority of Health and Safety Code section 123275 et seq. The regulations for CDPH's administration of the WIC Program are contained in the California Code of Regulations, title 22, sections 40601 through 40815, and in the WIC Regulatory Bulletins posted at:

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

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Questions and Additional Information:

If you have any questions, please contact CDPH at WICRegulations@cdph.ca.gov.

A handwritten signature in blue ink, appearing to read 'C. Lopez', with a long horizontal flourish extending to the right.

Catherine Lopez, M.Ed.
Assistant Division Chief – Services
Women, Infants and Children Division
California Department of Public Health

Attachment 1

Regulatory Alert 2019-02: Statement of Reasons for Amendments to Section 71100: Minimum Stocking Requirements

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

August 1, 2019

Health and Safety Code section 123322 authorizes the California Department of Public Health to establish regulations for the vendor authorization criteria 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 these regulations. This document is intended to provide reasons why the Department is proposing to amend section 71100, Minimum Stocking Requirements, as specified in Regulatory Alert 2019-02.

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71100 Minimum Stocking Requirements

PROPOSED REGULATION

(a) For ~~participation~~ authorization in the Program, all vendors and vendor applicants ~~locations~~ must, at all times, maintain on the premises of the vendor or vendor applicant's store or authorized location WIC authorized supplemental foods in the amounts listed in subsections (b)(1)- through (b)(15) ~~below of WIC authorized supplemental foods~~. 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) allows specific quantities of stock allowed to be kept in storage on the premises of ~~that the store location, are specified in subsections (b)(10) and (12)~~. For purposes of this regulation, inventory shall not include inventory on order that has not been delivered. Each vendor and vendor applicant ~~vendor~~ 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 a 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) ~~one~~sixteen (16) ~~ounce~~pound packages of any combination of authorized types of cheese.

(5) Dry Beans, Peas, or Lentils. At least six (6) sixteen (16) ounce packages~~pounds~~ of any combination of authorized dry beans, peas, or lentils, ~~in either one (1) pound packages or six (6) pounds in bulk.~~

(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) ~~Thirty-eight~~Forty dollars (~~\$38~~\$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 ~~thirty-eight~~forty dollars (~~\$38~~\$40) worth of three (3) varieties of authorized canned or frozen fruits.

(C) Any combination of at least ~~thirty-eight~~forty dollars (~~\$38~~\$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, ~~as defined~~ in 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.

~~(A) Fifty-six (56) authorized four (4) ounce containers of infant fruits and vegetables;~~ or

~~(B) Sixty-four (64) three and a half (3.5) ounce containers.~~

(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~~ pounds of authorized whole grains, which must include:

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

1. At least two (2) ~~one sixteen (16) ounce~~ pound packages of ~~white or yellow~~ soft corn tortillas (white or yellow); or
2. At least two (2) ~~one sixteen (16) ounce~~ pound packages ~~of or two (2) pounds~~ of bulk oatmeal or oats; or
3. At least two (2) ~~one sixteen (16) ounce~~ pound packages ~~of or two (2) pounds~~ of bulk 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.

AUTHORITY

Federal:

7 Code of Federal Regulations part 246.12(g)(3)(i) (2019): *Minimum variety and quantity of supplemental foods.* The State agency must establish minimum requirements for the variety and quantity of supplemental foods that a vendor applicant must stock to be authorized. These requirements include that the vendor stock at least two different fruits, two different vegetables, and at least one whole grain cereal authorized by the State agency. The State agency may not authorize a vendor applicant unless it determines that the vendor applicant meets these minimums.

State:

Health and Safety Code section 123310, subdivisions (b), (c): The department, under any program established pursuant to this article, shall authorize retail food vendors, by written agreement, to accept nutrition coupons and reimbursement according to the system developed by the department.... The department shall establish criteria to limit the number of retail food vendors with which the department enters into agreements. The criteria, at a minimum, shall include:.. (b) [t]he ability of the department to ensure that authorized supplemental foods will be provided through in-store compliance purchases; (c) [t]he adequacy of the shelf stock of the authorized supplemental foods.

Health and Safety Code section 123322, subdivisions (a)(2), (b): [T]he department shall establish requirements for... [c]riteria used for vendor authorization.... [T]he department may... implement, interpret, or make specific this section by means of an action by bulletin or similar instruction.

STATEMENT OF REASONS

71100(a) For consistency with other regulation text, the Department is proposing to change the phrase “For participation in the Program” to “For authorization in the Program” in the first sentence of this subsection, and add the word “subsections” before “(b)(1)” in the last sentence of this subsection. Also for consistency, the Department is proposing to change both uses of the phrase “(b)(1)-(15)” to “(b)(1) through (b)(15).” These proposed changes will not alter the substance of the regulation text.

For clarity and ease of reading, in the first sentence of this subsection, the Department is proposing to (1) change the phrase “vendor and vendor applicant locations” to “vendor and vendor applicants”; (2) change the phrase “vendor applicant or authorized location” to “vendor or vendor applicant’s store location”; (3) add the phrase “WIC authorized supplemental foods in” between “location” and “the amounts listed”; and (4) remove the phrase “of WIC authorized supplemental foods” at the end of the sentence. These proposed changes will not alter the substance of the regulation text.

(b) For clarity, and to specifically direct vendors’ attention to those subsections that discuss stock that may be kept in storage on a store location’s premises, the Department is proposing to change the phrase “unless quantities of stock allowed in

storage on the premises of that store location are specified in subsections (b)(10) and (12)” to “unless subsection (b)(10)(A) or (b)(12)(B) allows specific quantities of stock to be kept in storage on the premises of the store location.” For consistency with other regulation text, the Department is proposing to change the phrase “Each vendor and applicant vendor” to “Each vendor and vendor applicant.” These proposed changes will not alter the substance of the regulation text.

(b)(1)(B) The Department is proposing a minor grammatical edit by changing “eleven and a half” to “eleven and one-half.” This proposed change will not alter the substance of the regulation text.

(b)(4) For consistency with other regulation text, including WIC Bulletin Regulations section 82250, the Department is proposing to change the weight measurement used in this subsection from pounds to ounces. This proposed change will not alter the substance of the regulation text.

(b)(5) The Department is proposing to remove the option allowing vendors to meet the minimum stocking requirements with bulk dry beans, peas, or lentils. This change reflects WIC Regulatory Bulletin 2018-04, in which the Department repealed the authorization of dry beans, peas, or lentils sold in bulk. Since bulk foods are no longer authorized, pursuant to subsection (a), they cannot be used to meet the minimum stocking requirements.

(b)(8)(A) The Department is proposing to amend this subsection to increase the \$38 minimum stocking requirement for fresh fruits and vegetables to \$40. When adopting minimum stocking requirements for fruits and vegetables, the Department has consistently set the dollar amount so that vendors are required to stock enough produce to fill two Standard Child \geq 24 Months prescriptions and two Standard Pregnant prescriptions at any given time. As the Department has previously observed, these are the most commonly prescribed packages for these food items.

On August 27, 2018, in accordance with 7 Code of Federal Regulations part 246.16(j), the United States Department of Agriculture (USDA) notified WIC State agencies that the amount of the fruit and vegetable cash-value voucher (CVV) and cash-value benefit (CVB) for children ages one to four years would increase from \$8 to \$9 on the first day of fiscal year 2019. The USDA also noted that the CVV/CVB dollar amount for women participants would remain the same for fiscal year 2019. In light of the above, the Department is proposing to increase the minimum stocking requirement for fruits and vegetables from \$38 to \$40, since vendors will now need to stock \$40 worth of fresh

fruits and vegetables in order to fill two Standard Child \geq 24 Months prescriptions and two Standard Pregnant prescriptions at any given time.¹

(b)(8)(B) The Department is proposing to increase the dollar amount of canned or frozen fruit that vendors must stock to require at least \$40 worth of three varieties of authorized canned or frozen fruits. As with the proposed change to subsection (b)(8)(A), discussed above, this proposed change reflects the increased CVV/CVB dollar amount for fruits and vegetables for children ages one to four years. The Department is proposing to increase the minimum stocking requirement for canned or frozen fruits to \$40 because this amount is enough to fill two Standard Child \geq 24 Months prescriptions and two Standard Pregnant prescriptions, the most commonly prescribed packages for these food items, at any given time.

(b)(8)(C) The Department is proposing to increase the dollar amount of canned or frozen vegetables that vendors must stock to require at least \$40 worth of three varieties of authorized canned or frozen vegetables. As discussed above with regard to the Department's proposed changes to subsections (b)(8)(A) and (b)(8)(B), this proposed change reflects the increased CVV/CVB dollar amount for children ages one to four years. To reflect this change, and to ensure that the proposed changes are consistent, the Department is proposing to increase the minimum stocking requirement for canned or frozen vegetables to \$40. Again, this dollar amount is enough to fill two Standard Child \geq 24 Months prescriptions at \$9 each and two Standard Pregnant prescriptions at \$11 each at any given time. These prescriptions are the most commonly prescribed packages that include fruits and vegetables.

(b)(8)(D) For consistency with other regulation text, the Department is proposing to change the phrase "(b)(8)(A)-(C)" to "(b)(8)(A) through (b)(8)(C)." The Department is also proposing a minor grammatical edit by changing the phrase "vendor shelf price" to "vendor's shelf price." These proposed changes will not alter the substance of the regulation text.

(b)(8)(E) For consistency with other regulation text, the Department is proposing to change the phrase "(b)(8)(A)-(C)" to "(b)(8)(A) through (b)(8)(C)." This proposed change will not alter the substance of the regulation text.

¹ Two Standard Child \geq 24 Months prescriptions at \$9 each equal \$18; two Standard Pregnant prescriptions at \$11 each equal \$22; \$18 plus \$22 equals \$40 total.

(b)(10) For clarity and consistency with other regulation text, the Department is proposing to remove the words “as defined in” and replace them with “pursuant to.” This proposed change better reflects the substance of section 82600, to which this subsection refers. This proposed change will not alter the substance of the regulation text in this subsection or section 82600.

(b)(11)(A) In light of the proposed changes to current subsection (b)(11)(B), described in detail below, the Department is proposing to incorporate current subsection (b)(11)(A) in subsection (b)(11). In order to prevent vendor confusion by more specifically describing which infant fruits and vegetables will meet minimum stocking requirements, the Department is proposing to change the phrase “four (4) ounce containers” to “authorized four (4) ounce containers of infant fruits and vegetables.” These proposed changes will not alter the substance of the regulation text.

~~(b)(11)(B)~~ The Department is proposing to repeal subsection (b)(11)(B), eliminating the option allowing vendors to meet the minimum stocking requirements by stocking 64 three and one-half ounce containers of infant fruits and vegetables. WIC Regulatory Bulletin 2018-04 repealed the authorization of three and one-half ounce containers of infant fruits and vegetables. Since this container size is no longer authorized, pursuant to subsection (a) of this section, it cannot be used to meet minimum stocking requirements.

(b)(12)(B) For consistency with other regulation text, the Department is proposing to add “(1)” between the words “one” and “gallon.” This proposed change will not alter the substance of the regulation text.

(b)(14) For consistency with other regulation text, including WIC Bulletin Regulations section 82950, the Department is proposing to change the phrase “Whole Grain” to “Whole Grains” and change the weight measurement used in this subsection from pounds to ounces. This proposed change will not alter the substance of the regulation text.

(b)(14)(A) For consistency with other regulation text, including WIC Bulletin Regulations section 82950, the Department is proposing to change the weight measurement used in this subsection from pounds to ounces. This proposed change will not alter the substance of the regulation text.

(b)(14)(A)1. For consistency with other regulation text, including WIC Bulletin Regulations section 82950, the Department is proposing to change the phrase “white or

yellow soft corn tortillas” to “soft corn tortillas (white or yellow)” and change the weight measurement used in this subsection from pounds to ounces. These proposed changes will not alter the substance of the regulation text.

(b)(14)(A)2. The Department is proposing to eliminate the option allowing vendors to meet the minimum stocking requirements with bulk oatmeal or oats. WIC Regulatory Bulletin 2018-04 repealed the authorization of oatmeal or oats sold in bulk. Since bulk foods are no longer authorized, pursuant to subsection (a), they cannot be used to meet the minimum stocking requirements.

For consistency with other regulation text, including WIC Bulletin Regulations section 82950, the Department is also proposing to change the weight measurement used in this subsection from pounds to ounces. This proposed change will not alter the substance of the regulation text.

(b)(14)(A)3. The Department is proposing to eliminate the option allowing vendors to meet the minimum stocking requirements with bulk brown rice. WIC Regulatory Bulletin 2018-04 repealed the authorization of brown rice sold in bulk. Since bulk foods are no longer authorized, pursuant to subsection (a), they cannot be used to meet the minimum stocking requirements.

For consistency with other regulation text, including WIC Bulletin Regulations section 82950, the Department is proposing to change the weight measurement used in the this subsection from pounds to ounces. This proposed change will not alter the substance of the regulation text.