

**M e m o r a n d u m****245.1632**

To: Mr. Dennis Fox  
Program Planning Manager MIC:92

Date: May 16, 1997

From: Gary J. Jugum  
Assistant Chief Counsel  
Telephone: (916) 445-3723 CalNet 485-3723

Subject: Sales of Pedialyte and Other Dehydration Products

This is in response to your May 14, 1997 memorandum to the extent that memorandum raises questions in regard to sales of Pedialyte and similar products.

Everyone now agrees that Pedialyte is a nontaxable item. Pedialyte and related products are formulated as combinations of either water and sugar, or water and sugar substitutes, identical to sports energy drinks previously regarded as nontaxable by the Board. There is no basis for distinguishing between these products for sales and use tax purposes. These products should be classified as nontaxable "food products," without regard to any previous analysis. The nontaxable products in question are as follows:

1. Pedialyte® Oral Electrolyte Maintenance Solution Freezer Pops
2. Naturalyte® Oral Electrolyte Solution
3. Infalyte® Oral Electrolyte Maintenance Solution
4. Kao Lectrolyte® Electrolyte Replenisher (power packets)
5. Isomil® DF Soy Formula For Diarrhea.

GJJ:sr