



Food Distribution National Policy Memorandum

United States
Department of
Agriculture

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Food and
Nutrition
Service

POLICY NO.: FD-127: Processing

SUBJECT: Approval of End Products and Monitoring of End Product Sales

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The purpose of this policy memorandum is to clarify a State distributing agency's (SDA) responsibilities regarding (1) the approval of end products for processing; and (2) monitoring of sales of such end products to school food authorities (SFA) in the National School Lunch Program (NSLP) by reviewing a processor's monthly performance report. Further guidance in monitoring a processor's USDA Food inventory is included in Policy Memoranda FD-064 and FD-122. These two memoranda relate specifically to reducing a processor's excessive inventory and tracking negative inventories.

Approval of End Products

In accordance with National Processing Agreements (NPA), the Food and Nutrition Service (FNS) is responsible for review and approval of end product data schedules (EPDS) of multi-State processors. However, the SDA is responsible for approval of **summary** end product data schedules (SEPDS), which describe a processor's approved end products and allow such end products to be sold within the State. The SDA is also responsible for review and approval of EPDS of **in-State processors** with the exception of beef, pork and poultry product EPDS which are all subject to approval by the Agricultural Marketing Service (AMS).

Consistent with Policy Memorandum FD-125, the SDA should approve EPDS or SEPDS, as applicable, which will permit SFAs to receive desired end products, and should facilitate procurement of such end products by SFAs in the easiest manner possible, subject to Federal procurement requirements and processing regulations. While the SDA is not obligated to approve every end product produced by a processor that is available for sale to SFAs within the State, the SDA should work closely with SFAs and processors to adjust current EPDS or SEPDS, as necessary, or approve new EPDS or SEPDS, to ensure processing of end products that will assist schools in meeting the new NSLP meal pattern requirements.

Monitoring of End Product Sales

In reviewing monthly performance reports, the SDA must ensure that only end products listed on approved EPDS and SEPDS are sold, and that such end products are sold only to SFAs eligible to receive them. SFAs must have USDA Food inventories at the processor, en route to the processor, or on order for purchase and delivery to be

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eligible to purchase end products. As indicated in Policy Memorandum FD-122, although not recommended, the processor may choose to sell end products to eligible SFAs in advance of USDA Food purchases, in which case it assumes liability if USDA is unable to make the purchases.

If a processor or distributor sells end products that have not been approved in the State, or sells end products to ineligible SFAs, the SDA must take action to ensure that restitution of inventory is made for the quantity of the USDA Foods in the end products that were improperly sold. If end products are sold through a distributor, the processor is responsible for ensuring that the distributor is informed of the SFAs eligible to receive end products, for drawing down the USDA Food inventory levels that it holds for such SFAs, and for keeping the distributor informed of the current inventory levels of each SFA. The processor may be held liable for a distributor's sale of end products to ineligible SFAs, or to SFAs that do not have sufficient USDA Food inventories at the processor. It is also important for the processor to ensure that the distributor provides notification of sale of end products in a timely manner, so that inventory levels may be correctly reported on monthly performance reports. Electronic tracking systems are available, and may be used by processors, distributors, or SDAs, to assist in monitoring USDA Food inventories and end product sales.

Restitution for the Value of USDA Food Losses

In accordance with 7 CFR 250.15(c) and 250.13(e)(2), if a processor or distributor sells end products that have not been approved or sells end products to ineligible SFAs, the SDA must ensure that restitution is made for the improperly distributed or used USDA Foods. The SDA must require the processor to replace the quantity of the USDA Food loss with equal quantity of commercially purchased food of the same generic identity, of U.S. origin, and of equal or better quality in all USDA purchase specifications, and to make the appropriate correction in reporting inventory on the monthly performance reports. If necessary, the SDA must take claim actions against the processor to recover the USDA Food loss, in accordance with the standards and procedures in FNS Instruction 410-1, Claims for Losses of Donated Foods and Related Administrative Losses—Procedures for the State Distributing Agency.

Questions relating to approval of end products, monitoring of end product sales, or other aspects of the processing of USDA Foods, should be directed to Sherry Thackeray at (703) 305-2652.



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