



1320  
Braddock  
Place  
Alexandria  
VA 22314

**Subject:** **Retailer Eligibility- Prepared Foods and Heated Foods**

**Legislation:** Food and Nutrition Act of 2008, Sections 3 and 9

**Regulations:** 7 CFR 271.2 (definition of “retail food store”) and 278.1(b)(1)(iv)

**Supersedes:** Policy Memorandum 2017-02, “Retailer Eligibility- Prepared Foods and Heated Foods”

**Implementation:** Upon Publication

**OVERVIEW:** This memorandum defines *heated foods*, *hot foods*, and *cold prepared foods* in Supplemental Nutrition Assistance Program (SNAP) retailer eligibility determinations. Only staple food products are counted toward a firm’s eligibility to participate in SNAP. Heated foods, hot foods, and cold prepared foods are not considered staple foods, and are not counted when determining if a firm meets Criterion A or Criterion B to be eligible to participate in SNAP as an authorized retail food store.

However, heated foods, hot foods, and cold prepared foods are counted when determining if a firm is a restaurant. If more than 50% of what a firm sells are heated foods, hot foods, and/or cold prepared foods, then that firm is considered a restaurant. Other than the States that operate a Restaurant Meals Program, restaurants are not eligible for SNAP authorization as retail food stores.

### **Home Preparation and Consumption**

Heated foods, hot foods, and cold prepared foods are not considered foods intended for home preparation and consumption for retailer eligibility determinations. Regardless of if the retailer intends for the food to be prepared or consumed by the SNAP participant in their home or offsite, or the intent of the SNAP participant to prepare or consume the food purchased at home or offsite, the heated, hot, or cold prepared food item would not be considered in establishing if the retailer is eligible to participate in SNAP. For example, a cold prepared sandwich or salad, while eligible to be purchased with SNAP benefits, would not be considered a staple food item when

---

The contents of this document do not have the force and effect of law and are not meant to bind the public or FNS in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

USDA is an Equal Opportunity Provider, Employer and Lender

determining if a firm is eligible to participate in SNAP. Likewise, a product that is heated or cooked, before or after purchase, would not be considered a staple food item for retailer eligibility purposes. The Food and Nutrition Service has sole authority in determining if any food item the firm sells is a staple food intended for home preparation and consumption.

### **Heated Foods**

Heated foods includes foods cooked or heated on-site by the retailer before or after purchase, regardless of whether cooking/heating is provided for free or at a cost. When foods are heated by the retailer after purchase, this is sometimes referred to as the “you-buy-we-fry” business model; however, foods cooked or heated by any method (e.g., baked, grilled, etc.) count. Examples of heated foods include, but are not limited to:

- pizza (sold cold and then baked or heated);
- chicken (sold cold, frozen, or uncooked and then cooked or heated ); and
- seafood, such as fish, shrimp, crabs, or other shellfish (sold cold, frozen, or live and then cooked, steamed, or heated).

### **Hot Foods**

Hot foods includes any food product that is hot at the point of sale, regardless of who cooks/heats it. Examples of hot foods include, but are not limited to:

- coffee or tea;
- soup;
- roast or fried chicken; and
- pizza.

### **Cold Prepared Foods**

Cold prepared foods includes any food that:

- is made by the retailer (for example, food products that are assembled, cooked, mixed, or otherwise prepared by the retailer),
- is made or prepared by the retailer on the premises of the firm,
- is sold cold, and
- requires no additional preparation for immediate consumption.

Examples of cold prepared foods include, but are not limited to:

- fresh salads, fruit cups or salad bars;
- sandwiches;
- meat and/or cheese platters;

- prepared meats or seafood; and
- Soft-serve or scooped ice cream served in cups, bowls, or cones (distinct from a sealed container of ice cream).

Any questions regarding this policy should be directed to: [SM.FN.RPMDHQ-WEB@usda.gov](mailto:SM.FN.RPMDHQ-WEB@usda.gov).

Shelly Pierce  
Acting Director  
Retailer Policy and Management Division  
Supplemental Nutrition Assistance Program