



United States
Department of
Agriculture

OCT 15 2004

Food and
Nutrition
Service

SUBJECT: Details for Phase-In of National Approval of End Product Data Schedules
and National Master Processing Agreements

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Center Drive

TO: State Distributing Agencies

Alexandria, VA
22302-1500

This memorandum provides guidance and timelines for State Distributing Agencies (SDAs) that are able to take advantage of nationally approved EPDS and Summary EPDS; and that are able to participate with processors under a National Master Processing Agreement (NMPA).

When national agreements were piloted with seven processors, 24 States participated. Our goal is to make NMPA available to all multi-State processors and eventually have all SDAs participating. Those States that cannot participate this year should identify the specific barriers and work with Food Distribution Division (FDD) and the American Commodity Distribution Association (ACDA) processing committee for resolution. We acknowledge that timing could prevent some States from participation this year; but we anticipate that States will follow along as they are able.

The NMPA and national approval of EPDS is available for all **Multi-State Processors** according to the following schedule. A detailed timeline of events is also attached.

EPDS Approval Schedule

School Year 2005-2006: FDD will approve all EPDS utilizing cheese, nonfat dry milk, fruit, vegetable and egg products. AMS Poultry will approve all poultry product EPDS.

School Year 2006-2007: FDD will approval of all EPDS utilizing other "Group B" commodities (i.e. grain, peanut and oil products). AMS Livestock will approve all red meat product EPDS.

We have asked processors to examine EPDS to determine the primary commodity (largest volume) received and submit NMPA and EPDS during that year, for example:

Pizza: Processors can process cheese, flour, oil, and tomato paste. If the processor determines that cheese is the primary commodity received for processing, then NMPA and EPDS can be submitted in for SY 05/06 approval, showing flour and oil as optional.

Cheeseburgers: Processors can accept commodity beef and cheese for conversion into a pre-cooked cheeseburger. Beef will likely be the primary commodity received and can be submitted for approval for SY 06/07.

Nonfat Dry Milk (NDM): FDD will continue to approve *all EPDS for single-State and multi-State* NDM processors even if NDM is not the primary commodity. All multi-State processors utilizing NDM can submit NMPA for SY 05/06. However, processors should consider the fact that USDA may not be currently purchasing NDM under price support operations. There is always a chance that NDM will not be available in SY 05/06 as a “bonus” commodity.

An EPDS with multiple donated foods will be reviewed and approved in its entirety even if one or more donated foods listed on the EPDS is not scheduled for national approval until the following year. While FDD will approve any EPDS submitted in the correct format, nutritional contribution or meal pattern requirement information will not be reviewed.

Confidentiality: USDA takes processor concerns about confidentiality and proprietary information on the EPDS as well as product formulation discussions with FDD staff very seriously. EPDS and SEPDS are **not** subject to Freedom of Information Act (FOIA) requests. We hope that States continue to respect the confidentiality of this proprietary information. FDD will maintain a file copy of the EPDS and the originals will be returned to the processor. EPDS are perpetually approved unless the formulation changes or a processor is advised to update an EPDS based on CPA Audit results. We plan to establish an ECOS link for State ONLY access to a master file of SEPDS information.

Summary EPDS: Based on the phase-in schedule, processors will no longer submit copies of EPDS to SDAs. In place of the EPDS, processors will submit Summary End Product Data Schedules (SEPDS), which are a compilation or summary of all relevant information from the EPDS for recipient agencies to effectively order commodities and State agencies to monitor and oversee the program.

ACDA has developed two SEPDS templates. “SEPDS A” is to be used for the majority of processors utilizing substitution which requires 100% yield, Guaranteed Return Option for meat or Standard Yield. “SEPDS B” is used for meat and poultry products produced under Guaranteed Minimum Return.

USDA will return approved SEPDS to processors. Processors will have the option of customizing SEPDS for individual States if desired. For example, if a State requires CN labels, the processor can choose to delete the rows containing data on products that do not meet the requirements, or are not available for distribution in that State. FDD plans to post the “master SEPDS” in the State side of ECOS, so that States can verify information on the SEPDS, if necessary. Even though the EPDS have been approved at the national level and the relevant data migrated to a SEPDS, the State determines the end product available in that State. States may still require processors to submit proof of marketability or other documentation before ordering donated foods for the processor.

Formulation changes or new products added after the initial SEPDS approval will be submitted to SDAs on a separate SEPDS. States may request electronic copies of the SEPDS to facilitate timely and efficient preparation of end product catalogues for recipient agencies.

Pricing: USDA concurs with the ACDA Processing Committee decision to remove all pricing information from the EPDS and not to include pricing information of the SEPDS. The SEPDS includes the contract value of donated food and total value of donated food per case.

No procurement or bidding of end products occurs at the federal level. No pricing information other than the value of donated food contained in a finished case which is used for rebates and discounts will be contained on the SEPDS. State and recipient agencies continue to be responsible for competitive purchase of commodity processed products or processing services when necessary. If requested by a State, a processor shall provide pricing information summaries and an explanation of what the pricing information represents.

National Master Processing Agreements: USDA will enter in to NMPA with any processor that has nationally approved EPDS. The new National Master Processing Agreement template will be available on the FDD website and a complementary State Participation Agreement (SPA) template will be available on the ACDA web page on November 1. The SPA is a two page document that conveys State specific information to processors with approved NMPA. FDD will post a list of all processors with approved NMPA and their approved methods of value-pass-through on the FDD website.

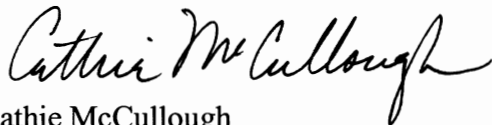
USDA is attempting to accommodate State needs while providing standardization and ease for processors. States will be encouraged to download the prototype SPA template and customize it to suit their individual requirements such as CN labeling, nutritional information, donated food ordering procedures, or limitations on value-pass-through. Once completed, State should provide the SPA to processors. Processors will complete their portion of the SPA and return the document along with the SEPDS to the State agency.

Processors are still required to send monthly performance reports to State agencies in the State's desired format. A national summary monthly performance report will be submitted to FDD.

Inventory Protection: Surety bonds, escrow accounts, or letters-of-credit must be received by FDD from the processor no later than **May 31**. Based on established procedures, FDD will instruct the processor on the appropriate amount of inventory protection. Regarding inventory liability, Part 250.30(c)(viii)(B) holds the State Agency responsible for the value of the inventory. Under the NMPA demonstration program, since USDA will be holding the protection instrument, the State liability will be waived. A policy memorandum describing this waiver and detailing the process for determining the appropriate dollar amount of protection needed will be issued shortly.

We hope that the majority of States are able to take advantage of the NMPA and nationally approved EPDS for the upcoming school year. We appreciate your patience as we work to phase-in NMPA and EPDS approval. Implementing these changes will result in program efficiencies and paperwork reduction for everyone involved in the commodity processing program.

Please do not hesitate to contact my staff if any questions should arise concerning. Questions or comments should be directed to David Brothers at (703)305-2668, David.Brothers@fns.usda.gov, or Sherry Thackeray (703)305-2652, Sherry.Thackeray@fns.usda.gov.



Cathie McCullough
Director
Food Distribution Division

Attachment

Timeline & Flow

Mid-October:

EPDS and SEPDS templates and instructions will be available on ACDA's web page (<http://www.commodityfoods.org>).

NMPA Processor and State Guidance and Participant Roles and Responsibilities will be available on FDD's web page (<http://www.fns.usda.gov/fdd/programs/national/default.htm>).

Multi-state processors with products eligible for National approval of EPDS may begin submitting EPDS to USDA as soon as possible. USDA will review EPDS on a first-in, first-out basis and will make every effort possible to provide timely turnaround.

November 1:

National Master Processing Agreement will be available on FDD's web page (<http://www.fns.usda.gov/fdd/programs/national/default.htm>). Multi-state processors with products eligible for national approval of EPDS may complete and submit the NMPA to USDA as soon as possible.

The State Participation Agreement will be available on ACDA's web page (<http://www.commodityfoods.org>). States are encouraged to download the SPA and to customize it to their needs and make available to processors requesting it or on line.

November 8:

USDA will also be providing written policies explaining 1) the bonding process and responsibilities in relation to NMPA and States and 2) USDA concurrence with the elimination of pricing on EPDS and SEPDS.

November 16:

USDA will publish the Nov. 15 price file and cheese prices. Processors with products eligible for National Approval of EPDS may complete the SEPDS with the contract value and commodity value per case and submit to USDA for approval. USDA will compare the SEPDS with the submitted EDPS and return to processor for distribution to State agencies.

December / Ongoing:

USDA plans to have a list of all processors with approved NMPA, method of value-pass-through, and donated foods processed on the FDD website. USDA plans to have all approved SEPDS available on ECOS as well so that, if necessary, States may verify the accuracy of the SEPDS provided by processors. If the information is not available in ECOS, States may request the master file copy from USDA. These listings will be updated on a regular basis as additional processors are approved for the NMPA.

Spring:

States may order commodities for direct shipment to processors if the processor has a signed NMPA and a SPA with the State. USDA will set the bond amount and request Processors submit bond no later than **May 31**. Orders will be cancelled at the last possible time if USDA does not receive the bond.