



Food and
Nutrition
Service

Park Office
Center

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Retailer Policy and Management Division, SNAP
RPMD Policy Memorandum 2017-02

SEP 29 2017

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)

Rule: N/A

IMPLEMENTATION DATE: October 16, 2017

OVERVIEW: This memorandum clarifies policy related to prepared foods and heated foods in Supplemental Nutrition Assistance Program (SNAP) retailer eligibility determinations.¹ “Prepared foods” refers to hot or cold foods not intended for home preparation and/or home consumption, while “heated foods” refers to foods cooked or heated by the retailer before or after purchase. Both prepared and heated foods are counted when determining if a store is a restaurant, and therefore ineligible for SNAP authorization under 7 CFR §§ 271.2 and 278.1(b)(1)(iv) and are excluded when determining if a store meets Criterion A or B under 7 CFR §§ 271.2 and 278.1(b)(1)(i)(A). This memorandum describes and provides examples of prepared foods (hot and cold) and heated foods that must be considered for these purposes.

For additional information regarding restaurants as ineligible stores, please see Policy Memorandum 2017-01.

CLARIFICATION:

Restaurant Threshold: Under 7 CFR §§ 271.2 and 278.1(b)(1)(iv), firms are considered restaurants if they have more than 50 percent of total gross sales from heated foods and/or prepared foods. As stated above, heated foods are foods cooked or heated by the retailer before or after purchase.

¹ This memorandum does not address whether prepared foods or heated foods are eligible for SNAP purchases. Further, this memorandum only applies to firms whose eligibility is determined under Criterion A or Criterion B, in accordance with 7 CFR § 278.1(b)(1)(i), and does not apply to firms authorized for SNAP under the Restaurant Meals Program, as meal service providers, or any retailer type that has other eligibility criteria.

Prepared foods are hot or cold foods not intended for home preparation and/or home consumption, including prepared foods that are consumed on the premises or sold for carryout. This is known as the “Restaurant Threshold.” Restaurants are ineligible for SNAP authorization.

Criteria A or B: Firms not determined to be restaurants must still meet Criteria A or B. Under 7 CFR § 278.1(b)(1)(i)(A), firms that offer for sale, on a continuous basis, a variety of qualifying foods in each of the four categories of “staple foods,” as defined in 7 CFR § 271.2, including meeting the perishable foods requirement (Criterion A), are eligible for SNAP authorization, if all other eligibility criteria are met. If a firm is ineligible under Criterion A, it may still be eligible under Criterion B. Criterion B requires firms to have more than 50 percent of total gross sales in staple foods. That definition provides that prepared foods and heated foods may not be counted as staple foods for Criteria A and B determinations.² Generally, a firm that fails to meet Criterion A and Criterion B must be denied or withdrawn from SNAP. A firm that meets either of these Criteria must meet all other eligibility requirements in order to be authorized.

Heated foods, hot prepared foods, and cold prepared foods are clarified below, with descriptions and examples of each.

Heated Foods (Foods Cooked or Heated On-Site by the Retailer before or after Purchase): 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, though foods cooked or heated by any method (baked, grilled, etc.) count. Examples include the following foods:

- Pizza (cooked and sold hot, or sold cold and then baked by the retailer on-site);
- Chicken or Shrimp (fried and sold hot, or sold raw and then fried by the retailer on-site); and
- Crabs or mussels (steamed and sold hot, or sold live, and then steamed by the retailer on-site).

Hot Prepared Foods: Includes any food product that is hot at the point of sale, regardless of who cooks/heats it. Hot foods are presumed to be for immediate consumption. Examples include the following foods:

² Under Criterion B, to determine the percentage of staple foods that are part of a firm’s total gross sales, prepared and heated foods must be counted as part of total gross sales.

- Hot coffee or tea;
- Hot soup; and
- Hot pizza

Cold Prepared Foods: Includes any food that is made or prepared by the retailer on the premises of the firm, is sold cold, and requires no additional preparation. The foods below, when they meet these four conditions, are considered examples of cold prepared foods:

- Fresh salads or salad bars;
- Sandwiches;
- Fruit cups;
- Meat and/or cheese platters;
- Pickled eggs or sausages sold without sealed packaging; and
- Soft-serve or scooped ice cream served in cups, bowls, or cones (distinct from a sealed container of ice cream).

If you have questions regarding this memorandum, please contact the Retailer Management and Issuance Branch at RPMDHQ-WEB@fns.usda.gov.



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