

Section 4

USDA Foods

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Section 4 USDA Foods

Handling of U.S. Department of Agriculture (USDA) Foods must be in accordance with federal requirements found in the Code of Federal Regulations (CFR) at 7 CFR Part 250.

Additional requirements specific to The Emergency Food Assistance Program (TEFAP) can be found at 7 CFR Part 251 and in the Texas Administrative Code (TAC) Title 4, Part 1, Chapter 26.

Allocation

Entitlement Funds (“60/40” Formula)

The Texas Department of Agriculture (TDA) allocates funds for entitlement of USDA Foods according to the service area’s “60/40” formula. Using its share of entitlement, each contracting entity (CE) requests from TDA the USDA Foods it wants to receive and distribute.

The “60/40” formula is based 60% on the number of county residents who live at or below the official poverty line, and 40% of the number of unemployed county residents. (7 CFR §251.3(h) and TAC §26.108)

Allocation of USDA Foods to Sites

CEs and subdistributing agencies receive, handle, store, and distribute USDA Foods to sites that distribute, or agree to distribute, USDA Foods exclusively to eligible persons and eligible households.

Unless otherwise specified by TDA, CEs and subdistributing agencies allocate to sites a share of USDA Foods based on historical or projected usage rates such as the number of meals and/or households served. (TAC §26.108(b) and (c))

The distribution of USDA Foods must be according to TDA priorities. See “Distribution Priorities” in this handbook section.

CEs’ and subdistributing agencies’ methods of allocating USDA Foods to sites are subject to TDA’s review and approval.

Direct Shipments

CEs receive direct shipments of USDA Foods. .

USDA Foods Available

For a list of available USDA Foods that might be available through TEFAP, go to www.fns.usda.gov/usda-fis/usda-foods-available.

Bonus Foods

Bonus foods are special USDA Foods purchased by USDA that are uncertain from year to year and do not require entitlement. TDA allocates bonus USDA Foods by actual food truckloads or by dollar value increments. When allocating bonus foods, TDA uses each service area's 60/40 formula. In addition, TDA may use alternate allocation methods.

Receipt of USDA Foods

FNS Instruction 709-5,¹ *Shipment and Receipt of USDA Foods*, establishes the responsibilities for shipment and receipt of USDA Foods. The entities responsible for USDA Foods include TDA, CEs, vendors, and carriers. The standards and procedures in this instruction are necessary to determine whether shipments of USDA Foods are received in optimal condition and the quantities ordered, and in ensuring the proper disposition and replacement of USDA Foods when circumstances warrant.

Signing for USDA Foods

The CE must sign to validate receipt when USDA Foods are delivered to them. Likewise, each subagency must sign for receipt of USDA Foods when the CE delivers them, or when the subagency picks up the food.

CEs, subdistributing agencies, sites, and others authorized to possess USDA Foods must ensure that USDA Foods are safeguarded. Any entity that stores USDA Foods for any period must become familiar with and adhere to state and local health codes that apply to stored food products.

Inspection of USDA Food Shipments

CEs must inspect USDA shipments to ensure the product and quantity is as identified on the delivery or pick-up document (that is, bill of lading or invoice) and that the product is in good condition. If the product is in questionable condition (that is, damaged or spoiled) or the quantity is not correct, then the CE must take the following steps:

1. Note an exception on the delivery or pick-up document when signing
2. Obtain the signature of delivery/warehouse personnel on the delivery or pick-up document
3. Notify TDA immediately

¹ FNS Instruction 709-5 is available at <https://www.fns.usda.gov/usda-foods/shipment-receipt-goods-instruction-709-5>

Electronic Receipting for USDA Foods

CEs must electronically receipt² into USDA's Web-based Supply Chain Management (WBSCM)³ system within 24 hours for USDA Foods shipments received. USDA requires shipment receipts to be entered within 24 hours to meet contractual requirements and to provide prompt payment to vendors.

Storage

USDA requires CEs and subagencies that store USDA Foods to use storage practices that prevent premature deterioration of food. Additionally, the areas in which USDA Foods are stored must be maintained in good condition. Storage of USDA Foods must permit them to be distinguishable from other foods.

Any entity that stores USDA Foods for any period must become familiar with and adhere to state and local health codes that apply to stored food products.

Food Safety

USDA Foods must be stored in safe and secure conditions. The CE is responsible for (1) determining which regulations apply whether the storage is controlled by the CE or not and (2) ensuring that the facility has an adequate plan and all necessary permits.

Temperature

Products must be stored at temperatures recommended by state and local health codes. USDA Foods Product Information Sheets⁴ may provide shelf-life information for a product at various temperatures. Products should not spoil during the shelf life; however, storage at higher temperatures increases the likelihood of insect infestation and may shorten shelf life.

All entities storing USDA Foods should verify food temperatures on delivery and annotate the receiving document when proper temperatures are exceeded.

Cooler, freezer, and dry storage temperatures must be checked and recorded during regular business hours, and shutdown or vacation periods

- a minimum of every other day,
- immediately after a power loss is known or suspected, and
- late each Friday afternoon and early each Monday morning (if operations are suspended during weekends).

² *Electronic receipting* – The entering of shipment receipts into an online management system.

³ *WBSCM* – The web-based ordering and procurement system for USDA Foods.

⁴ Found at www.fns.usda.gov/usda-fis/usda-foods-product-information-sheets.

All entities storing USDA Foods may use *Temperature Record* (Form H1639)⁵ to record temperatures. TDA staff will check temperature records (whether Form H1639 or other similar recordkeeping method) during scheduled administrative reviews. Consistent improper temperatures will be recorded as a finding. Proper cold storage temperatures are indicated below. For dry storage, TDA recommends that temperatures remain between 50 and 70 degrees Fahrenheit per industry standards. Dry storage temperatures over 85 degrees Fahrenheit will be recorded as a finding in the administrative review.⁶

Temperature Chart

Food	Dry Storage (50°-70°F)	Refrigerated Storage (36°-40°F)	Freezer Storage (0°F or below)
Dairy Products			
Butter.....	Satisfactory up to 2 weeks (maximum 45°F)	Required over 2 weeks
Cheese, natural.....	Required (maximum 45°F)	.....
Cheese, processed	Required (maximum 45°F)	.....
Milk, canned.....	Satisfactory	Preferred.....	.....
Milk, fluid whole...	Required (maximum 45°F)	.....
Eggs			
Shell.....	Required.....	.....
Dried.....	Required.....	.....
Frozen.....	Required.....
Meat and Meat Products			
Frozen meats, such as ground beef; hams and shoulders; pork loins; turkeys; etc.....	Required.....
Cured hams and shoulders; bacon; etc.....	Required....	.....
Canned hams.....	Required.....	.....

⁵ Go to www.SquareMeals.org. Choose “Programs” then “The Emergency Food Assistance Program,” click on “TEFAP Administration/Forms,” then put the proper form number or name in the appropriate search field.

⁶ Consistent with [USDA’s Food Safety and Inspection Service Guidance](#) and Health and Human Services dry storage requirements for licensed nursing home facilities ([Texas Administrative Code, Title 26, Part 1, Chapter 554, Subchapter D, Division 2, Rule 554.318\(k\)\(4\)](#)).

Food	Dry Storage (50°-70°F)	Refrigerated Storage (36°-40°F)	Freezer Storage (0°F or below)
Other canned meats, such as beef/gravy; pork luncheon meat; pork/gravy; etc.....	Satisfactory.	Preferred.....	.....
Canned Fruits Other canned fruits, such as apples and applesauce; apricots; blackberries; cherries; cranberry sauce; figs; grapefruit sections; grapefruit juice; peaches; purple plums (prunes); etc.....	.....	Preferred.....	.....
Fresh Vegetables Onions..... Potatoes, Irish.... Potatoes, Sweet ... Other fresh vegetables, such as green beans; beets; cabbage; carrots; spinach; etc.....	Satisfactory. Satisfactory Required (maximum 55°F)	Preferred..... Preferred (minimum 40°F) Required...	..... ..... ..... .....
Fresh Fruits Apples; peaches; pears; purple plums; etc...	.....	Required.....	.....
Dried Vegetables Beans, high moisture..... Beans, low moisture.....	Satisfactory for 60 days Satisfactory	Required over 60 days Preferred.....	..... .....
Dried Fruits Apples; apricots; peaches..... Figs; prunes; raisins; etc.....	Satisfactory for 2 weeks Satisfactory	Required over 60 days Preferred.....	..... .....
Cereal Products Regular cornmeal; whole wheat flour..... Degermed cornmeal; all-purpose and bread flour; rice; etc.....	Satisfactory for 60 days Satisfactory	Required over 60 days Preferred.....	..... .....

Food	Dry Storage (50°-70°F)	Refrigerated Storage (36°-40°F)	Freezer Storage (0°F or below)
Miscellaneous			
Honey.....	Satisfactory	.....	.....
Nuts.....	.....	Required.....	
Peanut Butter.....	Satisfactory	Preferred.....	.....

Air Circulation

Frozen, chilled, and dry storage areas must have air circulation. USDA Foods must be stored on pallets or shelves with six inches of clearance from the floor and walls and two feet of clearance from the ceiling.

Stacking

Stacks of USDA Foods should be

- sufficiently low so that the product at the bottom will not burst or be crushed by the weight of the product above,
- cross-stacked,
- away from steam, heat, or moisture, and
- shrink-wrapped if stored at the top of a storage rack.

Protection of Stored Food

CEs must ensure that USDA Foods are in good condition by taking the following steps:

- Checking all products frequently for deterioration
- Inspecting for tears in sacks and broken cartons
 - CEs must recover foods from torn sacks or broken cartons and repackage any foods that remain in good condition. CEs must dispose of spoiled foods as instructed in “Food Losses” in this handbook section.
- Maintaining all storage areas in a clean and orderly condition
- Storing foods away from pesticides, cleaning supplies, and paper products
- Using security measures to prevent theft
- Inspecting storage areas monthly and exterminating as necessary

Some foods, such as grains, dried fruit, and string cheese, are more sensitive to storage conditions. The table below illustrates storage for grains.

Storage of Grains during Summer Months	
TDA recommends . . .	Grain products to be stored in cool storage.
TDA requires . . .	Grain products in cool storage remain there until distribution. NOTE: Grain products moved from cool storage to dry storage are at risk of spoilage. CEs are liable for such spoilage.

Inventory Requirements

CEs must maintain complete and accurate records of USDA Foods that the CE has received and distributed. CEs must differentiate between USDA Foods and other purchased or donated foods, and separate inventory records are required for USDA Foods. All CEs, subdistributing agencies, and sites are responsible for good inventory management so that USDA foods are distributed to recipients timely and in optimal condition.

Good practices include

- requesting only an amount of food that can be used without waste,
- preventing excess inventory levels, and
- detecting damage or spoilage.

The CE is responsible for two types of inventory:

- **Perpetual Inventory** — An ongoing accounting system that requires daily entries to document the amounts of food added to or removed from storage.
- **Physical Inventory** — A process to account for all USDA Foods received since the last physical inventory and to report those on hand at the time of the report.

Date of Possession

CEs must record the date of possession of USDA Foods on the perpetual inventory. The date of possession of USDA Foods by a CE is the date the CE accepts delivery directly from USDA. Subdistributing agencies and sites take possession and are responsible for USDA Foods on the date the foods are picked up or delivered from the CE. If applicable, the possession date may be the pickup delivery day from a

commercial distributor or a food processing company.

CEs' agreements with subdistributing agencies and sites must include the chain of custody responsibilities for USDA Foods at any time before distribution to participants. For example, CEs must ensure the ongoing responsibility of subdistributing agencies that indirectly distribute USDA Foods to recipients through other agencies, organizations, and sites.

Site Inventory Requirements

As necessary, CEs may establish and apply inventory controls at sites and to all agents. CEs must establish inventory controls that are sufficient to ensure that USDA Foods are safeguarded and used and distributed as intended. If indicated by review findings or other information received, TDA may impose corrective action to require CEs to implement any inventory controls deemed necessary for any sites or agents who receive USDA Foods.

Determining Inventory Levels

A CE's USDA Foods inventory may not exceed six month's supply without approval from USDA. Inventory levels are calculated based on historical food usage in typical months.

To determine the months on-hand of a USDA Food: take the accumulated inventory balance at the end of the month to be reported and divide that number by the average monthly quantity of the food item distributed to recipient agencies (RAs).⁷

EXAMPLE: 1,000 units of canned peaches on hand ÷ 250 units of canned peaches distributed in a typical month = 4 months of canned peaches in inventory

For foods that have no historical data, base estimates on typical usage of similar foods. For instance, if using whole-grain rotini for the first time, develop inventory estimates by averaging the usage of other pasta products in a typical month, e.g., whole-grain macaroni.

Keep in mind that certain USDA Foods, such as shelled eggs or fresh produce, have shorter shelf lives than the six-month limit. Those foods must be managed in a way that allows them to be consumed while in optimal condition.

CEs that have an excess of six months' supply of any USDA Food may be required to submit a justification for the excess inventory.

Reporting Inventory Levels

Quarterly, each CE will submit the *TEFAP Physical Inventory and Months on Hand Supply* report on a TDA-provided spreadsheet. This report will gather quarterly physical counts, book counts, and usage rates of USDA Foods within the fiscal year of TEFAP participation.

⁷ *Recipient agency (RA)* - A public or private nonprofit agency or organization eligible to receive distributions of USDA Foods. For more information, refer to *TEFAP Handbook, Section 3, Managing the Program*.

For the June and December reporting periods, CEs must conduct and report both physical and book counts. For the March and September reporting periods, CEs must conduct and report only book counts. TDA reports excess inventory to USDA in June and December reports.

Refer to the table below for required reporting periods and deadlines.

CE Inventory Reporting Timeframe

TDA Provides Spreadsheet on or Around	CE Inventory Reporting Period	CE Report Due 5 th Business Day of these Months**
February 28	March 1-31	April
May 31	June 1-30	July
August 31	September 1-30	October
November 30	December 1-31	January

**The CE must submit a completed report to TDA five business days following the CE inventory reporting period.

If a CE has over six months' inventory, the CE must also include a corrective action plan (CAP) for reducing inventory. The CE places the CAP in the "comments" column of the report.

Examples of acceptable CAPs include:

- reduce the shared maintenance fee,
- eliminate the shared maintenance fee, and
- transfer the excess inventory to a different CE.

An unacceptable CAP lacks specificity to where it will not result in inventory reduction.

TDA will provide the *TEFAP Physical Inventory and Months on Hand Supply* spreadsheet on or around November 30 and May 31 of each year. The reporting periods then continue through December 31 and June 30. The CE must submit a completed report to TDA five business days after each reporting period.

After receipt of the CE's *TEFAP Physical Inventory and Months on Hand Supply* report, TDA may conduct an on-site monitoring visit to verify inventory.

USDA Foods Transfer

Sometimes CEs or subagencies cannot use USDA Foods timely. TDA may transfer USDA Foods from one program to another after requesting USDA approval. However, TDA does not need USDA approval to transfer USDA Foods in the same program.

EXAMPLE: Food Bank C cannot utilize, timely, and in optimal condition, TEFAP green beans. TDA chooses to transfer the TEFAP green beans to Subdistributing Agency J, which also operates

TEFAP. The transfer does not require USDA approval.

EXAMPLE: Site E wants to transfer TEFAP green peas to Site L, which also operates TEFAP. TDA can approve the transfer without USDA approval.

EXAMPLE: Food Bank A notifies TDA of an excess of TEFAP corn and requests to transfer the corn to Food Bank L, which operates the Commodity Supplemental Food Program (CSFP) but not TEFAP. TDA must request approval from USDA because the transfer occurs across two programs — CSFP and TEFAP.

In all cases, CEs, subdistributing agencies, and sites must contact the entity that provides TEFAP foods to them.

EXAMPLE: A site contacts either the subdistributing agency or the CE, as applicable. The subdistributing agency contacts the CE. The CE contacts TDA.

TDA, CEs, and subagencies must maintain records of a transfer. For more about record retention, see *TEFAP Handbook*, Section 3, *Managing the Program*.

Insurance

CEs and subdistributing agencies must obtain insurance to protect the value of USDA Foods inventories. Reasonable insurance premiums are allowable costs.

The insurance amount must be at least equal to the entity's average monthly value of month-end USDA Foods inventories in the previous fiscal year (as determined by one of USDA's foods valuation methods in 7 CFR Part 250).

Entities that are not required to obtain insurance include, but are not limited to:

- Sites
- Food pantries
- Soup kitchens
- Community action agencies

USDA has reserved the right to grant an exemption to entities that maintain a small amount of USDA Foods inventory.⁸

⁸ To request an exemption, email CommodityOperations@TexasAgriculture.gov or call 877-TEX-MEAL (877-839-6325)

Distribution

CEs and subagencies should ensure the distribution of USDA Foods in optimal condition. Participants should have the opportunity to consume USDA Foods before the product end dates, discussed below, have passed.

best-if-used-by or **best-if-used-before** – Date that a product will be of best flavor or quality.

use-by – Last date that the manufacturer recommends using the product at peak quality.

sell-by – Date by which the manufacturer recommends that a store sell the food product for inventory management purposes.

If handled properly, food could still be wholesome and safe to consume beyond its product end date. However, if handled improperly, food can lose quality before the product end date. Therefore, USDA Foods with expired product end dates should not be distributed to program recipients, so considerations must be made for inventory management. Generally, CEs and subagencies should use first-in-first-out (FIFO) inventory management by marking food cases or other containers with the date of receipt. However, CEs and subagencies should also note food product dates provided by the manufacturer. Products marked with the earliest end date (that is, best-if-used-by and best-if-used-before) should be distributed first, even if those items were received at a later date.

Other dates that affect the distribution of USDA Foods are discussed below.

pack code or **date of pack** – Foods packed shortly after harvest, including, but not limited to, canned or frozen peaches; pears; green beans; and corn. These foods may be delivered throughout the following year or until the next harvest season.

EXAMPLE: USDA Foods packed in September 2018 may be distributed in July 2019.

manufacture date – Date the product was manufactured.

Pack and manufacture dates affect inventory management differently than product end dates: Pack and manufacture dates do not necessarily provide useful information about product wholesomeness or nutritional value. As always, CEs and subagencies must practice proper storage and inventory management system to ensure that USDA Foods are distributed in optimal condition.

Payment of Costs

USDA Foods from vendors and federal storage facilities incur a delivery or handling cost. USDA is responsible for these costs. However, CEs and subdistributing agencies are responsible for any delivery charges incurred because of failure to unload a shipment within the designated time frame. (7 CFR §250.11(d))

Transfer of Title

The title to USDA Foods transfers to the CE or subagency upon acceptance of the foods at the time and place of delivery or pick up. (7 CFR §250.11(e))

Distribution Priorities

When the need for USDA Foods exceeds the available supply, CEs must allocate and distribute USDA Foods by the following priorities:

Priority 1 – To emergency feeding organizations (EFOs), defined as eligible recipient agencies (ERAs)⁹ that provide nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons, including low-income and unemployed persons (i.e., hunger relief agencies, soup kitchens, and like agencies; food pantries; and shelters for persons fleeing domestic abuse).

Priority 2 – To other ERAs that serve needy people but do not relieve situations of emergency and distress. (i.e., group treatment centers and other group living arrangements; charitable institutions, including hospitals and retirement homes; summer camps for children; or child nutrition programs providing food service).

Priority 2 is for USDA Foods that remain only after Priority 1 needs are met.

(7 CFR §251.4(h))

The requirement for CEs to develop outlets for USDA Foods conforms to the program's primary goal of distributing to eligible people and, over time, may reduce the amount of USDA Foods distributed to Priority 2. TDA will continue to monitor the distribution of USDA Foods to ensure that CEs adhere to priorities. If supported by review findings or other information, TDA will request corrective action as appropriate.

Meeting the Priority System

CEs should develop a written plan for implementing the priority system. This should include but is not limited to, how the CE determines 1) when demand exceeds supply and 2) when Priority 1 needs are met.

TDA recognizes that some CEs' inventory tracking systems cause difficulty in meeting the priority system. CEs have several options. For instance, they may choose to manually adjust the tracking system to meet the priority system. As an alternative, CEs may choose to serve TEFAP USDA Foods to only Priority 1 agencies. In all cases, each CE must comply with TDA and USDA regulations for the priority system.

⁹ For more information about ERAs, refer to *TEFAP Handbook, Section 3, Managing the Program*.

TDA wants to remain informed as CEs become aware of alternative methods to meet the priority system because shared information can benefit participants, sites, and CEs. To provide information, contact the Program Specialist.¹⁰

Distribution Quantities

TDA recommends distribution on a first-come, first-serve basis. CEs should distribute at least monthly to households for home consumption equitably according to the following considerations:

- Household size
NOTE: TEFAP provides USDA Foods to households that meet family size and income requirements.
- Available resources
- Days and hours of operation
- The expected demand for USDA Foods
- Other factors and circumstances that the CE determines are necessary

USDA Foods recipients may refuse any food item they cannot use or do not want.

CEs are permitted to use a system which encourages participants to make appointments for distribution times but cannot require it. CEs must make every effort to make an appointment system equitable by never refusing an eligible participant who does not have an appointment and by providing clear public notices that explain how to make an appointment. The process must include multiple methods for scheduling an appointment (such as online, in-person, telephone call, etc.).

Distribution to Contracted Service Area

CEs assume final administrative and financial responsibility for distributions of USDA Foods within the contracted service area. A CE's efforts to meet the needs of eligible participants in the CE's service area include:

- Improving the accessibility of USDA Foods for eligible individuals
- Referring eligible people (both applicants and participants) to a different site as necessary
- Cooperating with TDA to identify areas within a contracted service area where subdistributing agencies may be needed

Food Losses and Complaints

The CE must report all losses regardless of the cause. TDA will decide whether to pursue a claim depending on the circumstances. CEs and subdistributing agencies (as applicable) are responsible to

¹⁰ Email CommodityOperations@TexasAgriculture.gov or call 1-877-TEX-MEAL (1-877-839-6235).

ensure that sites take appropriate steps to reduce losses. Further, USDA may pursue a claim against CEs and subdistributing agencies for loss of USDA Foods, as well as for the loss or improper use of funds provided or obtained as a result of food distribution. USDA may choose to compromise, forgive, or waive a claim (waiver is not guaranteed).

There are several reasons for loss:

Fraud – Intentional concealment or willful misrepresentation of information. In this discussion, the term fraud includes theft, embezzlement, and willful misapplication.

If a loss of any amount occurs as a result of fraud, then TDA must pursue a claim against the responsible party. Additionally, federal regulations require TDA to forward the claim to USDA.

Negligence – Improper distribution or use of USDA Foods; or failure to properly store, handle, or care for the food.

TDA will not pursue a claim if the loss is less than \$500. For more on negligence, see “Fraud, Negligence, and Misuse of USDA Foods” in this handbook section.

Uncontrollable event – Hidden damage, hurricane, flood, or general power outage.

TDA will not pursue a claim if a loss is the result of an uncontrollable event. If the loss exceeds \$500, TDA informs USDA.

Report of Loss of USDA Foods

To report a loss, CEs must complete *Report of Loss of USDA Foods* (Form H1638)¹¹ and any other supporting documentation,¹² including documents provided by subagencies. CEs are encouraged to report losses as soon as discovered; however, all losses must be reported to TDA no later than 24 hours of the loss. All reports of loss must explain how and why the loss occurred.

The following table provides examples of supporting documentation for the *Report of Loss of USDA Foods* (Form H1638).

Type of Documentation	Details about Documentation
Condemnation certificate	From health official
Destruction certificate	Must include when, where, and how the USDA Foods were destroyed; and by whom
Temperature logs	If USDA Foods were stored in the freezer, cooler, or dry storage

¹¹ Go to www.SquareMeals.org. Choose “Programs” then “The Emergency Food Assistance Program;” click on “TEFAP Administration and Forms,” then input the proper form number into the appropriate search field. Instructions for the form contain the link to submit the form.

¹² Examples of supporting documentation include photographs; the confirmation document of the local health official who inspects the food loss; or a receipt or invoice from a landfill that verifies destruction of the food loss.

Police report	If theft or vandalism was involved <i>Also, include precautions taken to prevent future theft or vandalism.</i>
Fire department report	If the loss was due to fire
Extermination records	If the loss was due to infestation
Refrigeration repair information	If the loss was due to refrigeration failure

Holds and Recalls

USDA notifies TDA of a hold or recall to provide 1) instructions, 2) replacement of recalled foods, and 3) reimbursement of specific costs related to the recall. TDA will notify CEs and may request them to report the amount of affected product in their possession, as well as whether the product was delivered to subagencies.

If USDA Foods are on hold, the CE and subagencies, if applicable, segregate the product until USDA either releases the hold or provides further information.

If USDA Foods are recalled, TDA instructs CEs of the ways to dispose of the product.

For more information, see the USDA Food Safety website.¹³

Public Notification of a Recall

TDA recommends that the CE and subagency broadcast recall information in ways that a participant can be reached. The CE and subagency may take further action as they deem necessary.

Out-of-Condition USDA Foods

Out-of-condition USDA Foods are no longer fit for human consumption because of damage, spoilage, or infestation. Occasionally, some USDA Foods can be salvaged; if so, CEs must contact TDA.

When there is a question about the wholesomeness of USDA Foods, CEs and subdistributing agencies must have the foods inspected by a state or local health authority to ensure the foods are still safe.

When USDA Foods are determined to be out of condition, CE must take the following steps:

1. Obtain from a federal, state, or local health official a written statement that the USDA Foods are unfit for human consumption.

NOTE: If a federal, state, or local health official is not available to inspect foods to determine if they are out-of-condition, then CEs and subagencies may, with TDA approval, use other community resources, e.g., individuals who provide inspection services, nurses, or others whose training, experience or background in medical, health,

¹³ USDA Food safety website: <https://www.fns.usda.gov/ofs/usda-food-recall-resources>.

or related fields qualify them to determine if food is fit for human consumption.

2. Obliterate carton labels.
3. Destroy food and ensure that it is inedible.
4. Transport unsalvageable, out-of-condition USDA Foods to a landfill for proper disposal.

(7 CFR §250.15)

Complaints

CEs should keep in mind that factors affecting USDA purchases of USDA Foods include market conditions; the amounts, types, and costs of foods available; and price support requirements. Also, when purchasing USDA Foods, USDA considers the recommendations of CEs and subagencies.

USDA and TDA appreciate the input of CEs and subagencies regarding food quality or specifications. Two complaint forms and their locations are described below.

1. USDA Foods Complaint Form. CEs may use the *USDA Foods Complaint*¹⁴ form to report specific issues involving USDA Foods. Such issues include (but are not limited to) quality, acceptability, and packaging. TDA must seek guidance and authorization from USDA before disposing of USDA Foods that have been the subject of a complaint, due to food safety regulations and to contractual obligations with USDA's vendors. The complaint will be resolved as expeditiously as possible.
2. F&N Complaint Form. CEs may use the *F&N Complaint Form*¹⁵ to give TDA feedback concerning program problems or general suggestions.

Prohibited Actions and Restricted Practices

Payment for USDA Foods

CEs must not require, solicit, or accept payment from TEFAP applicants or participants in money, materials, or services for, or in connection with, receiving USDA Foods. Additionally, USDA Foods must not be sold or disposed of through commercial methods.

NOTE: This policy does not restrict any person or persons from volunteering services in their communities, as they choose when such volunteer services are not conditions for receiving USDA Foods.

¹⁴ Go to www.SquareMeals.org. Choose "Programs" then "The Emergency Food Assistance Program," click on "TEFAP Administration and Forms," then put the form name in the appropriate search field.

¹⁵ Go to www.SquareMeals.org. Choose "Programs" then "The Emergency Food Assistance Program," click on "TEFAP Administration and Forms," then put the form name in the appropriate search field.

Join an Organization

CEs must not require an agency, organization, individual, or a household to join, attend meetings of, or pay dues to a specific organization as a condition for receiving, distributing, or using USDA Foods.

SNAP Recruitment and Promotion

TEFAP administrative funds may be used only to pay the direct expenses associated with the distribution of USDA Foods as well as foods secured from other sources. CEs and subagencies must not use TEFAP administrative funds to compensate outreach workers based on the number of individuals who apply for SNAP as a result of that worker's efforts.

Additionally, TEFAP funds must not be used for the following activities:

- Recruitment activities designed to persuade an individual to apply for SNAP
- TV, radio, or billboard advertisements designed to promote SNAP benefits and enrollment
- Agreements with foreign governments to promote SNAP benefits and enrollment

USDA Foods to Child and Adult Care Food Program Organizations

CEs may distribute USDA Foods to Child and Adult Care Food Program (CACFP) organizations that are also participating in TEFAP. However, distribution to such eligible organizations should be made only if the needs of all emergency-feeding organizations, such as hunger relief agencies, soup kitchens, and food pantries, have been met. Refer to "Distribution Priorities" in this handbook section for additional information.

Activities Unrelated to USDA Foods

CEs and subagencies must ensure that unrelated activities are conducted in a way that does not disrupt TEFAP distribution or congregate meals.

A person may conduct activities unrelated to TEFAP distribution or meal service as long as the person clarifies that

- the activity is not part of TEFAP,
- such activity is not endorsed by USDA, and
- cooperation with the activity is not a condition to receive TEFAP foods, including
 - contributing money,
 - signing petitions,
 - or conversing with the person.

Information about explicitly religious activity must never be placed in TEFAP containers. On the other hand, information unrelated 1) to TEFAP and 2) to explicitly religious matters, is permissible if it is printed with a statement that the information is not endorsed by USDA.

Some information can be included in TEFAP containers without specifying that USDA does not endorse it, including, but not limited to

- recipes,
- information about USDA Foods,
- dates of future distributions, hours of operations, or
- other federal, state, or local government programs or services for eligible people.

Corrective action will be required of any CE or subagency that distributes or permits the distribution of materials, as explained above. Failure to maintain corrective action may result in the termination of the TEFAP agreement.

Additional Resources

Health Risks of Peanut Products

The ingestion of peanut products can pose a serious health risk to certain individuals. This health risk applies to peanut butter products, peanut oil, and peanut granules that are purchased by the U.S. Department of Agriculture (USDA).

According to USDA, the oil used in other USDA Foods, such as potato wedges, potato rounds, French-fried potatoes, dressings, and other vegetable oil is unsaturated vegetable oil. These products do not contain peanut oil.

Food Safety Best Practices for Households

For safety resources, go to the USDA website at www.fns.usda.gov/food-safety/food-safety-resources.