

NATIONAL PROCESSING AGREEMENT (NPA)
STATE PARTICIPATION AGREEMENT (SPA)

This Agreement is subject to the terms and conditions set forth in the National Processing Agreement made by and between the U.S. Department of Agriculture, Food and Nutrition Service and ____ (Processor). ____ (Processor) duly attests that no alterations have been made to the ACDA Core State Participation Agreement (SPA).

State Distributing Agency:
Kentucky Department of Agriculture,
Division of Food Distribution

Processor _____

Federal EIN: _____

Name Bill Wickliffe

Name _____

Title Director

Title _____

Address 107 Corporate Drive

Address _____

City, State, Zip Frankfort, KY 40601

City, State, Zip _____

Contact Garrick L. Howell

Contact _____

Phone 502-573-0430

Phone _____

Fax 502-573-0304

Fax _____

E-mail garrick.howell@ky.gov

E-mail _____

Web Address
www.kvagr.com/consumer/food/Processors/index.htm

Web Address _____

Signature _____

Signature _____

Date _____

Date _____

Period of Agreement: This Agreement shall become effective on July 1, 2012 and will terminate on or before June 30, 2017 pursuant to USDA Policy Memorandum FD-048 (Maximum of 5 years). Additionally, the SPA may be amended as necessary should any of the information change during the agreement period. This Agreement shall not be amended except by a written agreement signed by the parties hereto.

Agreement Termination: This agreement may be terminated by either party upon 30 days written notice. Disposition of the USDA Foods inventory shall be in accordance with Article 20 of the National Processing Agreement.

Hold/Recall Contact Information: At a minimum, the State and processor must provide each other with the following hold and recall contact information:

Primary point of contact

- Name

- Telephone number
- Mobile phone number
- Fax number
- Email address

A back-up contact if the primary is unavailable

- Name
- Telephone number
- Mobile phone number
- Fax number
- Email address

1. Value Pass Through Systems. State Agency will indicate which value pass through systems are acceptable in their State. Processor will indicate which value pass through systems they desire to use in the State and have been approved by USDA in the NPA (National Processing Agreement).

Permitted By State	Value Pass Through System	Selected by Processor
X	Direct Sale	
X	Net Price Through Distributor (NOI)*	
X	Refund to Recipient Agency	
X	Fee for Service – billed by processor	

*Sales Verification Required

If sales verification is required, check one:

State delegates sales verification to the processor [see 7 CFR 250.19(2)(vi)(C)]

Processor should submit their Sales Verification Plan to the State Agency.

State will conduct sales verification

2. Summary End Product Data Schedules (SEPDS). Processor will submit SEPDS to State with the completed State Participation Agreement. The SEPDS contains summary information from approved EPDS and a master SEPDS approved by USDA. Processor may select specific EPDS for processing in a given state. The state also has the option to accept or reject individual products listed on the SEPDS and, in the case of multiple commodities available for processing, may accept or reject certain commodities for processing. Note: the case weight listed on the SEPDS **MUST** match the label on the finished case.

Do you use a subcontractor for the production of any items covered in this agreement?

Yes No

If yes, please identify the subcontractor by name, address, USDA plant number, and each item produced.

Processor must provide written notification to the State Agency of any change(s) to the SEPDS including the nature of the change(s); notification may be made electronically.

3. CN Labeling. Products, which contribute toward the school meal pattern requirements, may qualify for CN labeling. State should check those that apply.

CN Labeling is optional. Recipient agencies may request CN labeled products.

CN Labeling is required, if applicable, for the processed product.

Submit CN labels with SEPDS.

4. Nutritional Information. Recipient agencies need nutritional information to comply with USDA regulations. State should check those that apply:

Processor must provide nutrition information to RA upon request.

Processor's nutrition information has been submitted to USDA Database.

Processor's nutrition information is available on their web site.

_____ (Provide the web address)

Processor must submit nutrition information with the SEPDS

5. Grading. Red Meat grading will be performed under (check one)

Full Certification per AMS Instruction MGC 640 (formerly known as Option 2 grading)

PCCP per AMS Instruction MGC 638

6. By products. If by products are produced, describe method of valuation and credit.

7. List of Eligible Recipient Agencies. State will provide a list of eligible recipient agencies to the processor upon State approval of the State Participation Agreement.

8. Backhauling of Commodity. If backhauling is permitted, processor must notify the State before backhauling products. Please check those that apply.

State permits backhauling Yes No

Backhauling permitted from State Warehouse School District

State requires form for requesting approval to backhaul Yes No

9. Special Instructions for Delivery of End Product to Designated Delivery Locations:

Delivery of Processed Items via DA Contracted Commercial Distributors:

- A. Processor shall schedule a delivery appointment 24 hours in advance of delivery.
- B. Prior to delivery, the Processor shall notify each RA, Commercial Distributor when appropriate, and the DA when required, of the following; item code, item description, and number of cases by RA, delivery order number, and date of delivery using the **Notification of Delivery** form (*KY-FD-62*) available on DA website. Processors may use other formats for notification provided all of the same information is provided and with written approval from the DA (please include a sample copy with this agreement). The **Notification of Delivery** may be transmitted by email, fax, USPS, or other method which is mutually agreed upon by the parties involved. Whenever possible it will be transmitted to the DA by email.
- C. Processor shall deliver no more than three (3) line items per truck to the Commercial Distributor warehouse at any one time unless the Distributor agrees to accept more line items. It is required that any such agreement be in writing, dated, specify any agreed upon limits, and kept on file in case of a dispute.
- D. Processor shall deliver no fewer than twenty-five (25) cases per line item when delivering to a Commercial Distributor.
- E. All items delivered to a Commercial Distributor shall be palletized, one item per pallet. Any mixed pallets shipped by the processor will be re-palletized by the driver to ensure only one item per pallet on delivery, at no cost to the commercial distributor.

10. Electronic Receipting for USDA Foods (FD-062)

Processor must register on the USDA's Web Supply Chain Management (WBSCM) or other applicable USDA system(s). Please register immediately after receiving business partner identification number.

Processor is required to enter all shipment receipts within three business days of delivery, using the Web Supply Chain Management (WBSCM) Shipment Receipt Function. (USDA FD Memo-062).

11. Additional State Requirements.

Monthly Performance Reports

- 1) Processors utilizing USDA Donated Cheese, Flour and NFD Milk must be able to track discounts to RA inventory as assigned by DA. When RA inventory is reduced to 0 pounds, processor will cease making discounts. Processor will report all RA inventory activity as well as cumulating to one State total for combined inventory reduction on the monthly performance reports.

- 2) Processors will submit a consolidated Performance Report for all donated foods processed including subcontractor.
 - 3) Processors will utilize only the **Monthly Performance Report** form approved and available from the American Commodities Distribution Association (ACDA). Whenever possible this form should be submitted to the DA electronically.
 - 4) All Processors are required by the Code of Federal Regulations to send MPR's to the SA by the final day of the month following the month being reported on. Kentucky will accept MPR's electronically or by hard copy however they must be received as required by 7 CFR part 250.30(m)(1). Processors not in compliance will be warned in writing twice within each federal physical year contracted. Upon the third offence the offending processor will lose their processing contract with the state with the State's option to deny reinstatement following the cancellation.
- B. Processors with multiple processing plants must complete the **Destination Verification Form (FNS-7)**. Any changes regarding Destination Verification Forms must be submitted to the DA within 10 business days of the change as known to the processor.
- C. DA may approve end products for sale to RAs in Kentucky only after Proof of Marketability has been demonstrated. If requested by DA, Proof of Marketability will consist of reports in any written form (hard copy, email, etc.) from either RAs or Processors which demonstrate that there is enough interest among RAs to suggest that sufficient quantities of the end product is likely to be ordered to meet the minimum delivery requirements set forth above. Final determination of Marketability status will be made by DA.
- D. Poultry processors must indicate which of the below options under which they are processing poultry:
- a. _____ Non-substitutable
 - b. _____ Limited Substitutability
- E. This Agreement may be terminated immediately at the option of the DA for noncompliance of its terms and conditions by the Processor or if any right in favor of the DA is threatened or jeopardized by the Processor and/or his agent. This Agreement may be terminated by either party upon 30 days written notice to the other. Disposition of DF inventory with the Processor or payment of value thereof shall be based on the provisions of the National Processing Agreement.
- F. Processor will notify State immediately of any shipments that are short, over, or damaged, and complete an FNS 57 and submit to State, if necessary, such notification shall be made electronically.
- G. Processors will be responsible for informing brokers, sales representatives, etc., of all R/A allocations and any modifications which will be available through WBSCM. This information should be provided in a timely manner.

- H. Commodity discounts denied to R/As due to incomplete or inaccurate allocation information may be cause for suspension from NOI pass-through in the State of Kentucky and/or termination of this agreement.

- I. SEPDSs will be approved once at SPA initiation and twice more between July 1 and June 30 of the current school year. For clarification, there will be a total maximum SEPDS approval three (3) times in a school year, with no exceptions. Any end-product sold without prior state approval may be disallowed as an approved sale.

Hold/Recall Contact Form

State Agency _____

PROCESSOR HOLD AND RECALL CONTACT INFORMATION

Name of Processor _____

Primary Contact

Name _____

Office Telephone Number _____

Mobile Telephone Number _____

Fax Number _____

Email Address _____

Back-up Contact

Name _____

Office Telephone Number _____

Mobile Telephone Number _____

Fax Number _____

Email Address _____

**PLEASE COMPLETE AND RETURN ALONG WITH THE SPA AND NOTIFY THE
STATE AGENCY IMMEDIATELY AS CHANGES OCCUR**