Food Distribution National Policy Memorandum

United States Department of Agriculture

Food and Nutrition Service

3101 Park Center Drive

Alexandria, VA 22302-1500

DATE: MAY 15 2013

POLICY NO.: FD-130: Processing

SUBJECT: Substitution of USDA Beef and Pork

In accordance with 7 CFR 250.30(f), a processor may, in most cases, substitute Department of Agriculture (USDA) donated foods (i.e., USDA Foods) with commercially purchased foods of the same generic identity, of U.S. origin, and of equal or better quality in all USDA purchase specifications than the USDA Foods. The substitution option permits processors to conduct their business more efficiently and provide finished end products to school food authorities (SFAs) and other recipient agencies in a timely manner. However, under the current regulations the substitution of USDA beef and pork with commercial beef and pork is prohibited, as specifications for beef and pork produced for the commercial market generally differ in certain respects from USDA specifications. Nevertheless, some processors have indicated that they would be capable of meeting USDA specifications for beef and pork in their commercial processing, and would like to be able to substitute such commercial products for USDA beef and pork to ensure better service to SFAs.

In this policy memorandum, the USDA's Food and Nutrition Service (FNS), in coordination with the Agricultural Marketing Service (AMS), is conducting a demonstration project in which processors operating an approved Processor Control Certification Program (PCCP) plan are permitted to submit a substitution plan that, if approved, would provide for substitution of USDA beef and pork with commercial beef and pork of U.S. origin, and of equal or better quality in all USDA purchase specifications than the USDA beef and pork. The substitution plan must include the following assurances:

- In accordance with 7 CFR 250.30(g), processing will be performed in plants under continuous Federal meat inspection, or continuous State meat inspection in States certified to have programs at least equal to the Federal inspection programs.

- As with the processing of USDA beef and pork into end products, AMS graders will monitor the process of substituting commercial beef and pork for USDA products to ensure compliance with substitution requirements.

- Commercial beef and pork substituted for USDA beef and pork must be purchased from an AMS-approved vendor in good standing, and must be tested to ensure that it is of equal or better quality in all USDA purchase specifications than the USDA beef and pork, including specifications relating to acceptable tolerance levels for specific microorganisms, chemical residues, and fat.

- Testing results will be submitted to AMS expeditiously to permit AMS graders to ensure compliance with substitution requirements.

- Commercial beef and pork substituted for USDA beef and pork must be subject to audited processes for humane handling, food defense, and threat agent testing.

- A step-by-step description of how production will be monitored.

- Only commercial beef and pork that is certified in accordance with the above provisions will be commingled with USDA beef and pork.

- Only commercial beef and pork that is certified in accordance with the above provisions will be used to replace any USDA beef and pork subject to production losses or other losses.

- Only bulk USDA beef and pork delivered by vendors directly to the processor will be substituted. Backhauled product may not be substituted. (Backhauled product is USDA Food that has been delivered to SFAs and is subsequently sent to processors for further processing.)

- Records will be maintained to permit tracking of USDA Foods received, USDA Foods substituted, and subsequent production and disposition of end products, as well as records of AMS grading certification.

Processors must submit the substitution plan to AMS by email to Larry.Meadows@ams.usda.gov. The substitution plan must be approved by AMS and FNS. In accordance with this policy memorandum, FNS will exercise its waiver authority under 7 CFR 250.30(t) to waive the regulatory provision in 7 CFR 250.30(f)(1) that prohibits the substitution of USDA beef and pork for a processor with a substitution plan that has been approved by AMS and FNS. However, FNS reserves the right to revoke such waiver for a processor that is found to be out of compliance with any of the provisions of the approved PCCP plan or approved substitution plan, or suspend such waiver until such time as the processor takes corrective actions determined to be necessary to return to compliance. FNS also reserves the right to implement a blanket revocation of such waiver for all processors.

Questions regarding the substitution of USDA beef and pork with commercial beef and pork should be directed to Sherry Thackeray of FNS at (703) 305-2652 or Larry Meadows at (202) 692-0342.

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