United States Department of Agriculture

Food and Nutrition Service

3101 Park Center Drive
Alexandria, VA 22302-1500

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SUBJECT: Procuring Local Meat, Poultry, Game, and Eggs for Child Nutrition Programs

TO: Regional Directors
Special Nutrition Programs
All Regions

State Directors
Child Nutrition Programs
All States

Recently, FNS has received a number of questions related to buying local meat, poultry, game, and eggs; this memorandum seeks to clarify the regulatory requirements related to food safety and answer specific questions related to these products with a series of questions and answers included as an attachment.

Three agencies within the Federal Government are responsible for establishing the rules and regulations that govern the sale and use of meat, poultry, game, and eggs in the Child Nutrition Programs (CNPs): the U.S. Department of Agriculture (USDA) Food Safety and Inspection Service (FSIS), the Department of Health and Human Services (DHHS) Food and Drug Administration (FDA), and the USDA Food and Nutrition Service (FNS). Together these agencies establish rules and regulations to ensure that all products, served in CNP meals and otherwise, are safe, wholesome, and correctly labeled and packaged.

In turn, State and local governments adopt Federal regulations and guidelines and often tailor the rules to address specific issues. As such, the FDA Food Code and Federal food safety regulations are a baseline from which State, local, and Tribal authorities build their food safety regulatory programs. CNP operators must meet the conditions of the permit which has given them authority to operate as a food service establishment. State, local and Tribal governments issue these permits. It is critical that program operators, ranchers, farmers, and community stakeholders understand the relationship between Federal, State, local, and Tribal regulations.

FEDERAL GOVERNMENT

An overview of the Federal food safety regulations related to products served in CNPs is provided below.

USDA Food and Nutrition Service

FNS administers several programs that provide healthy food to children under the authority of the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et. seq.) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et. seq.). These programs include the National School Lunch Program, the School Breakfast Program, the Child and Adult Care Food Program, the Summer Food Service Program, the Fresh Fruit and Vegetable Program, and the Special Milk Program, which are collectively known as the Child Nutrition Programs (CNP). As it relates to meat, poultry, game, and eggs, FNS aligns its guidance with the Federal food safety agencies identified below.

USDA Food Safety and Inspection Service (FSIS)

The USDA's FSIS is the public health regulatory agency responsible for ensuring that the United States' commercial supply of meat, poultry, and egg products (liquid, frozen and dried) is safe, wholesome, and correctly labeled and packaged. FSIS draws its authority from the Federal Meat Inspection Act of 1906 (FMIA), the Poultry Products Inspection Act of 1957 (PPIA), and the Egg Products Inspection Act of 1970 (EPIA). If a food item falls outside of those statutes FSIS is not authorized to regulate its sale or use. FSIS is authorized to provide voluntary inspection of species not covered in FMIA or PPIA under the USDA Agricultural Marketing Act of 1946 (AMA).

DHHS Food and Drug Administration (FDA)

The FDA, part of the Department of Health and Human Services (DHHS), regulates products from animals *not* covered by FMIA, EPIA, and PPIA, such as game animals, shell eggs, and seafood. This authority is conferred by the Federal Food Drug and Cosmetic Act (FFDCA). If meat is offered for sale as human food, it is subject to the provisions of the FFDCA, which requires that food must be prepared from sound, wholesome, raw materials, and must be prepared, packed, and held at all times under sanitary conditions.

As mentioned above, the FDA publishes the Food Code, a *model*, which assists food control jurisdictions at all levels of government by providing a scientifically sound technical and legal basis for regulating the retail and food service segment of the industry (restaurants, grocery stores, and institutions, such as schools, hospitals, and nursing homes). State, local, and Tribal regulators use the FDA Food Code as a model to develop or update their own food safety statutes and regulations for retail and foodservice operations and to maintain consistency with national food regulatory policy. States are under no obligation to adopt all provisions in FDA's model code.

STATE GOVERNMENTS

States follow Federal rules and regulations and, in some cases, tailor programs to meet their needs. Two State-run programs, described below, are operated through agreements with FSIS that allow for State-level inspection of meat, poultry, and game.

State Meat and Poultry Inspection (MPI) Programs

State Meat and Poultry Inspection (MPI) programs are an integral part of the nation's food safety system. States hold cooperative agreements with FSIS in order to operate MPI programs, which must enforce requirements "at least equal to" those imposed under the FMIA and the PPIA. Products produced under State inspection are generally limited to intrastate commerce. MPI products may be shipped between States if a State opts into the Cooperative Interstate Shipment (CIS) program described below.

More than half of the States in the U.S. operate MPI programs. In States without MPI programs, the only option for meat and poultry inspection is USDA inspection. For more information on which States have State Meat and Poultry Inspection (MPI) programs, visit the Food Safety and Inspection Service's Web site.

The Cooperative Interstate Shipment (CIS) Program

The Cooperative Interstate Shipment (CIS) program promotes the expansion of business opportunities for State Meat and Poultry Inspection (MPI) facilities. The CIS program allows facilities already participating in a State MPI program to operate as Federally-inspected facilities and ship products in interstate commerce. Products sold from a CIS program bear the Federal mark of inspection. For more information on which States participate in the CIS program, visit the Food Safety and Inspection Service's Web site.

LOCAL GOVERNMENTS

Local governments must abide by State and Federal regulations. However, some local health jurisdictions (county health departments, etc.) use State rules and regulations as a guide to develop specific local program rules. This means that food codes and other applicable regulations may vary from locality to locality.

TRIBAL NATIONS

We have received several questions specifically about products served in CNPs located in Tribal communities and have summarized the work of the Indian Health Service (IHS) and FNS as it relates to Tribal issues.

DHHS Indian Health Service (IHS)

The IHS is part of the Division of Environmental Health Services (DEHS), within DHHS, which provides direct environmental health services and consultation to American Indian and Alaska Native Tribal governments, including the establishment and management of local Tribal Food Codes. DEHS uses the most recent edition of the FDA Food Code for non-regulatory consultation and evaluation of Tribal programs. DEHS also works with Tribal councils to pass local food code rules and encourages partnership with State and local entities to provide a comprehensive food safety program. Tribal Nations may implement their own food codes to support or supplant State and local food codes. However, Tribal Nations are encouraged to collaborate with State and local regulators.

Food and Nutrition Service and Traditional Foods

The USDA understands the importance of serving traditional foods and encourages Tribal Nations, along with all operators of CNPs, to source locally grown and raised foods. To support these efforts, two recently published documents outline how donated traditional foods can be used in CNPs and clarify how traditional foods can credit towards a reimbursable meal.

As described in the *Service of Traditional Foods in Public Facilities* memorandum (SP 42-2015, CACFP 19-2015, SFSP 21-2015), Section 4033 of the Agricultural Act of 2014 (Farm Bill) allows for the use of donated traditional foods, including wild game, at public and nonprofit facilities that primarily serve Indians. As allowed by this provision, wild game may be donated and served in CNPs. Additionally, the *Child Nutrition Programs and Traditional Foods* memorandum (TA 01-2015), clarifies that traditional foods may be served in CNPs and includes examples of how several traditional foods may contribute towards a reimbursable meal.

The attached questions and answers seek to help CNP operators better understand applicable food safety requirements and aid them in purchasing from local ranchers and producers as much as possible.

State agencies are reminded to distribute this memorandum to Program operators immediately. Local educational agencies, school food authorities, and other Program operators should direct any questions concerning this guidance to their State agency. State agencies with questions should contact the appropriate Food and Nutrition Service Regional Office.

Original Signed

Angela Kline
Director
Policy and Program Development Division
Child Nutrition Programs

Original Signed

Deborah J. Kane
Director
Office of Community Food Systems
Child Nutrition Programs

Attachment

Food Safety Clarifications for Child Nutrition Programs
Questions and Answers

Part I – Meat and Livestock

1. **How is livestock defined?**

   According to 9 CFR 301.2, livestock include cattle, sheep, swine, or goat and these animals are subject to the regulations within the Federal Meat Inspection Act of 1906 (FMIA).

2. **Do livestock need to be *slaughtered* under the U.S. Department of Agriculture (USDA) or State-inspection in order to be served in the Child Nutrition Programs (CNPs)?**

   Yes, all livestock sold for commercial consumption, including for service in CNPs, must be slaughtered under USDA or State inspection in either traditional brick and mortar facilities or mobile slaughter units. There are no exemptions from inspection for the slaughter of livestock to be sold as articles of commerce.

3. **Do meat and meat food products such as spaghetti sauce with cooked meat need to be *processed* in USDA or State-inspected facilities in order to be served in the CNPs?**

   Not always. The further preparation of the Federal or State-inspected livestock into meat and meat food products must be done under inspection, unless exempted from inspection. The exemptions from inspection of Federal or State-inspected meat and meat food products are found in 9 CFR 303.1.

4. **Can livestock slaughtered, and meat or meat food products processed in a Cooperative Interstate Shipment (CIS) facility or State Meat and Poultry Inspection (MPI) facility be served in the CNPs?**

   Yes, livestock slaughtered in and meat or meat food products processed under inspection in a USDA, MPI or CIS facility may be served in CNPs. These facilities may be traditional brick and mortar facilities or mobile slaughter units. Livestock and meat food products from amenable animals (meaning, species subject to the regulations found in the FMIA or the PPIA) inspected at State MPI facilities are only eligible for intrastate distribution. Animals slaughtered in and meat food products processed in CIS facilities, regardless of where the animal was raised, can be sold in interstate commerce.

5. **Do livestock and meat food products donated to CNPs need to follow all inspection and processing requirements?**

   Yes, Food Safety and Inspection Service (FSIS) inspection and processing requirements must be followed for donated livestock and livestock products. The producer must have the livestock animal slaughtered, under Federal or State inspection. The processing must be done under inspection, unless exempted from FSIS inspection requirements. Exemptions for meat food products are found in 9 CFR 303.1(d).

PART II- Poultry

1. **How is poultry defined?**

   According to 9 CFR 381.1 domesticated poultry are chickens, turkeys, ducks, geese, guineas, ratites, or squabs and these animals are subject to the regulations of the Poultry Products Inspection Act of 1957 (PPIA).

2. **What are the inspection requirements for poultry?**

   Poultry sold for commercial consumption must be inspected at a USDA facility, a MPI program facility, or a CIS program facility in either a traditional brick and mortar plant or a mobile slaughter unit, unless exempted from inspection requirements. Unlike livestock, poultry exemptions do allow poultry slaughter and processing to occur without benefit of Federal or State inspection, within the limitations described in 9 CFR 381.1. Poultry produced under a poultry exemption are restricted to intrastate commerce only, meaning CNP operators cannot serve poultry products from neighboring States that are exempt from inspection.

3. **Can CNP operators purchase poultry from a producer that operates under a poultry exemption?**

   While it is recommended that poultry come from USDA inspected facilities, State MPI, or CIS facilities, CNP operators may purchase poultry from producers that are exempt from inspection, unless restricted by State or local requirements. For example, the Illinois State Department of Agriculture does not allow uninspected poultry slaughtered or processed under a poultry exemption to be served in Illinois schools.

4. **Can animals raised by Future Farmers of America, 4H Clubs, student clubs and/or culinary programs on school campuses be used in CNPs?**

   Yes, as long as the applicable inspection requirements are met. Additional requirements from State or local authorities may apply.

PART III - GAME ANIMALS

1. **How are game animals and game birds defined and/or classified?**

   There are two types of game animals and game birds; wild and domesticated. Game animals are non-amenable, meaning they are not subject to the regulations found in the FMIA or the PPIA.

2. **What are wild game animals and game birds?**

   Wild game animals and wild game birds are animals and birds that are live-caught or hunter-harvested. Wild game animals may include free ranging animals such as bison, antelope, caribou, deer, elk, moose, reindeer, snake, alligator, rabbit, squirrel and beaver. As noted in 9

CFR 362, wild birds include any migratory water fowl or non-domesticated game bird such as pheasant, grouse, quail, turkey, geese and ducks.

FSIS views "wild boar" as feral swine and amenable to the FMIA. To receive inspection, feral swine typically are captured, fed for a short time, receive ante mortem inspection, and are then slaughtered as any domestic swine.

3. What are domesticated game animals?

Domesticated game animals are raised (typically on a farm or reservation), slaughtered, and commercially sold. Examples of common domesticated game animals are bison and deer. Note that domesticated birds such as turkeys, ducks and geese fall under the jurisdiction of the PPIA and are not considered game animals.

Note: The term animal(s) will be used from this point forward to describe wild or domesticated game birds and/or wild or domesticated game animals collectively.

4. What is voluntary inspection?

Voluntary inspection is when an animal, not covered by FMIA and PPIA (non-amenable animals), is voluntarily slaughtered under inspection and processed under the supervision of inspectors at a USDA or State inspected facility. Since wild and domesticated game animals are not amenable to Federal inspection laws, the ranchers bringing such animals for inspection must pay for voluntary inspection. Voluntary inspection includes an inspection for wholesomeness of each animal and verification by FSIS inspectors that products are produced in a sanitary manner. Voluntary inspection is a value-added service provided by FSIS to facilitate the movement of safe wholesome food not subject to the FMIA or the PPIA in commerce.

States can expand the definition of amenable species. For example, South Dakota considers bison to be amenable; therefore, all bison slaughtered within the State are subject to mandatory State inspection.

Regardless of its origin, an animal killed outside of a State or Federal facility cannot be presented for voluntary or mandatory Federal or State inspection; voluntary inspection requires ante and post mortem inspection of animal carcasses by trained veterinarians. For example, hunter-harvested wild turkeys, ducks and geese that are not live caught and slaughtered at an inspection facility cannot be inspected.

5. **What options are available to voluntarily inspect wild and domesticated game animals?**

The two options available to have game animals voluntarily inspected are described below:

Option 1: Voluntary inspection at USDA facilities

FSIS provides voluntary inspection of domesticated and wild game animals on a fee-for-service basis at USDA facilities, upon request. Businesses, ranchers or hunters must request voluntary inspection from the appropriate USDA FSIS Office of Field Operations District Office and pay an hourly fee for the inspection service. The mark of inspection received from USDA voluntary inspection is different than the circular USDA Federal mark of inspection.

Option 2: Voluntary inspection at State Meat and Poultry Inspection (MPI) facilities

MPI facilities may also offer voluntary inspection for domesticated and wild game animals. Some State MPI programs have expanded their definition of amenable animals to include bison and deer. Therefore, the inspection of such animals is mandatory in those States and the business or rancher does not have to pay for inspection services. Voluntary inspection of game animals can occur at a mobile slaughter facility operating a MPI program.

6. **Must domesticated and wild game animals be voluntarily inspected in State MPI or USDA facilities to be served in CNPs?**

   Yes, domesticated and wild game animals must be inspected at State or USDA facilities in order to be purchased for and served in CNPs. Note that State or local restrictions may apply and an exemption was added by section 4033 of the Farm Bill.[1]

7. **The Food Buying Guide (FBG) States that "game meat must be from [a] USDA inspected establishment;" will this language change?**

   The FBG footnote will be amended to reflect that purchased wild and domesticated game animals that are USDA *or* State inspected can be served in CNPs. The FBG will also clarify that donated, uninspected wild game served by certain program operators which primarily serve Indians is creditable in CNPs as allowed by section 4033 of the Farm Bill.

8. **Can CNP operators use Federal funds to purchase and serve wild and/or domesticated game meat?**

   Yes, CNP operators can buy wild and domesticated game meat with Federal funds as long as the animals are slaughtered and inspected in a Federal inspected facility or State inspected program. Please note that State and local authorities may have stricter regulations, preventing the service of domesticated and wild game animals.

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[1] As described in the *Service of Traditional Foods in Public Facilities memo (SP 41-2015, CACFP 19-2015, SFSP 21-2015)*, Section 4033 of the Farm Bill allows for the use of donated traditional foods, including wild game, at public and nonprofit facilities that primarily serve Indians.

9. **Can game meat inspected at either a State or Federal facility cross State lines and be served in CNPs in neighboring States?**

   Yes. Domesticated and wild game animals processed in State MPI facilities and Federal facilities via voluntary inspection can enter interstate commerce. Unlike other amenable livestock (cattle, swine, sheep, and goat) processed in MPI facilities eligible only for intrastate distribution, non-amenable animals (as defined Federally, regardless of State definition) are not subject to the FMIA or PPIA.

PART IV- Eggs

1. **What is the definition of an egg?**

   As defined by the Food and Drug Administration (FDA) Food Code, "Egg" means the shell egg of avian species such as chicken, duck, goose, guinea, quail, ratites or turkey. "Egg Product" means all, or a portion of, the contents found inside eggs separated from the shell and pasteurized in a food processing plant, with or without added ingredients, intended for human consumption, such as dried, frozen or liquid eggs." Shell eggs come under the jurisdiction of the FDA and have to meet FDA guidelines. Liquid, frozen and dried egg products are regulated by FSIS. Only whole eggs (shell, liquid, frozen or dried) can be credited in CNPs

2. **What egg products need to be inspected in order to be served in the CNPs?**

   Liquid, frozen and dried egg products used in CNPs are required to be USDA inspected. Before entering commerce, liquid, frozen and dried egg products must meet the regulatory requirements found in 9 CFR 590, which include the requirement to be pasteurized and be found negative for salmonella, before entering commerce.

3. **Do shell eggs need to be pasteurized in order to be served in CNPs?**

   No, shell eggs are not required to be pasteurized to be used in CNPs. As outlined by the FDA Food Code, it is recommended that shell eggs meet at least grade B standards. Information regarding the grade B standards can be found in the U.S. Standards, Grades, and Weight Class for Shell Eggs.

   Before using unpasteurized shell eggs in CNPs, program operators are advised to check with their State agency and/or local health department and to review local health codes as there may be stricter State, local and/or school district restrictions regarding unpasteurized shell eggs. For example, some State agencies require shell eggs come from "approved sources," some have shell egg handling rules, and some do not allow unpasteurized shell eggs to be served to highly susceptible populations such as very young children.