NAMI
NORTH AMERICAN MEAT INSTITUTE

March 20, 2020

To: **Board of Directors, General Members, Food Safety and Inspection Affairs Committee, and Washington Representatives**

From: **Norm Robertson and KatieRose McCullough**

Subject: **Redirecting Foodservice/HRI Product for Retail Distribution**

North American meat Institute (NAMI or the Meat Institute) staff participated in a call earlier today with Food Safety and Inspection Service (FSIS or the agency) officials to discuss the critical shortages of meat and poultry products available at retailers across the U.S. The Meat Institute discussed the surplus of wholesome, properly labeled products intended for the Hotel, Restaurant, and Institutional (HRI), or "foodservice" industry that cannot be used by that sector based on the growing number of states and other localities enacting "shelter in place" or similar orders limiting foodservice operations.

There are regulatory provisions that prevent some products intended for foodservice from being sold to retail outlets due to product labels. During today's call, the agency agreed to exercise regulatory discretion on several fronts, to prevent these foodservice products from becoming unusable and to ensure the consuming public has access to wholesome meat and poultry products in retail settings.

Agency officials indicated they will issue guidance either later today or on Monday, March 23, 2020. In the interim, FSIS Administrator Paul Kiecker said products already produced and packaged and intended for use in the foodservice sector may be diverted to retail customers. Any such product, however, must be adequately labeled to convey basic information to consumers about the product and traceable back to the producing establishment.

FSIS will allow the following activities.

- Products contained in protective coverings inside a shipping container that bears the product labeling can be moved to retail establishments. A retailer must label those products with mandatory information, *i.e.,* product

name, ingredient statement, net weight, signature line, *etc.*, and that the retailer maintains records to allow traceback in the event is necessary without having to open, or repackage the contents. The labeling can also be provided by the producer via insert labels to be applied by the retailer, absent a mark of inspection, but containing typical retail compliant labeling information.

- Bulk products labeled for food service customers can be diverted to retail establishments to be portioned by the retailer and labeled with compliant retail labeling, as described in the bullet above. The labeling can also be provided by the producer via insert labels to be applied by the retailer, absent a mark of inspection, but with typical retail compliant labeling information.

- Bulk products labeled for foodservice customers can be diverted to retail to be sold as intact units to retail customers, provided all mandatory labeling features are on the box. FSIS officials indicated they would grant temporary approvals under expedited review for such foodservice labels if they lack nutritional facts panels, or carry statements of limited distribution or use that normally would prohibit shipment to retailers and intended for sale to end use consumers.

The forthcoming agency information may differ slightly from the above, and there likely will be additional options and examples of regulatory discretion identified in that guidance. NAMI thought it important to send this information quickly so products already produced and labeled, much of which is already in commerce, can be redirected to retail customers without delay.

During the discussion FSIS officials stressed that abuse of the regulatory flexibility they are allowing in this time of crisis will be dealt with severely by the agency. If you have questions or need additional information, please contact Norm Robertson at nrobertson@meatinstitute.org or (202)587-4233, or Dr. KatieRose McCullough at kmccullough@meatinstitute.org or (303)999-5369.