



NATIONAL MEAT ASSOCIATION

1970 Broadway, Suite 825, Oakland, CA 94612
Ph. (510) 763-1533 or (202) 667-2108 • Fax (510) 763-6186
staff@nmaonline.org • <http://www.nmaonline.org>

April 10, 2012

Mr. Al Almanza, Administrator
Food Safety Inspection Service
United States Department of Agriculture
331-E Jamie Whitten Building
Washington, DC 20250

Dear Mr. Almanza:

On behalf of the members of National Meat Association (NMA), we respectfully submit for your review the following petition requesting the amendment/clarification of current policy applicable to display caddies containing meat and poultry products (jerky and snack sticks). Specifically, we are requesting that the agency's policy be amended/clarified so that caddies are allowed to bear the mark of inspection while on display in retail facilities for sale to consumers.

In accordance with Agency policy, display caddies containing individual fully labeled meat and poultry products (jerky and snack sticks) are exempt from labeling, provided they are shipped to a location in a master shipping container bearing all required features, where they are used to display the individually labeled snack products for sale to consumers.

Currently, there are instances where the caddies are removed from the master shipping containers for distribution in commerce to small retail mom and pop markets and are therefore considered to be shipping containers and required in accordance with CFR 316.13 to bear the USDA mark of inspection. In order to comply, many NMA members have applied the mark of inspection to individual, not fully-labeled, caddies that are being shipped into commerce to these small mom and pop markets.

However, in accordance with the Labeling and Policy Book (attached), “Caddies or display cards used to display fully labeled product shall not bear an inspection legend and, therefore, can be reused. The caddies or display cards may contain a picture of a product that has a legend on it.” In essence, the Policy Book reference is prohibiting the presence of the mark of inspection on caddies that are on display in markets based upon concerns that the caddies may be reused to hold different products, some of which are not amenable to inspection and do not bear the mark of inspection.

Our research traced the basis for this policy to Policy Memo 111 (attached), published in June of 1988. It appears that the main concern of this Policy Memo related to fully labeled canisters, caddies and other bulk containers that contained all the features of a label, whose contents were snack stick products which did not bear any labeling. The memo states that, “If sold in fully labeled bulk containers, i.e. canister, caddies, or similar container, stick items do not have to be fully labeled unless they are individually wrapped. This type of container cannot be reused.” The reason that the container could not be reused was because of a concern that different products could be placed into the container and a consumer could be misled into thinking that the product was inspected at the establishment identified in the mark of inspection on the caddy.

The Policy Memo also addressed bulk containers (e.g., canisters, caddies, or similar containers) that were not fully labeled. In these instances, the Policy Memo states that the individual items in the bulk

containers would have to be fully labeled, and that “bulk containers such as these may only be refilled with fully labeled product.” The Policy Memo did not prohibit reuse of the caddy, apparently on the belief if the caddy was reused to contain different product, the consumer would clearly understand what he/she was purchasing because the individual items would be fully labeled.

Most individual snack sticks today are fully-labeled. With advancements in packaging films and packaging processes, these individually wrapped snack sticks are in coverings that bear all required features of a label. Since these snack sticks bear all required features, the canisters or caddies need not bear full labeling and are thus sold with limited information on the caddies.

A recently conducted survey of caddy use by the jerky and snack stick industry indicated that in the majority of cases, caddies containing individually wrapped and fully labeled jerky and snack stick items still bear some labeling features. For example, caddies have borne the mark of inspection and a nutritional facts panel. With regard to the aforementioned caddies, we are not aware of a single instance in which a consumer stated that he or she was misled or confused as the result of caddies bearing a legend or nutritional information. This is because in almost all instances, and in accordance with Policy Memo 111, the caddies are filled with product that is fully labeled, bearing all required features. The consumer has all information required to make its purchasing decision on the label of the individual snack unit and does not need to refer to the caddy for additional information. In essence, issues of container reuse identified in Policy Memo 111 are based on past industry practices in which individual units were not labeled. Such practices are no longer a standard for today’s jerky and snack stick industry.

As the industry has moved away from marketing unlabeled jerky and snack sticks in fully labeled containers (caddies), the concerns over reuse to display products other than those intended by the manufacturer

should no longer be a valid issue. Furthermore, the premise of mis-informing consumers by the reuse of containers for purposes other than originally intended for could be applicable to any instance in which retail markets receive containers of meat food products bearing the mark of inspection. In theory, any retailer could use a shipping container bearing the mark of inspection to display product at its store. When there has been absolutely no evidence that consumers today are being misled by caddies that bear the mark of inspection or nutritional information, there is no reason to single out caddies as a heightened concern. Therefore, we submit that the current policy is without merit and unjustifiably restricts the distribution of jerky and snack stick products contained in display caddies.

In consideration of the aforementioned, we request that the labeling policy be amended/clarified so as to permit caddies on display at retail markets to bear the mark of inspection and applicable nutritional information. In addition, we request a one year moratorium from the time a new policy is issued to allow establishments time to exhaust current label inventories.

We appreciate your assistance in this matter and look forward to receiving your timely response.

Sincerely,



Barry Carpenter, CEO
National Meat Association

Ken Mastracchio, Associate Director
National Meat Association