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Inside

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Knowing the Exemptions Regarding Inspection

By Beth A. McKew, DVM

The Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA) provide for the mandatory inspection of commercial meat and poultry products to ensure that they are wholesome, not adulterated, and properly labeled and packaged. As you may know, a "retail exemption" exists which allows for the preparation of certain meat and poultry products for retail sale without benefit of daily Federal inspection.

What Types of Operations Are Usually Conducted at Retail Stores and Restaurants?

According to Title 9 of the *Code of Federal Regulations* (CFR) 303.1 (d) (2), those operations include:

(a) Cutting up, slicing, and trimming carcasses, halves, quarters, or wholesale cuts into retail cuts, such as steaks, chops, and roasts, and freezing such cuts;

(b) Grinding and freezing products made from meat;

(c) Curing, cooking, smoking, rendering, or refining of livestock fat, or other preparation of products, except slaughtering or the retort processing of canned products;*

(d) Breaking bulk shipments of products;

(e) Wrapping or rewrapping products.

Only federally or State inspected and passed product can be handled or used in the preparation of products sold under the retail exemption.

*Meat and poultry products produced by operations described in Part (c) are not eligible to be produced for HRI under the retail exemption.

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Such operations are not without any review. They are typically regulated by a State or local regulatory authority which, depending on your State, may be a State or local Board of Health or State Department of Agriculture, and they are subject to being visited by FSIS. Because of this exemption, the FMIA and PPIA inspection requirements do not apply to the types of operations traditionally and usually conducted at retail stores, provided that the products produced are offered for sale in normal retail quantities to household consumers. However, keep in mind that certain Federal requirements still apply regardless of whether inspection is required, including prohibitions against the sale of adulterated or misbranded products.

The retail exemption also allows for a limited amount of sales of product to *other than household consumers*. Specifically, this "other than" group includes hotels, restaurants, and similar institutions, commonly abbreviated "HRI." In order for meat and poultry products to be sold by a retail store under the retail exemption to entities classified as HRI, the entities must meet **all** the criteria described in 9 *Code of Federal Regulations* (CFR) 303.1 (d) (2)(iii) (b):

1. HRI sales are 25 percent or less of the dollar value of total product sales **AND**
2. HRI sales are less than the calendar year dollar limitation set by the administrator **AND**
3. Products produced fit with the regulations as described by 303.1 (d)(2)(i) a, b, d, or e.

It's important to note that the specific dollar amount set by the administrator is subject to change every year, based on annual changes to the Consumer Price Index. The dollar amount for 2012 is $67,300 for meat products and $51,700 for poultry products. Annual increases are usually announced through a notice in the *Federal Register* and may be viewed on the U.S. Department of Agriculture's (USDA) Food Safety and Inspection Service's (FSIS) Web site at *www.fsis.usda.gov/Regulations_&_Policies/Federal_Register_Notices/index.asp*.

Although meat and poultry products for sale to HRI customers may be produced under FSIS inspection, you may opt to make these products under the retail exemption alongside other retail products. Producing products intended for hotels, restaurants, and other institutions under the retail exemption may provide flexibility in how you run your business.

Some restaurants and hotels may have made a business decision to purchase only federally inspected product, so be sure to communicate with your customers to ensure that you meet their requirements. Also, make certain that you're in compliance with any relevant rules and regulations required by State or local entities.

Firms that have both federally inspected operations and uninspected retail operations are required to keep retail operations separate from federally inspected operations. According to 9 CFR 305.2, the official establishment needs to be separate from the unofficial establishment so that FSIS

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Tap Into Your State HACCP Contacts and Coordinators

By Jane Johnson, DVM

Some of the most valuable sources you have for Hazard Analysis and Critical Control Point (HACCP) information and assistance are the HACCP contacts and coordinators in the State where your plant is located. The HACCP contacts and coordinators provide technical advice and resources and conduct activities to support HACCP implementation in small and very small plants.

The contact is generally the State meat and poultry program director or another representative of the State government. Coordinators are affiliated with universities and provide additional one-on-one advice and assistance to small and very small plants. Coordinators also develop and provide training and HACCP seminars.

To obtain information or find out about current HACCP training opportunities being offered in your State, contact your HACCP contact or coordinator. Information may be found on FSIS' Web site at *www.fsis.usda.gov/contact_us/state_haccp_contacts_&_coordinators/index.asp*. You can also call the Small Plant Help Desk at 1-877-FSISHelp (1-877-374-7435). The Help Desk staff will be happy to provide you with the appropriate contact information.

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is able to distinguish between the two operations and the product from those operations. Operational and product separation has typically been determined by time or space.

In other words, the retail exempt operations would have to be conducted in an area that is completely separate from the area in which inspected activities are being performed so there is no possibility of uninspected product being commingled with inspected product. Alternatively, they could be conducted in the same facilities, but they must be conducted at a time when no inspected activities are occurring, outside FSIS' approved hours of operation.

For more information or answers to your questions on HRI and the retail exemption, please contact the Small Plant Help Desk at 1-877-FSISHelp (1-877-374-7435) or email *InfoSource@fsis.usda.gov*. Staff officers are available from 9:00 a.m. to 4:00 p.m. ET, Monday through Friday. The Small Plant Help Desk, operated by the Office of Outreach, Employee Education, and Training's Outreach and Partnership Division, is a "one-stop" call center where operators of small and very small plants can call (or email) about anything relating to the regulation of meat, poultry, and egg products.

Commonly Asked Questions & Answers

Q. *Under the 2010 Nutrition Labeling final rule, does a plant under USDA inspection that sells directly to consumers have to test each product so that it can be labeled with nutrition information?*

A. No, there is no requirement that an establishment test each product. The plant can obtain nutrition information and materials for the major cuts of single-ingredient, raw meat and poultry products that can be used at point-of-purchase from the Food Marketing Institute at *www.fmi.org/consumer/nutrifacts/.* FSIS also has point-of-purchase (POP) materials available on its Web site at *www.fsis.usda.gov/Regulations_&_Policies/Nutrition_Labeling/index.asp*. The National Cattlemen's Beef Association also has a Web site, available at *www.beefretail.org/nutritionlabeler/*, that can be used to develop labels, as well as POP materials for retail.

If a retailer knows the fat content of the ground or chopped product, he or she can obtain information for the nutrition facts panel from the ground beef calculator available from the Agricultural Research Service at the Nutrient Database for Standard Reference, Release 23. This is available at *www.ars.usda.gov/nutrientdata*.

Also, if the plant qualifies for the small business exemption (§317.400(a)(1) or §381.500(a)(1)), then it would be exempted from the nutrition labeling requirements for ground and chopped products.

Q. *Is a statement of limited use required on donated product?*

A. Yes, the immediate package and the outside container of donated product must be plainly marked "Not for Sale." Other statements may be included to provide additional information (e.g., "For Charity"). Such statements prevent false or misleading labeling as required by 21 (U.S. Code) 457(c) and §607(d). It is FSIS policy that a similar requirement applies to donated egg products as well.

Q. *If an official (Federal) establishment tests a beef/veal carcass or part, and the carcass or part is presumptive positive or positive for* E. coli *O157:H7, can a disposition option for the product include moving it to a State-inspected facility for an adequate lethality treatment?*

A. No. When an official establishment tests a carcass or part and determines that it will address the finding on the carcass or part by sending the carcass or part for a lethality treatment, the carcass or part may only move under controls to another official establishment that is capable of applying a full lethality treatment to the product (see *FSIS Directive 10,010.1 Chapter III, IV OFF-SITE DISPOSITION OF PRODUCT*). Such a carcass or part is considered adulterated or potentially adulterated, and such products may not move in commerce. Shipping an adulterated or potentially adulterated carcass or part from an official establishment under Federal inspection to a State-inspected facility not under Federal inspection would place that shipment in commerce, which is not permitted under the Federal Meat Inspection Act, even if the products are moved under controls.

Q. *Does the Public Health Information System (PHIS) add directed tasks after the generation of noncompliance records (NRs)?*

A. By design, the PHIS system generates a directed task on the task list when an NR is saved. The directed task will be the same kind of task that generated the NR. (Exception: an NR based on a positive O157:H7 or other pathogen result would lead to a follow-up sampling and other tasks.) The directed task will have a start date about 1 month after the NR and an end date 3 months after the NR. This is intended for inspection program personnel (IPP) to have a specific opportunity to re-verify whatever led to the initial NR.

The PHIS system will generate a directed task for a variety of reasons. However, IPP will need to verify the same regulatory requirements that led to the NR when performing the NR specific directed task to verify that the establishment remains in compliance.