

Custom and Retail Exempt Meat Processing¹

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While the USDA regulation for meat inspection only requires that “all meat offered for sale must originate from a federally inspected slaughter facility,” the USDA Food Safety Inspection Service (FSIS) allows two primary processor exemptions to this rule: custom and retail. These exemptions, available in their entirety within the Code of Federal Registers at <http://www.fsis.usda.gov/OPPDE/rdad/FSISDirectives/5930.1.pdf>, are complex and can be easily misinterpreted. Moreover, the state of Florida has a set of Sunshine Law statutes specific to meat processors. This report concisely explains the exemptions and also covers Florida Sunshine Law specific to meat processors.

Custom Exemption

Custom exemption, for both animal slaughter and meat processing, exempts processors from the requirements of federal inspection because they are being paid for the service of converting a meat animal into a meat product. There are distinct requirements under this exemption, which are:

- Custom slaughter must only be for the personal use of the owner of the animal;
- The resulting product must be marked “Not for Sale”;
- The operator must maintain accurate production and business records; and
- The animal and/or product must be prepared or processed in a sanitary manner.

Custom slaughter must only be for the personal use of the owner of the animal

The first requirement for custom exemption relative to the personal use of the owner of the animal is the most ambiguous to interpret. Berry (2000) developed several questions which challenge the interpretation of this requirement, and are paraphrased as follows:

- Can more than one person own an animal?

Answer – Yes.

- Can a custom processor purchase animals and then sell the animals to the ultimate owner?

Answer – Yes. The processor is serving as a dealer and may buy an animal representing the eventual owner.

- Can a processor advertise quarters?

Answer – Yes. The requirement states that the whole animal must be totally owned by the ultimate owners prior to slaughter. However, the individuals may or may not know each other.

- Can the price charged vary due to carcass merit or other conditions of the animal?

Answer – Yes. The USDA makes no specifications relative to pricing of custom animals

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- Can trimmings from custom exempt carcasses be commingled prior to further processing?

Answer – Yes. The USDA allows commingling of trimmings from custom animals as long as the owners have approved the practice.

The resulting product must be marked “Not for Sale.”

According to Berry (2000), the most frequent question about this requirement involves when the product should be marked. Specific questions from Berry (2000) are paraphrased as follows:

- When should the carcass of a custom-slaughtered animal be marked “Not for Sale”?

Answer – Carcasses should be marked immediately after slaughter.

- What if an animal was slaughtered on the farm and the carcass brought to the processor for fabrication or further processing?

Answer – Any packages of meat from custom slaughter or containers containing those packages should be marked “Not for Sale” immediately after being prepared. This means each piece the consumer receives should be marked.

- Can trimmings from custom exempt animals be commingled with inspected products prior to grinding products?

Answer – Yes. However, all resultant products must be marked “Not for Sale”.

The operator must maintain accurate production and business records.

The production records should document facility safety measures such as water, sewage, and chemical. The production records for custom facilities that slaughter beef should describe disposal of specified risk materials (brain, spinal cord, etc.), and confirm the facility only harvests ambulatory animals. The business records should include the numbers and kinds of livestock slaughtered, quantities and types of custom products prepared, and names and addresses of the owners of the livestock and products. The USDA perceives the checkpoint of livestock numbers and owners as a “red flag” indicating a potential non-compliance issue. This leads to a question posed by Berry (2000):

- What happens when a name is repeated in the custom slaughter record within a few months, definitely exceeding the requirements for personal use?

Answer – This is probably the name of a given livestock dealer or producer. It is the responsibility of the custom processor to record the actual owner.

The animal and/or product must be prepared or processed in a sanitary manner.

USDA Food Safety Inspection Service (FSIS) employees conduct periodic reviews of custom slaughtering and processing operations to ensure they meet all applicable sanitation regulations. This FSIS directive can be viewed at <http://www.fsis.usda.gov/OPPDE/rdad/FSISDirectives/5930.1.pdf>. Processors with no past history of non-compliance typically receive no more than one scheduled verification review per year. All custom processors will be given a copy of their annual review by FSIS personnel.

State of Florida Meat Processing Statute

Florida lawmakers passed statute 500.601 in 2007 which addressed custom meat processing and retail meat sales. The entire document can be viewed at http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=Ch0500/SEC601.HTM&Title=-%3E2007-%3ECh0500-%3ESection%20601#0500.601. Prior to sale, processors must have the name and address of the seller, and must complete the following on behalf of the seller:

- Estimate the carcass weight, cutting loss, and total price of the order;
- Generate a list, by name and estimated count, of each cut to be derived from each primal source; and
- Generate a statement that the buyer may keep the cutting loss (bone, fat, offal, etc.) if desired,

At the time of final product delivery, processors must complete the following on behalf of the seller:

- Present the actual carcass weight and total delivered weight;
- Present the actual cutting loss; and

- Present an actual list, by name and estimated count, of each cut derived from each primal source.

Retail Exemption

Retail establishments, such as grocery stores and markets, are exempt from federal inspection during processing, provided the meat was derived from animals slaughtered under either state or federal inspection. There are distinct requirements under this exemption specifying what a retail exempt facility can and can not do. A retail market can not:

- Slaughter without Federal inspection;
- Can meat without Federal inspection;
- Sell to other retail markets; or
- Sell to wholesalers or distributors.

The primary initiative of a retail exempt facility is to sell fresh or frozen meat products to consumers for household consumption. To distinguish between purchasing for personal household consumption and purchasing for resell, the USDA has limitations on a “normal retail quantity” a customer can purchase and a processor can provide. The limitations per meat animal species are listed as follows:

- Cattle – 300 pounds
- Calves – 37.5 pounds
- Sheep - 27.5 pounds
- Swine – 100 pounds
- Goats – 25 pounds

A retail-exempt processor can sell products to food service (caterers, hotels, and restaurants), provided that:

- The processor’s total sales to food service do not exceed FSIS’s annual dollar limitations for retail sales, which is \$55,100, for 2008;
- The processor’s total sales to food service do not exceed 25% of their total annual sale;
- The processor only sells fresh products.
- The annual dollar limitations for retail sales of meat products can be found within the federal register at <http://www.fsis.usda.gov/OPPDE/rdad/FRPubs/2007-0009.pdf>.

The requirements for selling products direct to customers or to food service are very specific and restrictive, and some common questions involving them include:

- Is there a restriction on how often a consumer can purchase a “normal retail quantity” of product of a given species?

Answer – No. However, a consumer should not receive more than a “normal retail quantity” of a given species at one time.

- What should occur if a family bought an 800 lb beef carcass for the freezer, making roughly 500 lbs of retail product for purchase?

Answer – To remain within compliance, the order should be divided in half and two checks should be written to the retail processor. However, this is not enforced.

- Can processors sell consumers a “normal retail quantity” of more than one species at the same time?

Answer – Yes.

- What is or is there a “normal retail quantity” restriction for selling ground product direct to consumers?

Answer – Yes. It would be the same as the “normal retail quantity” of product of a given species.

- How do processors control how a product is used after its purchase?

Answer – If a consumer is buying a large volume of product the processor should ask how it will be used. However, it is almost impossible to police how products are used after selling.

- Can retail exempt products originating from federally inspected product be shipped and sold to customers between states via U.S. Mail?

Answer - Yes, retail exempt products can be shipped via common carrier to interstate consumers if the products were only derived from federally inspected products. However, the products can not have an inspection legend.

- Can a retail exempt processor sell an uncured, uncooked, unsmoked fresh sausage to food service within the limits of the retail exemption regulations?

Answer - Yes, a retail store may cut, trim, slice, grind, or freeze, products made from meat even if the products are multi-ingredient and sell them to food service consumers within the monetary limits set out by FSIS

The last primary FSIS restriction states a processor can market retail exempt products from two different stores. The specific USDA requirements for the stores are that:

- The processor must own the facility or pay for the facility's usage;

and

- The processor must not have more than two markets open at the same time.

A retail-exempt processor can have a permanent retail store and sell at a daily farmer's market, as well as having a roadside stand or truck, as long as no more than two selling points were open on the same day. Additionally, if the processor opens a third store, one of the facilities would have to be inspected.

The FSIS exemptions associated with custom or retail exempt meat processing can be confusing. The FSIS provides email alerts on numerous topics, including the publication of documents in the Federal Register. Users can subscribe to the list at: http://www.fsis.usda.gov/News_&_Events/Email_Subscription/index.asp. Additional information about retail exemption can be found on the American Association of Meat Processors website on retail exemption at <http://www.aamp.com/regulatory/retail exemption.asp>.

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Conclusion

Custom-exempt meat processing facilities are all over the state of Florida and are excellent venues for marketing locally raised livestock. Individuals who aspire to become entrepreneurs can have locally raised livestock slaughtered at local USDA-inspected facilities, then process the carcasses themselves and market the products as retail exempt. For more information contact the state meat extension specialist, Chad Carr at chadcarr@ufl.edu and/or the American Association of Meat Processors webpage at <http://www.aamp.com/>.