

9 CFR 303.1 - Exemptions

§ 303.1 Exemptions.

(a) The requirements of [the Act](#) and the regulations in this subchapter for inspection of the preparation of [products](#) do not apply to:

(1) The slaughtering by any individual of [livestock](#) of his own raising, and the preparation by him and transportation in [commerce](#) of the carcasses, parts thereof, [meat](#) and [meat food products](#) of such [livestock](#) exclusively for use by him and members of his household and his nonpaying guests and employees;

(2) The custom slaughter by any [person](#) of cattle, sheep, swine, or goats delivered by the owner thereof for such slaughter, and the preparation by such slaughterer and transportation in [commerce](#) of the carcasses, parts thereof, [meat](#) and [meat food products](#) of such [livestock](#), exclusively for use, in the household of such owner, by him and members of his household and his nonpaying guests and employees; nor to the custom preparation by any [person](#) of carcasses, parts thereof, [meat](#) or [meat food products](#) derived from the slaughter by any individual of cattle, sheep, swine, or goats of his own raising or from game animals, delivered by the owner thereof for such custom preparation, and transportation in [commerce](#) of such custom [prepared](#) articles, exclusively for use in the household of such owner, by him and members of his household and his nonpaying guests and employees: *Provided*, That the following requirements are met by such custom operator;

(i) Establishments that conduct custom operations must be maintained and operated in accordance with the provisions of §§ [416.1](#) through [416.6](#), except for: § [416.2\(g\)\(2\)](#) through (6) of this chapter, regarding water reuse and any provisions of [part 416](#) of this chapter relating to inspection or [supervision](#) of specified activities or other action by a Program employee. If custom operations are conducted in an [official establishment](#), however, all of the provisions of [part 416](#) of this chapter of shall apply to those operations.

(ii) If the custom operator prepares or [handles](#) any [products](#) for sale, they are kept separate and apart from the custom [prepared products](#) at all times while the latter are in his custody;

(iii) The custom [prepared products](#) are plainly marked “Not for Sale” as provided in § [316.16](#) of this subchapter, immediately after being [prepared](#) and are kept so identified until delivered to the owner; and

(iv) If exempted custom slaughtering or other preparation of [products](#) is conducted in an [official establishment](#), all facilities and equipment in the [official establishment](#) used for such custom operations shall be thoroughly cleaned and [sanitized](#) before they are used for preparing any [products](#) for sale.

(b)

(1) The exempted custom [prepared products](#) shall be [prepared](#) and [handled](#) in accordance with the provisions of §§ [318.5](#), [318.6](#), [381.300](#) through [318.311](#) of this subchapter and § [424.21](#) of subchapter E, and shall not be [adulterated](#) as defined in paragraph 1(m) of [the Act](#). The provisions of §§ [318.5](#), [318.6](#), and [318.300](#) through

318.311 related to inspection or [supervision](#) of specified activities or other action by an inspection program employee and the provisions of § 318.6(b)(9) and (10) shall not apply to the preparation and [handling](#) of such exempted products.

(2) The exempted custom [prepared products](#) shall comply with the requirements of §§ [316.16](#) and [317.16](#) of this subchapter.

(3) The custom operators claiming exemption under [paragraph \(a\)\(2\)](#) of this section shall keep records, in addition to records otherwise required by part 320 of this subchapter, showing the numbers and kinds of [livestock](#) slaughtered on a custom basis, the quantities and types of products [prepared](#) on a custom basis, and the names and addresses of the owners of the [livestock](#) and products.

(4) Articles capable of use as human food, resulting from the exempted custom slaughter or other preparation of [products](#) shall be promptly denatured or otherwise identified in accordance with § [325.13](#) of this subchapter and not removed from the establishment where the custom operations are conducted until so identified, unless they are delivered to the owner of the articles for use in accordance with [paragraph \(a\)\(2\)](#) of this section.

(c) It has been determined that it is impracticable to provide inspection of the preparation of [products](#) at establishments in any unorganized [Territory](#) at which [livestock](#) are slaughtered or their [products](#) are [prepared](#) for distribution solely within such jurisdiction and that exempting such establishments from requirements of [the Act](#) for such inspections under the conditions [stated](#) in this section will otherwise facilitate enforcement of [the Act](#). Therefore, such inspection requirements of [the Act](#) and of the regulations in this subchapter shall not apply at such establishments if they are operated in accordance with the regulations in part 416, §§ [416.1](#) through [416.5](#) of this chapter. However, the [Administrator](#) may refuse, withdraw, or modify any exemption under this paragraph when he determines in any specific case in accordance with the applicable rules of practice that such action is necessary to effectuate the purposes of this [Act](#).

(d)

(1) The requirements of [the Act](#) and the regulations in this subchapter for inspection of the preparation of [products](#) do not apply to operations of types traditionally and usually conducted at retail stores and restaurants, when conducted at any retail store or restaurant or similar retail-type establishment for sale in normal retail quantities or service of such articles to consumers at such establishments.

(2) For purposes of [paragraph \(d\)\(1\)](#) of this section:

(i) Operations of types traditionally and usually conducted at retail stores and restaurants are the following:

(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.

(ii) Any quantity or **product** purchased by a consumer from a particular retail supplier shall be deemed to be a normal retail quantity if the quantity so purchased does not in the aggregate exceed one-half **carcass**. The following amounts of **product** will be accepted as representing one-half **carcass** of the species identified:

	One-half carcass pounds
Cattle	300
Calves	37.5
Sheep	27.5
Swine	100
Goats	25

(iii) A retail store is any place of business where:

(a) The sales of **product** are made to consumers only;

(b) At least 75 percent, in terms of dollar value, of total sales of **product** represents sales to household consumers and the total dollar value of sales of **product** to consumers other than household consumers does not exceed the dollar limitation per calendar year set by the **Administrator**. This dollar limitation is a figure which will automatically be adjusted during the first quarter of each calendar year, upward or downward, whenever the Consumer Price Index, published by the Bureau of Labor Statistics, Department of Labor, indicates a change in the price of this same volume of **product** which exceeds \$500. Notice of the adjusted dollar limitation will be published in the Federal Register.¹

¹ The dollar limitation currently in effect may be obtained by contacting Director, Slaughter Inspection **Standards** and Procedures Division, Technical Services, Food and Safety Inspection Service, U.S. Department of Agriculture, Washington, DC 20250 (202) 447-3219.

(c) Only federally or **State** inspected and passed **product** is **handled** or used in the preparation of any **product**, except that **product** resulting from the custom

slaughter or custom preparation of **product** may be **handled** or used in accordance with paragraph (a)(2) and (b) of this section but not for sale;

(d) No sale of **product** is made in excess of a normal retail quantity as defined in **paragraph (d)(2)(ii)** of this section;

(e) The preparation of **products** for sale to household consumers is limited to traditional and usual operations as defined in **paragraph (d)(2)(i)** of this section; and

(f) The preparation of **products** for sale to other than household consumers is limited to traditional and usual operations as defined in paragraph (d)(2)(i) (a), (b), (d), and (e) of this section. (A retail store at which custom slaughtering or preparation of **products** is conducted is not thereby disqualified from exemption as a retail store under this paragraph (d).)

(iv) Restaurants.

(a) A restaurant is any establishment where:

(1) **Product** is **prepared** only for sale or service in meals or as entrees directly to individual consumers at such establishments;

(2) Only federally or **State** inspected and passed **product** or such **product prepared** at a retail store exempted under **paragraph (d)(2)(iii)** of this section is **handled** or used in the preparation of any **product**;

(3) No sale of **product** is made in excess of a normal retail quantity as defined in **paragraph (d)(2)(ii)** of this section; and

(4) The preparation of **product** is limited to traditional and usual operations as defined in **paragraph (d)(2)(i)** of this section.

(b) The definition of a restaurant includes a caterer which delivers or serves **product** in meals, or as entrees, only to individual consumers and otherwise meets the requirements of this paragraph.

(c) For purposes of this paragraph, operations conducted at a restaurant central kitchen facility shall be considered as being conducted at a restaurant if the restaurant central kitchen prepares **meat** or **meat food products** that are ready to eat when they leave such facility (i.e., no further cooking or other preparation is needed, except that they may be reheated prior to serving if chilled during transportation), transported directly to a receiving restaurant by its own employees, without intervening transfer or storage, maintained in a safe, unadulterated condition during transportation, and served in meals or as entrees only to customers at restaurants, or through vending machines, owned or operated by the same **person** that owns or operates such facility, and which otherwise meets the requirements of this paragraph: *Provided*, That the requirements of §§ 320.1 through 320.4 of this subchapter apply to such facility. *Provided further*, That the exempted facility may be subject to inspection requirements under **the Act** for as long as the **Administrator** deems necessary, if the **Administrator** determines that the sanitary conditions or practices of the facility or the processing procedures or methods at the facility are such that any of its **meat** or **meat food products** are rendered **adulterated**. When

the **Administrator** has made such determination and subjected a restaurant central kitchen facility to such inspection requirements, the operator of such facility shall be afforded an opportunity to dispute the **Administrator's** determination in a hearing pursuant to rules of practice which will be adopted for this proceeding.

(v) Similar retail-type establishment: Any establishment which is a combination retail store and restaurant; any delicatessen which meets the requirements for a retail store or restaurant as prescribed in paragraphs (d)(2) (iii) or (iv) of this section; or other establishment as determined by the **Administrator** in specific cases.

(vi) Consumer: Any household consumer, hotel, restaurant, or similar institution as determined by the **Administrator** in specific cases.

(3) Whenever any complaint is received by the **Administrator** from any **person** alleging that any retail store claiming exemption under this paragraph (d), in any designated **State** or organized **Territory** that is identified under section 205 of **the Act** (as one that does not have or is not exercising adequate authority with respect to recordkeeping requirements) has been operated in violation of the conditions prescribed in this section for exemption, and the **Administrator**, upon investigation of the complaint, has reason to believe that any such violation has occurred, he shall so notify the operator of the retail store and afford him reasonable opportunity to present his views informally with respect to the matter. Thereafter, if the **Administrator** still has reason to believe that such a violation has occurred, and that a requirement that the operator keep records concerning the operations of the retail store would effectuate the purposes of **the Act**, the **Administrator** shall order the operator to maintain complete, accurate, and legible records of total monthly purchases and of total monthly sales of **meat**, **meat** byproducts, and **meat** food **products**, in terms of dollar values of the **products** involved. Such records shall separately show total sales to household consumers and total sales to other consumers and shall be maintained for the period prescribed in § 320.3 of this subchapter. If the operator maintains copies of bills of lading, receiving and shipping invoices, warehouse receipts, or similar documents which give the information required herein, additional records are not required by this subparagraph.

(e)

(1) The requirements of **the Act** and the regulations in this subchapter for inspection of the preparation of **products** do not apply to **meat** pizzas containing **meat food product** ingredients which were **prepared**, inspected, and passed in a cured or cooked form as ready-to-eat (i.e., no further cooking or other preparation is needed) in compliance with the requirements of **the Act** and these regulations; and the **meat** pizzas are to be served in public or private nonprofit institutions, provided that the **meat** pizzas are ready-to-eat (i.e., no further cooking or other preparation is needed, except that they may be reheated prior to serving if chilled during transportation), transported directly to the receiving institution by employees of the preparing **firm**, receiving institution, or a food service management company contracted to conduct food service at the public or private nonprofit institution, without intervening transfer or storage.

(2) The definitions at Chapter 1, 1-102, except 1-102(z) and the provisions of Chapters 2 through 8, except sections 2-102(a) and (b), 2-302(d), 2-403(a), 2-

403(c), 2-404, 2-405, 2-407, 2-502 through 2-506, 2-508, 2-509, 4-105, 4-201(c), 4-208, 5-101(a), 5-103, 5-104, 5-202(c), 5-203, and 6-105, part IV, of the Food and Drug Administration's Food Service Sanitation Manual (1976 Recommendations), DHEW Publication No. (FDA) 78-2081, which is incorporated by reference, shall apply to the facilities and operations of businesses claiming this exemption. (These materials are incorporated as they exist on the date of approval. This incorporation by reference was approved by the Director of the Federal Register in accordance with [5 U.S.C. 552\(a\)](#) and [1 CFR part 51](#). Copies may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. It is also available for inspection at the FSIS Hearing Clerk, room 3171, South Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(3) Facilities and operations of businesses claiming this exemption shall also conform to the following requirements:

(i) *Manual cleaning and sanitizing.*

(A) For manual washing, rinsing and sanitizing of utensils and equipment, a sink with not fewer than three compartments shall be provided and used. Sink compartments shall be large enough to permit the accommodation of the equipment and utensils, and each compartment of the sink shall be supplied with hot and cold potable running water. Fixed equipment and utensils and equipment too large to be cleaned in sink compartments shall be washed manually or cleaned through pressure spray methods.

(B) Drain boards or easily movable dish tables of adequate size shall be provided for proper [handling](#) of soiled utensils prior to washing and for cleaned utensils following sanitizing and shall be located so as not to interfere with the proper use of the dishwashing facilities.

(C) Equipment and utensils shall be preflushed or prescraped and, when necessary, presoaked to remove gross food particles and soil.

(D) Except for fixed equipment and utensils too large to be cleaned in sink compartments, manual washing, rinsing and sanitizing shall be conducted in the following sequence:

(1) Sinks shall be cleaned prior to use.

(2) Equipment and utensils shall be thoroughly washed in the first compartment with a hot detergent solution that is kept clean.

(3) Equipment and utensils shall be rinsed free of detergent and abrasives with clean water in the second compartment.

(4) Equipment and utensils shall be [sanitized](#) in the third compartment according to one of the methods prescribed in paragraph (e)(3)(i)(E) (1) through (4) of this section.

(E) The food-contact surfaces of all equipment and utensils shall be [sanitized](#) by:

(1) Immersion for at least 1/2 minute in clean, hot water at a temperature of at least 170 °F; or

(2) Immersion for at least 1 minute in a clean solution containing at least 50 parts per million of available chlorine as a hypochlorite and at a temperature of at least 75 °F; or

(3) Immersion for at least 1 minute in a clean solution containing at least 12.5 parts per million of available iodine and having a pH not higher than 5.0 and at a temperature of at least 75 °F; or

(4) Immersion in a clean solution containing any other chemical sanitizing agent allowed under [21 CFR 178.1010](#) that will provide the equivalent bactericidal effect of a solution containing at least 50 parts per million of available chlorine as a hypochlorite at a temperature of at least 75 °F for 1 minute; or

(5) Treatment with steam free from materials or additives other than those specified in [21 CFR 173.310](#) in the case of equipment too large to [sanitize](#) by immersion, but in which steam can be confined; or

(6) Rinsing, spraying, or swabbing with a chemical sanitizing solution of at least twice the strength required for that particular sanitizing solution under paragraph (e)(3)(i)(E)(4) of this section in the case of equipment too large to [sanitize](#) by immersion.

(F) When hot water is used for sanitizing, the following facilities shall be provided and used:

(1) An integral heating device or fixture installed in, on, or under the sanitizing compartment of the sink capable of maintaining the water at a temperature of at least 170 °F; and

(2) A numerically scaled indicating thermometer, accurate to ± 3 °F, convenient to the sink for frequent checks of water temperature; and

(3) Dish baskets of such size and design to permit complete immersion of the tableware, kitchenware, and equipment in the hot water.

(G) When chemicals are used for sanitization, they shall not have concentrations higher than the maximum permitted under [21 CFR 178.1010](#) and a test kit or other device that accurately measures the parts per million concentration of the solution shall be provided and used.

(ii) *Mechanical cleaning and sanitizing.*

(A) Cleaning and sanitizing may be done by spray-type or immersion dishwashing machines or by any other type of machine or device if it is demonstrated that it thoroughly cleans and [sanitizes](#) equipment and utensils. These machines and devices shall be properly installed and maintained in good repair.

Machines and devices shall be operated in accordance with manufacturers' instructions, and utensils and equipment placed in the machine shall be exposed to all dishwashing cycles. Automatic detergent dispensers, wetting agent dispensers, and liquid sanitizer injectors, if any, shall be properly installed and maintained.

(B) The pressure of final rinse water supplied to spray-type dishwashing machines shall not be less than 15 nor more than 25 pounds per square inch measured in the water line immediately adjacent to the final rinse control valve. A 1/4-inch IPS valve shall be provided immediately up stream from the final rinse control valve to permit checking the flow pressure of the final rinse water.

(C) Machine or water line mounted numerically scaled indicating thermometers, accurate to ± 3 °F, shall be provided to indicate the temperature of the water in each tank of the machine and the temperature of the final rinse water as it enters the manifold.

(D) Rinse water tanks shall be protected by baffles, curtains, or other effective means to minimize the entry of wash water into the rinse water. Conveyors in dishwashing machines shall be accurately timed to assure proper [exposure times](#) in wash and rinse cycles in accordance with manufacturers' specifications attached to the machines.

(E) Drain boards shall be provided and be of adequate size for the proper [handling](#) of soiled utensils prior to washing and of cleaned utensils following sanitization and shall be so located and constructed as not to interfere with the proper use of the dishwashing facilities. This does not preclude the use of easily movable dish tables for the storage of soiled utensils or the use of easily movable dishtables for the storage of clean utensils following sanitization.

(F) Equipment and utensils shall be flushed or scraped and, when necessary, soaked to remove gross food particles and soil prior to being washed in a dishwashing machine unless a prewashcycle is a part of the dishwashing machine operation. Equipment and utensils shall be placed in racks, trays, or baskets, or on conveyors, in a way that food-contact surfaces are exposed to the unobstructed application of detergent wash and clean rinse waters and that permits free draining.

(G) Machines (single-tank, stationary-rack, door-type machines and spray-type glass washers) using chemicals for sanitization may be used: ***Provided, That,***

(1) The temperature of the wash water shall not be less than 120 °F.

(2) The wash water shall be kept clean.

(3) Chemicals added for sanitization purposes shall be automatically dispensed.

(4) Utensils and equipment shall be exposed to the final chemical sanitizing rinse in accordance with manufacturers' specifications for time and concentration.

(5) The chemical sanitizing rinse water temperature shall be not less than 75 °F nor less than the temperature specified by the machine's manufacturer.

(6) Chemical sanitizers used shall meet the requirements of [21 CFR 178.1010](#).

(7) A test kit or other device that accurately measures the parts per million concentration of the solution shall be available and used.

(H) Machines using hot water for sanitizing may be used provided that wash water and pumped rinse water shall be kept clean and water shall be maintained at not less than the following temperatures:

(1) Single-tank, stationary-rack, dual-temperature machine:

Wash temperature

150 °F

Final rinse temperature

180 °F

(2) Single-tank, stationary-rack, single-temperature machine:

Wash temperature

165 °F

Final rinse temperature

165 °F

(3) Single-tank, conveyor machine:

Wash temperature

160 °F

Final rinse temperature

180 °F

(4) Multitank, conveyor machine:

Wash temperature

150 °F

Pumped rinse temperature

160 °F

Final rinse temperature

180 °F

(5) Single-tank, pot, pan, and utensil washer (either stationary or moving-rack):

Wash temperature

140 °F

Final rinse temperature

180 °F

(I) All dishwashing machines shall be thoroughly cleaned at least once a day or more often when necessary to maintain them in a satisfactory operating condition.

(iii) Steam. Steam used in contact with food or food-contact surfaces shall be free from any materials or additives other than those specified in [21 CFR 173.310](#).

(4) For purposes of this paragraph, the term “private nonprofit institution” means “a corporation, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and which does not participate in, or intervene in

(including the publishing or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.”

(5) The **Administrator** may withdraw or modify the exemption set forth in § 303.1(e)(1) for a particular establishment when he or she determines that such action is necessary to ensure food safety and public health. Before such action is taken, the owner or operator of the particular establishment shall be notified, in writing, of the reasons for the proposed action and shall be given an opportunity to respond, in writing, to the **Administrator** within 20 days after notification of the proposed action. The written notification shall be served on the owner or operator of the establishment in the manner prescribed in section 1.147(b) of the **Department's** Uniform Rules of Practice (7 CFR 1.147(b)). In those instances where there is conflict of any material fact, the owner or operator of the establishment, upon request, shall be afforded an opportunity for a hearing with respect to the disputed fact, in accordance with rules of practice which shall be adopted for the proceeding. However, such withdrawal or modification shall become effective pending final determination in the proceeding when the **Administrator** determines that an imminent threat to food safety or public health exists, and that such action is, therefore, necessary to protect the public health, interest or safety. Such withdrawal or modification shall be effective upon oral or written notification, whichever is earlier, to the owner or operator of the particular establishment as promptly as circumstances permit. In the event of oral notification, written confirmation shall be given to the owner or operator of the establishment as promptly as circumstances permit. This withdrawal or modification shall continue in effect ending the completion of the proceeding and any judicial review thereof, unless otherwise ordered by the **Administrator**.

(f) The adulteration and **misbranding** provisions of **the Act** and the regulations in this subchapter, other than the requirement of the **official inspection legend**, apply to articles which are exempted from inspection or not required to be inspected under this section.

(g) The **Administrator** may extend the requirements of titles I and IV of **the Act** to any establishment in any **State** or organized **Territory** at which **products** are **prepared** for distribution solely within such jurisdiction, if he determines in accordance with the provisions of paragraph 301(c)(1) of **the Act** that it is producing **adulterated products** which would clearly endanger the public health.

(h) The **Administrator** may in specific classes of cases waive for limited periods any provisions of the regulations in this subchapter in order to permit appropriate and necessary action in the event of a public health emergency or to permit experimentation so that new procedures, equipment, and/or processing techniques may be tested to facilitate definite improvements: *Provided*, That such waivers of the provisions of such regulations are not in conflict with the purposes or provisions of **the Act**.