

UNITED STATES DEPARTMENT OF AGRICULTURE
FOOD SAFETY AND INSPECTION SERVICE
WASHINGTON, DC

FSIS NOTICE

53-04

10/20/04

POLICY FOR MOVEMENT OF PRODUCT BETWEEN CUSTOM EXEMPT FACILITIES

The purpose of this notice is to explain the conditions under which custom exempt products can be transported between custom exempt facilities and reiterate policies related to Specified Risk Materials (SRMs) as defined in 9 CFR 310.22(a).

Transporting Custom Exempt Product Between Facilities

Section 23(a) of the Federal Meat Inspection Act (21 U.S.C. 623(a)) and the regulations at 9 CFR 303.1(a)(2) exempt from inspection the custom slaughtering of animals that are delivered by the owner of the animals and are exclusively for the use by the owner and members of his or her household and nonpaying guests and employees. Custom exempt products are to be plainly marked "Not for Sale" as outlined in 9 CFR 316.16 immediately after being prepared and are to be kept so identified until delivered to the owner. As set out in 9 CFR 303.1(b)(4) "...articles capable of use as human food, resulting from the exempted custom slaughtershall be promptly denatured 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. "

Therefore, if an owner wishes to move custom exempt product from one custom exempt establishment to another for further processing, the owner must demonstrably be in control of the product, either by having direct physical control or by giving written direction to the custom facility owner or operator to move the product.

If the custom exempt facility is transporting product, Office of Field Operations (OFO) personnel will verify that the facility has records that demonstrate that the product was or is being transported at the product owner's direction (9 CFR 303.1(b)(3) and part 320). OFO personnel also will verify that the receiving custom exempt facility also maintains records to verify the owner's control.

DISTRIBUTION: Inspection Offices; T/A Inspectors; Plant Mgt; T/A Plant Mgt; TRA; ABB; TSC; Import Offices

NOTICE EXPIRES: 11-1-05

OPI: OPPED

Custom Exempt Products and SRMs

As set out in 9 CFR 310.22(a) the following SRMs are adulterants in all cattle:

- The tonsils (See FSIS Notice 50-04, Bovine Spongiform Encephalopathy (BSE) Issues Relating to Tonsils and Brain Collection and the Interactive Knowledge Exchange (IKE) Scenario 06-04)
- The distal ileum (the rest of the small intestine must be removed), and
- For cattle 30 months of age and older:
 - The head – skull, eyes, brain, and trigeminal ganglia are SRMs
 - The vertebral column – spinal cord and dorsal root ganglia (DRG) are SRMs

The regulation 9 CFR 303.1(b)(1) states that “exempted custom prepared products ... shall not be adulterated as defined in paragraph 1(m) of the Federal Meat Inspection Act.” Therefore, custom exempt product cannot contain SRMs.

NOTE: Unless a custom exempt facility can demonstrate that the vertebral columns from cattle slaughtered or produced are from cattle younger than 30 months of age, the head (skull, eyes, brain, and trigeminal ganglia) and the vertebral column cannot be processed because these parts would adulterate the product.

If one custom-exempt facility needs to transport carcasses with SRMs for removal and further processing to another custom exempt facility, it may do so if the owner directs in writing that this movement occurs. Each custom facility should have a copy of the owner’s written communication as evidence of the owner’s continuing control.

ENFORCEMENT

If inspection program personnel find that custom exempt facilities cannot verify the owner’s control, they are to notify the District Office through supervisory channels and provide the evidence to support their findings. The District Office will take the necessary follow-up actions, including referring allegations to the appropriate Compliance and Investigation Division (CID) Regional Director under the Office of Program, Evaluation, Enforcement, and Review (OPEER) for investigation or case disposition.

If inspection program personnel find it necessary to detain product, they are to do so in accordance with FSIS Directive 8410.1, Revision 2.

Direct any questions to the Technical Service Center.

/s/ Philip S. Derfler

Assistant Administrator
Office of Policy, Program, and Employee Development