



Division of Food and Recreational Safety

FAQs: Separation of Meat and Retail Food Operations

Several meat establishments have become licensed as retail food establishments for their retail operations following the revisions to Wis. Admin. Code ch. [ATCP 75](#). Now that establishments have retail food establishment licenses and are being inspected by a DATCP or agent program environmental health sanitarian, new questions have surfaced regarding the separation of activities done under the two license types. Most often, the point of overlap is at the deli case.

The following FAQs clarify what activities are under meat inspection and what activities are under retail food establishment inspection.

Can a meat establishment cut, slice, package, and sell inspected meat or poultry products out of a retail food establishment deli counter which has been incorporated into a meat establishment Hazard Analysis and Critical Control Points (HACCP) plan and label products at the time/point of sale with the marks of inspection?

No. Retail store operations fall under the retail food establishment exemption and are subject to state and local (county/city) jurisdiction and all respective and applicable food codes. Since operations performed at a deli counter such as cutting, slicing, and packaging for direct sale to consumers are clearly retail operations, FSIS/DATCP is not authorized to provide inspection for these operations.

While the retail store must start with inspected source materials, the retail store operations themselves are not performed under inspection. Retail products as defined in [9 CFR 303.1\(d\)\(2\)\(i\)](#) and [9 CFR 381.10\(d\)\(2\)\(i\)](#) are, by their very nature, produced under the retail store exemption and do not bear the marks of inspection. Therefore, products presented for retail sale unpackaged and without the marks of inspection cannot then be labeled with the marks of inspection at the point of sale. This is distinct from, and different than, a scenario in which a retail store may stock previously inspected and labeled meat and poultry products that are already fully packaged for sale to consumers. The production of those products is to be under full inspection at an official establishment that is separate and distinct from the retail store, though both may be on the same premises.

Are there any specific regulations that would prohibit this incorporation of a retail case/product displayed for retail sale into a HACCP plan and under inspection?

Yes. The regulations found in [9 CFR 302.1\(a\)\(1\)\(2\)](#) for livestock meat food products, and [9 CFR 381.6\(b\)](#) for poultry products, require inspection at establishments where articles are prepared for human food, **except** at establishments exempted from the inspection requirements, as provided by



[9 CFR 303.1\(d\)](#) and [9 CFR 381.10\(d\)](#) which clearly state that the respective requirements of the Acts (Federal Meat Inspection Act and Poultry Products Inspection Act) and the regulations of the subchapter **for inspection do not apply**.

[9 CFR 303.1\(d\)\(1\)](#):

(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.

[9 CFR 381.10\(d\)\(1\)](#):

(d)(1) The requirements of the Act and the regulations for inspection of the processing of poultry and poultry 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.

The requirements of the Acts and the regulations for inspection of meat and poultry products **do not apply** to operations of types traditionally and usually conducted at retail stores for sale in normal retail quantities to consumers at such places of business. These operations include cutting, slicing, trimming, grinding, freezing, curing, cooking, smoking, rendering, refining, breaking bulk packages, wrapping, and rewrapping.

If retail exempt (from meat inspection) operations are conducted in a facility that also has a federal/state inspected meat establishment, is the facility required to keep these retail exempt operations separate from the federal/state inspected operations?

Yes. [9 CFR 305.2\(a\)](#) for livestock operations, [9 CFR 381.26](#) for poultry operations, and [9 CFR 533.1](#) for fish of the order Siluriformes, require the official establishment to be separate and distinct from the unofficial establishment so that FSIS/DATCP 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 and there is no possibility of cross-contamination between the two areas. Alternatively, operations could be conducted in the same facilities, but they would have to be conducted at a time when no inspected activities are occurring.

The criteria for exemption from inspection for retail operations are addressed in [9 CFR 303.1\(d\)](#) for livestock operations, [9 CFR 381.10\(d\)](#) for poultry operations, and [9 CFR 532.3](#) for fish of the order Siluriformes.

Can an establishment take unlabeled (retail) product out of the deli case and bring it back into the official establishment for use in other products such as non-intact or cooked products?

No. Retail product cannot be used back in official meat establishment operations. Under the retail license, products that did not sell can be processed under the retail license and in some cases, a



variance for certain processes such as curing or smoking would be required. Returned products bearing the marks of inspection can be used in an official establishment as long as they are deemed wholesome and unadulterated.

What if a restaurant comes in and purchases retail product that doesn't have the mark of inspection?

Retail establishments are permitted to process and sell limited types and volumes of products to what are known as HRIs (hotels, restaurants, and institutions). Meat and poultry processing operations allowed under this exemption include cutting up, slicing, and trimming of carcasses, halves, quarters, or wholesale cuts into retail cuts such as steaks, chops, and roasts, and freezing such cuts; grinding and freezing products made from meat; breaking bulk shipments of products; or wrapping or rewrapping such products in the preparation of retail products for sale to other than household consumers. **Does not apply to cured or cooked products ([Wis. Admin. Code § ATCP 55.03\(2\)\(e\)3](#)).*

These sales are limited to 25% of amenable retail meat or poultry product sales, or \$84,900 for all meat products sold in 2021 (\$54,800 for poultry), whichever is less. This dollar value can change year to year based on calculations using the Consumer Price Index and is published in the Federal Register.

What if a customer comes into the retail store and wants to purchase a large quantity of product?

A consumer may purchase a normal retail quantity from a retail establishment not to exceed one-half carcass. The following amounts of product will be accepted as representing one-half carcass of the species identified:

	Pounds of product considered equal to one half-carcass
Cattle	300
Calves	37.5
Sheep	27.5
Swine	100
Goats	25



If a dually-licensed meat and retail food establishment has a deli case that has been incorporated into a HACCP plan and is displaying products for sale without a label bearing the marks of inspection, what is the time frame to come into compliance?

Establishments where this is occurring should work with their meat safety inspector and/or circuit supervisor to restructure operations, and the HACCP plans, if necessary, to maintain separation of retail and meat establishment operations. The Bureau of Meat and Poultry Businesses will work with establishments and agree to a reasonable amount of time for this transition to occur. All establishments will need to have separate and distinct meat and retail food establishments by September 30, 2021.

The information conveyed in this communication is consistent with the GovDelivery document from March 29, 2021, titled *Rule Changes May Require a Retail Food Establishment License at Meat Establishments*, which is still valid as written. A meat establishment where the only time/temperature controlled for safety (TCS) food being sold are the establishment's own packaged and labeled meat and poultry products can do so without an additional retail food establishment license.



Wisconsin Department of Agriculture, Trade and Consumer Protection

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06/21