

Custom Exempt Establishments – Authority for Inspections and Right to Appeal

Custom exempt establishments are exempt from the Federal Meat Inspection Act (FMIA) requirements for carcass-by-carcass inspections and the daily presence of inspectors during operations. Even so, the facility is not exempt from the adulteration, misbranding, humane handling of livestock and certain record-keeping provisions of those statutes. Custom-exempt plants are reviewed periodically to verify that facilities are maintained and operated in a manner that produces a safe, clean, and wholesome meat food product in a sanitary environment and are otherwise complying with the FMIA.

The North Dakota Meat and Poultry Inspection Program (NDMPIP) is responsible for conducting these reviews. As a state program, it is required to enforce requirements “at least equal to” those imposed under the Federal Acts. This is verified through annual FSIS reviews of the NDMPIP.

Access to your establishment is necessary to verify compliance with the FMIA and associated regulations. Authority has been granted to the NDMPIP for this access within ND Century Code and includes a penalty for any individual impeding access.

4.1-31-03. Access by inspectors - Penalty.

1. The commissioner and any authorized representative of the commissioner have access to:

- a. Any place where food or any other product, the manufacture, sale, use, or transportation of which is restricted, regulated, or prohibited by a law of this state, is or may be manufactured, prepared, stored, sold, used, transported, offered for sale or transportation, or possessed with intent to use, sell, or transport;**
- b. Any place where an animal is pastured or stabled;**
- c. Any car or other carriage used to transport a meat food product or an animal;**
- d. Any place where food is or may be cooked, prepared, sold, or kept for sale to or for the public or distributed as a part of the compensation of an employee or agent; and**
- e. Any place where a meat food product may be manufactured, sold, used, offered for sale or transportation, or possessed with intent to use, sell, or transport.**

2. The commissioner may inspect any container believed to hold food, a food ingredient, or some other product, the manufacture, use, sale, or transportation of which is restricted, regulated, or forbidden by state law, and may take samples from it for analysis.

3. It is a class A misdemeanor for any person to obstruct entry or inspection under this chapter or to fail, upon request, to assist in an inspection authorized by this chapter.

As the owner/operator of a Custom Exempt plant, you have the right to appeal decisions made by a NDMPIP employee, such as; the decision to reject (tag) a piece of equipment, room or facility; or, the risk rating assigned by the employee. A plant should file an appeal without fear of retaliation. The ND Department of Agriculture (NDDA) encourages plants to appeal decisions they believe are unfair or are not consistent with applicable standards. The appeal process is a mechanism for ensuring that any disagreements between plant managers and NDMPIP employees are reviewed.

The appeal can be made to the State Meat Inspection Director orally or in writing. The appeal should be made as soon as possible within the employee’s decision and no later than one week after the decision was made. The NDDA chain of command is:

1. NDMPIP Director
2. NDDA Commissioner

ND Department of Agriculture
600 E Boulevard Ave, Dept 602
Bismarck, ND 58505
P: (701) 328-2231 / F: (701) 328-4567