

Frequently Asked Questions – Division of Food Safety and Inspection

Category: Starting a new business

Q. I want to open a food processing business requiring a 20C Food Processing License. How do I make my firm ready to open?

A. Since there may be local building code requirements, it is advised you follow up with them to address any issues under their jurisdiction. As far as NYS Department of Agriculture and Markets, the firm must have the necessary equipment and facilities to conduct the planned operations. In very general terms, the floors, walls and ceiling must be made of smooth and easily cleanable surfaces. Acceptable equipment washing and sanitizing facilities must be conveniently located to the food processing area(s). Hand wash sinks must be readily available in food processing areas as well as in the restroom(s). Hot and cold running water must be readily available at all sinks. The firm must have sufficient work space, refrigeration and storage for the planned operations.

Certain types of operations will require scheduled processes or process reviews from food processing authorities be completed and, where required, filed with the FDA prior to conducting the processing operations.

Q. Should I send you my floor plans (blueprints) for review or approval before beginning construction?

A. We don't require that blueprints or floor plans be reviewed or approved for retail firms. Firms should comply with local building code expectations. If you have specific questions during the planning stage, you can reach out to the regional or zone offices for assistance. Slaughterhouses and poultry markets are required to have their floor plans/ blueprints submitted for review prior to submitting a license application.

Q. I am thinking of starting a company in which I would buy products from an importer then act as the middle person distributing these items to different customers. I would be storing the product in an out of state warehouse. Do I need a license?

A. You should check with the inspection officials in the state where the warehouse is located in order to determine that state's requirements to store the product. You would not require a NYS Agriculture and Markets license if the product is not stored in NYS and is sent directly from an out of state warehouse to a licensed retail store in NYS.

Q. I have a commercial space for manufacturing food. I have plans to convert this space to a shared kitchen and rent out the space by the hour to other food manufacturers. What kind of license I need?

A. If the shared kitchen space is in NYC, you will need to contact the NYC Department of Health as shared kitchens (aka incubators) require a license from the City. For all shared kitchens in the state, each operator must obtain their own license or permit in order to process foods. Depending on the nature of the individual business, manufacturers will need to contact either DOH for permitting or NYSDAM to apply for an Article 20-C Food Processing License. The shared kitchen operator will only require an Article 20-C Food Processing License if they are manufacturing their own product.

Q. Do I need liability insurance for my business?

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A. The Department does not require liability insurance in order to license a firm. In order to determine your needs, you should speak to an attorney, or insurance representative to understand the risks associated with producing food for commercial sale.

Q. I am planning to manufacture almond and cashew nut milk. I may sell this product either at wholesale or at retail. Are there any special requirements or license for this process?

A. You need to have the manufacturing process approved by a recognized Processing Authority in addition to obtaining an Article 20-C food processing license. The license will allow for the sale of the product at both retail and at wholesale. At a minimum, you will need to adhere to the Good Manufacturing Practices.

Q. I am planning to purchase large shelf stable jars of pickles and repack them into smaller jars to sell at wholesale or at retail. Are there any special requirements or license for this process?

A. Generally speaking, once you open the hermetically sealed container of pickles, the product needs to be refrigerated. Unless you obtain approval from a recognized processing authority, you would be unable to sell the re-packaged product as shelf stable.

You will also require an Article 20-C food processing license and you adhere to Good Manufacturing Practices.

Q. I am planning to mix dry ingredients such as ground shrimp, fried onions, crushed peppers and salt and pack in jars to sell at wholesale. Are there any special requirements or license for this process?

A. You need to get your manufacturing process approved by a recognized processing authority and you may be amenable to Seafood HACCP regulations. In addition, you will require an Article 20-C food processing license and must adhere to Good Manufacturing Practices.

Q. I am planning to manufacture refrigerated non-meat baby food in a commercial facility. What kind of license or controls do I need?

A. Baby food manufacturing is a high risk operation. You need to make sure the food is safe and that babies are provided the required nutrients. In addition to obtaining an Article 20-C Food Processing License, you need to contact a processing authority to get your manufacturing process approved.

Category: Licensing

Q. What qualifies as “Food Processing” requiring an Article 20C license?

A. Food Processing includes manufacturing, canning, preserving, freezing, drying, dehydrating, juicing, pickling, baking, brining, bottling, packing, repacking, pressing, waxing, heating or cooking, or otherwise treating food in such a way as to create a risk that food may become adulterated if improperly handled.

Q. What is the difference between an Article 20C Food Processing license and an Article 28A Retail Food Store License? Do I need both?

A. One retail store would not require both licenses. If the store sells products that require refrigeration such as milk or eggs, but is not conducting processing operations such as operating a cappuccino or slush machine, making sandwiches or salads, cooking foods, etc, then only the Article 28A license is

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required. If the retailer is conducting any food processing, an Article 20C license is required, but not the Article 28A Retail Food Store license.

Q. I want to apply for an Article 20-C license. What do I need to have? Is special equipment required?

A. If your planned food processing operations fall under the jurisdiction of the Division of Food Safety, the equipment you need and your floor plan will generally be dictated by your planned operations. Approval from local zoning or building code enforcement is recommended. The firm would need to have sufficiently sized work areas and storage facilities to accommodate your operation. The building would need to be rodent and weather proof with adequate waste water removal and potable water supply. Private water and septic systems may require approval from the Department of Health. You would be expected to have hand-wash sinks in restrooms as well as in any food processing areas; equipment washing facilities must be large enough to fit your equipment to ensure proper washing, rinsing and sanitizing ; refrigeration in working order and able to keep internal food temperatures at no more than 41°F; and sufficient working surfaces (tables or countertops). Equipment and surfaces are not required to be made of a certain material or be a specific brand. Floors, walls and ceilings must be sealed, smooth and easily cleanable. A number of surfaces are acceptable including sealed concrete, painted sheet rock, or drop ceiling tiles. Keep in mind your intended operations when choosing materials as some surfaces will not withstand certain environments such as extensive wet cleaning or a process which produces a lot of steam. Work surfaces must be smooth, easily cleanable and food grade. Equipment used must be designed for the purpose it is used for and be smooth, easily cleanable and in good condition.

Q. I will be operating from a shared kitchen which is already licensed and inspected. Do I still have to obtain an Article 20-C food processing license?

A. Each business operating in the shared kitchen must apply for their own Article 20-C food processing license and must have their own inspection.

Q. How long does it take to receive the license in the mail?

A. It varies depending on several factors. We recommend that you apply for your license at least 8 weeks prior to your planned opening date. Additionally, the establishment must have a satisfactory inspection on file before the license can be issued.

Q. If I move, is the license transferrable to the new location?

A. No, the license is associated with the physical location. If you move the business (operations), you need to apply for a new license and be inspected at the new location. Similarly, if you sell your business, the new owners must apply for the 20C Food Processing License in their company name.

Q. Does the license cover specific operations? Can I add new operations as I want to change my business? Does the license cover any new/ added operations?

A. If you have an Article 20-C food processing license, you are licensed to conduct any food processing operations as defined in the law. However, you may require specialized training, equipment and documentation such as scheduled processes or HACCP plans, before being allowed to make certain food

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products. Contact your inspector or Regional Office before making pickled/ jarred/ canned products; drying or curing meats; making juice, or handling seafood for wholesale distribution.

Q. I've applied for an Article 20-C Food Processing license. When can I start to operate?

A. To begin conducting food processing operations, you must be inspected, in substantial compliance and be properly licensed.

Q. I'm planning to manufacture food outside the state of New York, but I plan to sell my food product in New York as well as in other states. Is there a specific license or permit required from NYSDA&M?

A. There is not a NYS registration requirement for your food item with the exception of bottled water. You may require a warehouse license or retail food store license if you own the storage facility or food store in NYS where the product is sold. You may have to register your product with FDA as they have jurisdiction over foods in interstate commerce. (More information is available at fda.gov. concerning FDA's jurisdiction).

Q. If I wish to apply for a 20-C Food Processing Establishment license, an Article 28-A Retail Food Store license, or an Article 28-D Food Warehouse license but I have not yet selected a location for my actual operations, can I apply for the license using my home address, office address or a P.O. Box?

A. No. You must show the full address of your food processing facility, retail food store, or warehouse **physical** location. If you wish to have your mail sent to a mailing address that is not the physical address of the business, you can enter that alternate mailing address in "section 2: Optional Mailing Address" on the license application.

Category: Home processing

Q. How long does it take to receive my approval for home processing from your Department?

A. Approvals generally take two weeks.

Q. Do I need to have my kitchen inspected?

A. Inspections are conducted on a complaint basis only.

Q. Can I have a website?

A. Although internet sales are prohibited under this exemption, home processors are allowed to have websites to advertise where their products will be available. This exemption does not allow for home processors to make specialty items, such as birthday cakes, per order. Furthermore, it does not allow for direct sales of product from the home.

Q. Are interstate sales allowed?

A. No, home processed foods can only be sold within New York State.

Q. What information needs to be on my label?

A. The required information for your label is: Product Name, Ingredient List in order of predominance by weight, Processor Name and complete address, and Net Quantity of Contents.

Q. Do I have to put my home address on the label?

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A. The place of business shall include the street address or PO Box, city, State and ZIP code. However, the street address may be omitted if the manufacturer can be found via telephone directory or internet.

Q. Why are Fruit/Vegetable breads prohibited under this exemption?

A. Fruit/Vegetable Breads often contain a high moisture content which requires refrigeration. Refrigerated products are not allowed as a registered home processor.

Q. Why is tempering chocolate for candy and/or dipping not allowed?

A. Chocolate and chocolate-like products have been implicated in food borne illnesses. Melting chocolate is not a thermal process (not a control step). Chocolate melts at very low temperatures.

Q. Am I required to obtain liability insurance?

A. The Department does not mandate you to obtain insurance. Consult an attorney or an insurance professional to discuss your product liability concerns and risks.

Q. Can I get a home processor license exemption in order to make products for me to sell at my store or restaurant?

A. No. The home processor exemption is not applicable to anyone who holds a DOH permit or NYSDAM license. When a license or permit is held, all foods offered for commercial sale must be made at the licensed or permitted facility.

Q. Can I make items other than those listed? Why am I limited to these items?

A. The home processor exemption is limited to foods without a history of food borne illness and the nature of the products makes illness unlikely.

Q. Why can't I make certain items, such as peanut butter or items requiring refrigeration, from my home?

A. Items where there are concerns for the product safety, including products where there is not a pathogen kill step, products which have been implicated in outbreaks, or products considered "potentially hazardous", are not allowed to be made in an unlicensed and uninspected facility.

Category: Certificates of Free Sale.

Q. What is a Certificate of Free Sale?

A. A Certificate of Free Sale is a document required by certain countries or foreign governments for commodities which certifies that the imported food items are normally and freely sold in NYS and are approved for export.

Q. What requirements must the manufacturing firm meet in order to be issued a Certificate of Free Sale?

A. The establishment must have a valid license on file with the Department and have passed their most recent inspection conducted within the past year. Pet food items must hold a current product registration and be made in NYS.

Q. How can I obtain a Certificates of Free Sale?

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A. In order to request a Certificate of Free Sale, a written request must be made to the NYS Department of Agriculture and Markets and payment must be received. The written request must be made on the requesting company's letterhead and must include the name of the country receiving the product being exported from New York State and the list of products being exported. The Certificate of Free Sale will only be issued for products that are manufactured under the jurisdiction of the Department.

Q. Is this a charge for a Certificate of Free Sale?

A. There is a fee of \$50 for each Certificate of Free Sale. Payment must be received in the form of check or money order made out to the "Department of Agriculture and Markets" and mailed to:

The Department of Agriculture and Markets
Attn.: Food Safety and Inspection
10B Airline Drive
Albany, NY 12235

Q. How many products can be listed on a Certificate of Free Sale?

A. There is no limit of commodities per certificate as long as the products are going to the same country.

Q. Can I get an "open ended" Certificate of Free Sale, one without date, good for a year, or good for multiple shipments?

A. No. Certificates of Free Sale are good for the single shipment.

Category: Consumer complaints / Product coding.

Q. How do I file a complaint with the Department? Can I be anonymous?

A. Complaints may be filed anonymously if you choose. The filed complaint needs to be as specific as possible concerning the nature of the complaint and the conditions you observed. Investigations of filed complaints will be limited only to those which fall under the jurisdiction of the Department.

Q. Once I file a complaint, how long before you will follow up?

A. The Division of Food Safety and Inspection will only investigate complaint allegations over which we have jurisdiction, meaning the allegations must be a violation of our regulations or law. Every complaint which falls under our jurisdiction is investigated. The timeframe to investigate the complaint is prioritized based on the food safety risks associated with the situation. Please have as much information as possible when calling with a complaint (such as the store where the product was purchased, the brand, container type and size, any codes on product, when the product was purchased, etc.).

Q. I found worms coming out of the fish I purchased. Can you check them or send somebody to check?

A. Certain fish acquire parasites from their natural environment. Parasites are common in certain species and be classified as round worms, tape worms or flukes. Thorough cooking will kill parasites. The Department does not analyze, or identify species of parasites, but may investigate the place of purchase if there are numerous parasites in fish.

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Q. All the stores in ABC Street sell spoiled food. Will you investigate the store?

A. You may file a complaint. We will need to know the address of the store and specific information about the spoiled foods including the name of the product you found spoiled in order to conduct a thorough investigation.

Q: Are stores allowed to sell food products past the code/expiration dates?

A: New York State law requires food products to be wholesome, so provided the food is not spoiled and is still considered wholesome, the product may be sold beyond the manufacturer's date. Many dates on foods are related to the quality of the product and are still safe to consume beyond the date on the label.

Q: Are stores allowed to re-package/re-date store packaged fresh meats?

A: Yes, these items can be re-packaged/re-dated as long as they are verified as still being wholesome.

Q. Does a color change in fresh meats indicate spoilage?

A. A color change alone does not indicate spoilage. The continued contact of myoglobin and oxymyoglobin with oxygen (which initially gives meat its red coloring) leads to the formation of metmyoglobin, a pigment that changes the color of meat from red to a more brownish color. Also as time passes there is a normal darkening or fading of meat. Spoiled meats will have an off odor, be sticky or tacky to the touch, or it may be slimy. If meat has developed these characteristics, it should not be used.

Q. Why is pre-packed ground beef red on the outside and sometimes grayish-brown on the inside?

A. These color differences do not indicate that the meat is spoiled or old. As discussed in the previous question, oxygen from the air reacts with the meat pigments to form a bright red color which is usually seen on the surface of ground beef purchased in the supermarket. The interior of the meat may be grayish-brown due to the lack of oxygen penetrating below the surface.

Q. What causes iridescent colors on cooked/processed meats?

A. Meat contains iron, fat, and other compounds. When light hits a slice of meat, it splits into colors like a rainbow. There are various pigments in meat compounds that react to give it an iridescent or greenish cast when exposed to heat and processing. Iridescence does not represent decreased quality or safety of the meat.

Q. What if I find pink in my cooked poultry?

A. Safely cooked poultry can vary in color from white to pink to tan. Oven gases can react with hemoglobin in the meat tissues to give it a pink tinge. Often meat of younger birds shows the most pink because their thinner skins permit oven gases to reach the flesh. Older animals have a layer of fat under the skin, giving added protection. Older poultry may be pink in spots where fat is absent from the skin. Also, nitrites and nitrates, which are often used as preservatives or may occur naturally in the feed or water supply used, can cause a pink coloration.

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Category: Label Requirements.

Q. Do I need a label for my product?

A. If your product will be packaged and sold at retail to the end-user, or sold wholesale to a firm that will sell the packaged product to the end-user at retail, you need to label your product.

Q. What information has to be included on my label?

A. There are five basic requirements that must be on a retail package label. They are:

- Identity of the Food in Package Form
- Name of Manufacturer, Packer or Distributor
- Address of the manufacture, packer or distributor
- Ingredient Declaration
- Net Quantity of Contents

Q. What is meant by the identity of a food?

A. The statement of identity is the common or usual name of the food. For example, grated cheese; salsa, or cereal.

Q. How do I declare the Net Quantity of the contents?

A. The declaration of net quantity shall appear as a distinct item within the lower 30 percent of the principal display panel. The declaration shall be printed in boldface print or type in letters and numbers in a size in relationship to the total square inches of the principal display panel.

The declaration of net quantity of contents shall be expressed in the following terms:

- a. Weight (one pound, but less than four pounds) expressed in ounces and followed by the largest whole unit in parenthesis, i.e. NET WT. 24 OZ (1 LB 8 OZ).
Or
- b. Fluid measure (one pint, but less than one gallon) expressed in fluid ounces and followed by the largest whole unit in parenthesis, i.e. 20 FL OZ (1 PT 4 OZ).

A separate statement of the net quantity of contents in terms of the metric system is required to appear on the principal display panel as part of the required declaration, i.e. NET WT 9 OZ (255g) or 9 FL OZ (266 ml).

Q. What is the Principle Display panel on a label?

A. The term “principal display panel” as it applies to food in packaged form, means the part of the label that is mostly to be displayed, presented, shown or examined under customary conditions of display for retail sales. The principal display panel shall be large enough to accommodate all the mandatory label information required to be placed thereon with clarity and conspicuousness and without obscuring design, vignettes, or crowding.

Q. What is required on the Principle Display Panel?

A. The principal display panel of a label for a food in package form shall bear:

1. The identity of the commodity by its common or usual name.

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2. A declaration of net quantity of contents.

Q. What is meant by the Information Panel (IP)?

A. The term “information panel” as it applies to packaged food means that part of the label immediately adjacent and to the right of the principal display panel as observed by an individual facing the principal display panel.

Q. What is required on the Information Panel (IP)?

A. The IP shall bear:

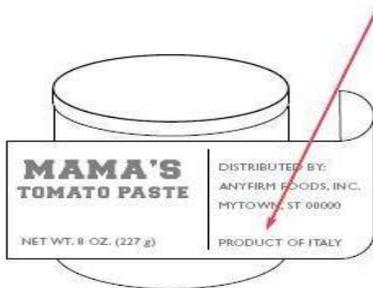
Ingredient Declaration
Name of Manufacturer, Packer or Distributor
Place of Business

Q. What language is required on the label?

A. All required label information shall appear in the English language. If the labeling bears any statutory information in a foreign language, all the required labeling information shall appear in both the foreign and English language.

Q. Are packaged food items (e.g. canned goods) which are manufactured outside of the USA, required to be labeled with the country of origin?

Where the country of origin should be declared on an imported food:



Answer: The law does not specifically require that the country of origin statement be placed on the PDP, but requires that it be conspicuous. If a domestic firm's name and address is declared as the firm responsible for distributing the product, then the country of origin statement must appear in close proximity to the name and address and be at least comparable in size of lettering. ([FDA/CBP \(Customs and Border Protection\) Guidance](#) and Customs regulation [19 CFR 134](#))

Category: Jurisdiction Requirements

Q: I own a grocery which has a deli. Most of my income comes from the sandwiches I sell from the deli. Do I fill out a NYSDAM license application?

A: No. Since more than 50% of your food sales come from food service items, your store will fall under the jurisdiction of the local Department of Health.

Q. Do I need to contact anyone else to regulate my food business if I am licensed by the Department of Agriculture and Markets?

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A. Certain products may fall under the jurisdiction of another regulatory authority. For example, bottled water is regulated by the Department of Health; shellfish sold at wholesale is regulated by the NYS Department of Environmental Conservation; beef, pork or chicken products sold at wholesale are regulated by the USDA; foods sold at wholesale which are not under the jurisdiction of USDA are regulated by the FDA.

Cooking Temperature Requirements:

Q. Why can't I leave food on the counter for four hours and then refrigerate the unsold food?

A. Food left out on the counter at room temperature for 4 hours or more has been temperature abused and has the potential to contain high levels of pathogens. Regulations require food to be held below 41°F or above 135°F. Refrigerating food that has been temperature abused will not stop pathogen growth and still has the potential to cause illness.

Reporting a Foodborne Illness:

Q: I believe that a food I ate made me ill. How do I report this and to whom?

A: Illnesses caused by, or suspected to have been caused by consumption of food must be reported to the Department of Health. Allergic reactions are not considered an illness. Complaints involving an allergic reaction to a known ingredient can be referred to the Department of Agriculture for foods purchased at a store, and to the Department of Health for foods purchased from a restaurant.

Water Emergencies:

Q: My municipality just issued a boil water order. What do I need to do?

A: If the municipality has issued guidance in conjunction with the Department of Health, follow the guidance they have provided. If no guidance was given, using bottled water for all food preparation, equipment cleaning and for washing hands is best. Food processing that cannot be done easily with bottled water should be discontinued. Place "do not use" signs on equipment directly connected into the plumbing system such as ice makers or coffee machines. Before using water again, follow any guidance given by municipalities to flush your system.

Non-potable water can continue to be used to flush toilets or to clean floors.

Scheduled Process or Process Review Requirements:

Q. What kinds of products require a scheduled process or process review?

A. A process review or scheduled process may be requested for any complex process, or for any product where the safety is in question. As examples, the following types of products will require this documentation: Shelf stable items such as pickled meats or vegetables; jarred sauces, certain dressings and chutney products; vacuum packaged processed meats sold under refrigeration; dried meats; smoked fish.

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Shared Space Food Processing:

Q: Can multiple operators who share the same space for food processing be in production at the same time?

A: No. Firms cannot operate at the same time in a shared space. Separating the operations avoids cross contamination and allows for proper cleaning and sanitizing of food contact equipment between operations.

Q: I will be operating from a shared kitchen which is already licensed and inspected. Can I use the shared kitchen's license?

A: No, each business operating at the shared kitchen must hold their own license and be inspected.

5A Live Poultry Market New Business Procedures for operations in NYC:

Q. How can I open a live poultry 'chicken' market in any of the Burroughs of NYC?

A. If you are looking to open a newly constructed poultry market in NYC, you will have to find a location that is more than 1,500 feet in any direction from a residential dwelling. (*Required by law for slaughter facilities in a city with a population of one million or more*). Official documentation from a licensed surveyor or contractor is required to verify compliance before proceeding with the licensing process. If you are taking over the ownership of an existing market, the 1,500 ft. verification is not required provided there is no significant down-time (closure) between the two ownerships.

The location must be also by zoned for slaughterhouse operations by NYC Dept. of Buildings. Written documentation stating the building use is approved for live animal slaughter is required.

Once this documentation has been obtained, the applicant should contact the Brooklyn office at 718-722-2876 or Cory Skier at (518) 457-5457 in order to obtain a "5A New Applicant Checklist". This informational packet will include the 5A slaughterhouse regulations (circular 925) and the checklist items required as per regulation which include submission of a floor plan or blueprints depicting the layout of the facility equipment and sinks, room separation, etc.

Q. How do I acquire a 5A license application?

A. The 5A license application will be provided to an applicant only after the submitted applicant checklist (w/applicable supporting documentation) has been reviewed and approved by Department supervision. 5A license applications are not accessible on the Department website.

5A Slaughterhouse New Business Procedures for firms outside of NYC (Primarily are upstate firms which are operating under a 20K bird limit USDA exemption)

Q. What do I need to open a 5A slaughter facility?

A. You must have written city/town approval to operate a poultry/small animal slaughterhouse; an approved method of waste disposal (which may include composting if permitted by town municipality);

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and approved water supply and firms should gain approval from local code enforcement regarding any construction. If the water source is a well, the water must be tested for nitrites (one time), nitrates (annually) and coliform (quarterly).

Once this documentation has been obtained, the applicant should contact the Region office at 315-487-0852 or Cory Skier at (518) 457-5457 in order to obtain a “5A New Applicant Checklist”. This informational packet will include the 5A slaughterhouse regulations (circular 925) and the checklist items required as per regulation which include submission of a floor plan or blueprints depicting the layout of the facility equipment and sinks, room separation, etc.

Deer Slaughter/Processing

Q. What is required to slaughter deer, and sell the venison to customers/businesses?

A. Only captive raised deer, slaughtered and processed under a 5A license may be placed into commerce. Refer to Circular 925, section 245.8- Exotic Animals- for requirements on field slaughtering captive raised exotic animals.

Q. What about processing wild game (deer)?

A. Individuals, and some licensed food businesses will offer custom butchering of game animals. This is done as a service for the owner of the animal, for personal consumption. Custom butchered product in any form cannot be placed into commerce (offered for sale).