

§ 362.1

9 CFR Ch. III (1–1–00 Edition)

AUTHORITY: 7 U.S.C. 1622, 1624; 7 CFR 2.17 (g) and (i), 2.55.

SOURCE: 41 FR 23715, June 11, 1976, unless otherwise noted.

§ 362.1 Definitions.

The definitions in § 381.1 are incorporated in this part except for the definitions found in §§ 381.1(b)(2), 381.1(b)(5), 381.1(b)(26), 381.1(b)(28), 381.1(b)(40), 381.1(b)(41), 381.1(b)(42), 381.1(b)(46), and 381.1(b)(56) which are excluded in § 362.2(a). In addition to those definitions, the following definitions will be applicable to the regulations in this part:

(a) *Act*. “Act” means the Agricultural Marketing Act of 1946, as amended (60 Stat. 1087, as amended; 7 U.S.C. 1621 et seq.).

(b) *Inspector*. “Inspector” means any officer or employee of the Department authorized to perform any duties under the regulations in this part.

(c) *Person*. “Person” means any individual, corporation, company, association, firm, partnership, society, or joint stock company, or other organized business unit.

(d) *Poultry*. “Poultry” means any migratory water fowl, game bird or squab, whether live or dead.

(e) *Poultry product*. “Poultry product” means any poultry carcass or part thereof; or any human food product which is made wholly or in part from any poultry carcass or part thereof; or any human food product which is made wholly or in part from the carcass of any domesticated bird (chickens, turkeys, ducks, geese, or guineas) and is excepted from the inspection requirements of the Poultry Products Inspection Act (21 U.S.C. 451 et seq.).

§ 362.2 Types and availability of service.

Upon application, in accordance with § 362.3, the following types of service may be furnished under the regulations in this part:

(a) *Inspection service*. An inspection and certification service for wholesomeness relating to the slaughter and processing of poultry and the processing of poultry products. All provisions of subchapter A and subchapter E, part 416, §§ 416.1 through 416.6 of this chapter shall apply to the slaughter of

poultry, and the preparation, labeling, and certification of the poultry and poultry products processed under this poultry inspection service except for the following provisions: §§ 381.1(b)(2), 381.1(b)(5), 381.1(b)(26), 381.1(b)(28), 381.1(b)(40), 381.1(b)(41), 381.1(b)(42), 381.1(b)(46), 381.1(b)(56), 381.3(a), 381.6, 381.10, 381.13–381.17, 381.21, 381.29, 381.39–381.42, 381.175(a)(2), 381.175(a)(3), 381.179, 381.185–381.187, 381.192, and 381.195–381.225.

(b) *Export certification service*. At the request of any person intending to export any slaughtered poultry or poultry product, inspectors may make certification regarding products for human food purposes, to be exported, as meeting conditions or standards that are not imposed or are in addition to those imposed by the regulations in part 381 of this chapter and the laws under which such regulations were issued.

(c) *Identification Service*. (1) Poultry or other product that is federally inspected and passed at an official establishment, or upon importation, under the Poultry Products Inspection Act, is officially marked to identify it as federally inspected and passed. In order to facilitate the division of such poultry or other product into smaller portions or its combination into larger units and still maintain its identity as product which has been federally inspected and passed and so marked, inspectors may supervise the handling and weighing of the product and mark such portions and units with the official mark of inspection when they determine that identity has been maintained.

(2) At the time service is furnished, product must be sound, wholesome, and fit for human food. The service will be available only on premises other than those of an official establishment. The sanitation of the place or area where service is furnished must comply with the provisions of part 381, subpart H, of this chapter.

(3) The mark of inspection shall be applied only under the immediate supervision of an inspector.

(4) This service does not cover further cutting and processing of products. These activities must take place at an official establishment.

(5) The registration and record-keeping requirements enumerated in part 381, subpart Q, of this chapter shall apply to persons requesting voluntary identification service under this paragraph (c).

[41 FR 23715, June 11, 1976, as amended at 53 FR 3736, Feb. 9, 1988; 64 FR 56416, Oct. 20, 1999]

EFFECTIVE DATE NOTE: At 64 FR 56416, Oct. 20, 1999, §362.2, paragraph (a) was amended by removing the phrase "subchapter C of this chapter" and adding in its place the phrase "subchapter A and subchapter E, part 416, §§416.1 through 416.6 of this chapter", effective Jan. 25, 2000.

§ 362.3 Application for service.

Any person who desires to receive service under the regulations in this part for poultry or other product eligible therefor under such regulations may make application for service to the Administrator, upon an application form which will be furnished by the Administrator upon request to the Meat and Poultry Inspection Program, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. The application must include all the information called for by that form. In case of change of name, ownership, management, or location, a new application shall be made.

(Approved by the Office of Management and Budget under control number 0583-0036)

[41 FR 23715, June 11, 1976, as amended at 47 FR 746, Jan. 7, 1982]

§ 362.4 Denial or withdrawal of service.

(a) *For disciplinary reasons*—(1) *Bases for denial or withdrawal.* An application or request for service may be rejected, or the benefits of the service may be otherwise denied to, or withdrawn from, any person who, or whose employee or agent in the scope of his employment or agency, (i) has willfully made any misrepresentation or has committed any other fraudulent or deceptive practice in connection with any application or request for service under the regulations in this chapter; (ii) has given or attempted to give, as a loan or for any other purpose, any money, favor, or other thing of value, to any employee of the Department author-

ized to perform any function under the regulations in this chapter; (iii) has interfered with or obstructed, or attempted to interfere with or to obstruct, any employee of the Department in the performance of his duties under the regulations in this chapter by intimidation, threats, assaults, abuse, or any other improper means; (iv) has knowingly falsely made, issued, altered, forged, or counterfeited any official certificate, memorandum, mark, or other identification, or device for making any such mark or identification authorized or issued under this chapter; (v) has knowingly uttered, published, or used as true any such falsely made, issued, altered, forged, or counterfeited certificate, memorandum, mark, identification, or device; (vi) has knowingly obtained or retained possession of any such falsely made, issued, altered, forged, or counterfeited certificate, memorandum, mark, identification, or device, or of any carcass or poultry or product bearing any such falsely made, issued, altered, forged or counterfeited certificate, memorandum, mark, or identification; (vii) has knowingly represented that any carcass, poultry, or product has been officially inspected and passed (by an authorized inspector) under this chapter, when it had not in fact been so inspected; (viii) has, within the previous ten years, been convicted of any felony or more than one misdemeanor under any law based upon the acquiring, handling, or distributing of adulterated, mislabeled, or deceptively packaged food, or fraud in connection with transactions in food, or any felony indicating a lack of the integrity needed for the conduct of operations affecting the public health; (ix) has in any manner not specified in this paragraph violated subsection 203(h) of the Act:

Provided, That paragraph (a)(1)(vi) of this section shall not be deemed to be violated if the person in possession of any item mentioned therein notifies the inspector without delay that he has possession of such item and, in the case of an official device, surrenders it to the inspector, and, in the case of any