

# **\*\*\*DRAFT - NOT FOR FILING\*\*\***

## **901:2-3-01 Ohio poultry inspection service—~~Intrastate production.~~**

The ~~2011~~ federal regulations governing the inspection of poultry and poultry products in title 9 of the Code of Federal Regulations parts 362 to 442 (9 C.F.R. part 381 to 500) et. seq. of the United States department of agriculture adopted pursuant to the Poultry Inspection Act (P.P.I.A.) as amended (~~71 Stat. 441, as amended~~ by the Wholesome Poultry Products Act, 82 Stat. 791; 21 U.S.C. 451 et seq.), ~~and appended to this rule,~~ are hereby adopted in their entirety, with the exception of those provisions amended or deleted by ~~Chapters 901:2-3 and 901:2-7 of the Administrative Code~~ by this chapter.

The purpose of this chapter is to regulate the production of polutry and poultry products as they are defined in 9 C.F.R. 381.1.

All violations of this chapter are governed pursuant to Chapter 901:2-2 of the Administrative Code.

## **901:2-3-02 Amended and additional definitions.**

As adopted in rule 901:2-3-01 of the Administrative Code, where ever used in 9 C.F.R. parts 362 to 442, the following definitions are modified as follows:

- (A) "'Act' means the Poultry Products Inspection Act , as amended by the Wholesome Poultry Products Act, 82 Stat. 791; 21 U.S.C. 451 et seq. as amended by this chapter.
- (B) "'Administrator' shall be read as "chief."
- (C) "Circuit" shall be read as "district."
- (D) "Circuit Supervisor" shall be read as "district supervisor and/or regional veterinarian."
- (E) "Food safety and inspection service" or "FSIS" shall be read as "the Ohio department of agriculture, division of meat inspection."
- (F) "Volunteer" means an individual who has agreed (free of charge) to assist, without compensation, a non-profit entity, corporation, and/or association, a political subdivision, school, or any other state or government agency acting as a caterer or central kitchen as those entities are defined in Title 9 CFR, Part 381.10 (d)(2)(i). The caterer or central kitchen shall exercise direct supervision of the volunteers and then training as that term is described in rule 3717-1-02.4 of the Administrative Code.

Training for the purpose of volunteer definition in rule 901:2-3-04 of the Administrative Code is instruction provided by caterer or central kitchen in the area of food safety as it relates to their assigned duties, effective and proper hand cleaning, proper cooking techniques, proper methods to rapidly cool potentially hazardous food, proper procedures to sanitize multiuse equipment and utensils before use, and methods to prevent cross-contamination of "ready-to-eat" foods with bare hands.
- (G) "Secretary" or "secretary of agriculture" shall be read as "director of the Ohio department of agriculture."
- (H) "United States department of agriculture" or "department" shall be read as "Ohio department of agriculture."
- (I) "U.S. condemned" shall be read as "Ohio condemned."
- (J) "U.S. inspected and condemned" shall be read as "Ohio inspected and condemned."

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(K) "U.S. inspected and passed" shall be read as "Ohio inspected and passed."

(L) "U.S. inspected and passed by department of agriculture" shall be read as "Ohio inspected and passed by department of agriculture."

(M) "U.S. passed for cooking" shall be read as "Ohio passed for cooking."

(N) "U.S. passed for refrigeration" shall be read as "Ohio passed for refrigeration."

(O) "U.S. retained" shall be read as "Ohio retained."

(P) "U.S. suspect" shall be read as "Ohio suspect."

**901:2-3-03**      **Deleted regulations.**

Pursuant to 901:2-3-01 of the Administrative Code, the following sections of the federal poultry products inspection regulations shall be deleted and shall not become rules of the Ohio department of agriculture:

(A) From 9 C.F.R. part 381, the following sections and paragraphs are not adopted:

(1) 9 C.F.R. part 381.10(a)(2);

(2) 9 C.F.R. part 381.12;

(3) 9 C.F.R. part 381.103;

(4) 9 C.F.R. part 381.104;

(5) 9 C.F.R. part 381.105;

(6) 9 C.F.R. part 381.106;

(7) 9 C.F.R. part 381.107;

(8) 9 C.F.R. part 381.185;

(9) 9 C.F.R. parts 381.195 through 381.209; and

(10) 9 C.F.R. parts 381.220 through 381.225.

(B) 9 C.F.R. Part 390;

(C) 9 C.F.R. Part 391

(D) 9 C.F.R. Part 392; and

(E) 9 C.F.R. Part 439.

**901:2-3-04**      **Modifications.**

The following sections of 9 C.F.R. parts 362 to 442 amended to read as follows:

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(A) 9 C.F.R. part 362 is hereby amended as follows:

(1) In 9 C.F.R. 362.3 delete existing language and insert:

"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 director, upon an application form which will be furnished by the director upon request to the Ohio department of agriculture, division of meat inspection, Reynoldsburg, Ohio 43068. The application must include all the information called for by that form. The operation must meet the regulatory requirements for 416, 417, and 418 prior to producing product for distribution. In case of a change of name, ownership, management, or location, a new application shall be made."

(2) In 9 C.F.R. 362.5(b) delete existing language and insert:

"The fees and charges provided for in this section shall be paid by check, credit card, or money order payable to the Ohio department of agriculture and shall be remitted promptly upon furnishing to the applicant a statement as to the amount due. Funds will be deposited in accordance with section 918.15 of the Revised Code. Bills are payable upon receipt and become delinquent 30 days from the date of the bill. Inspection services will not be performed for anyone having a delinquent account."

(3) In 9 C.F.R. 362.5(c) delete existing language and insert:

"The fees shall be billed as provided for in this part at the rate established in paragraph (e) of this part, in increments of tens of an hour. For billing purposes, one to six minutes shall be considered a tenth of an hour. Seven to 12 minutes, two tenths, 13 to 18 minutes, three tenths, 19 to 24 minutes, four tenths, 25 to 30 minutes, five tenths, 31 to 36 minutes, six tenths, 37 to 42 minutes, seven tenths, 43 to 48 minutes, eight tenths, 49 to 54 minutes, nine tenths and 55 to 60 minutes, one hour. Billing will be for each tenth of an hour of service rendered by each program employee."

(4) In 9 C.F.R. 362.5, insert paragraph 9 C.F.R.362.5(e):

"The base time rate is set at \$ 15.04 per hour. After eight hours of inspection and on holidays, the overtime and holiday rate for inspection services provided pursuant to 9 C.F.R part 362 is \$46.80 per hour per program employee."

(B) 9 C.F.R. part 381 is hereby amended as follows:

(1) In 9 C.F.R. 381.10(a)(3) delete existing language and insert:

" The slaughtering by any person of poultry of his own raising, and the processing by him and transportation in commerce of the poultry products exclusively for use by him and members of his household and his nonpaying guests and employees provided, that in lieu of complying with all the adulteration and misbranding provisions of the act, such poultry is healthy and is slaughtered and processed under such sanitary standards, practices, and procedures as result in the preparation of poultry products that are sound, clean, and fit for human food, and the shipping containers of such poultry products bear the producer's name and address and the statement "ODA exempt #YYYY" (Y's equal plant 4 digit number)."

(2) In 9 C.F.R. 381.10(a)(4) delete existing language and insert:

" The custom slaughter by any person of poultry delivered by the owner thereof for such slaughter, and

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the processing by such slaughterer and transportation in commerce of the poultry products exclusively for use, in the household of such owner, by him and members of his household and his nonpaying guests and the employees provided that such custom slaughterer does not engage in the business of buying or selling any poultry products capable of use as human food and provided further, that in lieu of complying with all the adulteration and misbranding provisions of the act, such poultry is healthy and is slaughtered and processed under such sanitary standards as outlined in 9 C.F.R. part 416, practices, and procedures as result in the preparation of poultry products that are sound, clean, and fit for human food, and the shipping containers of such poultry products bear the producer's name and address and the statement "ODA exempt #YYYY" (Y's equal plant 4 digit number)."

(3) In 9 C.F.R. part 381.10(a)(5) delete existing language and insert:

" The slaughtering of sound and healthy poultry and processing of poultry products therefrom in Ohio by any poultry producer on his own premises with respect to poultry raised on his premises, and the distribution by any person solely within the state of the poultry products derived from such operations provided, that (i) in lieu of complying with all the adulteration provisions of the act, such poultry is slaughtered and otherwise processed and handled under such sanitary standards as outlined in 9 C.F.R. part 416, practices and procedures as result in the preparation of poultry products that are sound, clean, and fit for human food when so distributed; (ii) such poultry products when so distributed, bear (in lieu of labeling that would otherwise be required) the producer's name and address and the statement "ODA exempt #YYYY" (Y's equal plant 4 digit number) and such poultry products are not otherwise misbranded; (iii) such producer and distributor do not engage in the current calendar year in the business of buying or selling any poultry or poultry products other than as specified in this paragraph (a)(5) or (6) of this section; and (iv) neither such producer or distributor slaughters or processes the products of more poultry than allowed by paragraph (b) of this section except that producers may sell live birds to other slaughter operations in excess of the volume limitation stated in paragraph (b) of this section."

(4) In 9 C.F.R. part 381.10(a)(6) delete existing language and insert:

"The slaughtering of sound and healthy poultry or the processing of poultry products of such poultry in any State or territory or the District of Columbia by any poultry producer or other person for distribution by him solely within such jurisdiction directly to household consumers, restaurants, hotels, and boardinghouses, for use in their own dining rooms, or in the preparation of meals for sales direct to consumers provided, that (i) in lieu of complying with all the adulteration provisions of the act, such poultry is slaughtered and otherwise processed and handled under such sanitary standards as outlined in 9 C.F.R. part 416, practices and procedures as result in the preparation of poultry products that are sound, clean, and fit for human food when distributed by such processor; (ii) such poultry products when so distributed, bear (in lieu of labeling that would otherwise be required) the producer's name and address and the statement "ODA exempt #YYYY" (Y's equal plant 4 digit number) and such poultry products are not otherwise misbranded; (iii) such processor does not engage in the current calendar year in the business of buying or selling any poultry or poultry products other than as specified in this paragraph (a)(6) or (5) of this section; and (iv) such processor does not exceed the volume limitation prescribed in paragraph (b) of this section except that producers may sell live birds to other slaughter operations in excess of the volume limitation stated in paragraph (b) of this section."

(5) In 9 C.F.R. part 381.10, insert paragraph 381.10(b)(3):

"An operation can qualify for more than one exemption provided that all of the following apply: (i) there is no product stored on premises, (ii) all products are immediately marked upon packaging with the

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appropriate labeling to identify the producer's name and address and the statement "ODA exempt #YYYY" (Y's equal plant 4 digit number), (iii) appropriate records are maintained as required in section 918.24 of the Ohio revised code."

(6) In 9 C.F.R. part 381.10(c)(2) delete the existing language and insert:

"Such poultry producer does not engage in buying or selling poultry products other than those produced from poultry raised on his own farm, except that producers may sell live birds to other slaughter operations in excess of the volume limitation stated in paragraph (c)(1) of this section, and"

(7) In 9 C.F.R. part 381.10(d)(2)(i) delete existing language and insert:

"Operations of the types traditionally and usually conducted at retail stores and restaurants only include simple processing of poultry products, for example cutting of whole carcasses into recognized parts for retail sale and exclude canning of poultry products and exclude slaughtering of poultry."

(8) In 9 C.F.R. part 381.10 (d)(2)(iv)(b) delete existing language and insert:

"The definition of a restaurant includes a caterer whose employees or designated volunteers delivers or serves product in meals, or as entree', only to individual consumers and otherwise meets the requirements of this paragraph."

(9) In 9 C.F.R. part 381.10(d)(2)(iv)(c) delete existing language and insert:

"For purposes of this paragraph, operations conducted as a restaurant central kitchen facility shall be considered as being conducted at a restaurant if the restaurant central kitchen prepares poultry products that are ready to eat when they leave such facility (i.e., no further cooking or other preparation is needed, except that they may be reheated prior to serving if chilled during transportation), transported directly to a receiving restaurant by its own employees, or a volunteer designated by the restaurant, without intervening transfer or storage, maintained in a safe, unadulterated condition during transportation, and served in meals or as entrees only to customers at restaurants, or through vending machines, owned or operated by the same person that owns or operates such facility, and which otherwise meets the requirement of this paragraph: Provided, That the requirements of §§381.175 through 381.178 of this subchapter apply to such facility. Provided further, That the exempted facility may be subject to inspection requirements under the Act for as long as the Administrator deems necessary if the Administrator determines that the sanitary conditions or practices of the facility or the processing procedures or methods at the facility are such that any of its poultry products are rendered adulterated. When the Administrator has made such determination and subjected a restaurant central kitchen facility to such inspection requirements, the operator of such facility shall be afforded an opportunity to dispute the Administrator's determination in a hearing pursuant to rules of practice which will be adopted for this proceeding. "

(10) In 9 C.F.R. part 381.11 delete the existing language and insert:

"Any person desiring a religious exemption pursuant to this Act shall follow the procedures as outlined in rule 901:2-1-05 of the Ohio Administrative Code"

(11) In 9 C.F.R. part 381.17 delete the existing language and insert:

"Every application for inspection at any establishment shall be made by the operator on a form furnished by the Ohio department of agriculture, division of meat inspection, 8995 East Main Street,

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Reynoldsburg, Ohio, and shall include all information called for by that form, including the name of any subsidiary corporation that will prepare any poultry product or conduct any other operation at the establishment for which inspection is requested. The applicant for inspection will be held responsible for compliance by all its subsidiaries with the requirements of the regulations at such establishments if inspection is granted. Processing of poultry products and other operations at the establishment for which inspection is granted may be conducted only by the applicant, except that such a subsidiary of the grantee, may conduct such operations at such establishment."

(12) In 9 C.F.R. part 381.33 delete the existing language and insert:

"Picture Identification Badge as Identification of Inspectors – Each inspector will be furnished with a picture identification badge, which he/she shall not allow to leave his/her possession, and which he/she shall wear in such manner and at such times as the Director may prescribe."

(13) In 9 C.F.R. part 381.38(a). Overtime and holiday inspection service. Amend the paragraph to read:

"The management of an official establishment, shall reimburse the program, at the rate specified in 9 C.F.R. part 381.39(d) for the cost of the inspection service furnished on any holiday specified in paragraph (b) of this section; or for more than 8 hours on any day, or more than 40 hours in any administrative workweek Sunday through Saturday."

(14) In 9 C.F.R. part 381.39(a) delete the existing language and insert:

"Each recipient of overtime or holiday inspection service, or both, shall be billed as provided in §381.38(a) and at the rate established by the director, in increments of tenths of an hour. For billing purposes, one to six minutes shall be considered a tenth of an hour. Seven to 12 minutes, two tenths, 13 to 18 minutes, three tenths, 19 to 24 minutes, four tenths, 25 to 30 minutes, five tenths, 31 to 36 minutes, six tenths, 37 to 42 minutes, seven tenths, 43 to 48 minutes, eight tenths, 49 to 54 minutes, nine tenths and 55 to 60 minutes, one hour. Billing will be for each tenth of an hour of service rendered by each program employee."

(15) In 9 C.F.R. part 381.39(b) delete the existing language and insert:

"Official establishments requesting and receiving the services of a program employee after he has completed his day's assignment and left the premises, or called back to duty during any overtime or holiday period, shall be billed for a minimum of four hours overtime or holiday inspection service at the rate established by the director."

(16) In 9 C.F.R. part 381.39(c) delete the existing language and insert:

"Overtime charges are to be paid-in-full no later than thirty days from the invoice date. Payments must be made by check, money order, or credit card made payable to the Ohio department of agriculture - division of meat inspection. Overtime and holiday inspection may not be performed for an establishment having a delinquent account."

(17) In 9 C.F.R. part 381.39 insert paragraph 381.39(d):

"The overtime and holiday rate for inspection services provided pursuant to section 307.5 is \$46.80 per hour per program employee."

(18) In 9 C.F.R. part 381.96 delete existing language and insert:

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"Except as otherwise provided in this subpart, the official inspection legend required to be used with respect to inspected and passed poultry products shall include wording as follows: "Inspected for wholesomeness by Ohio department of agriculture." This wording shall be contained within the outline of the state of Ohio. The form and arrangement of such wording shall be exactly as indicated in the example in figure below, except that the appropriate official establishment (EST.) number shall be shown, and if the establishment number appears elsewhere on the labeling material in the manner prescribed in section 381.123(b), it may be omitted from the inspection mark. The administrator may approve the use of abbreviations of such inspection mark; and such approved abbreviations shall have the same force and effect as the inspection mark. The official inspection legend, or the approved abbreviation thereof, shall be printed on consumer packages and other immediate containers of inspected and passed poultry products, or on labels to be securely affixed to such containers of such products and may be printed or stenciled thereon, but shall not be applied by rubber stamping. When applied by a stencil, the legend shall not be less than 4 inches in diameter. An official brand must be applied to inspected and passed carcasses and parts of ratites that are shipped unpacked."



(19) In 9 C.F.R. part 381.98 delete existing language and insert:

"The official mark for use in sealing means of conveyance used in transporting poultry products under any requirement in this part shall be a serial numbered band seal approved by the director, and any such seal approved by the administrator for applying such mark shall be an official device."

(20) In 9 C.F.R. part 381.516(c) delete existing language and insert:

"The official inspection legend required to be used with respect to poultry products processed in a selected establishment and inspected by designated state personnel shall include wording as follows: "Inspected for wholesomeness by U.S. Department of Agriculture." This wording shall be contained within a circle. The form and arrangement of such wording shall be exactly as indicated in the example in the figure below, except that the appropriate official establishment number as assigned by the Ohio

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department of agriculture pursuant to 9 C.F.R. part 381.515. The administrator may approve the use of abbreviations of such inspection mark; and such approved abbreviations shall have the same force and effect as the inspection mark. The official inspection legend, or the approved abbreviation thereof, shall be printed on consumer packages and other immediate containers of inspected and passed poultry products, or on labels to be securely affixed to such containers of such products and may be printed or stenciled thereon, but shall not be applied by rubber stamping. When applied by a stencil, the legend shall not be less than 4 inches in diameter. An official brand must be applied to inspected and passed carcasses and parts of ratites that are shipped unpacked.

