

SUBCHAPTER 5. POULTRY PRODUCTS INSPECTION

PART 1. GENERAL PROVISIONS

35:37-5-1. Definitions and incorporation by reference of federal poultry inspection regulations

(a) The Mandatory Poultry Inspection Regulations found in Title 9 of the Code of Federal Regulations (CFR) (2020 Revision), Parts 381; 416; 417; 418; 424; 430; 441; 442; and 500 for the United States Department of Agriculture (USDA) as promulgated and amended in the Federal Register, are hereby adopted in their entirety with the exception of the deleted regulations specified in 35:37-5-2. Whenever an official mark, form, certificate or seal is designated by federal regulations, the appropriate Oklahoma Department of Agriculture, Food, and Forestry mark, form, certificate or seal shall be substituted.

(b) All words and terms defined or used in the federal regulations incorporated by reference by the Department shall mean the state equivalent or counterpart to those words or terms.

(c) The following terms, when used in this subchapter, shall have the following meaning unless the context clearly indicates otherwise:

(1) **"Act"** means the Oklahoma Poultry Products Inspection Act.

(2) **"Director"** means the Director of Meat Inspection.

(3) **"Poultry"** means any domesticated bird, whether live or dead, including chickens, turkeys, ducks, geese, guineas, ratites, or squabs (also known as young pigeons from one to about thirty (30) days of age).

(4) **"Poultry product"** means any poultry carcass, part, or product made wholly or in part from any poultry carcass or part that can be used as human food, except those exempted from definition as a poultry product in Title 9 of the Code of Federal Regulations (CFR), Part 381.15. This term shall not include detached ova.

(5) **"Poultry byproduct"** means the skin, fat, gizzard, heart, or liver, or any combination of any poultry for cooked, smoked sausage.

[**Source:** Added at 21 Ok Reg 1181, eff 5-27-04; Amended at 22 Ok Reg 2310, eff 7-11-05; Amended at 23 Ok Reg 2172, eff 6-25-06; Amended at 24 Ok Reg 1778, eff 6-25-07; Amended at 25 Ok Reg 1052, eff 7-1-08; Amended at 26 Ok Reg 1386, eff 7-1-09; Amended at 27 Ok Reg 910, eff 7-1-10; Amended at 28 Ok Reg 2197, eff 7-25-11; Amended at 585 Ok Reg 1033, eff 7-1-12; Amended at 30 Ok Reg 826, eff 7-1-13; Amended at 31 Ok Reg 735, eff 9-12-14; Amended at 32 Ok Reg 1528, eff 9-11-15; Amended at 33 Ok Reg 1176, eff 9-11-16; Amended at 34 Ok Reg 817, eff 9-11-17; Amended at 35 Ok Reg 776, eff 9-14-18; Amended at 36 Ok Reg 1375, eff 9-14-19; Amended at 37 Ok Reg 978, eff 9-14-20; Amended at 38 Ok Reg 1675, eff 9-11-21]

35:37-5-2. Deleted regulations and exemptions

(a) The following sections of the Federal regulations governing the mandatory poultry inspection (9 CFR, Part 381; 416; 417; 418; 424; 441; 442; and 500), (2020 Revision) of the USDA incorporated by reference under 35:15-27-1 are deleted and are not rules of the Oklahoma Department of Agriculture, Food, and Forestry: 381.6; 381.10(a)(2), (5), (6), and (7); 381.10(b); 381.10(d)(2)(i); 381.13(b); 381.16; 381.17;

381.20; 381.21; 381.37; 381.38; 381.39; 381.96; 381.101; 381.103 through 381.112; 381.123(b)(1) and (4); 381.132(c); 381.133; 381.179; 381.185; 381.186; and 381.195 through 381.225.

(b) The provisions of this Act and rules do not apply to poultry producers who slaughter their own poultry raised on their farm, and each of the following apply:

(1) The producers slaughter no more than two hundred and fifty (250) turkeys or their equivalent with a ratio of four (4) birds of other species, excluding ratites, to one (1) turkey during a calendar year;

(2) The producers do not engage in buying or selling poultry products other than those produced from poultry raised on their own farms;

(3) The poultry and poultry products do not move in commerce. Producers are prohibited from selling or donating uninspected poultry products to retail stores, brokers, meat markets, schools, orphanages, restaurants, nursing homes, and other similar establishments and are prohibited from sales or donation of uninspected poultry through any type of retail market or similar establishment owned or operated by the producer;

(4) The producers submit a certificate of registration to the Department;

(5) The poultry is healthy, slaughtered, and processed under sanitary standards, practices, and procedures that result in the preparation of poultry products that are sound, clean, and fit for human food, and each carcass, part, or poultry product bears a label that lists the customer's name, the producer's name, and the following statement, "This poultry product has not been inspected and passed";

(6) The poultry is sold directly to the household consumer and transported by either the household consumer or the producer without third-party intervention or intervening transfer or storage, and is maintained in a safe and unadulterated condition during transportation; and

(7) The producers allow an authorized agent of the Department access to their facilities and an opportunity to examine records at all reasonable times, upon notice.

(c) The provisions of this Act and rules do not apply to poultry producers who slaughter their own poultry raised on their farm, and each of the following apply:

(1) The producers slaughter no more than two thousand five hundred (2500) turkeys or their equivalent with a ratio of four (4) birds of other species, excluding ratites, to one (1) turkey during a calendar year;

(2) The producers do not engage in buying or selling poultry products other than those produced from poultry raised on their own farms;

(3) The poultry is sold by the producer, or other person for distribution by the producer, solely within the producer's jurisdiction, directly to household consumers, restaurants, hotels, and boardinghouses for use in their own dining rooms or in the preparation of meals for sales directly to consumers;

(4) The producers submit a certificate of registration to the Department;

(5) The poultry is healthy, slaughtered, and processed under sanitary standards, practices, and procedures that result in the preparation of products that are sound, clean and fit for human food, and each carcass, part or poultry product bears a label that lists the producer's name and address and the

following statement, "This poultry product has not been inspected and passed" and the products are not otherwise misbranded;

(6) The producers meet the sanitation requirements as provided in 9 CFR 416.1-5 and allow the Department to inspect sanitation at least two (2) times each year;

(7) The producers allow an authorized agent of the Department access to their facilities and an opportunity to examine records at all reasonable times, upon notice; and

(8) The producers do not engage, within the same calendar year, in the business of buying or selling any poultry or poultry products or engage in any other poultry exemptions, or operate an inspected poultry establishment, unless approved by the Department.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04; Amended at 22 Ok Reg 2310, eff 7-11-05; Amended at 23 Ok Reg 2172, eff 6-25-06; Amended at 24 Ok Reg 1778, eff 6-25-07; Amended at 25 Ok Reg 1052, eff 7-1-08; Amended at 26 Ok Reg 1386, eff 7-1-09; Amended at 27 Ok Reg 910, eff 7-1-10; Amended at 28 Ok Reg 2197, eff 7-25-11; Amended at 585 Ok Reg 1033, eff 7-1-12; Amended at 30 Ok Reg 826, eff 7-1-13; Amended at 31 Ok Reg 735, eff 9-12-14; Amended at 32 Ok Reg 1528, eff 9-11-15; Amended at 33 Ok Reg 1176, eff 9-11-16; Amended at 34 Ok Reg 817, eff 9-11-17; Amended at 35 Ok Reg 776, eff 9-14-18; Amended at 36 Ok Reg 1375, eff 9-14-19; Amended at 37 Ok Reg 978, eff 9-14-20; Amended at 38 Ok Reg 1675, eff 9-11-21]

35:37-5-3. Guidelines and procedures

The following publications prepared and approved by the United States Department of Agriculture are applicable to the Oklahoma Department of Agriculture, Food, and Forestry, as determined by the Director of Meat Inspection: "Poultry Packing Plants: A Guide to Construction and Layout," "Food Standards and Labeling Policy Book" (August 2005); and all Food Safety and Inspection Service's Directives, and Notices as adopted by the director of the Food Safety Division.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04; Amended at 28 Ok Reg 2197, eff 7-25-11]

35:37-5-4. Registration and application requirements for custom exempt plants

(a) Every establishment where poultry are custom slaughtered without ante-mortem and post-mortem inspection or in which custom processing of carcasses or parts of carcasses derived from poultry slaughtered without ante-mortem and post-mortem inspection is required to submit an application and have all facilities approved by the Director prior to conducting operations.

(b) Any person or establishment, not licensed as a retail exempt business, engaged in custom processing of inspected and passed carcasses for individuals, is required to submit an application and meet all facility requirements prior to conducting operations.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-5-5. Establishments requiring inspection

Inspection under the rules is required at:

(1) Every establishment, except as provided in 9 CFR, Part 381.10, 381.11, 381.12, 381.13, 381.14, and 381.15 with the exceptions of those deleted rules listed in 35:37-5-2 in which any poultry is slaughtered

for transportation or sale in commerce, or in which any poultry products are wholly or in part, processed for transportation or sale in commerce, as articles intended for use as human food;

(2) Every establishment, except as provided in 9 CFR, Part 381.10, 381.11, 381.12, 381.13, 381.14, and 381.15 with the exceptions of those deleted rules listed in 35:37-5-2, within the State, at which any poultry is slaughtered or any poultry products are processed, for use as human food solely for distribution within such jurisdiction;

(3) Except as provided in 9 CFR, Part 381.10, 381.11, 381.12, 381.13, 381.14, and 381.15 with the exceptions of those deleted rules listed in 35:37-5-2, every establishment designated by the Director pursuant to the Act as one producing adulterated poultry products which would clearly endanger the public health.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

PART 3. APPLICATION FOR INSPECTION: GRANT OR REFUSAL OF INSPECTION

35:37-5-6. How application shall be made

The operator of each establishment of the kind required by 35:37-5-5 to have inspection shall make application to the Director for inspection service. In cases of change of name, ownership or location, a new application shall be made.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-5-7. Filing of application

(a) The application for inspection at any establishment shall be on official forms provided by the Food Safety Division of the Oklahoma Department of Agriculture, Food, and Forestry.

(b) In addition to completion of all information requested by the application, the operator shall include 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.

(c) If inspection is granted, the applicant for inspection shall be responsible for its subsidiaries' compliance with all requirements.

(d) Processing of poultry products and other operations at the establishment for which inspection is granted may be conducted only by the applicant or a subsidiary.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-5-8. Authority of applicant

Any person applying for inspection service may be required at the discretion of the Director to demonstrate that the operator of the establishment authorized him to do so.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-5-9. Application for inspection; required facilities

An application for inspection service to be rendered in an official establishment shall be made according to the following procedure:

(1) Prints of drawings and specifications to be furnished.

(A) Applicants for inspection service may obtain information or assistance from the Meat Inspection Division with respect to the requirements before submitting prints of drawings and specifications.

(B) Two prints of drawings showing the features specified in this Section shall be submitted to the Director. The drawings or prints shall be legible, made with sharp, clear lines, and properly drawn to scale and shall consist of complete floor plans and a plot plan. Submissions consisting of more than one sheet should be bound together at the left margin in sets.

(C) The plot plan shall show such features as the limits of the establishment premises, location in outline of buildings on the premises, one point of the compass, and the location of roadways, railroads, and water and sewer lines or sewage facilities serving the establishment.

(D) The floor plan shall show all space to be included in the official establishment. If rooms or compartments shown on the drawings are not to be included as part of the official establishment, this shall be clearly indicated thereon.

(E) The sheets of paper on which prints of drawings are made shall not exceed a size of 34 x 44. The drawings, other than of the plot plan, shall be made to a scale of one-eighth inch per foot. The plot plan may be drawn to a scale of not less than one-thirty-second inch per foot. The drawings shall indicate the scale used and shall so indicate the floor shown (e.g. basement, first or second).

(2) Features required to be shown on floor plan. The following features shall be shown on the floor plan:

(A) The principal pieces of equipment drawn to scale in the proper locations;

(B) The name of the operator and address of the establishment by street and street number, or by other means properly identifying the location of the establishment. (This information shall be shown on each drawing the same as shown on the application for service);

(C) One point of the compass;

(D) The doors and openings for passageways, designating those that are self-closing or permanently closed:

(E) All floor drain openings and gutter drains, and for all buildings constructed after September 1, 1959, the approximate location of all underfloor and underground piping.

(F) Lavatories in toilet and processing rooms (lavatories that are other than hand operated shall be so designated on the blueprints);

(G) All Steam and hot and cold water outlets for cleanup purposes;

(H) Ice making and storage facilities.

(I) The point at which live poultry is hung on the conveyor line, the point where dressed poultry is removed, and the point of transfer to the eviscerating line;

(J) The routes of the edible and inedible products;

(K) The location of fresh air inlets, exhaust fans and hoods.

(3) **Specifications.** Specifications covering the following shall accompany the drawings:

(A) Height of ceilings;

(B) Type of ceilings -- open or closed;

(C) Finish of ceilings; for example -- cement plaster, metal, marine plywood, cement, asbestos board, etc.;

(D) Finish of walls; for example -- cement, plaster, glazed tile, glazed brick, glass blocks, etc.,

(E) Screens -- indicate whether all outside openings are screened or provided with other suitable devices against entrance of flies or other insects;

(F) Finish of floors -- concrete, brick, mastic material, etc.;

(G) Drainage -- indicate amount of slope of floors to the drains in processing rooms, coolers, toilets, and refuse rooms, and give description of trapping and venting of drainage lines, and of floor drain openings. Indicate size of drainage lines and whether house drainage lines and toilet soil lines are separate to a point outside of buildings;

(H) Heating -- indicate type;

(I) Water supply -- indicate whether public or private water supply, or both, and specify in terms of gallons per minute of water available for the processing needs of the plant. Also indicate whether or not a nonpotable water supply is used for any purpose in the plant and, if so, specify such uses;

(J) Hot water facilities -- specify facilities such as boilers, storage tanks, mixing valves, etc., and indicate the size;

(K) Specify number of men and number of women who will use each toilet room;

(L) Sewage disposal-indicate whether city sewer, cesspool, sedimentation tank, etc.;

(M) Approximate rate of production -- for slaughtering and/or eviscerating establishments, indicate hourly rate of slaughter and/or evisceration for each class of poultry, and for other types of establishments indicate pounds of each type of poultry products processed per hour.

(4) The drawings of the establishment shall show employees' toilet and dressing rooms, office space for the inspectors, storerooms for supplies, refuse rooms, and all rooms, compartments, or passageways where poultry or poultry products, or any ingredients to be used in the preparation of poultry products will be handled or kept. The drawings shall also show all other rooms or compartments located in the buildings that are to comprise the official establishment.

(5) When changes are proposed in areas for which drawings have been previously approved, one of the following types of revised drawings shall be submitted for review and consideration:

(A) A completely revised sheet or sheets, showing proposed alterations or additions, or

(B) Pastors of minor changes that may be affixed to the affected areas on the previously approved drawings in a manner not obscuring essential data. Paster drawings shall be prepared to the same scale and presented on a background similar to that of the originally approved drawings.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-5-10. Survey and grant of inspection

Prior to granting of inspection service, a survey of the establishment shall be made by a representative of the Division to determine if the establishment is constructed and facilities are installed in accordance with the approved drawings, specifications and the rules. Inspection will be granted by the Board when these requirements are met.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-5-11. Refusal of inspection

(a) The Board may refuse to grant inspection at any establishment if it determines that it does not meet any requirements as to premises, facilities, and equipment, and the operation thereof, prescribed in the regulations under 2 O.S. Section 6-257 to prevent the distribution under the Act of adulterated poultry products, or that the applicant has not received approval of labeling and containers to be used at the establishment as required by the rules. When inspection is refused for any reason, the applicant shall be informed of the action and the reasons therefore and afforded an opportunity to present his views informally.

(b) If the refusal is based on a failure to comply with any requirements prescribed under 2 O.S. Section 6-257, the applicant shall, upon his request, be afforded opportunity for a hearing in accordance with applicable rules of practice, with respect to the merits or validity of the action taken, but such refusal shall continue in effect unless otherwise ordered by the Board.

(c) Inspection may also be refused in accordance with 2 O.S. Section 6-267 A. and the applicable rules of practice.

(d) Requirements for sewage and waste disposal are:

(1) Any applicant for inspection under the provisions of the Act must obtain a certificate of acceptability or a permit for the liquid waste disposal system. The permit shall be posted in the establishment.

(2) A facility discharging waste into a waste treatment facility independent of a municipal waste system may obtain a permit and/or a certificate of acceptability from the Oklahoma Water Resources Board (Title 82, O.S. Sections 901-914).

(3) Any establishment discharging into municipal waste systems, with or without on-site treatment may obtain a permit and/or a certificate of acceptability from the Oklahoma State Department of Health (Title 63, O.S. Sections 1-901 through 1-911).

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-5-12. Suspension or other withdrawal of inspection service

(a) Authorization and Procedures for Suspension or Withdrawal of Inspection Services are:

(1) The Board is authorized to suspend (for such period or indefinitely, as the Board deems necessary to effectuate the purposes of the Act) or otherwise to withdraw, inspection service at an official establishment, for the failure of the operator of the establishment to destroy condemned poultry products as required under 2 O.S. Section 6-256, or for other failure of the operator of the establishment to comply with any requirements as to premises, facilities, or equipment, or the operation thereof, prescribed in the regulations under 2 O.S. Section 6-257 to prevent the distribution under the Act of adulterated poultry products.

(2) The Operator shall be notified of the withdrawal action and the reasons therefore and afforded an opportunity to present his views informally prior to the effective date of such withdrawal, and upon his request he shall be afforded an opportunity for a hearing in accordance with the applicable rules of practice, with respect to the merits or validity of the withdrawal, but such a suspension or other withdrawal shall continue in effect pending the outcome of any such hearing unless otherwise ordered by the Board.

(b) During a period of suspension or other withdrawal, no processing of poultry or poultry products subject to the inspection requirements of the Act shall be carried on in the official establishment. In any case in which inspection service is suspended under this rule, if the establishment premises, facilities and methods of operations are not brought into compliance with the Act and the rules within a reasonable period of time, to be specified by the Board, inspection service may be withdrawn from the official establishment in accordance with the procedure prescribed in this rule.

(c) Inspection service may also be suspended or withdrawn in accordance with 2 O.S. Section 6-267 (B). and the applicable rules of practice.

(d) Inspection may be suspended or revoked as provided in Paragraph (5) of Subsection 21(b) of the Federal Water Pollution Control Act, as amended.

(e) A grant of inspection issued without certification under paragraph (7) or (8) of Subsection 21(b) of the Federal Water Pollution Control Act, as amended, will terminate if certification is not subsequently furnished or other requirements are not met, as provided in said paragraphs.

(f) Inspection service may be withheld if the operator of the official establishment or any officer, agent, or employee of the operator or any of its subsidiaries forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any inspection personnel while engaged in or on account of the performance of their official duties under the Act. Such withholding shall continue until the responsible person is removed from the premises or until assurances, acceptable to the Board, are received that there will not be any recurrences of such acts.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

PART 5. FACILITIES FOR INSPECTION

35:37-5-13. Time of inspection

The inspector who is to perform the inspection in an official establishment shall be informed, in advance, of the hours when such inspection will be required.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-5-14. Schedule of operation of official establishment

Operating schedules of an official establishment shall be subject to approval of the Director and for the purpose of this rule the normal operating schedule shall consist of a continuous 8-hour period per day (excluding not to exceed 1 hour for lunch), 5 days per week, within the period of Monday through Friday, for each full shift required. Any variation from such Monday through Friday schedule of operation must be fully justified and approved in advance by the Director. Clock hours of daily operations are not to be specified in a schedule although as a condition of continuance of approval of a schedule the hours of operation must be reasonably uniform from day to day.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-5-15. Overtime inspection service

The management of an official establishment desiring to work under the conditions which will require the services of a meat inspector on any Saturday, Sunday or for more than 8 hours on any other day, shall, sufficiently in advance of the period of overtime, request the Inspector in Charge or his assistant to furnish inspection service during such overtime period, and shall pay the Board a per hour per division inspector fee established under the provisions of 2 O.S. Section 2-9 to reimburse the Board for the cost of inspection services so furnished.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-5-16. Holiday inspection service

When an official establishment requires inspection service on a holiday, such service is considered holiday work. The official establishment shall, in advance of such holiday work, request the Inspector in Charge to furnish inspection service during such period and shall pay the Board therefore at the rate established as stated in 35:37-5-15. Service in excess of 8 hours for that day is considered overtime and shall be paid for at the overtime rate. Holidays for state employees will be those declared by the Executive Department of the State of Oklahoma.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-5-17. Multiple shift operations

(a) Multiple shift operations may be approved by the Director provided the management of an official establishment requests in writing and a reasonable amount of time is allowed for the Agency to provide inspection personnel. The request for this operation must clearly show the necessity for the additional shift(s). Therefore, plant management must specify the type(s) of operation(s) which will be conducted during the multiple shifts and must further demonstrate that at least five (5) hours of work will be required in excess of a normal eight hour shift on a continual and on-going basis during the normal work week of Monday through Friday.

(b) If any of the provisions of this rule are not met, the Director shall refuse or revoke the approval for multiple shift operations and require the establishment be billed for overtime inspection services at the appropriate established rate in effect.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

PART 7. OFFICIAL MARKS, DEVICES AND CERTIFICATES

35:37-5-18. Wording and form of the official inspection legend

Except as otherwise provided in this Part, the official inspection legend required to be used with respect to inspected and passed poultry products shall include wording as follows: "Oklahoma, Inspected and Passed." The form and arrangement of such wording shall be exactly as indicated in the example in Illustration 1 of Appendix C of Chapter 37, except that the appropriate official establishment number shall be shown. The Director 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.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04; Amended at 22 Ok Reg 2310, eff 7-11-05]

35:37-5-19. Official dressed poultry identification mark

Dressed poultry processed under inspection and passed for distribution shall be identified by an official inspection legend, refer to Illustration 2 of Appendix C of Chapter 37, which shall be not less than 1 1/2 x 3 in size. Such mark shall be applied to the immediate containers and shipping containers of the poultry.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04; Amended at 22 Ok Reg 2310, eff 7-11-05]

35:37-5-20. Official seal

The official mark for use in sealing means of conveyance used in transporting poultry products under any requirement in this Part shall include the inscription of "OKLA. INSP'D & PASSED" and a serial number, and any other seals approved by the Director.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04; Amended at 22 Ok Reg 2310, eff 7-11-05]

35:37-5-21. Official Oklahoma condemned mark

The term "Oklahoma Condemned" as shown in Appendix F of Chapter 37 is an official mark and the devices used by the Division for applying such mark are official devices.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04; Amended at 22 Ok Reg 2310, eff 7-11-05]

35:37-5-22. Official inspection mark; official establishment number

The immediate container of every inspected and passed poultry product shall bear:

(1) The official inspection legend; and

(2) The official establishment number of the official establishment in which the poultry product was processed under inspection, within the official inspection legend. In the case of canned product, the official establishment number may be embossed on the lid of each can. In the case of nontransparent consumer packages such as cartons, the official inspection legend may be legibly printed thereon or it may be shown on an insert label placed on top of the product within the package. In the case of

transparent wrappers, the official inspection legend may be shown on an insert label and so placed under the transparent covering that it will be clearly visible and legible.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-5-23. Approval required for labeling and other devices bearing official inspection marks

No labeling or other device bearing any official inspection mark, other than printer's proofs or other samples submitted for approval under this Part, shall be made until the printer's proof or a photostatic copy has been found by the Director to be acceptable; and no labeling or other device, or imprint, bearing any official inspection mark, shall be used until finished copies or samples thereof have been approved by the Director, except that approval may be given to printer's final proofs or photostatic copies of labels or samples of stenciled and rubber stamped imprints for shipping containers or containers for institutional packs.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

PART 9. MISCELLANEOUS

35:37-5-24. Registration

(a) Within ninety (90) days, any person engaging in one or more of the following businesses shall register with the Department:

(1) A poultry products broker, renderer, or animal food manufacturer.

(2) A wholesaler of any carcasses or parts or products of carcasses of any poultry, whether or not intended for human food.

(3) A public warehouseman storing poultry or poultry products.

(4) A buyer, seller, or transporter in commerce of any dead, dying, disabled, or diseased poultry or any part of carcasses of any poultry that died otherwise than by slaughter.

(b) Registration shall be on forms provided by the Department and shall include the name, trade name, and address of each location of business.

(c) Any change in the name, address, or trade name shall be reported in writing to the Director within fifteen (15) days after making the change.

(d) Persons conducting any of the specified businesses only at an official establishment shall not be required to register.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-5-25. Procedure to identify plant as unsanitary

(a) If an inspector identifies any of the following unsanitary conditions at a plant, the inspector shall immediately notify the Director:

(1) Nonpotable water, meaning unsafe by laboratory determinations, used in areas producing edible product;

- (2) Product is subjected to an environment allowing bacterial growth and development, vermin or insects, or resulting in the entry of foreign matter into the product;
 - (3) Carcasses or parts show evidence of contamination; a systemic disease condition, or bearing diseases transmissible to man , or in any other manner adulterated;
 - (4) Poultry exhibit the characteristics of spoilage are used in poultry food products; or
 - (5) The presence of excessive amounts of approved chemicals any foreign material, prohibited chemicals, or preservatives.
- (b) The inspector shall notify the plant operator of the unsanitary conditions. If the Director is not satisfied that the condition will be immediately corrected, the Director may order the facility to immediately stop sale and withdraw inspection or exemption.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04; Amended at 28 Ok Reg 2197, eff 7-25-11]

35:37-5-26. Correction of unsanitary conditions

- (a) The plant shall have five (5) working days to alleviate any unsanitary conditions.
- (1) The Department shall conduct a follow up inspection at the end of the five (5) working day time period to determine if unsanitary conditions are corrected.
- (2) If conditions are not corrected, the Director shall issue a letter of warning to the plant and provide a warning to the public of the unsanitary conditions.
- (b) Inspection and exemptions shall be withdrawn from the plant until the unsanitary conditions are corrected.
- (c) A notice of violation may be filed against the plant if operation continues, or at the discretion of the Director, in addition to any other authority by the Department to issue a letter of warning or notice of violation.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04; Amended at 28 Ok Reg 2197, eff 7-25-11]

PART 10. DETENTION; SEIZURE AND CONDEMNATION

35:37-5-27. Poultry and other articles subject to administrative detention

An authorized agent of the Board may detain any poultry product or any poultry product or other article made wholly or in part from any dead, dying, disabled, or diseased poultry upon any premises or during or after distribution in commerce for a period not to exceed twenty (20) days if there is reason to believe any poultry or other article:

- (1) Is adulterated or misbranded and is capable of use as human food.
- (2) Has not been inspected pursuant to the Act or Federal law.
- (3) Has been or is intended to be distributed in violation of the Act or Federal law.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-5-28. Method of detention; form of detention tag

An authorized agent of the Board shall detain any poultry or other article by affixing an official paper tag bearing the statement "Oklahoma Retained" and other information.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-5-29. Notification of detention to the owner of the article detained, or his agent, and person having custody

(a) An authorized agent of the Board shall give oral notification of detention to the immediate custodian of the poultry, poultry product, or other article being detained.

(b) An authorized agent of the Board shall furnish, as soon as possible, a copy of a completed "Notice of Detention" to the immediate custodian of the detained poultry, poultry product, or other article.

(c) If the owner of the detained poultry, poultry product, or other article, or the owner's agent is not the immediate custodian at the time of detention and if the owner, or owner's agent, can be ascertained and notified, an authorized agent of the Board shall furnish, as soon as possible, a copy of the completed "Notice of Detention" to the owner, or the owner's agent.

(d) The "Notice of Detention" shall be delivered by personal service or certified mail to the owner or owner's agent at the last known residence or principal place of business.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-5-30. Notification of governmental authorities having jurisdiction over article detained; form of written notification

(a) Within forty eight (48) hours after the detention of any poultry or other article pursuant to 35:37-5-28, an authorized agent of the Board shall provide oral or written notification to any Federal, state, or other government authorities having jurisdiction over the article.

(b) Any oral notification shall be confirmed in writing as soon as circumstances allow.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-5-31. Movement of poultry or other article detained; removal of official marks

(a) No person shall move any detained poultry or other article from the place detained unless an authorized agent of the Board approves moving the article for refrigeration, freezing, or storage or releases the detention.

(b) An authorized agent of the Board shall provide a "Notice of Termination of Detention" to the owner, agent, or custodian that was previously notified of the detention.

(c) Notification shall be delivered by personal service or certified mail to the owner, agent, or custodian at the last known residence or principal place of business.

(d) Prior to release of detention, all official marks shall be removed from the article, unless an authorized agent of the Board determines the article is eligible to retain the marks.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-5-32. Poultry or other articles subject to judicial seizure and condemnation

Any poultry products except those exempted from the definition of a poultry product in 9 CFR 381.15, or any dead, dying, disabled, or diseased poultry subject to this Act is subject to seizure and condemnation in a judicial proceeding pursuant to 2 O.S. Section 6-269 if the poultry or other article meets one of the following:

- (1) Is or has been processed, sold, transported, or otherwise distributed or offered or received for distribution in violation of the Act.
- (2) Is capable of use as human food and is adulterated or misbranded.
- (3) In any other way is in violation of the Act.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-5-33. Procedure for judicial seizure, condemnation, and disposition

Any poultry, poultry products, or other article may be proceeded against, seized, condemned, and disposed of at any time upon an appropriate pleading in the district court within the jurisdiction where the article is found.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-5-34. Authority for condemnation or seizure under other provisions of law

The provisions relating to detention, retention, seizure, condemnation, and disposition of poultry, poultry products, or other articles do not derogate from any other authority for detention, retention, condemnation or seizure conferred by other provisions of this Act or other laws.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]