

(5) The Administrator may withdraw or modify the exemption set forth in § 381.10(e)(1) for a particular establishment when he or she determines that such action is necessary to ensure food safety and public health. Before such action is taken, the owner or operator of the particular establishment shall be notified, in writing, of the reasons for the proposed action and shall be given an opportunity to respond, in writing, to the Administrator within 20 days after notification of the proposed action. The written notification shall be served on the owner or operator of the establishment in the manner prescribed in section 1.147(b) of the Department's Uniform Rules of Practice (7 CFR 1.147(b)). In those instances where there is conflict of any material fact, the owner or operator of the establishment, upon request, shall be afforded an opportunity for a hearing with respect to the disputed fact, in accordance with rules of practice which shall be adopted for the proceeding. However, such withdrawal or modification shall become effective pending final determination in the proceeding when the Administrator determines that an imminent threat to food safety or public health exists, and that such action is, therefore, necessary to protect the public health, interest or safety. Such withdrawal or modification shall be effective upon oral or written notification, whichever is earlier, to the owner or operator of the particular establishment as promptly as circumstances permit. In the event of oral notification, written confirmation shall be given to the owner or operator of the establishment as promptly as circumstances permit. This withdrawal or modification shall continue in effect pending the completion of the proceeding and any judicial review thereof, unless otherwise ordered by the Administrator.

(6) The adulteration and misbranding provisions of the Act and the regulations apply to articles which are exempted from inspection under § 381.10(e).

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§ 381.11 Exemptions based on religious dietary laws.

(a) Any person who slaughters, processes, or otherwise handles poultry or poultry products which have been or are to be processed as required by recognized religious dietary laws may apply for exemption from specific provisions of the Act or regulations which are in conflict with such religious dietary laws. Any person desiring such an exemption shall apply in writing to the Meat and Poultry Inspection Program, Food Safety and Inspection Service, Department of Agriculture, Washington, DC 20250, setting forth the specific provisions of the Act and the regulations from which exemption is sought and setting forth the provisions of the religious dietary laws in support of the requested exemption. In addition, the applicant for such an exemption shall submit a statement from the clerical official having jurisdiction over the enforcement of the religious dietary laws with respect to the poultry or poultry products involved, which identifies the requirements of such laws pertaining to the slaughter of the poultry and the processing or other handling of the poultry products involved, and certifies that such requirements are in conflict with specific provisions of the Act and regulations from which the exemption is sought.

(b) The Administrator, upon a determination that an exemption should be granted, will grant such exemption to the extent necessary to avoid conflict with the religious requirements while still effectuating the purposes of the Act. He may impose such conditions as to sanitary standards, practices, and procedures in granting such exemption as he deems necessary to effectuate the purposes of the Act. Any person who processes poultry or poultry products under exemption from certain requirements as provided in this section shall be subject to all of the other applicable provisions of the Act and the regulations. Processing plants shall meet the sanitary requirements set forth in this part and unless exempted from inspection under the provisions of this subpart, shall be required to qualify for inspection and operate as official establishments. Slaughtered poultry which

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is prepared under an exemption authorizing the sale of noneviscerated poultry in commerce shall be individually identified with a label approved by the Administrator which identifies the clerical official under whose supervision the poultry was slaughtered.

§ 381.12 Effect of religious dietary laws exemptions on other persons.

Whenever a slaughterer or processor is granted an exemption under § 381.11 with respect to the slaughtering or processing of any poultry or poultry products under this part, under specified conditions, the sale, offer for sale, transportation and other handling in commerce by any person of such poultry and poultry products in accordance with such conditions is hereby authorized, except as restricted by the Act.

§ 381.13 Suspension or termination of exemptions.

(a) The Administrator may, by order, in accordance with the applicable rules of practice suspend or terminate any exemption under § 381.10(a) with respect to any person whenever he finds that such action will aid in effectuating the purposes of the Act. Failure to comply with the conditions of the exemption, including, but not limited to, failure to process poultry and poultry products under clean and sanitary conditions may result in termination of an exemption, in addition to any other penalties provided by law.

(b) Except as provided in § 381.10(c), the Administrator may extend the requirements of the Act to any establishment in any State or organized territory at which poultry products are processed for distribution solely within such jurisdiction if he determines in accordance with the provisions of subparagraph 5(c)(1) of the Act that the establishment is producing adulterated poultry products which would clearly endanger the public health.

§ 381.14 Inspection concerning purportedly exempted operations.

Inspectors of the Inspection Service are authorized to make inspections in accordance with law to ascertain whether any of the provisions of the Act or the regulations applying to producers, retailers, or other persons pur-

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porting to be exempted from any requirements under this subpart have been violated.

§ 381.15 Exemption from definition of “poultry product” of certain human food products containing poultry.

The following articles contain poultry ingredients only in a relatively small proportion or historically have not been considered by consumers as products of the poultry food industry. Therefore said articles are exempted from the definition of “poultry product” and the requirements of the Act and the regulations applicable to poultry products, if they comply with the conditions specified in this section.

(a) Any human food product (in a consumer package) not provided for in paragraph (c) of this section, if:

(1) It contains less than 2 percent cooked poultry meat (deboned white or dark poultry meat, or both) and/or “Mechanically Separated (Kind of Poultry)” as defined in § 381.173;

(2) It contains less than 10 percent of cooked poultry skins, giblets, or fat, separately, and less than 10 percent of cooked poultry skins, giblets, fat, and meat (as meat is limited in paragraph (a)(1) of this section) or “Mechanically Separated (Kind of Poultry)” as defined in § 381.173, in any combination;

(3) The poultry ingredients used in the product were prepared under inspection as defined in § 381.1, or were inspected under a foreign inspection system approved under § 381.196(b) and imported in compliance with the Act and the regulations;

(4) The immediate container of the product bears a label which shows the name of the product in accordance with this section; and

(5) The product is not represented as a poultry product. The aforesaid percentages of ingredients shall be computed on the basis of the moist, deboned, cooked poultry in the ready-to-serve product when prepared according to the serving directions on the consumer package.

(b) Any human food product (in an institutional pack), not provided for in paragraph (c) of this section, if: