§ 381.140 Relabeling poultry products.

When it is claimed by the operator of an official establishment that some of its labeled poultry product, which has been transported to a location other than an official establishment, is in need of relabeling because the labeling has become mutilated or damaged, or for some other reason needs relabeling, the requests for relabeling the poultry product shall be sent to the Administrator and accompanied with a statement of the reasons therefor and the quantity of labeling required. Labeling material intended for relabeling inspected and passed product shall not be transported from an official establishment until permission has been received from the Administrator. The relabeling of inspected and passed product with official labels shall be done under the supervision of an inspector pursuant to the regulations in part 362 of this chapter. The establishment shall reimburse the Inspection Service for any cost involved in supervising the relabeling of such product as provided in said regulations.

§§ 381.141–381.143 [Reserved]

§ 381.144 Packaging materials.

(a) Edible products may not be packaged in a container which is composed in whole or in part of any poisonous or deleterious substances which may render the contents adulterated or injurious to health. All packaging materials must be safe for the intended use within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act, as amended (FFDCA).

(b) Packaging materials entering the official establishment must be accompanied or covered by a guaranty, or statement of assurance, from the packaging supplier under whose brand name and firm name the material is marketed to the official establishment. The guaranty shall state that the material’s intended use complies with the FFDCA and all applicable food additive regulations. The guaranty shall identify the material, e.g., by the distinguishing brand name or code designation appearing on the packaging material shipping container; must specify the applicable conditions of use, including temperature limits and other pertinent limits specified under the FFDCA and food additive regulations; and must be signed by an authorized official of the supplying firm. The guaranty may be limited to a specific shipment of an article, in which case it may be part of or attached to the invoice covering such shipment, or it may be general and continuing, in which case, in its application to any article or other shipment of an article, it shall be considered to have been given at the date such article was shipped by the person who gives the guaranty. Guaranties consistent with the Food and Drug Administration’s regulations regarding such guaranties (21 CFR 7.12 and 7.13) will be acceptable. The management of the establishment must maintain a file containing guaranties for all food contact packaging materials in the establishment. The file shall be made available to Program inspectors or other Department officials upon request. While in the official establishment, the identity of all packaging materials must be traceable to the applicable guaranty.

(c) The guaranty by the packaging supplier will be accepted by Program inspectors to establish that the use of material complies with the FFDCA and all applicable food additive regulations.

(d) The Department will monitor the use of packaging materials in official establishments to assure that the requirements of paragraph (a) of this section are met, and may question the basis for any guaranty described under paragraph (b) of this section. Official establishments and packaging suppliers providing written guaranties to those official establishments will be permitted an opportunity to provide information to designated Department officials as needed to verify the basis for any such guaranty. The required information will include, but is not limited to, manufacturing firm’s name, trade name or code designation for the material, complete chemical composition, and use. Selection of a material for review does not in itself affect a
material's acceptability. Materials may continue to be used during the re -
view period. However, if information requested from the supplier is not pro-
vided within the time indicated in the request—a minimum of 30 days—any
applicable guaranty shall cease to be effective and approval to continue
using the specified packaging material in official establishments may be de-
nied. The Administrator may extend this time where reasonable grounds for
extension are shown, as, for example, where data must be obtained from sup-
pliers.
(e) The Administrator may dis-
approve for use in official establish-
ments packaging materials whose use
cannot be confirmed as complying with
the FFDCA and applicable food addi-
tive regulations. Before approval to use
a packaging material is finally denied
by the Administrator, the affected offi-
cial establishment and the supplier of
the material shall be given notice and
the opportunity to present their views
to the Administrator. If the official es-
tablishment and the supplier do not ac-
cept the Administrator’s determina-
tion, a hearing in accordance with ap-
licable rules of practice will be held to
resolve such dispute. Approval to use
the materials pending the outcome of
the presentation of views or hearing
shall be denied if the Administrator de-
termines that such use may present an
imminent hazard to public health.
(f) Periodically, the Administrator
will issue to inspectors a listing, by
distinguishing brand name or code des-
ignation, of packaging materials that
have been reviewed and that fail to
meet the requirements of paragraph (a)
of this section. Listed materials will
not be permitted for use in official es-
tablishments. If a subsequent review of
any material indicates that it meets
the requirements of paragraph (a), the
material will be deleted from the list-
ing.
(g) Nothing in this section shall af-
flect the authority of Program insec-
tors to refuse a specific material if he/
she determines the material may
render products adulterated or inju-
rion to health.
§ 381.145 Poultry products and other
articles entering or at official estab-
lishments; examination and other
requirements.
(a) No poultry product (including
poultry broth for use in any poultry
product in any official establishment)
may be brought into any official estab-
lishment unless it has been processed
in the United States only in an official
establishment or imported from a for-

dign country listed in § 381.196(b), and
inspected and passed, in accordance
with the regulations; and unless the
container of such product is marked so
as to identify the product as so in-
spected and passed, in accordance with
§ 381.115 or § 381.205, except that poultry
products inspected and passed and
identified as such under the laws of an
"at least equal" State or territory list-
ed in § 381.187 may be brought into any
official establishment solely for stor-
age and distribution therefrom without
repackaging, relabeling, or processing
in such establishment. No carcass, part
thereof, meat or meat food product of
cattle, sheep, swine, goats, or equines
may be brought into an official estab-
lishment unless it has been prepared in
the United States only in an official
meat packing establishment, or im-
ported, and inspected and passed, in ac-
d accordance with the Federal Meat Inspec-
tion Act, and the regulations under
such Act (Subchapter A of this chap-
ter) and is properly marked as so in-
spected and passed; or has been in-
spected and passed and is identified as
such in accordance with the require-
ments of the law and regulations of a
State not designated in § 331.2 of this
chapter; or is present in the official es-
tablishment by reason of an exemption
allowed in the Federal Meat Inspection
Act and the regulations under such Act
(Subchapter A of this chapter) or the
law and regulations of a State not so
designated. However, such exempted
articles may enter only under condi-
tions approved by the Administrator in