

TITLE ONE OF THE OFFICIAL COMPILATION OF THE CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK

**Part 45
Avian Influenza**

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Section 45.1 Definitions.

For the purposes of this Part:

(a) *Accredited veterinarian* means a veterinarian approved by the Deputy Administrator of Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture and accredited to perform functions of Federal and cooperative State-Federal programs.

(b) *Approved certificate of veterinary inspection* means a document issued by an accredited veterinarian and approved and countersigned by the State Animal Health Official of the state or country of origin. The certificate shall include the full name and address of both consignor and consignee, the date of issue, the dates and results of any qualifying tests, the health status of the source flock, the anticipated date of movement of poultry and a statement that the poultry have been inspected by an accredited veterinarian and are not showing signs of infectious, contagious or communicable disease (except where noted) and that the results of any tests are as indicated. Approval and countersignature of the certificate by the State Animal Health Official shall signify that said official has caused the statements thereon to be verified and that such statements qualify the poultry for movement in accordance with the provisions of this Part.

(c) *Avian influenza* means a viral disease of poultry caused by the avian influenza virus.

(d) *Avian influenza monitored source flock* means a flock subjected to such avian influenza control measures as are required by an established monitoring program approved by the State Animal Health Official of the state or country of origin.

(e) *Bird* means an individual domesticated fowl.

(f) *Flock* means all poultry on one farm or, at the discretion of the State Animal Health Official of the state or country of origin, any group of poultry which is segregated from another group and has been so segregated for a period of at least 21 days.

(g) *Moved* means shipped, transported or otherwise moved or delivered or received for movement by any person.

(h) *Poultry* means domesticated fowl including chickens, turkeys, waterfowl, guinea fowl and game birds commonly used for the production of meat and eggs. It does not include pigeons.

(i) *Live poultry market* means any premises where live poultry are assembled and held for sale and slaughter. It does not include livestock auction buildings as defined in Part 49 of this Title or USDA inspected poultry slaughter plants located outside the City of New York and the counties of Nassau and Westchester.

(j) *Source flock* means the flock, where the poultry were hatched and resided until their movement directly to a poultry market or the flock where the poultry have resided, prior to such movement, for at least 21 days, provided that no poultry from any untested or unmonitored flocks shall have been added to the poultry being moved within 21 days of such movement.

(k) *State* means the State of New York.

(l) *State Animal Health Official* means the official of a state or country responsible for livestock and poultry disease control and eradication programs.

(m) *Poultry dealer and poultry transporter* shall have the meaning accorded those terms in section 90-b of Article 5 of the Agriculture and Markets Law.

Section 45.2 Entry into the State.

No person shall enter the State of New York with any truck, coop, cage, crate or other conveyance for the purpose of removing, delivering or transporting live poultry unless the truck and the coop, cage, crate or other conveyance is in a sanitary condition. For the purpose of this Part, sanitary condition shall mean that the truck, coop, cage, crate or other conveyance has been cleaned and disinfected immediately prior to its arrival and that no other livestock or other poultry have used the truck or equipment since it was cleaned and disinfected. The operator of the truck shall maintain a record of the dates of cleanings and disinfection and shall have in his possession a copy of that record, including receipts for such service if performed commercially.

Section 45.3 Entry upon farms.

No person shall enter any farm in the State of New York with any truck, coop, cage, crate or other conveyance for the purpose of removing or delivering live poultry unless the truck and/or the coop, cage, crate or other conveyance is in a sanitary condition. For the purpose of this Part, sanitary condition shall mean that the truck, coop, cage, crate or other conveyance has been cleaned and disinfected immediately prior to its arrival on the farm and that no other livestock or poultry have used the equipment since it was cleaned and disinfected. The operator of the truck shall maintain a record of the dates of cleaning and disinfection and shall have in his possession a copy of that record, including receipts for such service if performed commercially.

Section 45.4 Sanitary precautions.

All persons entering any premises containing live poultry within the State of New York with any poultry truck, feed delivery and/or other service vehicle shall take every sanitary precaution possible to prevent the introduction or spread of avian influenza into or within the State. Said precautions shall include the disinfecting of all footwear before entering and after leaving any premises containing live poultry and the washing and disinfecting of the cabs, tires and bodies of all vehicles between each entry of a premises containing live poultry within the State. In addition, all markets, auctions, sales outlets and distribution facilities containing live poultry shall be maintained in a clean and sanitary manner and all coops, crates, flats, containers or other equipment used to hold or handle live poultry in such establishments shall be cleaned and disinfected between uses.

Section 45.5 Prohibited movement.

No person shall move or cause to be moved live poultry except in compliance with this Part. No person shall receive or accept for delivery live poultry in violation of this Part.

Section 45.6 Avian influenza control measures.

Except as provided in subdivision (f) of this section:

(a) No live poultry more than seven days old shall be moved into a live poultry market other than by a poultry dealer or poultry transporter holding a valid domestic animal health permit and from flocks which meet the requirements of subdivision (b) of this section.

(b)(1) No live poultry more than seven days old may be moved into a live poultry market unless the poultry dealer or poultry transporter possesses an approved certificate of veterinary inspection which states that either:

(i) the poultry identified thereon are moving through a poultry dealer or poultry transporter from a source flock which is certified by the state or country of origin as an avian influenza monitored source; or

(ii) the poultry identified thereon are moving through a poultry dealer or poultry transporter from a source flock in which a random sample of 10 birds were blood-tested negative for avian influenza within 10 days prior to the date of movement, using a test approved by the United States Department of Agriculture.

(2) The approved certificate of veterinary inspection required by this subdivision shall remain in the possession of the poultry dealer or poultry transporter moving the poultry directly to a live poultry market and further, the poultry shall be accompanied by an invoice setting forth:

(i) the name and address of the poultry dealer or poultry transporter that is moving the poultry;

(ii) the name and address of the live poultry market into which the poultry are being moved;

(iii) the number and type of poultry being moved;

(iv) the avian influenza status of the poultry; and

(v) the date of the movement of such poultry into the market,

(c) No live poultry more than seven days old which is held on premises where within the previous 12 months there has been a positive avian influenza serology, culture or a trace back to said premises of birds that tested positive for avian influenza within the previous 12 months shall be moved into a live poultry market, unless the State Animal Health Official of the state or country of origin certifies that:

(1) all birds held on the premises at or after the time of the positive serology, culture, or trace back and prior to the cleaning and disinfection of the premises were removed to slaughter or slaughtered and the premises were thereafter cleaned and disinfected under official supervision and the replacement flock complies with (2) below, or

(2) tracheal and cloacal swabs were obtained for virus isolation from 150 randomly selected birds in a flock held on such premises or from all of the birds in such flock, whichever is less, and such tests demonstrated that avian influenza was not present, and no bird in such flock exhibited clinical signs of avian influenza in the 45 days preceding the date of sampling. If the birds so tested are waterfowl, then only cloacal swabs shall be required. Such samples may be pooled in groups of up to five samples per culture.

(d) Live poultry that qualify for movement must be kept separate and apart from all other poultry of infected, exposed or unknown health status.

(e) No live poultry shall be moved from a poultry market, unless specifically authorized by the commissioner or his designee. Poultry markets shall not operate as poultry distributors.

(f)(1) A poultry dealer or poultry transporter who buys or sells poultry to be sold or offered for sale in a live poultry market, or transports poultry to a live poultry market shall:

(i) properly maintain, under the supervision of the State Animal Health Official of the state in which it resides, the approved certificates of veterinary inspection required by this section, together with records of the poultry it receives and the poultry it ships; and

(ii) immediately make such records available for inspection and/or immediately provide copies thereof when requested to do so by representatives of the New York State Department of Agriculture and Markets, the United States Department of Agriculture and/or the appropriate State Animal Health Official; and

(iii) accept only poultry meeting the requirements of this section; and

(iv) have a facility that can be routinely cleaned and disinfected on a year round basis to prevent survival of avian disease agents including avian influenza, and

(v) possess and utilize a working mechanical crate washer which cleans and disinfects crates between uses on a year round basis, provided such crate washer shall not be located or operated at a live poultry market, auction premises or poultry farming operation and provided further that crates which have been cleaned and disinfected shall not be exposed to or contaminated by crates which have not been cleaned and disinfected. and

(vi) use an all-season truck or vehicle wash facility to clean and disinfect trucks or vehicles between uses, provided such all-season truck or vehicle wash facility shall not be located or operated at a live poultry market, auction premises or poultry farming operation; and

(vii) compile, maintain and make available for inspection, for a period of two years, records of the dates and times such crates and trucks or vehicles were cleaned and disinfected.

Section 45.7 Penalties.

In addition to any criminal and civil penalties otherwise provided by the laws of this State and of the United States, any person violating any of the provisions of this Part shall be subject to the penalty provisions of section 40 of the Agriculture and Markets Law, together with the quarantine and other provisions of article 5 of said law.