

## § 381.4

also are conducted at such establishment,

(v) What, if any, food products not regulated under this Act or the Federal Meat Inspection Act also are processed at such establishment, and

(vi) The size of such establishment.

(e)(1) For the period of experimentation described in paragraph (c) of this section, the frequency of inspection by Inspection Service employees of operations other than slaughter and evisceration may be reduced in an establishment in which the procedures referred to therein are being tested if and only if the evaluation of the performance of such establishment described in paragraph (d)(1) indicates that there are:

(i) No instances, documented in records compiled no earlier than 10 years before, of substantial and recent noncompliance with applicable regulatory requirements (taking into account both the nature and frequency of any such noncompliance), and

(ii) The competence and control procedures needed to assure and monitor compliance with applicable regulatory requirements.

(2)(i) The frequency of Federal inspection and other conditions and methods of inspection coverage in any establishment in which the frequency of Federal inspection is reduced shall be based on:

(A) The evaluation of the characteristics of such establishment described in paragraph (d)(2) of this section,<sup>1</sup>

(B) The significance of potential public health consequences of noncompliance, and

(C) The availability of Inspection Service employees.

(ii) To the extent that frequency of inspection or other conditions and methods of inspection coverage are identified as conflicting with provisions of the regulations in this part,

<sup>1</sup>These evaluations will be based upon guidelines developed by FSIS and the complexity categorization in FSIS Directive 1030.2 (Documentation of Processing and Combination Assignments, 4/22/85). The guidelines and Directive will be available for public inspection and copying in the Policy Office, Room 3168, South Agriculture Building, 14th Street and Independence Avenue, SW., Washington, DC.

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the Administrator will waive such provisions for the period of experimentation, in accordance with paragraph (b) of this section.

[37 FR 9706, May 16, 1972, as amended at 52 FR 10033, Mar. 30, 1987; 69 FR 255, Jan. 5, 2004]

### § 381.4 Inspection in accordance with methods prescribed or approved.

Inspection of poultry products shall be rendered pursuant to the regulations and under such conditions and in accordance with such methods as may be prescribed or approved by the Administrator.

### § 381.5 Publications.

Publications under the Act and the regulations shall be made in the FEDERAL REGISTER and in such other media as the Administrator may designate.

### § 381.6 Establishments requiring inspection.

Inspection under the regulations is required at:

(a) Every establishment, except as provided in § 381.10 (a) and (b) or § 381.11, 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;

(b) Every establishment, except as provided in § 381.10 (a) and (b), (c), or (d), or § 381.11, within any State or organized territory which is designated in § 381.221 pursuant to section 5(c) of the Act, at which any poultry is slaughtered or any poultry products are processed, for use as human food solely for distribution within such jurisdiction; and

(c) Except as provided in § 381.10 (a) and (b), or (c), or § 381.11, every establishment designated by the Administrator pursuant to section 5(c) of the Act as one producing adulterated poultry products which would clearly endanger the public health.

### § 381.7 Coverage of all poultry and poultry products processed in official establishments.

All poultry and poultry products processed in an official establishment shall be inspected, handled, processed,

marked, and labeled as required by the regulations.

### Subpart C—Exemptions

#### § 381.10 Exemptions for specified operations.

(a) The requirements of the Act and the regulations for inspection of the processing of poultry and poultry products shall not apply to:

(1) Any retail dealer with respect to poultry products sold in commerce directly to consumers in an individual retail store, if the only processing operation performed by such retail dealer is the cutting up of poultry products on the premises where such sales to consumers are made: *Provided*, That such operation is conducted under such sanitary standards, practices, and procedures as result in the preparation of poultry products that are not adulterated: *And provided further*, That the poultry products sold in commerce are derived from poultry inspected and passed under the Act and such poultry products are not adulterated or misbranded at the time of sale (except that the official inspection legend shall not be used). (For the purposes of this subparagraph, a retail dealer is any person who sells poultry products directly to consumers as defined in paragraph (d)(2)(vi) of this section and whose sales of poultry products to household consumers constitute, in terms of dollar value, at least 75 percent of his total sales of poultry products.)

(2) The slaughter of poultry, and the processing of poultry products, by any person in any territory not organized with a legislative body, solely for distribution within such territory: *Provided*, That such poultry is sound and healthy and is slaughtered under such sanitary standards, practices, and procedures as result in the preparation of poultry products that are not adulterated: *And provided further*, That the poultry products are not adulterated or misbranded when so distributed (except that the official inspection legend shall not be used).

(3) 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 mem-

bers of his household and his non-paying 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 "Exempted—P.L. 90-492."

(4) The custom slaughter by any person of poultry delivered by the owner thereof for such slaughter, and 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, 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 owner's name and address and the statement "Exempted—P.L. 90-492."

(5) The slaughtering of sound and healthy poultry and processing of poultry products therefrom in any State or territory or the District of Columbia by any poultry producer on his own premises with respect to poultry raised on his premises, and the distribution by any person solely within such jurisdiction 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, 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