

## § 381.28

### § 381.28 Report of violations.

Each inspector, agent, representative, or employee of the Inspection Service shall report, in the manner prescribed by the Administrator, all violations of the Act and noncompliance with the regulations of which he has knowledge.

## Subpart F—Assignment and Authorities of Program Employees; Appeals

### §§ 381.30–381.31 [Reserved]

### § 381.32 Access to establishments.

[See § 300.6 of this chapter regarding access to establishments and other places of business.]

[69 FR 255, Jan. 5, 2004]

### § 381.33 Identification.

Each inspector will be furnished with a numbered official inspection badge, which shall remain in his or her possession at all times, and which shall be worn in such manner and at such times as the Administrator may prescribe.

[59 FR 42156, Aug. 17, 1994, as amended at 69 FR 255, Jan. 5, 2004]

### § 381.34 Financial interest of inspectors.

(a) No inspector shall inspect any poultry or poultry product in which he, his spouse, minor child, partner, organization in which he is serving as officer, director, trustee, partner, or employee, or any person with whom he is negotiating or has any arrangement concerning prospective employment, is financially interested.

(b) All inspectors are subject to statutory restrictions with respect to political activities; e.g., 5 U.S.C. 7324 and 1502.

(c) Violation of the provisions of paragraph (a) of this section or the provisions of applicable statutes referenced in paragraph (b) of this section will constitute grounds for dismissal in the case of appointees and for revocation of licenses in the case of licensees.

(d) Inspectors are subject to all applicable provisions of law and regulations and instructions of the Department and the Food Safety and Inspection Service and other authority concerning

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employee responsibilities and conduct. The setting forth of certain prohibitions in this part in no way limits the applicability of such general or other regulations or instructions.

### § 381.35 Appeal inspections; how made.

Any person receiving inspection service may, if dissatisfied with any decision of an inspector relating to any inspection, file an appeal from such decision: *Provided*, That such appeal is filed within 48 hours from the time the decision was made. Any such appeal from a decision of an inspector shall be made to his immediate superior having jurisdiction over the subject matter of the appeal, and such superior shall determine whether the inspector's decision was correct. Review of such appeal determination, when requested, shall be made by the immediate superior of the employee of the Department making the appeal determination. The cost of any such appeal shall be borne by the appellant if the Administrator determines that the appeal is frivolous. The charges for such frivolous appeal shall be at the rate of \$9.28 per hour for the time required to make the appeal inspection. The poultry or poultry products involved in any appeal shall be identified by U.S. retained tags and segregated in a manner approved by the inspector pending completion of an appeal inspection.

[48 FR 11419, Mar. 18, 1983, as amended at 60 FR 67456, Dec. 29, 1995]

## Subpart G—Facilities for Inspection; Overtime and Holiday Service; Billing Establishments

### § 381.36 Facilities required.

(a) *Inspector's Office.* Office space, including, but not being limited to furnishings, light, heat, and janitor service, shall be provided rent free in the official establishment, for the use of Government personnel for official purposes. The room or space set apart for this purpose must meet the approval of the Inspection Service and be conveniently located, properly ventilated, and provided with lockers or file cabinets suitable for the protection and storage of supplies and with facilities suitable for inspectors to change clothing. At

the discretion of the Administrator, small plants requiring the services of less than one full-time inspector need not furnish facilities for Program employees as prescribed in this section, where adequate facilities exist in a nearby convenient location. Each official establishment shall provide commercial laundry service for inspectors' outer work clothing, or disposable outer work garments designed for one-time use, or uniform rental service garments which are laundered by the rental service.

(b) *Facilities for ante mortem inspection.* A suspect pen is required for adequate ratite inspection.

(c) Facilities for the Streamlined Inspection System (SIS). The following requirements for lines operating under SIS are in addition to the normal requirements to obtain a grant of inspection. The requirements for SIS in §381.76(b) also apply.

(1) The following provisions shall apply to every inspection station:

(i) The conveyor line shall be level for the entire length of the inspection station. The vertical distance from the bottom of the shackles to the top of the adjustable platform (paragraph (c)(1)(iv) of this section) in its lowest position shall not be less than 60 inches.

(ii) Floor space shall consist of 4 feet along the conveyor line for the inspector, and 4 feet for the establishment helper. A total of at least 8 feet along the conveyor line shall be supplied for one inspection station and 16 feet for two-inspection stations.

(iii) Selectors or "kickouts" shall be installed in establishments with two inspection stations on a line so each inspector will receive birds on 12-inch centers with no intervening birds to impede inspection. The selector must move the bird to the edge of the trough for the inspector and establishment helper. The selectors must be smooth, steady, and consistent in moving the birds parallel and through the inspection station. Birds shall be selected and released smoothly to avoid swinging when entering the inspection station.

(iv) Each inspector's station shall have a platform that is slip-resistant and can be safely accessed by the inspector. The platform shall be designed

so that it can be easily and rapidly adjusted for a minimum of 14 inches vertically while standing on the platform. The platform shall be a minimum length of 4 feet and have a minimum width of 2 feet; the platform shall be designed with a 42-inch high rail on the back side and with ½-inch foot bumpers on both sides and front to allow safe working conditions. The platform must have a safe lift mechanism and be large enough for the inspector to sit on a stool and to change stations during breaks or station rotation.

(v) Conveyor line stop/start switches shall be located within easy reach of each inspector.

(vi) A trough or other facilities shall extend beneath the conveyor at all places where processing operations are conducted from the point where the carcass is opened to the point where the trimming has been performed. The trough must be of sufficient width to preclude trimmings, drippage, and debris from accumulating on the floor or platforms. The clearance between the suspended carcasses and the trough must be sufficient to preclude contamination of carcasses by splash.

(vii) A minimum of 200-footcandles of shadow-free lighting with a minimum color rendering index value of 85 where the birds are inspected to facilitate inspection.

(viii) Online handrinsing facilities with a continuous flow of water must be provided for and within easy reach of each inspector and each establishment helper. The hand-contact element must be rinsed automatically with a sufficient volume of water to remove all fat, tissue, debris, and other extraneous material from the hand contact element after each use. Both hot and cold running water shall be available at each inspection station on the eviscerating line and shall be delivered through a suitable mixing device controlled by the inspector. Alternatively, water for hand washing shall be delivered to such inspection stations at a minimum temperature of 65 degrees F.

(ix) Hangback racks shall be provided for and positioned within easy reach of the establishment helpers.

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(x) Each inspection station shall be provided with receptacles for condemned carcasses and parts. Such receptacles shall comply with the performance standards in §416.3(c) of this chapter.

(2) The following provisions shall apply only to prechill and postchill reinspection stations:

(i) Floor space shall consist of a minimum of 3 feet along each conveyor line and after each chiller to allow carcasses to be removed for evaluation. The space shall be level and protected from all traffic and overhead obstructions.

(ii) The vertical distance from the bottom of the shackles to the floor shall not be less than 48 inches.

(iii) A table, at least 2 feet wide, 2 feet deep, and 3 feet high designed to be readily cleanable and drainable shall be provided for reinspecting the sampled birds.

(iv) A minimum of 200-footcandles of shadow-free lighting with a minimum color rendering index of 85 on the table surface shall be provided.

(v) A separate clip board holder shall be provided for holding the recording sheets.

(vi) Handwashing facilities shall be provided for and shall be within easy access of persons working at the stations.

(vii) Hangback racks designed to hold 10 carcasses shall be provided for and positioned within easy reach of the person at the station.

(d) Facilities for the New Line Speed (NELS) inspection system. The following requirements for lines operating under the NELS inspection system are in addition to the normal requirements to obtain a grant of inspection and to the requirements for NELS in §381.76 (b) and (c).

(1) The following provisions shall apply to every inspection station:

(i) The conveyor line shall be level for the entire length of the inspection station. The vertical distance from the bottom of the shackles to the top of the adjustable platform (paragraph (d)(1)(iv) of this section) in its lowest position shall not be less than 60 inches.

(ii) Floor space shall consist of 6 feet along the conveyor line for the estab-

lishment employee presenting the birds, 4 feet for the inspector, and 4 feet for the establishment helper. A total of at least 42 feet along the conveyor line shall be supplied for three inspection stations.

(iii) Selectors or "kickouts" shall be installed so the three inspection stations will receive birds on 18-inch centers with no intervening birds to impede inspection. The selector must move the bird to the end of the trough for the presenter, inspector, and establishment helper. The selectors must be smooth, steady, and consistent in moving the birds parallel and through the inspection station. Birds shall be selected and released smoothly to avoid splashing the mirror (paragraph (d)(1)(vii) of this section) and swinging when entering the inspection station. Guide bars shall not extend in front of the inspection station mirror to avoid obstructing the inspector's view.

(iv) Each inspector's station shall have an easily and rapidly adjustable platform, with a minimum of 14 inches of vertical adjustment, which covers the entire length of the station (4 feet) and has a minimum width of 2 feet. The platform shall be designed with a 42-inch high rail on the back side and with ½-inch foot bumpers on both sides and front to allow safe working conditions.

(v) Conveyor line stop/start switches shall be located within easy reach of each inspector.

(vi) A trough shall extend beneath the conveyor at all places where processing operations are conducted from the point where the carcass is opened to the point where the trimming has been performed. The trough must be of sufficient width to preclude trimmings, drippage, and debris from accumulating on the floor or platforms. The clearance between the suspended carcasses and the trough must be sufficient to preclude contamination of carcasses by splash.

(vii) A distortion-free mirror, at least 3 feet wide and 2 feet high, shall be mounted at each inspection station so that it can be adjusted between 5 and 15 inches behind the shackles, tilt up and down, tilt from side to side, and be raised and lowered. The mirror shall be positioned in relation to the inspection

platform so that the inspector can position himself/herself opposite it 8 to 12 inches from the downstream edge. The mirror must be maintained abrasion free.

(viii) A minimum of 200-footcandles of shadow-free lighting with minimum color rendering index value of 85<sup>1</sup> where the birds are inspected to facilitate inspection. A light shall also be positioned above and slightly in front of the mirror to facilitate the illumination of the bird and mirror surfaces.

(ix) "One-line" handrinsing facilities with a continuous flow of water shall be provided for and within easy reach of each inspector and each establishment presenter and helper.

(x) Hangback racks shall be provided for and positioned within easy reach of the establishment helpers.

(xi) Each inspection station shall be provided with receptacle for condemned carcasses and parts. Such receptacles shall comply with the performance standards in §416.3(c) of this chapter.

(2) The following provisions shall apply only to the reinspection station:

(i) Floor space shall consist of 6 feet along the conveyor line. The space shall be level and protected from all traffic and overhead obstructions.

(ii) The vertical distance from the bottom of the shackles to the floor shall not be less than 48 inches.

(iii) A table, at least 3 feet wide and 2 feet deep, shall be provided for re-inspecting the sample birds.

(iv) A minimum of 200-footcandles of shows free lighting with a minimum color rendering index of 85<sup>1</sup> on the table surface.

(v) A separate clip board holder shall be provided for holding the recording sheets.

(vi) Handwashing facilities shall be provided for and shall be within easy reach of persons working at the station.

(vii) Hangback racks designed to hold 10 carcasses shall be provided for and positioned within easy reach of the person at the station.

(e) Facilities for the New Turkey Inspection (NTI) System. The following

requirements for lines operating under the NTI System are in addition to the normal requirements to obtain a grant of inspection and to the requirements for the NTI System in §381.76 (b) and (c).

(1) The following provisions apply to every inspection station:

(i) The conveyor line must be level for the entire length of the inspection station. The vertical distance from the bottom of the shackles to the top of the adjustable platform (paragraph (e)(1)(iii) of this section) in its lowest position shall not be less than 60 inches.

(ii) Floor space shall consist of 8 feet along the conveyor line; at least 4 feet for the inspector, and at least 4 feet for the establishment helper.

(iii) The inspector's station shall have an easily and rapidly adjustable platform with a minimum width of 2 feet which covers the entire length of the station (4 feet). The platform must adjust vertically a minimum of 14 inches, and must have a 42-inch rail on the back side and ½-inch foot bumpers on the sides and the front to allow safe working conditions.

(iv) Conveyor line stop/start switches shall be located within easy reach of each inspector.

(v) A Trough or other facilities shall extend beneath the conveyor at all places where processing operations are conducted from the point where the carcass is opened to the point where the trimming has been performed. The trough must be wide enough to prevent trimmings, drippage, and debris from accumulation on the floor or platforms. The clearance between suspended carcasses and the trough must be sufficient to prevent contamination of carcasses by splash.

(vi) A minimum of 200 foot-candles of shadow-free lighting with a minimum color rendering index value of 85<sup>1</sup> where the birds are inspected to facilitate inspection is required. The minimum lighting requirement for inspection stations in §381.52(b) shall not apply.

(vii) On-line handrinsing facilities with a continuous flow of water shall

<sup>1</sup>This requirement may be met by deluxe cool white type of fluorescent lighting.

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be provided for and within easy reach of each inspector and each establishment helper.

(viii) Hangback racks shall be provided for and within easy reach of the establishment helper.

(ix) Each inspection station shall be provided with receptacles for condemned carcasses and parts. Such receptacles shall comply with the performance standards in §416.3(c) of this chapter.

(2) The following provisions shall apply only to the reinspection station:

(i) Floor space shall consist of a minimum of 3 feet along the conveyor line so carcasses can be removed from each line for evaluation. The space shall be level and protected from all traffic and overhead obstructions.

(ii) The vertical distance from the bottom of the shackles to the floor must not be less than 48 inches.

(iii) A table at least 3 feet wide and 2 feet deep designed to be readily cleanable and drainable shall be provided for reinspecting the sampled birds.

(iv) A minimum of 200 foot-candles of shadow-free lighting with a minimum color rendering index of 85<sup>1</sup> at the table surface is required.

(v) A clipboard holder shall be provided for holding the recording sheets.

(vi) Handwashing facilities shall be provided for and within easy reach of persons working at the station.

(vii) Hangback racks designed to hold 10 carcasses shall be provided for and positioned within easy reach of the person at this station.

[37 FR 9706, May 16, 1972, as amended at 38 FR 9794, Apr. 20, 1973; 47 FR 23434, May 28, 1982; 49 FR 42554, Oct. 23, 1984; 50 FR 37512, Sept. 16, 1985; 52 FR 39209, Oct. 21, 1987; 64 FR 56416, Oct. 20, 1999; 66 FR 22905, May 7, 2001]

**§ 381.37 Schedule of operations.**

(a) No operations requiring inspection shall be conducted except under the supervision of an Inspection Service employee. All eviscerating of poultry and further processing shall be done with reasonable speed, considering the official establishment's facilities.

(b) A shift is a regularly scheduled operating period, exclusive of mealtime. One lunch period is the only official authorized interruption in the in-

pector's tour of duty once it begins. Lunch periods may be 30 minutes, 45 minutes, or in any case may not exceed one hour in duration. Once established, the lunch period must remain relatively constant as to time and duration. Lunch periods for inspectors shall not, except as provided herein, occur prior to 4 hours after the beginning of scheduled operations nor later than 5 hours after operations begin. In plants where a company rest break of not less than 30 minutes is regularly observed, approximately midpoint between start of work and the lunch period, and the inspector is allowed this time to meet his personal needs, the lunch period may be scheduled as long as 5½ hours after the beginning of scheduled operations.

(c) Official establishments, importers, and exporters shall be provided inspection service, without charge, up to 8 hours per shift during the basic workweek subject to the provisions of §381.38: *Provided*, That any additional shifts meet requirements as determined by the Administrator or his designee. The basic workweek shall consist of 5 consecutive 8-hour days within the administrative workweek Sunday through Saturday, excluding the lunch period; except that, when possible, the Department shall schedule the basic workweek so as to consist of 5 consecutive 8-hour days Monday through Friday, excluding lunch period. The Department may depart from the basic workweek in those cases where maintaining such a schedule would seriously handicap the Department in carrying out its functions. These provisions are applicable to all official establishments except in certain cases as provided in §381.145(h) of this subchapter.

(d)(1) Each official establishment shall submit a work schedule to the area supervisor for approval. In consideration of whether the approval of an establishment work schedule shall be given, the area supervisor shall take in account the efficient and effective use of inspection personnel. The work schedule must specify the workweek, daily clock hours of operation, and lunch periods for all departments of the establishment requiring inspection.

(2) Establishments shall maintain consistent work schedules. Any request