

to the United States, and all chutes, platforms, racks, tables, tools, utensils, and all other devices used in moving and handling any poultry product offered for entry into the United States, shall be maintained in a sanitary condition.

§ 381.202 Poultry products offered for entry; reporting of findings to customs; handling of articles refused entry; appeals, how made; denaturing procedures.

(a)(1) Program inspectors shall report their findings as to any product which has been inspected in accordance with this part, to the Director of Customs at the original port of entry.

(2) When product has been identified as "U.S. refused entry," the inspector shall request the Director of Customs to refuse admission to such product and to direct that it be exported by the owner or consignee within the time specified in this section, unless the owner or consignee, within the specified time, causes it to be destroyed by disposing of it under the supervision of a Program employee so that the product can no longer be used as human food, or by converting it to animal food uses, if permitted by the Food and Drug Administration. The owner or consignee of the refused entry product shall not transfer legal title to such product, except to a foreign consignee for direct and immediate exportation, or an end user, e.g., an animal food manufacturer or a renderer, for destruction for human food purposes. "Refused entry" product must be delivered to and used by the manufacturer or renderer within the 45-day time limit. Even if such title is illegally transferred, the subsequent purchaser will still be required to export the product or have it destroyed as specified in the notice under paragraph (a)(4) of this section.

(3) No lot of product which has been refused entry may be subdivided during disposition pursuant to paragraph (a)(2) of this section, except that removal and destruction of any damaged or otherwise unsound product from a lot destined for reexportation is permitted under supervision of USDA prior to exportation. Additionally, such refused entry lot may not be shipped for export from any port other

than that through which the product came into the United States without the expressed consent of the Administrator, based on full information concerning the product's disposition, including the name of the vessel and the date of export. For the purposes of this paragraph, the term "lot" shall refer to that product identified on MP Form 410 in the original request for inspection for importation pursuant to § 381.198.

(4) The owner or consignee shall have 45 days after notice is given by FSIS to the Director of Customs at the original port of entry to take the action required in paragraph (a)(2) of this section for "refused entry" product. Extension beyond the 45-day period may be granted by the Administrator when extreme circumstances warrant it; e.g., a dock workers' strike or an unforeseeable vessel delay.

(5) If the owner or consignee fails to take the required action within the time specified under paragraph (a)(4) of this section, the Department will take such actions as may be necessary to effectuate its order to have the product destroyed for human food purposes. The Department shall seek court costs and fees, storage, and proper expenses in the appropriate forum.

(6) No product which has been refused entry and exported to another country pursuant to paragraph (a)(2) of this section may be returned to the United States under any circumstance. Any such product so returned to the United States shall be subject to administrative detention in accordance with section 19 of the Act, and seizure and condemnation in accordance with section 20 of the Act.

(b) Upon the request of the Director of Customs at the port where a product is offered for clearance through the customs, the consignee of the product shall, at the consignee's own expense, immediately return to the Director any product which has been delivered to consignee under this subpart and subsequently designated "U.S. Refused Entry" or found in any request not to comply with the requirements in this subpart.

(c) Except as provided in § 381.200(a) or (b), no person shall remove or cause

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to be removed from any place designated as the place of inspection, any poultry product which the regulations in this subpart require to be marked in any way, unless the same has been clearly and legibly marked in compliance with this subpart.

(d) Any person receiving inspection service may, if dissatisfied with any decision of an inspector relating to any 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/her immediate supervisor having jurisdiction over the subject matter of the appeal, and such supervisor shall determine whether the inspector's decision was correct. Review of such appeal determination, when requested, shall be made by the immediate supervisor 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.

(e) All condemned carcasses, or condemned parts of carcasses, or other condemned poultry products, except those condemned for biological residues, shall be disposed of by one of the following methods, under the supervision of an inspector of the Inspection Service. (Facilities and materials for carrying out the requirements in this section shall be furnished by the official establishments.)

(1) Steam treatment (which shall be accomplished by processing the condemned product in a pressure tank under at least 40 pounds of steam pressure) or thorough cooking in a kettle or vat, a sufficient time to effectively destroy the product for human food purposes and preclude dissemination of disease through consumption by animals. (Tanks and equipment used for this purpose or for rendering or preparing inedible products shall be in

rooms or compartments separate from those used for the preparation of edible products. There shall be no direct connection by means of pipes, or otherwise, between tanks containing inedible products and those containing edible products.)

(2) Incineration or complete destruction by burning.

(3) Chemical denaturing, which shall be accomplished by the liberal application to all carcasses and parts thereof, of:

- (i) Crude carbolic acid,
- (ii) Kerosene, fuel oil, or used crankcase oil, or

(iii) Any phenolic disinfectant conforming to commercial standards CS 70-41 or CS 71-41 which shall be used in at least 2 percent emulsion or solution.

(4) Any other substances or method that the Administrator approves in specific cases, which will denature the poultry product to the extent necessary to accomplish the purposes of this section.

(5) Carcasses and parts of carcasses condemned for biological residue shall be disposed of in accordance with paragraph (e)(2) of this section or by burying under the supervision of an inspector.

[37 FR 9706, May 16, 1972, as amended at 48 FR 15890, Apr. 13, 1983; 50 FR 19908, May 13, 1985; 51 FR 37709, Oct. 24, 1986; 53 FR 17015, May 13, 1988; 54 FR 50735, Dec. 11, 1989; 60 FR 67458, Dec. 29, 1995]

§381.203 Products offered for entry; charges for storage, cartage, and labor with respect to products which are refused entry.

All charges for storage, cartage, and labor with respect to any product offered for entry which is refused entry pursuant to the regulations shall be paid by the owner or consignee and, in default of such payment, shall constitute a lien against any other products offered for entry thereafter by or for such owner or consignee.

[54 FR 41050, Oct. 5, 1989]

§381.204 Marking of poultry products offered for entry; official import inspection marks and devices.

(a) Except for products offered for entry from Canada, poultry products which upon reinspection are found to