

(i) *Fees.* An accredited laboratory must pay the required accreditation fee when it is due.

(j) *Probation.* An accredited laboratory must meet the following requirements if placed on probation pursuant to § 439.51 of this part:

(1) Send all official samples that have not been analyzed as of the date of written notification of probation to a specified FSIS laboratory by certified mail or private carrier or, as an alternative and as directed by FSIS, to a laboratory accredited by FSIS for the designated analyte(s). Mailing expenses will be paid by FSIS.

(2) Analyze a set of check samples similar to those used for initial accreditation, and submit the analytical results to FSIS within three weeks of receipt of the samples.

(3) Satisfy criteria for accreditation check samples specified in § 439.10 of this part.

§ 439.50 Refusal of accreditation.

Upon a determination by the Administrator, a laboratory will be refused accreditation for the following reasons:

(a) A laboratory will be refused accreditation for failure to meet the requirements of § 439.5 or § 439.10 of this part.

(b) A laboratory will be refused subsequent accreditation for failure to return to an FSIS laboratory, by certified mail or private carrier, or, as an alternative and as directed by FSIS, to a laboratory accredited by FSIS for the designated analytes, all official samples that have not been analyzed as of the notification of a loss of accreditation.

(c) A laboratory will be refused accreditation if the laboratory or any individual or entity responsibly connected with the laboratory has been convicted of, or is under indictment for, or has charges on an information brought against them in a Federal or State court concerning any of the following violations of law:

(1) Any felony.

(2) Any misdemeanor based upon acquiring, handling, or distributing of unwholesome, misbranded, or deceptively packaged food or upon fraud in connection with transactions in food.

(3) Any misdemeanor based upon a false statement to any governmental agency.

(4) Any misdemeanor based upon the offering, giving or receiving of a bribe or unlawful gratuity.

§ 439.51 Probation of accreditation.

Upon a determination by the Administrator, a laboratory will be placed on probation for the following reasons:

(a) If the laboratory fails to complete more than one interlaboratory accreditation maintenance check sample analysis as required by § 439.20(d) of this part within 12 consecutive months, unless written permission is granted by the Administrator.

(b) If the laboratory fails to meet any of the criteria set forth in §§ 439.20(d) and 439.20(h) of this part.

§ 439.52 Suspension of accreditation.

The accreditation of a laboratory will be suspended if the laboratory or any individual or entity responsibly connected with the laboratory is indicted or has charges on information brought against them in a Federal or State court for any of the following violations of law:

(a) Any felony.

(b) Any misdemeanor based upon acquiring, handling, or distributing of unwholesome, misbranded, or deceptively packaged food or upon fraud in connection with transactions in food.

(c) Any misdemeanor based upon a false statement to any governmental agency.

(d) Any misdemeanor based upon the offering, giving or receiving of a bribe or unlawful gratuity.

§ 439.53 Revocation of accreditation.

The accreditation of a laboratory will be revoked for the following reasons:

(a) An accredited laboratory that is accredited to perform analysis under §§ 439.5, 439.10 and 439.20 of this part will have its accreditation revoked for failure to meet any of the requirements of § 439.20 of this part, except for the following circumstances. If the accredited laboratory fails to meet any of the criteria set forth in §§ 439.20(d) and 439.20(h) of this part and it has not failed during the 12 months preceding

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its failure to meet the criteria, it shall be placed on probation, but if it has failed at any time during those 12 months, its accreditation will be revoked.

(b) An accredited laboratory will have its accreditation revoked if the Administrator determines that the laboratory or any responsibly connected individual or any agent or employee has:

(1) Altered any official sample or analytical finding; or

(2) Substituted any analytical result from any other laboratory and represented the result as its own.

(c) An accredited laboratory will have its accreditation revoked if the laboratory or any individual or entity responsibly connected with the laboratory is convicted in a Federal or State court of any of the following violations of law:

(a) Any felony.

(b) Any misdemeanor based upon acquiring, handling, or distributing of unwholesome, misbranded, or deceptively packaged food or upon fraud in connection with transactions in food.

(c) Any misdemeanor based upon a false statement to any governmental agency.

(d) Any misdemeanor based upon the offering, giving or receiving of a bribe or unlawful gratuity.

§ 439.60 Notification and hearings.

Accreditation of any laboratory will be refused, suspended, or revoked under the conditions previously described in this Part 439. The owner or operator of the laboratory will be sent written notice of the refusal, suspension, or revocation of accreditation by the Administrator. In such cases, the laboratory owner or operator will be provided an opportunity to present, within 30 days of the date of the notification, a statement challenging the merits or validity of such action and to request an oral hearing with respect to the denial, suspension, or revocation decision. An oral hearing will be granted if there is any dispute of material fact joined in such responsive statement. The proceeding will be conducted thereafter in accordance with the applicable rules of practice, which will be adopted for the proceeding. Any such refusal, suspen-

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sion, or revocation will be effective upon the receipt by the laboratory of the notification and will continue in effect until final determination of the matter by the Administrator.

PART 441—CONSUMER PROTECTION STANDARDS: RAW PRODUCTS

AUTHORITY: 21 U.S.C. 451–470, 601–695; 7 U.S.C. 450, 1901–1906; 7 CFR 2.18, 2.53.

SOURCE: 66 FR 1771, Jan. 9, 2001, unless otherwise noted.

§ 441.10 Retained water.

(a) Raw livestock and poultry carcasses and parts will not be permitted to retain water resulting from post-evisceration processing unless the establishment preparing those carcasses and parts demonstrates to FSIS, with data collected in accordance with a written protocol, that any water retained in the carcasses or parts is an unavoidable consequence of the process used to meet applicable food safety requirements.

(b) Raw livestock and poultry carcasses and parts that retain water from post-evisceration processing and that are sold, transported, offered for sale or transportation, or received for transportation, in commerce, must bear a statement on the label in prominent letters and contiguous to the product name or elsewhere on the principal display panel of the label stating the maximum percentage of water that may be retained (*e.g.*, “up to X% retained water,” “less than X% retained water,” “up to X% water added from processing”). The percent water statement need not accompany the product name on other parts of the label. Raw livestock and poultry carcasses and parts that retain no water may bear a statement that no water is retained.

(c)(1) An establishment subject to paragraph (a) of this section must maintain on file and available to FSIS its written data-collection protocol. The protocol must explain how data will be collected and used to demonstrate the amount of retained water in the product covered by the protocol that is an unavoidable consequence of