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is the method used to open the bird for evisceration.

(6) *Standards to be met by the chilling system.* For example, the chilling system may be designed simply to achieve a reduction in temperature of ready-to-cook poultry to less than 40 °F within the time limit specified by the regulations, or in less time. As to the standard for pathogen minimization, the *Salmonella* pathogen reduction standards, as set forth in the PR/HACCP final rule, have been suggested. Although there is not yet an applicable *Salmonella* standard for turkeys, establishments are free to adopt practicable criteria for use in gathering data on turkeys under the protocols here suggested. Additional microbiological targets, such as *E. coli* or *Campylobacter* levels, or reductions in numbers of other microorganisms, may also be used.

(7) *Testing methods to be employed.* The protocol should detail the testing methods to be used both for measuring water absorption and retention and for sampling and testing product for pathogen reductions. The protocol should call for water retention and pathogen reduction tests at various chilling equipment settings and chilling time-and-temperature combinations. The method to be used in calculating water absorption and retention should be reproducible and statistically verifiable. With respect to the pathogen-reduction aspect of the testing, FSIS recommends the methods used for *E. coli* and *Salmonella* testing under the PR/HACCP regulations. The number of samples, the type of samples, the sampling time period, and the type of testing or measurement should be included in the protocol.

(8) *Reporting of data and evaluation of results.* The protocol should explain how data obtained are to be reported and summarized. The criteria for evaluating the results and the basis for conclusions to be drawn should be explained.

(9) *Conclusions.* The protocol should provide for a statement of what the data obtained demonstrate and what conclusions were reached.

PART 442—QUANTITY OF CONTENTS LABELING AND PROCEDURES AND REQUIREMENTS FOR ACCURATE WEIGHTS

Sec.
442.1 Quantity of contents labeling
442.2 Definitions and procedures for determining net weight compliance
442.3 Scale requirements for accurate weights, repairs, adjustments, and replacement after inspection
442.4 Testing of scales
442.5 Handling of failed product

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

SOURCE: 73 FR 52192, Sept. 9, 2008, unless otherwise noted.

§ 442.1 Quantity of contents labeling.

This part prescribes the procedures to be followed for determining net weight compliance and prescribes the reasonable variations allowed from the declared net weight on the labels of immediate containers of products in accordance with 9 CFR 317.2(c)(4), 317.2(h), and 381.121.

§ 442.2 Definitions and procedures for determining net weight compliance.

(a) For the purpose of § 442.1 of this part, the reasonable variations allowed, and the definitions and the procedures to be used, in determining net weight and net weight compliance are presented in the National Institute of Standards and Technology (NIST) Handbook 133, ''Checking the Net Contents of Packaged Goods,'' Fourth Edition, January 2005, which is incorporated by reference. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of NIST Handbook 133 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, 732 N. Capitol Street, NW., Washington, DC, 20401. You may contact the Government Printing Office Toll-Free at 1–866–512–1800 or go to: *http://bookstore.gpo.gov*. You may inspect a copy of NIST Handbook 133 at the FSIS Docket Room, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue, SW., Room 2534, Washington, DC 20250. You can contact the FSIS

Docket room by calling 202–720–0344 or 202–720–3813. The NIST Handbook 133 is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to:*http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(b) The following NIST Handbook 133 requirements are not incorporated by reference.

CHAPTER 2—BASIC TEST PROCEDURE—GRAVIMETRIC TESTING

2.3 Basic Test Procedure—Tare Procedures—*Wet Tare*

2.3 Basic Test Procedure—Moisture Allowances—*What moisture allowance is used with wet tare when testing packages bearing a USDA seal of inspection?*

2.4 Borax

CHAPTER 3—TEST PROCEDURES—FOR PACKAGES LABELED BY VOLUME

3.5 Mayonnaise and Salad Dressing

3.7 Pressed and Blown Glass Tumblers and Stemware

3.8 Volumetric Test Procedures for Paint, Varnish, and Lacquers—Non Aerosol

3.9 Testing Viscous Materials—Such as Caulking Compounds and Pasters

3.10 Peat Moss

3.11 Mulch and Soils Labeled by Volume

3.12 Ice Cream Novelties

3.13 Fresh Oysters Labeled by Volume

3.14 Determining the Net Contents of Compressed Gas Cylinders

3.15 Volumetric Test Procedures for Packaged Firewood with a Labeled Volume of 133 L (4 Cu Ft) or Less

3.16 Boxed Firewood

3.17 Crosshatched Firewood

3.18 Bundles and Bags of Firewood

CHAPTER 4—TEST PROCEDURES—PACKAGES LABELED BY COUNT, LINEAR MEASURE, AREA, THICKNESS, AND COMBINATIONS OF QUANTITIES

4.5 Paper Plates and Sanitary Paper Products

4.6 Special Test Requirements for Packages Labeled by Linear or Square Measure (Area)

4.7 Polyethylene sheeting

4.8 Packages Labeled by Linear or Square (Area) Measure

4.9 Bailer Twine—Test Procedure for Length

4.10 Procedure for Checking the Area Measurement of Chamois Appendix C Glossary—wet tare

§ 442.3 Scale requirements for accurate weights, repairs, adjustments, and replacements after inspection.

(a) All scales used to determine the net weight of meat and poultry products sold or otherwise distributed in commerce in federally inspected meat and poultry establishments will be installed, maintained, and operated in a manner that ensures accurate weights. Such scales shall meet the applicable requirements contained in National Institute of Standards and Technology (NIST) Handbook 44, ''Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices,'' 1999 Edition, November 1988, which is incorporated by reference. This incorporation was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. (These materials are incorporated as they exist on the date of approval.) A notice of any change in the Handbook cited here will be published in the FEDERAL REGISTER. Copies may be purchased from the Superintendent of Documents, Government Printing Office, Washington, DC 20402. The incorporation information also is available for inspection at the Office of the Federal Register Information Center, 800 North Capitol Street, NW., suite 700, Washington, DC 20408.

(b) All scales used to determine the net weight of meat or poultry products sold or otherwise distributed in commerce or in States designated under section 301(c) of the Federal Meat Inspection Act and section 5(c) of the Poultry Products Inspection Act shall be of sufficient capacity to weigh the entire unit or package.

(c) No scale will be used at a federally inspected establishment to determine the net weight of meat or poultry products unless it has been found upon test and inspection, as specified in NIST Handbook 44 to provide accurate weight. If a scale is inspected or tested and found to be inaccurate, or if any repairs, adjustments, or replacements are made to a scale, it shall not be used until it has been reinspected and retested by a USDA official, or a State or local government weights and measures official, or a State registered or licensed scale repair firm or person, and

it must meet all accuracy requirements as specified in NIST Handbook 44. If a USDA inspector has put a ''Retain'' tag on a scale, the tag can only be removed by a USDA inspector. As long as the tag is on the scale, it shall not be used.

§ 442.4 Testing of scales.

(a) The operator of each official establishment that weighs meat or poultry food products will cause such scales to be tested for accuracy in accordance with the technical requirements of NIST Handbook 44, at least once during the calendar year. In cases where the scales are found not to maintain accuracy between tests, more frequent tests may be required and verified by an authorized USDA program official.

(b) The operator of each official establishment shall display on or near each scale a valid certification of the scale's accuracy from a State or local government's weights and measures authority or from a State registered or licensed scale repair firm or person, or shall have alternative documented procedures showing that the scale has been tested for accuracy in accordance with the requirements of NIST Handbook 44.

§ 442.5 Handling of failed product.

Any lot of product that is found to be out of compliance with net weight requirements upon testing in accordance with the methods prescribed in § 442.2 of this subchapter shall be handled as follows:

(a) A lot tested in an official establishment and found not to comply with net weight requirements may be reprocessed and must be reweighed and remarked to satisfy the net weight requirements of this section in accordance with the requirements of this part.

(b) A lot tested outside an official establishment and found not to comply with net weight requirements must be reweighed and remarked with a proper net weight statement, provided that such reweighing and remarking will not deface, cover, or destroy any other marking or labeling required under this subchapter, and the net quantity of contents is shown with the same prominence as the most conspicuous feature of a label.

PART 500—RULES OF PRACTICE

Sec.
500.1 Definitions.
500.2 Regulatory control action.
500.3 Withholding or suspension of inspection without prior notification.
500.4 Withholding action or suspension of inspection with prior notification.
500.5 Notification, appeals, and actions held in abeyance.
500.6 Withdrawal of inspection.
500.7 Refusal to grant inspection.
500.8 Procedures for rescinding or refusing approval of marks, labels, sizes, and containers.

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

SOURCE: 64 FR 66546, Nov. 29, 1999, unless otherwise noted.

§ 500.1 Definitions.

(a) A ''regulatory control action'' is the retention of product, rejection of equipment or facilities, slowing or stopping of lines, or refusal to allow the processing of specifically identified product.

(b) A ''withholding action'' is the refusal to allow the marks of inspection to be applied to products. A withholding action may affect all product in the establishment or product produced by a particular process.

(c) A ''suspension'' is an interruption in the assignment of program employees to all or part of an establishment.

§ 500.2 Regulatory control action.

(a) FSIS may take a regulatory control action because of:

(1) Insanitary conditions or practices;

(2) Product adulteration or misbranding;

(3) Conditions that preclude FSIS from determining that product is not adulterated or misbranded; or

(4) Inhumane handling or slaughtering of livestock.

(b) If a regulatory control action is taken, the program employee will immediately notify the establishment orally or in writing of the action and the basis for the action.

(c) An establishment may appeal a regulatory control action, as provided in §§ 306.5 and 381.35 of this chapter.