§ 2.19 Methods of analysis.

(c) After the Food and Drug Administration has completed such analysis of an official sample of a food, drug, or cosmetic as it determines, in the course of analysis and interpretation of analytical results, to be adequate to establish the respects, if any, in which the article is adulterated or misbranded within the meaning of the act, or otherwise subject to the prohibitions of the act, and has reserved an amount of the article it estimates to be adequate for use as exhibits in the trial of any case that may arise under the act based on the sample, a part of the sample, if any remains available, shall be provided for analysis, upon written request, by any person named on the label of the article, or the owner thereof, or the attorney or agent of such person or owner, except when:

(1) After collection, the sample or remaining part thereof has become decomposed or otherwise unfit for analysis, or

(2) The request is not made within a reasonable time before the trial of any case under the act, to which such person or owner is a party. The person, owner, attorney, or agent who requests the part of sample shall specify the amount desired. A request from an owner shall be accompanied by a showing of ownership, and a request from an attorney or agent by a showing of authority from such person or owner to receive the part of sample. When two or more requests for parts of the same sample are received the requests shall be complied with in the order in which they were received so long as any part of the sample remains available therefor.

(d) When an official sample of food, drug, or cosmetic is the basis of a notice given under section 305 of the act, or of a case under the act, and the person to whom the notice was given, or any person who is a party to the case, has no right under paragraph (c) of this section to a part of the sample, such person or his attorney or agent may obtain a part of the sample upon request accompanied by a written waiver of right under such paragraph (c) from each person named on the label of the article and owner thereof, who has not exercised his right under such paragraph (c). The operation of this paragraph shall be subject to the exceptions, terms, and conditions prescribed in paragraph (c) of this section.

(e) The Food and Drug Administration is authorized to destroy:

(1) Any official sample when it determines that no analysis of such sample will be made;

(2) Any official sample or part thereof when it determines that no notice under section 305 of the act, and no case under the act, is or will be based on such sample;

(3) Any official sample or part thereof when the sample was the basis of a notice under section 305 of the act, and when, after opportunity for presentation of views following such notice, it determines that no other such notice, and no case under the act, is or will be based on such sample;

(4) Any official sample or part thereof when the sample was the basis of a case under the act which has gone to final judgment, and when it determines that no other such case is or will be based on such sample;

(5) Any official sample or part thereof if the article is perishable;

(6) Any official sample or part thereof when, after collection, such sample or part has become decomposed or otherwise unfit for analysis;

(7) That part of any official sample which is in excess of three times the quantity it estimates to be sufficient for analysis.

Food and Drug Administration, HHS

§ 2.35 Use of secondhand containers for the shipment or storage of food and animal feed.

(a) Investigations by the Food and Drug Administration, the National Communicable Disease Center of the U.S. Public Health Service, the Consumer and Marketing Service of the U.S. Department of Agriculture, and by various State public health agencies have revealed practices whereby food and animal feed stored or shipped in