PART 507—CURRENT GOOD MANUFACTURING PRACTICE, HAZARD ANALYSIS, AND RISK-BASED PREVENTIVE CONTROLS FOR FOOD FOR ANIMALS

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Subpart A—General Provisions

§ 507.1 Applicability and status.

(a) The criteria and definitions in this part apply in determining whether an animal food is:

(1) Adulterated within the meaning of:

(i) Section 402(a)(3) of the Federal Food, Drug, and Cosmetic Act in that the food has been manufactured under such conditions that it is unfit for food; or

(ii) Section 402(a)(4) of the Federal Food, Drug, and Cosmetic Act in that the food has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health; and

(2) In violation of section 361 of the Public Health Service Act (42 U.S.C. 264).

(b) The operation of a facility that manufactures, processes, packs, or holds animal food for sale in the United States if the owner, operator, or agent in charge of such facility is required to comply with, and is not in compliance with, section 418 of the Federal Food, Drug, and Cosmetic Act or subparts C, D, E, or F of this part and § 507.7 is a prohibited act under section 301(uu) of the Federal Food, Drug, and Cosmetic Act.

(c) Animal food covered by specific current good manufacturing practice regulations also is subject to the requirements of those regulations.

(d) Except as provided by § 507.12, if a facility is required to comply with subpart B of part 507 and is also required to comply with subpart B of part 117 of this chapter because the facility manufactures, processes, packs, or holds human food and animal food, then the facility may choose to comply with the requirements in subpart B of part 117, instead of subpart B of part 507, as to the manufacturing, processing, packing, and holding of animal food at that facility. If a facility is required to comply with subpart C of part 507 and is also required to comply with subpart C of part 117 of this chapter, then the facility may choose to comply with the requirements in subpart C of part 117 as to the manufacturing, processing, packing, and holding of animal food at the facility, instead of subpart C of part 507, provided the food safety plan also addresses hazards for the animal food, if applicable, that require a preventive control. When applying the requirements of part 117 of this chapter to animal food, the term ''food'' in part 117 includes animal food.

§ 507.3 Definitions.

The definitions and interpretations contained in section 201 of the Federal Food, Drug, and Cosmetic Act apply to such terms when used in this part. The following definitions also apply:

Adequate means that which is needed to accomplish the intended purpose in keeping with good public (human and animal) health practice.

Affiliate means any facility that controls, is controlled by, or is under common control with another facility.

Animal food means food for animals other than man and includes pet food, animal feed, and raw materials and ingredients.

Audit means the systematic, independent, and documented examination (through observation, investigation, records review, discussions with employees of the audited entity, and, as appropriate, sampling and laboratory analysis) to assess an audited entity's food safety processes and procedures.

Calendar day means every day shown on the calendar.

Correction means an action to identify and correct a problem that occurred during the production of animal food, without other actions associated with a corrective action procedure (such as actions to reduce the likelihood that the problem will recur, evaluate all affected animal food for safety, and prevent affected animal food from entering commerce).

Critical control point means a point, step, or procedure in a food process at which control can be applied and is essential to prevent or eliminate a food safety hazard or reduce such hazard to an acceptable level.

Environmental pathogen means a pathogen capable of surviving and persisting within the manufacturing, processing, packing, or holding environment such that food for animals may be contaminated and may result in foodborne illness if that animal food is not treated to significantly minimize or prevent the environmental pathogen. Examples of environmental pathogens for the purposes of this part include *Listeria monocytogenes* and *Salmonella* spp. but do not include the spores of pathogenic sporeforming bacteria.

Facility means a domestic facility or a foreign facility that is required to register under section 415 of the Federal Food, Drug, and Cosmetic Act, in accordance with the requirements of part 1, subpart H of this chapter.

Farm means farm as defined in §1.227 of this chapter.

FDA means the Food and Drug Administration.

Food means food as defined in section 201(f) of the Federal Food, Drug, and Cosmetic Act and includes raw materials and ingredients.

Food-contact surfaces are those surfaces that contact animal food and those surfaces from which drainage, or other transfer, onto the animal food or onto surfaces that contact the animal food ordinarily occurs during the normal course of operations. ''Food-contact surfaces'' includes utensils and animal food-contact surfaces of equipment.

Full-time equivalent employee is a term used to represent the number of employees of a business entity for the purpose of determining whether the business qualifies for the small business exemption. The number of full-time equivalent employees is determined by dividing the total number of hours of salary or wages paid directly to employees of the business entity and of all of its affiliates and subsidiaries by the number of hours of work in 1 year, 2,080 hours (*i.e.*, 40 hours × 52 weeks). If the result is not a whole number, round down to the next lowest whole number.

Harvesting applies to farms and farm mixed-type facilities and means activities that are traditionally performed on farms for the purpose of removing raw agricultural commodities from the place they were grown or raised and preparing them for use as animal food. Harvesting is limited to activities performed on raw agricultural commodities, or on processed foods created by drying/dehydrating a raw agricultural commodity without additional manufacturing/processing, on a farm. Harvesting does not include activities that transform a raw agricultural commodity into a processed food as defined in section 201(gg) of the Federal Food, Drug, and Cosmetic Act. Examples of harvesting include cutting (or otherwise separating) the edible portion of the raw agricultural commodity from the crop plant and removing or trimming part of the raw agricultural commodity (*e.g.*, foliage, husks, roots, or stems). Examples of harvesting also include cooling, field coring, filtering, gathering, hulling, shelling, sifting, threshing, trimming of outer leaves of, and washing raw agricultural commodities grown on a farm.

Hazard means any biological, chemical (including radiological), or physical agent that has the potential to cause illness or injury in humans or animals.

Hazard requiring a preventive control means a known or reasonably foreseeable hazard for which a person knowledgeable about the safe manufacturing, processing, packing, or holding of animal food would, based on the outcome of a hazard analysis (which includes an assessment of the severity of the illness or injury to humans or animals if the hazard were to occur and the probability that the hazard will occur in the absence of preventive controls), establish one or more preventive controls to significantly minimize or prevent the hazard in an animal food and components to manage those controls (such as monitoring, corrections or corrective actions, verification, and records) as appropriate to the animal food, the facility, and the nature of the preventive control and its role in the facility's food safety system.

Holding means storage of animal food and also includes activities performed incidental to storage of an animal food (*e.g.*, activities performed for the safe or effective storage of that animal food, such as fumigating animal food during storage, and drying/dehydrating

raw agricultural commodities when the drying/dehydrating does not create a distinct commodity (such as drying/dehydrating hay or alfalfa)). Holding also includes activities performed as a practical necessity for the distribution of that animal food (such as blending of the same raw agricultural commodity and breaking down pallets), but does not include activities that transform a raw agricultural commodity into a processed food as defined in section 201(gg) of the Federal Food, Drug, and Cosmetic Act. Holding facilities could include warehouses, cold storage facilities, storage silos, grain elevators, and liquid-storage tanks.

Known or reasonably foreseeable hazard means a biological, chemical (including radiological), or physical hazard that is known to be, or has the potential to be, associated with the facility or the animal food.

Lot means the animal food produced during a period of time and identified by an establishment's specific code.

Manufacturing/processing means making animal food from one or more ingredients, or synthesizing, preparing, treating, modifying, or manipulating animal food, including food crops or ingredients. Examples of manufacturing/processing activities include: Baking, boiling, bottling, canning, cooking, cooling, cutting, distilling, drying/dehydrating raw agricultural commodities to create a distinct commodity (such as drying/dehydrating grapes to produce raisins), evaporating, eviscerating, extracting juice, extruding, formulating, freezing, grinding, homogenizing, irradiating, labeling, milling, mixing, packaging (including modified atmosphere packaging), pasteurizing, peeling, pelleting, rendering, treating to manipulate ripening, trimming, washing, or waxing. For farms and farm mixed-type facilities, manufacturing/processing does not include activities that are part of harvesting, packing, or holding.

Microorganisms means yeasts, molds, bacteria, viruses, protozoa, and microscopic parasites and includes species that are pathogens. The term ''undesirable microorganisms'' includes those microorganisms that are pathogens, that subject animal food to decomposition, that indicate that animal food is contaminated with filth, or that otherwise may cause animal food to be adulterated.

Mixed-type facility means an establishment that engages in both activities that are exempt from registration under section 415 of the Federal Food, Drug, and Cosmetic Act and activities that require the establishment to be registered. An example of such a facility is a ''farm mixed-type facility,'' which is an establishment that is a farm, but also conducts activities outside the farm definition that require the establishment to be registered.

Monitor means to conduct a planned sequence of observations or measurements to assess whether control measures are operating as intended.

Packing means placing animal food into a container other than packaging the animal food and also includes repacking and activities performed incidental to packing or repacking an animal food (*e.g.*, activities performed for the safe or effective packing or repacking of that animal food (such as sorting, culling, grading, and weighing or conveying incidental to packing or repacking)), but does not include activities that transform a raw agricultural commodity into a processed food as defined in section 201(gg) of the Federal Food, Drug, and Cosmetic Act.

Pathogen means a microorganism of public (human or animal) health significance.

Pest refers to any objectionable animals or insects including birds, rodents, flies, and larvae.

Plant means the building or structure, or parts thereof, used for or in connection with the manufacturing, processing, packing, or holding of animal food.

Preventive controls means those risk-based, reasonably appropriate procedures, practices, and processes that a person knowledgeable about the safe manufacturing, processing, packing, or holding of animal food would employ to significantly minimize or prevent the hazards identified under the hazard analysis that are consistent with the current scientific understanding of safe food manufacturing, processing, packing, or holding at the time of the analysis.

Preventive controls qualified individual means a qualified individual who has successfully completed training in the development and application of risk-based preventive controls at least equivalent to that received under a standardized curriculum recognized as adequate by FDA, or is otherwise qualified through job experience to develop and apply a food safety system.

Qualified auditor means a person who is a qualified individual as defined in this part and has technical expertise obtained through education, training, or experience (or the combination thereof) necessary to perform the auditing function. Examples of potential qualified auditors include:

(1) A government employee, including a foreign government employee; and

(2) An audit agent of a certification body that is accredited in accordance with regulations in part 1, subpart M of this chapter.

Qualified end-user, with respect to food, means the consumer of the food (where the term consumer does not include a business); or a restaurant or retail food establishment (as those terms are defined in § 1.227 of this chapter) that:

(1) Is located:

(i) In the same State or the same Indian reservation as the qualified facility that sold the food to such restaurant or retail food establishment; or

(ii) Not more than 275 miles from such facility; and

(2) Is purchasing the food for sale directly to consumers at such restaurant or retail food establishment.

Qualified facility means (when including the sales by any subsidiary; affiliate; or subsidiaries or affiliates, collectively, of any entity of which the facility is a subsidiary or affiliate) a facility that is a very small business as defined in this part, or a facility to which both of the following apply:

(1) During the 3-year period preceding the applicable calendar year, the average annual monetary value of the food manufactured, processed, packed, or held at such facility that is sold directly to qualified end-users (as defined in this part) during such period exceeded the average annual monetary value of the food sold by such facility to all other purchasers; and

(2) The average annual monetary value of all food sold during the 3-year period preceding the applicable calendar year was less than $500,000, adjusted for inflation.

Qualified facility exemption means an exemption applicable to a qualified facility under § 507.5(d).

Qualified individual means a person who has the education, training, or experience (or a combination thereof) necessary to manufacture, process, pack, or hold safe animal food as appropriate to the individual's assigned duties. A qualified individual may be, but is not required to be, an employee of the establishment.

Raw agricultural commodity has the meaning given in section 201(r) of the Federal Food, Drug, and Cosmetic Act.

Receiving facility means a facility that is subject to subparts C and E of this part and that manufactures/processes a raw material or other ingredient that it receives from a supplier.

Rework means clean, unadulterated animal food that has been removed from processing for reasons other than insanitary conditions or that has been successfully reconditioned by reprocessing and that is suitable for use as animal food.

Sanitize means to adequately treat cleaned surfaces by a process that is effective in destroying vegetative cells of pathogens, and in substantially reducing numbers of other undesirable microorganisms, but without adversely affecting the product or its safety for animals or humans.

Significantly minimize means to reduce to an acceptable level, including to eliminate.

Small business means, for purposes of this part, a business (including any subsidiaries and affiliates) employing fewer than 500 full-time equivalent employees.

Subsidiary means any company which is owned or controlled directly or indirectly by another company.

Supplier means the establishment that manufactures/processes the animal food, raises the animal, or grows the food that is provided to a receiving

facility without further manufacturing/processing by another establishment, except for further manufacturing/processing that consists solely of the addition of labeling or similar activity of a *de minimis* nature.

Supply-chain-applied control means a preventive control for a hazard in a raw material or other ingredient when the hazard in the raw material or other ingredient is controlled before its receipt.

Unexposed packaged animal food means packaged animal food that is not exposed to the environment.

Validation means obtaining and evaluating scientific and technical evidence that a control measure, combination of control measures, or the food safety plan as a whole, when properly implemented, is capable of effectively controlling the identified hazards.

Verification means the application of methods, procedures, tests and other evaluations, in addition to monitoring, to determine whether a control measure or combination of control measures is or has been operating as intended and to establish the validity of the food safety plan.

Very small business means, for purposes of this part, a business (including any subsidiaries and affiliates) averaging less than $2,500,000, adjusted for inflation, per year, during the 3-year period preceding the applicable calendar year in sales of animal food plus the market value of animal food manufactured, processed, packed, or held without sale (*e.g.*, held for a fee or supplied to a farm without sale).

Water activity (a_w) means a measure of the free moisture in an animal food and is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature.

Written procedures for receiving raw materials and other ingredients means written procedures to ensure that raw materials and other ingredients are received only from suppliers approved by the receiving facility (or, when necessary and appropriate, on a temporary basis from unapproved suppliers whose raw materials or other ingredients are subjected to adequate verification activities before acceptance for use).

You means, for purposes of this part, the owner, operator, or agent in charge of a facility.

[80 FR 56337, Sept. 17, 2015, as amended at 81 FR 3717, Jan. 22, 2016]

§ 507.4 Qualifications of individuals who manufacture, process, pack, or hold animal food.

(a)(1) The management of an establishment must ensure that all individuals who manufacture, process, pack, or hold animal food subject to subparts B and F of this part are qualified to perform their assigned duties; and

(2) The owner, operator, or agent in charge of a facility must ensure that all individuals who manufacture, process, pack, or hold animal food subject to subparts C, D, E, or F of this part are qualified to perform their assigned duties.

(b) Each individual engaged in manufacturing, processing, packing, or holding animal food (including temporary and seasonal personnel) or in the supervision thereof must:

(1) Be a qualified individual as that term is defined in § 507.3, *i.e.*, have the education, training, or experience (or a combination thereof) necessary to manufacture, process, pack, or hold safe animal food as appropriate to the individual's assigned duties; and

(2) Receive training in the principles of animal food hygiene and animal food safety, including the importance of employee health and personal hygiene, as appropriate to the animal food, the facility and the individual's assigned duties.

(c) Responsibility for ensuring compliance by individuals with the requirements of this part must be clearly assigned to supervisory personnel who have the education, training, or experience (or a combination thereof) necessary to supervise the production of safe animal food.

(d) Records that document training required by paragraph (b)(2) of this section must be established and maintained and are subject to the recordkeeping requirements in subpart F of this part.

§ 507.5 Exemptions.

(a) This part does not apply to establishments, including ''farms'' (as defined in § 1.227 of this chapter), that are not required to register under section 415 of the Federal Food, Drug, and Cosmetic Act.

(b)(1) Subparts C and E of this part do not apply with respect to activities that are subject to § 500.23 and part 113 of this chapter (Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers) at an animal food facility if you are required to comply with, and are in compliance with, part 113 of this chapter with respect to those activities.

(2) The exemption in paragraph (b)(1) of this section is applicable only with respect to those microbiological hazards regulated under part 113 of this chapter.

(c) Subparts C and E of this part do not apply to activities of a facility that are subject to section 419 of the Federal Food, Drug, and Cosmetic Act (Standards for Produce Safety).

(d) Except as provided in subpart D of this part, subparts C and E of this part do not apply to a qualified facility. Qualified facilities are subject to the requirements in § 507.7.

(e) For a farm mixed-type facility that is a small or very small business, subparts C and E of this part do not apply to on-farm packing or holding of processed animal food, and § 507.7 does not apply to on-farm packing or holding of processed animal food by a very small business, if the only packing or holding activities subject to section 418 of the Federal Food, Drug, and Cosmetic Act that the business conducts are the following low-risk packing or holding activity/animal food combinations—*i.e.*, packing (or repacking) (including weighing or conveying incidental to packing or repacking); sorting, culling, or grading incidental to packing or storing; and storing (ambient, cold and controlled atmosphere) of:

(1) Roughage products (*e.g.*, alfalfa meal, entire plant meal, stem meal, pomace, and pulp);

(2) Plant protein meals (*e.g.*, algae, coconut (copra), guar, and peanut);

(3) Grain by-products and processed grain products (*e.g.*, bran, flour, germ meal, grits, groats, hominy feed, malt sprouts, middlings, pearled grain, polished grain, brewers grain, distillers grain, and gluten meal);

(4) Oilseed products (*e.g.*, oil and meal of safflower, soybean, or sunflower);

(5) Molasses (*e.g.*, processed sugar cane, sugar beets, and citrus);

(6) Animal protein meals (*e.g.*, blood, feather, meat, meat and bone, and marine (*e.g.*, crab, fish, shrimp));

(7) Milk products (*e.g.*, casein, cheese rind, and lactalbumin);

(8) Animal tissue-derived products (*e.g.*, fat);

(9) Vitamins, minerals, and concentrates;

(10) Processing aids (*e.g.*, enzymes, preservatives, and stabilizers); and

(11) Any other processed animal food that does not require time/temperature control for safety.

(f) For a farm mixed-type facility that is a small or very small business, subparts C and E of this part do not apply to on-farm manufacturing/processing activities conducted by a small or very small business for distribution into commerce, and § 507.7 does not apply to on-farm manufacturing/processing activities conducted by a very small business for distribution into commerce, if the only manufacturing/processing activities subject to section 418 of the Federal Food, Drug, and Cosmetic Act that the business conducts consists of the following low-risk manufacturing/processing activity/animal food combinations:

(1) Chopping or shredding hay;

(2) Cracking, crimping, flaking, pearling, peeling, shelling, or wafering—grain (*e.g.*, barley, sorghum, corn, oats, rice, rye, and wheat) or oilseed (*e.g.*, beans, canola, cottonseed, linseed, soybeans, and sunflowers);

(3) Crushing, dry rolling, grinding, milling, pulverizing—grain, oilseed, grain by-products and processed grain products, oilseed products, hay, ensiled material, culled fruits and vegetables, roughage (*e.g.*, cobs, hulls, husks, and straws), or roughage products;

(4) Ensiling (including chopping, shredding, mixing, storing, or fermenting), that is, making silage or haylage from forage (*e.g.*, sorghum (milo), corn (maize), alfalfa, and grass),

grain, culled fruits and vegetables, or roughage;

(5) Extracting (mechanical) or wet rolling grain, oilseed, brewers grain by-products, or distillers grain by-products;

(6) Labeling roughage products, plant protein meals, grain by-products and processed grain products, oilseed products, molasses, animal protein meals, milk products, animal tissue-derived products, vitamins, minerals, concentrates, processing aids, finished animal food, including animal food ready for consumption, or any other processed animal food that does not require time/temperature control for safety; and

(7) Packaging roughage products, plant protein meals, grain by-products and processed grain products, oilseed products, molasses, animal protein meals, milk products, animal tissue-derived products, vitamins, minerals, concentrates, processing aids, finished animal food, including animal food ready for consumption, or any other processed animal food that does not require time/temperature control for safety.

(g) Subparts C and E of this part do not apply to facilities that are solely engaged in the storage of raw agricultural commodities (other than fruits and vegetables) intended for further distribution or processing.

(h) Subpart B of this part does not apply to any of the following:

(1) Establishments solely engaged in the holding and/or transportation of one or more raw agricultural commodities;

(2) Establishments solely engaged in hulling, shelling, drying, packing, and/or holding nuts and hulls (without manufacturing/processing, such as grinding shells or roasting nuts); and

(3) Establishments solely engaged in ginning of cotton (without manufacturing/processing, such as extracting oil from cottonseed).

[80 FR 56337, Sept. 17, 2015, as amended at 81 FR 3717, Jan. 22, 2016]

§ 507.7 Requirements that apply to a qualified facility.

(a) A qualified facility must submit the following attestations to FDA:

(1) An attestation that the facility is a qualified facility as defined in § 507.3. For the purpose of determining whether a facility satisfies the definition of qualified facility, the baseline year for calculating the adjustment for inflation is 2011; and

(2)(i) An attestation that you have identified the potential hazards associated with the animal food being produced, are implementing preventive controls to address the hazards, and are monitoring the performance of the preventive controls to ensure that such controls are effective; or

(ii) An attestation that the facility is in compliance with State, local, county, tribal, or other applicable non-Federal food safety law, including relevant laws and regulations of foreign countries, including an attestation based on licenses, inspection reports, certificates, permits, credentials, certification by an appropriate agency (such as a State department of agriculture), or other evidence of oversight.

(b) The attestations required by paragraph (a) of this section must be submitted to FDA by any one of the following means:

(1) *Electronic submission.* To submit electronically, go to *http://www.fda.gov/furls* and follow the instructions. This Web site is available from wherever the Internet is accessible, including libraries, copy centers, schools, and Internet cafes. FDA encourages electronic submission.

(2) *Submission by mail.* (i) You must use Form FDA 3942b. You may obtain a copy of this form by any of the following mechanisms:

(A) Download it from *http://www.fda.gov/pcafrule*;

(B) Write to the U.S. Food and Drug Administration (HFS–681), 5001 Campus Dr., College Park, MD 20740; or

(C) Request a copy of this form by phone at 1–800–216–7331 or 301–575–0156.

(ii) Send a paper Form FDA 3942b to the U.S. Food and Drug Administration (HFS–681), 5001 Campus Dr., College Park, MD 20740. We recommend that you submit a paper copy only if your facility does not have reasonable access to the Internet.

(c)(1) A facility must determine and document its status as a qualified facility on an annual basis no later than July 1 of each calendar year.

(2) The attestations required by paragraph (a) of this section must be:

(i) Submitted to FDA initially:

(A) By *December 16, 2019* for a facility that begins manufacturing, processing, packing, or holding animal food before *September 17, 2019;*

(B) Before beginning operations, for a facility that begins manufacturing, processing, packing, or holding animal food after *September 17, 2019;* or

(C) By July 31 of the applicable calendar year, when the status of a facility changes from ''not a qualified facility'' to ''qualified facility'' based on the annual determination required by paragraph (c)(1) of this section; and

(ii) Beginning in 2020, submitted to FDA every 2 years during the period beginning on October 1 and ending on December 31.

(3) When the status of a facility changes from ''qualified facility'' to ''not a qualified facility'' based on the annual determination required by paragraph (c)(1) of this section, the facility must notify FDA of that change in status using Form FDA 3942b by July 31 of the applicable calendar year.

(d) When the status of a facility changes from ''qualified facility'' to ''not a qualified facility,'' the facility must comply with subparts C and E of this part no later than December 31 of the applicable calendar year unless otherwise agreed to by FDA and the facility.

(e) A qualified facility that does not submit attestations under paragraph (a)(2)(i) of this section must provide notification to consumers as to the name and complete business address of the facility where the animal food was manufactured or processed (including the street address or P.O. Box, city, state, and zip code for domestic facilities, and comparable full address information for foreign facilities) as follows:

(1) If an animal food packaging label is required, the notification required by paragraph (e) of this section must appear prominently and conspicuously on the label of the animal food.

(2) If an animal food packaging label is not required, the notification required by paragraph (e) of this section must appear prominently and conspicuously, at the point of purchase, on a label, poster, sign, placard, or documents delivered contemporaneously with the animal food in the normal course of business, or in an electronic notice, in the case of Internet sales.

(f)(1) A qualified facility must maintain those records relied upon to support the attestations that are required by paragraph (a) of this section.

(2) The records that a qualified facility must maintain are subject to the requirements of subpart F of this part.

[80 FR 56337, Sept. 17, 2015, as amended at 81 FR 3717, Jan. 22, 2016; 81 FR 49897, July 29, 2016]

§ 507.10 Applicability of subparts C and E of this part to a facility solely engaged in the storage of unexposed packaged animal food.

(a) Subparts C and E of this part do not apply to a facility solely engaged in the storage of unexposed packaged animal food that does not require time/temperature control to significantly minimize or prevent the growth of, or toxin production by, pathogens.

(b) A facility solely engaged in the storage of unexposed packaged animal food, including unexposed packaged animal food that requires time/temperature control to significantly minimize or prevent the growth of, or toxin production by, pathogens is subject to the modified requirements in § 507.51 for any unexposed packaged animal food that requires time/temperature control to significantly minimize or prevent the growth of, or toxin production by, pathogens.

§ 507.12 Applicability of this part to the holding and distribution of human food by-products for use as animal food.

(a) Except as provided by paragraph (b) of this section, the requirements of this part do not apply to by-products of human food production, or the off-farm packing and holding of raw agricultural commodities, that are packed or held by that human food facility for distribution as animal food if:

(1)(i) The human food facility is subject to and in compliance with subpart B of part 117 of this chapter and in compliance with all applicable human food safety requirements of the Federal Food, Drug, and Cosmetic Act and implementing regulations; or

(ii) For the off-farm packing and holding of produce (as defined in part 112 of this chapter), the human food facility is subject to and in compliance with § 117.8 of this chapter and in compliance with all applicable human food safety requirements of the Federal Food, Drug, and Cosmetic Act and implementing regulations; and

(2) The human food facility does not further manufacture or process the by-products intended for use as animal food.

(b) The human food by-products for use as animal food identified in paragraph (a) of this section must be held and distributed by that facility in accordance with §§ 507.28 and 117.95 of this chapter.

Subpart B—Current Good Manufacturing Practice

§ 507.14 Personnel.

(a) The management of the establishment must take reasonable measures and precautions to ensure that all persons working in direct contact with animal food, animal food-contact surfaces, and animal food-packaging materials conform to hygienic practices to the extent necessary to protect against the contamination of animal food.

(b) The methods for conforming to hygienic practices and maintaining cleanliness include:

(1) Maintaining adequate personal cleanliness;

(2) Washing hands thoroughly in an adequate hand-washing facility as necessary and appropriate to protect against contamination;

(3) Removing or securing jewelry and other objects that might fall into animal food, equipment, or containers;

(4) Storing clothing or other personal belongings in areas other than where animal food is exposed or where equipment or utensils are cleaned; and

(5) Taking any other necessary precautions to protect against the contamination of animal food, animal food-contact surfaces, or animal food-packaging materials.

§ 507.17 Plant and grounds.

(a) The grounds around an animal food plant under the control of the management of the establishment must be kept in a condition that will protect against the contamination of animal food. Maintenance of grounds must include:

(1) Properly storing equipment, removing litter and waste, and cutting weeds or grass within the immediate vicinity of the plant that may constitute an attractant, breeding place, or harborage for pests;

(2) Maintaining driveways, yards, and parking areas so that they do not constitute a source of contamination in areas where animal food is exposed;

(3) Adequately draining areas that may contribute to contamination of animal food; and

(4) Treating and disposing of waste so that it does not constitute a source of contamination in areas where animal food is exposed.

(b) The plant must be suitable in size, construction, and design to facilitate cleaning, maintenance, and pest control to reduce the potential for contamination of animal food, animal food-contact surfaces, and animal food-packaging materials, including that the plant must:

(1) Provide adequate space between equipment, walls, and stored materials to permit employees to perform their duties and to allow cleaning and maintenance of equipment;

(2) Be constructed in a manner such that drip or condensate from fixtures, ducts, and pipes does not serve as a source of contamination;

(3) Provide adequate ventilation (mechanical or natural) where necessary and appropriate to minimize vapors (*e.g.*, steam) and fumes in areas where they may contaminate animal food and in a manner that minimizes the potential for contaminating animal food;

(4) Provide adequate lighting in hand-washing areas, toilet rooms, areas where animal food is received, manufactured, processed, packed, or held, and areas where equipment or utensils are cleaned; and

(5) Provide shatter-resistant light bulbs, fixtures, and skylights, or other glass items suspended over exposed animal food in any step of preparation, to protect against the contamination of animal food in case of glass breakage.

(c) The plant must protect animal food stored outdoors in bulk from contamination by any effective means, including:

(1) Using protective coverings where necessary and appropriate;

(2) Controlling areas over and around the bulk animal food to eliminate harborages for pests; and

(3) Checking on a regular basis for pests, pest infestation, and product condition related to safety of the animal food.

§ 507.19 Sanitation.

(a) Buildings, structures, fixtures, and other physical facilities of the plant must be kept clean and in good repair to prevent animal food from becoming adulterated.

(b) Animal food-contact and non-contact surfaces of utensils and equipment must be cleaned and maintained and utensils and equipment stored as necessary to protect against the contamination of animal food, animal food-contact surfaces, or animal food-packaging materials. When necessary, equipment must be disassembled for thorough cleaning. In addition:

(1) When animal food-contact surfaces used for manufacturing, processing, packing, or holding animal food are wet-cleaned, the surfaces must, when necessary, be thoroughly dried before subsequent use; and

(2) In wet processing of animal food, when cleaning and sanitizing are necessary to protect against the introduction of undesirable microorganisms into animal food, all animal food-contact surfaces must be cleaned and sanitized before use and after any interruption during which the animal food-contact surfaces may have become contaminated.

(c) Cleaning compounds and sanitizing agents must be safe and adequate under the conditions of use.

(d) The following applies to toxic materials:

(1) Only the following toxic materials may be used or stored in the plant area where animal food is manufactured, processed, or exposed:

(i) Those required to maintain clean and sanitary conditions;

(ii) Those necessary for use in laboratory testing procedures;

(iii) Those necessary for plant and equipment maintenance and operation; and

(iv) Those necessary for use in the plant's operations.

(2) Toxic materials described in paragraph (d)(1) of this section (*e.g.*, cleaning compounds, sanitizing agents, and pesticide chemicals) must be identified, used, and stored in a manner that protects against the contamination of animal food, animal food-contact surfaces, or animal food-packaging materials; and

(3) Other toxic materials (such as fertilizers and pesticides not included in paragraph (d)(1) of this section) must be stored in an area of the plant where animal food is not manufactured, processed, or exposed.

(e) Effective measures must be taken to exclude pests from the manufacturing, processing, packing, and holding areas and to protect against the contamination of animal food by pests. The use of pesticides in the plant is permitted only under precautions and restrictions that will protect against the contamination of animal food, animal food-contact surfaces, and animal food-packaging materials.

(f) Trash must be conveyed, stored, and disposed of in a way that protects against the contamination of animal food, animal food-contact surfaces, animal food-packaging materials, water supplies, and ground surfaces, and minimizes the potential for the trash to become an attractant and harborage or breeding place for pests.

[80 FR 56337, Sept. 17, 2015, as amended at 81 FR 3717, Jan. 22, 2016]

§ 507.20 Water supply and plumbing.

(a) The following apply to the water supply:

(1) Water must be adequate for the operations and must be derived from an adequate source;

(2) Running water at a suitable temperature, and under suitable pressure as needed, must be provided in all areas where required for the manufacturing,

processing, packing, or holding of animal food, for the cleaning of equipment, utensils, and animal food-packaging materials, or for employee handwashing facilities;

(3) Water that contacts animal food, animal food-contact surfaces, or animal food-packaging materials must be safe for its intended use; and

(4) Water may be reused for washing, rinsing, or conveying animal food if it does not increase the level of contamination of the animal food.

(b) Plumbing must be designed, installed, and maintained to:

(1) Carry adequate quantities of water to required locations throughout the plant;

(2) Properly convey sewage and liquid disposable waste from the plant;

(3) Avoid being a source of contamination to animal food, water supplies, equipment, or utensils, or creating an unsanitary condition;

(4) Provide adequate floor drainage in all areas where floors are subject to flooding-type cleaning or where normal operations release or discharge water or other liquid waste on the floor; and

(5) Ensure that there is no backflow from, or cross-connection between, piping systems that discharge waste water or sewage and piping systems that carry water for animal food or animal food manufacturing.

(c) Sewage and liquid disposal waste must be disposed of through an adequate sewerage system or through other adequate means.

(d) Each plant must provide employees with adequate, readily accessible toilet facilities. Toilet facilities must be kept clean and must not be a potential source of contamination of animal food, animal food-contact surfaces, or animal food-packaging materials.

(e) Each plant must provide handwashing facilities designed to ensure that an employee's hands are not a potential source of contamination of animal food, animal food-contact surfaces, or animal food-packaging materials.

§ 507.22 Equipment and utensils.

(a) The following apply to plant equipment and utensils used in manufacturing, processing, packing, and holding animal food:

(1) All plant equipment and utensils, including equipment and utensils that do not come in contact with animal food, must be designed and constructed of such material and workmanship to be adequately cleanable, and must be properly maintained;

(2) Equipment and utensils must be designed, constructed, and used appropriately to avoid the adulteration of animal food with non-food grade lubricants, fuel, metal fragments, contaminated water, or any other contaminants;

(3) Equipment must be installed so as to facilitate the cleaning and maintenance of the equipment and adjacent spaces;

(4) Animal food-contact surfaces must be:

(i) Made of materials that withstand the environment of their use and the action of animal food, and, if applicable, the action of cleaning compounds, cleaning procedures, and sanitizing agents;

(ii) Made of nontoxic materials; and

(iii) Maintained to protect animal food from being contaminated.

(b) Holding, conveying, manufacturing, and processing systems, including gravimetric, pneumatic, closed, and automated systems, must be designed, constructed, and maintained in a way to protect against the contamination of animal food.

(c) Each freezer and cold storage compartment used to hold animal food must be fitted with an accurate temperature-measuring device.

(d) Instruments and controls used for measuring, regulating, or recording temperatures, pH, a_w, or other conditions that control or prevent the growth of undesirable microorganisms in animal food must be accurate, precise, adequately maintained, and adequate in number for their designated uses.

(e) Compressed air or other gases mechanically introduced into animal food or used to clean animal food-contact surfaces or equipment must be used in such a way to protect against the contamination of animal food.

§ 507.25 Plant operations.

(a) Management of the establishment must ensure that:

(1) All operations in the manufacturing, processing, packing, and holding of animal food (including operations directed to receiving, inspecting, transporting, and segregating) are conducted in accordance with the current good manufacturing practice requirements of this subpart;

(2) Animal food, including raw materials, other ingredients, or rework is accurately identified;

(3) Animal food-packaging materials are safe and suitable;

(4) The overall cleanliness of the plant is under the supervision of one or more competent individuals assigned responsibility for this function;

(5) Adequate precautions are taken so that plant operations do not contribute to contamination of animal food, animal food-contact surfaces, and animal food-packaging materials;

(6) Chemical, microbial, or extraneous-material testing procedures are used where necessary to identify sanitation failures or possible animal food contamination;

(7) Animal food that has become adulterated is rejected, disposed of, or if appropriate, treated or processed to eliminate the adulteration. If disposed of, it must be done in a manner that protects against the contamination of other animal food; and

(8) All animal food manufacturing, processing, packing, and holding is conducted under such conditions and controls as are necessary to minimize the potential for the growth of undesirable microorganisms to protect against the contamination of animal food.

(b) Raw materials and other ingredients:

(1) Must be examined to ensure that they are suitable for manufacturing and processing into animal food and must be handled under conditions that will protect against contamination and minimize deterioration. In addition:

(i) Shipping containers (*e.g.*, totes, drums, and tubs) and bulk vehicles holding raw materials and other ingredients must be examined upon receipt to determine whether contamination or deterioration of animal food has occurred;

(ii) Raw materials must be cleaned as necessary to minimize contamination; and

(iii) Raw materials and other ingredients, including rework, must be stored in containers designed and constructed in a way that protects against contamination and deterioration, and held under conditions, *e.g.*, appropriate temperature and relative humidity, that will minimize the potential for growth of undesirable microorganisms and prevent the animal food from becoming adulterated;

(2) Susceptible to contamination with mycotoxins or other natural toxins must be evaluated and used in a manner that does not result in animal food that can cause injury or illness to animals or humans; and

(3) If frozen, must be kept frozen. If thawing is required prior to use, it must be done in a manner that minimizes the potential for the growth of undesirable microorganisms.

(c) For the purposes of manufacturing, processing, packing, and holding operations, the following apply:

(1) Animal food must be maintained under conditions, *e.g.*, appropriate temperature and relative humidity, that will minimize the potential for growth of undesirable microorganisms and prevent the animal food from becoming adulterated during manufacturing, processing, packing, and holding;

(2) Measures taken during manufacturing, processing, packing, and holding of animal food to significantly minimize or prevent the growth of undesirable microorganisms (*e.g.*, heat treating, freezing, refrigerating, irradiating, controlling pH, or controlling a_w) must be adequate to prevent adulteration of animal food;

(3) Work-in-process and rework must be handled in such a way that it is protected against contamination and the growth of undesirable microorganisms;

(4) Steps such as cutting, drying, defatting, grinding, mixing, extruding, pelleting, and cooling, must be performed in a way that protects against the contamination of animal food;

(5) Filling, assembling, packaging, and other operations must be performed in such a way that protects against the contamination of animal food and the growth of undesirable microorganisms;

(6) Animal food that relies principally on the control of water activity

(a_w) for preventing the growth of undesirable microorganisms must be processed to and maintained at a safe a_w level;

(7) Animal food that relies principally on the control of pH for preventing the growth of undesirable microorganisms must be monitored and maintained at the appropriate pH; and

(8) When ice is used in contact with animal food, it must be made from water that is safe and must be used only if it has been manufactured in accordance with current good manufacturing practice as outlined in this subpart.

§ 507.27 Holding and distribution.

(a) Animal food held for distribution must be held under conditions that will protect against contamination and minimize deterioration, including the following:

(1) Containers used to hold animal food before distribution must be designed, constructed of appropriate material, cleaned as necessary, and maintained to protect against the contamination of animal food; and

(2) Animal food held for distribution must be held in a way that protects against contamination from sources such as trash.

(b) The labeling for the animal food ready for distribution must contain, when applicable, information and instructions for safely using the animal food for the intended animal species.

(c) Shipping containers (*e.g.*, totes, drums, and tubs) and bulk vehicles used to distribute animal food must be examined prior to use to protect against the contamination of animal food from the container or vehicle when the facility is responsible for transporting the animal food itself or arranges with a third party to transport the animal food.

(d) Animal food returned from distribution must be assessed for animal food safety to determine the appropriate disposition. Returned animal food must be identified as such and segregated until assessed.

(e) Unpackaged or bulk animal food must be held in a manner that does not result in unsafe cross contamination with other animal food.

[80 FR 56337, Sept. 17, 2015, as amended at 81 FR 3717, Jan. 22, 2016]

§ 507.28 Holding and distribution of human food by-products for use as animal food.

(a) Human food by-products held for distribution as animal food must be held under conditions that will protect against contamination, including the following:

(1) Containers and equipment used to convey or hold human food by-products for use as animal food before distribution must be designed, constructed of appropriate material, cleaned as necessary, and maintained to protect against the contamination of human food by-products for use as animal food;

(2) Human food by-products for use as animal food held for distribution must be held in a way to protect against contamination from sources such as trash; and

(3) During holding, human food by-products for use as animal food must be accurately identified.

(b) Labeling that identifies the product by the common or usual name must be affixed to or accompany the human food by-products for use as animal food when distributed.

(c) Shipping containers (*e.g.*, totes, drums, and tubs) and bulk vehicles used to distribute human food by-products for use as animal food must be examined prior to use to protect against the contamination of animal food from the container or vehicle when the facility is responsible for transporting the human food by-products for use as animal food itself or arranges with a third party to transport the human food by-products for use as animal food.

Subpart C—Hazard Analysis and Risk-Based Preventive Controls

§ 507.31 Food safety plan.

(a) You must prepare, or have prepared, and implement a written food safety plan.

(b) One or more preventive controls qualified individuals must prepare, or oversee the preparation of, the food safety plan.

(c) The written food safety plan must include:

(1) The written hazard analysis as required by § 507.33(a)(2);

(2) The written preventive controls as required by § 507.34(b);

(3) The written supply-chain program as required by subpart E of this part;

(4) The written recall plan as required by § 507.38(a)(1);

(5) The written procedures for monitoring the implementation of the preventive controls as required by § 507.40(a);

(6) The written corrective action procedures as required by § 507.42(a)(1); and

(7) The written verification procedures as required by § 507.49(b).

(d) The food safety plan required by this section is a record that is subject to the requirements of subpart F of this part.

[80 FR 56337, Sept. 17, 2015, as amended at 84 FR 12491, Apr. 2, 2019]

§ 507.33 Hazard analysis.

(a)(1) You must conduct a hazard analysis to identify and evaluate, based on experience, illness data, scientific reports, and other information, known or reasonably foreseeable hazards for each type of animal food manufactured, processed, packed, or held at your facility to determine whether there are any hazards requiring a preventive control; and

(2) The hazard analysis must be written regardless of its outcome.

(b) The hazard identification must consider:

(1) Known or reasonably foreseeable hazards that include:

(i) Biological hazards, including microbiological hazards such as parasites, environmental pathogens, and other pathogens;

(ii) Chemical hazards, including radiological hazards, substances such as pesticide and drug residues, natural toxins, decomposition, unapproved food or color additives, and nutrient deficiencies or toxicities (such as inadequate thiamine in cat food, excessive vitamin D in dog food, and excessive copper in food for sheep); and

(iii) Physical hazards (such as stones, glass, and metal fragments); and

(2) Known or reasonably foreseeable hazards that may be present in the animal food for any of the following reasons:

(i) The hazard occurs naturally;

(ii) The hazard may be unintentionally introduced; or

(iii) The hazard may be intentionally introduced for purposes of economic gain.

(c)(1) The hazard analysis must include an evaluation of the hazards identified in paragraph (b) of this section to assess the severity of the illness or injury to humans or animals if the hazard were to occur and the probability that the hazard will occur in the absence of preventive controls.

(2) The hazard evaluation required by paragraph (c)(1) of this section must include an evaluation of environmental pathogens whenever an animal food is exposed to the environment prior to packaging and the packaged animal food does not receive a treatment or otherwise include a control measure (such as a formulation lethal to the pathogen) that would significantly minimize the pathogen.

(d) The hazard evaluation must consider the effect of the following on the safety of the finished animal food for the intended animal:

(1) The formulation of the animal food;

(2) The condition, function, and design of the facility and equipment;

(3) Raw materials and other ingredients;

(4) Transportation practices;

(5) Manufacturing/processing procedures;

(6) Packaging activities and labeling activities;

(7) Storage and distribution;

(8) Intended or reasonably foreseeable use;

(9) Sanitation, including employee hygiene; and

(10) Any other relevant factors such as the temporal (*e.g.*, weather-related) nature of some hazards (*e.g.*, levels of some natural toxins).

[80 FR 56337, Sept. 17, 2015, as amended at 81 FR 3717, Jan. 22, 2016]

§ 507.34 Preventive controls.

(a)(1) You must identify and implement preventive controls to provide assurances that any hazards requiring a preventive control will be significantly

minimized or prevented and the animal food manufactured, processed, packed, or held by your facility will not be adulterated under section 402 of the Federal Food, Drug, and Cosmetic Act; and

(2) Preventive controls required by paragraph (a)(1) of this section include:

(i) Controls at critical control points (CCPs), if there are any CCPs; and

(ii) Controls, other than those at CCPs, that are also appropriate for animal food safety.

(b) Preventive controls must be written.

(c) Preventive controls include, as appropriate to the facility and animal food:

(1) Process controls. Process controls include procedures, practices, and processes to ensure the control of parameters during operations such as heat processing, irradiating, and refrigerating animal food. Process controls must include, as appropriate to the nature of the applicable control and its role in the facility's food safety system:

(i) Parameters associated with the control of the hazard; and

(ii) The maximum or minimum value, or combination of values, to which any biological, chemical, or physical parameter must be controlled to significantly minimize or prevent a hazard requiring a process control.

(2) Sanitation controls. Sanitation controls include procedures, practices, and processes to ensure that the facility is maintained in a sanitary condition adequate to significantly minimize or prevent hazards such as environmental pathogens and biological hazards due to employee handling. Sanitation controls must include, as appropriate to the facility and the animal food, procedures, practices, and processes for the:

(i) Cleanliness of animal food-contact surfaces, including animal food-contact surfaces of utensils and equipment; and

(ii) Prevention of cross-contamination from insanitary objects and from personnel to animal food, animal food-packaging material, and other animal food-contact surfaces and from raw product to processed product.

(3) Supply-chain controls. Supply-chain controls include the supply-chain program as required by subpart E of this part;

(4) A recall plan as required by § 507.38; and

(5) Other preventive controls. These include any other procedures, practices, and processes necessary to satisfy the requirements of paragraph (a) of this section. Examples of other controls include hygiene training and other current good manufacturing practices.

§ 507.36 Circumstances in which the owner, operator, or agent in charge of a manufacturing/processing facility is not required to implement a preventive control.

(a) If you are a manufacturer/processor, you are not required to implement a preventive control when you identify a hazard requiring a preventive control (identified hazard) and any of the following circumstances apply:

(1) You determine and document that the type of animal food could not be consumed without application of an appropriate control;

(2) You rely on your customer who is subject to the requirements for hazard analysis and risk-based preventive controls in this subpart to ensure that the identified hazard will be significantly minimized or prevented; and you:

(i) Disclose in documents accompanying the animal food, in accordance with the practice of the trade, that the animal food is ''not processed to control [identified hazard]''; and

(ii) Annually obtain from your customer written assurance, subject to the requirements of § 507.37, that the customer has established and is following procedures (identified in the written assurance) that will significantly minimize or prevent the identified hazard (except as provided in paragraph (c) of this section);

(3) You rely on your customer who is not subject to the requirements for hazard analysis and risk-based preventive controls in this subpart to provide assurance it is manufacturing, processing, or preparing the animal food in accordance with applicable animal food safety requirements and you:

(i) Disclose in documents accompanying the animal food, in accordance with the practice of the trade, that the

animal food is ''not processed to control [identified hazard]''; and

(ii) Annually obtain from your customer written assurance that it is manufacturing, processing, or preparing the animal food in accordance with applicable animal food safety requirements;

(4) You rely on your customer to provide assurance that the animal food will be processed to control the identified hazard by an entity in the distribution chain subsequent to the customer and you:

(i) Disclose in documents accompanying the animal food, in accordance with the practice of the trade, that the animal food is ''not processed to control [identified hazard]''; and

(ii) Annually obtain from your customer written assurance, subject to the requirements of § 507.37, that your customer:

(A) Will disclose in documents accompanying the animal food, in accordance with the practice of the trade, that the animal food is ''not processed to control [identified hazard]''; and

(B) Will only sell to another entity that agrees, in writing, it will:

(*1*) Follow procedures (identified in a written assurance) that will significantly minimize or prevent the identified hazard (if the entity is subject to the requirements for hazard analysis and risk-based preventive controls in subpart C of this part), except as provided in paragraph (d) of this section, or manufacture, process, or prepare the animal food in accordance with applicable animal food safety requirements (if the entity is not subject to the requirements for hazard analysis and risk-based preventive controls in subpart C of this part); or

(*2*) Obtain a similar written assurance from the entity's customer, subject to the requirements of § 507.37, as in paragraphs (a)(4)(ii)(A) and (B) of this section, as appropriate; or

(5) You have established, documented, and implemented a system that ensures control, at a subsequent distribution step, of the hazards in the animal food you distribute and you document the implementation of that system.

(b) You must document any circumstance specified in paragraph (a) of this section that applies to you, including:

(1) A determination in accordance with paragraph (a) of this section that the type of animal food could not be consumed without application of an appropriate control;

(2) The annual written assurance from your customer in accordance with paragraph (a)(2) of this section;

(3) The annual written assurance from your customer in accordance with paragraph (a)(3) of this section;

(4) The annual written assurance from your customer in accordance with paragraph (a)(4) of this section; and

(5) Your system, in accordance with paragraph (a)(5) of this section, that ensures control, at a subsequent distribution step, of the hazards in the animal food you distribute.

(c) For the written assurance required by paragraph (a)(2)(ii) of this section, if your customer has determined that the identified hazard in paragraph (a) of this section is not a hazard in the animal food intended for use for a specific animal species, your customer's written assurance may provide this determination (including animal species and why the identified hazard is not a hazard) instead of providing assurance of procedures established and followed that will significantly minimize or prevent the identified hazard.

(d) For the written assurance required by paragraph (a)(4)(ii)(B) of this section, if the entity in the distribution chain subsequent to your customer is subject to subpart C of this part and has determined that the identified hazard in paragraph (a) of this section is not a hazard in the animal food intended for use for a specific animal species, that entity's written assurance may provide this determination (including animal species and why the identified hazard is not a hazard) instead of providing assurance that the identified hazard will be significantly minimized or prevented.

[80 FR 56337, Sept. 17, 2015, as amended at 81 FR 3717, Jan. 22, 2016]

§ 507.37 Provision of assurances required under § 507.36(a)(2), (3), and (4).

A facility that provides a written assurance under § 507.36(a)(2), (3), or (4) must act consistently with the assurance and document its actions taken to satisfy the written assurance.

§ 507.38 Recall plan.

(a) For animal food with a hazard requiring a preventive control you must:

(1) Establish a written recall plan for the animal food; and

(2) Assign responsibility for performing all procedures in the recall plan.

(b) The written recall plan must include procedures that describe the steps to perform the following actions as appropriate to the facility:

(1) Directly notify direct consignees about the animal food being recalled, including how to return or dispose of the affected animal food;

(2) Notify the public about any hazard presented by the animal food when appropriate to protect human and animal health;

(3) Conduct effectiveness checks to verify the recall has been carried out; and

(4) Appropriately dispose of recalled animal food, *e.g.*, through reprocessing, reworking, diverting to another use that would not present a safety concern, or destroying the animal food.

§ 507.39 Preventive control management components.

(a) Except as provided by paragraphs (b) and (c) of this section, the preventive controls required under § 507.34 are subject to the following preventive control management components as appropriate to ensure the effectiveness of the preventive controls, taking into account the nature of the preventive control and its role in the facility's food safety system:

(1) Monitoring in accordance with § 507.40;

(2) Corrective actions and corrections in accordance with § 507.42; and

(3) Verification in accordance with § 507.45.

(b) The supply-chain program established in subpart E of this part is subject to the following preventive control management components as appropriate to ensure the effectiveness of the supply-chain program, taking into account the nature of the hazard controlled before receipt of the raw material or other ingredient:

(1) Corrective actions and corrections in accordance with § 507.42, taking into account the nature of any supplier nonconformance;

(2) Review of records in accordance with § 507.49(a)(4)(ii); and

(3) Reanalysis in accordance with § 507.50.

(c) The recall plan established in § 507.38 is not subject to the requirements of paragraph (a) of this section.

§ 507.40 Monitoring.

As appropriate to the nature of the preventive control and its role in the facility's food safety system you must:

(a) Establish and implement written procedures, including the frequency with which they are to be performed, for monitoring the preventive controls; and

(b) Monitor the preventive controls with adequate frequency to provide assurance that they are consistently performed.

(c)(1) You must document the monitoring of preventive controls in accordance with this section in records that are subject to verification in accordance with § 507.45(a)(2) and records review in accordance with § 507.49(a)(4)(i);

(2)(i) Records of refrigeration temperature during storage of animal food that requires time/temperature control to significantly minimize or prevent the growth of, or toxin production by, pathogens may be affirmative records demonstrating temperature is controlled or exception records demonstrating loss of temperature control; and

(ii) Exception records may be adequate in circumstances other than monitoring of refrigeration temperature.

§ 507.42 Corrective actions and corrections.

(a) As appropriate to the nature of the hazard and the nature of the preventive control, except as provided by paragraph (c) of this section:

(1) You must establish and implement written corrective action procedures that must be taken if preventive controls are not properly implemented, including procedures to address, as appropriate:

(i) The presence of a pathogen or appropriate indicator organism in animal food detected as a result of product testing conducted in accordance with § 507.49(a)(2); and

(ii) The presence of an environmental pathogen or appropriate indicator organism detected through the environmental monitoring conducted in accordance with § 507.49(a)(3).

(2) The corrective action procedures must describe the steps to be taken to ensure that:

(i) Appropriate action is taken to identify and correct a problem that has occurred with implementation of a preventive control;

(ii) Appropriate action is taken when necessary, to reduce the likelihood that the problem will recur;

(iii) All affected animal food is evaluated for safety; and

(iv) All affected animal food is prevented from entering into commerce if you cannot ensure the affected animal food is not adulterated under section 402 of the Federal Food, Drug, and Cosmetic Act.

(b)(1) Except as provided by paragraph (c) of this section, you are subject to the requirements of paragraph (b)(2) of this section if any of the following circumstances apply:

(i) A preventive control is not properly implemented and a corrective action procedure has not been established;

(ii) A preventive control, combination of preventive controls, or the food safety plan as a whole is found to be ineffective; or

(iii) A review of records in accordance with § 507.49(a)(4) finds that the records are not complete, the activities conducted did not occur in accordance with the food safety plan, or appropriate decisions were not made about corrective actions.

(2) If any of the circumstances listed in paragraph (b)(1) of this section apply, you must:

(i) Take corrective action to identify and correct the problem;

(ii) Reduce the likelihood that the problem will recur;

(iii) Evaluate all affected animal food for safety;

(iv) As necessary, prevent affected animal food from entering commerce as would be done following the corrective action procedure under paragraph (a)(2) of this section; and

(v) When appropriate, reanalyze the food safety plan in accordance with § 507.50 to determine whether modification of the food safety plan is required.

(c) You do not need to comply with the requirements of paragraphs (a) and (b) of this section if:

(1) You take action, in a timely manner, to identify and correct conditions and practices that are not consistent with the sanitation controls in § 507.34(c)(2)(i) or (ii); or

(2) You take action, in a timely manner, to identify and correct a minor and isolated problem that does not directly impact product safety.

(d) All corrective actions (and, when appropriate, corrections) taken in accordance with this section must be documented in records. These records are subject to verification in accordance with § 507.45(a)(3) and records review in accordance with § 507.49(a)(4)(i).

§ 507.45 Verification.

(a) Verification activities must include, as appropriate to the nature of the preventive control and its role in the facility's food safety system:

(1) Validation in accordance with § 507.47;

(2) Verification that monitoring is being conducted as required by § 507.39 (and in accordance with § 507.40);

(3) Verification that appropriate decisions about corrective actions are being made as required by § 507.39 (and in accordance with § 507.42);

(4) Verification of implementation and effectiveness in accordance with § 507.49; and

(5) Reanalysis in accordance with § 507.50.

(b) All verification activities conducted in accordance with this section must be documented in records.

§ 507.47 Validation.

(a) You must validate that the preventive controls identified and implemented in accordance with § 507.34 are adequate to control the hazard as appropriate to the nature of the preventive control and its role in the facility's food safety system.

(b) The validation of the preventive controls:

(1) Must be performed (or overseen) by a preventive controls qualified individual:

(i)(A) Prior to implementation of the food safety plan; or

(B) When necessary to demonstrate the control measures can be implemented as designed:

(*1*) Within 90 calendar days after production of the applicable animal food first begins; or

(*2*) Within a reasonable timeframe, provided that the preventive controls qualified individual prepares (or oversees the preparation of) a written justification for a timeframe that exceeds 90 calendar days after production of the applicable animal food first begins;

(ii) Whenever a change to a control measure or combination of control measures could impact whether the control measure or combination of control measures, when properly implemented, will effectively control the hazards; and

(iii) Whenever a reanalysis of the food safety plan reveals the need to do so.

(2) Must include obtaining and evaluating scientific and technical evidence (or, when such evidence is not available or is inadequate, conducting studies) to determine whether the preventive controls, when properly implemented, will effectively control the hazards.

(c) You do not need to validate:

(1) The sanitation controls in § 507.34(c)(2);

(2) The recall plan in § 507.38;

(3) The supply-chain program in subpart E of this part; and

(4) Other preventive controls, if the preventive controls qualified individual prepares (or oversees the preparation of) a written justification that validation is not applicable based on factors such as the nature of the hazard, and the nature of the preventive control and its role in the facility's food safety system.

[80 FR 56337, Sept. 17, 2015, as amended at 81 FR 3718, Jan. 22, 2016]

§ 507.49 Verification of implementation and effectiveness.

(a) You must verify that the preventive controls are consistently implemented and are effectively and significantly minimizing or preventing the hazards. To do so, you must conduct activities that include the following, as appropriate to the facility, the animal food, and the nature of the preventive control and its role in the facility's food safety system:

(1) Calibration of process monitoring and verification instruments (or checking them for accuracy);

(2) Product testing for a pathogen (or appropriate indicator organism) or other hazard;

(3) Environmental monitoring, for an environmental pathogen or for an appropriate indicator organism, if contamination of an animal food with an environmental pathogen is a hazard requiring a preventive control, by collecting and testing environmental samples; and

(4) Review of the following records within the specified timeframes, by (or under the oversight of) a preventive controls qualified individual, to ensure the records are complete, the activities reflected in the records occurred in accordance with the food safety plan, the preventive controls are effective, and appropriate decisions were made about corrective actions:

(i) Monitoring and corrective action records within 7-working days after the records are created or within a reasonable timeframe, provided that the preventive controls qualified individual prepares (or oversees the preparation of) a written justification for a timeframe that exceeds 7-working days; and

(ii) Records of calibration, testing (*e.g.*, product testing, environmental monitoring), and supplier and supply-chain verification activities, and other verification activities within a reasonable time after the records are created; and

(5) Other activities appropriate for verification of implementation and effectiveness.

(b) As appropriate to the facility, the food, the nature of the preventive control, and the role of the preventive control in the facility's food safety system, you must establish and implement written procedures for the following activities:

(1) The method and frequency of calibrating process monitoring instruments and verification instruments (or checking them for accuracy) as required by paragraph (a)(1) of this section;

(2) Product testing as required by paragraph (a)(2) of this section. Procedures for product testing must:

(i) Be scientifically valid;

(ii) Identify the test microorganism(s) or other analyte(s);

(iii) Specify the procedures for identifying samples, including their relationship to specific lots of product;

(iv) Include the procedures for sampling, including the number of samples and the sampling frequency;

(v) Identify the test(s) conducted, including the analytical method(s) used;

(vi) Identify the laboratory conducting the testing; and

(vii) Include the corrective action procedures required by § 507.42(a)(1).

(3) Environmental monitoring as required by paragraph (a)(3) of this section. Procedures for environmental monitoring must:

(i) Be scientifically valid;

(ii) Identify the test microorganism(s);

(iii) Identify the locations from which samples will be collected and the number of sites to be tested during routine environmental monitoring. The number and location of sampling sites must be adequate to determine whether preventive controls are effective;

(iv) Identify the timing and frequency for collecting and testing samples. The timing and frequency for collecting and testing samples must be adequate to determine whether preventive controls are effective;

(v) Identify the test(s) conducted, including the analytical method(s) used;

(vi) Identify the laboratory conducting the testing; and

(vii) Include the corrective action procedures required by § 507.42(a)(1)(ii).

§ 507.50 Reanalysis.

(a) You must conduct a reanalysis of the food safety plan as a whole at least once every 3 years.

(b) You must conduct a reanalysis of the food safety plan as a whole, or the applicable portion of the food safety plan:

(1) Whenever a significant change in the activities conducted at your facility creates a reasonable potential for a new hazard or creates a significant increase in a previously identified hazard;

(2) Whenever you become aware of new information about potential hazards associated with the animal food;

(3) Whenever appropriate after an unanticipated animal food safety problem in accordance with § 507.42(b); and

(4) Whenever you find that a preventive control, combination of preventive controls, or the food safety plan as a whole is ineffective.

(c) You must complete the reanalysis required by paragraphs (a) and (b) of this section and validate, as appropriate to the nature of the preventive control and its role in the facility's food safety system, any additional preventive controls needed to address the hazard identified:

(1) Before any change in activities (including any change in preventive control) at the facility is operative; or

(2) When necessary to demonstrate the control measures can be implemented as designed:

(i) Within 90 calendar days after production of the applicable animal food first begins; or

(ii) Within a reasonable timeframe, provided that the preventive controls qualified individual prepares (or oversees the preparation of) a written justification for a timeframe that exceeds 90 calendar days after production of the applicable animal food first begins.

(d) You must revise the written food safety plan if a significant change in the activities conducted at your facility creates a reasonable potential for a new hazard or a significant increase in a previously identified hazard, or document the basis for the conclusion that no revisions are needed.

(e) A preventive controls qualified individual must perform (or oversee) the reanalysis.

(f) You must conduct a reanalysis of the food safety plan when FDA determines it is necessary to respond to new hazards and developments in scientific understanding.

[80 FR 56337, Sept. 17, 2015, as amended at 81 FR 3718, Jan. 22, 2016]

§ 507.51 Modified requirements that apply to a facility solely engaged in the storage of unexposed packaged animal food.

(a) If a facility that is solely engaged in the storage of unexposed packaged animal food stores any such refrigerated packaged animal food that requires time/temperature control to significantly minimize or prevent the growth of, or toxin formation by pathogens, the facility must conduct the following activities as appropriate to ensure the effectiveness of the temperature controls:

(1) Establish and implement temperature controls adequate to significantly minimize or prevent the growth of, or toxin formation by, pathogens;

(2) Monitor the temperature controls with adequate frequency to provide assurance that the temperature controls are consistently performed;

(3) If there is a loss of temperature control that may impact the safety of such refrigerated packaged animal food, take appropriate corrective actions to:

(i) Correct the problem and reduce the likelihood that the problem will recur;

(ii) Evaluate all affected animal food for safety; and

(iii) Prevent the animal food from entering commerce, if you cannot ensure the affected animal food is not adulterated under section 402 of the Federal Food, Drug, and Cosmetic Act;

(4) Verify that temperature controls are consistently implemented by:

(i) Calibrating temperature monitoring and recording devices (or checking them for accuracy);

(ii) Reviewing records of calibration within a reasonable time after the records are created; and

(iii) Reviewing records of monitoring and corrective actions taken to correct a problem with the control of temperature within 7-working days after the records are created or within a reasonable timeframe, provided that the preventive controls qualified individual prepares (or oversees the preparation of) a written justification for a timeframe that exceeds 7-working days; and

(5) Establish and maintain the following records:

(i) Records (whether affirmative records demonstrating temperature is controlled or exception records demonstrating loss of temperature control) documenting the monitoring of temperature controls for any such refrigerated packaged animal food;

(ii) Records of corrective actions taken when there is a loss of temperature control that may impact the safety of any such refrigerated packaged animal food; and

(iii) Records documenting the verification activities.

(b) The records that a facility must establish and maintain under paragraph (a)(5) of this section are subject to the requirements of subpart F of this part.

[80 FR 56337, Sept. 17, 2015, as amended at 81 FR 3718, Jan. 22, 2016]

§ 507.53 Requirements applicable to a preventive controls qualified individual and a qualified auditor.

(a) One or more preventive controls qualified individuals must do or oversee the following:

(1) Preparation of the food safety plan (§ 507.31(b));

(2) Validation of the preventive controls (§ 507.47(b)(1));

(3) Written justification for validation to be performed in a timeframe that exceeds the first 90 calendar days of production of the applicable animal food;

(4) Determination that validation is not required (§ 507.47(c)(4));

(5) Review of records (§ 507.49(a)(4));

(6) Written justification for review of records of monitoring and corrective actions within a timeframe that exceeds 7-working days;

(7) Reanalysis of the food safety plan (§ 507.50(d)); and

(8) Determination that reanalysis can be completed, and additional preventive controls validated, as appropriate to the nature of the preventive control and its role in the facility's food safety system, in a timeframe that exceeds

the first 90 calendar days of production of the applicable animal food.

(b) A qualified auditor must conduct an onsite audit (§ 507.135(a)).

(c)(1) To be a preventive controls qualified individual, the individual must have successfully completed training in the development and application of risk-based preventive controls at least equivalent to that received under a standardized curriculum recognized as adequate by FDA or be otherwise qualified through job experience to develop and apply a food safety system. Job experience may qualify an individual to perform these functions if such experience has provided an individual with knowledge at least equivalent to that provided through the standardized curriculum. This individual may be, but is not required to be, an employee of the facility; and

(2) To be a qualified auditor, a qualified individual must have technical expertise obtained through education, training, or experience (or a combination thereof) necessary to perform the auditing function.

(d) All applicable training in the development and application of risk-based preventive controls must be documented in records, including the date of the training, the type of training, and the person(s) trained.

§ 507.55 Implementation records required for this subpart.

(a) You must establish and maintain the following records documenting implementation of the food safety plan:

(1) Documentation, as required by § 507.36(b), of the basis for not establishing a preventive control in accordance with § 507.36(a);

(2) Records that document the monitoring of preventive controls;

(3) Records that document corrective actions;

(4) Records that document verification, including, as applicable, those related to:

(i) Validation;

(ii) Verification of monitoring;

(iii) Verification of corrective actions;

(iv) Calibration of process monitoring and verification instruments;

(v) Product testing;

(vi) Environmental monitoring;

(vii) Records review; and

(viii) Reanalysis;

(5) Records that document the supply-chain program; and

(6) Records that document applicable training for the preventive controls qualified individual and the qualified auditor.

(b) The records that you must establish and maintain are subject to the requirements of subpart F of this part.

Subpart D—Withdrawal of a Qualified Facility Exemption

§ 507.60 Circumstances that may lead FDA to withdraw a qualified facility exemption.

(a) FDA may withdraw a qualified facility exemption under § 507.5(d):

(1) In the event of an active investigation of a foodborne illness outbreak that is directly linked to the qualified facility; or

(2) If FDA determines that it is necessary to protect the public (human or animal) health and prevent or mitigate a foodborne illness outbreak based on conditions or conduct associated with the qualified facility that are material to the safety of the animal food manufactured, processed, packed, or held at such facility.

(b) Before FDA issues an order to withdraw a qualified facility exemption, FDA:

(1) May consider one or more other actions to protect the public (human or animal) health or mitigate a foodborne illness outbreak, including, a warning letter, recall, administrative detention, suspension of registration, refusal of animal food offered for import, seizure, and injunction;

(2) Must notify the owner, operator, or agent in charge of the facility, in writing of circumstances that may lead FDA to withdraw the exemption, and provide an opportunity for the owner, operator, or agent in charge of the facility to respond in writing, within 15 calendar days of the date of receipt of the notification, to FDA's notification; and

(3) Must consider the actions taken by the facility to address the circumstances that may lead FDA to withdraw the exemption.

§ 507.62 Issuance of an order to withdraw a qualified facility exemption.

(a) An FDA Division Director in whose division the qualified facility is located (or, in the case of a foreign facility, the Director of the Division of Compliance in the Center for Veterinary Medicine), or an FDA official senior to either such Director, must approve an order to withdraw the exemption before the order is issued.

(b) Any officer or qualified employee of FDA may issue an order to withdraw the exemption after it has been approved in accordance with paragraph (a) of this section.

(c) FDA must issue an order to withdraw the exemption to the owner, operator, or agent in charge of the facility.

(d) FDA must issue an order to withdraw the exemption in writing, signed and dated by the officer or qualified employee of FDA who is issuing the order.

[80 FR 56337, Sept. 17, 2015, as amended at 85 FR 16554, Mar. 24, 2020]

§ 507.65 Contents of an order to withdraw a qualified facility exemption.

An order to withdraw a qualified facility exemption under § 507.5(d) must include the following information:

(a) The date of the order;

(b) The name, address, and location of the qualified facility;

(c) A brief, general statement of the reasons for the order, including information relevant to one or both of the following circumstances that leads FDA to issue the order:

(1) An active investigation of a foodborne illness outbreak that is directly linked to the facility; or

(2) Conditions or conduct associated with a qualified facility that are material to the safety of the animal food manufactured, processed, packed, or held at such facility.

(d) A statement that the facility must either:

(1) Comply with subparts C and E of this part on the date that is 120 calendar days after the date of receipt of the order or within a reasonable timeframe, agreed to by FDA, based on a written justification, submitted to FDA, for a timeframe that exceeds 120 calendar days from the date of receipt of the order; or

(2) Appeal the order within 15 calendar days of the date of receipt of the order in accordance with the requirements of § 507.69.

(e) A statement that a facility may request that FDA reinstate an exemption that was withdrawn by following the procedures in § 507.85;

(f) The text of section 418(l) of the Federal Food, Drug, and Cosmetic Act and of this subpart;

(g) A statement that any informal hearing on an appeal of the order must be conducted as a regulatory hearing under part 16 of this chapter, with certain exceptions described in § 507.73;

(h) The mailing address, telephone number, email address, fax number, and name of the FDA Division Director in whose division the facility is located (or, in the case of a foreign facility, the same information for the Director of the Division of Compliance in the Center for Veterinary Medicine); and

(i) The name and the title of the FDA representative who approved the order.

[80 FR 56337, Sept. 17, 2015, as amended at 81 FR 3718, Jan. 22, 2016; 85 FR 16554, Mar. 24, 2020]

§ 507.67 Compliance with, or appeal of, an order to withdraw a qualified facility exemption.

(a) If you receive an order under § 507.65 to withdraw a qualified facility exemption, you must either:

(1) Comply with applicable requirements of this part within 120 calendar days of the date of receipt of the order, or within a reasonable timeframe, agreed to by FDA, based on a written justification, submitted to FDA, for a timeframe that exceeds 120 calendar days from the date of receipt of the order; or

(2) Appeal the order within 15 calendar days of the date of receipt of the order in accordance with the requirements of § 507.69.

(b) Submission of an appeal, including submission of a request for an informal hearing, will not operate to delay or stay any administrative action, including enforcement action by FDA, unless the Commissioner of Food and Drugs, as a matter of discretion, determines that delay or a stay is in the public interest.

(c) If you appeal the order, and FDA confirms the order:

(1) You must comply with applicable requirements of this part within 120 calendar days of the date of receipt of the order, or within a reasonable timeframe, agreed to by FDA, based on a written justification, submitted to FDA, for a timeframe that exceeds 120 calendar days from the date of receipt of the order; and

(2) You are no longer subject to the requirements in § 507.7.

§ 507.69 Procedure for submitting an appeal.

(a) To appeal an order to withdraw a qualified facility exemption, you must:

(1) Submit the appeal in writing to the FDA Division Director in whose division the facility is located (or, in the case of a foreign facility, the Director of the Division of Compliance in the Center for Veterinary Medicine), at the mailing address, email address, or fax number identified in the order within 15 calendar days of the date of receipt of confirmation of the order; and

(2) Respond with particularity to the facts and issues contained in the order, including any supporting documentation upon which you rely.

(b) In a written appeal of the order withdrawing an exemption provided under § 507.5(d), you may include a written request for an informal hearing as provided in § 507.71.

[80 FR 56337, Sept. 17, 2015, as amended at 81 FR 3718, Jan. 22, 2016; 85 FR 16554, Mar. 24, 2020]

§ 507.71 Procedure for requesting an informal hearing.

(a) If you appeal the order, you:

(1) May request an informal hearing; and

(2) Must submit any request for an informal hearing together with your written appeal submitted in accordance with § 507.69 within 15 calendar days of the date of receipt of the order.

(b) A request for an informal hearing may be denied, in whole or in part, if the presiding officer determines that no genuine and substantial issue of material fact has been raised by the material submitted. If the presiding officer determines that a hearing is not justified, written notice of the determination will be given to you explaining the reason for the denial.

§ 507.73 Requirements applicable to an informal hearing.

If you request an informal hearing, and FDA grants the request:

(a) The hearing will be held within 15 calendar days after the date the appeal is filed or, if applicable, within a timeframe agreed upon in writing by you and FDA.

(b) The presiding officer may require that a hearing conducted under this subpart be completed within 1 calendar day, as appropriate.

(c) FDA must conduct the hearing in accordance with part 16 of this chapter, except that:

(1) The order withdrawing an exemption under §§ 507.62 and 507.65, rather than the notice under § 16.22(a) of this chapter, provides notice of opportunity for a hearing under this section and is part of the administrative record of the regulatory hearing under § 16.80(a) of this chapter.

(2) A request for a hearing under this subpart must be addressed to the FDA Division Director (or, in the case of a foreign facility, the Director of the Division of Compliance in the Center for Veterinary Medicine) as provided in the order withdrawing an exemption.

(3) Section 507.75, rather than § 16.42(a) of this chapter, describes the FDA employees who preside at hearings under this subpart.

(4) Section 16.60(e) and (f) of this chapter does not apply to a hearing under this subpart. The presiding officer must prepare a written report of the hearing. All written material presented at the hearing will be attached to the report. The presiding officer must include as part of the report of the hearing a finding on the credibility of witnesses (other than expert witnesses) whenever credibility is a material issue, and must include a proposed decision, with a statement of reasons. The hearing participant may review and comment on the presiding officer's report within 2 calendar days of issuance of the report. The presiding officer will then issue the final decision.

(5) Section 16.80(a)(4) of this chapter does not apply to a regulatory hearing

under this subpart. The presiding officer's report of the hearing and any comments on the report by the hearing participant under paragraph (c)(4) of this section are part of the administrative record.

(6) No party shall have the right, under § 16.119 of this chapter to petition the Commissioner of Food and Drugs for reconsideration or a stay of the presiding officer's final decision.

(7) If FDA grants a request for an informal hearing on an appeal of an order withdrawing an exemption, the hearing must be conducted as a regulatory hearing under a regulation in accordance with part 16 of this chapter, except that § 16.95(b) does not apply to a hearing under this subpart. With respect to a regulatory hearing under this subpart, the administrative record of the hearing specified in §§ 16.80(a)(1) through (3), and (a)(5), of this chapter, and 507.73(c)(5) constitutes the exclusive record for the presiding officer's final decision. For purposes of judicial review under § 10.45 of this chapter, the record of the administrative proceeding consists of the record of the hearing and the presiding officer's final decision.

[80 FR 56337, Sept. 17, 2015, as amended at 85 FR 16554, Mar. 24, 2020]

§ 507.75 Presiding officer for an appeal and for an informal hearing.

The presiding officer for an appeal, and for an informal hearing, must be an Office of Regulatory Affairs Program Director or another FDA official senior to an FDA Division Director.

[85 FR 16555, Mar. 24, 2020]

§ 507.77 Timeframe for issuing a decision on an appeal.

(a) If you appeal the order without requesting a hearing, the presiding officer must issue a written report that includes a final decision confirming or revoking the withdrawal by the 10th calendar day after the appeal is filed.

(b) If you appeal the order and request an informal hearing:

(1) If FDA grants the request for a hearing and the hearing is held, the presiding officer must provide a 2 calendar day opportunity for the hearing participants to review and submit comments on the report of the hearing under § 507.73(c)(4), and must issue a final decision within 10 calendar days after the hearing is held; or

(2) If FDA denies the request for a hearing, the presiding officer must issue a final decision on the appeal confirming or revoking the withdrawal within 10 calendar days after the date the appeal is filed.

§ 507.80 Revocation of an order to withdraw a qualified facility exemption.

An order to withdraw a qualified facility exemption is revoked if:

(a) You appeal the order and request an informal hearing, FDA grants the request for an informal hearing, and the presiding officer does not confirm the order within the 10 calendar days after the hearing, or issues a decision revoking the order within that time; or

(b) You appeal the order and request an informal hearing, FDA denies the request for an informal hearing, and FDA does not confirm the order within the 10 calendar days after the appeal is filed, or issues a decision revoking the order within that time; or

(c) You appeal the order without requesting an informal hearing, and FDA does not confirm the order within the 10 calendar days after the appeal is filed, or issues a decision revoking the order within that time.

§ 507.83 Final agency action.

Confirmation of a withdrawal order by the presiding officer is considered a final agency action for purposes of 5 U.S.C. 702.

§ 507.85 Reinstatement of a qualified facility exemption that was withdrawn.

(a) If the FDA Division Director in whose division your facility is located (or, in the case of a foreign facility, the Director of the Division of Compliance in the Center for Veterinary Medicine) determines that a facility has adequately resolved any problems with the conditions and conduct that are material to the safety of the animal food manufactured, processed, packed, or held at the facility and that continued withdrawal of the exemption is not necessary to protect public (human and

animal) health and prevent or mitigate a foodborne illness outbreak, the FDA Division Director in whose division your facility is located (or, in the case of a foreign facility, the Director of the Division of Compliance in the Center for Veterinary Medicine) will, on his or her own initiative or on the request of a facility, reinstate the exemption.

(b) You may ask FDA to reinstate an exemption that has been withdrawn under the procedures of this subpart as follows:

(1) Submit a request, in writing, to the FDA Division Director in whose division your facility is located (or, in the case of a foreign facility, the Director of the Division of Compliance in the Center for Veterinary Medicine); and

(2) Present data and information to demonstrate that you have adequately resolved any problems with the conditions and conduct that are material to the safety of the animal food manufactured, processed, packed, or held at your facility, such that continued withdrawal of the exemption is not necessary to protect public (human and animal) health and prevent or mitigate a foodborne illness outbreak.

(c) If your exemption was withdrawn under § 507.60(a)(1) and FDA later determines, after finishing the active investigation of a foodborne illness outbreak, that the outbreak is not directly linked to your facility, FDA will reinstate your exemption under § 507.5(d), and FDA will notify you in writing that your exempt status has been reinstated.

(d) If your exemption was withdrawn under both § 507.60(a)(1) and (2) and FDA later determines, after finishing the active investigation of a foodborne illness outbreak, that the outbreak is not directly linked to your facility, FDA will inform you of this finding and you may ask FDA to reinstate your exemption under § 507.5(d) in accordance with the requirements of paragraph (b) of this section.

[80 FR 56337, Sept. 17, 2015, as amended at 85 FR 16555, Mar. 24, 2020]

Subpart E—Supply-Chain Program

§ 507.105 Requirement to establish and implement a supply-chain program.

(a)(1) Except as provided by paragraphs (a)(2) and (3) of this section, the receiving facility must establish and implement a risk-based supply-chain program for those raw materials and other ingredients for which the receiving facility has identified a hazard requiring a supply-chain-applied control.

(2) A receiving facility that is an importer, is in compliance with the foreign supplier verification requirements under part 1, subpart L of this chapter, and has documentation of verification activities conducted under § 1.506(e) of this chapter (which provides assurance that the hazards requiring a supply-chain-applied control for the raw material or other ingredient have been significantly minimized or prevented) need not conduct supplier verification activities for that raw material or other ingredient.

(3) The requirements in this subpart do not apply to animal food that is supplied for research or evaluation use, provided that such animal food:

(i) Is not intended for retail sale and is not sold or distributed to the public;

(ii) Is labeled with the statement ''Animal food for research or evaluation use'';

(iii) Is supplied in a small quantity that is consistent with a research, analysis, or quality assurance purpose, the animal food is used only for this purpose, and any unused quantity is properly disposed of; and

(iv) Is accompanied with documents, in accordance with the practice of the trade, stating that the animal food will be used for research or evaluation purposes and cannot be sold or distributed to the public.

(b) The supply-chain program must be written.

(c) When a supply-chain-applied control is applied by an entity other than the receiving facility's supplier (*e.g.*, when a non-supplier applies controls to certain produce (*i.e.*, produce covered by part 112 of this chapter), because growing, harvesting, and packing activities are under different management), the receiving facility must:

(1) Verify the supply-chain-applied control; or

(2) Obtain documentation of an appropriate verification activity from another entity, review and assess the entity's applicable documentation, and document that review and assessment.

EFFECTIVE DATE NOTE: At 80 FR 56337, Sept. 17, 2015, part 507 was added, effective Nov. 16, 2015, with the exception of paragraph (a)(2) in § 507.105, which is not yet effective.

§ 507.110 General requirements applicable to a supply-chain program.

(a) The supply-chain program must include:

(1) Using approved suppliers as required by § 507.120;

(2) Determining appropriate supplier verification activities (including determining the frequency of conducting the activity) as required by § 507.125;

(3) Conducting supplier verification activities as required by §§ 507.130 and 507.135;

(4) Documenting supplier verification activities as required by § 507.175; and

(5) When applicable, verifying a supply-chain-applied control applied by an entity other than the receiving facility's supplier and documenting that verification as required by § 507.175, or obtaining documentation of an appropriate verification activity from another entity, reviewing and assessing that documentation, and documenting the review and assessment as required by § 507.175.

(b) The following are appropriate supplier verification activities for raw materials and other ingredients:

(1) Onsite audits;

(2) Sampling and testing of the raw material or other ingredient;

(3) Review of the supplier's relevant food safety records; and

(4) Other appropriate supplier verification activities based on supplier performance and the risk associated with the raw material or other ingredient.

(c) The supply-chain program must provide assurance that a hazard requiring a supply-chain-applied control has been significantly minimized or prevented.

(d)(1) Except as provided by paragraph (d)(2) of this section, in approving suppliers and determining the appropriate supplier verification activities and the frequency with which they are conducted, the following must be considered:

(i) The hazard analysis of the animal food, including the nature of the hazard controlled before receipt of the raw material or other ingredient, applicable to the raw material and other ingredients;

(ii) The entity or entities that will be applying controls for the hazards requiring a supply-chain-applied control;

(iii) Supplier performance, including:

(A) The supplier's procedures, processes, and practices related to the safety of the raw material and other ingredients;

(B) Applicable FDA food safety regulations and information relevant to the supplier's compliance with those regulations, including an FDA warning letter or import alert relating to the safety of animal food and other FDA compliance actions related to animal food safety (or, when applicable, relevant laws and regulations of a country whose food safety system FDA has officially recognized as comparable or has determined to be equivalent to that of the United States, and information relevant to the supplier's compliance with those laws and regulations); and

(C) The supplier's food safety history relevant to the raw materials or other ingredients that the receiving facility receives from the supplier, including available information about results from testing raw materials or other ingredients for hazards, audit results relating to the safety of the animal food, and responsiveness of the supplier in correcting problems; and

(iv) Any other factors as appropriate and necessary, such as storage and transportation practices.

(2) Considering supplier performance can be limited to the supplier's compliance history as required by paragraph (d)(1)(iii)(B) of this section, if the supplier is:

(i) A qualified facility as defined by § 507.3;

(ii) A farm that grows produce and is not a covered farm under part 112 of this chapter in accordance with § 112.4(a), or in accordance with §§ 112.4(b) and 112.5; or

(iii) A shell egg producer that is not subject to the requirements of part 118 of this chapter because it has less than 3,000 laying hens.

(e) If the owner, operator, or agent in charge of a receiving facility determines through auditing, verification testing, document review, relevant consumer, customer, or other complaints, or otherwise that the supplier is not controlling hazards that the receiving facility has identified as requiring a supply-chain-applied control, the receiving facility must take and document prompt action in accordance with § 507.42 to ensure that raw materials or other ingredients from the supplier do not cause animal food that is manufactured or processed by the receiving facility to be adulterated under section 402 of the Federal Food, Drug, and Cosmetic Act.

§ 507.115 Responsibilities of the receiving facility.

(a)(1) The receiving facility must approve suppliers.

(2) Except as provided by paragraphs (a)(3) and (4) of this section, the receiving facility must determine and conduct appropriate supplier verification activities, and satisfy all documentation requirements of this subpart.

(3) An entity other than the receiving facility may do any of the following, provided that the receiving facility reviews and assesses the entity's applicable documentation, and documents that review and assessment:

(i) Establish written procedures for receiving raw materials and other ingredients by the entity;

(ii) Document that written procedures for receiving raw materials and other ingredients are being followed by the entity; and

(iii) Determine, conduct, or both determine and conduct, the appropriate supplier verification activities, with appropriate documentation.

(4) The supplier may conduct and document sampling and testing of raw materials and other ingredients, for the hazard controlled by the supplier, as a supplier verification activity for a particular lot of product and provide such documentation to the receiving facility, provided that the receiving facility reviews and assesses that documentation, and documents that review and assessment.

(b) For the purposes of this subpart, a receiving facility may not accept any of the following as a supplier verification activity:

(1) A determination by its supplier of the appropriate supplier verification activities for that supplier;

(2) An audit conducted by its supplier;

(3) A review by its supplier of that supplier's own relevant food safety records; or

(4) The conduct by its supplier of other appropriate supplier verification activities for that supplier within the meaning of § 507.110(b)(4).

(c) The requirements of this section do not prohibit a receiving facility from relying on an audit provided by its supplier when the audit of the supplier was conducted by a third-party qualified auditor in accordance with §§ 507.130(f) and 507.135.

§ 507.120 Using approved suppliers.

(a) The receiving facility must approve suppliers in accordance with the requirements of § 507.110(d), and document that approval, before receiving raw materials and other ingredients received from those suppliers;

(b)(1) Written procedures for receiving raw materials and other ingredients must be established and followed;

(2) The written procedures for receiving raw materials and other ingredients must ensure that raw materials and other ingredients are received only from approved suppliers (or, when necessary and appropriate, on a temporary basis from unapproved suppliers whose raw materials or other ingredients are subjected to adequate verification activities before acceptance for use); and

(3) Use of the written procedures for receiving raw materials and other ingredients must be documented.

§ 507.125 Determining appropriate supplier verification activities (including determining the frequency of conducting the activity).

Appropriate supplier verification activities (including the frequency of conducting the activity) must be determined in accordance with the requirements of § 507.110(d).

§ 507.130 Conducting supplier verification activities for raw materials and other ingredients.

(a) Except as provided by paragraphs (c), (d), or (e) of this section, one or more of the supplier verification activities specified in § 507.110(b), as determined under § 507.110(d), must be conducted for each supplier before using the raw material or other ingredient from that supplier and periodically thereafter.

(b)(1) Except as provided by paragraph (b)(2) of this section, when a hazard in a raw material or other ingredient will be controlled by the supplier and is one for which there is a reasonable probability that exposure to the hazard will result in serious adverse health consequences or death to humans or animals:

(i) The appropriate supplier verification activity is an onsite audit of the supplier; and

(ii) The audit must be conducted before using the raw material or other ingredient from the supplier and at least annually thereafter.

(2) The requirements of paragraph (b)(1) of this section do not apply if there is a written determination that other verification activities and/or less frequent onsite auditing of the supplier provide adequate assurance that the hazards are controlled.

(c) If a supplier is a qualified facility as defined by § 507.3, the receiving facility does not need to comply with paragraphs (a) and (b) of this section if the receiving facility:

(1) Obtains written assurance that the supplier is a qualified facility as defined by § 507.3:

(i) Before first approving the supplier for an applicable calendar year; and

(ii) On an annual basis thereafter, by December 31 of each calendar year, for the following calendar year; and

(2) Obtains written assurance, at least every 2 years, that the supplier is producing the raw material or other ingredient in compliance with applicable FDA food safety regulations (or, when applicable, relevant laws and regulations of a country whose food safety system FDA has officially recognized as comparable or has determined to be equivalent to that of the United States). The written assurance must include either:

(i) A brief description of the preventive controls that the supplier is implementing to control the applicable hazard in the animal food; or

(ii) A statement that the facility is in compliance with State, local, county, tribal, or other applicable non-Federal food safety laws, including relevant laws and regulations of foreign countries.

(d) If a supplier is a farm that grows produce and is not a covered farm under part 112 of this chapter in accordance with § 112.4(a), or in accordance with §§ 112.4(b) and 112.5, the receiving facility does not need to comply with paragraphs (a) and (b) of this section for produce that the receiving facility receives from the farm as a raw material or other ingredient if the receiving facility:

(1) Obtains written assurance that the raw material or other ingredient provided by the supplier is not subject to part 112 of this chapter in accordance with § 112.4(a), or in accordance with §§ 112.4(b) and 112.5:

(i) Before first approving the supplier for an applicable calendar year; and

(ii) On an annual basis thereafter, by December 31 of each calendar year, for the following calendar year; and

(2) Obtains written assurance, at least every 2 years, that the farm acknowledges that its food is subject to section 402 of the Federal Food, Drug, and Cosmetic Act (or, when applicable, that its food is subject to relevant laws and regulations of a country whose food safety system FDA has officially recognized as comparable or has determined to be equivalent to that of the United States).

(e) If a supplier is a shell egg producer that is not subject to the requirements of part 118 of this chapter because it has less than 3,000 laying hens, the receiving facility does not need to comply with paragraphs (a) and (b) of this section if the receiving facility:

(1) Obtains written assurance that the shell eggs produced by the supplier are not subject to part 118 because the shell egg producer has less than 3,000 laying hens:

(i) Before first approving the supplier for an applicable calendar year; and

(ii) On an annual basis thereafter, by December 31 of each calendar year, for the following calendar year; and

(2) Obtains written assurance, at least every 2 years, that the shell egg producer acknowledges that its food is subject to section 402 of the Federal Food, Drug, and Cosmetic Act (or, when applicable, that its food is subject to relevant laws and regulations of a country whose food safety system FDA has officially recognized as comparable or has determined to be equivalent to that of the United States).

(f) There must not be any financial conflicts of interest that influence the results of the verification activities listed in § 507.110(b) and payment must not be related to the results of the activity.

[80 FR 56337, Sept. 17, 2015, as amended at 84 FR 12491, Apr. 2, 2019]

§ 507.135 Onsite audit.

(a) An onsite audit of a supplier must be performed by a qualified auditor.

(b) If the raw material or other ingredient at the supplier is subject to one or more FDA food safety regulations, an onsite audit must consider such regulations and include a review of the supplier's written plan (*e.g.,* Hazard Analysis and Critical Control Point (HACCP) plan or other food safety plan), if any, and its implementation, for the hazard being controlled (or, when applicable, an onsite audit may consider relevant laws and regulations of a country whose food safety system FDA has officially recognized as comparable or has determined to be equivalent to that of the United States).

(c)(1) The following may be substituted for an onsite audit, provided that the inspection was conducted within 1 year of the date that the onsite audit would have been required to be conducted:

(i) The written results of an appropriate inspection of the supplier for compliance with applicable FDA food safety regulations by FDA, by representatives of other Federal Agencies (such as the United States Department of Agriculture), or by representatives of State, local, tribal, or territorial agencies; or

(ii) For a foreign supplier, the written results of an inspection by FDA or the food safety authority of a country whose food safety system FDA has officially recognized as comparable or has determined to be equivalent to that of the United States.

(2) For inspections conducted by the food safety authority of a country whose food safety system FDA has officially recognized as comparable or determined to be equivalent, the animal food that is the subject of the onsite audit must be within the scope of the official recognition or equivalence determination, and the foreign supplier must be in, and under the regulatory oversight of, such country.

(d) If the onsite audit is solely conducted to meet the requirements of this subpart by an audit agent of a certification body that is accredited in accordance with regulations in part 1, subpart M of this chapter, the audit is not subject to the requirements in those regulations.

EFFECTIVE DATE NOTE: At 80 FR 56337, Sept. 17, 2015, part 507 was added, effective Nov. 16, 2015, with the exception of paragraph (d) in § 507.135, which is not yet effective.

§ 507.175 Records documenting the supply-chain program.

(a) The records documenting the supply-chain program are subject to the requirements of subpart F of this part.

(b) The receiving facility must review the records listed in paragraph (c) of this section in accordance with § 507.49(a)(4).

(c) The receiving facility must document the following in records as applicable to its supply-chain program:

(1) The written supply-chain program;

(2) Documentation that a receiving facility that is an importer is in compliance with the foreign supplier verification program requirements under part 1, subpart L of this chapter, including documentation of verification activities conducted under § 1.506(e) of this chapter;

(3) Documentation of the approval of a supplier;

(4) Written procedures for receiving raw materials and other ingredients;

(5) Documentation demonstrating use of the written procedures for receiving raw materials and other ingredients;

(6) Documentation of the determination of the appropriate supplier verification activities for raw materials and other ingredients;

(7) Documentation of the conduct of an onsite audit. This documentation must include:

(i) The name of the supplier subject to the onsite audit;

(ii) Documentation of audit procedures;

(iii) The dates the audit was conducted;

(iv) The conclusions of the audit;

(v) Corrective actions taken in response to significant deficiencies identified during the audit; and

(vi) Documentation that the audit was conducted by a qualified auditor;

(8) Documentation of sampling and testing conducted as a supplier verification activity. This documentation must include:

(i) Identification of the raw material or other ingredient tested (including lot number, as appropriate) and the number of samples tested;

(ii) Identification of the test(s) conducted, including the analytical method(s) used;

(iii) The date(s) on which the test(s) were conducted and the date of the report;

(iv) The results of the testing;

(v) Corrective actions taken in response to detection of hazards; and

(vi) Information identifying the laboratory conducting the testing;

(9) Documentation of the review of the supplier's relevant food safety records. This documentation must include:

(i) The name of the supplier whose records were reviewed;

(ii) The date(s) of review;

(iii) The general nature of the records reviewed;

(iv) The conclusions of the review; and

(v) Corrective actions taken in response to significant deficiencies identified during the review;

(10) Documentation of other appropriate supplier verification activities based on the supplier performance and the risk associated with the raw material or other ingredient;

(11) Documentation of any determination that verification activities other than an onsite audit, and/or less frequent onsite auditing of a supplier, provide adequate assurance that the hazards are controlled when a hazard in a raw material or other ingredient will be controlled by the supplier and is one for which there is a reasonable probability that exposure to the hazard will result in serious adverse health consequences or death to humans or animals;

(12) The following documentation of an alternative verification activity for a supplier that is a qualified facility:

(i) The written assurance that the supplier is a qualified facility as defined by § 507.3; and

(ii) The written assurance that the supplier is producing the raw material or other ingredient in compliance with applicable FDA food safety regulations (or, when applicable, relevant laws and regulations of a country whose food safety system FDA has officially recognized as comparable or has determined to be equivalent to that of the United States);

(13) The following documentation of an alternative verification activity for a supplier that is a farm that supplies a raw material or other ingredient and is not a covered farm under part 112 of this chapter:

(i) The written assurance that supplier is not a covered farm under part 112 of this chapter in accordance with § 112.4(a), or in accordance with §§ 112.4(b) and 112.5; and

(ii) The written assurance that the farm acknowledges that its food is subject to section 402 of the Federal Food, Drug, and Cosmetic Act (or, when applicable, that its food is subject to relevant laws and regulations of a country whose food safety system FDA has officially recognized as comparable or has determined to be equivalent to that of the United States);

(14) The following documentation of an alternative verification activity for a supplier that is a shell egg producer that is not subject to the requirements established in part 118 of this chapter because it has less than 3,000 laying hens:

(i) The written assurance that the shell eggs provided by the supplier are not subject to part 118 of this chapter because the supplier has less than 3,000 laying hens; and

(ii) The written assurance that the shell egg producer acknowledges that its food is subject to section 402 of the Federal Food, Drug, and Cosmetic Act (or, when applicable, that its food is subject to relevant laws and regulations of a country whose safety system FDA has officially recognized as comparable or has determined to be equivalent to that of the United States);

(15) The written results of an appropriate inspection of the supplier for compliance with applicable FDA food safety regulations by FDA, by representatives of other Federal Agencies (such as the United States Department of Agriculture), or by representatives from State, local, tribal, or territorial agencies, or the food safety authority of another country when the results of such an inspection is substituted for an onsite audit;

(16) Documentation of actions taken with respect to supplier non-conformance;

(17) Documentation of verification of a supply-chain-applied control applied by an entity other than the receiving facility's supplier; and

(18) When applicable, documentation of the receiving facility's review and assessment of:

(i) Applicable documentation from an entity other than the receiving facility that written procedures for receiving raw materials and other ingredients are being followed;

(ii) Applicable documentation, from an entity other than the receiving facility, of the determination of the appropriate supplier verification activities for raw materials and other ingredients;

(iii) Applicable documentation, from an entity other than the receiving facility, of conducting the appropriate supplier verification activities for raw materials and other ingredients;

(iv) Applicable documentation, from its supplier, of:

(A) The results of sampling and testing conducted by the supplier; or

(B) The results of an audit conducted by a third-party qualified auditor in accordance with §§ 507.130(f) and 507.135; and

(v) Applicable documentation, from an entity other than the receiving facility, of verification activities when a supply-chain-applied control is applied by an entity other than the receiving facility's supplier.

EFFECTIVE DATE NOTE: At 80 FR 56337, Sept. 17, 2015, part 507 was added, effective Nov. 16, 2015, with the exception of paragraph (c)(2) in § 507.175, which is not yet effective.

Subpart F—Requirements Applying to Records That Must Be Established and Maintained

§ 507.200 Records subject to the requirements of this subpart.

(a) Except as provided by paragraphs (d) and (e) of this section, all records required by this part are subject to all requirements of this subpart.

(b) Records obtained by FDA in accordance with this part are subject to the disclosure requirements under part 20 of this chapter.

(c) All records required by this part must be made promptly available to a duly authorized representative of the Secretary of Health and Human Services for official review and copying upon oral or written request.

(d) The requirements of § 507.206 apply only to the written food safety plan.

(e) The requirements of § 507.202(a)(2), (4), and (5) and (b) do not apply to the records required by § 507.7.

§ 507.202 General requirements applying to records.

(a) Records must:

(1) Be kept as original records, true copies (such as photocopies, pictures, scanned copies, microfilm, microfiche, or other accurate reproductions of the original records), or electronic records;

(2) Contain the actual values and observations obtained during monitoring and as appropriate, during verification activities;

(3) Be accurate, indelible, and legible;

(4) Be created concurrently with performance of the activity documented; and

(5) Be as detailed as necessary to provide history of work performed.

(b) All records must include:

(1) Information adequate to identify the plant or facility (*e.g.*, the name, and when necessary, the location of the plant or facility);

(2) The date and, when appropriate, the time of the activity documented;

(3) The signature or initials of the person performing the activity; and

(4) Where appropriate, the identity of the product and the lot code, if any.

(c) Records that are established or maintained to satisfy the requirements of this part and that meet the definition of electronic records in §11.3(b)(6) of this chapter are exempt from the requirements of part 11 of this chapter. Records that satisfy the requirements of this part, but that also are required under other applicable statutory provisions or regulations, remain subject to part 11 of this chapter.

§ 507.206 Additional requirements applying to the food safety plan.

The owner, operator, or agent in charge of the facility must sign and date the food safety plan upon initial completion and upon any modification.

§ 507.208 Requirements for record retention.

(a)(1) All records required by this part must be retained at the plant or facility for at least 2 years after the date they were prepared.

(2) Records that a facility relies on during the 3-year period preceding the applicable calendar year to support its status as a qualified facility must be retained at the facility as long as necessary to support the status of a facility as a qualified facility during the applicable calendar year.

(b) Records that relate to the general adequacy of the equipment or processes being used by a facility, including the results of scientific studies and evaluations, must be retained by the facility for at least 2 years after their use is discontinued (*e.g.*, because the facility has updated the written food safety plan (§ 507.31) or records that document validation of the written food safety plan (§ 507.45(b))).

(c) Except for the food safety plan, offsite storage of records is permitted if such records can be retrieved and provided onsite within 24 hours of request for official review. The food safety plan must remain onsite. Electronic records are considered to be onsite if they are accessible from an onsite location.

(d) If the plant or facility is closed for a prolonged period, the food safety plan may be transferred to some other reasonably accessible location but must be returned to the plant or facility within 24 hours for official review upon request.

§ 507.212 Use of existing records.

(a) Existing records (*e.g.*, records that are kept to comply with other Federal, State, or local regulations, or for any other reason) do not need to be duplicated if they contain all of the required information and satisfy the requirements of this subpart. Existing records may be supplemented as necessary to include all of the required information and satisfy the requirements of this subpart.

(b) The information required by this part does not need to be kept in one set of records. If existing records contain some of the required information, any new information required by this part may be kept either separately or combined with the existing records.

§ 507.215 Special requirements applicable to a written assurance.

(a) Any written assurance required by this part must contain the following elements:

(1) Effective date;

(2) Printed names and signatures of authorized officials;

(3) The applicable assurance under:

(i) § 507.36(a)(2);

(ii) § 507.36(a)(3);

(iii) § 507.36(a)(4);

(iv) § 507.130(c)(2);

(v) § 507.130(d)(2); or

(vi) § 507.130(e)(2).

(b) A written assurance required under § 507.36(a)(2), (3) or (4) must include:

(1) Acknowledgement that the facility that provides the written assurance assumes legal responsibility to act consistently with the assurance and document its actions taken to satisfy the written assurance; and

(2) Provision that if the assurance is terminated in writing by either entity, responsibility for compliance with the

applicable provisions of this part reverts to the manufacturer/processor as of the date of termination.

PART 509—UNAVOIDABLE CONTAMINANTS IN ANIMAL FOOD AND FOOD-PACKAGING MATERIAL

Subpart A—General Provisions

Subpart B—Tolerances for Unavoidable Poisonous or Deleterious Substances

Subpart C—Regulatory Limits for Added Poisonous or Deleterious Substances [Reserved]

Subpart D—Naturally Occurring Poisonous or Deleterious Substances [Reserved]

AUTHORITY: 21 U.S.C. 336, 342, 346, 346a, 348, 371.

SOURCE: 42 FR 52821, Sept. 30, 1977, unless otherwise noted.

Subpart A—General Provisions

§ 509.3 Definitions and interpretations.

(a) *Act* means the Federal Food, Drug, and Cosmetic Act.

(b) The definitions of terms contained in section 201 of the act are applicable to such terms when used in this part unless modified in this section.

(c) A *naturally occurring poisonous or deleterious substance* is a poisonous or deleterious substance that is an inherent natural constituent of a food and is not the result of environmental, agricultural, industrial, or other contamination.

(d) An *added poisonous or deleterious substance* is a poisonous or deleterious substance that is not a naturally occurring poisonous or deleterious substance. When a naturally occurring poisonous or deleterious substance is increased to abnormal levels through mishandling or other intervening acts, it is an added poisonous or deleterious substance to the extent of such increase.

(e) *Food* includes pet food, animal feed, and substances migrating to food from food-contact articles.

§ 509.4 Establishment of tolerances, regulatory limits, and action levels.

(a) When appropriate under the criteria of § 509.6, a tolerance for an added poisonous or deleterious substance, which may be a food additive, may be established by regulation in subpart B of this part under the provisions of section 406 of the act. A tolerance may prohibit any detectable amount of the substance in food.

(b) When appropriate under the criteria of § 509.6, and under section 402(a)(1) of the act, a regulatory limit for an added poisonous or deleterious substance, which may be a food additive, may be established by regulation in subpart C of this part under the provisions of sections 402(a)(1) and 701(a) of the act. A regulatory limit may prohibit any detectable amount of the substance in food. The regulatory limit established represents the level at which food is adulterated within the meaning of section 402(a)(1) of the act.

(c)(1) When appropriate under the criteria of § 509.6, an action level for an added poisonous or deleterious substance, which may be a food additive, may be established to define a level of contamination at which a food may be regarded as adulterated.

(2) Whenever an action level is established or changed, a notice shall be published in the FEDERAL REGISTER as soon as practicable thereafter. The notice shall call attention to the material supporting the action level which shall be on file with the Division of Dockets Management before the notice is published. The notice shall invite public comment on the action level.

(d) A regulation may be established in subpart D of this part to identify a food containing a naturally occurring poisonous or deleterious substance which will be deemed to be adulterated