



**DEPARTMENT OF AGRICULTURE**

**Food Safety and Inspection Service**

**9 CFR Part 441**

**[Docket No. FSIS-2022-0014]**

**Availability of Revised Guideline for Controlling Retained  
Water in Raw Meat and Poultry**

**AGENCY:** Food Safety and Inspection Service (FSIS), U.S.  
Department of Agriculture (USDA).

**ACTION:** Notice of availability and request for comments.

**SUMMARY:** FSIS is announcing the availability of a guideline to assist meat (including Siluriformes fish and fish products) and poultry establishments in meeting the regulatory requirements for calculating the correct retained water percentage in raw livestock, poultry, and Siluriformes fish carcasses and parts resulting from post-evisceration processing, and the proper labeling of these products. FSIS is also announcing when the Agency will start verifying that establishments are correctly calculating retained water in applicable product. The guideline clarifies the methods an establishment may use to collect and use data to determine the amount of retained water in a product covered by its retained water protocol (RWP). In addition, it provides specific information on protocol development, process control, and air-chilled product claims.

**DATES:** Submit comments on or before **[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

Establishments will have until September 30, 2024, to submit their revised protocols to the Risk Management and Innovations Staff (RMIS) via askFSIS for review. Establishments will have until April 1, 2025, to make any necessary label changes.

Unless the Agency receives substantive comments that warrant further review, RMIS will stop reviewing RWPs April 1, 2025. After that date, the RWPs will be reviewed by inspection program personnel (IPP).

**ADDRESSES:** A downloadable version of the guideline is available at <https://www.fsis.usda.gov/policy/fsis-guidelines>.

FSIS invites interested persons to submit comments on this guideline. Comments may be submitted by one of the following methods:

*Federal eRulemaking Portal:* This website provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Go to <https://www.regulations.gov>. Follow the on-line instructions at that site for submitting comments.

*Mail:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue, SW., Mailstop 3758, Washington, DC 20250-3700.

*Hand- or courier-delivered submittals:* Deliver to 1400 Independence Avenue, SW, Jamie L. Whitten Building, Room 350-E, Washington, DC 20250-3700.

*Instructions:* All items submitted by mail or electronic mail must include the agency name and docket number FSIS-2022-0014. Comments made in response to the docket will be made available for public inspection and posted without change, including any personal information, to <https://www.regulations.gov>.

*Docket:* For access to background documents or comments received, call (202) 205-0495 to schedule a time to visit the FSIS Docket Room at 1400 Independence Avenue, SW, Washington, DC 20250.

**FOR FURTHER INFORMATION CONTACT:** Rachel A. Edelstein, Assistant Administrator, Office of Policy and Program Development, FSIS; Telephone: (202) 205-0495.

**SUPPLEMENTARY INFORMATION:**

**Background**

On January 9, 2001, FSIS published the final rule "Retained Water in Raw Meat and Poultry Products; Poultry Chilling Requirements" (66 FR 1750), which set limits for water retained by raw, single-ingredient, meat and poultry products from post-evisceration processing, such as carcass washing and chilling. On December 2, 2015, FSIS amended its retained water regulations to include fish of the order Siluriformes and products derived from these fish (80 FR

75590). Under 9 CFR 441.10, raw livestock, poultry, and Siluriformes fish carcasses and parts (hereinafter, "meat and poultry products") are not permitted to retain water from post-evisceration processing unless the establishment preparing those carcasses and parts demonstrates to FSIS, with data collected in accordance with a written RWP, that any water retained is from addressing food safety requirements. In addition, the establishment is required to disclose on the product's label the maximum percentage of retained water in the raw product (9 CFR 441.10(b)). The required labeling statement is intended to help consumers make informed purchasing decisions. In 2005, FSIS issued the "Compliance Guidelines for Retained Water" to assist establishments in developing and carrying out their RWPs.

The revised guideline represents the Agency's current thinking on retained water requirements and includes new updates based on the latest scientific information. FSIS is encouraging establishments that have been using the previous version of the guideline to update their protocols with the recommendations in the new guideline in order to ensure their data are reproducible and statistically verifiable.

FSIS will update the guideline, as necessary, as new information become available.

#### **Revised Guideline**

Recently, RMIS conducted a review of older RWPs and found that establishments were not correctly applying formulae when determining changes in total moisture percentage in products after water spray or immersion processing. For example, many establishments subtract the pre-pack moisture percentages from the post-evisceration moisture percentages to calculate the retained water. However, these percentages are represented by different bases (or denominators). The post-evisceration moisture percentage reflects the dry weight and the natural water weight of the carcass. The pre-pack moisture percentage reflects the dry weight, the natural water weight (the amount of water that is in the bird naturally, prior to any aqueous applications), and the retained water weight.

Therefore, FSIS is making available a revised version of its 2005 guideline for retained water to clarify for inspected establishments the ways that they can collect and use data to determine the amount of retained water in the products covered by their RWPs. The updated guideline includes better explanations of the measurement formulae used in determining retained water percentages. It provides the mathematical formulae for calculating retained water using the weight of the carcasses, the mathematical formulae for calculating the moisture percentages, and the mathematical formulae for calculating retained water using moisture percentages.

The guidance also explains that establishments should have large enough sample sizes to ensure that they are getting accurate results. In addition, the guidance expands on what constitutes acceptable analysis and conclusions of the retained water data for labeling purposes, to include demonstrating that a given package in a lot retains no more water than what is declared on the label, within a 20% margin of error.

The guideline recommends that establishments verify the retained water in their products at a frequency that ensures they are maintaining process control of the retained water in their systems, i.e., that the retained water percentages do not exceed the labeling declarations over time. The guideline also provides information needed for retained water testing methods to be applied, such as the number of carcasses tested, the carcass type (e.g., specific poultry carcass type), weight of carcass at each point tested, time period tested, the number of sample sets tested, and the frequency of how often retained water is verified for labeling purposes.

The updated guideline explains what 9 CFR 441.10 requires an establishment to do when developing a new or revising an existing RWP. For example, an establishment is required to state specifically the type of product (e.g., carcass or giblets) to which the data apply. The guideline

recommends that a flow chart of the establishment's process be included in the RWP.

FSIS has removed the regulatory pathogen reduction performance standards for *Salmonella* (9 CFR 310.25(b) and 9 CFR 381.94(b)) that are no longer in the regulations. The guideline recommends providing temperature reduction throughout the process. It also recommends including information on all antimicrobial treatments, not just the chiller, when describing special features of the chilling system. In addition, the guidance provides recommendations on water retention when using dips or sprays as interventions applied to beef trim, pork cuts, or poultry parts.

FSIS removed references to variables affecting retained water that occur pre-evisceration, such as scalding temperatures. FSIS also removed outdated information concerning testing various chiller settings.

#### **RWP Review Process**

In accordance with 9 CFR 441.10(c)(2), establishments must notify FSIS as soon as they have new or revised RWPs available for review by the Agency. Currently, establishments submit new and revised RWPs to RMIS, in the Agency's Office of Policy and Program Development, for review.

Establishments will have until September 30, 2024, to submit their revised protocols to RMIS. All meat and

poultry establishments using incorrect formulae must submit revised protocols to RMIS (for single-ingredient products in which water was applied, whether that be a dip or a spray), if their processes result in retained water.

Establishments need a system to show whether the products retain water. If RMIS finds a problem with the methodology, the establishments will need to address the noncompliance with the methodology immediately, so that they have enough time to collect new samples to determine the amount of retained water and adjust their labeling prior to April 1, 2025. Establishments may continue selling product while they fix the methodology in their RWPs and determine the amount of retained water.

### **Labeling**

As stated above, the guidance provides information on analyzing the retained water data for labeling determinations.

It also covers the retained water labeling of giblets, products intended for export (like dark-meat chicken parts), marinated products, products that are subject to religious or dietary exemptions, and products sold at retail-service counters.

FSIS is providing establishments with additional time to correct the information. By April 1, 2025, establishments must have accurate, supportable retained water statements on their labels. If the statements are



found to be inaccurate, IPP will issue noncompliance reports and tag product. FSIS chose April 1, 2025, as that should give establishments enough time to submit their protocols to FSIS, for FSIS to review the protocols, and for establishments to revise the information, if needed.

#### **Additional Public Notification**

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this notice online through the FSIS webpage located at:

<https://www.fsis.usda.gov/wps/portal/fsis/topics/regulations/federal-register>.

FSIS also will make copies of this **Federal Register** publication available through the FSIS *Constituent Update*, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The *Constituent Update* is available on the FSIS webpage. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at:

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- (1) Mail: U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410; or
- (2) Fax: (833) 256-1665 or (202) 690-7442; or
- (3) Email: [program.intake@usda.gov](mailto:program.intake@usda.gov)

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Paul Kiecker,  
*Administrator.*

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