

*Response:* We agree with this commenter on both of these points. Although acid-fast stains are occasionally performed in bacteriology, by deleting the requirement in bacteriology for testing acid-fast stains each week of use, it defaults to the general requirement formerly at § 493.1218(f)(2) (now at § 493.1256(e)(2)) that requires laboratories to test staining materials for their intended reactivity (including positive and negative reactivity, as appropriate) each day of use. We agree with the commenter that the staining procedure in mycology is a modification of acid-fast stain used in mycobacteriology; therefore, we are deleting the requirement formerly at § 493.1231(c) for performing control testing each week of use for (modified) acid-fast stains. Again, this results in the control requirement for these stains defaulting to the general requirement for testing each day of use and is reasonable based on the fact that we are now requiring positive and negative controls for all acid-fast stains each day of use.

*Comment:* One commenter stated that the control regulation for mycology and mycobacteriology should require the use of a safety cabinet when testing in these specialty areas.

*Response:* We agree with the commenter that safety is an important factor in laboratory testing, formerly at § 493.1204(b) (now at § 493.1101(d)) and laboratories are required to maintain a safe testing environment. Safety precautions must be established and observed to ensure protection from biohazardous materials. Under §§ 493.1445(e)(2) and 493.1407(e)(2), the laboratory director is responsible for ensuring a safe environment is provided for employees conducting non-waived testing. In addition, other government agencies enforce State and local laws and other Federal standards that ensure protection of employees and the public from biohazardous materials. These agencies include the Occupational Safety and Health Administration and the Environmental Protection Agency.

*Comment:* One commenter stated that the wording at § 493.1235(c) is inappropriate. The commenter recommended the replacement of the word "culture" (referring to uninoculated controls) with "incubate" or "hold." This individual stated that the use of the term culture as specified at § 493.1235(c) generally means to inoculate and inspect for growth.

*Response:* We agree with this commenter and are replacing the term "culture" with the term "incubate" formerly at § 493.1235(c) (now at § 493.1265).

*Comment:* A commenter requested clarification of the control requirements for virology as they pertain to direct antigen detection. This commenter recommended the addition of a statement to § 493.1235 following paragraph (c) that would read "The above QC requirements are not applicable to virology testing performed using direct antigen detection methods."

*Response:* We agree with the commenter that the wording formerly at § 493.1235(c) needs clarification. There are several types of tests that identify viruses, but this requirement only applies to cell culture methodologies used to isolate and identify viruses. Therefore, we are changing the language for this requirement, now at § 493.1265(a), to make it specific to cell culture methodologies.

Sections 493.1237 Condition: Diagnostic Immunology; 493.1239 Condition: Syphilis Serology; and 493.1241 Condition: General Immunology

Specific comments received and response to comments regarding §§ 493.1237, 493.1239, and 493.1241 are set forth below.

*Comment:* A commenter stated § 493.1239(e) and § 493.1241(d), which refer to facilities manufacturing blood and blood products, should be deleted. This individual believes CLIA regulations should not cover manufacturing requirements.

*Response:* We disagree with the commenter. These requirements refer to testing requirements under CLIA regulations (donor specimens) regardless of where the testing is performed. However, we are moving these requirements, formerly under the subspecialties of syphilis serology and general immunology, and placing them with other requirements addressing the immunohematological collection, processing, dating, labeling, testing, and distribution of blood and blood products now at § 493.1271, Immunohematology (formerly at § 493.1273(a)).

*Comment:* One commenter requested clarification of the QC requirements for serological testing (both syphilis serology and general immunology) to run patient specimens concurrently with a positive serum control of known titer or controls of graded reactivity, if applicable, and a negative control. Specifically, this commenter questioned if these requirements refer to the additional controls run on a new kit to verify reproducibility, or if they pertain to the daily testing of the positive controls supplied in commercial kits.

Other commenters objected to including two control materials each time patient testing is performed. One commenter thought only a positive control was necessary for immunology tests if the patient results were negative.

*Response:* We agree with the commenters who objected to the syphilis serology and routine immunology requirements requiring two control materials each time patient testing is performed. With the development of more accurate and stable test systems, the requirements formerly at § 493.1239(b) and § 493.1241(a) for assaying controls concurrently with patient specimens are excessive for many of the test systems. We are, therefore, deleting these requirements. Laboratories performing these tests will now need to meet the applicable control procedures at § 493.1256. In addition, the laboratory must meet the requirements that pertain to establishing or verifying a test system's performance specifications before putting a new test system into routine use formerly at § 493.1213 (now at § 493.1253).

We disagree with the comment that testing only a positive control is sufficient if the patient results are negative. Laboratories, at a minimum, must follow the manufacturer's instructions and for qualitative tests, assay a positive and negative control each day of patient testing (now at § 493.1256(d)(3)(ii)). For procedures producing graded or titered results, a control material with graded or titered reactivity, as applicable, and a negative control material must be assayed each day testing is performed formerly at §§ 493.1239(b) and 493.1241(a) (now at § 493.1256(d)(3)(iii)). The control material supplied in commercial kits (test systems) may be used to meet the requirements formerly at §§ 493.1239(b) and 493.1241(a) (now at § 493.1256(d)(3)(iii)) providing the material is of known reactivity (titered or graded, as applicable) and is not the same material used to establish a cutoff or calibrate the test system if calibration of the test system is required (now at 493.1256(d)(9)).

Section 493.1245 Condition: Routine Chemistry

Specific comments received and response to comments regarding § 493.1245 are set forth below.

*Comment:* One commenter expressed concern that §§ 493.1245(c) and (d) could be interpreted to mean that the same material could be used to calibrate the instrument and verify or control the test run for blood gas analyzers. The commenter stated that this would not