

§ 91.13 When an application may be rejected.

(a) An application for a laboratory service may be rejected by the Administrator when deemed appropriate as follows:

- (1) For non-compliance by the applicant with the regulations in this part,
- (2) For non-payment of previous laboratory services rendered,
- (3) When the sample is not properly identified by a code or other marks,
- (4) When the samples are received in an unsatisfactory condition and are rejected for analysis,
- (5) When there is evidence or knowledge of tampering with the sample,
- (6) When it appears that to perform the analytical testing or laboratory service specified in this part would not be to the best interests of the public welfare or of the Government, or
- (7) When it appears to the Administrator that prior commitments of the Department necessitate rejection of the application.

(b) Each such applicant shall be promptly notified by registered mail of the reasons for the rejection.

(c) A written petition for reconsideration of such rejection may be filed by the applicant with the Administrator if postmarked or delivered within 10 days after the receipt of notice of the rejection. Such petition shall state specifically the errors alleged to have been made by the Administrator in rejecting the application. Within 20 days following the receipt of such a petition for reconsideration, the Administrator shall approve the application or notify the applicant by registered mail of the reasons for the rejection thereof.

§ 91.14 When an application may be withdrawn.

An application for a laboratory service may be withdrawn by the applicant at any time before the analytical testing is performed; *Provided*, That, the applicant shall pay, at the hourly rate prescribed in § 91.37, for the time incurred by the scientist or laboratory technician, in connection with such application and any travel expenses, telephone, facsimile, mailing, telegraph or other expenses, which have been incurred by the laboratory servicing of-

fice, in connection with such application.

Subpart D—Laboratory Service**§ 91.15 Basis of a laboratory service.**

Analytical testing and laboratory determination for analyte or quality constituent shall be based upon the appropriate standards promulgated by the U.S. Department of Agriculture, applicable standards prescribed by the laws of the State where the particular product was produced, specifications of any governmental agency, written buyer and seller contract specifications, or any written specifications by an applicant which is approved by the Administrator; *Provided*, That, if such product is regulated pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), or the comparable laws of any State, such testing and determination shall be on the basis of the standards, if any, prescribed in, or pursuant to, the marketing order and/or agreement effective thereunder.

§ 91.16 Order of a laboratory service.

Laboratory service shall be performed, insofar as possible, in the order in which applications are made except that precedence may be given to any such applications which are made by the United States (including, but not being limited to, any instrumentality or agency thereof) and to any application for an appeal inspection.

§ 91.17 Postponing a laboratory service.

If the scientist determines that it is not possible to accurately analyze or make a laboratory determination of a sample immediately after receipt because standard materials, laboratory equipment and supplies need replacement, or for any other substantial reason, the scientist may postpone laboratory service for such period as may be necessary.

§ 91.18 Financial interest of a scientist.

No scientist shall perform a laboratory analysis on any product in which he is directly or indirectly financially interested.