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SUBCHAPTER D—FOOD SAFETY AND INSPECTION SERVICE ADMINISTRATIVE PROVISIONS

PART 390—FREEDOM OF INFORMATION

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AUTHORITY: 5 U.S.C. 301, 552; 7 CFR 1.3, 2.7.

SOURCE: 45 FR 54309, July 15, 1980, unless otherwise noted. Redesignated at 46 FR 63203, Dec. 31, 1981.

§ 390.1 Scope and purpose.

These regulations are issued pursuant to the Freedom of Information Act (FOIA), as amended (5 U.S.C. 552), and in accordance with the directives of the Department of Agriculture regulations in part 1, subpart A, of title 7. The availability of records of the Food Safety and Inspection Service (FSIS), and the procedures by which the public may request such information, shall be governed by the FOIA and by these Department regulations as implemented and supplemented by the regulations in this part.

[45 FR 54309, July 15, 1980. Redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 50 FR 33332, Aug. 19, 1985; 53 FR 24679, June 30, 1988]

§ 390.2 Published materials.

Rules and regulations of FSIS relating to its regulatory responsibilities are continuously published and made available to the public in the FEDERAL REGISTER, and codified in chapter III, title 9 of the Code of Federal Regulations. FSIS also issues numerous publications relating to agency programs which implement the laws listed in the Delegations of Authority, 7 CFR 2.15(a) of this title. Most of these publications are available free from the USDA Publications Division, Office of Governmental and Public Affairs, or at established rates from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

[45 FR 54309, July 15, 1980. Redesignated and amended at 46 FR 63203, Dec. 31, 1981]

§ 390.3 Index.

Pursuant to the regulations in 7 CFR 1.4(b), FSIS will maintain and make available for public inspection and copying an index providing information regarding the materials required to be published or made available under the Freedom of Information Act (5 U.S.C. 552(a)(2)). Quarterly publication of these indexes is unnecessary and impracticable, since the material is voluminous and does not change often enough to justify the expense of quarterly publication. The Agency shall provide copies of any index, upon request, at a cost not to exceed direct cost of duplication.

§ 390.4 Facilities for inspection and copying.

Facilities for public inspection and copying of the material described in §§ 390.2 and 390.3 of this part will be provided by FSIS pursuant to 7 CFR 1.5(a) in a reading area, on business days between the hours of 8:00 a.m. and 4:00 p.m., upon request to the Freedom of Information Coordinator or designee at the following address:

Freedom of Information Act Coordinator (FOIA), Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

Copies of such material may be obtained in person or by mail.

[45 FR 54309, July 15, 1980. Redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 53 FR 24679, June 30, 1988]

§ 390.5 Requests for records.

(a) The FOIA Coordinator of FSIS is authorized to receive requests and to exercise the authority under 7 CFR 1.3(a) to: (1) make determinations to grant or deny such requests, (2) extend the 10-day deadline, (3) make discretionary releases of exempt records, except where disclosure is specifically prohibited by Executive Order, statute,

or applicable regulations, (4) make determinations regarding the charging of fees pursuant to the established schedule, and (5) determine the applicability of 7 CFR 1.8 to requests for records.

(b) Requests for FSIS records or information shall be made in writing in accordance with 7 CFR 1.6, and submitted to the FSIS Freedom of Information Act Coordinator at the following address:

Freedom of Information Act Coordinator
(FOIA Request), Food Safety and
Inspection Service U.S. Department of
Agriculture, Washington, DC 20250.

The submitter shall identify each record with reasonable specificity as prescribed in 7 CFR 1.3. Initial requests for records customarily released by FSIS may be made orally, but in certain instances, the Coordinator in his/her discretion, may deem it necessary to require a written submission from the requester.

(c) In exercising his/her authority under 7 CFR 1.3(a)(3) to grant and deny requests, the Coordinator or designee will comply with subsection (b) of the Freedom of Information Act (5 U.S.C. 552(b)), as amended, which requires that any reasonably segregable portion of a document shall be provided to a person requesting such document after deletion of any portions within the scope of the request for which an exemption is being claimed under the Act. Therefore, unless the disclosable and nondisclosable portions are so inextricably linked that it is not reasonably possible to separate them, the document will be released with the nondisclosable portions deleted. The Coordinator or designee may exercise discretion as limited by 7 CFR 1.14 to release the entire document, or to make only a minimum number of deletions.

[45 FR 54309, July 15, 1980. Redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 53 FR 24679, June 30, 1988]

§ 390.6 Fee schedule.

Departmental regulations provide for a schedule of reasonable standard charges for document search and duplication. See 7 CFR 1.16. Fees to be charged are set forth in 7 CFR part 1, subpart A, appendix A.

[45 FR 54309, July 15, 1980. Redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 53 FR 24679, June 30, 1988]

§ 390.7 Appeals.

(a) If the request for information, or for a waiver of search and/or duplication fees is denied, in whole or in part, the Freedom of Information Act Coordinator or designee will set forth in the letter of response the grounds for any denial of access and offer the requesting party an opportunity to file an administrative appeal from the denial, pursuant to 7 CFR 1.3(a)(4). The appeals should be filed in writing within 45 days of the date of denial (departmental regulations, 7 CFR 1.8(a)(4)) and should be addressed as follows:

Administrator, Food Safety and Inspection Service, (FOIA Appeal),
U.S. Department of Agriculture,
Washington, DC 20250.

(b) The Administrator of FSIS is authorized under 7 CFR 1.3(a)(4) to (1) extend the 20-day deadline, (2) make discretionary releases, and (3) make determinations regarding the charging of fees.

[45 FR 54309, July 15, 1980. Redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 53 FR 24679, June 30, 1988]

§ 390.8 Agency response to requests.

(a) The response to Freedom of Information requests and appeals by the officials named in §§ 390.5 and 390.7 of this part shall be governed by and made in accordance with 7 CFR 1.8 and the regulations in this part.

(b) Requests for records and information may be submitted to field stations. The field station shall immediately notify the FOIA Coordinator or designee by telephone. Unless the FOIA Coordinator or designee orally authorizes a release of the requested records, the field station receiving the request shall transmit the request directly to the FOIA Coordinator for a response. For purposes of compliance with the statutory time limit, the request will be considered as having been received on the date of its arrival in the office of the Coordinator or designee.

(c) Any person whose request for records has been granted may inspect and copy such records (or copies) at the office listed in §390.4 of this part in accordance with the provisions of that section as well as §390.6, relating respectively to time and fees. Copies may also be obtained by mail.

[45 FR 54309, July 15, 1980. Redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 53 FR 24679, June 30, 1988]

PART 391—FEES AND CHARGES FOR INSPECTION SERVICES AND LABORATORY ACCREDITATION

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391.1 Scope and purpose.
391.2 Base time rate.
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391.5 Laboratory accreditation fees.

AUTHORITY: 7 U.S.C. 138f; 7 U.S.C. 394, 1622, 1624; 21 U.S.C. 451 *et seq.;* 21 U.S.C. 601–695; 7 CFR 2.17 (g) and (i), 2.55.

§391.1 Scope and purpose.

Fees shall be charged by the Agency for certain specified inspection services provided on a holiday, on an overtime basis, and/or which are voluntary inspection services.

[54 FR 6390, Feb. 10, 1989]

§391.2 Base time rate.

The base time rate for inspection services provided pursuant to §§350.7, 351.8, 351.9, 352.5, 354.101, 355.12, and 362.5 shall be $32.88 per hour, per program employee.

[62 FR 6112, Feb. 11, 1997]

§391.3 Overtime and holiday rate.

The overtime and holiday rate for inspection services provided pursuant to §§307.5, 350.7, 351.8, 351.9, 352.5, 354.101, 355.12, 362.5, and 381.38 shall be $33.76 per hour, per program employee.

[62 FR 6112, Feb. 11, 1997]

§391.4 Laboratory services rate.

The rate for laboratory services provided pursuant to §§350.7, 351.9, 352.5, 354.101, 355.12, and 362.5 shall be $48.56 per hour, per program employee.

[62 FR 6112, Feb. 11, 1997]

§391.5 Laboratory accreditation fees.

(a) The annual fee for the initial accreditation and maintenance of accreditation provided pursuant to §§318.21 and 381.153 shall be $2,500 per accreditation.

(b) Laboratories that request special onsite inspections shall pay FSIS the actual cost of reasonable travel and other expenses necessary to perform the unscheduled or non-routine onsite inspections.

[58 FR 65269, Dec. 13, 1993, as amended at 59 FR 66449, Dec. 27, 1994]