

## § 90.103

Deputy Administrator. Such evaluation will include:

(1) A review of the adequacy of quality control measures taken by the laboratory for the standardized method of analysis for a commodity and its related products;

(2) A review of the laboratory methodologies and procedures;

(3) A review of records for the calibration and maintenance of equipment;

(4) A review of records documenting sample handling;

(5) The evidence of quality control records;

(6) The evidence of correct reporting and determination of analytical data.

(b) A laboratory will receive a quality assurance report following the review. This evaluation will address any necessary improvements to the laboratory program(s) being examined.

[58 FR 42414, Aug. 9, 1993, as amended at 65 FR 64309, Oct. 26, 2000]

### § 90.103 Maintenance of quality control records.

Quality control records pertaining, but not limited to the following areas, shall be retained by the laboratory for at least the 3 most recent years:

(a) Prepared solution standardizations;

(b) Recovery studies by known analyte additions;

(c) The purity checks of reagents and test materials;

(d) Apparatus and equipment calibrations;

(e) The quality examination and testing of materials;

(f) The mandatory participation in proficiency check sample testing or collaborative studies;

(g) Daily critical parameter checks of equipment, such as temperature readings;

(h) The equivalency tests of new procedures with standard methodologies.

§§ 90.104-90.200 [Reserved]

## PART 91—SERVICES AND GENERAL INFORMATION

### Subpart A—Administration

Sec.

91.1 General.

91.2 Definitions.

## 7 CFR Ch. I (1-1-03 Edition)

91.3 Authority.

### Subpart B—General Services

91.4 Kinds of services.

91.5 Where services are offered.

91.6 Availability of services.

### Subpart C—Application for Services

91.7 Nondiscrimination.

91.8 Who may apply.

91.9 How to make an application.

91.10 Information required in connection with an application.

91.11 Filing of an application.

91.12 Record of filing time and laboratory tests.

91.13 When an application may be rejected.

91.14 When an application may be withdrawn.

### Subpart D—Laboratory Service

91.15 Basis of a laboratory service.

91.16 Order of a laboratory service.

91.17 Postponing a laboratory service.

91.18 Financial interest of a scientist.

### Subpart E—Samples

91.19 General requirements of suitable samples.

91.20 Shipping.

91.21 Protecting samples.

91.22 Disposition of analyzed sample.

### Subpart F—Method Manuals

91.23 Analytical methods.

### Subpart G—Reporting

91.24 Reports of test results.

91.25 Certificate requirements.

91.26 Issuance of certificates.

91.27 Corrections to certificates prior to issuance.

91.28 Issuance of corrected certificates or amendments for analysis reports.

91.29 Issuance of duplicate certificates or reissuance of an analysis report.

91.30 Maintenance and retention of copies of certificates or analysis reports.

### Subpart H—Appeal of Laboratory Services

91.31 When an appeal of a laboratory service may be requested.

91.32 Where to file for an appeal of a laboratory service and information required.

91.33 When an application for an appeal of a laboratory service may be withdrawn.

91.34 When an appeal of a laboratory service may be refused.

91.35 Who shall perform an appealed laboratory service.

91.36 Appeal laboratory certificate.

## Agricultural Marketing Service, USDA

## § 91.4

### Subpart I—Fees and Charges

- 91.37 Standard hourly fee rate for laboratory testing, analysis, and other services.
- 91.38 Additional fees for appeal of analysis.
- 91.39 Premium hourly fee rate for overtime and legal holiday service.
- 91.40 Fees for courier service and facsimile of the analysis report.
- 91.41 Charges for demonstrations and courses of instruction.
- 91.42 Billing.
- 91.43 Payment of fees and charges.
- 91.44 Charges on overdue accounts and issuance of delinquency notices.
- 91.45 Charges for laboratory services on a contract basis.

AUTHORITY: 7 U.S.C. 1622, 1624.

SOURCE: 58 FR 42415, Aug. 9, 1993, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 91 appear at 61 FR 51350, Oct. 2 1996.

### Subpart A—Administration

#### § 91.1 General.

This part consolidates the procedural and administrative rules of the Science and Technology of the Agricultural Marketing Service for conducting the analytical testing and laboratory audits with quality assurance reviews. It also contains the fees, charges and laboratories applicable to such services.

[58 FR 42415, Aug. 9, 1993, as amended at 65 FR 64309, Oct. 26, 2000]

#### § 91.2 Definitions.

Words used in the regulations in this part in the singular form will import the plural, and vice versa, as the case may demand. As used throughout the regulations in this part, unless the context requires otherwise, the following terms will be construed to mean:

*Agency.* The Agricultural Marketing Service agency of the United States Department of Agriculture.

*Analyses.* Microbiological, chemical, or physical tests performed on a commodity.

*Applicant.* Any person or organization requesting services provided by the Science and Technology (S&T) programs.

*Legal holidays.* Those days designated as legal public holidays specified by Congress in paragraph (a) of section 6103, title 5 of the United States Code and any other day declared to be a hol-

iday by Federal Statute or Executive Order. Under section 6103 and Executive Order 10357, as amended, if the specified legal public holiday falls on a Saturday, the preceding Friday shall be considered the holiday, or if the specified legal holiday falls on a Sunday, the following Monday shall be considered to be the holiday.

[58 FR 42415, Aug. 9, 1993, as amended at 65 FR 64309, Oct. 26, 2000]

#### § 91.3 Authority.

The Deputy Administrator is charged with the administration of this subchapter.

[58 FR 42415, Aug. 9, 1993, as amended at 65 FR 64309, Oct. 26, 2000]

### Subpart B—General Services

#### § 91.4 Kinds of services.

(a) Analytical tests. Analytical laboratory testing services under the regulations in this subchapter consist of microbiological, chemical, and certain other analyses, requested by the applicant and performed on tobacco, seed, dairy, egg, fruit and vegetable, meat and poultry products, and related processed products. Analyses are performed to determine if products meet Federal specifications or specifications defined in purchase contracts and cooperative agreements. Laboratory analyses are also performed on egg products as part of the mandatory Egg Products Inspection Program under the management of USDA's Food Safety and Inspection Service (FSIS) as detailed in 9 CFR 590.580.

(b) Examination and licensure. The manager of the Science and Technology's Cottonseed Chemist Licensing Program administers examinations and licenses chemists to certify the official grade of cottonseed.

(c) Quality assurance reviews. The Science and Technology representative performs on-site laboratory quality assurance reviews (both required and voluntary) to ensure that appropriate technical methods, equipment maintenance, and quality control procedures are being observed.

(d) Consultation. Technical advice, statistical science consultation, and quality assurance program assistance

are provided by the representatives for the Science and Technology programs for domestic and foreign laboratories.

[65 FR 64309, Oct. 26, 2000]

**§91.5 Where services are offered.**

(a) Services are offered to applicants at the Science and Technology laboratories and facilities in the following list:

(1) *Science and Technology regional laboratories.* A variety of tests and laboratory analyses are available in two regional multi-disciplinary Science and Technology (S&T) laboratories, and are located as follows:

(i) USDA, AMS, S&T  
Eastern Laboratory (Microbiology),  
2311-B Aberdeen Boulevard, Gas-  
tonia, NC 28054-0614.

(ii) USDA, AMS, S&T  
Eastern Laboratory (Chemistry), 645  
Cox Road, Gastonia, NC 28054-0614.

(2) *Science and Technology (S&T) aflatoxin laboratories.* The specialty laboratories performing aflatoxin testing on peanuts, peanut products, dried fruits, grains, edible seeds, tree nuts, shelled corn products, oilseed products and other commodities are located as follows:

(i) USDA, AMS, S&T  
1211 Schley Avenue, Albany, GA  
31707.

(ii) USDA, AMS, S&T  
c/o Golden Peanut Company, Mail:  
P.O. Box 279, 301 West Pearl Street,  
Aulander, NC 27805.

(iii) USDA, AMS, S&T  
610 North Main Street, Blakely, GA  
31723.

(iv) USDA, AMS, S&T  
107 South Fourth Street, Madill, OK  
73446.

(v) USDA, AMS, S&T  
c/o Cargill Peanut Products, Mail:  
P.O. Box 272, 715 North Main  
Street, Dawson, GA 31742-0272.

(vi) USDA, AMS, S&T  
Mail: P.O. Box 1130, 308 Culloden  
Street, Suffolk, VA 23434.

(3) *Citrus laboratory.* The Science and Technology's citrus laboratory specializes in testing citrus juices and other citrus products and is located as follows: USDA, AMS, S&T Eastern Laboratory (Citrus), 98 Third Street, S.W., Winter Haven, FL 33880.

(4) *Program laboratories.* Laboratory services are available in all areas covered by cooperative agreements providing for this laboratory work and entered on behalf of the Department with cooperating Federal or State laboratory agencies pursuant to authority contained in Act(s) of Congress. Also, services may be provided in other areas not covered by a cooperative agreement if the Administrator determines that it is possible to provide such laboratory services.

(5) *Other alternative laboratories.* Laboratory analyses may be conducted at alternative Science and Technology laboratories and can be reached from any commodity market in which a laboratory facility is located to the extent laboratory personnel are available.

(6) *The Plant Variety Protection (PVP) Office.* The PVP office and plant examination facility of the Science and Technology programs issues certificates of protection to developers of novel varieties of plants which reproduce sexually. The PVP office is located as follows: USDA, AMS, Science & Technology, Plant Variety Protection Office, National Agricultural Library Building, Room 500, 10301 Baltimore Boulevard, Beltsville, MD 20705-2351.

(7) *Science and Technology headquarters offices.* The examination, licensure, quality assurance reviews, laboratory accreditation/certification and consultation services are provided by headquarters staff located in Washington, DC. The main headquarters office is located as follow: USDA, AMS, Science and Technology, Office of the Deputy Administrator, Room 3507 South Agriculture Bldg., Mail Stop 0222, 1400 Independence Ave., S.W., Washington, DC 20250.

(8) *The Information Technology (IT) Office.* The IT office of the Science and Technology programs is headed by AMS's Chief Information Officer (CIO) and provides information technology services and management systems to the Agency and other agencies within the USDA. The main IT office is located as follow: USDA, AMS, Science and Technology, Office of the Chief Information Officer, 1752 South Agriculture Bldg., 1400 Independence Ave., S.W., Washington, DC 20250.

## Agricultural Marketing Service, USDA

## §91.9

(9) *Statistical Branch office.* The Statistical Branch office of Science and Technology (S&T) provides statistical services to the Agency and other agencies within the USDA. In addition, the Statistical Branch office devices sample plans and performs consulting services for research studies in joint efforts with or in a leading role with other program areas of AMS or of the USDA. The main Statistical Branch office is located as follow: USDA, AMS, S&T Statistical Branch, 0611 South Agriculture Bldg., 1400 Independence Ave., S.W., Washington, DC 20250.

(10) *Offices for Pesticide Residue Programs.* Services afforded by the Federal Pesticide Record Keeping Program for restricted-use pesticides by certified applicators and services afforded by the Pesticide Data Program (PDP) are provided by offices located as follows:

- (i) USDA, AMS, Science and Technology  
Pesticide Data Branch, 8700 Centreville Road, Suite 200, Manassas, VA 20110-8411
- (ii) USDA, AMS, Science and Technology  
Pesticide Records Branch, 8700 Centreville Road, Suite 202, Manassas, VA 20110-8411
- (iii) USDA, AMS, Science and Technology  
Office of Deputy Administrator, Room 3507 South Agriculture Bldg., 1400 Independence Ave., SW., Washington, DC 20250.

(b) The addresses of the various laboratories and offices appear in the pertinent parts of this subchapter. A prospective applicant may obtain a current listing of addresses and telephone numbers of Science and Technology laboratories, offices, and facilities by addressing an inquiry to the Administrative Officer, Science and Technology, Agricultural Marketing Service, United States Department of Agriculture (USDA), P.O. Box 96456, Room 0727 South Building, Mail Stop 0271, Washington, D.C. 20090-6456.

[65 FR 64310, Oct. 26, 2000]

### §91.6 Availability of services.

(a) Services may be furnished whenever a Science and Technology staff is available and the facilities and condi-

tions are satisfactory for the conduct of such service.

(b) Laboratories may provide limited service on Saturdays and Sundays at a premium fee. Weekend service may be obtained by contacting the laboratory director or supervisor.

(c) Holiday and overtime laboratory service may be obtained with a minimum 24 hour advance notice, at a premium fee, by any prospective applicant through the laboratory director or supervisor.

[58 FR 42415, Aug. 9, 1993, as amended at 65 FR 64310, Oct. 26, 2000]

## Subpart C—Application for Services

### §91.7 Nondiscrimination.

All services under these regulations are provided to applicants without discrimination as to race, color, handicapped or disabled condition, religion, sex, age, or national origin.

### §91.8 Who may apply.

An application for service may be made by any individual or interested party including, but not limited to, the United States and any instrumentality or agency thereof, any State, county, municipality, or common carrier, and any authorized agent on behalf of the foregoing.

### §91.9 How to make an application.

(a) *Voluntary.* An application for analysis and testing may be made by contacting the director or supervisor of the Science and Technology laboratory where the service is provided, or by contacting the Technical Services Branch Chief at Science and Technology Headquarters, Washington, DC. A list of the Science and Technology laboratories is included in §91.5.

(b) *Mandatory.* In the case of mandatory analyses, such as those required to be performed on eggs and egg products, application for services may be submitted to the office or USDA agency which administers the program, or by contacting an inspector or grader who is involved with the program.

[65 FR 64310, Oct. 26, 2000]

## §91.10

## 7 CFR Ch. I (1-1-03 Edition)

### §91.10 Information required in connection with an application.

(a) An application for laboratory service shall be made in the English language and may be made orally (in person or by telephone), in writing, or by facsimile. If an application for laboratory service is made orally, written confirmation may be required by the laboratory involved.

(b) In connection with each application for a laboratory service, information that may be necessary to perform analyses on the processed product(s) shall also be furnished. The information shall include, but is not limited to, the name of the product, name and address of the packer or plant where such product was packed, the location of the product, its lot or load number, codes or other identification marks, the number of containers, the type and size of the containers, the analytical test requested, and the size of the sample. In addition, information regarding analysis of the lot by any federal agency previous to the application and the purpose of the desired laboratory service may be requested.

### §91.11 Filing of an application.

An application for a laboratory service shall be regarded as filed only when made in accordance with the regulations in this part.

### §91.12 Record of filing time and laboratory tests.

A record showing the date of receipt for each application for a laboratory service or an appeal of a laboratory service shall be maintained. In addition, the requested laboratory analyses shall be recorded at the time of sample receipt.

### §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 office, 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

## Agricultural Marketing Service, USDA

## § 91.22

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.

## Subpart E—Samples

### § 91.19 General requirements of suitable samples.

(a) Samples must be representative of the product tested and provided in sufficient quantity for the analyses requested.

(b) Each sample must be identified with the following information:

(1) Product type (specific description);

- (2) Lot number or production date;
- (3) Analyses desired;
- (4) Date/time collected;
- (5) Storage conditions prior to shipping;
- (6) Name of applicant;
- (7) Name of sampler;
- (8) Any other information which is required by the specific program under which analysis or test is performed.

### § 91.20 Shipping.

(a) Samples must be submitted to the laboratory in a condition (including temperature) that does not compromise the quality and validity of analytical results.

(b) All samples must be submitted in sealed, leakproof containers.

(c) Containers for perishable refrigerated samples should contain ice or ice packs to maintain temperatures of 0° to 5 °C, unless a different temperature is required for the sample to be tested.

(d) Containers for frozen samples should contain dry ice or other effective methods of maintaining samples in a frozen state.

(e) The applicant is responsible for providing shipping containers and paying shipping costs for fee basis tests.

(f) A courier charge may apply for the shipment of some samples.

### § 91.21 Protecting samples.

Laboratory personnel shall protect each sample from manipulation, substitution, and improper or careless handling which would deprive the sample of its representative character from the time of receipt in the laboratory until the analysis is completed and the sample has been discarded.

### § 91.22 Disposition of analyzed sample.

(a) Excess samples not used in analyses will be placed in proper storage for a maximum period of 30 days after reporting results of tests.

(b) Any sample of a processed commodity that has been used for a laboratory service may be returned to the applicant at his or her request and expense; otherwise, it shall be destroyed or disposed of to a charitable institution.

**Subpart F—Method Manuals****§91.23 Analytical methods.**

Most analyses are performed according to approved procedures described in manuals of standardized methodology. These standard methods are the specific methods used. Alternatively, equivalent methods prescribed in cooperative agreements are used. The manuals of standard methods most often used by the Science and Technology laboratories are listed as follows:

(a) Approved Methods of the American Association of Cereal Chemists (AACC), American Association of Cereal Chemists/Eagan Press, 3340 Pilot Knob Road, St. Paul, Minnesota 55121–2097.

(b) ASTA's Analytical Methods Manual, American Spice Trade Association (ASTA), 560 Sylvan Avenue, P.O. Box 1267, Englewood Cliffs, New Jersey 07632.

(c) Compendium Methods for the Microbiological Examination of Foods, Carl Vanderzant and Don Splittstoesser (Editors), American Public Health Association, 1015 Fifteenth Street, NW., Washington, DC 20005.

(d) Edwards, P.R. and W.H. Ewing, Edwards and Ewing's Identification of Enterobacteriaceae, Elsevier Science, Inc., Regional Sales Office, 655 Avenue of the Americas, P.O. Box 945, New York, NY 10159–0945.

(e) FDA Bacteriological Analytical Manual (BAM), AOAC INTERNATIONAL, 481 North Frederick Avenue, Suite 500, Gaithersburg, MD 20877–2417.

(f) Manual of Analytical Methods for the Analysis of Pesticide Residues in Human and Environmental Samples, EPA 600/9–80–038, U.S. Environmental Protection Agency (EPA) Chemical Exposure Research Branch, EPA Office of Research and Development (ORD), 26 West Martin Luther King Drive, Cincinnati, Ohio 45268.

(g) Official Methods and Recommended Practices of the American Oil Chemists' Society (AOCS), American Oil Chemists' Society, P.O. Box 3489, 2211 West Bradley Avenue, Champaign, Illinois 61821–1827.

(h) Official Methods of Analysis of AOAC INTERNATIONAL, Volumes I &

II, AOAC INTERNATIONAL, 481 North Frederick Avenue, Suite 500, Gaithersburg, MD 20877–2417.

(i) Standard Analytical Methods of the Member Companies of Corn Industries Research Foundation, Corn Refiners Association (CRA), 1701 Pennsylvania Avenue, NW., Washington, DC 20006.

(j) Standard Methods for the Examination of Dairy Products, American Public Health Association, 1015 Fifteenth Street, NW., Washington, DC 20005.

(k) Standard Methods for the Examination of Water and Wastewater, American Public Health Association (APHA), the American Water Works Association (AWWA) and the Water Pollution Control Federation, AWWA Bookstore, 6666 West Quincy Avenue, Denver, CO 80235.

(l) Test Methods for Evaluating Solid Waste Physical/Chemical Methods, Environmental Protection Agency, Office of Solid Waste, SW–846 Integrated Manual (available from National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161).

(m) U.S. Army Natick Research, Development and Engineering Center's Military Specifications, approved analytical test methods noted therein, Code NPP–9, Department of Defense Single Stock Point (DODSSP) for Military Specifications, Standards, Building 4/D, 700 Robbins Avenue, Philadelphia, PA 19111–5094.

(n) U.S. Food and Drug Administration, Pesticide Analytical Manuals (PAM), Volumes I and II, Food and Drug Administration, Center for Food Safety and Applied Nutrition (CFSAN), 200 C Street, SW., Washington, DC 20204 (available from National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161).

[65 FR 64310, Oct. 26, 2000]

**Subpart G—Reporting****§91.24 Reports of test results.**

(a) Results of analyses are provided, in writing, by facsimile, by e-mail or other electronic means to the applicant.

## Agricultural Marketing Service, USDA

## §91.27

(b) Applicants may call the appropriate Science and Technology laboratory for interim or final results prior to issuance of the formal report. The advance results may be telegraphed, e-mailed, telephoned, or sent by facsimile to the applicant. Any additional expense for advance information shall be borne by the requesting party.

(c) A letter report in lieu of an official certificate of analysis may be issued by a laboratory representative when such action appears to be more suitable than a certificate: *Provided*, that, issuance of such report is approved by the Deputy Administrator.

[65 FR 64311, Oct. 26, 2000]

### §91.25 Certificate requirements.

Certificates of analysis and other memoranda concerning laboratory service and the reporting of results should have the following requirements:

(a) Certificates of analysis shall be on standard printed forms approved by the Deputy Administrator;

(b) Shall be printed in English;

(c) Shall have results typewritten, computer generated, or handwritten in ink and shall be clearly legible;

(d) Shall show the results of laboratory tests in a uniform, accurate, and concise manner with abbreviations identified on the form;

(e) Shall show the information required by §§91.25–91.29; and

(f) Show only such other information and statements of fact as are provided in the instructions authorized by the Deputy Administrator.

[58 FR 42415, Aug. 9, 1993, as amended at 65 FR 64311, Oct. 26, 2000]

### §91.26 Issuance of certificates.

(a) The person signing and issuing the certificate of analysis shall be one of the following:

(1) The scientist who performed the analysis;

(2) Another technician of the laboratory facility, who has been given power of attorney by the scientist who performed the analytical testing and been authorized by the Deputy Administrator to affix the scientist's signature to a certificate. The power of attorney shall be on file with the employing of-

fice or laboratory of the Science and Technology program;

(3) A person designated as the "laboratory director in charge," when the certificate represents composite analyses by several technicians.

(b) The laboratory certificate shall be prepared in accordance with the facts set forth in the official memoranda made by the scientist or technicians in connection with the analysis.

(c) Whenever a certificate is signed by a person under a power of attorney, the certificate should so indicate. The signature of the holder of power shall appear under the name of the scientist who personally analyzed the sample, and whenever a certificate issued is signed by a scientist in charge, that title must appear in connection with the signature.

[58 FR 42415, Aug. 9, 1993, as amended at 65 FR 64311, Oct. 26, 2000]

### §91.27 Corrections to certificates prior to issuance.

(a) The accuracy of the statements and information shown on certificates of analysis must be verified by the individual whose name or signature, or both, is shown on the certificate or by the authorized agent who affixed the name or signature, or both. When a name or signature, or both, is affixed by an authorized agent, the initials of the agent shall appear directly below or following the name, or signature of the person. Errors found during this process shall be corrected according to this section.

(b) Only official personnel or their authorized agents may make corrections, additions, or other changes to certificates.

(c) No corrections, additions, or other changes shall be made which involve identification, quality, or quantity. If such errors are found, a new certificate shall be prepared and issued and the incorrect certificate marked "Void." Otherwise, errors may be corrected, provided there is evidence of satisfactory correction procedures as follows:

(1) The corrections are neat and legible;

(2) Each correction is initialed by the individual who corrects the certificate; and

**§91.28**

**7 CFR Ch. I (1-1-03 Edition)**

(3) The corrections and initials are shown on the original and all copies.

**§91.28 Issuance of corrected certificates or amendments for analysis reports.**

(a) A corrected certificate of analysis or an amended letter report may be issued by the laboratory representative who issued the original certificate or report after distribution of the form if errors, such as incorrect dates, analytical results, or test determination statements, lot numbers, or errors in any other pertinent information require the issuance of a corrected certificate or an amended report.

(b) Whenever a corrected certificate or amended report is issued, such certificate or report shall supersede the original form which was issued in error. The superseded certificate or incorrect report shall become null and void after the issuance of the corrected certificate or the amended analysis report.

(c) The corrected certificates or amended reports shall show the following:

(1) The terms "Corrected Original" and "Corrected Copy;"

(2) A statement identifying the superseded certificate or incorrect letter report and the corrections;

(3) A new serial number or new date of issuance; and

(4) The same statements and information, including permissive statements, that were shown on the incorrect certificate or the incorrect report, along with the correct statement or information, shall be shown on the corrected form.

(d) If all copies of the incorrect certificate or incorrect report can be obtained, then the superseded form shall be marked "Void" when submitted.

(e) Corrected certificates or amended letter reports cannot be issued for a certificate that has been superseded by another certificate, or superseded on the basis of a subsequent analysis or an additional laboratory test determination.

**§91.29 Issuance of duplicate certificates or reissuance of an analysis report.**

(a) Upon request by an applicant, a duplicate certificate or an additional report may be issued for a lost, destroyed, or otherwise not obtainable original form.

(b) The duplicate certificate or the reissuance of an analysis report shall be at the expense of the applicant.

(c) Requests for duplicate certificates or additional analysis reports shall be filed as follows:

(1) In writing;

(2) By the applicant who requested the service covered by the lost, destroyed, or otherwise not obtainable original form; and

(3) With the office that issued the initial certificate or original laboratory analysis report.

(d) The duplicate certificates or reissued analysis reports shall show the following:

(1) The terms "Duplicate Original," and the copies shall show "Duplicate Copy,"

(2) A statement that the certificate or letter report was issued in lieu of a lost or destroyed or otherwise not obtainable certificate or laboratory analysis report; and

(3) The same statements and information, including permissive statements, that were shown on the original certificate or the initial analysis report shall be shown on the duplicate form.

(e) Duplicate certificates or duplicate analysis reports shall be issued as promptly as possible and distributed as the original certificates or original analysis reports and their copies.

(f) Duplicate certificates shall not be issued for certificates that have been superseded.

**§91.30 Maintenance and retention of copies of certificates or analysis reports.**

(a) At least one copy of each certificate or analysis report shall be filed in the laboratory for a period of not less than 3 years either from the date of issuance of the document, from the date of voiding a certificate, or from

## Agricultural Marketing Service, USDA

## § 91.34

the date last payment is made by the applicant for a reported laboratory determination, whichever is later.

(b) Whenever any document, because of its condition, becomes unsuitable for its intended or continued use, the laboratory personnel shall make a copy of the original document.

(c) True copies shall be retained as photocopies, microfilm, microfiche, or other accurate reproductions and durable forms of the original document. Where reduction techniques, such as microfilming are used, suitable reader and photocopying equipment shall be readily available. Such reproductions shall be treated and considered for all purposes as though they were the original documents.

(d) All documents required to be maintained under this part shall be kept confidential and shall be disclosed only to the applicants or other persons with the applicants' knowledge and permission. Only such information as the Administrator deems relevant shall be disclosed to the public without the applicants' permission, and then, only in a suit or administrative hearing brought at the direction, or on the request, of the Administrator, or to which the Administrator or any other officer of the United States is a party.

### Subpart H—Appeal of Laboratory Services

#### § 91.31 When an appeal of a laboratory service may be requested.

(a) An application for an appeal of a laboratory service may be made by any interested party who is dissatisfied with the results of an analysis as stated in a certificate or laboratory report, if the lot of the commodity can be positively identified by the laboratory service as the lot from which originally drawn samples were previously analyzed.

(b) An application for an appeal of a laboratory service shall be made within thirty (30) days following the day on which the previous analysis was performed. However, upon approval by the Deputy Administrator, the filing time for an appeal application may be extended.

[58 FR 42415, Aug. 9, 1993, as amended at 65 FR 64311, Oct. 26, 2000]

#### § 91.32 Where to file for an appeal of a laboratory service and information required.

(a) Application for an appeal of a laboratory service may be filed with the supervisor in the office or the director of the laboratory facility that issued the certificate or laboratory report on which the appeal analysis covering the commodity product is requested.

(b) The application for an appeal of a laboratory service shall state the location of the lot of the commodity product and the reasons for the appeal; and date and serial number of the certificate covering the laboratory service of the commodity product on which the appeal is requested. In addition, such application shall be accompanied by the original and all available copies of the certificate or laboratory report.

(c) Application for an appeal of a laboratory service may be made orally (in person or by telephone), in writing, by e-mail, by facsimile, or by telegraph. If made orally, written confirmation shall be made promptly.

[65 FR 64311, Oct. 26, 2000]

#### § 91.33 When an application for an appeal of a laboratory service may be withdrawn.

An application for an appeal of a laboratory service may be withdrawn by the applicant at any time before the appealed laboratory service is performed; *Provided*, That, the applicant shall pay, at the hourly rate prescribed in § 91.37, for the time incurred by the laboratory personnel, any travel, telephone, telegraph, or other expenses which have been incurred by the laboratory service in connection with such application.

#### § 91.34 When an appeal of a laboratory service may be refused.

An application for an appeal of a laboratory service may be refused if:

(a) The reasons for the appealed laboratory service are frivolous or not substantial;

(b) The quality or condition of the commodity product has undergone a material change since the laboratory service covering the commodity product on which the appealed laboratory service is requested;

## §91.35

(c) The lot in question is not, or cannot be made accessible for sampling;

(d) The lot relative to which the appealed laboratory service is requested cannot be positively identified as the lot from which samples were previously drawn and originally analyzed; or

(e) There is noncompliance with the regulations in this part. Such applicant shall be notified promptly of the reason for such refusal.

### §91.35 Who shall perform an appealed laboratory service.

An appealed laboratory service shall be performed, whenever possible, by another individual or other individuals than the scientist(s) or the technician(s) that performed the original analytical determination.

### §91.36 Appeal laboratory certificate.

(a) An appeal laboratory certificate shall be issued showing the results of such appealed analysis. This certificate shall supersede the laboratory certificate previously issued for the commodity product involved.

(b) Each appeal laboratory certificate shall clearly identify the number and date of the laboratory certificate which it supersedes. The superseded certificate shall become null and void upon the issuance of the appealed laboratory certificate and shall no longer represent the analytical results of the commodity product.

(c) The individual issuing an appeal laboratory certificate shall forward notice of such issuance to such persons as he or she considers necessary to prevent misuse of the superseded certificate if the original and all copies of such superseded certificate have not previously been delivered to the individual issuing the appeal certificate.

(d) The provisions in the regulations in this part concerning forms and certificates, issuance of certificates, and retention and disposition of certificates shall apply to appeal laboratory certificates, except that copies of such appeal certificates shall be furnished to all interested parties who received copies of the superseded certificate.

## 7 CFR Ch. I (1-1-03 Edition)

### Subpart I—Fees and Charges

#### §91.37 Standard hourly fee rate for laboratory testing, analysis, and other services.

(a) The standard hourly fee rate in this section for the individual laboratory analyses cover the costs of Science and Technology laboratory services, including issuance of certificates and personnel and overhead costs other than the commodity inspection fees referred to in 7 CFR §§52.42 through 52.46, 52.48 through 52.51, 55.510 through 55.530, 55.560 through 55.570, 58.38 through 58.43, 58.45 through 58.46, 70.71 through 70.72, and 70.75 through 70.78. The hourly fee rates in this part 91 apply to all processed commodity products, except flue-cured and burley tobacco, and exclude aflatoxin analyses, citrus juices and certain citrus products. The printed updated schedules of the laboratory testing fees for processed fruits and vegetables (7 CFR part 93), poultry and egg products (7 CFR part 94), and meat and meat products (7 CFR part 98) will be available for distribution by the individual Laboratory Directors of Science and Technology laboratories listed in §91.5. The updated schedules of the laboratory testing fees are also available for electronic access on the world wide web (www) site at: <http://ams.usda.gov/science>. The fees for chemical analysis of cottonseed associated with grading and novel variety seed certification under the Plant Variety Protection Act are specified in 7 CFR parts 96 and 97, respectively. Except as otherwise provided in this section, charges will be made for laboratory analysis at the standard hourly rate of \$45.00 for the time required to perform the service. A minimum charge of one-quarter hour at \$11.25 will be made for service pursuant to each request or certificate issued.

(b) When a laboratory test service is provided for AMS by a commercial or State government laboratory, the applicant will be assessed a fee which covers the costs to the Science and Technology program for the service provided.

**Agricultural Marketing Service, USDA**

**\$91.37**

(c) When Science and Technology staff provides applied and developmental research and training activities for microbiological, physical and chemical analyses on agricultural commodities the applicant will be charged a fee on a reimbursable cost basis.

**GENERAL SCHEDULES OF FEES FOR OFFICIAL LABORATORY TEST SERVICES PERFORMED AT THE AMS SCIENCE AND TECHNOLOGY LABORATORIES FOR PROCESSED COMMODITY PRODUCTS**

**TABLE 1—SINGLE TEST LABORATORY FEES FOR PROXIMATE ANALYSES**

Type of analysis	List fee
Ammonia, Ion Selective Electrode .....	\$101.25
Ash, Total .....	45.00
Chloride, Salt Titration (Dairy) .....	22.50
Fat, Acid Hydrolysis (Cheese) .....	45.00
Fat, Acid Hydrolysis (Mojonnier) .....	45.00
Fat (Dairy Products except Cheese) .....	22.50
Fat (Dry Basis) .....	67.50
Fat, Ether Extraction (Soxhlet) .....	45.00
Fat (Kohman Analysis) .....	45.00
Fat, Microwave—Solvent Extraction .....	45.00
Moisture, Distillation .....	45.00
Moisture, Oven .....	22.50
Moisture (Kohman Analysis) .....	11.25
Protein, Combustion .....	90.00
Protein, Kjeldahl .....	90.00
Salt, Back Titration .....	33.75
Salt, Potentiometric .....	22.50
Salt (Rapid) .....	33.75

**TABLE 2—SINGLE TEST LABORATORY FEES FOR LIPID RELATED ANALYSES**

Type of analysis	List fee
Acid Degree Value (Dairy) .....	\$45.00
Acidity, Titratable .....	22.50
Density (Specific Gravity) .....	11.25
Dispersibility (Instant Dry Whole Milk) .....	67.50
Dispersibility (Moates-Dabbah Method) .....	22.50
Fat Stability, <sup>1</sup> AOM .....	45.00
Fatty Acid Profile (AOAC—GC method) .....	180.00
Flash Point Test only .....	90.00
Free Fatty Acids .....	22.50
Meltability (Process Cheese) .....	22.50
Peanut Oil Analyses (Oil, Moisture, Free Fatty Acids, Ammonia, and Foreign Matter) .....	45.00
Any One of the Oilseed Oil Analyses .....	22.50
Peroxide Value .....	33.75
Smoke Point Test only .....	90.00
Smoke Point and Flash Point .....	157.50
Solids, Total (Oven Drying) .....	22.50
Soluble Solids, Refractometer .....	22.50

<sup>1</sup> Peroxide value analysis is required as a prerequisite to the fat stability test at the additional fee.

**TABLE 3—SINGLE TEST LABORATORY FEES FOR FOOD ADDITIVES (DIRECT AND INDIRECT)**

Type of analysis	List fee
Amitraz Residue, GLC .....	\$112.50

**TABLE 3—SINGLE TEST LABORATORY FEES FOR FOOD ADDITIVES (DIRECT AND INDIRECT)—Continued**

Type of analysis	List fee
Antibiotic, Qualitative (Dairy) .....	22.50
Antibiotic, Quantitative ·N .....	393.75
Ascorbates (Qualitative—Meats) .....	22.50
Ascorbic Acid, Titration .....	45.00
Ascorbic Acid, Spectrophotometric .....	45.00
Brix, Direct Percent Sucrose .....	22.50
Brix, Dilution .....	22.50
Butylated Hydroxyanisole (BHA) .....	67.50
Butylated Hydroxytoluene (BHT) .....	67.50
Caffeine, Micro Bailey-Andrew .....	67.50
Caffeine, Spectrophotometric .....	78.75
Citric Acid, GLC or HPLC .....	67.50
Chlorinated Hydrocarbons:	
Pesticides and Industrial Chemicals—	
Initial Screen .....	180.00
Second Column Confirmation of Analyte .....	45.00
Confirmation on Mass Spectrometer (Per Residue) .....	\$90.00
Dextrin (Qualitative) .....	22.50
Dextrin (Quantitative) .....	135.00
Filth, Heavy (Dairy) .....	112.50
Filth, Heavy (Eggs) .....	180.00
Filth, Light (Eggs) .....	112.50
Filth, Light & Heavy (Eggs Extraneous) .....	270.00
Fines .....	22.50
Flavor (Dairy) .....	11.25
Flavor (Products except Dairy) .....	33.75
Fumigants:	
Initial Screen—	
Dibromochloropropane (DBCP) .....	45.00
Ethylene Dibromide .....	45.00
Methyl Bromide .....	45.00
Confirmation on Mass Spectrometer—	
Each individual fumigant residue .....	\$90.00
Glucose (Qualitative) .....	33.75
Glucose (Quantitative) .....	78.75
Glycerol (Quantitative) .....	135.00
Gums .....	135.00
Heavy Metal Screen <sup>2</sup> .....	326.25
Mercury, Cold Vapor AA .....	135.00
Monosodium Dihydrogen Phosphate .....	180.00
Monosodium Glutamate .....	180.00
Niacin .....	90.00
Ochratoxin A .....	67.50
Odor .....	11.25
Organic Acids (in Eggs) .....	180.00
Oxygen .....	22.50
Palatability and Odor: Each Sample .....	22.50
Penicillin .....	67.50
Pyrethrin Residue (Dairy) .....	180.00
Scorched Particles .....	22.50
Sodium, Potentiometric .....	45.00
Sodium Benzoate, HPLC .....	67.50
Sodium Lauryl Sulfate (SLS) .....	360.00
Sodium Silicoaluminate (Zeolex) .....	90.00
Solubility Index .....	11.25
Starch, Direct Acid Hydrolysis .....	90.00
Starch (in Dry Milk) .....	22.50
Sugar, Polarimetric Methods .....	33.75
Sugar Profile, HPLC— <sup>3</sup>	
One type sugar from HPLC profile .....	135.00
Each additional type sugar .....	22.50
Sugars, Non-Reducing .....	135.00
Sulfur Dioxide, Direct Titration .....	45.00
Toluene, Residual .....	90.00
Vitamin A, Carr-Price (Dairy) .....	112.50
Vitamin A, HPLC .....	90.00
Vitamin B <sub>1</sub> (Thiamin) .....	90.00
Vitamin B <sub>2</sub> (Riboflavin) .....	90.00
Vitamin D, HPLC (Vitamins D <sub>2</sub> and D <sub>3</sub> ), Dairy .....	382.50

TABLE 3—SINGLE TEST LABORATORY FEES FOR FOOD ADDITIVES (DIRECT AND INDIRECT)—Continued

Type of analysis	List fee
Whey Protein Nitrogen .....	33.75
Whey Protein Nitrogen, Kjeldahl .....	112.50
Xanthidrol Test For Urea .....	67.50
This is an optional test to the extraneous materials isolation test.	

<sup>1</sup> Antibiotic testing includes tests for chlorotetracycline, oxy-tetracycline, and tetracycline.  
<sup>2</sup> Heavy metal screen includes tests for cadmium, lead, and mercury.  
<sup>3</sup> This profile includes the following components: Dextrose, Fructose, Lactose, Maltose and Sucrose.

TABLE 4—SINGLE TEST LABORATORY FEES FOR OTHER CHEMICAL AND PHYSICAL COMPONENT ANALYSES

Type of analysis	List fee
Cheese(Fines) .....	\$11.25
Color, Apparent-Visual .....	11.25
Complete Kohman Analysis (Dairy) .....	45.00
Hot Water Insolubles .....	\$67.50
Linolenic Acid .....	90.00
Net Weight (Per Can) .....	11.25
Non-Volatile Methylene Chloride Extract .....	112.50
Overrun for Whipped Topping .....	33.75
Particle Size (Ether Wash) .....	22.50
pH .....	11.25
pH—Quinhydrone (Cheese) .....	22.50
Potassium Iodide (Table Salt) .....	67.50
Protein Reducing Substances .....	45.00
Quinic Acid (Cranberry Juice) .....	78.75
Serum Drainage for Whipped Topping .....	22.50
Sieve or Particle Size .....	22.50
Rate of Wetting (Nondairy Creamer) .....	22.50
Reducing Sugars .....	90.00
Water Activity .....	22.50
Water Insoluble Inorganic Residues (WIIR) .....	90.00

TABLE 5—SINGLE TEST LABORATORY FEES FOR MICROBIOLOGICAL ANALYSES

Type of analysis	List fee
Aerobic (Standard) Plate Count .....	\$22.50
Anaerobic Bacterial Plate Count .....	33.75
<i>Bacillus cereus</i> .....	90.00
Bacterial Direct Microscopic Count .....	45.00
Coliform Plate Count (Dairy Products) .....	22.50
Coliform Plate Count, Violet Red Bile Agar (Presumptive Coliform Plate Count) .....	33.75
Coliforms, Most Probable Number (MPN) <sup>1</sup> :	
Step 1 .....	33.75
Step 2 .....	22.50
Direct Microscopic Clump Count—(Field Submitted Smears, Less Than or Equal To 75 Million Count) .....	11.25
Direct Microscopic Clump Count—(Field Submitted Smears, Greater Than 75 Million Count) .....	45.00
Direct Microscopic Clump Count—(Lab Prepared Smears) .....	45.00
<i>E. coli</i> , Presumptive MPN (Additional) <sup>2</sup> .....	\$45.00
<i>E. coli</i> (MUG) <sup>3</sup> .....	33.75
<i>Enterococci</i> Count .....	135.00
Howard Mold Count <sup>4</sup> .....	56.25
<i>Lactobacillus</i> Count <sup>5</sup> .....	56.25
Lactic Acid Tolerant Microbes .....	22.50

TABLE 5—SINGLE TEST LABORATORY FEES FOR MICROBIOLOGICAL ANALYSES—Continued

Type of analysis	List fee
<i>Listeria monocytogenes</i> Confirmation Analysis <sup>6</sup> :	
Step 1 .....	67.50
Step 2 .....	56.25
Step 3 (Confirmation) .....	112.50
Parasite Identification .....	180.00
Psychrotrophic Bacterial Plate Count .....	45.00
<i>Salmonella</i> (USDA Culture Method) <sup>7</sup> :	
Step 1 .....	78.75
Step 2 .....	33.75
Step 3 (Confirmation) .....	56.25
<i>Salmonella</i> Enumeration (Complete Test) .....	135.00
<i>Salmonella</i> (Rapid Methods) <sup>8</sup> :	
Step 1 .....	78.75
Step 2 .....	33.75
Step 3 (Confirmation) .....	56.25
<i>Salmonella typhi</i> (Meat Products) <sup>9</sup> .....	45.00
<i>Staphylococcus aureus</i> , Direct Plating .....	67.50
<i>Staphylococcus aureus</i> , MPN: With Coagulase Positive Confirmation .....	78.75
Thermoduric Bacterial Plate Count .....	33.75
Yeast and Mold Count .....	22.50
Yeast and Mold Differential Confirmation .....	22.50
Yeast and Mold Differential Plate Count .....	33.75
Yeast or Mold Confirmation .....	22.50

<sup>1</sup> Coliform MPN analysis may be in two steps as follows: Step 1—presumptive test through lauryl sulfate tryptose broth; Step 2—confirmatory test through brilliant green lactose bile broth.  
<sup>2</sup> Step 1 of the coliform MPN analysis is a prerequisite for the performance of the presumptive *E. coli* test. Prior enrichment in lauryl sulfate tryptose broth is required for optical recovery of *E. coli* from inoculated and incubated EC broth (*Escherichia coli* broth). The *E. coli* test is performed through growth on eosin methylene blue agar. The fee stated for *E. coli* analysis is a supplementary charge to step 1 of coliform test.  
<sup>3</sup> In the presence of the substrate 4-methylumbelliferone-β-D-glucuronide (MUG), the enzyme β-glucuronidase, which is found in the majority of *E. coli* strains, produces a fluorogenic end product which is visible under ultraviolet (UV) light.  
<sup>4</sup> Howard Mold Count involves counting mold filaments in commodity products.  
<sup>5</sup> Determination of bacterial plate count of different species of *Lactobacillus*.  
<sup>6</sup> *Listeria monocytogenes* test using the USDA method may be in three steps as follows: Step 1—isolation by University of Vermont modified (UVM) broth and Fraser's broth enrichments and selective plating with Modified Oxford (MOX) agar; Presumptive Step 2—typical colonies inoculated from Horse Blood into brain heart infusion (BHI) broth and check for characteristic motility; Confirmatory Step 3—culture from BHI broth with typical motility is inoculated into the seven biochemical medias, BHI agar for oxidase and catalase tests, Motility test medium, and Christie-Atkins-Munch-Peterson (CAMP) test.  
<sup>7</sup> *Listeria monocytogenes* test using the FDA method may be in three steps as follows: Step 1—isolation by trypticase soy broth with 0.6% yeast extract (TSB-YE) broth enrichment and selective plating with Modified McBrides agar and Lithium chloride Phenylethanol Moxalactam (LPM) agar; Presumptive Step 2—typical colonies inoculated to trypticase soy agar with yeast extract (TSA-YE) with sheep blood plates to check for hemolysis followed by inoculations to BHI broth and TSA-YE plates to check for characteristic motility, gram stain and catalase test; Confirmatory Step 3—culture from BHI broth with typical motility for wet mount is inoculated into the required 10 biochemical medias, Sulfide-Indole-Motility (SIM) medium, and the CAMP test. Serology is checked using growth from TSA-YE plates.  
Both methods for *Listeria* determination have the equivalent time needed for each step.  
<sup>8</sup> *Salmonella* test may be in three steps as follows: Step 1—growth through differential agars; Step 2—growth and testing through triple sugar iron and lysine iron agars; Step 3—confirmatory test through biochemicals, and polyvalent serological testing with Poly "O" and Poly "H" antisera. The serological typing of *Salmonella* is requested on occasion.

**Agricultural Marketing Service, USDA**

**§ 91.38**

<sup>8</sup> *Salmonella* test may be in three steps as follows: Step 1—growth in enrichment broths and ELISA test or DNA hybridization system assay; Step 2—growth and testing through triple sugar iron and lysine iron agars; Step 3—confirmatory test through biochemicals, and polyvalent serological testing with Poly "O" and Poly "H" antisera.

<sup>9</sup> *Salmonella typhi* determination in mechanically deboned meat.

**TABLE 6—LABORATORY FEES FOR AFLATOXIN ANALYSES**

Aflatoxin test by commodity	Single analysis	Pair analyses <sup>1</sup>
Peanut Butter (TLC—CB, HPLC, Affinity Column) .....	\$45.00	<sup>2</sup> NA
Corn (TLC—CB, HPLC, Affinity Column) .....	45.00	NA
Roasted Peanuts (TLC—BF) .....	45.00	NA
Brazil Nuts (TLC—BF) .....	90.00	NA
Pistachio Nuts (TLC—BF, HPLC) .....	90.00	NA
Shelled Peanuts (TLC, Affinity Column) .....	45.00	\$38.00
Shelled Peanuts (HPLC) .....	45.00	70.00
Tree Nuts (TLC) .....	45.00	NA
Oilseed Meals (TLC, HPLC, Affinity Column) .....	\$45.00	NA
Edible Seeds (TLC) .....	45.00	NA
Dried Fruit (TLC) .....	45.00	NA
Small Grains (TLC) .....	45.00	NA
In-Shell Peanuts Affinity Column (TLC) .....	45.00	38.00
In-Shell Peanuts (HPLC) .....	45.00	70.00
Silage; Other Grains (TLC) .....	45.00	NA
Submitted Samples (TLC, HPLC, Affinity Column) .....	45.00	NA
Aflatoxin (Dairy, Eggs) .....	157.50	NA

<sup>1</sup> Aflatoxin testing of raw peanuts under Peanut Marketing Agreement for subsamples 1—AB, 2—AB, 3—AB, and 1—CD for single or pair of analyses is \$19.00 or \$38.00, respectively using Thin-Layer Chromatography (TLC) and Best Foods (BF) extraction or immunoaffinity column assay with fluorometric quantitation. The BF method has been modified to incorporate a water slurry extraction procedure. The Contaminants Branch (CB) method is used on occasion as an alternative method for peanuts and peanut meal when doubt exists as to the effectiveness of the Best Foods method in extracting aflatoxin from the sample or when background interferences exist that might mask TLC quantitation of aflatoxin. The cost per single or pair of analyses using High Pressure Liquid Chromatography (HPLC) is \$35.00 and \$70.00, respectively. Other aflatoxin for fruits and vegetables are listed at Science and Technology's current hourly rate of \$45.00.

<sup>2</sup> NA denotes not applicable.

**TABLE 7—MISCELLANEOUS CHARGES SUPPLEMENTAL TO THE SCIENCE AND TECHNOLOGY'S LABORATORY ANALYSIS FEES**

Laboratory service description	List fee
Sample Grinding by Vertical Cutter Mixer (VCM) .....	\$22.50
Sample Grinding Canned Boned Poultry .....	\$11.25 per can.
Sample Grinding by Dickens Hammer Mill .....	\$11.25.
Sample Grinding (Meats, Meat Products, Meals, Ready-to-Eat):	
Per pouch or raw sample .....	\$11.25.
Per tray pack .....	\$22.50.
Composting Multiple Subsamples for an Individual Test Sample Unit per subsample .....	Varies—Preparation fee based on \$45.00 per hour.

**TABLE 8—ADDITIONAL CHARGES APPLICABLE TO THE SAMPLE RECEIPT AND ANALYSIS REPORT**

Service description	List charge
Courier Expense at Other AMS Laboratories: Mileage Charge Set at 32.5¢ Per Mile Round Trip from Laboratory to Delivery Site.	Varies (based on total mileage).
Facsimile Charge (Per Analysis Report) .....	\$3.20 minimum up to first 3 pages, then \$1.50 per page.
Additional Analysis Report or Extra Certificate (½ hour charge) .....	\$22.50 per report or certificate re-issued.

[65 FR 64311, Oct. 26, 2000]

**§ 91.38 Additional fees for appeal of analysis.**

(a) The appellant will be charged an additional fee at a rate of 1.5 times the standard rate stated in § 91.37 (a) if, as

a result of an authorized appeal analysis, it is determined that the original test results are correct. The appeal laboratory rate is \$67.50 per analysis hour.

(b) The appeal fee will be waived if the appeal laboratory test discloses

## §91.39

that an inadvertent error was made in the original analysis.

[65 FR 64314, Oct. 26, 2000]

### §91.39 Premium hourly fee rate for overtime and legal holiday service.

(a) Laboratory analyses initiated at the special request of the applicant to be rendered on Saturdays, Sundays, Federal holidays, and on an overtime basis will be charged at a rate of 1.5 times the standard rate stated in §91.37 (a). The premium laboratory rate for holiday and overtime service will be \$67.50 per analysis hour.

(b) Information on legal holidays or what constitutes overtime service at a particular S&T laboratory is available from the Laboratory Director or facility supervisor.

[65 FR 64314, Oct. 26, 2000]

### §91.40 Fees for courier service and facsimile of the analysis report.

(a) The Science and Technology laboratories have a courier charge per trip to retrieve the sample package. The courier service charge is determined from the established single standard mileage rate and from the total authorized distance based on the shortest round trip route from laboratory to sample retrieval site. Pursuant to the requirements of paragraph (a) (1) of §5704 of Title 5, United States Code (U.S.C.), the automobile reimbursement rate cannot exceed the single standard mileage rate established by the Internal Revenue Service (IRS).

(b) The faxing of laboratory analysis reports or certificates is an optional service for each S&T facility offered at a fee specified in table 8 in §91.37.

[65 FR 64314, Oct. 26, 2000]

### §91.41 Charges for demonstrations and courses of instruction.

Charges, not in excess of the cost thereof and as approved by the Deputy Administrator, may be made for demonstrations, samples, or courses of instruction when such are furnished upon request.

[58 FR 42415, Aug. 9, 1993, as amended at 65 FR 64314, Oct. 26, 2000]

## 7 CFR Ch. I (1-1-03 Edition)

### §91.42 Billing.

(a) Each billing cycle will end on the 25th of the month. The applicant will be billed by the National Finance Center using the Billings and Collections System (BLCO) on the 1st day, following the end of the billing cycle in which voluntary laboratory services and other services were rendered at a particular Science and Technology laboratory.

(b) The total charge shall normally be stated directly on the analysis report or on a standardized official certificate form for the laboratory analyses of a specific agricultural commodity and related commodity products.

(c) The actual bill for collection will be issued by the USDA, National Finance Center Billings and Collection Branch, (Mail: P.O. Box 60075), 13800 Old Gentilly Road, New Orleans, Louisiana 70160-0001.

[65 FR 64314, Oct. 26, 2000]

### §91.43 Payment of fees and charges.

(a) Fees and charges for services shall be paid by the applicant, by check or money order payable, to the "Agricultural Marketing Service, USDA" and sent to the office indicated on the bill.

(b) Fees and charges for services under a cooperative agreement with a State or other AMS programs or other governmental agency will be paid in accordance with the terms of the cooperative agreement.

(c) As necessary, the Deputy Administrator may require that fees shall be paid in advance of the performance of the requested service. Any fees paid in excess of the amount due shall be used to offset future billings, unless a request for a refund is made by applicant.

[58 FR 42415, Aug. 9, 1993, as amended at 65 FR 64315, Oct. 26, 2000]

### §91.44 Charges on overdue accounts and issuance of delinquency notices.

(a) Accounts are considered overdue if payment is late with the National Finance Center (NFC). The timeliness of a payment will be based on the postmark date of the payment or the date of receipt by the NFC if no postmark

## Agricultural Marketing Service, USDA

## § 92.2

date is present or legible. Bills are payable upon receipt and become delinquent 30 days from date of billing.

(b) Any amount due not paid by the due date will be increased by a late payment charge. The actual assessed rate applied to overdue accounts is set quarterly by the Department of the Treasury. This amount is one-twelfth of one year's late penalty interest rate computed at the prescribed rate.

(c) Overtime or holiday laboratory service will not be performed for any applicant with a notice of delinquency.

(d) Applicants with three notices of delinquency will be reviewed for possible termination of services. A deposit in advance sufficient to cover the fees and expenses for any subsequent service may be required of any person failing to pay in claim after issuance of such notice of delinquency.

(e) The Deputy Administrator of S&T program and personnel of the USDA, NFC Billings and Collections Branch (address as listed in §91.42) will take such actions as may be necessary to collect any delinquent amounts due for accounts in claim status.

[58 FR 42415, Aug. 9, 1993, as amended at 65 FR 64315, Oct. 26, 2000]

### § 91.45 Charges for laboratory services on a contract basis.

(a) Irrespective of hourly fee rates and charges prescribed in §91.37, or in other sections of this subchapter E, the Deputy Administrator may enter into contracts with applicants to perform continuous laboratory services or other types of laboratory services pursuant to the regulations in this part and other requirements, as prescribed by the Deputy Administrator in such contract. In addition, the charges for such laboratory services, provided in such contracts, shall be on such basis as will reimburse the Agricultural Marketing Service of the Department for the full cost of rendering such laboratory services, including an appropriate overhead charge to cover administrative overhead expenses as may be determined by the Administrator.

(b) Irrespective of hourly fee rates and charges prescribed in this subpart I, or in other parts of this subchapter E, the Deputy Administrator may enter into a written Memorandum of

Understanding (MOU) or agreement with any administrative agency or governing party for the performance of laboratory services pursuant to said agreement or order on a basis that will reimburse the Agricultural Marketing Service of the Department for the full cost of rendering such laboratory service, including an appropriate overhead administrative overhead charge.

(c) The conditions and terms for renewal of such Memorandum of Understanding or agreement shall be specified in the contract.

[65 FR 64315, Oct. 26, 2000]

## PART 92—TOBACCO

Sec.

92.1 General.

92.2 Definitions.

92.3 Location for laboratory testing and kind of services available.

92.4 Approved forms for reporting analytical results.

92.5 Analytical methods.

92.6 Cost for pesticide analysis set by cooperative agreement.

AUTHORITY: 7 U.S.C. 511m, 511r.

SOURCE: 58 FR 42424, Aug. 9, 1993, unless otherwise noted.

### § 92.1 General.

Analytical testing of imported flue-cured and burley tobacco is performed for maximum allowable pesticide residue levels. Domestic grown tobacco may also be analyzed for pesticide residues at the Science and Technology's Eastern Laboratory facility.

[58 FR 42424, Aug. 9, 1993, as amended at 61 FR 51350, Oct. 2, 1996, 61 FR 55840, Oct. 29, 1996; 65 FR 64315, Oct. 26, 2000]

### § 92.2 Definitions.

Words used in the regulations in this part in the singular form will import the plural, and vice versa, as the case may demand. As used throughout the regulations in this part, unless the context requires otherwise, the following terms will be construed to mean:

*Air-cured.* Tobacco cured under natural atmospheric conditions. Artificial heat is sometimes used to control excess humidity during the curing period to prevent house-burn, barn-burn and pole-burn in damp weather. Air-cured tobacco should not carry the odor of