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§ 75.28 When a request for an appeal inspection may be withdrawn

A request for an appeal inspection may be withdrawn by the applicant at any time before the appeal inspection is performed: *Provided*, that, the appellant shall pay any expenses incurred in connection with the appeal as provided in § 75.46.

§ 75.29 When an appeal may be refused.

A request for an appeal inspection may be refused if:

(a) The reasons for an appeal inspection are frivolous or not substantial;

(b) The quality or condition of the seed has been altered since the inspection covering the seed on which the appeal inspection is requested;

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

(d) The lot relative to which appeal inspection is requested cannot be positively identified by the inspection as the lot from which drawn samples were previously inspected in a lot inspection; or

(e) The application is not in compliance with the regulations; and

(f) Such applicant shall be notified promptly of the reason for such refusal.

§ 75.30 Who shall perform appeal inspection.

An appeal inspection shall be performed by an inspector (other than the one from whose inspection the appeal is requested) authorized for this purpose by the Director.

§ 75.31 Appeal inspection certificate.

After an appeal inspection has been completed, an appeal inspection certificate shall be issued showing the results of such appeal inspection; and such certificate shall supersede the inspection certificate previously issued for the seed involved. Each appeal inspection certificate shall clearly identify the number and date of the inspection certificate which it supersedes. The superseded certificate shall become null and void upon the issuance of the appeal inspection certificate and shall no longer represent the quality or condition of the seed described therein. The inspector issuing an appeal inspection certifi-

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cate shall forward notice of such issuance to such persons as considered necessary to prevent misuse of the superseded certificate if the original and all copies of such superseded certificate have not previously been delivered to the inspector issuing the appeal inspection certificate. The appeal inspection certificate shall be marked as to the existence of the outstanding certificate. The provisions in the regulations concerning forms of certificates and disposition of certificates shall apply to appeal inspection certificates, except that copies of such appeal inspection certificates shall be furnished to all interested parties who received copies of the superseded certificate.

LICENSING OF INSPECTORS

§ 75.32 Who may become licensed inspector.

Any person nominated by a cooperating State and who is found to have the necessary qualifications may be licensed by the Director as an inspector to perform such duties of inspection as specified by the Memorandum of Understanding. Such a license shall bear the signature of an authorized employee of the Department. A licensed inspector shall perform duties pursuant to the regulations in accordance with instructions issued or approved by the Director.

§ 75.33 Suspension or revocation of license of inspector.

Pending final action by the Administrator, the Director may suspend, whenever it is deemed that such action is necessary to assure that any service provided is performed properly, the license of any inspector, issued pursuant to the regulations by giving notice of such suspension to the respective licensee, accompanied by a statement of the reasons therefore. Within 7 days after receipt of notice and statement of reasons by a licensee, an appeal may be filed in writing with the Administrator supported by any argument or evidence as to why the license should not be suspended. After expiration of the 7-day period and consideration of such argument and evidence, the Administrator

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shall take such action as deemed appropriate with respect to a suspension or revocation.

§ 75.34 Surrender of license.

Upon termination of service as an inspector or suspension or revocation of such license, such licensee shall surrender the license immediately to the Federal Seed Laboratory.

SAMPLING PROVISIONS AND REQUIREMENTS

§ 75.35 Obtaining samples for lot inspections.

Samples of seed for lot inspections may be obtained by licensed inspectors or authorized employees of the Department.

§ 75.36 Representative sample.

No lot inspection sample shall be deemed representative of a lot of seed unless the sample (a) has been obtained by a licensed inspector or an authorized employee of the Department; (b) is of the size prescribed in the instructions; and (c) has been obtained, handled, and submitted in accordance with the Association of Official Seed Analysts (AOSA) or the International Seed Testing Association (ISTA) procedures.

§ 75.37 Submitted samples.

Submitted samples may be obtained by or for any interested person. (Instructions for sampling seed may be obtained upon request to the Director or the Federal Seed Laboratory.)

§ 75.38 Lot inspections.

Each lot inspection shall be made on the basis of a representative sample obtained from that lot of seed by a licensed inspector or an authorized employee of the Department. Each lot of seed which is offered for lot inspection shall be sealed at the time of sampling in accordance with methods and procedures of the Association of Official Seed Analysts (AOSA) or the International Seed Testing Association (ISTA).

§ 75.39 Use of file samples.

(a) File samples which are retained by inspection personnel in accordance with the regulations may be deemed

representative for appeal inspections: Provided, that (1) the samples have remained in the custody of the inspection personnel who certificated the inspection; and (2) the inspection personnel who performed the inspection and the inspection personnel who are to perform the appeal inspection determine that the sample was representative of the seed at the time of the inspection and that the quality or condition of the seed in the sample and in the lot has not changed since the time of the inspection.

(b) Upon request of the applicant, and if practicable, a new sample may be obtained and examined as a part of an appeal inspection.

§ 75.40 Protecting samples.

Inspection 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 collection until the inspection is completed and the file sample has been discarded.

FEES AND CHARGES

§ 75.41 General.

Fees and charges for inspection services performed by Federal employees shall cover the cost of performing the service. Fees shall be for actual time required to render the service, calculated to the nearest 15-minute period except that a minimum of 1 hour shall apply for testing and a 2-hour minimum shall apply for sampling and sealing. Fees and charges shall be at the rate of \$52.00 per hour. (Cost estimates may be obtained upon request to the Director or the Federal Seed Laboratory.)

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§ 75.42 Sampling and sealing.

(a) Fees for inspection services provided by licensed inspectors may be charged by States participating in the program at rates established by the individual States.