

## Agricultural Marketing Service, USDA

## § 75.43

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.)

[49 FR 18724, May 2, 1984, as amended at 56 FR 51320, Oct. 11, 1991; 58 FR 64101, Dec. 6, 1993; 60 FR 21035, May 1, 1995; 65 FR 15832, Mar. 24, 2000; 67 FR 11384, Mar. 14, 2002]

### § 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.

(b) When onsite inspection services are performed by Federal employees at the request of the applicant:

(1) Fees for onsite inspections for sampling and sealing shall include the time for actual sampling and sealing, standby at the service site, travel time and actual travel costs to and from the site, and a per diem charge if the employee performing the service is paid per diem in accordance with existing travel regulations as appear in Agricultural Travel Regulations, including the Federal Travel Regulations, DM 2300-1.

(2) Hourly rates shall begin when the inspector begins travel to the service site and end when the inspector arrives back at his official station or residence, computed to the nearest quarter hour, less meal time, if any.

(3) A 2-hour minimum shall be charged for each onsite inspection.

### § 75.43 Laboratory testing.

Fees for testing each sample shall include the time required for actual testing, preparation of test records, issuing

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the certificate, and filing of samples and documents, with:

(a) Charges billed at the hourly rate in increments of 15 minutes.

(b) A minimum fee of 1 hour per sample for testing shall be charged.

(c) The charge for a preliminary report issued prior to completion of testing shall be \$13.00 and billed in accordance with paragraph (a) of this section.

[49 FR 18724, May 2, 1984, as amended at 67 FR 11384, Mar. 14, 2002]

#### **§ 75.44 When application rejected or withdrawn.**

When an application for inspection is rejected in accordance with § 75.13 or withdrawn in accordance with § 75.14, the applicant will be required to pay applicable fees for the time used by an inspector and other expenses incurred in connection with such application prior to its rejection or withdrawal.

#### **§ 75.45 Charge for appeals.**

A charge of 1 hour shall be made for each appeal filed under § 75.26, and the fee for an appeal inspection shall equal the fee for the original inspection from which the appeal is taken, plus any charges for travel or other expenses incurred in performing the appeal: *Provided*, That when a material error in the certificate or sample from which the appeal is taken is found by the appeal inspector the charge and fee shall be waived.

#### **§ 75.46 When appeal refused or withdrawn.**

When an appeal is refused in accordance with § 75.29 or withdrawn in ac-

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cordance with § 75.28, the applicant will be required to pay for the time used by the appeal inspector and other expenses incurred in connection with such appeal prior to its denial, dismissal, or withdrawal.

#### **§ 75.47 For certificates.**

A charge of \$13.00 per certificate will be made for copies of certificates other than those required to be distributed in § 75.23 and for the issuance of a duplicate certificate in accordance with § 75.24 and an appeal certificate in § 75.31.

[49 FR 18724, May 2, 1984, as amended at 56 FR 51320, Oct. 11, 1991; 58 FR 64101, Dec. 6, 1993; 60 FR 21035, May 1, 1995; 65 FR 15832, Mar. 24, 2000; 67 FR 11384, Mar. 14, 2002]

#### **MISCELLANEOUS**

#### **§ 75.48 Identification number.**

The Director may require the use of official identification numbers in connection with seed certificated or sampled under the Act. When identification numbers are required, they shall be specified by the Director and shall be attached to, or stamped, printed, or stenciled on the lot of seed certificated or sampled in a manner specified by the Director.

#### **§ 75.49 OMB control numbers.**

The control number assigned to the information collection requirements by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980 is as follows: OMB Control No. 0581–0140.

[56 FR 51320, Oct. 11, 1991]