

§2.19

or of a case under the act, and the person to whom the notice was given, or any person who is a party to the case, has no right under paragraph (c) of this section to a part of the sample, such person or his attorney or agent may obtain a part of the sample upon request accompanied by a written waiver of right under such paragraph (c) from each person named on the label of the article and owner thereof, who has not exercised his right under such paragraph (c). The operation of this paragraph shall be subject to the exceptions, terms, and conditions prescribed in paragraph (c) of this section.

(e) The Food and Drug Administration is authorized to destroy:

(1) Any official sample when it determines that no analysis of such sample will be made;

(2) Any official sample or part thereof when it determines that no notice under section 305 of the act, and no case under the act, is or will be based on such sample;

(3) Any official sample or part thereof when the sample was the basis of a notice under section 305 of the act, and when, after opportunity for presentation of views following such notice, it determines that no other such notice, and no case under the act, is or will be based on such sample;

(4) Any official sample or part thereof when the sample was the basis of a case under the act which has gone to final judgment, and when it determines that no other such case is or will be based on such sample;

(5) Any official sample or part thereof if the article is perishable;

(6) Any official sample or part thereof when, after collection, such sample or part has become decomposed or otherwise unfit for analysis;

(7) That part of any official sample which is in excess of three times the quantity it estimates to be sufficient for analysis.

[42 FR 15559, Mar. 22, 1977, as amended at 63 FR 51299, Sept. 25, 1998]

§2.19 Methods of analysis.

Where the method of analysis is not prescribed in a regulation, it is the policy of the Food and Drug Administration in its enforcement programs to utilize the methods of analysis of the

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Association of Official Analytical Chemists (AOAC) as published in the latest edition (13th Ed., 1980) of their publication "Official Methods of Analysis of the Association of Official Analytical Chemists," and the supplements thereto ("Changes in Methods" as published in the March issues of the "Journal of the Association of Official Analytical Chemists"), which are incorporated by reference, when available and applicable. Copies are available from the Association of Official Analytical Chemists, 2200 Wilson Blvd., Suite 400, Arlington, VA 22201-3301, or available for inspection at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC. In the absence of an AOAC method, the Commissioner will furnish a copy of the particular method, or a reference to the published method, that the Food and Drug Administration will use in its enforcement program. Other methods may be used for quality control, specifications, contracts, surveys, and similar nonregulatory functions, but it is expected that they will be calibrated in terms of the method which the Food and Drug Administration uses in its enforcement program. Use of an AOAC method does not relieve the practitioner of the responsibility to demonstrate that he can perform the method properly through the use of positive and negative controls and recovery and reproducibility studies.

[42 FR 15559, Mar. 22, 1977, as amended at 47 FR 946, Jan. 8, 1982; 54 FR 9034, Mar. 3, 1989]

Subpart B—Human and Animal Foods

§2.25 Grain seed treated with poisonous substances; color identification to prevent adulteration of human and animal food.

(a) In recent years there has developed increasing use of poisonous treatments on seed for fungicidal and other purposes. Such treated seed, if consumed, presents a hazard to humans and livestock. It is not unusual for stocks of such treated food seeds to remain on hand after the planting season has passed. Despite the cautions required by the Federal Seed Act (53 Stat. 1275, as amended 72 Stat. 476, 7 U.S.C. 1551 *et seq.*) in the labeling of the