

**§ 37.13 Suspension or denial of program assessment; appeals and termination.**

(a) *Suspension or denial of assessment.* When a review of a certification program by auditors finds noncompliance with the regulations, including the requirements of ISO Guide 65, the Branch Chief may suspend or deny assessment until subsequent audits show the noncompliance has been corrected.

(b) *Appeals.* Appeals of adverse decisions by an auditor or the Branch Chief may be made in writing to the Livestock and Seed Program Deputy Administrator at Room 2092-South, 1400 Independence Avenue, SW., Washington, DC 20250-0249.

(c) *Termination.* If noncompliance with the regulations remains uncorrected beyond a reasonable amount of time, as determined by the Livestock and Seed Program Deputy Administrator, an application may be rejected or program assessment terminated.

(1) *Procedure.* Actions under this subparagraph concerning rejection of an application or termination of assessment shall be conducted in accordance with the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes set forth in §§ 1.130 through 1.151 of this title.

(2) [Reserved]

**§ 37.14 Fees and other charges.**

Fees and other charges equal as nearly as may be to the cost of the assessment services rendered under the regulations, including reassessments, shall be assessed and collected from applicants in accordance with the following provisions.

(a) *Fees for Service.* Except as otherwise provided in this section, fees-for-service shall be based on the time required to render the service provided calculated to the nearest 15-minute period, including auditor's travel, review and approval of quality manual, the conduct of the onsite audit, and time required to prepare reports and any other documents in connection with the performance of service. The base hourly rate for such service is \$42.20 per hour for 8 hours or less of work performed between the hours of 6 a.m. and 6 p.m., Monday through Friday, except

on legal holidays. The premium hourly rate for all applicants is \$47.80 per hour charged to users of the service for the hours worked in excess of 8 hours per day between the hours of 6 a.m. and 6 p.m.; for the hours worked between 6 p.m. and 6 a.m., Monday through Friday; and for any time worked on Saturday and Sunday, except on legal holidays. The holiday rate for all applicants is \$79.60 charged to users of the service for all hours worked on legal holidays.

(b) *Travel charges.* When service is requested at a place so distant from an auditor's headquarters, or place of prior assignment on circuitous routing, that a total of one-half hour or more is required for the auditor to travel to such place and back to the headquarters, or to the next place of assignment on a circuitous routing, the charge for such service shall include mileage charge administratively determined by the Department, and travel tolls, if applicable, or such travel prorated against all the applicants furnished the service involved on an equitable basis, or where the travel is made by public transportation (including hired vehicles), a fee equal to the actual cost thereof. However, the applicant will not be charged a new mileage rate without notification before the service is rendered.

(c) *Per diem charges.* When service is requested at a place away from the auditor's headquarters, the fee for such service shall include a per diem charge if the employee performing the service is paid per diem in accordance with existing travel regulations. Per diem charges to applicants will cover the same period of time for which the auditor receives per diem reimbursement. The per diem rate will be administratively determined by the Department. However, the applicant will not be charged a new per diem rate without notification before the service is rendered.

(d) *Other costs.* When costs, other than costs specified in paragraphs (a), (b), and (c) of this section are associated with providing the services, the applicant will be charged for these costs. The amount of the costs charged will be determined administratively by

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the Department. However, the applicant will not be charged for such cost without notification before the service is rendered of the charge for such item of expense.

### § 37.15 Payment of fees.

Fees and other charges for service shall be paid by the applicant to the Livestock and Seed Program, AMS, P.O. Box 96456, Room 2628-South, Washington, DC 20090-6456, with a check made payable to the Agricultural Marketing Service.

### § 37.16 OMB assigned numbers.

The information collection and recordkeeping requirements contained in this part have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act, 44 U.S.C. Chapter 35 and have been assigned OMB Control Number 0581-0183.

## PARTS 38–41 [RESERVED]

## PART 42—STANDARDS FOR CONDITION OF FOOD CONTAINERS

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AUTHORITY: Secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended (7 U.S.C. 1622, 1624).

### Subpart A—Definitions

#### § 42.101 Meaning of words.

Words used in this part in the singular form shall be considered to import the plural, or vice versa, as the case may demand.

[31 FR 4687, Mar. 19, 1966; 31 FR 4949, Mar. 25, 1966; Redesignated at 42 FR 32514, June 27, 1977 and at 46 FR 63203, Dec. 31, 1981]

#### § 42.102 Definitions, general.

For the purpose of this part, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

*Acceptable Quality Level (AQL)*. The maximum number of defects per hundred units (DHU) which is acceptable as a process average. Lots, or portions of production, having a quality level equal to a specified AQL will be accepted approximately 95 percent of the