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

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§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

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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]

Subpart J—Designation of Approved Symbols for Identification of Commodities Officially Tested By AMS

SOURCE: 68 FR 69946, Dec. 16, 2003, unless otherwise noted.

§91.100 Scope.

Two approved information symbols in the form of AMS shields are available to indicate official testing by an AMS laboratory. The two approved AMS shields with the words "USDA AMS TESTED" and "USDA LABORATORY TESTED FOR EXPORT" are added to the USDA symbol inventory to enhance the acceptance of AMS tested agricultural commodities on a national or international basis.

§91.101 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:

AMS. The abbreviation for the Agricultural Marketing Service (AMS) agency of the United States Department of Agriculture.

Export. To send or transport a product originally created or manufactured in the United States of America to another country in the course of trade.

Laboratory. An AMS Science and Technology (S&T) laboratory listed in §91.5 that performs the official analyses.