DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 90, 91, 92, 93, 94, and 98

[Docket Number [S&T–99–008]

RIN 0581–AB91

Changes in Fees for Science and Technology (S&T) Laboratory Service

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS) is increasing the standard hourly fee rate for each laboratory analysis from $36.26 to $45.00. The premium laboratory rate for appeals, holiday and overtime service will be increased from $54.39 to $67.50 per analysis hour. These 24.1 percent increases in hourly rates reflect the additional revenue S&T is required to collect in order to recover laboratory program expenses. AMS is also changing the fees for laboratory testing services which are offered for agricultural food commodities to reflect actual equipment and labor expenses for performing each test. These revised regulations include additional tests for commodity products for incorporation into existing schedules and set an updated hourly rate of $45.00 for unlisted tests. In addition, AMS is removing laboratory tests that have been found to be obsolete or duplicate tests performed by other Agricultural Marketing Service programs. The rule also contains name, position title, and address changes as a result of Agency restructuring efforts that lead to the formation of the AMS Science and Technology program.

EFFECTIVE DATE: October 27, 2000.

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SUPPLEMENTARY INFORMATION:

A. Executive Order 12866

This final rule has been determined to be not significant for the purposes of Executive Order 12866, and therefore, has not been reviewed by the Office of Management and Budget (OMB).

B. Civil Justice Reform

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule does not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to this rule or the application of its provisions.

C. Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

There are 811 current users of the Science and Technology's (S&T) laboratory testing services. Such users of services include food processors, handlers, growers, government agencies, and exporters. Many of these users are small entities under the criteria established by the Small Business Administration (13 CFR 121.601). Laboratory tests for commodities are provided to all businesses on a voluntary basis and user fees are set at an hourly rate. Any decision to discontinue the use of the laboratory services and obtain new contracts with other governmental agencies or private laboratories would not hinder the food processors or industry members from marketing their products. User fee costs to entities would be proportional to their use of testing services, so that costs are shared equitably by all users.

The last fee increases for the Laboratory Program testing services became effective on May 4, 1998 (63 FR 16370–16375). Since that time, there has been both a decline in revenue and an increase in costs. This reflects a shift in usage patterns on the part of applicants for testing services and change to government programs. For example, several federal commodity purchasing programs are now relying heavily on vendor certification rather than government laboratory testing, and a larger percentage of peanut aflatoxin analyses are performed by other, non-S&T laboratories. In addition, testing of tobacco samples is down; and poultry testing is decreasing due to changing importer country requirements. Also, some companies are doing their own company and in-house analyses rather than using government laboratory testing services. Further, there has been a noticeable decrease in requested dairy product testing with the scaling back of the dairy price support program.

In fiscal year 1999, there was an approximate 40 percent decrease in dairy product samples (39,559 total) from the 162 dairy manufacturers that the Science and Technology program services which accounted for an $807,299 decline in laboratory revenue for that year. Several streamlining actions to be completed in FY 2000 will result in cost savings. They include staff and space reductions or closing of laboratories. However, overall, costs are increasing despite these efforts. Employee salary and benefits, which account for approximately 68 percent of the FY 2000 operating budget, have increased 4.8 to 5.59 percent, depending on the locality, since January 2000.

Rents, utilities, communications, and other overhead costs increased 5.1 percent during FY 1999. These overhead costs are projected to increase by the same percentage for FY 2000.

In fiscal year 1999, the S&T Laboratory Program obligatory costs exceeded revenues by $1,423,869 with costs at $6,419,006 and revenue at $4,995,137. For fiscal year 2000 the S&T program expects to report a $1,562,534 deficit at the current fees because there are expected to be lower numbers of samples for analysis with all commodities at our laboratories. The S&T program projected costs and revenues for FY 2000 are $6,513,730 and $4,951,196 respectively without a fee increase.

The AMS estimates that this rule will yield $1,584,383 overall in additional laboratory testing program revenues during FY 2000. The laboratory hourly fee rate will increase by approximately 24.1 percent from $36.26, as last revised effective May 4, 1998 (63 FR 16370–16375). The new standard laboratory service fee rate will be $45.00 per hour. This fee will also apply to tests which are not listed in the fee schedules (Tables 1 through 8). The premium laboratory rate for appeals, holiday and overtime service will be $67.50 per analysis hour or one and one half times the fees listed in Tables 1 through 8. This represents a 24.1 percent increase. The fees in Tables 1 through 8 will also be amended. Most of these will increase.

Without an increase, anticipated revenue will not adequately cover increasing program costs. FY 2000 revenues for laboratory testing are expected to be $4,951,196 at the current hourly fee rates, obligatory costs are projected at $6,513,730, and trust fund balances would be $797,211, which is below the necessary reserve level ($2,552,243). With the fee increase, FY 2000 revenues are projected to be $5,017,147 with obligatory costs of $6,400,480 and trust balance at $874,667. Users of S&T testing services are under no obligation to use them. However, it is necessary for AMS to recover the cost of these services. The Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*)

provides for the collection of reimbursable fees from users of the program services to cover, as nearly as practicable, the costs of the services rendered. However, because our anticipated collections through this rule are less than originally projected, we will need to propose new schedules that will include certain test fee increases for fiscal year 2002.

Other miscellaneous and unsubstantial changes are made in this rule that will not adversely affect users of the program services. Related fee increases represent the minimal fee increases necessary to cover the costs of operating the services provided under the S&T program. Accordingly, the Admininistrator has determined that this rule will not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act

This rule does not contain any new information collection or record keeping requirements that are subject to the Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

E. Background and Analysis of Proposal

On August 9, 1993, AMS published a rule in the **Federal Register** (58 FR 42408–42448) to combine all AMS regulations concerning laboratory services. The goal was to consolidate and to transfer existing laboratory testing programs operating independently under the various commodity programs (Cotton, Poultry, Fruit and Vegetable, Tobacco, Dairy, and Livestock and Seed) to its Science and Technology (S&T) program, formerly the Science Division and the Science and Technology Division (S&TD).

All divisions in the Agricultural Marketing Service (AMS) were designated as programs by the Administrator on September 18, 1997. The prior rules included fees charged for testing and related services under the diversified S&T programs and set an hourly analytical testing rate. The current standard hourly rate of $36.26 and the premium hourly rate of $54.39 have been in effect since May 4, 1998.

The S&T laboratory testing programs are mainly voluntary, user fee services, conducted under the authority of the Agricultural Marketing Act of 1946, as amended. The Act authorizes the Secretary of Agriculture to provide Federal analytical testing services that facilitate marketing and allow products to obtain grade designations or meet marketing standards. In addition, the laboratory tests establish quality standards for agricultural commodities. The Act also requires that reasonable fees be collected from the users of the services to cover as nearly as possible the costs of maintaining the programs.

In addition to raising hourly fees, there is a need to amend all general schedules and listing of fees for official laboratory test services in tables 1 through 8 in part 91, subpart I due to rapid changes in analytical methodologies and customer service needs. Under the present Code of Federal Regulations (CFR) the fee schedules list 200 items of laboratory services in part 91. Many additions and deletions of laboratory tests have occurred since the last rule published on April 2, 1998 (63 FR 16370–16375).

A proposed rule was published in the **Federal Register** (65 FR 34302–34320) on May 26, 2000, providing for a twenty day comment period ending June 15, 2000. No comments were received. However, during the interim period to the publication of this final rule, S&T staff have taken the initiative to make some additional and necessary changes to enhance customer service needs and to better control rising laboratory service costs. On June 30, 2000, the S&T Midwestern Laboratory in Chicago, Illinois was permanently closed and the analytical testing services this laboratory offered was immediately transferred to other S&T laboratories, especially the Eastern laboratories in Gastonia, North Carolina. The S&T Eastern laboratories have a fully operational Laboratory Management System (LIMS) that will enhance the delivery of analytical test services to customers. The S&T laboratories in Gastonia are also strategically located in a centralized region of the United States of America to reduce sample delivery costs. In table 5 of the fee schedules new categories of microbiological testing were added to accommodate the occasions when the customer prepares on-site their own milk smears on glass slides and submits such field preparations to the laboratory for staining and direct microscopic clump counts. In table 3 of the fee schedules the current fee of $217.56 for GLC amitraz residue analysis was reduced to $112.50, rather than raised to $270.00, as stated in the proposed rule. The amitraz residue single test fee reduction corresponds to recent efficiencies performing this analysis in large sample batches.

The following tables 1 through 8 serve as reference aids and compare the current fees and charges with the new fees and charges for the laboratory testing of food and fiber products as found at 7 CFR 91.37:

TABLE 1.—AMENDED

Name of specific program and type of analysis	Current fee	Revised fee
Table 1.—Single Test Laboratory Fees for Proximate Analyses:		
Ammonia, Ion Selective Electrode	$81.59	$101.25
Ash, Total	36.26	45.00
Ash, Acid Insoluble	54.39	Removed
Chloride, Salt Titration (Dairy)	$18.13	$22.50
Fat, Acid Hyrolysis (Cheese)	36.26	45.00
Fat Acid Hydrolysis (Mojonnier)	36.26	45.00
Fat (Dairy Prod. Except Cheese)	18.13	22.50
Fat (Dry Basis)	None	67.50
Fat, Ether Extraction (Soxhlet)	36.26	45.00
Fat (Kohman)	None	45.00
Fat, Microwave-Solvent Extract	36.26	45.00
Fiber, Crude	72.52	Removed
Mousture, Distillation	36.26	45.00
Moisture, Oven	18.13	22.50
Moisture (Kohman)	None	11.25
Protein, Combustion	72.52	90.00
Protein, Kjeldahl	72.52	90.00
Salt, Back Titration	27.20	33.75

TABLE 1.—AMENDED—Continued

Name of specific program and type of analysis	Current fee	Revised fee
Salt, Potentiometric	$18.13	$22.50
Salt (Rapid)	None	33.75
Standard hourly rate	36.26	45.00
Premium hourly rate	54.39	67.50

TABLE 2.—AMENDED

Name of specific program and type of analysis	Current fee	Revised fee
Table 2—Single Test laboratory Fees for Lipid Related Analysis:		
Acid Degree Value (Dairy)	$36.26	$45.00
Acidity, Titratable	9.07	22.50
Carotene, Spectrophotometric	90.65	Removed
Catalase Test	18.13	Removed
Cholesterol	90.65	Removed
Color (Honey)	18.13	Removed
Color, NEPA (Eggs)	36.26	Removed
Consistency, Bostwick (Cooked)	18.13	Removed
Consistency, Bostwick (Uncooked)	18.13	Removed
Density (Specific Gravity)	9.07	11.25
Dispersibility (I Dry Whole Milk)	None	67.50
Dispersibility (Moates-Dabbah)	18.13	22.50
Fat Stability, AOM	36.26	45.00
Fatty Acid Profile, AOAC–GC	145.04	180.00
Flash Point Test only	72.52	90.00
Free Fatty Acids	18.13	22.50
Meltability (Process Cheese)	18.13	22.50
Peanut Oil Analyses (Oil, Moisture, Free Fatty Acid, Ammonia, and Foreign Matter)	None	45.00
Any 1 of the oilseed oil analyses	None	22.50
Peroxidase Test	18.13	Removed
Peroxide Value	27.20	33.75
Smoke Point Test only	72.52	90.00
Smoke Point and Flash Point	126.91	157.50
Solids, Total (Oven Drying)	18.13	22.50
Soluble Solids, Refractometer	18.13	22.50

TABLE 3.—AMENDED

Name of specific program and type of analysis	Current fee	Revised fee
Table 3—Single Test Laboratory Fees for Food Additive (Direct and Indirect):		
Aflatoxin, (Dairy, Eggs)	$126.91	Redistributed
Alar or Daminozide Residue	217.56	Removed
Amitraz Residue, GLC	217.56	$112.50
Alcohol (Qualitative)	72.52	Removed
Alkalinity of Ash	54.39	Removed
Antibiotic, Qualitative (Dairy)	18.13	22.50
Antibiotic Quantitative	389.86	393.75
Ascorbates (Qualitative—Meats)	18.13	22.50
Ascorbic Acid, Titration	36.26	45.00
Ascorbic Acid, Spectrophotometric	36.26	45.00
Benzene, Residual	72.52	Removed
Brix, Direct Percent Sucrose	18.13	22.50
Brix, Dilution	18.13	22.50
Butylated Hydroxyanisole (BHA)	54.39	67.50
Butylated Hydroxytoluene (BHT)	54.39	67.50
Caffeine, Micro Bailey-Andrew	54.39	67.50
Caffeine, Spectrophotometric	36.26	78.75
Calcium	54.49	Removed
Citric Acid, GLC or HPLC	54.39	67.50
Chlorinated Hydrocarbons:		
Pesticides and Industrial Chemicals—		
Initial Screen	145.04	180.00
Second Column Confirmation of Analyte	36.26	45.00
Confirmation on Mass Spectrometer	72.52	90.00
Dextrin (Qualitative)	18.13	22.50
Dextrin (Quantitative)	108.78	135.00
Filth, Heavy (Dairy)	90.65	112.50
Filth, Heavy (Eggs)	145.04	180.00
Filth, Light (Eggs)	90.65	112.50

TABLE 3.—AMENDED—Continued

Name of specific program and type of analysis	Current fee	Revised fee
Filth, Light & Heavy (Eggs)	$217.56	$270.00
Fines	None	22.50
Flavor (Dairy)	9.07	11.25
Flavor (Products except Dairy)	27.20	33.75
Fumigants:		
Initial Screen—		
Dibromochloropropane (DBCP)	36.26	45.00
Ethylene Dibromide	36.26	45.00
Methyl Bromide	36.26	45.00
Confirmation on Mass Spectrometer—		
Each individual fumigant residue	72.52	90.00
Glucose (Qualitative)	27.20	33.75
Glucose (Quantitative)	63.46	78.75
Glycerol (Quantitative)	108.78	135.00
Gums	108.78	135.00
Heavy Metal Screen	317.28	326.25
High Sucrose Content or Avasucrol (Holland Eggs)	145.04	Removed
Hydrogen Ion Activity, pH	18.13	Removed
Mercury, Cold Vapor AA	90.65	135.00
Metals (Other Than Heavy, Each Metal)	72.52	Removed
Monosodium Dihydrogen	145.04	180.00
Phosphate Monosodium Glutamate	145.04	180.00
Niacin	72.52	90.00
Nitrites (Qualitative)	18.13	Removed
Nitrites (Quantitative)	108.78	Removed
Ochratoxin A	None	67.50
Odor	9.07	11.25
Organic Acids (in Eggs)	None	180.00
Oxygen	18.13	22.50
Palatability and Odor:		
First Sample	27.20	22.50
Each Additional Sample	18.13	Removed
Penicillin	None	67.50
Phosphatase, Residual	36.26	Removed
Phosphorus	72.52	Removed
Propylene Glycol, Codistillation: (Qualitative)	72.52	Removed
Pyrethrin Residue (Dairy)	145.04	180.00
Scorched Particles	9.07	22.50
Sodium, Potentiometric	36.26	45.00
Sodium Benzoate, HPLC	54.39	67.50
Sodium Lauryl Sulfate (SLS)	290.08	Removed
Sodium Silicoaluminate (Zeolex)	72.52	90.00
Solubility Index	18.13	11.25
Starch (in Dry Milk)	None	22.50
Starch, Direct Acid Hydrolysis	108.78	90.00
Sugar, Polarimetric Methods	36.26	33.75
Sugar Profile, HPLC—		
One type sugar from profile	108.78	135.00
Each additional type sugar	18.13	22.50
Sugars, Non-Reducing	108.78	135.00
Sugars, Total as Invert	72.52	Removed
Sulfites (Qualitative)	27.20	Removed
Sulfur Dioxide, Direct Titration	36.26	45.00
Sulfur Dioxide, Monier-Williams	54.39	Removed
Toluene, Residual	72.52	90.00
Triethyl Citrate, GC (Quantitative)	36.27	Removed
Vitamin A, Carr-Price (Dairy)	45.33	112.50
Vitamin A, HPLC	90.65	90.00
Vitamin B_1 (Thiamin)	72.52	90.00
Vitamin B_2 (Riboflavin)	72.52	90.00
Vitamin D, HPLC (Vitamins D_2 & D_3/Dairy)	308.21	382.50
Whey Protein Nitrogen	27.20	33.75
Whey Protein Nitrogen, Kjeldahl	None	112.50
Xanthydrol Test for Urea	54.39	67.50
This is an optional test to the extraneous material isolation test.		

TABLE 4.—-AMENDED

Name of specific program and type of analysis	Current fee	Revised fee
Table 4—Single Test Laboratory Fees for Other Chemical and Physical Component Analyses:		
Available Carbon Dioxide (Baking Powders)	$145.04	Removed

TABLE 4.—-AMENDED—Continued

Name of specific program and type of analysis	Current fee	Revised fee
Capsaicin (Hot Sauce)	$72.52	Removed
Cheese (Fines)	None	$11.25
Color, Apparent-Visual	9.07	11.25
Complete Kohman Analysis-Dairy	36.26	45.00
Extractable Color in Spices	18.13	Removed
Grape Juice Absorbancy Ratio	18.13	Removed
Hot Water Insolubles	None	67.50
Hydroxymethylfurfural (Honey)	36.26	Removed
Jelly Strength (Bloom)	90.65	Removed
Linolenic Acid.	72.52	90.00
Methyl Anthranilate	36.26	Removed
Net Weight (Per Can)	9.07	11.25
Non-Volatile Methylene Chloride Extract	90.65	112.50
Overrun for Whipped Topping	27.20	33.75
Particle Size (Ether Wash)	18.13	22.50
pH	None	11.25
ph—Quinhydrone (Cheese)	18.13	22.50
Potassium Iodine (Table Salt)	54.39	67.50
Protein Reducing Substances	None	45.00
Quinic Acid (Cranberry Juice)	63.46	78.75
Serum Drainage for Whipped Topping	18.13	22.50
Sieve or Particle Size	18.13	22.50
Rate of Wetting (Nondairy Creamer)	18.13	22.50
Reducing Sugars	72.52	90.00
Water Activity	27.20	22.50
Water Insoluble Inorganic Residues (WIIR)	72.52	90.00
Yellow Onion Test	27.20	Removed

TABLE 5.—AMENDED

Name of specific program and type of analysis	Current fee	Revised fee
Table 5—Single Test Laboratory Fees for Microbiological Analyses:		
Aerobic (Standard) Plate Count	$18.13	$22.50
Anaerobic Bacterial Plate Count	27.20	33.75
Bacillus cereus	72.52	90.00
Bacterial Direct Microscopic Count	36.26	45.00
Campylobacter jejuni	145.04	Removed
Coliform Plate Count (Dairy Products)	18.13	22.50
Coliform Plate Count, Violet Red Bile Agar (Presumptive Coliform Plate Count)	27.20	33.75
Coliforms, Most Probable Number (MPN):		
Step 1	27.20	33.75
Step 2	27.20	22.50
Direct Microscopic Clump Count (Field Submitted Smears, Less Than or Equal To 75 Million Count)	None	11.25
Direct Microscopic Clump Count (Field Submitted Smears, Greater Than 75 Million Count)	None	45.00
Direct Microscopic Clump Count (Lab Prepared Smears)	None	45.00
E. coli, Presumptive MPN (Additional)	54.39	$45.00
E. coli (MUG)	None	33.75
Enterococci Count	108.78	135.00
Howard Mold Count	None	56.25
Lactobacillus Count	45.33	56.25
Lactic Acid Tolerant Microbes	None	22.50
Listeria monocytogenes Confirmation Analysis:		
Step 1	54.39	67.50
Step 2	54.39	56.25
Step 3 (Confirmation)	90.65	112.50
Parasite Identification	145.05	180.00
Psychrotrophic Bacterial Plate Count	27.20	45.00
Salmonella (USDA Culture Method):		
Step 1 (Dairy Products)	36.26	Removed
Step 1	54.39	78.75
Step 2	27.20	33.75
Step 3 (Confirmation)	54.39	56.25
Serological Typing (Optional)	90.65	Removed
Salmonella Enumeration (Complete Test)	108.78	135.00
Salmonella (Rapid Methods):		
Step 1	72.52	78.75
Step 2	27.20	33.75
Step 3 (Confirmation)	54.39	56.25
Salmonella typhi (Meat Products)	36.26	45.00
Staphylococcus aureus, Direct Plating	None	67.50

TABLE 5.—AMENDED—Continued

Name of specific program and type of analysis	Current fee	Revised fee
Staphylococcus aureus, MPN: With Coagulase Positive Confirmation	$63.46	$78.75
Thermoduric Bacterial Plate Count	27.20	33.75
Yeast and Mold Count	18.13	22.50
Yeast and Mold Differential Confirmation	None	22.50
Yeast and Mold Differential Plate Count	27.20	33.75
Yeast or Mold Confirmation	None	22.50

TABLE 6.—[AMENDED] LABORATORY FEES FOR AFLATOXIN ANALYSES

Aflatoxin test by commodity	Current fee per single analysis	Current fee per pair analyses	Revised fee per single analysis	Revised fee per pair analysis [1]
Peanut Butter (TLC–CB, HPLC, Affinity Column)	$36.26	NA	$45.00	[2] NA
Corn (TLC–CB, HPLC, Affinity Column)	36.26	NA	45.00	NA
Roasted Peanuts (TLC–BF)	36.26	NA	45.00	NA
Brazil Nuts (TLC–BF)	72.52	NA	90.00	NA
Pistachio Nuts (TLC–BF, HPLC)	72.52	NA	90.00	NA
Shelled Peanuts (TLC, Affinity Column)	17.00	$34.00	45.00	$38.00
Shelled Peanuts (HPLC)	31.00	62.00	45.00	70.00
Tree Nuts (TLC)	36.26	NA	45.00	NA
Oilseed Meals (TLC, HPLC, Affinity Column)	36.26	NA	45.00	NA
Edible Seeds (TLC)	36.26	NA	45.00	NA
Dried Fruit (TLC)	36.26	NA	45.00	NA
Small Grains (TLC)	36.26	NA	45.00	NA
In-Shell Peanuts (TLC, Affinity Column)	17.00	34.00	45.00	38.00
In-Shell Peanuts (HPLC)	None	None	45.00	70.00
Silage; Other Grains (TLC)	36.26	NA	45.00	NA
Submitted Samples (TLC, HPLC, Affinity Column)	36.26	NA	45.00	NA
Aflatoxin (Dairy, Eggs)	126.91	None	157.50	NA

[1] Aflatoxin testing of raw peanuts under Peanut Marketing Agreement for subsamples 1–AB, 2–AB, 3–AB, and 1–CD for single or pair of analyses is $19.00 or $38.00, respectively using Thin-Layer Chromatography (TLC) and Best Foods (BF) extraction or immunoaffinity column assay with fluorometric quantitation. The BF method has been modified to incorporate a water slurry extraction procedure. The Contaminants Branch (CB) method is used on occasion as an alternative method for peanuts and peanut meal when doubt exists as to the effectiveness of the Best Foods method in extracting aflatoxin from the sample or when background interferences exist that might mask TLC quantitation of aflatoxin. The cost per single or pair of analyses using High Pressure Liquid Chromatography (HPLC) is $35.00 and $70.00, respectively. Other aflatoxin analyses for fruits and vegetables are listed at Science and Technology's current hourly rate of $45.00.

[2] NA denotes not applicable.

TABLE 7.—MICELLANEOUS CHARGES SUPPLEMENTAL TO SCIENCE AND TECHNOLOGY'S LABORATORY TEST FEES

Laboratory service description	Current list fee	Revised list fee
Sample Grinding by Vertical Cutter Mixer (VCM)	$18.13	$22.50.
Sample Grinding Canned Boned Poultry	$36.26	$11.25 per can.
Sample Grinding by Dickens Hammer Mill	None	$11.25.
Sample Grinding (Meats, Meat Products, Meals, Ready-to-Eat):		
Per pouch or raw sample	$9.07	$11.25.
Per tray pack	$18.13	$22.50.
Compositing Multiple Subsamples for an Individual Test Sample—Unit per Subsample.	$9.07	Varies—Preparation fee based on $45.00 per hour.

TABLE 8.—ADDITIONAL CHARGES APPLICABLE TO SAMPLE RECEIPT AND ANALYSIS REPORT

Service description	Current list charge	Revised list charge
Established Courier Expense at Albany, Georgia S&T Laboratory	$2.15	Removed.
Courier Expense at Other AMS Laboratories: Mileage Charge Set at $0.325 Per Mile Round Trip from Laboratory to Delivery Site.	Varies	Varies (based on total mileage).
Facsimile Charge (Per Analysis Report)	$3.20 minimum up to first 3 pages, then $1.10 per page.	$3.20 minimum up to first 3 pages then $1.50 per page.
Additional Analysis Report or Extra Certificate (½ hour charge minimum)	$18.13 per report or certificate reissued.	$22.50 per report or certificate issued.

Currently, there are 200 tests or laboratory services in the current fee schedules in tables 1 through 8 of part 91 of the regulations. This rule removes 41 laboratory tests or services which have been found to be obsolete or which

duplicate tests performed by other Agricultural Marketing Service programs. The rule adds 29 new analytical tests that are frequently requested by many of Science and Technology's 811 customers. The customers for our laboratory services will benefit with the increased convenience of choosing newer and perhaps less costly analytical methods for determining a particular analyte in a commodity product. Once this rule becomes effective, there will be 188 laboratory test and service descriptions with scheduled fees in tables 1 through 8 of part 91 of the regulations. The majority of the fees have increased by 24.1 percent. However, 11 fees have increased by a greater percentage and 9 fees have been lowered. Although the fees set for the various tests are based on the hourly fee, it is necessary to consider other factors when setting fees for some of the tests. For example, the large increase in fees for four laboratory tests is due to the additional need to recover the large increase in costs for specialized chemicals or microbiological media and other materials for performing these tests. Therefore, the titratable acidity and the scorched particles analyses will increase from $9.07 to $22.50, and the Carr-Price vitamin A (Dairy) test will increase from $45.33 to $112.50. For the same reason, S&T is increasing the cost of performing step 1 for the *Salmonella* (USDA culture method) to $78.75 from $54.39 and the fee for performing the psychrotrophic bacterial plate count will change from $27.20 to $45.00.

The general 24.1 percent increase in user fees for laboratory services are intended to cover all of the costs associated with S&T Laboratory Program. In fee tables 1 through 8 in 7 CFR part 91, S&T is increasing the fees for the quantitative antibiotic, the heavy metal screen, the step 1 *Listeria monocytogenes* analysis, the step 3 or confirmation *Salmonella* analysis (both the USDA culture and rapid methods), and the step 1 *Salmonella* analysis (rapid method) by 1, 2.8, 3.4, 3.4 (both), and 8.6 percent respectively. In addition, certain laboratory fees are lowered by 17.3 percent. These are the palatability and odor test, the direct acid hydrolysis starch test, the water activity test, the step 2 MPN coliforms test, and the MPN presumptive E. coli test. S&T is also lowering the fees for the GLC amitraz residue analysis, the solubility index, the sugar polarimetric methods, and the HPLC vitamin A analysis by 48.3, 37.9, 6.9, and 0.7 percent respectively.

In its analysis of projected costs for fiscal years 1999 and 2000, AMS has identified increases in the costs of providing laboratory testing services despite declining revenues. In fiscal year 1999, the S&T Laboratory Program obligatory costs exceeded revenues by $1,423,869 with costs at $6,419,006 and revenue at $4,995,137. For FY 2000 the S&T program expects to report a $1,562,534 deficit at the current fees because there are expected to be lower numbers of samples for analysis with all commodities at our laboratories. The S&T program projected costs and revenues for FY 2000 are $6,513,730 and $4,951,196 respectively without a fee increase. The corresponding decrease in revenue with lower numbers of samples are attributable mainly to a shift in usage patterns on the part of applicants for testing services and change to government programs. For example, several federal commodity purchasing programs are now relying heavily on vendor certification rather than government laboratory testing; a larger percentage of peanut aflatoxin analyses are performed by Peanut Administrative (PAC) approved private laboratories; testing of tobacco samples is down; and poultry testing is decreasing due to changing importer country requirements. In addition, some companies are doing their own company analyses rather than using government laboratory testing services. Further, there has been a noticeable decrease in requested dairy product testing with the scaling back of the dairy price support program. Several streamlining actions to be completed in FY 2000 will result in cost savings. They include staff and space reductions or closing of laboratories. For example, S&T has voluntarily closed aflatoxin testing facilities at Dothan, Alabama and Ashburn, Georgia that are currently listed in 7 CFR part 91. The S&T Midwestern Laboratory in Chicago, Illinois was also closed and the unique analytical testing services this laboratory offered was immediately transferred to other S&T laboratories. This was a streamlining measure to reduce Federal facility maintenance costs and to restructure the S&T Laboratory Program to improve efficiency of operations and responsiveness of services. Overall, costs are increasing despite these efforts. Employee salary and benefits, which account for approximately 68 percent of FY 2000 operating budget, have increased 4.8 to 5.59 percent, depending on the locality, since January 2000. For FY 1999, these increases were 3.54 to 4.02 percent, depending on locality. Rents, utilities, communications, and other overhead costs increased 5.1 percent during FY 1999. These overhead costs are projected to increase by the same percentage for FY 2000.

The AMS estimates that this rule would yield $1,584,383 overall in additional laboratory testing program revenues during FY 2000. The laboratory hourly fee rate will increase by approximately 24.1 percent from $36.26, as last revised effective May 4, 1998 (63 FR 16370). The new standard laboratory service fee rate will be $45.00 per hour. This fee will also apply to tests which are not listed in the fee schedules (Tables 1 through 8). The premium laboratory rate for appeals, holiday and overtime service will be $67.50 per analysis hour or one and one half times the fees listed in Tables 1 through 8. This represents an approximate increase of 24.1 percent. The fees in Tables 1 through 8 will also be amended. Most of these will increase. Without an increase, anticipated revenue will not adequately cover increasing program costs. FY 2000 revenues for laboratory testing are expected to be $4,951,196 at the current hourly fee rates, obligatory costs are projected at $6,513,730, and trust fund balances would be $797,211, which is below the necessary reserve level ($2,552,243) called for by Agency policy and prudent financial management. With the fee increase, FY 2000 revenues are projected to be $5,017,147 with obligatory costs of $6,400,480 and trust balance at $874,667. Users of S&T testing services are under no obligation to use them. However, it is necessary for AMS to recover the cost of these services. The Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*) provides for the collection of reimbursable fees from users of the program services to cover, as nearly as practicable, the costs of the services rendered.

All divisions in the Agricultural Marketing Service (AMS) were designated as programs by the Administrator on September 18, 1997. Hence, this rule also has name, position title, address corrections, and other changes which are administrative in nature as a result of these Agency restructuring efforts. The term ''Science and Technology Division'' will be changed to ''Science and Technology.'' The term ''Director'' will be replaced by the term ''Deputy Administrator.'' Section 91.5 will list new addresses for the Science and Technology regional laboratories, headquarters offices, the Information Technology (IT) office, the Statistical Branch office, and the offices for residue programs. The name ''Residue Branch'' in section 91.5 will be more appropriately named ''Pesticide

Data Branch.'' In section 91.9, the Technical Service Branch Chief will replace the defunct Laboratory Operations Coordination Staff Chief position. In sections 91.23, 93.13, and 94.4, the analytical method references will have updated addresses. Section 91.37 will list a world wide web (www) site (*http://ams.usda.gov/science*) in which to obtain updated schedules of the laboratory testing fees. In section 91.37, a new fee ($11.25) in table 7 for sample grinding by Dickens hammer mill will be listed. In table 8 of section 91.37, a revised facsimile charge ($1.50) for an additional page will be listed. In section 91.40, the established courier expense at the S&T peanut aflatoxin laboratory in Albany, Georgia will be removed.

A 20-day comment period was included in the proposed rule. No comments were received. Hence, the proposed rule is adopted as a final rule with the changes discussed.

Pursuant to 5 U.S.C. 553 it is found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The current fee schedule does not adequately cover AMS' costs of services rendered under the S&T laboratory testing program; and (2) the increased fees are needed as soon as possible to offset the added costs to the program.

List of Subjects

7 CFR Part 90

Agricultural commodities, Laboratories, Reporting and record keeping requirements.

7 CFR Part 91

Administrative practice and procedure, Agricultural commodities, Laboratories, Reporting and record keeping requirements.

7 CFR Part 92

Agricultural commodities, Laboratories, Pesticides and pests, Tobacco.

7 CFR Part 93

Agricultural commodities, Citrus fruits, Fruit juices, Fruits, Laboratories, Nuts, Vegetables.

7 CFR Part 94

Agricultural commodities, Eggs, Laboratories, Poultry.

7 CFR Part 98

Agricultural commodities, Laboratories, Meat and meat products.

For the reasons stated in the preamble, the Agricultural Marketing Service will amend Title 7, chapter I, subchapter E, of the Code of Federal Regulations as follows:

PART 90—[AMENDED]

1. The authority citation part 90 continues to read as follows:

Authority: 7 U.S.C. 1622, 1624.

§ 90.1 [Amended]

2. In § 90.1, the words ''Science and Technology Division'' are revised to read ''Science and Technology'', the words ''Science and Technology Division's'' are revised to read ''Science and Technology's'', and the word ''S&TD'' is revised to read ''S&T'' everywhere they appear.

3. In § 90.2, the definitions of ''Director'', ''Division'', and ''Laboratories'' are removed and new definitions of ''Deputy Administrator'', ''Laboratories'', and ''Program'' are added in alphabetical order to read as follows:

§ 90.2 General terms defined.

* * * * *

Deputy Administrator. The Deputy Administrator of the Science and Technology program of the Agricultural Marketing Service agency, or any officer or employee of this agency to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act.

Laboratories. Science and Technology laboratories performing the official analyses described in this subchapter.

Program. The Science and Technology (S&T) program of the Agricultural Marketing Service (AMS) which performs official analytical testing services, issues licenses for cottonseed chemists, and conducts quality assurance reviews and grants accreditation or certification for commodity testing programs of laboratories.

* * * * *

§ 90.3 [Amended]

4. In § 90.3, the words ''Science and Technology Division'' are revised to read ''Science and Technology''.

§ 90.101 [Amended]

5. In § 90.101, the words ''Science and Technology Division'' are revised to read ''Science and Technology''.

§ 90.102 [Amended]

6. In § 90.102, the word ''Director'' is revised to read ''Deputy Administrator''.

PART 91—SERVICES AND GENERAL INFORMATION

7. The authority citation part 91 continues to read as follows:

Authority: 7 U.S.C. 1622, 1624.

§ 91.1 [Amended]

8. In § 91.1, the words ''Science and Technology Division'' are revised to read ''Science and Technology''.

9. In § 91.2, the definition for ''Applicant'' is revised and the definition for ''Agency'', is added to read as follows:

§ 91.2 Definitions.

* * * * *

Agency. The Agricultural Marketing Service agency of the United States Department of Agriculture.

* * * * *

Applicant. Any person or organization requesting services provided by the Science and Technology (S&T) programs.

* * * * *

§ 91.3 [Amended]

10. In § 91.3, the words ''Division Director'' are revised to read ''Deputy Administrator''.

11. Section 91.4 is revised to read as follows:

§ 91.4 Kinds of services.

(a) Analytical tests. Analytical laboratory testing services under the regulations in this subchapter consist of microbiological, chemical, and certain other analyses, requested by the applicant and performed on tobacco, seed, dairy, egg, fruit and vegetable, meat and poultry products, and related processed products. Analyses are performed to determine if products meet Federal specifications or specifications defined in purchase contracts and cooperative agreements. Laboratory analyses are also performed on egg products as part of the mandatory Egg Products Inspection Program under the management of USDA's Food Safety and Inspection Service (FSIS) as detailed in 9 CFR 590.580.

(b) Examination and licensure. The manager of the Science and Technology's Cottonseed Chemist Licensing Program administers examinations and licenses chemists to certify the official grade of cottonseed.

(c) Quality assurance reviews. The Science and Technology representative performs on-site laboratory quality assurance reviews (both required and voluntary) to ensure that appropriate technical methods, equipment maintenance, and quality control procedures are being observed.

(d) Consultation. Technical advice, statistical science consultation, and quality assurance program assistance are provided by the representatives for the

Science and Technology programs for domestic and foreign laboratories.

12. Section 91.5 is revised to read as follows:

§ 91.5 Where services are offered.

(a) Services are offered to applicants at the Science and Technology laboratories and facilities in the following list:

(1) *Science and Technology regional laboratories.* A variety of tests and laboratory analyses are available in two regional multi-disciplinary Science and Technology (S&T) laboratories, and are located as follows:

(i) USDA, AMS, S&T
Eastern Laboratory (Microbiology), 2311–B Aberdeen Boulevard, Gastonia, NC 28054–0614.

(ii) USDA, AMS, S&T
Eastern Laboratory (Chemistry), 645 Cox Road, Gastonia, NC 28054–0614.

(2) *Science and Technology (S&T) aflatoxin laboratories.* The specialty laboratories performing aflatoxin testing on peanuts, peanut products, dried fruits, grains, edible seeds, tree nuts, shelled corn products, oilseed products and other commodities are located as follows:

(i) USDA, AMS, S&T
1211 Schley Avenue, Albany, GA 31707.

(ii) USDA, AMS, S&T
c/o Golden Peanut Company, Mail: P.O. Box 279, 301 West Pearl Street, Aulander, NC 27805.

(iii) USDA, AMS, S&T
610 North Main Street, Blakely, GA 31723.

(iv) USDA, AMS, S&T
107 South Fourth Street, Madill, OK 73446.

(v) USDA, AMS, S&T
c/o Cargill Peanut Products, Mail: P.O. Box 272, 715 North Main Street, Dawson, GA 31742–0272.

(vi) USDA, AMS, S&T
Mail: P.O. Box 1130, 308 Culloden Street, Suffolk, VA 23434.

(3) *Citrus laboratory.* The Science and Technology's citrus laboratory specializes in testing citrus juices and other citrus products and is located as follows: USDA, AMS, S&T Eastern Laboratory (Citrus), 98 Third Street, S.W., Winter Haven, FL 33880.

(4) *Program laboratories.* Laboratory services are available in all areas covered by cooperative agreements providing for this laboratory work and entered on behalf of the Department with cooperating Federal or State laboratory agencies pursuant to authority contained in Act(s) of Congress. Also, services may be provided in other areas not covered by a cooperative agreement if the Administrator determines that it is possible to provide such laboratory services.

(5) *Other alternative laboratories.* Laboratory analyses may be conducted at alternative Science and Technology laboratories and can be reached from any commodity market in which a laboratory facility is located to the extent laboratory personnel are available.

(6) *The Plant Variety Protection (PVP) Office.* The PVP office and plant examination facility of the Science and Technology programs issues certificates of protection to developers of novel varieties of plants which reproduce sexually. The PVP office is located as follows: USDA, AMS, Science & Technology, Plant Variety Protection Office, National Agricultural Library Building, Room 500, 10301 Baltimore Boulevard, Beltsville, MD 20705–2351.

(7) *Science and Technology headquarters offices.* The examination, licensure, quality assurance reviews, laboratory accreditation/certification and consultation services are provided by headquarters staff located in Washington, DC. The main headquarters office is located as follow: USDA, AMS, Science and Technology, Office of the Deputy Administrator, Room 3507 South Agriculture Bldg., Mail Stop 0222, 1400 Independence Ave., S.W., Washington, DC 20250.

(8) *The Information Technology (IT) Office.* The IT office of the Science and Technology programs is headed by AMS's Chief Information Officer (CIO) and provides information technology services and management systems to the Agency and other agencies within the USDA. The main IT office is located as follow: USDA, AMS, Science and Technology, Office of the Chief Information Officer, 1752 South Agriculture Bldg., 1400 Independence Ave., SW., Washington, DC 20250.

(9) *Statistical Branch office.* The Statistical Branch office of Science and Technology (S&T) provides statistical services to the Agency and other agencies within the USDA. In addition, the Statistical Branch office devices sample plans and performs consulting services for research studies in joint efforts with or in a leading role with other program areas of AMS or of the USDA. The main Statistical Branch office is located as follow: USDA, AMS, S&T Statistical Branch, 0611 South Agriculture Bldg., 1400 Independence Ave., S.W., Washington, DC 20250.

(10) *Offices for Pesticide Residue Programs.* Services afforded by the Federal Pesticide Record Keeping Program for restricted-use pesticides by certified applicators and services afforded by the Pesticide Data Program (PDP) are provided by offices located as follows:

(i) USDA, AMS, Science and Technology
Pesticide Data Branch, 8700 Centreville Road, Suite 200, Manassas, VA 20110–8411

(ii) USDA, AMS, Science and Technology
Pesticide Records Branch, 8700 Centreville Road, Suite 202, Manassas, VA 20110–8411

(iii) USDA, AMS, Science and Technology
Office of Deputy Administrator, Room 3507 South Agriculture Bldg., 1400 Independence Ave., SW., Washington, DC 20250.

(b) The addresses of the various laboratories and offices appear in the pertinent parts of this subchapter. A prospective applicant may obtain a current listing of addresses and telephone numbers of Science and Technology laboratories, offices, and facilities by addressing an inquiry to the Administrative Officer, Science and Technology, Agricultural Marketing Service, United States Department of Agriculture (USDA), P.O. Box 96456, Room 0727 South Building, Mail Stop 0271, Washington, D.C. 20090–6456.

§ 91.6 [Amended]

13. In § 91.6 paragraph (a), the words ''Science and Technology Division'' are revised to read ''Science and Technology''.

14. Section 91.9 is revised to read as follows:

§ 91.9 How to make an application.

(a) *Voluntary.* An application for analysis and testing may be made by contacting the director or supervisor of the Science and Technology laboratory where the service is provided, or by contacting the Technical Services Branch Chief at Science and Technology Headquarters, Washington, DC. A list of the Science and Technology laboratories is included in § 91.5.

(b) *Mandatory.* In the case of mandatory analyses, such as those required to be performed on eggs and egg products, application for services may be submitted to the office or USDA agency which administers the program, or by contacting an inspector or grader who is involved with the program.

15. Section 91.23 is revised to read as follows:

§ 91.23 Analytical methods.

Most analyses are performed according to approved procedures

described in manuals of standardized methodology. These standard methods are the specific methods used. Alternatively, equivalent methods prescribed in cooperative agreements are used. The manuals of standard methods most often used by the Science and Technology laboratories are listed as follows:

(a) Approved Methods of the American Association of Cereal Chemists (AACC), American Association of Cereal Chemists/Eagan Press, 3340 Pilot Knob Road, St. Paul, Minnesota 55121–2097.

(b) ASTA's Analytical Methods Manual, American Spice Trade Association (ASTA), 560 Sylvan Avenue, P.O. Box 1267, Englewood Cliffs, New Jersey 07632.

(c) Compendium Methods for the Microbiological Examination of Foods, Carl Vanderzant and Don Splittstoesser (Editors), American Public Health Association, 1015 Fifteenth Street, NW., Washington, DC 20005.

(d) Edwards, P.R. and W.H. Ewing, Edwards and Ewing's Identification of Enterobacteriaceae, Elsevier Science, Inc., Regional Sales Office, 655 Avenue of the Americas, P.O. Box 945, New York, NY 10159–0945.

(e) FDA Bacteriological Analytical Manual (BAM), AOAC INTERNATIONAL, 481 North Frederick Avenue, Suite 500, Gaithersburg, MD 20877–2417.

(f) Manual of Analytical Methods for the Analysis of Pesticide Residues in Human and Environmental Samples, EPA 600/9–80–038, U.S. Environmental Protection Agency (EPA) Chemical Exposure Research Branch, EPA Office of Research and Development (ORD), 26 West Martin Luther King Drive, Cincinnati, Ohio 45268.

(g) Official Methods and Recommended Practices of the American Oil Chemists' Society (AOCS), American Oil Chemists' Society, P.O. Box 3489, 2211 West Bradley Avenue, Champaign, Illinois 61821–1827.

(h) Official Methods of Analysis of AOAC INTERNATIONAL, Volumes I & II, AOAC INTERNATIONAL, 481 North Frederick Avenue, Suite 500, Gaithersburg, MD 20877–2417.

(i) Standard Analytical Methods of the Member Companies of Corn Industries Research Foundation, Corn Refiners Association (CRA), 1701 Pennsylvania Avenue, NW., Washington, DC 20006.

(j) Standard Methods for the Examination of Dairy Products, American Public Health Association, 1015 Fifteenth Street, NW., Washington, DC 20005.

(k) Standard Methods for the Examination of Water and Wastewater, American Public Health Association (APHA), the American Water Works Association (AWWA) and the Water Pollution Control Federation, AWWA Bookstore, 6666 West Quincy Avenue, Denver, CO 80235.

(l) Test Methods for Evaluating Solid Waste Physical/Chemical Methods, Environmental Protection Agency, Office of Solid Waste, SW–846 Integrated Manual (available from National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161).

(m) U.S. Army Natick Research, Development and Engineering Center's Military Specifications, approved analytical test methods noted therein, Code NPP–9, Department of Defense Single Stock Point (DODSSP) for Military Specifications, Standards, Building 4/D, 700 Robbins Avenue, Philadelphia, PA 19111–5094.

(n) U.S. Food and Drug Administration, Pesticide Analytical Manuals (PAM), Volumes I and II, Food and Drug Administration, Center for Food Safety and Applied Nutrition (CFSAN), 200 C Street, SW., Washington, DC 20204 (available from National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161).

16. Section 91.24 is revised to read as follows:

§ 91.24 Reports of test results.

(a) Results of analyses are provided, in writing, by facsimile, by e-mail or other electronic means to the applicant.

(b) Applicants may call the appropriate Science and Technology laboratory for interim or final results prior to issuance of the formal report. The advance results may be telegraphed, e-mailed, telephoned, or sent by facsimile to the applicant. Any additional expense for advance information shall be borne by the requesting party.

(c) A letter report in lieu of an official certificate of analysis may be issued by a laboratory representative when such action appears to be more suitable than a certificate: *Provided,* that, issuance of such report is approved by the Deputy Administrator.

§ 91.25 [Amended]

17. In § 91.25, the words ''Division Director'' are revised to read ''Deputy Administrator''.

§ 91.26 [Amended]

18. In § 91.26, the words ''Division Director'' are revised to read ''Deputy Administrator'', and the word ''Division'' is revised to read ''Science and Technology program'' everywhere they appear.

§ 91.31 [Amended]

19. In § 91.31, the words ''Division Director'' are revised to read ''Deputy Administrator''.

20. Section 91.32 is revised to read as follows:

§ 91.32 Where to file for an appeal of a laboratory service and information required.

(a) Application for an appeal of a laboratory service may be filed with the supervisor in the office or the director of the laboratory facility that issued the certificate or laboratory report on which the appeal analysis covering the commodity product is requested.

(b) The application for an appeal of a laboratory service shall state the location of the lot of the commodity product and the reasons for the appeal; and date and serial number of the certificate covering the laboratory service of the commodity product on which the appeal is requested. In addition, such application shall be accompanied by the original and all available copies of the certificate or laboratory report.

(c) Application for an appeal of a laboratory service may be made orally (in person or by telephone), in writing, by e-mail, by facsimile, or by telegraph. If made orally, written confirmation shall be made promptly.

21. In part 91, subpart I §§ 91.37 through 91.40 are revised to read as follows:

§ 91.37 Standard hourly fee rate for laboratory testing, analysis, and other services.

(a) The standard hourly fee rate in this section for the individual laboratory analyses cover the costs of Science and Technology laboratory services, including issuance of certificates and personnel and overhead costs other than the commodity inspection fees referred to in 7 CFR §§ 52.42 through 52.46, 52.48 through 52.51, 55.510 through 55.530, 55.560 through 55.570, 58.38 through 58.43, 58.45 through 58.46, 70.71 through 70.72, and 70.75 through 70.78. The hourly fee rates in this part 91 apply to all processed commodity products, except flue-cured and burley tobacco, and exclude aflatoxin analyses, citrus juices and certain citrus products. The printed updated schedules of the laboratory testing fees for processed fruits and vegetables (7 CFR part 93),

poultry and egg products (7 CFR part 94), and meat and meat products (7 CFR part 98) will be available for distribution by the individual Laboratory Directors of Science and Technology laboratories listed in § 91.5. The updated schedules of the laboratory testing fees are also available for electronic access on the world wide web (www) site at: http://ams.usda.gov/science. The fees for chemical analysis of cottonseed associated with grading and novel variety seed certification under the Plant Variety Protection Act are specified in 7 CFR parts 96 and 97, respectively. Except as otherwise provided in this section, charges will be made for laboratory analysis at the standard hourly rate of $45.00 for the time required to perform the service. A minimum charge of one-quarter hour at $11.25 will be made for service pursuant to each request or certificate issued.

(b) When a laboratory test service is provided for AMS by a commercial or State government laboratory, the applicant will be assessed a fee which covers the costs to the Science and Technology program for the service provided.

(c) When Science and Technology staff provides applied and developmental research and training activities for microbiological, physical and chemical analyses on agricultural commodities the applicant will be charged a fee on a reimbursable cost basis.

General Schedules of Fees for Official Laboratory Test Services Performed at the AMS Science and Technology Laboratories for Processed Commodity Products

TABLE 1.—SINGLE TEST LABORATORY FEES FOR PROXIMATE ANALYSES

Type of analysis	List fee
Ammonia, Ion Selective Electrode	$101.25
Ash, Total	45.00
Chloride, Salt Titration (Dairy)	22.50
Fat, Acid Hydrolysis (Cheese)	45.00
Fat, Acid Hydrolysis (Mojonnier)	45.00
Fat (Dairy Products except Cheese)	22.50
Fat (Dry Basis)	67.50
Fat, Ether Extraction (Soxhlet)	45.00
Fat (Kohman Analysis)	45.00
Fat, Microwave—Solvent Extraction	45.00
Moisture, Distillation	45.00
Moisture, Oven	22.50
Moisture (Kohman Analysis)	11.25
Protein, Combustion	90.00
Protein, Kjeldahl	90.00
Salt, Back Titration	33.75
Salt, Potentiometric	22.50
Salt (Rapid)	33.75

TABLE 2.—SINGLE TEST LABORATORY FEES FOR LIPID RELATED ANALYSES

Type of analysis	List fee
Acid Degree Value (Dairy)	$45.00
Acidity, Titratable	22.50
Density (Specific Gravity)	11.25
Dispersibility (Instant Dry Whole Milk)	67.50
Dispersibility (Moates-Dabbah Method)	22.50
Fat Stability,[1] AOM	45.00
Fatty Acid Profile (AOAC–GC method)	180.00
Flash Point Test only	90.00
Free Fatty Acids	22.50
Meltability (Process Cheese)	22.50
Peanut Oil Analyses (Oil, Moisture, Free Fatty Acids, Ammonia, and Foreign Matter)	45.00
Any One of the Oilseed Oil Analyses	22.50
Peroxide Value	33.75
Smoke Point Test only	90.00
Smoke Point and Flash Point	157.50
Solids, Total (Oven Drying)	22.50
Soluble Solids, Refractometer	22.50

[1] Peroxide value analysis is required as a prerequisite to the fat stability test at the additional fee.

TABLE 3.—SINGLE TEST LABORATORY FEES FOR FOOD ADDITIVES (DIRECT AND INDIRECT)

Type of analysis	List fee
Amitraz Residue, GLC	$112.50
Antibiotic, Qualitative (Dairy)	22.50
Antibiotic, Quantitative [1]N	393.75
Ascorbates (Qualitative—Meats)	22.50
Ascorbic Acid, Titration	45.00
Ascorbic Acid, Spectrophotometric	45.00
Brix, Direct Percent Sucrose	22.50
Brix, Dilution	22.50
Butylated Hydroxyanisole (BHA)	67.50
Butylated Hydroxytoluene (BHT)	67.50
Caffeine, Micro Bailey-Andrew	67.50
Caffeine, Spectrophotometric	78.75
Citric Acid, GLC or HPLC	67.50
Chlorinated Hydrocarbons:	
Pesticides and Industrial Chemicals—	
Initial Screen	180.00
Second Column Confirmation of Analyte	45.00
Confirmation on Mass Spectrometer (Per Residue)	$90.00
Dextrin (Qualitative)	22.50
Dextrin (Quantitative)	135.00
Filth, Heavy (Dairy)	112.50
Filth, Heavy (Eggs)	180.00
Filth, Light (Eggs)	112.50
Filth, Light & Heavy (Eggs Extraneous)	270.00
Fines	22.50
Flavor (Dairy)	11.25
Flavor (Products except Dairy)	33.75
Fumigants:	
Initial Screen—	
Dibromochloropropane (DBCP)	45.00
Ethylene Dibromide	45.00
Methyl Bromide	45.00

TABLE 3.—SINGLE TEST LABORATORY FEES FOR FOOD ADDITIVES (DIRECT AND INDIRECT)—Continued

Type of analysis	List fee
Confirmation on Mass Spectrometer—	
Each individual fumigant residue	$90.00
Glucose (Qualitative)	33.75
Glucose (Quantitative)	78.75
Glycerol (Quantitative)	135.00
Gums	135.00
Heavy Metal Screen [2]	326.25
Mercury, Cold Vapor AA	135.00
Monosodium Dihydrogen Phosphate	180.00
Monosodium Glutamate	180.00
Niacin	90.00
Ochratoxin A	67.50
Odor	11.25
Organic Acids (in Eggs)	180.00
Oxygen	22.50
Palatability and Odor: Each Sample	22.50
Penicillin	67.50
Pyrethrin Residue (Dairy)	180.00
Scorched Particles	22.50
Sodium, Potentiometric	45.00
Sodium Benzoate, HPLC	67.50
Sodium Lauryl Sulfate (SLS)	360.00
Sodium Silicoaluminate (Zeolex)	90.00
Solubility Index	11.25
Starch, Direct Acid Hydrolysis	90.00
Starch (in Dry Milk)	22.50
Sugar, Polarimetric Methods	33.75
Sugar Profile, HPLC— [3]	
One type sugar from HPLC profile	135.00
Each additional type sugar	22.50
Sugars, Non-Reducing	135.00
Sulfur Dioxide, Direct Titration	45.00
Toluene, Residual	90.00
Vitamin A, Carr-Price (Dairy)	112.50
Vitamin A, HPLC	90.00
Vitamin B_1 (Thiamin)	90.00
Vitamin B_2 (Riboflavin)	90.00
Vitamin D, HPLC (Vitamins D_2 and D_3), Dairy	382.50
Whey Protein Nitrogen	33.75
Whey Protein Nitrogen, Kjeldahl	112.50
Xanthydrol Test For Urea	67.50
This is an optional test to the extraneous materials isolation test.	

[1] Antibiotic testing includes tests for chlorotetracycline, oxytetracycline, and tetracycline.

[2] Heavy metal screen includes tests for cadmium, lead, and mercury.

[3] This profile includes the following components: Dextrose, Fructose, Lactose, Maltose and Sucrose.

TABLE 4.—SINGLE TEST LABORATORY FEES FOR OTHER CHEMICAL AND PHYSICAL COMPONENT ANALYSES

Type of analysis	List fee
Cheese(Fines)	$11.25
Color, Apparent-Visual	11.25
Complete Kohman Analysis (Dairy)	45.00

TABLE 4.—SINGLE TEST LABORATORY FEES FOR OTHER CHEMICAL AND PHYSICAL COMPONENT ANALYSES—Continued

Type of analysis	List fee
Hot Water Insolubles	$67.50
Linolenic Acid	90.00
Net Weight (Per Can)	11.25
Non-Volatile Methylene Chloride Extract	112.50
Overrun for Whipped Topping	33.75
Particle Size (Ether Wash)	22.50
pH	11.25
pH—Quinhydrone (Cheese)	22.50
Potassium Iodide (Table Salt)	67.50
Protein Reducing Substances	45.00
Quinic Acid (Cranberry Juice)	78.75
Serum Drainage for Whipped Topping	22.50
Sieve or Particle Size	22.50
Rate of Wetting (Nondairy Creamer)	22.50
Reducing Sugars	90.00
Water Activity	22.50
Water Insoluble Inorganic Residues (WIIR)	90.00

TABLE 5.—SINGLE TEST LABORATORY FEES FOR MICROBIOLOGICAL ANALYSES

Type of analysis	List fee
Aerobic (Standard) Plate Count	$22.50
Anaerobic Bacterial Plate Count	33.75
Bacillus cereus	90.00
Bacterial Direct Microscopic Count	45.00
Coliform Plate Count (Dairy Products)	22.50
Coliform Plate Count, Violet Red Bile Agar (Presumptive Coliform Plate Count)	33.75
Coliforms, Most Probable Number (MPN) [1]:	
Step 1	33.75
Step 2	22.50
Direct Microscopic Clump Count—(Field Submitted Smears, Less Than or Equal To 75 Million Count)	11.25
Direct Microscopic Clump Count—(Field Submitted Smears, Greater Than 75 Million Count)	45.00
Direct Microscopic Clump Count—(Lab Prepared Smears)	45.00

TABLE 5.—SINGLE TEST LABORATORY FEES FOR MICROBIOLOGICAL ANALYSES—Continued

Type of analysis	List fee
E. coli, Presumptive MPN (Additional) [2]	$45.00
E. coli (MUG [3])	33.75
Enterococci Count	135.00
Howard Mold Count [4]	56.25
Lactobacillus Count [5]	56.25
Lactic Acid Tolerant Microbes	22.50
Listeria monocytogenes Confirmation Analysis [6]:	
Step 1	67.50
Step 2	56.25
Step 3 (Confirmation)	112.50
Parasite Identification	180.00
Psychrotrophic Bacterial Plate Count	45.00
Salmonella (USDA Culture Method) [7]:	
Step 1	78.75
Step 2	33.75
Step 3 (Confirmation)	56.25
Salmonella Enumeration (Complete Test)	135.00
Salmonella (Rapid Methods) [8]:	
Step 1	78.75
Step 2	33.75
Step 3 (Confirmation)	56.25
Salmonella typhi (Meat Products) [9]	45.00
Staphylococcus aureus, Direct Plating	67.50
Staphylococcus aureus, MPN: With Coagulase Positive Confirmation	78.75
Thermoduric Bacterial Plate Count	33.75
Yeast and Mold Count	22.50
Yeast and Mold Differential Confirmation	22.50
Yeast and Mold Differential Plate Count	33.75
Yeast or Mold Confirmation	22.50

[1] Coliform MPN analysis may be in two steps as follows: Step 1—presumptive test through lauryl sulfate tryptose broth; Step 2—confirmatory test through brilliant green lactose bile broth.

[2] Step 1 of the coliform MPN analysis is a prerequisite for the performance of the presumptive *E. coli* test. Prior enrichment in lauryl sulfate tryptose broth is required for optical recovery of *E.coli* from inoculated and incubated EC broth (*Escherichia coli* broth). The *E. coli* test is performed through growth on eosin methylene blue agar. The fee stated for *E. coli* analysis is a supplementary charge to step 1 of coliform test.

[3] In the presence of the substrate 4-methylumbelliferone-β-D-glucuronide (MUG), the enzyme β-glucuronidase, which is found in the majority of *E. coli* strains, produces a fluorogenic end product which is visible under ultraviolet (UV) light.

[4] Howard Mold Count involves counting mold filaments in commodity products.

[5] Determination of bacterial plate count of different species of *Lactobacillus.*

[6] *Listeria monocytogenes* test using the USDA method may be in three steps as follows: Step 1—isolation by University of Vermont modified (UVM) broth and Fraser's broth enrichments and selective plating with Modified Oxford (MOX) agar; Presumptive Step 2—typical colonies inoculated from Horse Blood into brain heart infusion (BHI) broth and check for characteristic motility; Confirmatory Step 3—culture from BHI broth with typical motility is inoculated into the seven biochemical medias, BHI agar for oxidase and catalase tests, Motility test medium, and Christie-Atkins-Munch-Peterson (CAMP) test.

Listeria monocytogenes test using the FDA method may be in three steps as follows: Step 1—isolation by trypticase soy broth with 0.6% yeast extract (TSB–YE) broth enrichment and selective plating with Modified McBrides agar and Lithium chloride Phenylethanol Moxalactam (LPM) agar; Presumptive Step 2—typical colonies inoculated to trypticase soy agar with yeast extract (TSA–YE) with sheep blood plates to check for hemolysis followed by inoculations to BHI broth and TSA–YE plates to check for characteristic motility, gram stain and catalase test; Confirmatory Step 3—culture from BHI broth with typical motility for wet mount is inoculated into the required 10 biochemical medias, Sulfide-Indole-Motility (SIM) medium, and the CAMP test. Serology is checked using growth from TSA–YE plates.

Both methods for *Listeria* determination have the equivalent time needed for each step.

[7] *Salmonella* test may be in three steps as follows: Step 1— growth through differential agars; Step 2—growth and testing through triple sugar iron and lysine iron agars; Step 3—confirmatory test through biochemicals, and polyvalent serological testing with Poly ''O'' and Poly ''H'' antiserums. The serological typing of *Salmonella* is requested on occasion.

[8] *Salmonella* test may be in three steps as follows: Step 1—growth in enrichment broths and ELISA test or DNA hybridization system assay; Step 2—growth and testing through triple sugar iron and lysine iron agars; Step 3—confirmatory test through biochemicals, and polyvalent serological testing with Poly ''O'' and Poly ''H'' antiserums.

[9] *Salmonella typhi* determination in mechanically deboned meat.

TABLE 6.—LABORATORY FEES FOR AFLATOXIN ANALYSES

Aflatoxin test by commodity	Single analysis	Pair analyses [1]
Peanut Butter (TLC–CB, HPLC, Affinity Column)	$45.00	[2] NA
Corn (TLC–CB, HPLC, Affinity Column)	45.00	NA
Roasted Peanuts (TLC–BF)	45.00	NA
Brazil Nuts (TLC–BF)	90.00	NA
Pistachio Nuts (TLC–BF, HPLC)	90.00	NA
Shelled Peanuts (TLC, Affinity Column)	45.00	$38.00
Shelled Peanuts (HPLC)	45.00	70.00
Tree Nuts (TLC)	45.00	NA

TABLE 6.—LABORATORY FEES FOR AFLATOXIN ANALYSES—Continued

Aflatoxin test by commodity	Single analysis	Pair analyses [1]
Oilseed Meals (TLC, HPLC, Affinity Column)	$45.00	NA
Edible Seeds (TLC)	45.00	NA
Dried Fruit (TLC)	45.00	NA
Small Grains (TLC)	45.00	NA
In-Shell Peanuts Affinity Column (TLC)	45.00	38.00
In-Shell Peanuts (HPLC)	45.00	70.00
Silage; Other Grains (TLC)	45.00	NA
Submitted Samples (TLC, HPLC, Affinity Column)	45.00	NA
Aflatoxin (Dairy, Eggs)	157.50	NA

[1] Aflatoxin testing of raw peanuts under Peanut Marketing Agreement for subsamples 1–AB, 2–AB, 3–AB, and 1–CD for single or pair of analyses is $19.00 or $38.00, respectively using Thin-Layer Chromatography (TLC) and Best Foods (BF) extraction or immunoaffinity column assay with fluorometric quantitation. The BF method has been modified to incorporate a water slurry extraction procedure. The Contaminants Branch (CB) method is used on occasion as an alternative method for peanuts and peanut meal when doubt exists as to the effectiveness of the Best Foods method in extracting aflatoxin from the sample or when background interferences exist that might mask TLC quantitation of aflatoxin. The cost per single or pair of analyses using High Pressure Liquid Chromatography (HPLC) is $35.00 and $70.00, respectively. Other aflatoxin for fruits and vegetables are listed at Science and Technology's current hourly rate of $45.00.

[2] NA denotes not applicable.

TABLE 7.—MISCELLANEOUS CHARGES SUPPLEMENTAL TO THE SCIENCE AND TECHNOLOGY'S LABORATORY ANALYSIS FEES

Laboratory service description	List fee
Sample Grinding by Vertical Cutter Mixer (VCM)	$22.50
Sample Grinding Canned Boned Poultry	$11.25 per can.
Sample Grinding by Dickens Hammer Mill	$11.25.
Sample Grinding (Meats, Meat Products, Meals, Ready-to-Eat):	
Per pouch or raw sample	$11.25.
Per tray pack	$22.50.
Composting Multiple Subsamples for an Individual Test Sample Unit per subsample	Varies—Preparation fee based on $45.00 per hour.

TABLE 8.—ADDITIONAL CHARGES APPLICABLE TO THE SAMPLE RECEIPT AND ANALYSIS REPORT

Service description	List charge
Courier Expense at Other AMS Laboratories: Mileage Charge Set at 32.5¢ Per Mile Round Trip from Laboratory to Delivery Site.	Varies (based on total mileage).
Facsimile Charge (Per Analysis Report)	$3.20 minimum up to first 3 pages, then $1.50 per page.
Additional Analysis Report or Extra Certificate (½ hour charge)	$22.50 per report or certificate reissued.

§ 91.38 Additional fees for appeal of analysis.

(a) The appellant will be charged an additional fee at a rate of 1.5 times the standard rate stated in § 91.37 (a) if, as a result of an authorized appeal analysis, it is determined that the original test results are correct. The appeal laboratory rate is $67.50 per analysis hour.

(b) The appeal fee will be waived if the appeal laboratory test discloses that an inadvertent error was made in the original analysis.

§ 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.

§ 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.

§ 91.41 [Amended]

22. In § 91.41, the words '' Division Director'' are revised to read ''Deputy Administrator''.

23. Section 91.42 is revised to read as follows:

§ 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.

24. In § 91.43, paragraphs (b) and (c) are revised to read as follows:

§ 91.43 Payment of fees and charges.

* * * * *

(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.

25. In § 91.44, paragraph (e) is revised to read as follows:

§ 91.44 Charges on overdue accounts and issuance of delinquency notices.

* * * * *

(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.

26. Section 91.45 is revised to read as follows:

§ 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.

PART 92—[AMENDED]

1. The authority citation part 92 continues to read as follows:

Authority: 7 U.S.C. 511m and 7 U.S.C. 511r.

§ 92.1 [Amended]

2. In § 92.1, the words ''Science and Technology Division's'' are revised to read ''Science and Technology's''.

§ 92.2 [Amended]

3. Section 92.2 is amended as follows:

a. Remove the definition of ''Certificate of Analysis (Form CSSD–3)''.

b. Revise the definitions for ''2,4-D'', ''DDE'', ''Dicamba'', ''HCB'', ''Maximum pesticide residue level'', ''Pesticide certification'', ''Pesticide test sample'','' Sample Identification Form (Form TB–89)'', ''2,4,5-T'', ''TDE'', and ''Tobacco''.

c. Add two new definitions ''AMS'' and ''Certificate of Analysis (Form TB–92)'' in alphabetical order to read as follows:

§ 92.2 Definitions.

* * * * *

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

Certificate of Analysis (Form TB–92). A legal document on which the confirmed test results for official samples will be testified to be correct by a Science and Technology chemist in charge of testing.

2,4-D. The common abbreviation for the acid herbicide 2,4-Dichlorophenoxyacetic acid.

DDE. The common abbreviation for the chlorinated pesticide Dichlorodiphenyldichloroethylene. Degradation product of DDT by loss of one molecule of hydrochloric acid or referred to as a dehydrohalogenation process.

DDT. The common abbreviation for Dichloro diphenyl trichloroethane or the common name for the chlorinated insecticide or contact poison 1,1-Bis(p-chlorophenyl)-2,2,2-trichloroethane.

Dicamba. The common name for the acid herbicide 2-Methoxy-3,6-dichlorobenzoic acid.

HCB. The common abbreviation for the organochlorine pesticide Hexachlorobenzene.

Maximum pesticide residue level. The maximum concentration of residue allowable for a specific pesticide or combination of pesticides, as set forth in 7 CFR 29.427 by the AMS Deputy Administrator of the Tobacco Programs.

Pesticide certification. A document issued by the Tobacco Programs in a form approved by its AMS Deputy Administrator, containing a certification by the importer that flue-cured and burley tobacco offered for importation does not exceed the maximum allowable residue levels of any pesticide that has been canceled, suspended, revoked, or otherwise prohibited under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

Pesticide test sample. An official sample or samples, collected from a lot of tobacco by the AMS Tobacco Programs inspector for analysis by a certified chemist to ascertain the residue levels of pesticides that have been canceled, suspended, revoked, or otherwise prohibited under the FIFRA.

Sample Identification Form (Form TB–89). A document titled ''Imported Tobacco Pesticide Residue Analysis'' that is approved by the AMS Deputy Administrator of the Tobacco Programs that identifies and accompanies the sample to the testing facility.

2,4,5-T. The common abbreviation for the acid herbicide 2,4,5-Trichlorophenoxyacetic acid.

TDE. DDD or the common abbreviation for the chlorinated insecticide 1,1-Dichloro-2,2-bis(p-chlorophenyl)ethane (CAS number 72–54–8).

Tobacco. Tobacco as it appears between the time it is cured and stripped from the stalk, or primed and cured, in whole leaf or strip form, and the time it enters into the different manufacturing processes. Conditioning, sweating, stemming, and threshing are not regarded as manufacturing processes. Tobacco, as used in this part, does not include manufactured or semi-manufactured products, stems, cuttings, clippings, trimmings, siftings, or dust.

4. Section 92.3 is revised to read as follows:

§ 92.3 Location for laboratory testing and kind of services available.

(a) The analytical testing of imported Type 92 flue-cured tobacco samples and

imported Type 93 burley tobacco samples for maximum pesticide residue level determinations is performed at the AMS Science and Technology's Eastern Laboratory, and is located at: USDA, AMS, Science and Technology, Eastern Laboratory (Chemistry), 645 Cox Road, Gastonia, NC 28054–0614.

(b) Domestic-grown tobacco and tobacco products may be analyzed for acid herbicides, chlorinated hydrocarbons, fumigants, and organophosphates at the Science and Technology facility in this section.

(c) The Science and Technology facility performs for the AMS Tobacco Programs the quantitative and confirmatory chemical residue analyses on pesticide test samples of imported tobacco for the following specific pesticides:

(1) Organochlorine pesticides such as Dichloro-diphenyldichloroethylene (DDE), Dichloro Diphenyl Trichloroethane (DDT), 1,1-Dichloro-2,2-bis(p-chlorophenyl)ethane (TDE), Toxaphene, Endrin, Aldrin, Dieldrin, Heptachlor, Methoxychlor, Chlordane, Heptachlor Epoxide, Hexachlorobenzene (HCB), Cypermethrin, and Permethrin. (2) Organophosphorus pesticides such as Formothion. (3) Fumigants such as Ethylene Dibromide (EDB) and Dibromochloropropane (DBCP). (4) Acid herbicides such as 2,4-D, 2,4,5-T, and Dicamba.

5. In § 92.4, paragraph (b) is revised to read as follows:

§ 92.4 Approved forms for reporting analytical results.

* * * * *

(b) Test results of the pesticide analyses for tobacco shall be recorded on ''Certificate of Analysis For Official Samples'', Form TB–92, and shall be expressed as parts by weight of the residue per one million parts by weight of the tobacco sample (parts per million or ppm), which concentration is representative for each particular pesticide residue found in the lot of tobacco. Form TB–92 is attached to Form TB–89 that is returned to the AMS Tobacco Programs. The analytical data on Form TB–92 substantiates the information placed on Form TB–89.

6. Section 92.5 is revised to read as follows:

§ 92.5 Analytical methods.

Every chemist certified to analyze tobacco samples for pesticide residue contamination shall follow precisely the USDA developed analytical test methods and all successive official method updates, as approved by the AMS Deputy Administrator, Science and Technology. Many of the official analyses for tobacco are found in the following manuals:

(a) Manual of Analytical Methods for the Analysis of Pesticide Residues in Human and Environmental Samples, EPA 600/9–80–038, U.S. Environmental Protection Agency (EPA) Chemical Exposure Research Branch, EPA Office of Research and Development (ORD), 26 West Martin Luther King Drive, Cincinnati, Ohio 45268.

(b) Official Methods of Analysis of AOAC INTERNATIONAL, Volumes I & II, AOAC INTERNATIONAL, 481 North Frederick Avenue, Suite 500, Gaithersburg, MD 20877–2417.

(c) U.S. Food and Drug Administration, Pesticide Analytical Manuals (PAM), Volumes I and II, Food and Drug Administration, Center for Food Safety and Applied Nutrition (CFSAN), 200 C Street, SW, Washington, DC 20204 (available from National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161).

7. Section 92.6 is revised to read as follows:

§ 92.6 Cost for pesticide analysis set by cooperative agreement.

The fee for the pesticide analysis of tobacco is set by the AMS Tobacco Programs, in conjunction with the AMS Science and Technology program, and appears at 7 CFR 29.500 as part of Tobacco Programs' fees for sampling and certification of imported flue-cured and burley tobacco. A Memorandum of Understanding (MOU) exists between the Tobacco Programs and the Science and Technology (S&T) for the testing of imported tobacco samples for pesticide residue contamination, and the corresponding agreement on the cost of analyses is specified in the MOU.

PART 93—[AMENDED]

1. The authority citation part 93 continues to read as follows:

Authority: 7 U.S.C. 1622, 1624.

§ 93.2 [Amended]

2. In § 93.2, the definitions for ''Brix or degrees Brix'', ''Brix value'' and ''Recoverable oil'' are revised to read as follows:

§ 93.2 Definitions.

* * * * *

Brix or degrees Brix. The percent by weight concentration of the total soluble solids of the juice or citrus product when tested with a Brix hydrometer calibrated at 20 °C (68 °F) and to which any applicable temperature correction has been made. The Brix or degrees Brix may be determined by any other method which gives equivalent results.

Brix value. The pure sucrose or soluble solids value of the juice or citrus product determined by using the refractometer along with the ''International Scale of Refractive Indices of Sucrose Solutions'' and to which the applicable correction for acidity is added. The Brix value is determined in accordance with the refractometer method outlined in the Official Methods of Analysis of AOAC INTERNATIONAL, Volumes I & II.

* * * * *

Recoverable oil. The percent of oil by volume, determined by the bromate titration method after distillation and acidification as described in the current edition of the Official Methods of Analysis of AOAC INTERNATIONAL, Volumes I & II.

* * * * *

3. Section 93.3 is revised to read as follows:

§ 93.3 Analyses available and location of laboratory.

(a) Laboratory analyses of citrus juice and other citrus products are being performed at the following Science and Technology location: USDA, AMS, S&T Eastern Laboratory (Citrus), 98 Third Street, SW., Winter Haven, FL 33880.

(b) Laboratory analyses of citrus fruit and products in Florida are available in order to determine if such commodities satisfy the quality and grade standards set forth in the Florida Citrus Code (Florida Statutes Pursuant to Chapter 601). Such analyses include tests for acid as anhydrous citric acid, Brix, Brix/acid ratio, recoverable oil, and artificial coloring matter additive, as turmeric. The Fruit and Vegetable Inspectors of the Division of Fruit and Vegetable of the Florida Department of Agriculture and Consumer Services may also request analyses for arsenic metal, pulp wash (ultraviolet and fluorescence), standard plate count, yeast with mold count, and nutritive sweetening ingredients as sugars.

(c) There are additional laboratory tests available upon request at the Science and Technology Eastern (Citrus) Laboratory at Winter Haven, Florida. Such analyses include tests for vitamins, naringin, sodium benzoate, *Salmonella,* protein, salt, pesticide residues, sodium metal, ash, potassium metal, and coliforms for citrus products.

§ 93.4 [Amended]

4. Section 93.4 is revised to read as follows:

§ 93.4 Analytical methods.

(a) The majority of analytical methods for citrus products are found in the Official Methods of Analysis of AOAC INTERNATIONAL, Volumes I & II, AOAC INTERNATIONAL, 481 North Frederick Avenue, Suite 500, Gaithersburg, MD 20877–2417.

(b) Other analytical methods for citrus products may be used as approved by the AMS Deputy Administrator, Science and Technology (S&T).

5. Section 93.5 is revised to read as follows:

§ 93.5 Fees for citrus product analyses set by cooperative agreement.

The fees for the analyses of fresh citrus juices and other citrus products shall be set by mutual agreement between the applicant, the State of Florida, and the AMS Deputy Administrator, Science and Technology programs. A Memorandum of Understanding (MOU) or cooperative agreement exists presently with the AMS Science and Technology and the State of Florida, regarding the set hourly rate and the costs to perform individual analytical tests on Florida citrus products, for the State.

6. In § 93.11, the definitions for ''Aflatoxin'' and ''Peanut Administrative Committee (PAC)'' are revised to read as follows:

§ 93.11 Definitions.

* * * * *

Aflatoxin. A toxic metabolite produced by the molds *Aspergillus flavus, Aspergillus parasiticus,* and *Aspergillus nomius.* The aflatoxin compounds fluoresce when viewed under UV light as follows: aflatoxin B_1 and derivatives with a blue fluorescence, aflatoxin B_2 with a blue-violet fluorescence, aflatoxin G_1 with a green fluorescence, aflatoxin G_2 with a green-blue fluorescence, aflatoxin M_1 with a blue-violet fluorescence, and aflatoxin M_2 with a violet fluorescence. These closely related molecular structures are referred to as aflatoxin B_1, B_2, G_1, G_2, M_1, M_2, GM_1, B_{2a}, G_{2a}, R_0, B_3, 1-OCH_3B_2, and 1-CH_3G_2.

Peanut Administrative Committee (PAC). The committee established under the United States Department of Agriculture Marketing Agreement for Peanuts, 7 CFR part 998, which administers the terms and provisions of this Agreement, including the aflatoxin control program for domestically produced raw peanuts, for peanut shellers. The Peanut Administrative Committee (PAC) headquarters are at 2537 Lafayette Plaza Drive Suite A; Albany, Georgia 31707.

* * * * *

7. Section 93.12 is revised to read as follows:

§ 93.12 Analyses available and locations of laboratories.

(a) *Aflatoxin testing services.* The aflatoxin analyses for peanuts, peanut products, dried fruits, grains, edible seeds, tree nuts, shelled corn products, cottonseed, oilseed products and other commodities are performed at the following 6 locations for AMS Science and Technology (S&T) Aflatoxin Laboratories:

(1) USDA, AMS, S&T
1211 Schley Avenue, Albany, GA 31707.

(2) USDA, AMS, S&T
c/o Golden Peanut Company, Mail: P.O. Box 279, 301 West Pearl Street, Aulander, NC 27805.

(3) USDA, AMS, S&T
610 North Main Street, Blakely, GA 31723.

(4) USDA, AMS, S&T
107 South Fourth Street, Madill, OK 73446.

(5) USDA, AMS, S&T
c/o Cargill Peanut Products, Mail: P.O. Box 272, 715 North Main Street, Dawson, GA 31742–0272.

(6) USDA, AMS, S&T
Mail: P.O. Box 1130, 308 Culloden Street, Suffolk, VA 23434.

(b) *Peanuts, peanut products, and oilseed testing services.*

(1) The Science and Technology (S&T) Aflatoxin Laboratories at Madill, Oklahoma and Blakely, Georgia will perform other analyses for peanuts, peanut products, and a variety of oilseeds. The analyses for oilseeds include testing for free fatty acids, ammonia, nitrogen or protein, moisture and volatile matter, foreign matter, and oil (fat) content.

(2) All of the analyses described in paragraph (b)(1) of this section performed on a single seed sample are billed at the rate of one hour per sample. Any single seed analysis performed on a single sample is billed at the rate of one-half hour per sample. The standard hourly rate shall be as specified in § 91.37(a) of this subchapter.

(c) *Vegetable oil testing services.* The analyses for vegetable oils are performed at the USDA, AMS, Science and Technology (S&T) Midwestern Laboratory, 3570 North Avondale Avenue, Chicago, IL 60618–5391. The analyses for vegetable oils will include the flash point test, smoke point test, acid value, peroxide value, phosphorus in oil, and specific gravity. The fee charged for any single laboratory analysis for vegetable oils shall be obtained from the Midwestern Laboratory Director and it is based on the hourly fee rates and charges as specified in 7 CFR part 91, subpart I.

8. Section 93.13 is revised to read as follows:

§ 93.13 Analytical methods.

Official analyses for peanuts, nuts, corn, oilseeds, and related vegetable oils are found in the following manuals:

(a) Approved Methods of the American Association of Cereal Chemists (AACC), American Association of Cereal Chemists/Eagan Press, 3340 Pilot Knob Road, St. Paul, Minnesota 55121–2097.

(b) ASTA's Analytical Methods Manual, American Spice Trade Association (ASTA), 560 Sylvan Avenue, P.O. Box 1267, Englewood Cliffs, New Jersey 07632.

(c) Analyst's Instruction for Aflatoxin (August 1994), S&T Instruction No. 1, USDA, Agricultural Marketing Service, Science and Technology, 3521 South Agriculture Building, 1400 Independence Avenue, SW., P.O. Box 96456, Washington, DC 20090–6456.

(d) Official Methods and Recommended Practices of the American Oil Chemists' Society (AOCS), American Oil Chemists' Society, P.O. Box 3489, 2211 West Bradley Avenue, Champaign, Illinois 61821–1827.

(e) Official Methods of Analysis of AOAC INTERNATIONAL, Volumes I & II, AOAC INTERNATIONAL, 481 North Frederick Avenue, Suite 500, Gaithersburg, MD 20877–2417.

(f) Standard Analytical Methods of the Member Companies of Corn Industries Research Foundation, Corn Refiners Association (CRA), 1701 Pennsylvania Avenue, NW., Washington, DC 20006.

(g) U.S. Army Natick Research, Development and Engineering Center's Military Specifications, approved analytical test methods noted therein, Code NPP–9, Department of Defense Single Stock Point (DODSSP) for Military Specifications, Standards, Building 4/D, 700 Robbins Avenue, Philadelphia, PA 19111–5094.

9. Section 93.14 is revised to read as follows:

§ 93.14 Fees for aflatoxin analysis and fees for testing of other mycotoxins.

(a) The fee charged for any laboratory analysis for aflatoxins and other mycotoxins shall be obtained from the Laboratory Director for aflatoxin laboratories at the Dothan administrative office as follows: USDA, AMS, Science & Technology, 3119 Wesley Way, Suite 6, Dothan, Alabama 36305, Voice Phone: 334–794–5070, Facsimile: 334–792–1432.

(b) The charge for the aflatoxin testing of raw peanuts under the Peanut Marketing Agreement for subsamples 1–AB, 2–AB, 3–AB, and 1–CD is a set cost per pair of analyses and shall be set by cooperative agreement between the Peanut Administrative Committee and AMS Science and Technology program.

10. Section 93.15 is revised to read as follows:

§ 93.15 Fees for analytical testing of oilseeds.

The fee charged for any laboratory analysis for oilseeds shall be obtained from the Laboratory Director for aflatoxin laboratories at the Dothan administrative office as listed in 7 CFR 93.14(a).

PART 94—[AMENDED]

1. The authority citation part 94 continues to read as follows:

Authority: Secs. 2–28 of the Egg Products Inspection Act (84 Stat. 1620–1635; 21 U.S.C. 1031–1056), Agricultural Marketing Act of 1946, Secs. 202–208 as amended (60 Stat. 1087–1091; 7 U.S.C. 1621–1627).

2. In § 94.2, the definitions for ''Egg'', ''Egg product'' and ''Mandatory sample'' are revised to read as follows:

§ 94.2 Definitions.

* * * * *

Egg. The shell egg of the domesticated chicken, turkey, duck, goose, or guinea. Some of the terms applicable to shell eggs are defined by the AMS Poultry Programs in 7 CFR 57.5.

Egg product. Any dried, frozen, or liquid eggs, with or without added ingredients. However, products which contain eggs only in a relatively small proportion or historically have not been, in the judgment of the Secretary, considered by consumers as products of the egg food industry may be exempted by the Secretary under such conditions as may be prescribed to assure that the egg ingredients are not adulterated and such products are not represented as egg products. Some of the products exempted as not being egg products are specified by the AMS Poultry Programs in 7 CFR 57.5.

Mandatory sample. An official sample of egg product(s) taken for testing under authority of the Egg Products Inspection Act (21 U.S.C. 1031–1056) for analysis by a United States Department of Agriculture, Agricultural Marketing Service, Science and Technology laboratory at government expense. A mandatory sample shall include an egg product sample to be analyzed for microbiological, chemical, or physical attributes. A mandatory egg product sample analyzed for the presence of *Salmonella* is also referred to as a confirmation sample as specified by the Food Safety and Inspection Service agency of USDA in 9 CFR 590.580, paragraph (d).

* * * * *

3. In § 94.3, paragraphs (a), (b) and (e) are revised to read:

§ 94.3 Analyses performed and locations of laboratories.

(a) Samples drawn by a USDA egg products inspector will be analyzed by AMS Science and Technology (S&T) personnel for microbiological, chemical, and physical attributes. The analytical results of these samples will be reported to the resident egg products inspector at the applicable plant on the official certificate.

(b) Mandatory egg product samples for *Salmonella* are required and are analyzed in S&T laboratories to spot check and confirm the adequacy of USDA approved and recognized laboratories for analyzing routine egg product samples for *Salmonella.*

* * * * *

(e) The AMS Science and Technology's Eastern Laboratory shall conduct the majority of laboratory analyses for egg products. The analyses for mandatory egg product samples are performed at the following USDA location: USDA, AMS, Science & Technology, Eastern Laboratory (Microbiology), 2311–B Aberdeen Boulevard, Gastonia, NC 28054–0614.

4. Section 94.4 is revised to read as follows:

§ 94.4 Analytical methods.

The majority of analytical methods used by the USDA laboratories to perform mandatory analyses for egg products are listed as follows:

(a) Compendium Methods for the Microbiological Examination of Foods, Carl Vanderzant and Don Splittstoesser (Editors), American Public Health Association, 1015 Fifteenth Street, NW, Washington, DC 20005.

(b) Edwards, P.R. and W.H. Ewing, Edwards and Ewing's Identification of Enterobacteriaceae, Elsevier Science, Inc., Regional Sales Office, 655 Avenue of the Americas, P.O. Box 945, New York, NY 10159–0945.

(c) FDA Bacteriological Analytical Manual (BAM), AOAC INTERNATIONAL, 481 North Frederick Avenue, Suite 500, Gaithersburg, MD 20877–2417.

(d) Manual of Analytical Methods for the Analysis of Pesticide Residues in Human and Environmental Samples, EPA 600/9–80–038, U.S. Environmental Protection Agency (EPA) Chemical Exposure Research Branch, EPA Office of Research and Development (ORD), 26 West Martin Luther King Drive, Cincinnati, Ohio 45268.

(e) Official Methods of Analysis of AOAC INTERNATIONAL, Volumes I & II, AOAC INTERNATIONAL, 481 North Frederick Avenue, Suite 500, Gaithersburg, MD 20877–2417.

(f) Standard Methods for the Examination of Dairy Products, American Public Health Association, 1015 Fifteenth Street, NW, Washington, DC 20005.

(g) Standard Methods for the Examination of Water and Wastewater, American Public Health Association (APHA), the American Water Works Association (AWWA) and the Water Pollution Control Federation, AWWA Bookstore, 6666 West Quincy Avenue, Denver, CO 80235.

(h) Test Methods for Evaluating Solid Waste Physical/Chemical Methods, Environmental Protection Agency, Office of Solid Waste, SW–846 Integrated Manual (available from National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161).

(i) U.S. Food and Drug Administration, Pesticide Analytical Manuals (PAM), Volumes I and II, Food and Drug Administration, Center for Food Safety and Applied Nutrition (CFSAN), 200 C Street, SW, Washington, DC 20204 (available from National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161).

PART 98—[AMENDED]

1. The authority citation for part 98 continues to read as follows:

Authority: 7 U.S.C. 1622, 1624.

2. In part 98, the words ''Science and Technology Division'' are revised to read ''Science and Technology'', and the word ''S&TD'' is revised to read ''S&T'' everywhere they appear.

Dated: October 20, 2000.

Robert L. Epstein,

Acting Deputy Administrator, Science and Technology, Agricultural Marketing Service.

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