

Agricultural Marketing Service, USDA

§ 29.9263

§ 29.9238 When application may be rejected.

An application may be rejected (a) for noncompliance with the act or the regulations in this subpart, or (b) when it is not practicable to provide the service. All expenses incurred in connection with an application rejected for noncompliance with the act or the regulations in this subpart shall be paid by the applicant as provided in § 29.124 of subpart B of this part.

§ 29.9239 When application may be withdrawn.

An application may be withdrawn at any time before the requested service is rendered. Payment of expenses incurred in connection therewith shall be paid by the applicant as provided in § 29.124 and subpart B of this part.

§ 29.9240 Responsibilities of applicant.

Any applicant requesting class or type certification on nonquota tobacco produced in a quota area, shall obtain from the appropriate county office of the Agricultural Stabilization and Conservation Service a certificate showing the acreage of nonquota tobacco grown on each affected farm and the identification number. It shall also be the responsibility of the applicant to:

(a) Make available to the inspector any or all information required by the inspector for completion of the Tobacco Classification Certificate,

(b) Make the tobacco accessible to the inspector, and

(c) Surrender to the inspector at time of certification a copy of the ASCS certificate and sale bill.

§ 29.9241 Accessibility of tobacco.

All tobacco to be inspected and certified by class or type upon application shall be made accessible by the applicant for proper examination, including any necessary display in proper light for determination of grade, class, type, or other characteristics or for drawing of samples. Each croplot shall be displayed at an approved receiving station in a continuous and orderly sequence with no other quota, nonquota, or other producer's tobacco in between. The lots shall be arranged in rows 18 inches apart with the leaves of adjacent lots not touching within the rows.

Coverings shall be removed by the applicant in such manner as may be prescribed by the inspector.

FEEES AND CHARGES

§ 29.9251 Fees and charges.

Fees and charges for inspection and certification services shall comprise the cost of salaries, travel, per diem, and related expenses to cover the costs of performing the service. Fees shall be for actual time required to render the service calculated to the nearest 30-minute period. The hourly rate shall be \$32.40. The overtime rate for service performed outside the inspector's regularly scheduled tour of duty shall be \$38.70. The rate of \$48.45 shall be charged for work performed on Sundays and holidays.

[56 FR 41922, Aug. 26, 1991]

CERTIFYING PROCEDURES

§ 29.9261 Procedure to be followed.

In certifications based on permissive inspection of nonquota tobacco produced in a state where any quota tobacco is produced, the inspector shall use the Official Standard Grades for all types of quota tobacco. The inspector shall determine by inspecting each lot in the crop-lot whether the crop-lot can be certified as the nonquota tobacco requested by the applicant. If the inspector determines upon inspection that any individual *lot* in the crop-lot meets the specifications of any grade of any quota tobacco, no certificate will be issued on any tobacco in the crop-lot.

§ 29.9262 Issuance of certificates.

A "Tobacco Classification Certificate" may be issued upon request of an applicant for nonquota tobacco certified in accordance with § 29.9261. The Tobacco Classification Certificate will be supplied by the inspection office.

§ 29.9263 Tobacco classification certificate.

Each tobacco classification certificate shall show:

(a) The caption "Tobacco Classification Certificate";

(b) Whether it is an original, first, second, or other copy;

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- (c) The number of the certificate;
- (d) The sale bill identification number;
- (e) The location of the tobacco at the time of inspection and certification;
- (f) The date of certification;
- (g) The class or type of tobacco;
- (h) The number of lots in the crop-lot;
- (i) The weight of each lot;
- (j) The signature of the inspector and,
- (k) Such additional information as may be required by the Director.

§ 29.9264 Forms.

Each certificate issued under this regulation shall:

- (a) Show that it was issued under the Tobacco Inspection Act;
- (b) Be in a form approved for the purpose by the Director, and
- (c) Embody within it, written or printed terms with respect to the particular kind of service, all applicable information required by § 29.9263. Each certificate may also contain any information, not inconsistent with the act and the regulations in this subpart, as may be approved or required by the Director. The Director may, in his discretion, specify or limit the period in which a certificate shall be valid.

§ 29.9265 Disposition of certificate.

Distribution of the Tobacco Classification Certificate shall be limited to the provisions of this section. The original certificate and one copy shall be delivered or mailed to the applicant or his agent. One copy and the copy of the ASCS certificate shall be forwarded by the inspector to the Division or office of inspection.

§ 29.9266 Changes or alterations.

No change or alteration shall be made in the weight or other identification of a lot on the Tobacco Classification Certificate after the certification of class or type, and any such change or alteration shall constitute and be construed as a change or alteration in the certificate issued or authorized under the act.

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PRECLUSION

§ 29.9281 Preclusion.

The provisions of this subpart shall not preclude the application of other administrative remedies or the institution of criminal proceedings in appropriate cases as provided by the act.

Subpart G—Policy Statement and Regulations Governing Availability of Tobacco Inspection and Price Support Services to Flue-Cured Tobacco on Designated Markets

AUTHORITY: Tobacco Inspection Act, 49 Stat. 731 (7 U.S.C. 511 *et seq.*); Commodity Credit Corporation Charter Act, 62 Stat. 1070, as amended (15 U.S.C. 714 *et seq.*); sec. 213, Pub. L. 98-180, 97 Stat. 1149 (7 U.S.C. 1421); 49 Stat. 731 (7 U.S.C. 511 *et seq.*), unless otherwise noted.

SOURCE: 39 FR 17754, May 20, 1974, unless otherwise noted.

§ 29.9401 Definitions.

As used in this subpart, the following terms shall have the following meanings:

- (a) *Secretary* means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated or may hereafter be delegated to act in his stead.
- (b) *Marketing area* means a geographical area within the flue-cured tobacco production area specified by the Secretary each year on the basis of his determination that significant quantities of tobacco produced in such area are ready for marketing.
- (c) *Resale tobacco* means any tobacco offered for sale, or sold, by someone other than its producer.
- (d) *Nonauction-purchased tobacco* means tobacco purchased at other than a bona fide auction sale, as defined in 7 CFR 29.1(d), on a designated market, as defined in 7 CFR 29.1(e).
- (e) *Nonauction-purchased resale tobacco* means tobacco being offered for sale, or sold, at auction by a person who purchased it at other than a bona fide auction sale, as defined in 7 CFR