

## Agricultural Marketing Service, USDA

## § 96.7

and after June 1 of any year shall be for the period ending on July 31 of the following year.

### § 96.6 Conditions in licensing.

(a) It shall be a condition of the licensing of any person and of the retention by him or her of a license, that during the active cotton season each year, the licensee shall be engaged in or in connection with the grading of cottonseed; that each cottonseed sample offered for grading shall be analyzed and grade certified by the licensee, in accordance with the official cottonseed standards of the United States; and that the USDA license of the cottonseed chemist shall not be used or be allowed to be used for any improper purpose.

(b) A USDA licensed cottonseed chemist shall be required to participate in each quality assurance program and each collaborative study for the analytical testing of cottonseed as follows:

(1) The licensed chemist must participate in the American Oil Chemists' Society (AOCS) cottonseed series which requires the testing of 10 known cottonseed samples per year for foreign matter, moisture, free fatty acids, oil, and ammonia.

(2) The licensed chemist must analyze and issue a grade for 10 blind cottonseed check samples per year from the Science and Technology Division. These blind check samples will be submitted as "official" samples.

(3) The chemist shall participate in all collaborative cottonseed analytical method validation studies, initiated by the Division Director.

(c) Each licensed chemist shall keep his or her license conspicuously posted at the place where he or she functions as a chemist, or in such other place as may be approved by the Division Director.

(d) Each licensed chemist must pay in a timely manner an annual licensing renewal fee and other charges and fees assessed by the Division, as listed in §§ 96.20 and 96.21. In the event the chemist fails to pay the annual license renewal fee by the 31st day of August, the chemist will be sent a written notice of

a 7-day review by the Director for the suspension of his or her license.

[58 FR 42431, Aug. 9, 1993, as amended at 61 FR 51352, Oct. 2, 1996]

### § 96.7 Sustained proficiency; suspension of license of cottonseed chemist.

(a) Sustained proficiency in the analysis of the two check sample series is required to maintain a license. If a licensed chemist fails to perform satisfactorily during a 1 year period on either the AOCS or the USDA check cottonseed series, the chemist shall be placed on probation for 1 year, providing that the person achieves a passing score (90 or higher) on a retake of the proficiency examination. In the event that the chemist fails the examination, he or she may be subject to an immediate suspension of the license.

(b) Failure to perform satisfactorily with either quality assurance program during a 1 year probationary period may also result in suspension of the license.

(c) Pending final action by the Director to suspend a license of a cottonseed chemist, a written notice of such suspension shall be given to the respective licensee, accompanied by a statement of the reasons therefore. Within 7 days after receipt of notice and statement of reasons by a licensee, an appeal may be filed in writing with the Director supported by any argument or evidence as to why the license should not be suspended. After expiration of the 7-day period and consideration of such argument and evidence, the Director shall take such action, as deemed appropriate, with respect to a suspension.

(d) Upon termination of service as a cottonseed chemist or suspension of such license, such licensee shall surrender the license immediately to the supervisor of the cottonseed chemists.

(e) The minimum period of license suspension for a cottonseed chemist shall be 1 year, after which the chemist may reapply and be reexamined for a USDA license.

(f) At the expiration of any period of suspension of such license, unless in the meantime it be revoked, the dates

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of the suspension period shall be endorsed thereon and returned to the licensed chemist to whom it was originally issued.

**§ 96.8 Annual review of licensed chemist.**

Each licensed chemist shall be subject to an annual on-site review, by the supervisor of the cottonseed chemists, to assess the chemist's continued conformance with procedure and equipment requirements of official analytical test methods.

**§ 96.9 Fees for grading and certification.**

Whenever any licensed chemist shall grade and/or certify any cottonseed or samples for a fee, the fee charged shall be reasonable, unconditional, non-discriminatory, and shall be in accordance with a schedule previously submitted to and approved by the Division. The schedule shall include the certificate fee provided for in § 96.21.

**§ 96.10 Records of analyses; inspection of certificate recordkeeping.**

(a) Certificate recordkeeping responsibilities. The laboratory shall have an adequate system for the numbering and accounting of issued official cottonseed certificates. Provisions shall be made for consecutively numbering all cottonseed grade certificates issued and listing in a separate journal certificate numbers with the sample identification for accurate billing.

(b) Retention of records for inspection. Each licensed chemist, shall keep, or shall cause to be kept for him or her, for a period of at least 3 years after date of analysis, a record of the analysis of each individual sample of cottonseed graded by the licensee.

(c) Each licensed chemist shall permit any authorized officer or agent of the Department to inspect or examine, on any business day during normal business hours, books and records relating to analyses of cottonseed samples and issuance of cottonseed grade certificates under the Act and the regulations in this subpart.

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**§ 96.11 Official and unofficial samples; analyses; certificate.**

(a) Each licensed cottonseed chemist shall designate a certificate number from a series of assigned numbers to each official sample of cottonseed as received and shall analyze and certify over his or her signature the grade of each sample or lot of cottonseed in the order of its receipt.

(b) Each such sample which is in proper condition for analysis under these regulations and which is accompanied by the certificate of a licensed cottonseed sampler certifying it to be an official sample that represents an identified lot of cottonseed shall be considered an official sample. In any case where the original sample is lost or destroyed before analysis, the duplicate thereof, retained by the licensed cottonseed sampler, as provided in § 61.34 of this subchapter, shall become the official sample. Each licensed chemist shall retain for at least 2 weeks a portion of each official sample first analyzed; and in any case where a review is requested under § 61.8 of this subchapter, such retained portion shall be considered an official sample for purposes of review analysis.

(c) Each such sample which is: (1) Not sufficient for proper analysis as an official sample under these regulations, or

(2) Not accompanied by a certificate of a licensed cottonseed sampler, or

(3) Not believed to be samples of the same seed represented by an official sample (except duplicates or lost or destroyed official samples) shall be considered an unofficial sample and the licensed cottonseed chemist's certificate of the grade thereof shall be plainly marked: "Sample not official; grade applies to sample only." This paragraph shall not apply to mill control or crush samples.

**§ 96.12 Unlicensed persons shall not analyze and certify the grade of official samples.**

(a) No person shall in any way represent that he or she is a chemist licensed under the Act, unless that person holds a license issued under the Act. Title 18 U.S.C. 1001, Crimes and