

## § 28.9

for determining the official color grade. Cotton classers will determine the official leaf grade and extraneous matter, and authorized Cotton Program employees will determine all fiber property measurements using High Volume Instruments. The classification record of a classing office or the Quality Assurance Unit with respect to any cotton shall be deemed to be the classification record of the Department.

[65 FR 36598, June 9, 2000]

### § 28.9 Inspection; sampling; classification.

The inspection, sampling, and classification of cotton in the United States pursuant to the Act shall be performed as prescribed in this subpart. Subject in general to the provisions of this subpart the Director may issue from time to time instructions for the sampling, classification, and issuance of classification memoranda for cotton classed for special programs and other Government agencies, including the review of any classification performed pursuant to §§ 28.901 through 28.919.

[58 FR 41993, Aug. 6, 1993]

#### REQUESTS FOR CLASSIFICATION AND COMPARISON

### § 28.15 Classification and comparison; requests.

All requests for classification and comparison shall be in writing on a form supplied by the Division and shall contain such information as the Director may require. For each lot or mark of cotton which the applicant desires classified or compared separately he shall specify which of the following forms of service is desired:

(a) *Form A determination.* The classification or comparison of samples freshly drawn and submitted to a Classing Office direct from a licensed warehouseman, at the request of the owner of the cotton or the owner's agent. Such classification or comparison shall be evidenced by a Form A memorandum which shall be subject to review as provided in § 28.66.

(b) *Form C determination.* The classification of bales of cotton inspected and sampled under the supervision of an employee of the Division. The clas-

## 7 CFR Ch. I (1-1-08 Edition)

sification in such cases shall be evidenced by a Form C certificate which shall be subject to review as provided in § 28.66.

(c) *Form D determination.* The classification or comparison of samples submitted by the owner of the cotton or the owner's agent. Such classification or comparison shall be evidenced by a Form D memorandum which shall be subject to review as provided in § 28.66.

(d) *Micronaire reading service.* Micronaire (mike) reading service is available under Forms A, C, and D determinations upon request from the applicant and subject to the fees specified in § 28.116 of this part 28.

[22 FR 10932, Dec. 28, 1957, as amended at 31 FR 7734, June 1, 1966; 52 FR 30881, Aug. 18, 1987]

### § 28.16 Request for return of samples.

Any applicant desiring return of the samples after classification or comparison is completed, at the applicant's expense, shall indicate this service on the form used for requesting such classification or comparison.

[52 FR 30881, Aug. 18, 1987]

### § 28.17 Filing of requests for classification or comparison.

All requests for classification or comparison leading to Form A, Form D memoranda or, Form C certificates shall be filed with the Classing Office which serves the territory in which the cotton is located. Samples which are submitted to any Classing Office for classification or comparison may be referred by such Classing Office to another Classing Office for classification or comparison.

[52 FR 30881, Aug. 18, 1987]

### § 28.18 One request only for classification.

Not more than one request for a Form A determination, or a Form C determination, or a Form D determination of the same cotton, except a request for a review determination, shall be filed by the same owner within any 30-day period. Any subsequent request shall be accomplished by redrawn samples and the Area Director may require that any Form A or Form D memoranda, Form C certificates, or other

## Agricultural Marketing Service, USDA

## § 28.23

classification data previously issued by a Classing Office with respect to samples purporting to represent the same cotton shall be returned before such redrawn samples are classed.

[52 FR 30881, Aug. 18, 1987]

### § 28.19 Withdrawal or rejection of classification request.

Any classification request may be withdrawn by the applicant at any time before the classification of the cotton covered thereby, subject to the payment of such fees, if any, as may be prescribed in these regulations. Any classification request may be rejected by the Area Director or the Head of the Quality Control Section for noncompliance with the act or this subpart.

[52 FR 30881, Aug. 18, 1987]

### LICENSING OF WAREHOUSES AND GINS FOR SAMPLING

AUTHORITY: Sections 28.20 to 28.24 issued under sec. 2, Pub. Res. 72-73, 47 Stat. 1621 (7 U.S.C. 51b); sec. 3c, Pub. L. 75-28, 50 Stat. 62 (7 U.S.C. 473c).

SOURCE: Sections 28.20 through 28.24 appear at 42 FR 24711, May 16, 1977, unless otherwise noted.

### § 28.20 When license is required.

Samples for Form A determination shall be accepted under this subpart from licensed warehousemen only. Samples for classification pursuant to §§ 28.901 through 28.917 shall be accepted from licensed gins or warehouses. No license is required to sample cotton for Form C or Form D determination.

### § 28.21 Eligibility and application.

Any cotton warehouse or gin which may desire to submit samples for determination or classification for which a license is required under § 28.20 shall be eligible for a license. Application for licenses to draw and submit samples shall be submitted by warehouses and gins on forms furnished by the Division.

### § 28.22 Authority granted by license.

Licenses issued by the Division shall authorize the warehouse to draw and submit samples from cotton stored in the warehouse for Form A determina-

tion or for classification pursuant to §§ 28.901 through 28.917. Licenses issued by the Division shall authorize gins to draw and submit samples from cotton ginned at the gin for classification pursuant to §§ 28.901 through 28.917. Licenses shall be valid for a period of five years.

### § 28.23 Suspension or revocation of license.

(a) Any license issued to a warehouse or gin to sample cotton may be suspended or revoked, following notice and opportunity for hearing, if the licensee has knowingly or carelessly sampled cotton improperly, or has submitted improper samples for classification, or has violated any provision of the Act or the regulations, or has used the license, or allowed it to be used, for any improper purpose.

(b) *Procedure.* (1) All cases arising under this paragraph shall be conducted under the Uniform Rules of Practice, 7 CFR 1.130 *et seq.*, and instituted upon a complaint filed by the Administrator.

(2) In all cases except those involving willfulness, or in which the public health, interest, or safety otherwise requires, prior to the institution of a formal proceeding, the Administrator shall give written notice to the licensee of facts or conduct which appear to warrant institution of such a proceeding and shall afford the licensee the opportunity, within a reasonable time, to demonstrate or achieve compliance with the Act and regulations.

(c) *Suspension pending adjudication.* In any situation where the integrity of sampling procedures would be seriously jeopardized if a license remained valid pending formal adjudication, the Administrator may temporarily suspend the license effective on or after the third day after mailing notice thereof to the licensee's last known address. Notice of temporary suspension may be made at or after the filing of a complaint and shall contain the reasons for the action.

(d) *Conditional suspension.* (1) The Administrator may temporarily suspend a license, without hearing, for a correctable cause. Such suspension, after appropriate corrective action is taken, will terminate.