

for each kind of tobacco, a hearing or hearings shall be held on the applications, if any, filed for additional inspection and price support services for the kind of tobacco in question. Such hearing or hearings shall be scheduled to begin within 60 days following the closing date for such applications. Notice of hearing shall be issued by the Secretary, filed with the Hearing Clerk, and published in the FEDERAL REGISTER, and a copy shall be mailed by the Hearing Clerk to each applicant. Such publication and mailing shall be not less than 5 days prior to the opening of the hearing.

(d) *Hearing officer.* A hearing officer shall preside over each such hearing. The hearing officer shall determine the order of procedure at the hearing, shall have power to administer oaths and affirmations, to rule on and admit evidence, and, following the opening of the hearing, to recess the hearing to such other times and places as he deems desirable or necessary.

(e) *Scope of hearing and burden of proof.* Each applicant shall have the burden of presenting evidence relative to the factors specified in § 29.2(a).

(f) *Record and evidence.* The proceedings at each such hearing shall be transcribed verbatim. All oral testimony shall be under oath or affirmation. All documentary exhibits shall be submitted in triplicate by the person offering the same. The Hearing Officer shall, insofar as possible, exclude testimony and exhibits which are irrelevant, immaterial, or not of the sort upon which responsible persons are accustomed to rely. Cross-examination shall be allowed only to the extent that the Hearing Officer in his discretion deems it desirable or necessary to develop the material facts.

(g) *Briefs.* If requested at the hearing, the presiding officer shall fix a time, not to exceed 20 days from the close of the hearing, within which interested persons may mail briefs to the Hearing Clerk.

(h) *Certification and referral.* As soon as practicable following the close of the hearing, the Hearing Officer shall certify the transcript of the proceedings at the hearing together with all exhibits and shall transmit the same to the Hearing Clerk for referral to a re-

view committee comprised of the Administrator, Agricultural Marketing Service, the Administrator, Agricultural Stabilization and Conservation Service, and a representative of the Office of the Secretary to be designated by the Secretary.

(i) *Recommended action.* The review committee shall review and consider the applications, hearing record, including exhibits, and all other available information and data relating to applications for each kind of tobacco and shall submit a recommendation thereon to the Secretary.

(j) *Final decision.* The Secretary shall issue the decision on each application and such decision shall be final: *Provided*, That any determination that additional services will be provided may be reconsidered and may be vacated if it is subsequently found that any material fact upon which such determination was based was materially erroneous or false, or that the new market or additional sale in question is not functioning as a bona fide auction sale. Such decision shall be filed with the Hearing Clerk who shall mail a true copy thereof, by certified mail, to the applicant.

[37 FR 7765, Apr. 20, 1972, as amended by 39 FR 3548, Jan. 28, 1974; 41 FR 24693, June 18, 1976; 42 FR 17098, Mar. 31, 1977; 46 FR 62393, Dec. 24, 1981]

Subpart B—Regulations

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DEFINITIONS

§ 29.12 Terms defined.

As used in this subpart and in all instructions, forms, and documents in connection therewith, the words and phrases hereinafter defined shall have the indicated meanings so assigned unless the context or subject matter otherwise requires.

§ 29.13 The act.

The Tobacco Inspection Act, approved August 23, 1935. (7 U.S.C. 511 *et seq.*)

§ 29.14 Secretary.

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 to whom authority may hereafter be delegated, to act in his stead.

§ 29.15 Department.

The U.S. Department of Agriculture.

§ 29.16 Division.

Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture.

§ 29.17 Director.

Director or Acting Director, Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture.

§ 29.18 Person.

Individual, association, partnership, or corporation.

§ 29.19 Inspector.

Person employed, licensed, or authorized by the Secretary to determine and certify the type, grade, condition, or other characteristics of tobacco.

§ 29.20 Sampler.

Person employed, licensed, or authorized by the Secretary to select, tag, and seal official samples of tobacco.

§ 29.21 Weigher.

Person employed, licensed, or authorized by the Secretary to weigh and certify the weight of tobacco.

§ 29.22 Appeal inspector.

An inspector or other person designated or authorized by the Division to hear appeals under the Act and the regulations in this subpart.

§ 29.23 Tobacco.

Tobacco in its unmanufactured forms as it appears between the time it is cured and stripped from the stalk, or primed and cured and the time it enters a manufacturing process. Conditioning, sweating, and stemming are not regarded as manufacturing processes.

§ 29.24 Official standards.

Standards for tobacco promulgated by the Secretary under the Act.

§ 29.25 Tentative standards.

Standards for tobacco prepared by the Division for trial purposes and limited use pending promulgation by the Secretary of Official Standards.

§ 29.26 Office of inspection.

A field office of the tobacco inspection service of the Division.

§ 29.27 Certificate.

A certificate issued under the Act and the regulations in this subpart.

§ 29.28 Interested party.

The owner or other financially interested person; including the warehouseman, commission merchant, association, and other person who has the tobacco in his custody for sale; the authorized agent of the owner; and persons to whom or by whom the tobacco has been sold on the basis of a certificate issued, or sample prepared, under the Act, but not including a person who is negotiating for its purchase.

§ 29.29 Regulations.

Rules and regulations of the Secretary under the Act.

§ 29.30 Package.

A hogshead, tierce, case, bale, or other securely enclosed parcel or bundle.

§ 29.31 Lot.

A pile, basket, bulk, package, or other definite unit.

§ 29.32 Identification number.

A number or a combination of letters and numbers in a design or mark approved by the Director, stamped, printed, or stenciled on a lot of tobacco or attached thereto by an inspector, sampler, or weigher for the purpose of identifying the lot covered by a certificate issued under the Act.

§ 29.33 Official sample.

A sample selected, tagged, and signed by an inspector or sampler under the Act.