

§ 29.1

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AUTHORITY: 7 U.S.C. 511b, 511r.

CROSS REFERENCE: For regulations with respect to tobacco warehouses, see part 737 of chapter VII.

Subpart A—Policy Statement and Regulations Governing the Extension of Tobacco Inspection and Price Support Services to New Markets and to Additional Sales on Designated Markets

AUTHORITY: Sec. 14, 49 Stat. 734, as amended; sec. 4, 62 Stat. 1070, as amended, 7 U.S.C. 511m, 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072 secs. 101, 401, 403, 63 Stat. 1051, as amended, 1054 as amended, 15 U.S.C. 714c, 7 U.S.C. 1441, 1421, 1423.

§ 29.1 Definitions.

For purposes of this subpart A, the following terms shall have the following meanings:

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(a) *Additional sale* means an additional auction sale proposed to be conducted on a designated market.

(b) *Adequate set of buyers* means 5 or more buyers representing 5 or more companies or buying organizations which either will use the tobacco in the manufacture of tobacco products in this country or in foreign countries, or will pack and sell the tobacco later for use by manufacturers in this country or foreign countries, and who could reasonably be expected to purchase at least two-thirds of the total U.S. production of the kind of tobacco for which the additional services are requested.

(c) *Auction market* means a marketing center containing one or more warehouses where tobacco is delivered by producers thereof, or their agents, for sale by the auction process. There may be one or more auction sales on an auction market.

(d) *Bona fide auction sale* and *auction sale* mean the buying and selling of tobacco offered by producers by the auction process which customarily and usually consists of an adequate set of buyers; an auctioneer who takes each buyer's bid; a sales starter who makes the opening bid on each lot; and a ticket marker who records the applicable sales data on each lot.

(e) *Designated market* means an auction market designated by the Secretary under section 5 of the Tobacco Inspection Act including the town or city which is the population center of the market and whose name the market bears and all of the geographical area within 5 road miles of the boundaries of said city or town as they are constituted on January 1, 1993. *Provided*, That any warehouse beyond those boundaries which received tobacco inspection and price support services during the 1992 marketing season shall continue to receive such services at the same location regardless of any prohibition contained herein: *And further provided*, That this geographical limitation may be waived by the Secretary after a hearing held pursuant to §§ 29.2 and 29.3.

(f) *Secretary* means the Secretary of Agriculture of the United States, or any officer or employee of the U.S. Department of Agriculture to whom au-

thority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(g) *Hearing Officer* means any administrative law judge appointed pursuant to 5 U.S.C. 3105, and assigned to the proceeding involved, or such other employee of the Department of Agriculture as the Secretary may designate to act as hearing officer at such hearing.

(h) *New market* means an auction market, other than a designated market, at which inspection service under the tobacco Inspection Act was not provided on a regular basis during the preceding marketing season.

(i) *Hearing Clerk* means the Hearing Clerk of the U.S. Department of Agriculture, Washington, DC 20250.

(j) *Kind of tobacco* means any one of the following: Flue-cured, Burley, Fire-cured, Dark air-cured, Maryland or Virginia sun-cured.

[37 FR 7765, Apr. 20, 1972, as amended at 39 FR 3548, Jan. 28, 1974; 42 FR 17097, Mar. 31, 1977; 58 FR 21343, Apr. 21, 1993]

§ 29.2 Policy statement.

Inspection and price support services currently provided in auction marketing areas are adequate and the lack of these services is not a limiting factor to accelerated marketings or the extension of price support to producers. Consequently, the extension of inspection and price support services, without limitation even though the cost of such service is paid by the seller, would not contribute to the effectuation of the purposes of either of these services. The additional cost incident to the unlimited extension of these services would be unjustifiable and excessive in relation to the total quantity of tobacco available for market. Accordingly, inspection and price support services shall be made available on new markets at warehouses which are located beyond the geographical limitation for "designated markets" set forth in § 29.1(e), and additional sales for other than flue-cured tobacco only as hereinafter provided. With regard to flue-cured tobacco, allocation of inspection services is based on producer designation, as provided for in 7 CFR 1464.2(e)(2)(iii), see subpart G. Also, since these services shall be made