

Agricultural Marketing Service, USDA

§ 28.23

§ 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Any classification request may be withdrawn by the applicant at any time before the classification of the cotton covered thereby, subject to the payment of such fees, if any, as may be prescribed in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 to 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 determination 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.

(2) Written notice shall be given to the licensee in advance of a temporary suspension if practicable, or within 2 days of oral notice, stating the reasons and grounds for temporary suspension.

(3) A licensee may request a formal hearing procedure following receipt of oral or written notice of temporary suspension.