

the original and the copies of the old certificate were not delivered to the appeal inspector for cancellation, the appeal inspector shall notify such persons or firms as he may consider necessary to prevent fraudulent use of any such null and void certificate.

INSPECTORS, SAMPLERS, AND WEIGHERS

§ 29.106 Who may be employed, licensed, or authorized.

Any persons who is not financially interested directly or indirectly in merchandising tobacco, except as a grower or except in disposing of tobacco previously acquired, and who has demonstrated his competency may be employed, licensed, or authorized to inspect, sample, or weigh tobacco. Licenses issued by the Secretary shall be countersigned by a supervising official of the Division. Licenses to inspect or to sample shall specify the type or types of tobacco which the licensee is authorized to inspect or sample.

§ 29.107 Order of providing service.

When tobacco is to be inspected, sampled, or weighed upon request, such services shall be rendered as far as practicable in the order in which applications were received. In conducting mandatory inspection, the inspection shall start at the beginning of the "break" in the auction warehouse where the sale is scheduled to start and the inspection shall continue in the order of sale on each warehouse floor and from warehouse to warehouse.

§ 29.108 Certificate issuance.

A certificate shall be issued as soon as practicable after any tobacco has been inspected or weighed for the purpose of the Act. A separate certificate shall be issued for each lot of tobacco inspected or weighed, except when a certificate covering two or more lots is specifically authorized by the Director. In case of a lost or destroyed certificate, a duplicate thereof may be issued under the same number, date, and name by an authorized supervising official. Any such duplicate certificate shall be plainly marked "Duplicate" above the signature of the supervising official who issued it.

§ 29.109 Inspection determinations.

The determination of type, grade, size, form, condition, or other tobacco characteristics shall be based upon a thorough examination of the lot of tobacco to be certificated or an official sample of such lot. The certification of a lot of tobacco shall be a true representation of the lot, or of the official sample, at the time of inspection.

§ 29.110 Method of sampling.

In sampling tobacco under the Act, at least three breaks shall be made at different points in the lot, and in the discretion of the sampler as many more breaks shall be made as seem necessary to show the range of the entire lot. From the breaks so made tobacco to be used in the official sample shall be selected. The official shall, so far as practicable, include tobacco of each quality, color, length, and other characteristics found in the lot in such proportions as would truly represent the lot. In case a lot is found to be damaged, nested, or in doubtful keeping order, the official sample tag shall be so marked. Official sample tags shall be attached to the sample, in a manner prescribed by the Director.

§ 29.111 Weight determinations.

Daily before weighing any tobacco for the purposes of the Act, a weigher shall verify the accuracy of the scales to be used by him. Except as may be otherwise specified by the Director, all weights certificated shall be within an accuracy of 1 pound.

§ 29.112 Proper light.

Tobacco shall not be inspected or sampled for the purposes of the Act except when displayed in proper light for correct determination of grade or other characteristics of tobacco. No tobacco shall be inspected or sampled for the purposes of the Act in the direct rays of the sun or by any artificial light which does not permit the inspector correctly to determine the grade or other characteristics of tobacco.

§ 29.113 Suspension and termination.

The license of an inspector, sampler, or weigher may be suspended, pending final action by the Secretary, by any

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official authorized to countersign licenses whenever he considers such action to be for the best interest of the service. The designation of an appeal inspector may be withdrawn at any time by the Division. Before the license of an inspector, sampler, or weigher is terminated or revoked pursuant to the Act and the regulations in this subpart, such appointee or licensee shall be furnished by the Secretary, or his designated representative, with a written statement specifying the charges, and within 7 days after his suspension, the licensee may file an appeal in writing with the Secretary supported by any evidence he may wish to offer in connection therewith.

FEES AND CHARGES

§ 29.123 Fees and charges.

Fees and charges for tobacco inspection and certification service shall be collected by the Director to cover, insofar as practicable, all costs of the services, including establishment of standards, administrative, and supervisory costs, as follows:

(a) *Mandatory inspection.* The inspection and certification fee is \$0.009 per pound. The fee shall be paid by sellers of tobacco and assessed against the warehouse or receiving station operator irrespective of ownership or interest in the tobacco. When the warehouse or receiving station operator pays the Department, it is presumed the fee was collected from the seller. Inspection and related services shall be suspended or denied if the warehouse or receiving station operator fails to pay the fees and charges imposed under this section. The fee shall be based on total poundage of tobacco inspected and sold during each calendar month. The fee shall be due and payable on the first day of the immediately following month and on the day immediately following the last sale each marketing year. Mandatory inspection and certification services shall take precedence over permissive inspections, other than reinspections.

(b) *Domestic permissive inspection and certification.* (1) Fees and charges for inspection at redrying plants shall comprise the cost of salaries, travel, per diem, and related expenses to cover the

cost of performing the service. Fees shall be for the actual time required to render the service calculated to the nearest 30-minute period. The hourly rate shall be \$47.40 per hour. The overtime rate for service performed outside the inspector's regularly scheduled tour of duty shall be \$53.70 per hour. The rate of \$64.45 per hour shall be charged for work performed on Sundays and holidays. These same fees shall be applicable for hogshead, bale, cases or sample inspections. (2) Fees and charges for inspection of tobacco performed at receiving points is \$.01 per pound.

(c) *Export permissive inspection and certification.* The inspection and certification fee for export tobacco is \$.0025 per pound.

(d) Fees and charges fixed in accordance with this subpart shall be paid by the applicant or person obtaining the service in accordance with a statement rendered by the Division. A deposit to cover all, or a part of, fees and charges for services to be rendered may be required by the Division. Fees for services rendered shall be remitted by check or draft made payable to "Agricultural Marketing Service", United States Department of Agriculture.

(e) Fees for special tests and services will be determined by agreement between the Deputy Administrator, Tobacco Programs, and the applicant or applicants for service.

[46 FR 62393, Dec. 24, 1981, as amended at 47 FR 27058, June 23, 1982; 47 FR 51723, Nov. 17, 1982; 50 FR 45805, Nov. 4, 1985; 54 FR 3406, Jan. 24, 1989; 54 FR 27856, July 3, 1989; 54 FR 47756, Nov. 17, 1989; 56 FR 31534, July 11, 1991; 56 FR 41921, Aug. 26, 1991; 60 FR 33100, June 27, 1995; 64 FR 67470, Dec. 2, 1999; 65 FR 34040, May 26, 2000; 65 FR 36782, June 12, 2000; 66 FR 28361, May 23, 2001; 67 FR 36081, May 23, 2002]

§ 29.124 When application rejected or withdrawn.

When an application for inspection, sampling, or weighing is rejected in accordance with § 29.62, or withdrawn in accordance with § 29.63, the applicant may be required to pay a reasonable charge for the time used by an inspector, sampler, or weigher, and other expenses incurred in connection with such application prior to its rejection or withdrawal.