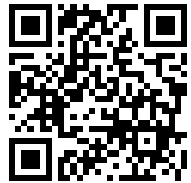

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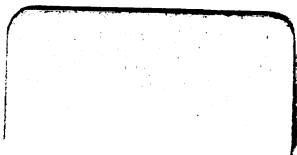
7

Agriculture

PARTS 0 TO 45

Revised as of January 1, 1973





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Agriculture

PARTS 0 TO 45

Revised as of January 1, 1973

1973



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Table of Contents

	<i>Page</i>
Explanation	v
Title 7:	
Subtitle A—Office of the Secretary of Agriculture	3
Subtitle B—Regulations of the Department of Agriculture:	
Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture (Parts 26 to 45)	305
Finding Aids:	
Table of CFR Titles and Chapters	677
Alphabetical List of CFR Subtitles and Chapters	689
List of CFR Sections Affected	697

Cite this Code CFR
thus: 7 CFR 0.735-1

Explanation

The Code of Federal Regulations is a codification of the general and permanent rules published in the Federal Register by the Executive departments and agencies of the Federal Government. The Code is divided into 50 titles which represent broad areas subject to Federal regulation. Each title is divided into Chapters which usually bear the name of the issuing agency. Each Chapter is further subdivided into Parts covering specific regulatory areas.

ISSUE DATES

Each volume of the Code is revised at least once each calendar year and issued on a quarterly basis approximately as follows:

Title 1 through Title 16.....as of January 1
Title 17 through Title 27.....as of April 1
Title 28 through Title 41.....as of July 1
Title 42 through Title 50.....as of October 1

Users of the Code should consult the cover of each volume to determine the revision date.

LEGAL STATUS

The contents of the Federal Register are required to be judicially noticed (44 U.S.C. 1507). The Code of Federal Regulations is prima facie evidence of the text of the original documents (44 U.S.C. 1510).

HOW TO USE THE CODE OF FEDERAL REGULATIONS

The Code of Federal Regulations is kept up to date by the individual issues of the Federal Register. These two publications must be used together to determine the latest version of any given rule.

To determine whether there have been any amendments since the revision date of the Code volume in which the user is interested (in this case, January 1, 1973) the following two lists must be consulted: the cumulative "List of CFR Sections Affected" issued monthly and the "Cumulative List of Parts Affected" which appears daily in the Federal Register. These two lists will refer the user to the Federal Register page where he may find the latest amendment of any given rule.

EFFECTIVE DATES

Each volume of the Code contains amendments published in the Federal Register since the last revision of that volume of the Code. Source citations for the regulations are referred to by volume number and page number of the Federal Register and date of publication. Publication dates and effective dates are usually not the same and care must be exercised by the user in determining the actual effective date. In instances where the effective date is beyond the cut-off date for the Code a note has been inserted to reflect the future effective date.

OBSOLETE PROVISIONS

Provisions that become obsolete before the revision date stated on the cover of each volume are not carried. Code users may find the text of provisions in effect on a given date in the past by using the numerical list of sections affected. For the period before January 1, 1964, the user should consult the "List of Sections Affected, 1949-1963" published in a separate volume. For the period beginning January 1, 1964, a "List of CFR Sections Affected" is published at the end of each book.

GENERAL INDEX

The subject index to the Code, which is revised annually, is contained in a separate volume entitled "General Index." This volume also contains a table of CFR titles, chapters, and parts, an alphabetical list of CFR subtitles and chapters, and lists of current and superseded CFR volumes. An index to the text of Presidential documents is found at the end of each compilation of Title 3A, The President.

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Other tables and guides that relate to the Code of Federal Regulations are carried in a separate volume entitled "Finding Aids." This volume is revised annually and includes the following:

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Table I—Parallel Tables of Statutory Authorities and Rules.	Table of U.S.C. citations with related CFR citations.
Table II—Parallel Tables of Presidential Documents.	Table of Proclamations and Executive orders included or cited in CFR.
Table III—Guide to Federal Register Finding Aids.	Table of Finding Aids and location in Federal Register Publications.
Table IV—List of Acts Requiring Publication in the Federal Register.	Table of Acts with Statutory and U.S.C. citations.
Table V—Guide to Record Retention Requirements.	Index-digest of Federal laws and rules requiring the retention of records.

This volume also contains a table of CFR titles, chapters, and parts, an alphabetical list of CFR subtitles and chapters, and lists of current and superseded CFR volumes.

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FRED J. EMERY

January 2, 1973.

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Title 7—Agriculture

(This book contains Parts 0 to 45)

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE.....	<i>Part</i> 0
 SUBTITLE B—REGULATIONS OF THE DEPARTMENT OF AGRICULTURE:	
 CHAPTER I—Agricultural and Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture.....	 26

CROSS REFERENCES: Animal and Plant Health Inspection Service, Department of Agriculture, see 7 CFR Chapter III, 9 CFR Chapter I.
Bureau of Customs, Department of the Treasury, see 19 CFR Chapter I.
Commodity Exchange Authority (Including Commodity Exchange Commission), Department of Agriculture, see 17 CFR Chapter I.
Commodity Credit Corporation, Department of Agriculture, see 7 CFR Chapter XIV.
Farm Credit Administration, see 12 CFR Chapter VI.
Farmers Home Administration, Department of Agriculture, see 7 CFR Chapter XVIII.
Federal Crop Insurance Corporation, see 7 CFR Chapter IV.
Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior, see 50 CFR Chapter I.
Food and Drug Administration, Department of Health, Education, and Welfare, see 21 CFR Chapter I.
Forest Service, Department of Agriculture, see 36 CFR Chapter II.
Rural Electrification Administration, Department of Agriculture, see 7 CFR Chapter XVII.
Soil Conservation Service, Department of Agriculture, see 7 CFR Chapter VI.
United States Tariff Commission, see 19 CFR Chapter II.

NOTE: Other regulations issued by the Department of Agriculture appear in Chapters II to XXVI of Title 7, Title 9, Chapter I of Title 17, Chapter II of Title 36, Chapter 4 of Title 41.

Subtitle A—Office of the Secretary of Agriculture

EDITORIAL NOTE: For nomenclature changes affecting this Subtitle, see 37 F.R. 6327, Mar. 28, 1972.

Part

- 0 **Employee responsibilities and conduct.**
- 1 **Administrative regulations.**
- 2 **Delegations of authority by the Secretary of Agriculture and general officers of the Department.**
- 3 **Debt settlement.**
- 4 **Claims against Indemnity Fund under programs administered by Agricultural Stabilization and Conservation county committees.**
- 5 **Determination of parity prices.**
- 6 **Import quotas and fees.**
- 7 **Selection and functions of Agricultural Stabilization and Conservation County and Community committees.**
- 8 **4-H Club name and emblem.**
- 9 **Awards of fellowships to applicants from other American republics.**
- 11 **Sales of agricultural commodities for foreign currencies.**
- 12 **Determination of surplus agricultural commodities under section 211 of the Agricultural Act of 1956.**
- 13 **Setoffs and withholdings.**
- 14 **Sales of agricultural commodities on credit under long-term supply contracts.**
- 15 **Nondiscrimination.**
- 17 **Sales of agricultural commodities made available under Title 1 of the Agricultural Trade Development and Assistance Act of 1954, as amended.**
- 18 **Equal employment opportunity in the state cooperative extension services.**
- 19 **Licensing Department inventions.**
- 20 **[Reserved]**
- 21 **Uniform relocation assistance and real property acquisition polices act of 1970.**

PART O—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Subpart A—General Provisions

- Sec.
- 0.735-1 Purpose.
- 0.735-2 Definitions.
- 0.735-3 Counseling and advisory service.
- 0.735-4 Agency supplementation.
- 0.735-5 Remedial action.

Subpart B—Conduct and Responsibilities of Employees

- 0.735-11 Prohibited conduct—general.
- 0.735-12 Gifts, entertainment, and favors.
- 0.735-13 Outside employment and activity.
- 0.735-14 Conflict of interest.
- 0.735-15 Attendance and leave.
- 0.735-16 Use of Government property, facilities, and services.
- 0.735-17 Use of vehicles.
- 0.735-18 Indebtedness.
- 0.735-19 Political activity.
- 0.735-20 Use, protection, and release of information.
- 0.735-21 Activities with regard to farm organizations.
- 0.735-22 Prohibitions upon employees serving abroad.
- 0.735-23 Miscellaneous provisions.
- 0.735-24 Miscellaneous statutory provisions.

Subpart C—Statements of Employment and Financial Interests

- 0.735-31 Employees required to submit statements.
- 0.735-32 Exceptions.
- 0.735-33 Identification of employees required to submit statements.
- 0.735-34 Time and place for submission of employees' statements.
- 0.735-35 Supplementary statements.
- 0.735-36 Types of interests to be reported.
- 0.735-37 Information prohibited.
- 0.735-38 Interests of employee's relatives.
- 0.735-39 Information not known by employee.
- 0.735-40 Effect of employee's statement.
- 0.735-41 Specific provisions for special Government employees.
- 0.735-42 Review of statements and determination of conflicting interests.
- 0.735-43 Protection of employees' statements.

AUTHORITY: The provisions of this Part O issued under Executive Order 11222 of May 8, 1965, 30 F.R. 6469, 3 CFR, 1965 Supp.; 5 CFR 735.104.

SOURCE: The provisions of this Part O appear at 36 F.R. 413, Jan. 13, 1971, unless otherwise noted.

Subpart A—General Provisions

§ 0.735-1 Purpose.

The maintenance of unusually high standards of honesty, integrity, impartiality, and conduct by Government em-

ployees and special Government employees is essential to assure the proper performance of the Government business and the maintenance of confidence by citizens in their Government. The confidence of citizens in their Government is influenced not only by the manner in which employees serve the public but in the way they conduct themselves in the eyes of the public. The avoidance of misconduct and conflicts of interests on the part of Government employees and special Government employees through informed judgment is indispensable to the maintenance of these standards. To accord with these concepts, this part sets forth the regulations for employees of the U.S. Department of Agriculture, prescribing standards of conduct and responsibilities and governing the reporting of employment and financial interests.

§ 0.735-2 Definitions.

In this part:

(a) "Agency" means an independent subagency of the U.S. Department of Agriculture.

(b) "Agency Head" is the Administrator or Chief Executive Officer of an agency.

(c) "Conflict of interest" means the situation that exists when there is a conflict, or appearance of conflict, between the interest of an employee and the performance of his Government duties.

(d) "Employee" means a regular officer or employee of the Department of Agriculture including excepted and WOC employees and includes a special Government employee unless otherwise provided.

(e) "Special Government employee" means an officer or employee of the Department of Agriculture who is retained, designated, appointed, or employed to perform temporary duties either on a full-time or intermittent basis, with or without compensation, for not to exceed 130 days during any period of 365 consecutive days.

(f) "The Executive Order" means Executive Order 11222 of May 8, 1965.

§ 0.735-3 Counseling and advisory service.

(a) The Assistant General Counsel for Marketing, Regulatory Laws, Research and Operations, shall serve as the Department Counselor and designee

to the Civil Service Commission on matters covered by the regulations in this part. He shall have overall responsibility for coordination of the Department's counseling and advisory service, and for assuring advice and interpretations on questions of conflicts or apparent conflicts of interest and other matters covered by the regulations in this part are available to Deputy Counselors and Assistant Deputy Counselors hereinafter designated.

(b) The Director of Personnel and the Chief, Security and Employee Conduct Division, Office of Personnel, shall be Department Deputy Counselors.

(c) Agency Heads will be Agency Deputy Counselors. If necessary in order to assure that counseling and advisory service is available to all Washington and field employees, the Agency Head may designate as Agency Assistant Deputy Counselors such employees as are qualified and in a position to give authoritative advice and guidance on most matters covered by this part.

(d) All employees are to be notified of the availability of counseling and by whom this service is provided. Initial notification must be made within 90 days after issuance of this part, and periodically thereafter. A new employee or new special Government employee must be notified at or before the time of his entrance on duty.

(e) Each new employee shall be furnished at the time of hiring a copy of this part. Current employees shall be furnished a copy of these regulations within 90 days following issuance. Subsequent changes to these regulations will be furnished employees upon issuance. Each employee shall be reminded of the regulations in this part semiannually.

§ 0.735-4 Agency supplementation.

Agencies of the Department may issue such additional regulations as are necessary and consistent with the regulations in this part, subject to the prior approval of the Director of Personnel. Agencies are expected to issue such supplemental regulations, with respect to employees assigned to particular programs, as are necessary to prevent such employees from being in a potential conflict of interest situation or a situation giving the appearance of a conflict of interest. Such Agency regulations shall be furnished to employees in the same manner as the regulations in this part.

§ 0.735-5 Remedial action.

(a) A violation of this part by an employee may be cause for remedial action. Remedial action may include, but is not limited to:

- (1) Changes in assigned duties;
- (2) Divestment by the employee of a conflicting interest;
- (3) Disqualification for a particular assignment; or
- (4) Disciplinary action which may be in addition to any penalty prescribed by law.

(b) Remedial action, whether disciplinary or otherwise, shall be effected in accordance with any applicable laws, Executive orders, and regulations.

Subpart B—Conduct and Responsibilities of Employees

§ 0.735-11 Prohibited conduct—general.

(a) An employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in or create the appearance of:

- (1) Using public office for private gain;
- (2) Giving preferential treatment to any person;
- (3) Impeding Government efficiency or economy;
- (4) Losing complete independence or impartiality;
- (5) Making a Government decision outside of official channels; or
- (6) Affecting adversely the confidence of the public in the integrity of the Government.

(b) Employees are specifically prohibited from:

- (1) Engaging in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government;
- (2) Betting or participating in any gambling activity, including the operation of a gambling device, conducting a lottery or pool, or selling or buying a number slip or ticket, while on Government-owned or leased property or while on duty for the Government;
- (3) Consuming intoxicating beverages on Government-owned or leased property, or transporting such beverages in Government-owned or leased vehicles, or using such beverages at any time or place to the extent that it adversely affects performance of official duties;
- (4) Lending funds at usurious interest rates;

(5) Provoking or harassing other employees, or making unwarranted criticism or accusations against other employees;

(6) Monitoring or recording, or authorizing or permitting others under their administrative control to monitor or record, telephone conversations for the purpose of taking a verbatim transcript of all or part of the conversation, unless such monitoring or recording is agreed to in advance by all participants in the conversation;

(7) Utilizing a mechanical or electronic device to monitor or record non-telephone conversations, unless such monitoring or recording is agreed to in advance by all participants in the conversation;

(8) Soliciting, making collections, canvassing for the sale of any article, or distributing or posting literature, advertising matter, or any other graphic matter, in any space occupied by the Department, except as authorized in writing by the Director of Personnel;

(9) Soliciting money from, or selling tickets to, persons outside the Government for the benefit of any organization of the Department;

(10) Taking any action which might prejudice the Government's interest in a criminal or civil case;

(11) Giving aid or assistance, other than in the discharge of official duties, to any claimant in prosecuting any claim against the United States;

(12) Distributing through the Department's mail and messenger service, or otherwise distributing or posting, in any space occupied by the Department, any circulars, flyers, announcements, pictures, or other graphic matter, etc., that:

(i) Directly or indirectly attack or adversely reflect on the integrity of any official, officer or employee of any branch of the Government; or

(ii) Directly or indirectly condemn or criticize the policies of any Government department or agency.

§ 0.735-12 Gifts, entertainment, and favors.

(a) Except as provided in paragraphs (b) and (e) of this section, an employee shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, unusual discount, or any other thing of monetary value from a person who:

(1) Has, or is seeking to obtain, contractual or other business or financial relations with the Department;

(2) Conducts operations or activities that are regulated by the Department; or

(3) Has interests that may be substantially affected by the performance or nonperformance of his duty.

(b) The restrictions in paragraph (a) of this section do not prohibit:

(1) Acceptance of any of the usual courtesies in an obvious family or personal relationship (such as those between the employee and his parents, spouse, children, or close personal friends) when the circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors;

(2) Acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home mortgage loans;

(3) Acceptance of unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars, and other things of nominal value; and

(4) The exchange of usual social courtesies which are wholly free of any embarrassing or improper implications.

(c) An employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself (5 U.S.C. 7351). However, this paragraph does not prohibit the voluntary giving or acceptance of a gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement.

(d) An employee shall not accept a gift, present, decoration, or other thing from a foreign government unless authorized by Congress as provided in 5 U.S.C. 7342.

(e) Neither this section nor § 0.735-13(a) precludes an employee from receipt of bona fide reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this part for which no Government payment or reimbursement is made. However, this paragraph does not allow an employee to be reimbursed, or payment to be made on his behalf, for excessive personal living expenses, gifts, entertainment or other personal benefits, nor does it allow an em-

ployee to be reimbursed by a person for travel on official business under agency orders when reimbursement is proscribed by Decision B-128527 of the Comptroller General dated March 7, 1967 (46 Comp. Gen. 689).

§ 0.735-13 Outside employment and activities.

(a) An employee shall not engage in any outside employment or other outside activity not compatible with the full and proper discharge of the duties and responsibilities of his Government employment, whether on his own behalf, or for private individuals, firms, companies, institutions, or State or local governments. Incompatible activities include but are not limited to:

(1) Outside employment or activity which may result in, or create the appearance of, a conflict of interests;

(2) Outside employment or activities which tend to impair an employee's physical or mental capacity to perform his Government duties in an acceptable manner, or prevent him from rendering full-time service to the Government;

(3) Outside work or activity which may be construed by the public to be official acts of the Department, or of a nature closely paralleling the work of the Department;

(4) Outside work or activity which involves participation in a commercially sponsored broadcast, or which relates to a written discussion of policies or official work of the Department, unless authorized in advance by the Office of Information;

(5) Outside work or activity which involves permission, or the appearance of permission, to use an employee's name in the advertising of organizations commercializing the results of research conducted by the Department, regardless of any merits which such enterprises may appear to possess.

(6) Outside work or activity which may involve the use of information secured as the result of employment in the Department and to the detriment of the public service; and

(7) Any outside work or activity which may tend to bring criticism on, or cause embarrassment to, the Department.

(b) Employees are specifically prohibited from acting as the agent of a foreign principal registered under the Foreign Agent's Registration Act (18 U.S.C. 219).

(c) No employee, whether in a duty or nonduty status, shall accept employment, with or without compensation, from any foreign government, corporation, partnership, or individual without written prior approval from his Agency Head.

(d) It is the policy of the Department to grant permission to an employee to teach, lecture, or write, including teaching, lecturing, or writing for the purpose of the special preparation of a person or class of persons for an examination of the Civil Service Commission or Board of Examiners for the Foreign Service, provided:

(1) Prior written authorization is obtained from the Agency Head;

(2) Such teaching, lecturing, or writing is not performed at or for any educational institution or other organization that discriminates because of race, creed, color, or national origin in the admission or subsequent treatment of students;

(3) Such teaching, lecturing, or writing is not dependent on information obtained as a result of his employment with the Department, except when that information has been made available to the general public or when the Agency Head gives specific authorization for the use of nonpublic information in the public interest; and

(4) Such teaching, lecturing, or writing is not otherwise incompatible with the provisions of this part.

(e) Articles prepared officially are the property of the Government, and authors thereof may not accept payment for such articles published in outside journals, magazines, or newspapers.

(f) Employees may not accept honoraria for addresses on radio or television or other appearances performed as part of their official duties.

(g) No employee, except a special Government employee, shall accept compensation for services as consultant or advisor to any organization, public or private, in any manner which draws upon the experience, competence, or professional standing acquired or enhanced by or through his position in this Department unless he has received permission from his Agency Head. A special Government employee shall not use his employment with the Department for a purpose that is, or gives the appearance of being, motivated by the desire for private gain for himself or another.

§ 0.735-14 Conflict of interest.

(a) The following prohibitions apply to both a regular employee and a special Government employee:

(1) He may not have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his responsibilities and duties as a Federal employee.

(2) He may not engage in, directly or indirectly, a financial transaction relying upon information obtained through his employment.

(3) He may not participate directly or indirectly in any transaction concerning the purchase or sale of corporate stocks or bonds, commodities, or other property for speculative purposes if such action might tend to interfere with the proper and impartial performance of his duties or bring discredit upon the Department.

(4) If he is concerned in any way with the administration of acts regulating trading in commodities for future delivery, programs for the purchase or sale of commodities, price support programs, commodity loan programs, or other programs which directly affect market prices of agricultural commodities, he may not directly or indirectly speculate in any agricultural commodity.

(5) He may not, after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and in which he participated personally and substantially for the Government (18 U.S.C. 207(a)).

(6) He may not, for 1 year after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and which was within the boundaries of his official responsibility during the last year of his Government service (18 U.S.C. 207(b)).

(7) Except as permitted by paragraphs (b) and (c) of this section, he may not participate personally and substantially as a Government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which, to his knowl-

edge, he, his spouse, minor child, partner, organization in which he is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest (18 U.S.C. 208(a)).

(b) The prohibition in paragraph (a) (7) of this section shall not apply if the employee first advises his Agency Head or the Director of Personnel of the nature and circumstances of the particular Government matter involved and makes full disclosure of the financial interest and receives in advance a written determination made by the Agency Head or the Director of Personnel that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from the employee. Authority to make such written determinations may not be redelegated by the Agency Head or the Director of Personnel.

(c) The following types of interests, except where otherwise prohibited by statute or regulation, are exempted from the prohibition in paragraph (a) (7) and the requirements of paragraph (b) of this section as being too remote or too inconsequential to affect the integrity of an employee's services to the Government:

(1) Any holding in a widely held mutual fund or regulated investment company which does not specialize in a particular industry or commodity and as to which the employee has no managerial control or directorship.

(2) Ownership of shares of common or preferred stock, corporate bonds, or other corporate securities, if the aggregate value of the holdings in any single corporation or enterprise is less than \$5,000 and is less than 1 percent of the value of the outstanding stock, bonds, or other securities of that corporation or enterprise, and as to which the employee has no managerial control or directorship.

(d) The following prohibitions apply only to a regular employee:

(1) He may not, except in the discharge of his official duties, represent anyone else before a court or Government agency in a matter in which the United States is a party or has an interest (18 U.S.C. 203 and 205).

(2) He may not receive any salary, or supplementation of his Government sal-

ary, from a private source as compensation for his services to the Government (18 U.S.C. 209).

(e) The following prohibitions apply only to a special Government employee:

(1) He may not, except in the discharge of his official duties, represent anyone else before a court or Government agency in a matter in which the United States is a party or has an interest and in which he has at any time participated personally and substantially for the Government (18 U.S.C. 203 and 205).

(2) He may not, except in the discharge of his official duties, represent anyone else in a matter pending before the Government agency he serves unless he has served there no more than 60 days during the past 365 days (18 U.S.C. 203 and 205).

(f) This section does not preclude an employee from:

(1) Acting without compensation, and if not inconsistent with the faithful performance of his duties, as agent or attorney for any person who is the subject of disciplinary, loyalty, or other personnel administration proceedings in connection with those proceedings;

(2) Giving testimony under oath or making statements required to be made under penalty for perjury or contempt; or

(3) Having a financial interest or engaging in financial transactions to the same extent as a private citizen not employed by the Government, provided it is not prohibited by law, Executive Order 11222, 5 CFR Part 735, this part, or agency regulations supplementing this part.

(g) This section does not purport to paraphrase the restrictions contained in 18 U.S.C., Chapter 11. The omission of a restriction in no way relieves an employee of the legal effect of such restriction.

§ 0.735-15 Attendance and leave.

(a) Employees must observe designated duty hours and be punctual in reporting for work and returning from lunch periods. Tardiness can result in employees being placed in a nonpay status or in a charge against annual or compensatory leave in multiples of 1 hour or remedial action.

(b) Employees normally must obtain advance authorization for absence from duty. Where absence from duty results from illness or an emergency, employees

are required to notify their supervisor or other appropriate person as soon as possible. When an employee fails to properly notify his supervisor absence may be charged as an unauthorized absence. It also may result in remedial action.

(c) Sick leave is to be used by employees only when they are incapacitated from duty because of sickness or injury, when they need to obtain medical, dental, or optical examination or treatment, when they are subject to quarantine imposed by local health authorities, or when they are required to give care to a member of their immediate family who has a contagious disease.

§ 0.735-16 Use of Government property, facilities, and services.

(a) Employees are prohibited from directly or indirectly using, or allowing the use of, Government property, facilities, or services of any kind, including those leased to or otherwise paid for by the Government, for other than officially approved activities. Employees have a positive duty to conserve and protect Government property.

(b) Personal property offered for sale by the Department may be purchased by employees only when the sale of such property is based upon competitive bids, provided that no purchase may be made, either directly or indirectly, by the employee who was formerly accountable for the property, who formerly used the property, or who was in any way connected with its condemnation, declaration as excess, or sale, except:

(1) Surplus perishable products may be sold to employees at the best price obtainable in quantities not exceeding the needs of their immediate households.

(2) Special clothing and other articles or personal equipment purchased for the exclusive use of and fitted to an individual employee may, when not otherwise usable by the Department and in all respects surplus to the needs of the Government, be sold to such employee at the best price obtainable in the event of his separation from the Service or permanent assignment to duties not requiring such clothing or equipment.

§ 0.735-17 Use of vehicles.

(a) An employee who wilfully uses or authorizes the use of a Government-owned or leased passenger motor vehicle or aircraft for other than official purposes shall be suspended for 1 month

or removed from office in accordance with 31 U.S.C. 638a(c) (2).

(b) An employee who wilfully uses or authorizes the use of a Government-owned or leased motor vehicle other than passenger carrying for other than official purposes, is subject to disciplinary action up to and including removal.

(c) An employee shall not store Government-owned or leased motor vehicles in or near his private residence or use such vehicles for transportation between his residence and place of employment unless such storage or use shall have been specifically authorized by the Secretary or another official to whom such authority has been delegated.

§ 0.735-18 Indebtedness.

(a) Employees who fail to pay their just financial obligations in a timely and proper manner will be subject to such disciplinary action as the Agency Head or his designee considers appropriate. For the purpose of this section, "just financial obligations" are those acknowledged by the employee, reduced to judgment by a court, or confirmed by a final administrative determination of a unit of the Federal, State, or local government. A "proper and timely manner" means in a manner which the Agency Head or his designee determines does not, under the circumstances, reflect adversely on the Department as his employer.

(b) In cases where a legal judgment exists against the employee, the employee concerned will be required to satisfy the judgment within a reasonable period of time unless he can arrange to have it modified or set aside.

(c) When an employee is the subject of a complaint for failure to pay taxes or other debts that are the subject of a final administrative determination by a unit of the Federal, State, or local government, he shall be advised of the complaint and told to make payment arrangements satisfactory with that unit of government.

(d) When an employee is the subject of a letter of complaint from a creditor who does not hold a legal judgment, the Agency Head or his designee shall determine whether the employee acknowledges the debt and call the provisions of this section to the employee's attention. Subsequent action, if any, will be taken in accord with the facts of the case and the provisions of this section.

§ 0.735-19 Political activity.

A Federal employee other than an officer exempted by 5 U.S.C. 7324(d) may not take an active part in political management or in a political campaign. He may not solicit or receive any assessment, subscription, or contribution for any political purpose from an officer or employee of the Government. Whatever the employee may not do directly, he may not do indirectly or through an agent, officer, or employee chosen by him or subject to his control.

§ 0.735-20 Use, protection, and release of information.

(a) An employee is prohibited from using or giving information acquired through his official position, prior to its release to the general public, to advance the interests of himself, his family, associates, or friends, or any other person or enterprise.

(b) Classified defense information and restricted information shall be safeguarded and released in accordance with the provisions of applicable directives, statutes, or regulations. For further information consult the USDA Records Security Regulations.

(c) "For Official Use Only" material shall not be examined by, released to, nor discussed with any person except in the performance of official duties and as prescribed by Title 1, Chapter 9, Administrative Regulations, U.S. Department of Agriculture.

(d) Unauthorized, premature disclosure of information which might influence or affect the market value of any product of the soil grown within the United States, or of information which by law or rule of the Department is required to be withheld from publication until a fixed time is punishable by fine and imprisonment.

(e) The subject matter of public hearings with respect to the proposed issuance of an order, regulation or other administrative determination, after the close of the hearing and prior to issuance by the Secretary of the order, regulation, or other administrative determination shall not be discussed with any interested person or with any representative of an interested person without written permission of the Secretary. However, this shall not preclude an employee who has been assigned to or has supervision over a proceeding from discussing with interested persons or their representatives

matters of procedure in connection with such proceeding.

(f) Official mail shall be safeguarded from indiscriminate publication. It is prohibited to use or to quote in whole or in part any letters from the White House to this Department.

(g) Information concerning inventions and patent applications may be revealed only for official purposes. Employee inventors and employees who handle or obtain information concerning inventions of employee inventors or concerning any other inventions in which the Department may have an interest shall not reveal such information prior to the issuance of the patent, except for official purposes.

(h) The release of any list of names of employees of the Department of political purposes or for purposes of commercial solicitation is prohibited.

(i) It is prohibited to release lists of names of farmers, businessmen, persons, organizations, or firms that may be available in the Department directly or indirectly to any person, firm or association if such lists will be used for solicitation purposes, or such lists directly or indirectly provide information which customarily would not be released to the public by the person from whom the Department obtained it. Exceptions shall not be made unless authorized by the Director of Information, and it is clear that the public interest will be served and there will be negligible public expense or interruption of work. A request for a Department list must state the purpose for which the list will be used. Lists of manufacturers, dealers, breeders, etc., should not be furnished so as to imply that the Department endorses certain firms to the possible detriment of others or that the lists necessarily include all dealers of a certain line.

§ 0.735-21 Activities with regard to farm organizations.

(a) Department employees shall refrain from participating actively in meetings and in other activities concerned with the establishment of general or specialized farm organizations, or with recruiting members for existing organizations such as the national, regional, State, and local organizations of the National Grange, the American Farm Bureau Federation, the National Farmers Organization, the Farmers' Union, the National Association of Soil Conservation Districts, the National Rural

Electric Cooperative Association, the National Council of Farmer Cooperatives and Breed and Commodity Organizations. This is a necessary corollary of the equally long-established policy of the Department that it shall deal fairly with all organizations and deal with each upon the same basis. As a continuation of this policy, it should be understood by employees of the Department that it is not permissible for any of them to:

(1) Participate in establishing any general or specialized farm organization.

(2) Act as organizer for any such organization, or hold any other office therein.

(3) Act as financial or business agent for any such organization.

(4) Participate in any way in any membership campaign or other activity designed to recruit members for any such organization.

(5) Accept the use of free office space or contributions for salary or traveling expense from any such organization.

(6) Advocate that any particular general or specialized organization of farmers is better adapted for carrying out the work of this Department than any individual citizen, group of citizens, or organizations.

(7) Advocate that the responsibilities of any agency of this Department or any other Federal agency should be carried out through any particular general or specialized organization of farmers.

(8) Advocate or recommend that any State or local agency should carry out its responsibilities through any particular general or specialized organization of farmers.

(9) Approve contracts for the Department with any cooperative or other commercial organization whenever such cooperative or other commercial organization deducts or checks off from payments due farmers, membership dues of such farmers to any general or specialized organization of farmers, except as it is determined that current authorization for such deduction has been knowingly filed by such individual farmers with the cooperative or other commercial organization.

(b) The restrictions set forth in paragraph (a) of this section do not:

(1) Apply to FHA County Committeemen.

(2) Apply to specialized organizations of farmers such as cow testing associations and similar groups.

(3) Prohibit employees from participating in the organization of groups that are needed in carrying out federally authorized programs; for example, an REA cooperative and similar groups determined by the appropriate Agency Head to be essential in effectuating federally authorized programs.

(c) If any violations of any of the provisions of this section should occur, full information with reference thereto should at once be submitted to the Office of the Inspector General by the head of the agency in which the person violating any of these provisions is employed.

§ 0.735-22 Prohibitions upon employees serving abroad.

An employee on foreign assignment may not:

(a) Violate Department of State regulations governing the post to which he is assigned.

(b) Receive a "profit" from the sale of his personal car or other property when such "profit" accrues from import privileges granted him by reason of his official status. "Profit" for the purposes of this paragraph is as defined in Department of State regulations or directives governing the post of assignment.

(c) Engage in political activities in the country of assignment.

(d) Violate the laws of the country in which he is assigned.

(e) Have an interest in any business enterprise or engage in any profession in any country to which assigned.

(f) Speculate in foreign real estate, bonds, shares, stocks, and currencies.

§ 0.735-23 Miscellaneous provisions.

(a) Any money, property, or other thing of value received by or coming into custody of an employee in connection with the discharge of his duties must be accounted for, deposited or otherwise disposed of in accordance with established procedures.

(b) Employees are required under § 5.3 of Civil Service Rule V (5 CFR 5.3) to give the Civil Service Commission and its authorized representatives all information and testimony in regard to matters arising under laws, rules, and regulations administered by the Commission.

(c) Employees are obligated to give information to authorized representatives of the Department when called upon if the inquiry relates to official matters and the information is obtained in the course of employment or as a re-

sult of relationships incident to such employment. Failure to respond to requests for information or to appear as a witness in an official proceeding may result in disciplinary penalty.

(d) Agency officials have the authority to transfer and reassign employees within their respective jurisdictions whenever necessary to meet operational needs. Employees have an obligation to the Department to accept transfers and changes in assignment. Failure to accept a transfer or reassignment may result in the separation of the employee.

§ 0.735-24 Miscellaneous statutory provisions.

(a) Each employee has a positive duty to acquaint himself with each statute that relates to his ethical and other conduct as an employee of his Agency, of the Department, and of the Government. The attention of each employee is directed to the following statutory provisions:

(1) House Concurrent Resolution 175, 85th Congress, second session, 72A Stat. B12, the "Code of Ethics for Government Service."

(2) Chapter 11 of title 18, United States Code, relating to bribery, graft, and conflicts of interest.

(3) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913).

(4) The prohibitions against disloyalty and striking (Executive Order 10450, 5 U.S.C. 7311, 18 U.S.C. 1918).

(5) The prohibition against the employment of a member of a Communist organization (50 U.S.C. 784).

(6) The prohibitions against the disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783).

(7) The prohibition against the disclosure of confidential information (18 U.S.C. 1905).

(8) The provision relating to the habitual use of intoxicants to excess (5 U.S.C. 7352).

(9) The prohibition against the misuse of a Government vehicle (31 U.S.C. 638a).

(10) The prohibition against the misuse of the franking privilege (18 U.S.C. 1719).

(11) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

(12) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001).

(13) The prohibition against mutilating or destroying a public record (18 U.S.C. 2071).

(14) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).

(15) The prohibition against embezzlement of Government money or property (18 U.S.C. 641).

(16) The prohibition against embezzlement of the money or property of another person in the possession of an employee by reason of his employment (18 U.S.C. 654).

(17) The prohibition against failing to account for public money (18 U.S.C. 643).

(18) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(19) The prohibition against proscribed political activities (5 U.S.C. 7324, and 18 U.S.C. 602, 603, 607, and 608).

(20) The prohibition against an employee acting as an agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

(21) The prohibition against the employment of a person convicted of a felony for participating in or promoting a riot or civil disorder (5 U.S.C. 7313).

(22) The prohibition against the publication of data and information obtained pursuant to the Commodity Exchange Act which would disclose the business transactions of any person, trade secrets or customer names (7 U.S.C. 12).

(23) The prohibition against using or revealing information relative to formulas of products acquired by the Secretary incident to the registration of economic poisons, with intent to defraud (7 U.S.C. 135f(c)).

(24) The prohibition against the unauthorized release of information, in the Packers and Stockyards Act (7 U.S.C. 222).

(25) The prohibition against the release of information in an employee's possession concerning cotton standards, estimates, tests, and analyses unless authorized by the Secretary (7 U.S.C. 472).

(26) The prohibitions against the release of information acquired from parties to any marketing agreement, and handlers subject to marketing agreement orders, except as authorized by the Secretary for the purposes of suit or administrative hearings (7 U.S.C. 608d(2)).

(27) The prohibition against the unauthorized prediction as to cotton prices in a governmental publication (12 U.S.C. 1141j(d)).

(28) The prohibition against the making of false statements or reports, or wilfully overvaluing land, property or security to influence action in connection with agricultural loans (18 U.S.C. 1014).

(29) The prohibition against the willful disclosure of official information which might influence or affect the market value of crops prior to authorized publication. An employee acquiring by reason of his employment, information as to the market value of agricultural crops, which information is required to be withheld, is prohibited from speculating in such product (18 U.S.C. 1902).

(30) Limitations on the use or availability of information furnished in connection with marketing agreements and orders (7 U.S.C. 610(i)).

(31) The availability of information furnished in connection with marketing agreements and orders, applicable to marketing agreements and orders, applicable to marketing agreements for anti-hog-cholera serum and hog-cholera virus is restricted (7 U.S.C. 855).

(32) Information furnished in connection with collection of peanut statistics shall be used only for statistical purposes for which supplied. No publication shall be made where the data furnished by any establishment can be identified (7 U.S.C. 955).

(33) Information with respect to individual operations of processor, producer, or laborer will not be made public in connection with recommendations with respect to producer-processor and producer-labor contracts (7 U.S.C. 1159).

(34) Information furnished in connection with the establishment and adjustment of farm marketing quotas shall be disclosed only as authorized by the Secretary for the purpose of suit or administrative hearing (7 U.S.C. 1373(c)).

(35) The prohibition against a person licensed to inspect or grade grain, or employed by the Department to carry out the provisions of the Grain Standards Act being financially or otherwise interested in a grain elevator or employed by a grain elevator or warehouse (7 U.S.C. 87).

(36) The prohibition against persons administering the Sugar Act of 1948, from investing or speculating in sugar or liquid sugar, contracts relating thereto,

or stock or membership interests of any association or corporation engaged in sugar production (7 U.S.C. 1157).

(37) The prohibition against persons administering activities concerned with cotton option contracts and commodity benefits as provided by the Agriculture Adjustment Act speculating in agricultural commodities or products to which such contracts or benefits apply, or in contracts relating thereto, or in the stock or membership interests of any association or corporation handling such commodities or products (7 U.S.C. 610(g)).

(38) The prohibition against an officer or employee being the beneficiary of or receiving any fee, commission or gift for or in connection with any transaction or business under the Consolidated Farmers Home Administration Act of 1961, other than such salary, fee or compensation as he may receive as an officer or employee. Members of a FHA County Committee making any certification with respect to a loan to purchase any land in which they or any person related to them have any financial interest (7 U.S.C. 1986).

(39) The prohibition against the making of false statements in connection with activities of the Commodity Credit Corporation or embezzlement or conversion of anything of value belonging or pledged to the Corporation, or conspiring to commit such acts (15 U.S.C. 714m).

(40) The prohibition against the acceptance of any fee, gift, or other consideration for compromise, adjustment, or cancellation of farm indebtedness (18 U.S.C. 217).

(41) The prohibition against the embezzlement of money or property of the Federal Crop Insurance Corporation and the Farmers Home Administration, and of pledged or entrusted property (18 U.S.C. 657).

(42) The prohibition against the conversion of property mortgaged or pledged to the Farmers Home Administration and the Federal Crop Insurance Corporation, with intent to defraud (18 U.S.C. 658).

(43) The prohibition against the making of false entries, or participation in any benefit through any transaction in connection with Departmental activities concerned with agricultural loans (18 U.S.C. 1006).

(44) The prohibition against speculation in agricultural commodities to which the Federal Crop Insurance Act applies or

to contracts relating thereto, or stock or membership interests of corporations or associations handling such commodities by any person administering such law (18 U.S.C. 1903).

(45) The prohibition against the compilation or issuance of false crop reports (18 U.S.C. 2072).

(46) The prohibition against the acceptance by an employee of money or other things of value given with intent to influence a decision in connection with the performance of duties under the Federal Meat Inspection Act, or when received from a person or firm engaged in commerce given for any purpose whatever (21 U.S.C. 622).

(47) The prohibition against any person using to his own advantage or improperly revealing information concerning trade secrets acquired under the Poultry Products Inspection Act (21 U.S.C. 458).

(48) The prohibition against a public official appointing or promoting a relative, or advocating such an appointment or promotion (5 U.S.C. 3110).

(49) The tax imposed on certain employees (e.g., Presidential appointees, employees excepted under Schedule C, employees in GS-16 or above or a comparable pay level) who knowingly engage in self-dealing with a private foundation (26 U.S.C. 4941, 4946). "Self-dealing" is defined in the statute to include certain transactions involving an employee's receipt of pay, a loan, or reimbursement for travel or other expenses from, or his sale to or purchase of property from, a private foundation.

(b) This section does not purport to enumerate or paraphrase all statutory restrictions imposed on employees. The omission of a restriction in no way relieves an employee of the legal effect of such restriction.

Subpart C—Statements of Employment and Financial Interests

§ 0.735-31 Employees required to submit statements.

Except as provided in § 0.735-32 the following employees shall submit a statement of employment and financial interests on USDA Form AD-392 in accordance with this part:

(a) Employees paid at a level of the Executive Schedule in Subchapter II of 5 U.S.C., Chapter 53.

(b) Employees appointed as Hearing Examiners under 5 U.S.C. 3105.

(c) Employees classified at GS-13 or above under 5 U.S.C. 5332, or at a comparable pay level under other authority, who are in positions the basic duties and responsibilities of which require the incumbent to exercise judgment in making a Government decision or in taking Government action on contracting or procurement, administering or monitoring grants or subsidies, regulating or auditing private or other non-Federal enterprise, or other activities where the decision or action has an economic impact on the interests of any non-Federal enterprise.

(d) Employees classified at GS-13 or above under 5 U.S.C. 5332, or at a comparable pay level under other authority, who are in positions which the Agency has determined have duties and responsibilities which require that the incumbents report their employment and financial interests in order to avoid involvement in a possible conflict-of-interests situation and carry out the purpose of law. Executive order, part 735 of the Civil Service Commission's regulations, this part, and applicable Agency regulations.

(e) Employees classified below GS-13 under 5 U.S.C. 5332, or at a comparable pay level under other authority, where the Agency has determined that they are in positions which otherwise meet the criteria in paragraphs (c) and (d) of this section and that a statement from them is essential to protect the integrity of the Government and avoid employee involvement in a possible conflict-of-interests situation, provided such determination has been approved in writing by the Civil Service Commission.

§ 0.735-32 Exceptions.

(a) A statement of employment and financial interests is not required from a Presidential appointee covered by section 401(a) of the Executive order. Such appointees are subject to separate reporting requirements under section 401 of the Executive order.

(b) Employees in positions that meet the criteria in § 0.735-31(c) may be excluded from the reporting requirement when the Department Counselor determines that:

(1) The duties of a position are such that the likelihood of the incumbent's involvement in a conflict-of-interest situation is remote or:

(2) The duties of a position are at such a level of responsibility that the

submission of a statement of employment and financial interests is not necessary because of the degree of supervision and review over the incumbent or the inconsequential effect on the integrity of the Government.

(c) Exceptions will be considered by the Department Counselor at the request of the Agency Head.

(d) An employee shall be afforded the opportunity for a review, through the Departmental grievance procedure as described in Chapter 771 of the Department Personnel Manual, of the designation of his position as one requiring the submission of a statement of employment and financial interests.

§ 0.735-33 Identification of employees required to submit statements.

For control and reporting purposes, those employees required to submit statements shall be specifically identified in the personnel records system.

§ 0.735-34 Time and place for submission of employees' statements.

(a) When a decision is reached to make an appointment to a position requiring submission of a statement of employment and financial interest, the prospective employee should be informed of the requirement, furnished a copy of these regulations and the statement form, and advised of the availability of counseling with respect thereto. Submission of the initial statement may be made prior to appointment. In that event, review of the statement and resolution of any conflict questions should be made promptly and, if possible, prior to appointment. Initial statements must be submitted no later than 30 days after entrance on duty in such position.

(b) Employees and prospective employees in the following positions will submit statements directly to the Director of Personnel:

(1) Positions in the immediate staff and offices of the Office of the Secretary;

(2) Agency Heads, Associates, Deputies, and Assistants; and

(3) Noncareer Executive or Schedule C positions.

(c) Those in other positions will submit statements to the Agency Head or to an employee designated by him.

(d) Agencies are responsible for assuring that persons subject to the reporting requirements are notified of those requirements and are provided the necessary forms and instructions.

§ 0.735-35 Supplementary statements.

Changes in, or additions to, the information contained in an employee's statement of employment and financial interests shall be reported in an annual supplementary statement as of March 31 each year. If no changes or additions occur, a report so stating is required. Notwithstanding the filing of the annual report required by this section, each employee shall at all times avoid acquiring a financial interest or taking an action that could result in a violation of the conflicts-of-interests provisions of section 208 of Title 18, United States Code, or § 0.735-14.

§ 0.735-36 Types of interests to be reported.

The financial statements shall include the following:

(a) A list of the names of all corporations, companies, firms, or other business enterprises, partnerships, nonprofit organizations and educational or other institutions with which the employee is connected as an employee, officer, owner, director, trustee, partner, advisor, or consultant, or in which he has any continuing financial interest through a pension or retirement plan, shared income or otherwise as a result of any current or prior employment or business or professional associations, or in which he has any financial interest through the ownership of stock, stock options, bonds, securities or other arrangements including trusts. Shares in credit unions, building and loan associations, social or religious organizations, or deposits in savings and loan associations and banks, and interests exempted under § 0.735-14(c) need not be reported.

(b) A list of the names of his creditors other than those to whom he may be indebted by reason of a mortgage on property which he occupies as a personal residence or to whom he may be indebted for current and ordinary household and living expenses such as household furnishings, automobile, education, vacation, and similar expenses. Indebtedness on owner-occupied farms must be reported.

(c) A list of interests in real property or rights in land other than property which the employee occupies as a personal residence. Owner-occupied farms must be listed. Property acquired for the personal use of the employee and mem-

bers of his family, such as beach lots and cemetery lots need not be listed.

(d) The interests and obligations as listed above of a spouse, minor child, or blood relations who are full-time residents of the employee's household.

§ 0.735-37 Information prohibited.

The regulations in this part do not require an employee to submit any information relating to the employee's connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or similar organization not conducted as a business enterprise. For the purpose of this section, educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed "business enterprises" and are required to be included in employee's statement of employment and financial interest.

§ 0.735-38 Interests of employee's relatives.

(a) The financial interest of a spouse, minor child, or other member of an employee's immediate household shall be reported to the same extent as the financial interest of the reporting employee. An "other member" of the immediate household means blood relatives who are full-time residents of the employee's household.

(b) The employment of such persons need not be reported unless such person is engaged in an activity, which if held by the employee, would place him in a conflict or apparent conflict of interest situation.

§ 0.735-39 Information not known by employee.

If any information required to be included on a statement of employment and financial interest, or supplement thereto, including holdings placed in trusts, is not known to the employee but is known to another person, the employee shall ask such person to furnish the information in his behalf.

§ 0.735-40 Effect of employee's statement.

The statements of employment and financial interests and supplementary statements required under this part are in addition to, and not in substitution

for, or in derogation of, any similar requirement imposed by law, the Executive order, or regulation. The submission of a statement or supplementary statement by an employee does not permit him or any other person to participate in a matter in which his or the other person's participation is prohibited by law, the Executive order, or the regulations in this part.

§ 0.735-41 Specific provisions for special Government employees.

(a) Except as provided in paragraph (b) of this section, each special Government employee shall submit a statement of employment and financial interests on USDA Form AD-392A which reports:

(1) All other employment; and

(2) The financial interests of the special Government employee which relate either directly or indirectly to the duties and responsibilities of the special Government employee with the Department.

(b) An Agency Head may waive the requirement in paragraph (a) of this section for the submission of a statement of employment and financial interests in the case of a special Government employee who is not a consultant or expert when the Agency Head finds that the duties of the position held by that special Government employee are of a nature and at such a level of responsibility that the submission of the statement by the incumbent is not necessary to protect the integrity of the Government. For the purpose of this paragraph, "consultant" and "expert" have the meanings given those terms by Chapter 304 of the Federal Personnel Manual but do not include:

(1) A physician, dentist, or allied medical specialist whose services are procured to provide care and service to patients; or

(2) A veterinarian whose services are procured to provide care and service to animals.

(c) A statement of employment and financial interests required to be submitted under this section shall be submitted to the Agency Head of the Agency in which the special Government employee is to serve not later than the time of employment. Each special Government employee shall keep his statement of employment and financial interests current throughout his employment with the Department by the submission of supplementary statements.

§ 0.735-42 Review of statements and determination of conflicting interests.

(a) The Director of Personnel is responsible for the review of, and determinations on, those statements submitted directly to him pursuant to § 0.735-34(b). The responsibility for an initial review and determination may be delegated to the Chief, Security and Employee Conduct Division, Office of Personnel, and to staff members of that Division. Final determinations in cases involving substantial conflict questions shall be made only by the Director of Personnel, and he shall set criteria identifying the types of cases which must be referred to him for final determination.

(b) Agency Heads are responsible for the review of, and determinations on, those statements submitted to an Agency official. This responsibility may be delegated, subject to the following restrictions:

(1) Responsibility for an initial review and determination may be delegated only to responsible Agency officials who the Agency Head has determined have sufficient experience, judgment, and understanding of the conflict of interest problem to properly carry out such responsibility.

(2) Responsibility for final determinations in cases involving substantial conflict questions may be delegated only to Associate, Deputy, and Assistant Agency Heads, except that in the Forest Service, such responsibility may be delegated to Regional Foresters, Station Directors, and Area Directors. The Agency Head shall set criteria identifying the types of cases which must be referred to such officials for final determination.

(c) Delegations of review and determination responsibility must be in writing from the Director of Personnel or the Agency Head, as appropriate.

(d) The Director of Personnel shall issue general guidelines covering the review of statements, recognizing possible conflicts or the appearance thereof, obtaining additional information, resolving conflict situations, documentation, and remedial action. Agencies shall supplement these with more specific guidelines applicable to the particular Agency. A copy of both the general and the specific guidelines shall be furnished to each employee to whom review and determination responsibility has been delegated.

(e) Whenever a question of a conflict or the appearance of conflict arises, a written determination must be made. The basis of the determination must also be documented in writing. The employee must be advised in writing of the determination, and, if the determination involves a change in duties or disqualification for a particular assignment, a copy of the determination should be furnished to the employee's immediate supervisor. Where affirmative action by the employee is required, a report of his compliance shall be obtained and made a part of the record.

(f) If a determination cannot be made at the Agency level, the case shall be referred to the Director of Personnel. If the Director of Personnel cannot make a determination, he shall refer the case to the Department Counselor for his determination or referral to the Secretary for determination. The record shall include copies of all pertinent documents and a written statement from each referring official setting forth his recommendation as to a final determination and the reasons therefor.

(g) Before a final determination requiring any remedial action is made, the employee concerned shall be given an opportunity to explain the conflict or appearance thereof and to offer any suggestions he may wish as to how the matter might be resolved. If an employee feels that the final determination will cause him undue hardship, he may request a review and modification by forwarding to the Director of Personnel a written statement setting forth all the facts and circumstances in support of his request and any alternative solution which he thinks appropriate.

(h) If the final determination requires positive action on the part of the employee, he shall take such action as soon as possible and advise the determining official when he has done so. Failure to take a required action within a reasonable time may result in disciplinary action.

§ 0.735-43 Protection of employees' statements.

(a) The statements of employment and financial interests, and supplements thereto, required by or pursuant to the regulations in this part shall be held in confidence and afforded adequate physical security. No information as to the contents thereof shall be disclosed ex-

cept to the head of the employing Agency and such other persons as may be designated custodians or reviewers of such reports unless specific authorization has been obtained from the Department Counselor. An official, custodian, reviewer, or other employee having possession of a statement of employment and financial interests shall not allow access to, or allow information to be disclosed from the statement except to carry out the purposes of this Subpart C.

(b) Information from a statement of employment and financial interests shall not be disclosed outside of the Department except as the Civil Service Commission or the Secretary of Agriculture may determine for good cause shown.

(c) Reports shall be separately maintained by the officials designated as custodians for such reports and shall not be made a part of the official personnel folders.

(d) Regardless of the means or manner of transmission, when these reports leave the physical custody of the employee or a designated reviewer, they shall be enclosed in a double sealed envelope. The inner envelope shall be marked: "For Official Use Only," "Contains AD-392 (or AD-392-A)," as appropriate, and "To Be Opened By Addressee Only."

PART 1—ADMINISTRATIVE REGULATIONS

Subpart A—Official Records

- Sec.
- 1.1 Policy.
 - 1.2 Request for examination or copy of records.
 - 1.3 Authentication.
 - 1.4 Restrictions on availability.
 - 1.5 Compulsory process.
 - 1.6 Records in formal adjudication and formal rule-making proceedings.

Subpart B—Departmental Proceedings

- 1.26 Representation before the Department of Agriculture.
- 1.27 Rule-making procedures.
- 1.28 Petitions.
- 1.29 Subpoenas relating to meat inspection program.

Subpart C—Judicial Proceedings

- 1.41 Service of process.

Subpart D—Claims

- 1.51 Claims based on negligence, wrongful act, or omission.
- 1.52 Claims collection standards.

Subpart E—Cooperative Production of Television Films

Sec.

- 1.71 Purpose.
- 1.72 Policy.
- 1.73 Responsibility.
- 1.74 Basis for special working relationships.
- 1.75 General stipulations.
- 1.76 Department cooperation.
- 1.77 Assignment of priorities.
- 1.78 Development of special working relationships.
- 1.79 Credits.

Subpart F—Vending Stands To Be Operated by Licensed Blind Persons

- 1.91 Purpose.
- 1.92 Department policy.
- 1.93 Procedure.
- 1.94 Special provisions.

Subpart G [Reserved]

Subpart H—Delegation of Authority

- 1.201 General delegation of authority.

AUTHORITY: The provisions of this Part 1, issued under 5 U.S.C. 301, unless otherwise noted.

Subpart A—Official Records

AUTHORITY: The provisions of this Subpart A also issued under 5 U.S.C. 552, 559.

SOURCE: The provisions of this Subpart A appear at 32 F.R. 9605, July 4, 1967, unless otherwise noted.

§ 1.1 Policy.

It is the policy of this Department to make its records available to the public to the maximum extent consistent with the national welfare and the rights of individual citizens. This means that, with certain exceptions, the records of the Department are freely available for public inspection. The exceptions are limited to those expressly required by law or authorized by the standards and principles contained in 5 U.S.C. 552(b).

§ 1.2 Request for examination or copy of records.

(a) *General.* Request for examination of a record or for a copy thereof shall be made to the agency administering the program. Examination of records shall be at the time and place specified by the agency; and copies or extracts shall be furnished and the recipient charged, where appropriate, in accordance with the Department fee schedule.

(b) *Fee schedule.* The Director, Office of Plant and Operations, shall issue regulations relating to fees and charges for reproductions and for furnishing

copies and making searches of official records.

§ 1.3 Authentication.

When a request is received for an authenticated copy of a document which may be made available to the requesting party, the agency having possession thereof shall cause a correct copy to be prepared and sent to the Office of the General Counsel which shall certify the same and cause the seal of the Department to be affixed, except that the Judicial Officer, or the Hearing Clerk when directed by the Judicial Officer, may authenticate copies of documents in the records of the Hearing Clerk.

§ 1.4 Restrictions on availability.

(a) (1) Each agency in the Department, or the Assistant Secretary having responsibility for the activities of the agency, shall issue regulations setting forth the records which are exempt for disclosure because they are:

(i) Matters specifically required by Executive order to be kept secret;

(ii) Matters related solely to the internal personnel rules and practices of the Department;

(iii) Matters specifically exempted from disclosure by statute;

(iv) Trade secrets and commercial or financial information obtained from any person and privileged or confidential;

(v) Inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the Department;

(vi) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(vii) Investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency;

(viii) Matters contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency of the Department responsible for the regulation or supervision of financial institutions; or

(ix) Geological and geophysical information and data, including maps, concerning wells.

(2) The records of the Department that are within the above categories shall not be available to the public even though not specifically set forth in the agency regulations.

(3) Except where disclosure is prohibited by Executive order or statute, or by regulations of other Government agencies, the head of an agency may, in individual cases, make records exempt from disclosure available if he determines that disclosure will not adversely affect the national interest or constitute an unwarranted invasion of individual privacy.

(b) Agency regulations shall specify when records become available for inspection, where and the time when records may be inspected, the procedures to be followed in requesting access, the opportunity for appeal to the head of the agency where access is denied, and such other provisions as may be necessary to carry out the policy of this subpart.

(c) In determining which records shall be exempt, agencies shall be guided by the Attorney General's Memorandum On The Public Information Section of the Administrative Procedure Act, June 1967, or any revision thereof, and the committee reports referred to therein. (This Memorandum may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.)

(d) Upon determination by a representative of an agency that a record is not available, the person requesting the record may appeal in writing to the head of the agency whose decision shall be final.

(e) Many of the records in the files of agencies of the Department are obtained from other agencies of the Department and other departments and agencies of the Government. Where the question of the availability of a record is determined to be primarily the responsibility of an agency other than the agency receiving a request therefor, the request will be referred to that agency for processing in accordance with that agency's regulations and the person submitting the request shall be so notified. In such instance the decision of the responsible officer of the agency having such responsibility with respect to the record shall be honored by agencies of this Department.

(f) The regulations in this subpart and 5 U.S.C. 552(a) deal only with records in being and in the possession or control of an agency and impose no obligation to compile or procure a record in response to a request.

§ 1.5 Compulsory process.

(a) *Referral to Secretary.* In any case where it is sought by subpoena, order, or other compulsory process or demand (hereinafter in this part referred to as a "demand") to require the production or disclosure of any record or material which is exempt from disclosure under § 1.4 or information related thereto acquired by an employee of this Department in the performance of his official duties or because of his official status, the matter shall be referred to the agency head for determination. If the agency head determines that it would be improper to comply with the demand, the matter will be referred to the Secretary of Agriculture for final determination. Unless the Secretary determines that the records, material, or information should be produced, the employee who appears in answer to the demand will respectfully decline to produce or disclose the records, material, or information demanded on the ground that the disclosure is prohibited by this section. The employee shall provide the court or other authority with a copy of the regulations prescribed in this subpart and shall respectfully request the court or other authority to withdraw the demand.

(b) *Demand before court or other authority for records or information exempt from disclosure.* Whenever a demand of the type described in paragraph (a) of this section is made upon an employee of this Department by a court or other authority while he is appearing before, or is otherwise in the presence of the court or other authority, the employee, or other appropriate Government official or attorney acting on behalf of the employee, shall (1) immediately inform the court or other authority that this section prohibits the employee from producing or disclosing the information or material demanded without the prior approval of the agency head or the Secretary of Agriculture, and (2) offer to refer the demand for the prompt consideration of the agency head or the Secretary of Agriculture. Unless the court or other authority withdraws the demand, the employee, or other appropriate Government official or attorney, shall provide the court or other authority a copy of the regulations prescribed by this subpart and shall respectfully request the court or other authority to stay the demand pending the receipt of instructions or directions from the

agency head or the Secretary of Agriculture concerning the demand.

(c) *Procedure in the event of an adverse ruling.* If the court or other authority declines to stay the effect of the demand in response to a request made in accordance with paragraph (a) or (b) of this section pending the receipt of instructions or directions from the agency head or the Secretary of Agriculture, or if the court or other authority rules adversely on any claim of privilege that may be asserted in conformity with the provisions of this subpart or with instructions or directions issued by the Secretary of Agriculture pursuant thereto, the employee upon whom the demand shall have been made shall, pursuant to the regulations prescribed in this subpart, respectfully decline to produce or disclose the records, material, or information demanded.

§ 1.6 Records in formal adjudication and formal rule-making proceedings.

Records in formal adjudication and formal rule-making proceedings are on file in the Office of the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, and shall be made available to the public.

Subpart B—Departmental Proceedings

§ 1.26 Representation before the Department of Agriculture.

(a) *Applicability.* The provisions of this section apply to all hearings and other proceedings before the Department of Agriculture, except to the extent that any other regulation of the Department may specifically make such provisions, or any part thereof, inapplicable as to particular hearings or other proceedings.

(b) *Administrative provisions.* (1) In any hearing or other proceeding before the Department of Agriculture, the parties may appear in person or by counsel or other representative. Persons who appear as counsel or in a representative capacity in any hearing or proceeding must conform to the standards of ethical conduct required of practitioners before the U.S. District Court for the District of Columbia, and to any applicable standards of ethical conduct established by statutes, executive orders and regulations.

(2) Whenever the Secretary finds, after notice and opportunity for hearing, that a person who is acting or has acted

as counsel or representative in any hearing or other proceeding before the Department has not conformed to any such standards of ethical conduct, he may order that such person be precluded from acting as counsel or representative in any hearing or other proceeding before the Department for such period of time as he deems warranted. Whenever the Secretary has probable cause to believe that any person who is acting or has acted as counsel or representative in any such hearing or other proceeding has not conformed to any such standards of ethical conduct, he may, by written notice to such person, suspend him from acting as such a counsel or representative pending completion of the procedures specified in the preceding sentence.

(3) No employee or former employee of the Department shall be permitted to represent any person before the Department in connection with any particular matter as to which by reason of his employment he acquired personal knowledge of such a nature that it would be improper, unethical, or contrary to the public interest for him so to act.

(4) This section shall not be construed to prevent an employee or former employee of the Department from appearing as a witness in any hearing or other proceeding before the Department.

(c) *Statutory provisions.* Chapter 11 of Title 18, United States Code prohibits employees and former employees from representing others under certain circumstances. See § 0.735-41 of this subtitle for illustrations.

(18 U.S.C. 203, 205, 207) [32 F.R. 5458, Apr. 1, 1967]

§ 1.27 Rule making procedures.

In all cases where notice of proposed rule making is given:

(a) The notice shall indicate the procedure to be followed in the rule making proceeding unless the procedure is prescribed by statute or by published rule of the Department. Each notice of proposed rule making shall contain a statement which will advise the public of the policy regarding availability of written submissions by indicating specifically whether paragraphs (b), (c), or (d) of this section will be applicable to submissions made pursuant to the notice.

(b) All written submissions made pursuant to notice of proposed rule making shall be made available for public inspection at such times and places and in a

manner convenient to the public business.

(c) Any submission, pursuant to such notice, will be held confidential when so requested by the person making the submission upon a determination, by an official of the Department authorized to issue the rule under consideration, that he has shown that the making public of the submission may result in an adverse effect on him by reason of:

(1) disclosing trade secrets, processes, operations, style of work or apparatus, or the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures; or

(2) exposing such person to substantial disadvantage in his business or employment.

Where request is made hereunder for confidential treatment of a submission, the person making the request shall be informed promptly in the event the request is denied and afforded an opportunity to withdraw the submission. Any such request will be held confidential; however, where a determination is made to grant a request for confidential treatment under subparagraph (2) of this paragraph, a statement of the specific basis for such determination which will not be susceptible of identifying the person making the request will be made available for public inspection.

(d) Where the nature of the subject matter of the proposed rule is such that meaningful submissions cannot be expected unless they treat with matters of the kind referred to in paragraph (c) of this section, then in that event the notice of proposed rule making shall so indicate and also contain a statement that submissions pursuant thereto will be treated as confidential: *Provided*, That such action shall have the prior approval of the Secretary, the Under Secretary, or an Assistant Secretary.

(e) This section shall apply in any instance where the Department or an agency thereof by published notice solicits, or affords interested members of the public an opportunity to submit, written views with respect to any proposed action relating to any program administered in the Department regardless of the fact that the issuance of a rule may not be contemplated.

[29 F.R. 7311, June 5, 1964, as amended at 29 F.R. 9319, July 8, 1964]

§ 1.28 Petitions.

Petitions by interested persons in accordance with the provisions of section 4(d) of the Administrative Procedure Act (60 Stat. 239; 5 U.S.C. 1003(d)) for the issuance, amendment or repeal of a rule may be filed with the official that issued or is authorized to issue the rule. All such petitions will be given prompt consideration and petitioners will be notified promptly of the disposition made of their petitions.

[11 F.R. 177A-233, Sept. 11, 1946. Redesignated at 13 F.R. 6703, Nov. 16, 1948]

§ 1.29 Subpoenas relating to meat inspection program.

(a) *Definitions*. When used in this section, the following words, names, or terms shall be construed as follows:

(1) *Secretary*. The Secretary of Agriculture, or any person acting in his stead.

(2) *Administrator*. The Administrator of the Agricultural Marketing Service, U.S. Department of Agriculture, or any person acting in his stead.

(3) *Inspector General*. The Inspector General of the U.S. Department of Agriculture, or any person acting in his stead.

(4) *Designated place of hearing*. Any place designated for the production of witnesses or documentary evidence, which may include a witness' place of business.

(5) *Federal Meat Inspection Act*. The Federal Meat Inspection Act (34 Stat. 1260, as amended by the Wholesome Meat Act, Public Law 90-201; 21 U.S.C. 601 et seq.).

(6) *Poultry Products Inspection Act*. The Poultry Products Inspection Act (71 Stat. 441, as amended by the Wholesome Poultry Products Act, Public Law 90-492, 21 U.S.C. 451 et seq.).

(7) *Investigation*. Any investigation, inquiry, inspection, or audit conducted by the Consumer and Marketing Service or by the Office of the Inspector General, U.S. Department of Agriculture, relating to efficient administration and enforcement of the Federal Meat Inspection Act or the Poultry Products Inspection Act.

(b) *Issuance of subpoena*. The attendance of a witness and the production of documentary evidence relating to an investigation may, by subpoena, be required at any designated place of hearing. A subpoena may be issued by either the Secretary, the Administrator, or the Inspector General upon a reasonable showing by the applicant of the

grounds, necessity, and reasonable scope thereof.

(c) *Service of subpoena.* (1) A subpoena issued pursuant to this section may be served by:

(i) A U.S. Marshal or Deputy Marshal,

(ii) Any other person who is not less than 18 years of age, or

(iii) Certified or registered mailing of a copy of the subpoena addressed to the person to be served at his or its last known residence or principal place of business or residence.

(2) Proof of service may be made by the return of service on the subpoena by the U.S. Marshal or Deputy Marshal; or, if served by an individual other than a U.S. Marshal or Deputy Marshal, by an affidavit or certification of such person stating that he personally served a copy of the subpoena upon the person named therein; or, if service was by certified or registered mail, by the signed return Post Office receipt.

(3) In making personal service, the person making service shall leave a copy of the subpoena with the person subpoenaed; and the original, bearing or accompanied by the required proof of service, shall be returned to the official who issued the subpoena.

(Sec. 407, 34 Stat. 1260, as amended; 21 U.S.C. 877, 15 U.S.C. 49, 21 U.S.C. 467d) [33 F.R. 7295, May 17, 1968, as amended by 34 F.R. 9261, June 12, 1969]

Subpart C—Judicial Proceedings

§ 1.41 Service of process.

Process in any suit brought in Washington, District of Columbia, against the United States or any officer of the U.S. Department of Agriculture in any matter involving the activities of this Department, shall be served on the General Counsel of the Department. A U.S. Marshal or other process server attempting to serve process in such a suit on any officer of the Department shall be referred to the Office of the General Counsel, in order that service of process may be made. In the event an officer of the Department of Agriculture is served with process in such a suit, he shall immediately notify the General Counsel. Any subpoena, summons, or other compulsory process requiring an officer or employee to give testimony, or to produce or disclose any record or material of the U.S. Department of Agriculture, shall be served on the officer or employee of the U.S. Department of Agriculture

named in the subpoena, summons, or other compulsory process.

[19 F.R. 4052, July 3, 1954, as amended at 33 F.R. 10273, July 18, 1968]

Subpart D—Claims

§ 1.51 Claims based on negligence, wrongful act, or omission.

(a) *Authority of Department—*(1) *Claims which accrue prior to January 18, 1967.* Under the provisions of the Federal Tort Claims Act, 28 U.S.C. 2671–2680 in effect prior to January 18, 1967, the Department may consider, ascertain, adjust, determine and settle claims for money damages of \$2,500 or less against the United States for personal injury, death, or property loss or damage caused by the negligent or wrongful act or omission of any employee of the Department while acting within the scope of his office or employment, under circumstances where the United States, if it were a private person, would be liable, in accordance with the law of the place where the act or omission occurred. This subparagraph applies only to those claims which accrue before January 18, 1967.

(2) *Claims which accrue on or after January 18, 1967.* Under the provisions of the Federal Tort Claims Act, as amended, in effect on and after January 18, 1967, and the regulations issued by the Department of Justice contained in 28 CFR Part 14, the Department may, subject to the provisions of such Act and regulations, consider, ascertain, adjust, determine, compromise, and settle claims for money damages against the United States for personal injury, death, or property loss or damage caused by the negligent or wrongful act or omission of any employee of the Department while acting within the scope of his office or employment, under circumstances where the United States, if it were a private person, would be liable, in accordance with the law of the place where the act or omission occurred. This subparagraph applies only to those claims which accrue on or after January 18, 1967.

(b) *Procedure for filing claims.* Claims may be presented by the claimant, his duly authorized agent or legal representative as specified in 28 CFR 14.3. Standard Form 95, Claim for Damage or Injury, may be obtained from the local office of the Departmental agency

which employs the employee who allegedly committed the negligent or wrongful act or omission. The completed claim form, together with appropriate evidence and information, as specified in 28 CFR 14.4, shall be filed with the office from which obtained.

(c) *Determination of claims*—(1) *Delegation of authority to determine claims.* The General Counsel, and such Washington and field employees of the Office of the General Counsel as may be designated by the General Counsel, are hereby authorized to consider, ascertain, adjust, determine, compromise, and settle claims pursuant to the Federal Tort Claims Act, as amended, and the regulations contained in 28 CFR Part 14 and in this section. This delegation supersedes that part of the delegation of authority to the General Counsel published in 27 F.R. 5917 which relates to allowance and disallowance of tort claims.

(2) *Allowance of claim.* If a claim is allowed in full or in part, the Office of the General Counsel will notify the fiscal officer of the departmental agency involved so that such agency may prepare and process an appropriate voucher for payment.

(3) *Disallowance of claim.* If a claim is denied, the General Counsel, or his designee, shall so notify the claimant, his attorney, or legal representative.

(5 U.S.C. 301, 28 U.S.C. 2671-2680; 28 CFR Part 14) [32 F.R. 1021, Jan. 28, 1967]

§ 1.52 Claims collection standards.

(a) *Authority of department.* The regulations in this section are issued under section 3 of the Federal Claims Collection Act of 1966, 31 U.S.C. 952, and in conformity with the Joint Regulations issued under that Act by the Attorney General and the Comptroller General prescribing standards for administrative collection, compromise, termination of agency collection action, and referral to the General Accounting Office, and to the Department of Justice for litigation, of civil claims by the Government for money or property, 4 CFR Ch. II.

(b) *General collection standards.* The Joint Regulations of the Attorney General and the Comptroller General set forth in 4 CFR, Ch. II, are applicable to and controlling on the U.S. Department of Agriculture to the extent that statutes other than the Federal Claims Collection Act of 1966, or authorized regulations

issued pursuant to such other statutes, do not establish standards governing the matters covered by such Joint Regulations.

(c) *Designation.* The head of each agency of the Department, and such persons as may be designated by him for such purpose, with respect to claims of his agency is authorized to perform all of the duties and exercise all of the authority of the Secretary under the Federal Claims Collection Act of 1966, the aforementioned Joint Regulations of the Attorney General and the Comptroller General, and the regulations in this section: *Provided*, That with respect to claims of \$400 or more, exclusive of interest, the head of each such agency may, if he considers it necessary or advisable to do so, direct that no compromise shall be effected or collection action terminated or suspended under authority of such Act and regulations, except with the advice and counsel of the Office of the General Counsel of the U.S. Department of Agriculture.

(Sec. 3, 80 Stat. 309; 31 U.S.C. 952) [32 F.R. 2805, Feb. 11, 1967, as amended at 36 F.R. 6071, Apr. 2, 1971]

Subpart E—Cooperative Production of Television Films

SOURCE: The provisions of this Subpart E appear at 22 F.R. 2904, Apr. 25, 1957, unless otherwise noted.

§ 1.71 Purpose.

This subpart establishes procedures for developing special working relationships with the Department of Agriculture requested by producers of films for television use. These procedures are designed to guide Department employees and producers of commercial television pictures in entering into such arrangements.

§ 1.72 Policy.

(a) *General.* It is a basic policy of the Department of Agriculture to make information freely available to the public.

(b) *Cooperation with television film producers.* The Department recognizes that its people and programs constitute a rich source of materials on public services, often dramatic and interesting for their human values, which are suitable for production of films for television showings. The Department welcomes the interest of television film producers in its activities and maintains an "open door" policy with respect to the availability of factual information to such producers, as it does to representatives

of other media. As its resources will permit, the Department will work with producers at their request, to assure technical accuracy of scripts and story treatments.

(c) *Special working relationships.* In those instances where a producer of films for television seeks special Department participation such as the use of official insignia of the Department, or who request special assistance such as the services of technical advisors, use of Government equipment and similar aids which require a material expenditure of public funds, and where the proposed film will further the public service of the Department, the Department will consider entering into a special working relationship with such producer.

(d) *News film reporting exempted.* Television and news film reporting of Department activities is not covered by this subpart.

§ 1.73 Responsibility.

The Director of Information or his designee will be the authority for the approval of special working relationships on the part of the Department of Agriculture and its agencies. The Director or his designee shall not commit the Department to such special arrangements without proper concurrence and coordination with interested agencies and approval by the appropriate Assistant Secretary or Group Director.

§ 1.74 Basis for special working relationships.

The Department and its agencies may lend special assistance on television films when it is clearly evident that public interests are served. Where special assistance is sought, an individual cooperative agreement will be drawn up between the Department with the Director of Information as its agent, and the producer. Details on such assistance as reviewing stories and scripts, loan of material, arrangements for locations, use of official motion picture footage, assignment of technical advisors and similar aids will be covered in the agreement, which shall delineate the general stipulations listed in § 1.75.

§ 1.75 General stipulations.

In requesting special working arrangements the producer must agree to the following stipulations:

(a) The producer must show that he has legal authority to the literary property concerned.

(b) The producer must show access to a distribution channel recognized by the motion picture or television industry. In lieu of complete distribution plans for a television series, a producer must produce satisfactory evidence of financial responsibility (showing financial resources adequate for the defrayment of costs for the proposed undertaking).

(c) The commercial advertising of any show produced, using oral or written rights granted to the producer, shall not indicate any endorsement, either direct or implied, by the U. S. Department of Agriculture or its agencies, of the sponsor's product.

(d) Commercial sponsorship shall be only by a person, firm, or corporation acceptable under the terms of the 1954 Television Code of the National Association of Radio and Television Broadcasters, and all subsequent amendments thereto. Political sponsorship shall not be permitted.

(e) That no production costs shall be chargeable to the U. S. Department of Agriculture.

(f) That such cooperation will not interfere with the conduct of Department programs.

(g) All damages, losses and personal liability incurred by producer will be his responsibility.

(h) That mutual understanding and agreement will be reached upon story, script and film treatment with the Department before film production is begun.

§ 1.76 Department cooperation.

When the producer agrees to meet the above stipulations to the satisfaction of the Director of Information, the U. S. Department of Agriculture and its agencies will be available for consultation on story ideas and give guidance through the services of a technical advisor to insure technical authenticity. Equipment, locations, and personnel will be available to the extent that such availability is concurrent with normal and usual conduct of the operations of the Department. The Department will check and work with the cooperators to arrange shooting schedules in order to avoid interferences with working schedules.

§ 1.77 Assignment of priorities.

(a) *Authority.* (1) The Director of Information or his designee will make assignment of priorities for the U.S. De-

partment of Agriculture for a television film company's and/or individual producer's story treatment of the subject matter, but no such priority shall limit use of the subject matter itself.

(2) A priority will be given in writing upon acceptance in writing by the producer of the stipulations in § 1.75 (b). The U. S. Department of Agriculture will hold the producer's treatment of the story material in confidence until the producer has made a public release pertaining to the subject.

(b) *Time and scope.* A priority will be given on the producer's story treatment for an agreed upon period of time. Requests for cooperation with similar or conflicting ideas and backgrounds will be considered only after holder of the first priority has used the agreed upon time to develop the materials.

(1) Details on priorities will be written into the agreements.

(2) The Director of Information will retain the right to cancel priorities when the producer at any stage violates the provisions of the regulations or of a particular agreement, or when public interest is no longer served.

(3) No priority will be canceled until the producer has had an opportunity to appear before the Secretary of Agriculture or his designee.

§ 1.78 Development of special working relationships.

(a) *Preliminary.* Prior to the submittal of a script or the rendering of an agreement, assistance may be given by the Department or one of its agencies in outlining story plans, visits to field points, and other incidentals that will assist the producer in determining his course of action.

(b) *Request for special working arrangements.* Once the decision is made to go ahead with an agreement, either the interested agency or the producer will make a written submission to the Director of Information, requesting that special working arrangements be established.

(1) In submitting scripts prior or subsequent to executing a written agreement under a special working relationship four (4) copies of the completed script shall be submitted to the Director of Information or his designee, along with a statement of specific requirements and the anticipated production schedule.

(2) No script will be used under a special working relationship without the

specific approval of the Director of Information.

(3) Upon approval of the script, the agency of the Department concerned with subject matter will endeavor to arrange for the desired assistance with the stipulations of this policy.

§ 1.79 Credits.

On films on which the Department or one of its agencies provides special assistance it shall be mutually agreed by the producer and the Director of Information what credits shall be given to the Department, and the form these credits will take.

Subpart F—Vending Stands To Be Operated by Licensed Blind Persons

AUTHORITY: The provisions of this Subpart F also issued under sec. 1, 49 Stat. 1559, as amended; 20 U.S.C. 107.

SOURCE: The provisions of this Subpart F appear at 22 F.R. 7189, Sept. 7, 1957, unless otherwise noted.

§ 1.91 Purpose.

This subpart prescribes policies and procedures governing the installation of vending stands and vending machines to be operated by licensed blind persons on premises under the control of the Department in accordance with the policy and purposes of the Randolph-Sheppard Vending Stand Act, as amended (20 U.S.C. 107-107f).

§ 1.92 Department policy.

(a) *Preference.* Licensed blind persons shall be given preference in the operation of vending stands on any Department-controlled premises in which vending stands may be properly and satisfactorily operated by such persons without unduly inconveniencing the Department or adversely affecting the interests of the United States.

(b) *Vending machines.* Where a permit is to be or has been issued for operation of a vending stand by a licensed person, income from vending machines which are determined to be in competition and which would provide the same or similar items which are or could be vended at the stand shall also be granted to the vending stand operator. Vending machine permits shall not be granted in premises where vending opportunities exist for the purpose of avoiding issuance of a vending stand permit.

(c) *Existing permits.* Where a determination has been made that a per-

mit for the operation of a vending stand or machines by licensed blind persons is to be issued, existing permits which are determined to be in substantial competition with the operation by the blind person shall be terminated as soon as possible under the terms of such permits.

(d) *Surveys.* Department Agencies shall cooperate with the Department of Health, Education, and Welfare and State licensing agencies in making surveys to determine whether and where vending stands may be properly and profitably operated by blind persons.

§ 1.93 Procedure.

Where it is determined that a vending stand may be installed, the State licensing agency shall be so advised and the necessary permit agreed upon and issued to it. Permits shall be approved by the Head or designated representative of the Agency having custody of the building or holding the prime lease.

§ 1.94 Special provisions.

(a) *Articles to be sold.* Items to be provided at vending stands or through vending machines may include, in addition to those specified in 20 U.S.C. 107-107f, such items as mutually agreed upon between the State licensing agency and the Department Agency. Items held for sale shall be clean and wholesome and shall be stocked in sufficient quantity to meet the needs of the persons served.

(b) *Location.* Stands and/or machines shall be so located as to provide reasonable access by the public or employees and at the same time to not constrict or obstruct access and exit to the premises or interfere with the transaction of public business.

(c) *Leased premises.* If stands and/or vending machines are to be installed in leased premises, the necessary approval of the lessor shall be obtained prior to granting the permit.

(d) *Charges for services.* No charge shall be made to the permittee for the use of the Government-furnished space or utilities; provided however, the permittee shall assume the responsibility for all cost of installation, maintenance in good repair and tenantable condition, and removal or relocation of the stand and/or vending machines.

(e) *Codes and ordinances.* The permittee shall be responsible for the operation of the stand and/or machines in compliance with applicable local and state health, sanitation and building

codes or ordinances. In the absence of such codes or ordinances, reasonable standards, not inconsistent with regulations of the Department, shall be enforced by the granting agency.

(f) *Approval of installation.* Any installations involving structural alterations or connections to building services shall be approved by the Department Agency prior to being made.

(g) *Termination provision.* The permit shall provide for termination upon (1) mutual consent, (2) vacation of the premises by the Department, (3) failure to comply with provisions of the permit (see paragraph (h) of this section), and (4) upon written determination by the Department official granting the permit that the Department is unduly inconvenienced or the interests of the United States are adversely affected. A copy of the written determination provided in (4) above shall be furnished to the State licensing agency. (See paragraph (i) of this section.)

(h) *Enforcement procedure.* If there are significant violations of the terms of this subpart or the permit, the matter shall be called to the attention of the State licensing agency. Upon failure of the State licensing agency to take action, the matter shall be referred to the Director of Plant and Operations for determination by him, after consultation with the Office of Vocational Rehabilitation, Department of Health, Education, and Welfare, of whether the permit should be terminated.

(i) *Disputes.* In the event the Department Agency's designated representative and the State licensing agency failed to reach agreement concerning:

- (1) Granting of a permit,
- (2) Revocation or modification of a permit,
- (3) Suitability of stand location,
- (4) Assignment of vending machine proceeds,
- (5) Method of operation of the stand,
- (6) Other terms of the permit (including articles to be sold),

the State licensing agency may request the Director, Office of Plant and Operations, to determine such disagreement. As a part of his consideration, the Director shall obtain a full report from the Department Agency's designated representative from whose decision the appeal is being taken, as well as a statement from the State licensing agency of its

position, and shall consult with the Vocational Rehabilitation Administration of the Department of Health, Education and Welfare. The decision of the Director shall be rendered within 90 days after receipt of the request by the State licensing agency for final determination of the dispute, and the decision shall be communicated to all interested parties including the State licensing agency and the Department of Health, Education, and Welfare.

(j) The Director, Office of Plant and Operations, shall furnish to the Department of Health, Education, and Welfare at the end of each fiscal year a consolidated report of the total number of applications for vending stand locations received from State licensing agencies, the number accepted, the number denied and the number still pending. In order to prepare this report, each agency of the Department shall submit to the Director by August 1 the requisite data covering the preceding fiscal year.

[22 F.R. 7169, Sept. 7, 1957, as amended at 28 F.R. 8117, Aug. 8, 1963]

Subpart G [Reserved]

Subpart H—Delegation of Authority

§ 1.201 General delegation of authority.

The head of each agency shall, under the general direction and supervision of the Secretary of Agriculture and the Under Secretary, and the Assistant Secretaries, the Administrative Assistant Secretary, the Director of Agricultural Economics, or the Director of Science and Education, to whom is assigned the general direction and supervision of his agency, direct and supervise the activities of the employees of his agency. Subject to any reservation of authority contained in delegations heretofore or hereafter published in the Federal Register, the head of any agency is hereby delegated authority to take any action, including the authority to execute any document, authorize any expenditure, and promulgate any rule, regulation, order or instruction, required by law or deemed by him to be necessary and proper to the discharge of the functions assigned to his agency. The head of any such agency may, consistent with and with due regard to his personal responsibility for the proper discharge of the functions assigned to his agency, delegate and provide for the redelega-

tion of his authority to appropriate officers and employees.

[25 F.R. 3926, May 6, 1960, as amended at 29 F.R. 339, Jan. 15, 1964]

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Subpart A—General

Sec.

- 2.1 Establishment of the Department.
- 2.2 Authority of the Secretary to prescribe regulations.
- 2.3 Authority of the Secretary to delegate authority.
- 2.4 General officers.
- 2.5 Order in which Assistant Secretaries shall serve as Acting Secretary.

Subpart B—General Delegations of Authority by the Secretary of Agriculture

- 2.7 Authority to supervise and direct.
- 2.8 Additional delegations.
- 2.9 Limitations.
- 2.10 New principles and periodic reviews.
- 2.11 Secretary and general officers not precluded from exercising delegated powers.
- 2.12 Status of prior delegations.

Subpart C—Delegations of Authority to the Under Secretary, Assistant Secretaries and Directors

- 2.15 Delegations of authority to the Under Secretary.
- 2.16 Reservations of authority.
- 2.17 Delegations of authority to the Assistant Secretary for Marketing and Consumer Services.
- 2.18 Reservations of authority.
- 2.19 Delegations of authority to the Assistant Secretary for Rural Development and Conservation.
- 2.20 Reservations of authority.
- 2.21 Delegations of authority to the Assistant Secretary for International Affairs and Commodity Programs.
- 2.22 Reservations of authority.
- 2.25 Delegations of authority to the Assistant Secretary for Administration.
- 2.26 Reservations of authority.
- 2.27 Delegations of authority to the Director of Agricultural Economics.
- 2.28 Reservations of authority.
- 2.29 Delegations of authority to the Director of Science and Education.
- 2.30 Reservations of authority.

Subpart D—Delegations of Authority to Other General Officers and Agency Heads

- 2.31 Delegations of authority to the General Counsel.
- 2.33 Delegations of authority to the Inspector General.
- 2.34 Reservations of authority.
- 2.35 Delegations of authority to the Judicial Officer.

Sec.

2.41 Designation to the Office of Administrative Law Judge.

Subpart E—Delegations of Authority by the Under Secretary

2.45 Director, Office of Planning and Evaluation.

2.46 Director, Office of Intergovernmental Affairs.

2.47 Deputy Under Secretary for Congressional Relations.

Subpart F—Delegations of Authority by the Assistant Secretary for Marketing and Consumer Services

2.50 Administrator, Agricultural Marketing Service.

2.51 Administrator, Animal and Plant Health Inspection Service.

2.52 Administrator, Commodity Exchange Authority.

2.53 Administrator, Food and Nutrition Service.

2.54 Administrator, Packers and Stockyards Administration.

Subpart G—Delegations of Authority by the Assistant Secretary for Rural Development and Conservation

2.60 Chief, Forest Service.

2.61 Administrator, Rural Electrification Administration.

2.62 Administrator, Soil Conservation Service.

Subpart H—Delegations of Authority by the Assistant Secretary for International Affairs and Commodity Programs

2.65 Administrator, Agricultural Stabilization and Conservation Service.

2.66 General Sales Manager, Export Marketing Service.

2.67 Manager, Federal Crop Insurance Corporation.

2.68 Administrator, Foreign Agricultural Service.

Subpart I—[Reserved]

Subpart J—Delegations of Authority by the Assistant Secretary for Administration

2.75 Director, Office of Budget and Finance.

2.76 Director, Office of Information Systems.

2.77 Director, Office of Management Services.

2.78 Director, Office of Personnel.

2.79 Director, Office of Plant and Operations.

2.80 Director, Office of Equal Opportunity.

Subpart K—Delegations of Authority by the Director of Agricultural Economics

2.85 Administrator, Farmer Cooperative Service.

2.86 Administrator, Economic Research Service.

2.87 Administrator, Statistical Reporting Service.

Subpart L—Delegations of Authority by the Director of Science and Education

Sec.

2.90 Administrator, Agricultural Research Service.

2.91 Administrator, Cooperative State Research Service.

2.92 Administrator, Extension Service.

2.93 Director, National Agricultural Library.

AUTHORITY: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953.

SOURCE: 37 F.R. 28463, Dec. 27, 1972.

Subpart A—General

§ 2.1 Establishment of the Department.

The Department of Agriculture was created by the Act of May 15, 1862, and by the Act of February 9, 1889, it was made an executive department in the Federal Government under the supervision and control of the Secretary of Agriculture. 7 U.S.C. 2201, 2202, 2204.

§ 2.2 Authority of the Secretary to prescribe regulations.

The general authority of the Secretary to prescribe regulations governing the work of the Department is based on 5 U.S.C. 301 which provides in part, that:

The head of an executive department * * * may prescribe regulations for the government of his department, the conduct of its employees, the distribution and performance of its business, and the custody, use and preservation of its records, papers, and property * * *.

§ 2.3 Authority of the Secretary to delegate authority.

The general authority of the Secretary to make delegations of his authority is based on section 4(a) of Reorganization Plan No. 2 of 1953 which provides:

The Secretary of Agriculture may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by an agency or employee, of the Department of Agriculture of any function of the Secretary, including any function transferred to the Secretary by the provisions of this reorganization plan.

§ 2.4 General officers.

The work of the Department is under the supervision and control of the Secretary, who is assisted by the following general officers: The Under Secretary, the Assistant Secretary for Marketing and Consumer Services, the Assistant Secretary for Rural Development and Conservation, the Assistant Secretary for International Affairs and Commodity

Programs, the Assistant Secretary for Administration, the Director of Agricultural Economics, the Director of Science and Education, the General Counsel, the Inspector General, and the Judicial Officer.

§ 2.5 Order in which Assistant Secretaries shall serve as Acting Secretary.

Pursuant to Executive Order 10481, dated August 15, 1953 (18 F.R. 4944), the Assistant Secretaries in the order named shall perform the duties of the Officer of the Secretary in case of the absence, sickness, resignation, or death of both the Secretary of Agriculture and the Under Secretary:

Assistant Secretary for Marketing and Consumer Services.

Assistant Secretary for Rural Development and Conservation.

Assistant Secretary for International Affairs and Commodity Programs.

Subpart B—General Delegations of Authority by the Secretary of Agriculture

§ 2.7 Authority to supervise and direct.

Unless specifically reserved, or otherwise delegated, the delegations of authority to each general officer of the Department and each agency head includes the authority to direct and supervise the employees engaged in the conduct of activities under his jurisdiction, and the authority to take any action, execute any document, authorize any expenditure, promulgate any rule, regulation, order, or instruction required by or authorized by law and deemed by the general officer or agency head to be necessary and proper to the discharge of his responsibilities. This authority will be exercised subject to applicable administrative rules and regulations. Unless otherwise provided, a general officer or agency head may, subject to his continuing responsibility for the proper discharge of delegations made to him, delegate and provide for the re-delegation of his authority to appropriate officers and employees.

§ 2.8 Additional delegations.

The authority granted to a general officer may be exercised in the discharge of any additional functions which the Secretary may assign.

§ 2.9 Limitations.

The delegations made in this part shall not be construed to confer upon any general officer or agency head the authority

of the Secretary to prescribe regulations which by law require approval of the President.

§ 2.10 New principles and periodic reviews.

In the exercise of authority delegated by the Secretary, the application of new principles of major importance or a departure from principles established by the Secretary should be brought to the attention of the Secretary. General officers are responsible for assuring that periodic reviews are conducted of the activities of the agencies assigned to their direction and supervision, as required by 5 U.S.C. 305.

§ 2.11 Secretary and general officers not precluded from exercising delegated powers.

No delegation of authority by the Secretary or a general officer contained in this part or elsewhere shall preclude the Secretary or general officer from exercising any of the authority so delegated.

§ 2.12 Status of prior delegations.

Nothing in this part shall affect the bylaws of the Commodity Credit Corporation, the Federal Crop Insurance Corporation, or the Rural Telephone Bank. All delegations previously made which are inconsistent with delegations made in this part are superseded; however, any regulation, order, authorization, expenditure, or other instrument, heretofore issued or made pursuant to any delegation of authority shall continue in full force and effect unless and until withdrawn or superseded pursuant to authority granted in this part.

Subpart C—Delegations of Authority to the Under Secretary, Assistant Secretaries and Directors

§ 2.15 Delegations of authority to the Under Secretary.

The following delegations of authority are made by the Secretary of Agriculture to the Under Secretary:

(a) *General.* Perform all of the duties and exercise all of the powers and functions which are now or which may hereafter be, vested in the Secretary of Agriculture. This delegation is subject to the limitation in § 2.9.

(b) *Related to planning, evaluation, and budgeting.* Coordinate all program planning, evaluation, and budgeting in the Department.

(c) *Related to intergovernmental affairs.* (1) Coordinate all programs involving intergovernmental affairs. (2) Coordinate the department emergency preparedness program including the disaster emergency response program.

(3) Direct activities of the USDA representatives to the 10 Federal Regional Councils and designate the Department's representative for Federal Executive Board matters.

(d) *Related to congressional relations.*

(1) Coordinate all congressional relations matters in the Department.

§ 2.16 Reservations of authority.

The following authorities are reserved to the Secretary of Agriculture:

(a) [Reserved]

(b) *Related to planning, evaluation, and budgeting.* Final approval of the Department's program and financial plans.

§ 2.17 Delegations of authority to the Assistant Secretary for Marketing and Consumer Services.

The following delegations of authority are made by the Secretary of Agriculture to the Assistant Secretary for Marketing and Consumer Services:

(a) *Related to agricultural marketing.*

(1) Exercise the functions of the Secretary of Agriculture contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621-1627), including payments to State Departments of Agriculture in connection with cooperative marketing service projects under section 204(b) (7 U.S.C. 1623(b)), and transportation activities under section 203(j) (7 U.S.C. 1622(j)), but excepting matters otherwise assigned.

(2) Administer transportation activities under Section 201 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1291).

(3) Exercise the functions of the Secretary of Agriculture contained in the following legislation:

(i) U.S. Cotton Standards Act (7 U.S.C. 51-65).

(ii) Cotton futures provisions of the Internal Revenue Code of 1954 (26 U.S.C. 4854, 4862-4865, 4876, and 7263).

(iii) Cotton Statistics and Estimates Act, as amended (7 U.S.C. 471-476), except as otherwise assigned.

(iv) U.S. Grain Standards Act, as amended (7 U.S.C. 71-87h).

(v) Naval Stores Act (7 U.S.C. 91-99).

(vi) Tobacco Inspection Act (7 U.S.C. 511-511q).

(vii) Wool Standard Act (7 U.S.C. 415b-415d).

(viii) Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601, 602, 608a-608e, 610, 612, 614, 624, 671-674).

(ix) Cotton Research and Promotion (7 U.S.C. 2101-2119).

(x) Export Apple and Pear Act (7 U.S.C. 581-590).

(xi) Export Grape and Plum Act (7 U.S.C. 591-599).

(xii) Federal Seed Act, as amended (7 U.S.C. 1551-1611).

(xiii) Perishable Agricultural Commodities Act (7 U.S.C. 499a-499s).

(xiv) Produce Agency Act (7 U.S.C. 491-497).

(xv) Tobacco Seed and Plant Exportation Act (7 U.S.C. 516-517).

(xvi) U.S. Warehouse Act, as amended (7 U.S.C. 241-273).

(xvii) Tobacco Statistics Act (7 U.S.C. 501-508).

(xviii) Section 32 of the Act of August 23, 1935 (7 U.S.C. 612c), as supplemented by the Act of June 28, 1937 (15 U.S.C. 713c) and related legislation except functions which are otherwise assigned relating to the domestic distribution and donation of agricultural commodities and products thereof following the procurement thereof.

(xix) Procurement of agricultural commodities and other foods under section 6 of the National School Lunch Act of 1946, as amended (42 U.S.C. 1755).

(xx) In carrying out the procurement functions in (xviii) and (xix) above, the Agricultural Marketing Service shall, to the extent practicable, use the commodity procurement, handling, payment, and related services of the Agricultural Stabilization and Conservation Service.

(xxi) Process or Renovated Butter Act (26 U.S.C. 4817-4818).

(xxii) Section 401(a) of the Organic Act of 1944 (7 U.S.C. 415e).

(xxiii) Agricultural Fair Practices Act (7 U.S.C. 2301-2306).

(xxiv) Wheat Research and Promotion Act (7 U.S.C. 1292 note).

(xxv) Plant Variety Protection Act (7 U.S.C. 2321-2331), 2351-2357, 2371-2372, 2401-2404, 2421-2427, 2441-2443, 2461-2463, 2481-2486, 2501-2504, 2531-2532, 2541-2545, 2561-2569, 2581-2583).

(xxvi) Egg Products Inspection Act (21 U.S.C. 1031-1056).

(xxvii) Potato Research and Promotion Act (7 U.S.C. 2611-2627).

(xxviii) Act of May 23, 1908, regarding inspection of dairy products for export (21 U.S.C. 693).

(4) Administer the warehouse examination function for the Agricultural Stabilization and Conservation Service, except functions of inventory management.

(b) *Related to animal and plant health inspection.* Exercise the functions of the Secretary of Agriculture under the following Acts:

(1) The Mexican Pink Bollworm Act (7 U.S.C. 145).

(2) Section 102, Organic Act of 1944, as amended, and the Act of April 3, 1937, as amended (7 U.S.C. 147a, 148–148e) relating to control and eradication of plant pests and diseases.

(3) The Mexican Border Act, as amended (7 U.S.C. 149).

(4) The Golden Nematode Act (7 U.S.C. 150–150g).

(5) The Federal Plant Pest Act (7 U.S.C. 150aa–150jj).

(6) The Plant Quarantine Act, as amended (7 U.S.C. 151–165, 167).

(7) The Terminal Inspection Act, as amended (7 U.S.C. 166).

(8) The Honeybee Act, as amended (7 U.S.C. 281–282).

(9) The Halogeton Glomeratus Act (7 U.S.C. 1651–1656).

(10) Tariff Act of June 17, 1930, as amended, sec. 306 (19 U.S.C. 1206).

(11) Act of August 30, 1890, as amended (21 U.S.C. 102–105).

(12) Act of May 29, 1884, as amended, Act of February 2, 1903, as amended, and Act of March 3, 1905, as amended, and supplemental legislation (21 U.S.C. 111–114a, 114a–1, 115–130).

(13) Act of February 28, 1947, as amended (21 U.S.C. 114b–114c, 114d–1, and Public Law 92–152).

(14) Act of June 16, 1948 (21 U.S.C. 114e–114f).

(15) Act of September 6, 1961 (21 U.S.C. 114g–114h).

(16) Act of July 2, 1962 (21 U.S.C. 134–134h).

(17) Act of May 6, 1970 (21 U.S.C. 135–135b).

(18) Poultry Products Inspection Act, as amended (21 U.S.C. 451–470).

(19) Federal Meat Inspection Act, as amended, and related legislation (21 U.S.C. 601–692, 694, 695).

(20) Humane Slaughter Act (7 U.S.C. 1901–1906).

(21) (Laboratory) Animal Welfare Act, as amended (7 U.S.C. 2131–2155).

(22) Horse Protection Act (15 U.S.C. 1821–1831).

(23) 28 Hour Law, as amended (45 U.S.C. 71–74).

(24) Export Animal Accommodation Act, as amended (46 U.S.C. 466a–466b).

(25) Purebred Animal Duty Free Entry Provisions of Tariff Act of June 17, 1930, as amended (19 U.S.C. 1202, Part 1, Item 100.01).

(26) Virus-Serum-Toxin Act (21 U.S.C. 151–158).

(27) Anti-Hog-Cholera Serum and Hog-Cholera Virus Act (7 U.S.C. 851–855).

(28) The Agricultural Marketing Act of 1946, sections 203, 205, as amended (7 U.S.C. 1622, 1624), with respect to voluntary inspection and certification of edible meat and other products; certified products for dogs, cats, and other carnivora; and animal byproducts (9 CFR Parts 156, 350, 355).

(29) Talmadge Aiken Act (7 U.S.C. 450) with respect to cooperation with States in control and eradication of plant and animal diseases and pests and administration of the Federal Meat Inspection Act and Poultry Products Inspection Act.

(c) *Related to commodity exchange regulation.* (1) Administer the Commodity Exchange Act, as amended and supplemented (7 U.S.C. 1 et seq.).

(d) *Related to food and nutrition.* (1) Administer the following legislation:

(i) The Food Stamp Act of 1964, as amended (7 U.S.C. 2011–2025).

(ii) National School Lunch Act of 1946, as amended (42 U.S.C. 1751–1763), except procurement of agricultural commodities and other foods under section 6 thereof.

(iii) Child Nutrition Act of 1966, as amended (42 U.S.C. 1771–1785).

(2) Administer those functions relating to the distribution and donation of agricultural commodities and products thereof under the following legislation:

(i) Clause (3) of section 416, Agricultural Act of 1949, as amended (7 U.S.C. 1431), except the estimate and announcement of the types and varieties of food commodities, and the quantities thereof, to become available for distribution thereunder.

(ii) Section 709 of the Food and Agriculture Act of 1965, as amended (7 U.S.C. 1446a–1).

(iii) Section 32 of the Act of August 24, 1935, as amended (7 U.S.C. 612c), as supplemented by the Act of June 28, 1937 (15 U.S.C. 713c), and related legislation.

(iv) Section 9 of the Act of September 6, 1958 (7 U.S.C. 1431b).

(v) Section 210 of the Agricultural Act of 1956 (7 U.S.C. 1859), except with respect to donations to Federal penal and correctional institutions.

(vi) Section 402 of the Mutual Security Act of 1954, as amended (22 U.S.C. 1922).

(vii) Section 707 of the Older Americans Act of 1965, as amended (42 U.S.C. 3045f).

(viii) Sections 203 and 238 of the Disaster Relief Act of 1970 (42 U.S.C. 4413, 4457).

(3) Administer those functions relating to the distribution of food coupons under section 238 of the Disaster Relief Act of 1970 (42 U.S.C. 4457).

(4) In connection with the functions assigned in subparagraphs (1), (2), and (3) of this paragraph, relating to the distribution and donation of agricultural commodities and products thereof and food coupons to eligible recipients, authority to determine the requirements for such agricultural commodities and products thereof and food coupons to be so distributed.

(5) Receive donation of food commodities under clause (3) of section 416 of the Agricultural Act of 1949, as amended, and section 709 of the Food and Agricultural Act of 1965, as amended.

(e) *Related to packers and stockyards.*

(1) Administer the Packers and Stockyards Act, as amended and supplemented (7 U.S.C. 181-229).

(2) Enforce provisions of the Consumer Credit Protection Act (15 U.S.C. 1601-1655, 1681-1681t) with respect to any activities subject to the Packers and Stockyards Act, 1921, as amended and supplemented.

§ 2.18 Reservations of authority.

The following authorities are reserved to the Secretary of Agriculture:

(a) *Relating to agricultural marketing.* (1) Promulgation, with the Secretary of the Treasury of joint regulations under section 402(b) of the Federal Seed Act, as amended (7 U.S.C. 1592(b)).

(b) *Related to animal and plant health inspection.* (1) Determination that an emergency or extraordinary emergency exists because of the outbreak of any dangerous, communicable disease of livestock or poultry anywhere in the United States and that such outbreak threatens the livestock or poultry of the United States (21 U.S.C. 114a, 134a(b)).

(2) Determination as to the measure and character of cooperation with Canada, Mexico, Central American countries, Panama, and Colombia related to operations and measures to eradicate, suppress, or control or to prevent or retard any communicable disease of animals, the designation of members of advisory committees, and the appointment of commissioners on any joint commission with these governments set up under such programs (21 U.S.C. 114b, as amended by Public Law 92-152).

(3) Approval of requests for apportionment of reserves for the control of outbreaks of insects, plant diseases, and animal diseases to the extent necessary to meet emergency conditions (31 U.S.C. 665).

(d) *Related to food and nutrition.* (1) Authority to appoint members of the National Advisory Council on Child Nutrition as directed in the National School Lunch Act of 1966, as amended (42 U.S.C. 1763).

§ 2.19 Delegations of authority to the Assistant Secretary for Rural Development and Conservation.

The following delegations of authority are made by the Secretary of Agriculture to the Assistant Secretary for Rural Development and Conservation:

(a)-(b) [Reserved]

(c) *Related to forest service.* (1) Provide national leadership in forestry. (As used here and elsewhere in this section the term "forestry" encompasses the tangible physical resources such as forests, forest-related rangeland, grassland, brushland, woodland, alpine areas, minerals, water areas, wildlife habitat, and less tangible forest-related values such as outdoor recreation, scenery, air and water quality, economic strength, and social well-being.)

(2) Protect, manage, and administer the national forests, national forest purchase units, national grasslands, and other lands and interests in lands administered by the Forest Service, which collectively are hereby designated as the National Forest System, including the acquisition and disposition of lands and interests in lands as may be required in these programs.

(3) Conduct research programs to provide fundamental knowledge and technology for improved policy decisions and improved professional management of forest and range ecosystems; increased efficiency in timber production; forest

soils and watersheds; range, wildlife, and fish habitat management; forest recreation; environmental forestry; forest fire; forest insects; forest diseases; forest products utilization; forest engineering; forest resource surveys; forest products marketing; and forest economics.

(4) Administer the programs of cooperation in the protection, planning, development, conservation, multiple-purpose management, and utilization of forest and related resources.

(5) Administer forest insect, disease, and other pest control and eradication programs.

(6) Administer programs under section 23 of the Federal Highway Act (23 U.S.C. 101(a), 202(b), 204(a)-(c), 205(a)-(c), 317).

(7) Exercise the custodianship of lands and interests in lands under lease or contract of sale to States and local agencies pursuant to title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010-1012).

(8) Administer under such general program criteria and procedures as may be established by the Soil Conservation Service, the forestry aspects of subdivisions (i), (ii), and (iii) of this paragraph on the National Forest System and rangelands within national forest boundaries and adjacent rangelands which are administered under formal agreement, and other forest lands.

(i) Cooperative river basin surveys and investigations program (16 U.S.C. 1006).

(ii) Eleven authorized watershed improvement programs and emergency flood prevention measures program under the Flood Control Act (33 U.S.C. 701b-1).

(iii) Small watershed protection program under the Pilot Watershed Protection and Watershed Protection and Flood Prevention Acts (67 Stat. 214 and 16 U.S.C. 1001-1011).

(9) Provide assistance to the Agricultural Stabilization and Conservation Service in connection with the rural environmental assistance program, the naval stores conservation program, and the cropland conversion program, as authorized by sections 7-17 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g-590q).

(10) Coordinate mapping work of the Department, including: (i) Clearing mapping projects to prevent duplication; (ii) keeping a record of mapping done by Department agencies; (iii) preparing and submitting required departmental reports; (iv) serving as liaison on mapping

with the Office of Management and Budget, Department of the Interior, and other departments and establishments; (v) promoting interchange of technical information, including techniques which may reduce costs or improve quality; and (vi) maintenance of the mapping records formerly maintained by the Office of Plant and Operations.

(11) Enter into research agreements (grants, contracts, agreements, and cooperative aid) under the provisions of 7 U.S.C. 450i; 42 U.S.C. 1891-1893; and 16 U.S.C. 581; 7 U.S.C. 427i(a); and 7 U.S.C. 1624, for the support of applied and/or basic scientific research in forestry activities.

(12) Provide assistance to the Farmers Home Administration in connection with grants and loans under authority of the Consolidated Farmers Home Administration Act of 1961, 7 U.S.C. 1912; and consultation with the Department of Housing and Urban Development under the authority of 40 U.S.C. 461(e).

(13) Exercise responsibility, under such general program criteria and procedures as may be established by the Soil Conservation Service in connection with the forestry aspects of the resource conservation and development program authorized by title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1011(e)).

(14) Administer the radio frequency licensing work of the Department, including: (i) Representation of the Department on the Interdepartmental Radio Advisory Committee and its Frequency Assignment Subcommittee, in the office of the Director of Telecommunications Management; (ii) establishing policies, standards, and procedures for allotting and assigning frequencies within the Department and for obtaining effective utilization of them; (iii) providing licensing action necessary to assign radio frequencies for use by the agencies of the Department and maintenance of the records necessary in connection therewith; and (iv) providing inspection of the Department's radio operations to insure compliance with national and international regulations and policies for radio frequency use.

(15) Administer the Youth Conservation Corps Act (42 U.S.C. Precede 2711 Note) for the Department of Agriculture.

(16) Establish and operate the Job Corps Civilian Conservation Centers on national forest lands as authorized by

title II, sections 106 and 107, of the Economic Opportunity Act of 1964 (42 U.S.C. 2716-2717), in accordance with the terms of an agreement dated May 11, 1967, between the Secretary of Agriculture and the Secretary of Labor; and administration of other cooperative manpower training and work experience programs where the Forest Service serves as host or prime sponsor with other departments of Federal, State, or local governments.

(17) Administer the Volunteers in the National Forests Act of 1972 (16 U.S.C. 558a-558d, 558a note).

(d) *Related to rural electrification and telephone service.* (1) Administer the "Rural Electrification Act of 1936," as amended (7 U.S.C. 901-950(b)).

(e) *Related to soil conservation activities.* (1) Provide national leadership in the conservation, development, and productive use of the Nation's soil, water, and related resources. Such leadership encompasses soil, water, plant, and wildlife conservation; small watershed protection and flood prevention; and resource conservation and development. Integrated in these programs are erosion control, sediment reduction, pollution abatement, land use planning, multiple use, improvement of water quality, and several surveying and monitoring activities related to environmental improvement. All are designed to assure (i) quality in the natural resource base for sustained use; (ii) quality in the environment to provide attractive, convenient, and satisfying places to live, work, and play; and (iii) quality in the standard of living based on community improvement and adequate income.

(2) Evaluate and coordinate land use policy.

(3) Administer the basic program of soil and water conservation under Public Law 46, 74th Congress, as amended, and related laws (16 U.S.C. 590a-f, 590i-1, 590q, 590q-1; 42 U.S.C. 3271-3274; 7 U.S.C. 2201), including:

(i) Technical assistance to land users in carrying out locally adapted soil and water conservation programs primarily through the conservation districts in the 50 States, Puerto Rico, and the Virgin Islands, but also to communities, watershed groups, Federal and State agencies, and other cooperators including such assistance as:

(a) Comprehensive planning assistance in nonmetropolitan districts.

(b) Assistance in the field of income-producing recreation on rural non-Federal lands.

(c) Forestry assistance, as a part of total technical assistance, to private land owners and land users when such services are an integral part of land management and such services are not available from a State agency; and forestry services in connection with windbreaks and shelter belts to prevent wind and water erosion of lands.

(d) Assistance in developing programs relating to natural beauty.

(e) Assistance to other Department agencies in connection with the administration of their programs, as follows:

(1) Agricultural Stabilization and Conservation Service in the development and technical servicing of certain programs, such as the rural environmental assistance program, water bank program, Appalachian regional development program, and other such similar conservation programs.

(2) Farmers Home Administration in connection with their loan programs.

(i) Soil surveys, including:

(a) Providing leadership for the Federal part of the National Cooperative Soil Survey which includes conducting and publishing of soil surveys.

(b) Conducting soil surveys for resource planning and development.

(c) Performing the cartographic services essential to carrying out the delegated authorities, including furnishing photographs, mosaics, and maps.

(iii) Conducting and coordinating snow surveys and making water supply forecasts pursuant to Reorganization Plan No. 4 of 1940 (5 U.S.C. App.).

(iv) Operating plan materials centers for the assembly and testing of plant species in conservation programs, including the use, administration, and disposition of lands under the administration of the Forest Service.

(ii) The emergency flood control work under section 216 of Public Law 516, 81st Congress, 33 U.S.C. 701b-1.

(iii) The cooperative river basin surveys and investigations program under section 6 of Public Law 566, 83d Congress, 16 U.S.C. 1036, except for responsibilities assigned to the Forest Service. Representation of the Water Resources Council and river basin commissions created by Public Law 89080, 42 U.S.C. 1962, and on river basin interagency committees.

(iv) The pilot watershed projects under Public Law 46, 74th Congress, 16 U.S.C. 590a-f, and Public Law 156, 83d Congress, except for responsibilities assigned to the Forest Service.

(v) The watershed protection and flood prevention program under Public Law 566, 83d Congress, as amended 16 U.S.C. 1001-1009, except for responsibilities assigned to the Farmers Home Administration and the Forest Service.

(vi) The joint investigations and surveys with the Department of the Army under Public Law 87-639, 16 U.S.C. 100.

(5) Administer the Great Plains conservation program under Public Law 1021, 84th Congress, as amended 16 U.S.C. 590p(b).

(6) Administer the resource conservation and development program under Public Laws 46, 74th Congress, and 703, 87th Congress, as amended 16 U.S.C. 590a and 7 U.S.C. 1010-1011, except for responsibilities assigned to the Farmers Home Administration.

§ 2.20 Reservations of authority.

The following authorities are reserved to the Secretary of Agriculture:

- (a)-(b) [Reserved]
- (c) *Related to forest service.* (1) Wildfire protection assistance.
- (d) [Reserved]
- (e) *Related to soil conservation activities.* (1) Designation of new project areas in which the resource conservation and development program assistance will be provided.
- (2) Responsibility for entering into long-term contracts for carrying out conservation and environmental measures in watershed areas.
- (3) Responsibility for carrying out a land inventory and monitoring program.

§ 2.21 Delegations of authority to the Assistant Secretary for International Affairs and Commodity Programs.

The following delegations of authority are made by the Secretary of Agriculture to the Assistant Secretary for International Affairs and Commodity Programs:

(a) *Related to agricultural stabilization and conservation.* (1) Administer the acreage allotment and farm marketing quota programs under the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1301 et seq.).

(2) Coordinate and prevent duplication of aerial photographic work of the Department, including: (i) Clearing of photographic projects; (ii) assigning

symbols for new aerial photography, maintaining symbol records, and furnishing symbol books; (iii) recording departmental aerial photography flown and coordinating the issuance of aerial photography status maps of latest coverage; (iv) promoting interchange of technical information and techniques to develop lower costs and better quality; (v) representing the Department on the Interagency Committee on Sales Prices of Aerial Photographic and Satellite Imagery Reproductions and serving as liaison with other governmental agencies on aerial photography and related activities including classification of departmental aerial photography but excluding mapping; and (vi) providing a chairman for the Photography Sales Committee of the Department.

(3) Administer the rural environmental assistance program and diversion programs (except Great Plains program and naval stores conservation program) under sections 7 to 17 of the Soil Conservation and Domestic Allotment Act, as amended (16 U.S.C. 590g et seq.).

(4) Administer the land stabilization, conservation, and erosion program authorized by section 203 of the Appalachian Regional Development Act of 1965, as amended (40 U.S.C. App. 203), with assistance from the Soil Conservation Service.

(5) Administer the beekeeper indemnity payment program under section 804 of the Agricultural Act of 1970 (7 U.S.C. 135b note).

(6) Administer the conservation reserve program under the Soil Bank Act of 1956, as amended (7 U.S.C. 1081 note).

(7) Administer the cropland adjustment program under title VI of the Food and Agriculture Act of 1965, as amended (7 U.S.C. 1938).

(8) Administer the cropland conversion program under section 16(e) of the Soil Conservation and Domestic Allotment Act, as amended (16 U.S.C. 590(e)).

(9) Administer the dairy indemnity payment program under Public Law 90-484, as amended (7 U.S.C. 450j-1).

(10) Administer responsibilities and functions under the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), the Federal Civil Defense Act of 1959, as amended (50 U.S.C. App. 2251 et seq.).

(11) Conduct refinancing operations pursuant to section 304 of the Defense

Production Act of 1950, as amended (50 U.S.C. App. 2094).

(12) Administer the emergency conservation program under Public Law 85-58, as amended (71 Stat. 177).

(13) Provide management support activities for the Export Marketing Service with respect to both program and administrative matters, including fiscal, accounting, budget, personnel, and administrative service functions, the preparation and issuance of information releases on agricultural exports, and the processing and disposition for the Export Marketing Service of all claims arising under Department functions for which the Export Marketing Service has responsibility, and in participation with other agencies of the U.S. Government, to develop and formulate amendments to credit agreements under title I, Public Law 480, and the export credit sales program involving the rescheduling of amounts due from foreign countries under such agreements.

(14) Administer the feed grain set-aside program under section 105 of the Agricultural Act of 1949, as amended (7 U.S.C. 1441 note).

(15) Administer the haybank program pursuant to section 805 of the Agricultural Act of 1970 (7 U.S.C. 1339d).

(16) Serve as focal point in the Department for consultation on the leasing of federally owned farm lands to insure consistency with the Government's farm programs to reduce production of price-supported crops in surplus supply and determine and proclaim agricultural commodities in surplus supply, pursuant to Presidential memorandum of May 21, 1956.

(17) Administer assigned activities under the Strategic and Critical Materials Stockpiling Act (50 U.S.C. 98-98h).

(18) Administer the Sugar Act of 1948, as amended (7 U.S.C. 1100 et seq.).

(19) Administer the International Sugar Agreement (7 U.S.C. 1161).

(20) Supervise and direct Agricultural Stabilization and Conservation Service State and county offices, and designate functions to be performed by Agricultural Stabilization and Conservation Service State and county committees.

(21) Administer the upland cotton program set-aside program under section 103 of the Agricultural Act of 1949, as amended (7 U.S.C. 1444).

(22) Administer the water bank program under Public Law 91-599 (16 U.S.C. 1301-1311).

(23) Administer the wheat certificate and set-aside programs under Subtitles B and D, title III, Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1339 and 1379a et seq.), other than as specified in § 2.22 (b).

(24) Administer the distress and disaster relief programs under section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427) and the Disaster Relief Act of 1970, Public Law 91-606 as amended (42 U.S.C. 4401).

(25) Administer the emergency livestock feed assistance program under section 407 of the Agricultural Act of 1949 and Public Law 86-299, as amended (7 U.S.C. 1427 and 1427 note).

(26) Determine the quantities of agricultural commodities subject to price support available for export programs, and estimate and announce the types, quantities, and varieties of food commodities to become available for distribution under clause (3) of section 416 of the Agricultural Act of 1949, as amended (7 U.S.C. 1431).

(27) Administer programs to stabilize, support, and protect farm income and prices and to assist in the maintenance of balanced and adequate supplies of agricultural commodities, including programs to sell or otherwise dispose of and aid in the disposition of such commodities, except those specified in §§ 2.17(d), 2.21 (b), and 2.21 (d).

(28) Administer procurement, processing, handling, distribution, disposition, transportation, payment, and related services on surplus removal and supply operations, under sections 5 (b), (c), and (d) of the CCC Charter Act (15 U.S.C. 714c (b), (c), and (d)), section 416 of the Agricultural Act of 1949, as amended (7 U.S.C. 1431), section 210 of the Agricultural Act of 1956 (7 U.S.C. 1446a-1), except as specified in §§ 2.17(d), and 2.21 (b).

(29) Administer commodity procurement and supply, transportation (other than from point of export except for movement to trust territories or possessions), handling, payment, and related services in connection with programs under title II of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1721-1725), hereinafter referred to as "Public Law 480"; and payment and related services for the Export Marketing Service with respect to export subsidy and barter operations, operations under title I of Public Law 480

(7 U.S.C. 1701-1710), and the export credit sales program.

(30) Administer functions relating to agreements under section 708 of the National Wool Act of 1954, as amended (7 U.S.C. 1787).

(31) Administer other functions on behalf of CCC as assigned in accordance with CCC bylaws.

(b) *Related to export marketing.* (1) Formulate and administer programs under section 5(f) of the CCC Charter Act (15 U.S.C. 714(f)) and section 4, Public Law 89-808 (7 U.S.C. 1707a) to finance commercial export credit sales of agricultural commodities by U.S. exporters.

(2) Formulate and administer barter programs, under which agricultural commodities are exported, under section 5(f) of the CCC Charter Act (15 U.S.C. 714c(f)).

(3) Negotiate and implement agreements between CCC and private trade entities to finance the sales and exportation of agricultural commodities for dollars on long-term credit under title I of the Agricultural Trade Development and Assistance Act, as amended (7 U.S.C. 1707), hereinafter referred to as "Public Law 480."

(4) Perform functions of the Department in connection with the development and implementation of basic country agreements under title I of Public Law 480 to finance the sales and exportation of agricultural commodities on long-term credit or for foreign currencies.

(5) Participate in program development, evaluation, and review, including related liaison with the Agency for International Development, private relief agencies, and intergovernmental organization, and activities involving operational responsibilities with respect to making agricultural commodities available for distribution in foreign countries under title II, Public Law 480 (7 U.S.C. 1721-1725).

(6) Coordinate within the Department activities arising under Public Law 480 (except as assigned to the Director of Agricultural Economics in § 2.27(a)) and to represent the Department in its relationships in such matters with the Department of State, the Interagency Staff Committee on Public Law 480, and other departments, agencies and committees of the Government.

(7) Arrange for transportation in connection with moving commodities from point of export under Public Law 480 and under section 5 of the CCC Charter Act (15 U.S.C. 714c) except for movement to trust territories or possessions.

(8) Formulate policy for export pricing and price review, in connection with export sales of CCC-owned commodities, except for tobacco, peanuts, tung oil, and gum naval stores and for export sales under Public Law 480.

(9) Formulate and administer programs for sales for export of CCC-owned agricultural commodities, except for tobacco, peanuts, tung oil, and gum naval stores.

(10) Allocate among the various export programs, agricultural commodities determined under § 2.21(a) to be available for export.

(11) Formulate and administer export payment programs (other than those under section 32, Public Law 320, 74th Congress (7 U.S.C. 612c)), and other programs as assigned to encourage or cause the export of U.S. agricultural commodities.

(12) Administer domestic operations to implement the Wheat Trade Convention of the International Wheat Agreement.

(13) Formulate and direct the program relating to acquisition of wheat export marketing certificates by exporters under Subtitle D, title III of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1379a et seq.).

(14) Develop foreign markets for agricultural commodities under section 5(f) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(f)), except as otherwise specifically assigned to the Foreign Agricultural Service.

(15) Perform those functions under section 203(j) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(j)) with respect to improvement of transportation service, facilities, and rates for the export of agricultural commodities and farm supplies which involve action before the Federal Maritime Commission, the Maritime Administration, or other similar transportation regulatory body, or which involve working directly with individual ocean carriers or groups of such carriers.

(c) *Related to Federal crop insurance.* Management of the Federal Crop Insurance Corporation is vested in a Board

of Directors subject to the general supervision of the Secretary. The general powers and authorities of the Corporation are stated in the Federal Crop Insurance Act, as amended, 7 U.S.C. 1501-1520. The Manager of the Corporation is its chief executive officer, with such power and authority as may be conferred upon him by the Board. Since general supervision of the Corporation is vested in the Secretary, the following delegation of authority is made to the Assistant Secretary for International Affairs and Commodity Programs:

(1) Exercise general supervision of the Federal Crop Insurance Corporation.

(d) *Related to foreign agriculture.*

(1) Coordinate the carrying out by Department agencies of their functions involving foreign agricultural policies and programs of the Department and their operations and activities in foreign areas (other than those functions arising under the Agricultural Trade Development Act of 1954, as amended (7 U.S.C. 1701-1710, 1721-1725, 1731-1736), which are not related to foreign agriculture and those functions relating to international development, technical assistance, and training assigned to the Director of Agricultural Economics). Act as liaison agency on these matters and functions relating to foreign agriculture between the Department of Agriculture and the Department of State, the Special Representative for Trade Negotiations, the Trade Expansion Act Advisory Committee, and other departments, agencies, and committees of the U.S. Government, foreign governments, Organization for Economic Cooperation and Development, the European Common Market, the Food and Agriculture Organization of the United Nations and other international organizations, and the contracting parties to the General Agreement of Tariffs and Trade.

(2) Administer departmental programs concerned with development of foreign markets for agricultural products of the United States except functions relating to export marketing, operations under section 32, Public Law 320, 74th Congress (7 U.S.C. 612c) delegated to the Assistant Secretary for Marketing and Consumer Services, and utilization research delegated to the Director of Science and Education. Legal authority for these programs is contained in section 104(b)(1) of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704(b)(1)), and sec-

tion 601 of the Agricultural Act of 1954, as amended (7 U.S.C. 1761).

(3) Conduct studies of worldwide production, trade, marketing, prices, consumption, and other factors affecting exports and imports of U.S. agricultural commodities and to obtain information on methods used by other countries to move farm commodities in world trade on a competitive basis for use in the development of programs of this Department, provision of information to domestic producers, agricultural trade, the public and other interests, and the promotion of normal commercial markets abroad. This delegation excludes basic and long-range analyses of world conditions and developments affecting supply, demand, and trade in farm products and general economic analyses of the international financial and monetary aspects of agricultural affairs as assigned to the Director of Agricultural Economics.

(4) Conduct functions of the Department relating to the General Agreement of Tariffs and Trade (GATT), the Trade Expansion Act of 1962 (19 U.S.C. 1801 et seq.), and other legislation affecting international agricultural trade including those programs designed to reduce foreign tariffs and other trade barriers.

(5) Maintain a worldwide agricultural attaché intelligence and reporting system, including provision of foreign agricultural representation abroad to protect and promote U.S. agricultural interests, and to acquire information on demand, competition, marketing and distribution of United States agricultural products abroad pursuant to Title VI of the Agricultural Act of 1954, as amended, Public Law 83-690 (7 U.S.C. 1761-1766).

(6) Conduct Department activities to carry out the provisions of the International Coffee Agreement Act of 1968 (19 U.S.C. 1356f-j).

(7) Administer functions of the Department relating to import controls, including, among others, functions under section 22 of the Agricultural Adjustment Act (of 1933), as amended (7 U.S.C. 624), section 2 of Public Law 88-482 (19 U.S.C. 1202 note), and section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), but not including those functions reserved to the Secretary under § 2.22(d), those relating to the Sugar Act of 1948, as amended (7 U.S.C. 1100 et seq.), as specified in § 2.21(a) and those relating to section 8e of the Agricultural Adjustment Act (of 1933), as amended (7 U.S.C. 608e-1), as assigned

to the Assistant Secretary for Marketing and Consumer Services.

(8) Represent the Department on the Interdepartmental Committee for Export Control and to conduct departmental activities to carry out the provisions of the Export Administration Act of 1969, as amended (50 U.S.C. App. 2401-2413), except as reserved to the Secretary under § 2.22(d).

(9) Conduct international negotiations and contacts in connection with the International Wheat Agreement and authority for the administration of the Food Aid Convention of the IWA within the Department.

(10) Plan and provide overall direction to the programs and activities undertaken to carry out the foreign market promotion portions of the Wheat Research and Promotion Act (Public Law 91-430); the Cotton Research and Promotion Act (Public Law 89-502); and the Potato Research and Promotion Act (Public Law 91-670). This authority includes determining the programs and activities to be undertaken and assuring that they are coordinated with the overall departmental programs to develop foreign markets for U.S. agricultural products.

§ 2.22 Reservations of authority.

The following authorities are reserved to the Secretary of Agriculture:

(a) *Related to agricultural stabilization and conservation.* (1) Appointment of State ASC committeemen.

(2) Recommendations to the President regarding the designation of areas of major disaster under the Disaster Relief Act of 1970, Public Law 91-606 (42 U.S.C. 4401), and regarding the designation of acute distress areas because of unemployment or other economic causes, pursuant to section 407 of the Agricultural Act of 1949, as amended, the designation of boundaries within areas under Public Law 91-606 or acute distress areas under section 407 of the Agricultural Act of 1949, as amended; the execution of cooperative agreements with State Governors and heads of other Federal agencies with respect to the program designations of emergency areas under the statutes to which reference is made in § 2.21(a), (26) and (27).

(3) Final approval of regulations relating to the selection and exercise of the functions of committees promulgated under section 8(b) of the Soil Conserva-

tion and Domestic Allotment Act, as amended (16 U.S.C. 590h(b)).

(4) Under section 708 of the National Wool Act of 1954, as amended (7 U.S.C. 1787), entering into agreements with, or approving agreements entered into between marketing cooperatives, trade associations, or others engaged or whose members are engaged in the handling of wool, mohair, sheep, or goats or the products thereof.

(5) Responsibility for entering into long-term contracts with agricultural producers for cost-sharing for rural environmental development.

(b) *Related to export marketing.* (1) Determining the agricultural commodities and the quantities thereof available for disposition under titles I and II of Public Law 480 (7 U.S.C. 1731).

(c) *Related to Federal crop insurance.* (1) Appointing the Board of Directors, Federal Crop Insurance Corporation.

(2) Appointing of the Manager, Federal Crop Insurance Corporation.

(d) *Related to foreign agriculture.*

(1) Approving export controls with respect to any agricultural commodity, including fats and oils or animal hides or skins as provided for in section 4(e) of the Export Administration Act of 1969, as amended (50 U.S.C. App. 2403).

(2) Advising the President that imports are having the effect on programs or operations of this Department required as a prerequisite for the imposition of import controls under Section 22 of the Agricultural Adjustment Act of 1933, as amended (7 U.S.C. 624a) and to recommend that the President cause an investigation to be made by the Tariff Commission of the facts so that a determination could be made whether import restrictions should be imposed under that Act.

(3) Determining and publishing the estimates required by the Meat Import Act, Public Law 88-482, which serve as a basis for the imposition of import restrictions on certain meats by the President.

§ 2.25 Delegations of authority to the Assistant Secretary for Administration.

The following delegations of authority are made by the Secretary of Agriculture to the Assistant Secretary for Administration:

(a) *Related to administrative law judges.* (1) Assign, after appropriate consultation with other general officers, to

the Office of Administrative Law Judges proceedings not subject to sections 556 and 557 of title 5, United States Code, involving the holdings of hearings and performance of related duties pursuant to the applicable rules of practice, when the Assistant Secretary for Administration determines that because of the nature of the proceeding it would be desirable for the proceeding to be presided over by an Administrative Law Judge and that such duties and responsibilities would not be inconsistent with those of an Administrative Law Judge.

(2) Provide administrative supervision of the Office of Administrative Law Judges.

(b) *Related to budget and finance.* (1) Exercise general responsibility and authority for all matters related to the administration of the Department's financial affairs including:

(i) Budgetary administration, including all phases of acquisition, distribution, and control of funds.

(ii) Financial administration, including accounting and related activities.

(iii) Budgetary and financial reporting.

(iv) Legislative reporting and related activities.

(v) The Department's central payroll, personnel and related services, central voucher payment service, and central accounting system.

(2) Formulate and promulgate Departmental financial policies, procedures, and regulations.

(3) Provide staff assistance to the Secretary, general officers, and other Department and agency officials.

(4) Review budgetary, financial, legislative, and fiscal management aspects of agency operations and proposals.

(5) Represent the Department in contacts with the Office of Management and Budget, the General Accounting Office, the Treasury, congressional Committees on Appropriations, and any other organizations or agencies on matters related to his responsibilities.

(6) Designate the Department's Director of Finance and the Department's Budget Officer to carry out the Department's responsibilities under the Budget and Accounting Act of the 1921 and other applicable statutes.

(c) *Related to information systems.* (1) Administer the Department's management improvement program including the provision of assistance to agencies through management studies; review the management and operating policies and

processes, search for more economical approaches to the conduct of business and provide such other assistance as will aid in improving the management effectiveness, organization and operation of the Department's programs.

(2) Administer the Department's records, forms, reports, and directives management programs (authority to maintain, review, update, and amend departmental delegations of authority is included in this delegation).

(3) Administer the Department's management review program. This authority includes the development and promulgation of departmental directives regulating the management review function.

(4) Develop, design, install, and revise systems, processes, work methods and techniques, and undertake other system engineering efforts to improve the management and operational effectiveness of the USDA.

(5) Manage and operate the total USDA data processing program through all stages of the data processing management cycle: Advance planning, feasibility, design, equipment selection and acquisition readiness effort, systems installation, systems impact appraisal, time sharing and service center arrangements, systems monitoring and evaluation. These authorities will be transferred from the various agencies involved (authority to specify functions, resources and timing is included in this delegation).

(6) Exercise full departmentwide contracting and procurement authority for automatic data processing and data transmission equipment, software, services, maintenance, and related supplies. This authority includes the development and promulgation of departmental directives regulating the management of contracting and procurement functions related to the above.

(7) Plan, develop, install, and manage USDA information systems, and assist in the maintenance of such systems to satisfy agency needs.

(8) Develop an integrated computer network for use by Department agencies and offices; manage telecommunications in areas related to automatic data processing and coordinate with GSA in these areas.

(d) *Related to management services.* The Assistant Secretary for Administration, under agreements with the general officers or agency heads concerned, shall have full authority to provide man-

agement support services to the Under Secretary, the Assistant Secretaries, the Director of Agricultural Economics, the Director of Science and Education, and to the following Agencies:

- (1) Rural Development Service,
- (2) Commodity Exchange Authority,
- (3) Packers and Stockyards Administration,
- (4) Farmers Cooperative Service,
- (5) Economic Research Service,
- (6) Statistical Reporting Service,
- (7) Cooperative State Research Service,
- (8) National Agricultural Library,
- (9) Office of Planning and Evaluation,
- (10) Office of Equal Opportunity,
- (11) Office of Budget and Finance,
- (12) Office of Administrative Law Judges,
- (13) Office of Information,
- (14) Office of Information Systems,
- (15) Office of Management Services,
- (16) Office of Personnel,
- (17) Office of Plant and Operations,
- (18) Office of the General Counsel,
- (19) Office of the Inspector General,
- (20) The Judicial Officer.

The Assistant Secretary for Administration shall also provide management support services to the Secretary of Agriculture. As used herein, the term management support services shall include:

(i) Budget, accounting, and related financial management services, with authority to take actions required by law or regulation to discharge the budget, accounting and related financial management functions for working capital fund, and general appropriated and trust funds.

(ii) Personnel, organization, and related services, with authority to take actions required by law or regulation to perform personnel management functions including employment, classification, organization, employee security, and related matters.

(iii) Procurement, property management, space management, communications, messenger, paperwork management, and related administrative services, with authority to take actions required by law or regulation to perform administrative services functions of procurement and contracting, personal property management, real property management, paperwork management, records management, and related matters.

(iv) Information services, with authority to take actions required by law or regulation to develop, issue, and distribute information materials.

(e) *Related to personnel.* (1) Formulate and issue Department policy, standards, rules, and regulations relating to personnel.

(2) Provide personnel management procedural guidance and operational instructions.

(3) Design and establish automated data personnel systems.

(4) Inspect and evaluate personnel management operations and issue instructions or take direct action to insure conformity with appropriate laws, Executive orders, Civil Service Commission rules and regulations, and other appropriate rules and regulations.

(5) Exercise final authority in all personnel matters, including individual cases, that involve the jurisdiction of more than one General Officer.

(6) Receive, review, and recommend action on all requests for the Secretary's approval in personnel matters.

(7) Make final decisions on complaints, adverse actions, and grievance appeals, except in those cases where the Assistant Secretary for Administration has participated, when it is determined that such complaint, adverse action, or grievance appeals are not being decided in a timely manner.

(8) Represent the Department in personnel matters in all contacts outside the Department.

(9) Exercise specific authorities in the following operational matters:

(i) Authorize cash awards above \$2,500.

(ii) Waive repayment of training expenses where employee fails to fulfill service agreement.

(iii) Establish or change standards and plans for awards to private citizens.

(iv) Execute, change, extend, or renew:

(a) Labor-management agreements.

(b) Association of Management Officials or Supervisor's Agreements.

(v) Represent any part of the Department in all contacts and proceedings with the National Offices of Labor Organizations.

(vi) Change a position (with no material change in duties) from GS to a pay system other than a wage system, or vice versa.

(vii) Grant restoration rights, and release employees with administrative re-employment rights.

(viii) Change working hours for groups of 50 or more employees in the Washington, D.C., metropolitan area.

(ix) Authorize any mass dismissals of employees in the Washington, D.C., metropolitan area.

(x) Approve "normal line of promotion" cases in the excepted service where not in accordance with time-in-grade criteria.

(xi) Make final decisions on formal grievance, adverse action and performance rating appeals in all cases where the Deciding Official:

(a) Was involved directly in the grievance, adverse action, or performance rating appeal, or

(b) Made the informal decision, or

(c) Determines that the Examiner's findings or Committee's recommendations is unacceptable.

(xii) Make the final decision on all classification appeals from agency appellate decisions.

(xiii) Authorize organization changes which occur in:

(a) Department Service:

(1) Service or office

(2) Division (or comparable component)

(3) Branch (or comparable component)

(b) Field Service:

(1) First Organization Level

(2) Next lower Organization Level—required only for those types of field installations where the establishment, change in location, or abolition of same, requires approval in accordance with 1 AR 673.

(xiv) Authorize all employment actions (except nondisciplinary separations and LWOP) and classification actions for the following positions:

(a) GS-16—18 and equivalent, and

(b) Region-, area-, State-, and country-wide administration.

(xv) Authorize employment actions (promotions, transfers, reassignments, accessions, or extensions) for newly established GS-14—15 and equivalent positions.

(xvi) Authorize all employment actions (except LWOP) for the following positions:

(a) Schedule C, and

(b) Administrative law judge.

(xvii) Authorize employment actions (accessions or extensions) for the following:

(a) Experts and consultants.

(b) Employees whose records are flagged.

(c) Contact services.

(xviii) Authorize employment actions (accessions or extensions and transfers) for the following:

(a) Persons with criminal or immoral records.

(b) Persons separated for misconduct, delinquency, or resignation, to avoid such action.

(c) Veterans with dishonorable or other than dishonorable discharge.

(xix) Authorize all classification actions at GS-15 and equivalent.

(xx) Authorize adverse actions for positions in GS-14—15 and equivalent.

(xxi) Approve assignments to White House details.

(xxii) Authorize adverse actions based in whole or in part on an allegation of violation of Subchapter III, Chapter 73, 5 U.S.C. for employees in the excepted service.

(xxiii) Authorize long-term training in programs which require Department-wide competition.

(xxiv) Issue all Coordinated Federal Wage System (CFWS) Department-wide Wage Schedules, and Lithographic Wage Schedules in the Washington, D.C. metropolitan area.

(10) As used herein, the term personnel includes:

(i) Organizational analysis and planning.

(ii) Position classification.

(iii) Employment.

(iv) Pay administration.

(v) Automation of personnel data and systems design.

(vi) Hours of duty.

(vii) Performance evaluation and standards.

(viii) Promotions.

(ix) Employee development.

(x) Incentive programs.

(xi) Leave.

(xii) Program evaluation.

(xiii) Social security.

(xiv) Life insurance.

(xv) Health benefits.

(xvi) Unemployment compensation.

(xvii) Employee safety.

(xviii) Employee health programs.

(xix) Labor management relations.

(xx) Intramanagement consultation.

- (xxi) Discipline.
- (xxii) Equal employment opportunity.
- (xxiii) Complaints and grievances.
- (xxiv) Appeals.
- (f) *Related to plant and operations.*
 - (1) Promulgate departmental policies, standards, techniques, and procedures, and represent the Department in the following areas:
 - (i) Contracting for and the procurement of administrative and operating supplies, services, and construction, except for automatic data processing or transmission.
 - (ii) Socioeconomic programs related to contracting, including Small Business Assistance, Labor Surplus Area Assistance, Disadvantaged Business Assistance, and Labor Standards.
 - (iii) Utilization of the resources of State and local governments and of the private sector in domestic program operations.
 - (iv) Selection, standardization, and simplification, of progress delivery processes utilizing grants, contracts, and/or agreements.
 - (v) Acquisition, leasing, utilization, value analysis, construction, maintenance, and disposition of real and personal property including control of space assignments and use.
 - (vi) Acquisition, storage, distribution, and disposition of forms and supplies.
 - (vii) Telecommunications, except for data transmission for automatic data processing systems.
 - (viii) Mail management.
 - (ix) Motor Vehicle Fleet and other vehicular transportation.
 - (x) Transportation of things.
 - (xi) Security of physical facilities, self-protection and warden systems.
 - (xii) Prevention, control, and abatement of air and water pollution at Federal facilities (Executive Order 11507).
 - (xiii) Implementation of the Uniform Relocation Assistance and Real Property Policies Act of 1970 (Public Law 91-646).
 - (2) Operate or provide for the operation of centralized departmental services to provide printing, copy reproduction, offset composition, supply, telephone, telegraph, mail, automated mailing lists, excess property pool, space allocation, central Secretary's records, departmental administrative regulation and secretarial issuance, and related management support.
 - (3) Exercise following special authorities.

- (i) Designate Department Debarring Officers to perform the functions of 41 CFR Subpart 1-1.6 and 41 CFR 4-1.6.601-1(a).
- (ii) Designate and recommend the Department official for appointment by the President to the Committee for Purchase of Products and Services of the Blind and other Severely Handicapped pursuant to 41 U.S.C. 46-48c.
- (iii) Promulgate Department schedule of fees and charges for reproductions, furnishing of copies and making searches for official records pursuant to the Freedom of Information Act, 5 U.S.C. 552.
- (iv) Conduct liaison with the Office of the Federal Register including the making of required certification pursuant to 1 CFR Part 4.
- (v) Maintain custody and permit appropriate use of the official seal of the Department.
- (vi) Promulgate policy for use of the official flags of the Secretary and the Department.
- (vii) Coordinate collection of historical materials for Presidential Libraries.
- (viii) Oversee the safeguarding of unclassified materials designated "For Official Use Only."
- (ix) Establish standards for and coordinate the issuance of employee identification credentials within the Department.
 - (4) Exercise authority to:
 - (1) Make determinations and findings authorizing the use of negotiation in accordance with 41 U.S.C. 252(c) (11), (12), and (13) with respect to purchases and contracts:
 - (a) For experimental, developmental, or research work, or for the manufacture, or furnishing of property for experimentation, development, research, or test.
 - (b) For property or services when the character, ingredients, or components thereof are such that the contract should not be publicly disclosed.
 - (c) For technical equipment when it is determined that the procurement thereof without advertising is necessary in special situations or in particular localities in order to assure standardization of equipment and interchangeability of parts and where such standardization and interchangeability is necessary in the public interest.
 - (ii) Make determinations and findings authorizing the omission of the examining of records clause from contracts with foreign contractors and foreign sub-

contractors under the authority granted in 41 U.S.C. 304(c) (41 CFR 1-3.303; 1-6.1004).

(g) *Related to committee management.* (1) Serve as the Department's Committee Management Officer and establish and maintain departmentwide policies and procedures for the management of Committees.

(h) *Related to equal opportunity.* (1) Coordinate all aspects of the Department's civil rights program.

(2) Administer the Department's contract compliance program, including the formulation and issuance of Department contract compliance policy, standards, rules and regulations pursuant to Executive Order 11246, Executive Order 11375, Executive Order 11598, and Department of Labor rules and regulations.

(3) Is designated as the Department's Contract Compliance Officer with authority to perform the functions and responsibilities of that position.

(4) Order proceedings and hearings in the Department of Agriculture pursuant to §§ 15.9(e) and 15.86 of this subtitle consolidated for hearing with proceedings of Federal Departments and agencies.

(5) Make determinations required by § 15.8(d) of this subtitle that compliance cannot be secured by voluntary means.

(6) Issue orders to give notice of hearing or opportunity to request a hearing pursuant to Part 15 of this subtitle; arrange for the designation of an Administrative Law Judge to preside over any such hearing; and determine whether the Administrative Law Judge so designated will make an initial decision or certify the record to the Secretary of Agriculture with his recommended findings and proposed decision.

(7) Authorize the taking of action pursuant to § 15.8(a) of this subtitle relating to compliance by "other means authorized by law."

(8) Take action pursuant to § 15.8(d) of this subtitle relating to compliance by "other means authorized by law."

(9) Administer the Department's equal employment opportunity program.

(10) Is designated as the Department's Director of Equal Employment Opportunity with authority to perform the functions and responsibilities of that position under 5 CFR Part 713, including the authority to make changes in programs and procedures designed to eliminate discriminatory practices and improve the Department's program for equal employment opportunity, and the

authority to make decisions on complaints of discrimination and order such corrective measures as he may consider necessary, including the recommendation for such disciplinary action as is warranted when an employee has been found to have engaged in a discriminatory practice.

§ 2.26 Reservations of authority.

The following authorities are reserved to the Secretary of Agriculture:

(a)-(d) [Reserved].

(e) *Related to personnel.* Make final determinations in the following areas:

(1) Separation of employees for security reasons.

(2) Restoration to duty of employees following suspension from duty for security reasons.

(3) Reinstatement or restoration to duty or the employment of any person separated for security reasons; and

(4) Issuance of temporary certificates to occupy sensitive positions.

§ 2.27 Delegations of authority to the Director of Agricultural Economics.

The following delegation of authority are made by the Secretary of Agriculture to the Director of Agricultural Economics:

(a) *Related to farmer cooperatives.*

(1) Administer programs authorized by the Cooperative Marketing Act of 1926 (7 U.S.C. 451-457).

(2) Conduct research relating to the economic and marketing aspect of cooperatives as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627).

(b) *Related to economic research.* (1)

Conduct farm economics research consisting of a nationwide program of research dealing with the economic problems of agricultural production and resource use, which shall include the following:

(i) Farm production economics research including analyses of farm production costs and efficiency, use of capital, labor, and other resources in agriculture, profitable adjustments in farming, and financial problems of farmers.

(ii) Natural resources economics research including studies of the use and management of land and water resources, the quality of these resources, resource institutions, and watershed and river basin development problems.

(iii) Economic development research including a broad program of economic studies on development of rural areas, employment opportunities for farm and other rural people, and availability and factors affecting the availability of public and private facilities and services necessary to improve the quality of rural life, including local governments and their organization.

This authority excludes performance of forest economics research. Title I and Title II of the Act of August 14, 1946, as amended (7 U.S.C. 427, 1621-1627).

(2) Conduct marketing economics research including economic analyses and research relating to the marketing of agricultural commodities, the organizational structure, practices, and performance of commodity markets from the farm to the consumer, costs and margins involved in the marketing of agricultural products, farmer's bargaining power, the economics of product quality and grade, market potentials, distribution and merchandising of agricultural products and the economics of transportation. Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621-1627).

(3) Perform domestic and foreign economic analysis which shall include the following:

(i) Domestic economic analysis including economic and statistical research on agricultural prices, farm income, commodity outlook and situation, supply and consumption of farm products, and agricultural history.

(ii) Foreign economic analysis including studies of supply and demand and trade in farm products in foreign countries and their effect on prospects for U.S. exports; analysis of farm export programs, progress in economic development and its relationship to sales of farm products, assembly and analysis of agricultural trade statistics; and analysis of international financial monetary programs and policies as they affect the competitive position of U.S. farm products, but excluding specific commodity investigations relating to foreign market developments, competition and reporting, as delegated to the Assistant Secretary for International Affairs and Commodity Programs. Section 601 of the Act of August 28, 1954 (7 U.S.C. 1761).

(4) Supervise, direct, and operate the Outlook and Situation Board which is responsible for technical review and approval of all economic outlook and situ-

ation reports and statements prepared within the Department.

(5) Coordinate and administer the Department's programs in international development, technical assistance, and training. Represent the Department of Agriculture in participating with international and U.S. organizations concerned with international agricultural development matters.

(6) Investigate and make findings as to the effect upon the production of food and upon the agricultural economy of any proposed action pending before the Administrator of the Environmental Protection Agency for presentation in the public interest, before said Administrator, other agencies or before the courts.

(7) Make grants under section 2 of the Act of August 4, 1965 (7 U.S.C. 450i) and the Act of September 6, 1958 (42 U.S.C. 1891-1893).

(8) Perform economic research under section 104(b) (1), (3) of the Agricultural Trade Development and Assistance Act of 1954 with funds administered by the Foreign Agricultural Service and the Agricultural Research Service.

(9) Review economic data and analyses used in speeches by Department personnel and in materials prepared for release through the press, radio, and television. This authority does not in any way affect the procedures established for review and clearance of speeches and publications. Materials that should be submitted for review by the Director of Agricultural Economics include the following:

(i) Statistics on: farm income and farm costs; acreage and yield of crops; production, utilization, supply of crops, livestock, and livestock products; consumption of farm products; prices for farm products at all marketing levels; prices paid by farmers; economic projections; farm population, employment, and levels of living; foreign trade in agricultural products; foreign agriculture; agricultural marketing costs and charges; farm real estate; farm assets and debts; farm taxes and insurance; farm cooperatives; and statistics on the nonfarm economy.

(ii) Statements and data on the outlook and situation.

(iii) Economic analyses and interpretations based on published data.

(iv) Analyses and data on the effects of current or proposed programs on farm

income, prices, supplies, utilization, or other economic factors.

(10) Coordinate all economic analysis and review all decisions involving substantial economic policy implications.

(c) *Related to statistical reporting.*

(1) Prepare crop and livestock estimates and administer reporting programs including estimates of production, supply, price, and other aspects of the U.S. agricultural economy, collection of statistics, conduct of enumerative and objective measurement surveys, and related activities. Prepare reports of the Crop Reporting Board of the Department of Agriculture covering official State and national estimates (7 U.S.C. 411(a), 475, 476, 951).

(2) Withhold information relating to crop reports and take such security precautions as are necessary to prevent disclosure of crop report information prior to the scheduled issuance time approved in advance by the Secretary of Agriculture (18 U.S.C. 1902, 2072).

(3) Conduct research relating to household, industrial, and institutional consumers, and producers, handlers, and processors, with respect to sensory perceptions, attitudes, opinions, and related factual data affecting marketing and consumption of agricultural products.

(4) Review, clear, coordinate, and improve statistics in the Department including review of all statistical forms survey plans, and reporting and record-keeping requirements originating in the Department and requiring approval by the Office of Management and Budget under the Federal Reports Act; liaison with OMB and other Federal agencies for coordination of statistics, general improvement of statistical methods and techniques in the Department (44 U.S.C. 3501-3511).

(5) Make grants under section 2 of the Act of August 4, 1965 (7 U.S.C. 450i), and the Act of September 6, 1958 (42 U.S.C. 1891-1893).

(6) Collect data and prepare estimates of fertilizer production.

(d) *Related to the Commodity Exchange Commission.* (1) Designate the Chairman of the Commodity Exchange Commission (7 U.S.C. 2).

§ 2.28 Reservations of authority.

The following authorities are reserved to the Secretary of Agriculture.

(a)-(b) [Reserved]

(c) *Related to statistical reporting.*

(1) Final approval and issuance of the monthly crop report (7 U.S.C. 411a).

(2) Final action on rules and regulations for the Crop Reporting Board.

§ 2.29 Delegations of authority to the Director of Science and Education.

The following delegations of authority are made by the Secretary of Agriculture to the Director of Science and Education who is responsible for the coordination of research activities throughout the Department.

(a) *Related to agricultural research.*

(1) Conduct research concerning domestic animals and poultry, their protection and use, causes of contagious, infectious, and communicable diseases and means for the prevention and cure of the same (7 U.S.C. 391).

(2) Conduct research related to the dairy industry and dissemination of information for the promotion of the dairy industry (7 U.S.C. 402).

(3) Conduct research at Mandan, N. Dak., and Lewisburg, Tenn., concerning dairy livestock breeding, growing and feeding, and other problems pertaining to the establishment of dairy and livestock industries (7 U.S.C. 421-422).

(4) Conduct research on new uses for cotton and on cotton ginning and processing (7 U.S.C. 423-424).

(5) Conduct research into the basic problems of agriculture in its broadest aspects, including, but not limited to, production, marketing (other than statistical and economic research but including consumer and food economic research), distribution, processing, utilization of plant and animal commodities, problems of human nutrition, development of markets for agricultural commodities, discovery, introduction, and breeding of new crops, plants, and animals both foreign and native; conservation development, and development of efficient use of farm buildings, homes, and farm machinery, including the application of electricity and other forms of power (7 U.S.C. 427, 1621-1627, 2201, 2204).

(6) Administer a program for the improvement of poultry, poultry products, and hatcheries (7 U.S.C. 429).

(7) Advance the livestock and agricultural interests of the United States including the breeding of horses suited to the needs of the United States (7 U.S.C. 437).

(8) Enter into agreements with and receive funds from any State or political subdivision, organization, or person for the purpose of conducting cooperative research projects (7 U.S.C. 450a).

(9) Make grants to State agricultural experiment stations, colleges, universities, other research institutions and organizations and Federal and private organizations and individuals for research to further the programs of the Department (7 U.S.C. 450i).

(10) Maintain four regional research laboratories and conduct research at such laboratories to develop new scientific, chemical, and technical uses and new and extended markets and outlets for farm commodities and products and byproducts (7 U.S.C. 1292).

(11) Conduct a special cotton research program designed to reduce the cost of producing upland cotton in the United States (7 U.S.C. 1441 note).

(12) Administer and coordinate a foreign contracts and grants program of market development research in the physical and biological sciences under section 104(b)(1) of the Agricultural Trade, Development, and Assistance Act of 1954, but excluding agricultural economics research; and administrate and coordinate a foreign contracts and grants program of agricultural and forestry research under section 104(b)(3) of such Act (7 U.S.C. 1704(b) (1), (3)).

(13) Conduct research in tropical and subtropical agriculture for the improvement and development of tropical and subtropical food products for dissemination and cultivation in friendly countries as provided by the Food for Peace Act of 1966 (7 U.S.C. 1736(a) (4)).

(14) Conduct research to develop and determine methods of humane slaughter of livestock (7 U.S.C. 1904).

(15) Conduct research related to soil and water conservation, engineering operations, and methods of cultivation to provide for the control and prevention of soil erosion (7 U.S.C. 1010, 16 U.S.C. 590a).

(16) Maintain a national arboretum for purposes of research and education concerning tree and plant life (20 U.S.C. 191-194).

(17) Conduct research on foot-and-mouth disease and other animal diseases (21 U.S.C. 133a).

(18) Conduct research on control and eradication of cattle grubs (screwworms) (21 U.S.C. 144e).

(19) Conduct research and technical studies of farm dwellings and other buildings for the purpose of reducing costs and adapting and developing fixtures and appurtenances for more efficient and economical farm use (42 U.S.C. 1476(b)).

(20) Make grants for the support of basic scientific research at nonprofit institutions of higher education or nonprofit organizations whose primary purpose is the conduct of scientific research (42 U.S.C. 1891).

(21) Administer the Virgin Islands agricultural research program (48 U.S.C. 1409m-o).

(22) Conduct research related to the use of domestic agricultural commodities for the manufacture of any material determined to be strategic and critical or substitute therefore, under section 7(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98f).

(b) *Related to cooperative State research.* (1) Administer the Hatch Act of 1887, as amended (7 U.S.C. 361a-361i).

(2) Administer the Act of October 10, 1962, as amended (16 U.S.C. 582a-582a-7).

(3) Make grants under section 2 of the Act of August 4, 1965 (7 U.S.C. 4501).

(4) Administer the Act of July 22, 1963 (7 U.S.C. 390-390k).

(5) Maintain a Current Research Information System for all research work units of USDA and research projects of cooperating institutions receiving USDA funds.

(6) Maintain a Research Referral Office for the effective review and coordination of all USDA-supported research work units.

(c) *Related to extension service.* (1) Administer the Smith-Lever Act, as amended (7 U.S.C. 341-349).

(2) Conduct educational and demonstration work under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621-1627).

(3) Conduct educational and demonstration work in the cooperative farm forestry program conducted under section 5 of the Act of June 7, 1924, as amended (16 U.S.C. 568).

(4) Provide educational and technical assistance to persons not receiving financial assistance under title 5 of the Housing Act of 1949 (42 U.S.C. 1476).

(5) Administer sections 109-111 of the District of Columbia Public Education Act, as amended, relating to cooperative

extension programs in the District of Columbia (District of Columbia Code section 31-1609-1611).

(6) Authorize the use of the 4-H Club name and emblem (18 U.S.C. 707).

(7) Coordinate all educational activities of the Department.

(8) Act as the liaison between the Department and officials of the land-grant colleges and universities on all matters relating to cooperative extension work and educational activities relating thereto.

(9) Provide educational leadership for the Department's farm safety educational program.

(10) Serve as a focal point for the Department in contacts and working relationships with national town-country church leaders and denominational and interdenominational church organizations.

(11) Provide leadership and direct assistance to the Cooperative Extension Service in planning, conducting, and evaluating extension programs with Indians under a memorandum of agreement with the Bureau of Indian Affairs dated May 1956.

(12) Administer information and educational services, essential to carrying out preemergency and emergency USDA defense operations through the Cooperative Extension Service.

(13) Exercise responsibilities of the Secretary under regulations dealing with equal employment opportunity in the Cooperative Extension Service. Part 18 of this subtitle.

(14) Provide educational support of resource development programs in rural areas and cooperate with other Federal and State agencies, private organizations, and groups in providing information concerning assistance available for resource development programs.

(15) Represent the Department in dealings with international organizations and foreign countries on matters related to extension education methods, programs, and organizations.

(d) *Related to agricultural library.* (1) Acquire and preserve all information concerning agriculture.

(2) Formulate immediate and long-range library policies, procedures, practices, and technical standards necessary for acquisition, cataloging, loan, bibliographic, and reference service to meet the needs of scientific, technical, re-

search, and administrative staffs of the Department, both in Washington and the field.

(3) Evaluate special library programs developed for agencies of the Department; exercising such controls as are needed to coordinate library services in the Department and to avoid duplication of effort.

(4) Provide consultative service in library science and documentation, including systems for information storage and retrieval, to Department officials.

(5) Coordinate scientific and technical information activities of the Department.

(6) Coordinate the collection policy and program of the National Agricultural Library with the Library of Congress and the National Library of Medicine.

(7) Represent the Department on library and science information matters before congressional committees, professional societies, international organizations; and cooperate with other Government agencies, and educational institutions on all matters relating to library services.

(8) Make grants under section 2 of the Act of August 4, 1965 (7 U.S.C. 4501).

(9) Make copies of bibliographies prepared by the Department library, microfilm and other photographic reproductions of books and other library materials in the Department, and sell such bibliographies and reproductions at cost.

(10) Organize and coordinate a national agricultural science information system (network) for procuring, preserving, and diffusing agricultural information.

(11) Accept gift and order disbursement from the Treasury under the Act of December 28, 1970 (7 U.S.C. 2264, 2265).

§ 2.30 Reservations of authority.

The following authorities are reserved to the Secretary of Agriculture:

(a) *Related to agricultural research.* (1) Designation of members of the advisory committee, under title III of the Research and Marketing Act of 1946 (7 U.S.C. 1628-1629).

(b) *Related to cooperative State research.* (1) Appointing an advisory committee under section 6 of the Act of October 10, 1962 (16 U.S.C. 582a-5).

(2) Withholding funds from States under section 5 and notification to the President thereof in accordance with sec-

tion 7 of the Hatch Act of 1887, as amended (7 U.S.C. 361 e, g).

(3) Reapportioning funds under section 4 and apportioning funds under section 5 of the Act of October 10, 1962 (16 U.S.C. 582a-3, 582a-4).

(c) *Related to extension service.* (1) Approving selection of State directors of extension.

(2) Final concurring on equal employment opportunity programs submitted under Part 18 of this subtitle.

(3) Approving the memoranda of understanding between the land-grant universities and the Department of Agriculture.

(4) Withholding funds from States and sending notification thereof to the President in accordance with sections 5 and 6 of the Smith-Lever Act, as amended (7 U.S.C. 345-346).

Subpart D—Delegation of Authority to Other General Officers and Agency Heads

§ 2.31 Delegation of authority to the General Counsel.

The General Counsel, as the chief law officer of the Department, is legal adviser to the Secretary and other officials of the Department and responsible for providing legal services for all the activities of the Department.

The delegations of authority by the Secretary of Agriculture to the General Counsel include the following:

(a) Consider, ascertain, adjust, determine, compromise, and settle claims pursuant to the Federal Tort Claims Act, as amended, (28 U.S.C. 2671-2680), and the regulations of the Attorney General contained in 28 CFR Part 14.

(b) Determine, settle, and pay claims submitted by employees of the Department under the Military Personnel and Civilian Employees Claims Act of 1964, as amended (31 U.S.C. 240-243).

(c) Certify documents as true copies of those on file in the Department pursuant to 28 U.S.C. 1733.

(d) Sign releases of claims of the United States against private persons for damage to or destruction of property of the Department.

(e) Make determinations under 41 CFR 1-2.406-3 and 1-2.406-4, relating to correction of mistakes in bids disclosed before and after award of procurement contracts; and make determinations in the various types of bidders' mistake cases set forth in decision of

the Comptroller General, B-125189, dated October 3, 1955; except for mistakes which the contracting officer is authorized to correct in accordance with 41 CFR 1-2.406-2.

(f) Designate the Chairman and Alternate Chairman, Board of Forest Appeals established pursuant to 36 CFR 211.23.

(g) Make determinations as to whether employees of the Department may retain commercial rights in inventions; prepare patent applications and prosecute the same before the Patent Office.

(h) Represent the Department in formal rule-making and adjudicatory proceedings held in connection with the administration of the Department's activities.

(i) Represent the Department in connection with legal issues that arise in its relations with the Congress, the General Accounting Office, or other agencies of the Government.

(j) Represent the Department in proceedings before the Interstate Commerce Commission involving freight rates on farm commodities, and in appeals from decisions of the Commission to the courts.

(k) In civil actions arising out of the activities of the Department, present the Department's case to the Attorney General and U.S. attorneys and, upon request of the Department of Justice assist in the preparation and trial of such cases.

(l) Review cases having criminal aspects and refer them to the Department of Justice.

(m) Act as liaison between the Department and the Department of Justice.

(n) Perform the following legal services:

(1) Render legal opinions on questions arising in the conduct of the Department's activities.

(2) Prepare or review regulations.

(3) Draft proposed legislation.

(4) Prepare or review contracts, mortgages, deeds, leases, and other documents.

(5) Examine titles to land to be acquired or accepted as security for loans.

(o) Perform such other legal service as may be required in the administration of the Department's activities.

§ 2.33 Delegation of authority to the Inspector General.

The following delegations of authority are made by the Secretary of Agriculture to the Inspector General:

(a) Advise the Secretary and general officers in the planning, development, and execution of Department policies and programs.

(b) Direct or control all audit and investigation activities by and for the Department. This includes: (1) Direction of the formulation of audit and investigative policies, programs, plans, and procedures within the Department and (2) setting standards and approving the use of organizations outside the Department for audit and investigative services in connection with USDA programs.

(c) Provide audit service pertaining to the Department, all of its constituent organizations, and all parties performing under contracts, grants, or other agreements with the Department. This includes the performance of scheduled inquiries and appraisals and such additional inquiries determined by the Inspector General to be necessary, and the reporting to appropriate officials of the Department of conditions disclosed. Where appropriate the Inspector General will make recommendations for action. These audits will provide timely, comprehensive independent appraisals of whether—

(1) Policies, plans, systems, and procedures are adequate, conform to laws and regulations, and are being adhered to.

(2) Adequate fiscal, personnel, information, procurement, and property management systems are in operation.

(3) Programs and operations are effective, relevant, and necessary and administered efficiently.

(d) Conduct investigations concerning operations of the Department, its employees, its constituent organizations, and others under contract, grant, or agreement, with the Department; and to issue reports of facts from which allegations of violations and irregularities can be evaluated.

(e) Determine that OIG reports and those of an audit or investigative nature made by the General Accounting Office and other outside organizations have been reviewed and properly acted upon.

(f) Determine the proper areas of jurisdiction of audit and investigative functions as between OIG and other USDA agencies.

(g) Provide for physical protection to the Secretary.

(h) Provide liaison and coordination on audit and investigative matters between agencies within the Department and between the Department and other Government agencies including the General Accounting Office, Office of Management and Budget, Congressional Committees, Treasury Department, Department of Justice (except security program matters) and other Federal, State and local executive and legislative organizations.

§ 2.34 Reservations of authority.

The following authority is reserved to the Secretary of Agriculture:

(a) Giving final approval to determinations by the Inspector General of the proper areas of jurisdiction of audit and investigative functions as between the OIG and other USDA agencies.

§ 2.35 Delegations of authority to the Judicial Officer.

The following delegations of authority are made by the Secretary of Agriculture to the Judicial Officer:

(a) Pursuant to the provisions of the Act of April 4, 1970 (7 U.S.C. 450c-450g), and Reorganization Plan No. 2 of 1953, the Judicial Officer is hereby authorized to perform any regulatory function as defined in the said Act, which the Secretary of Agriculture is or hereafter may be authorized or required by law to perform, in acting as final deciding officer in adjudication proceedings subject to 5 U.S.C. 556 and 557, in rate proceedings under the Packers and Stockyards Act, and in reparation proceedings under statutes administered by the Department. As used herein the term "Judicial Officer" shall mean any person or persons so designated by the Secretary of Agriculture. The provisions of this delegation shall not be construed to limit the authority of the Judicial Officer to perform any functions, in addition to those defined in the said Act of April 4, 1940, which from time to time may be assigned by the Secretary to him.

(b) Hearing Clerk. The Judicial Officer shall direct the functions of the Hearing Clerk. The Hearing Clerk is charged with the following duties with respect to all quasi-judicial, quasi-legislative, and other administrative proceedings under the Agricultural Marketing Agreement Act of 1937, as amended; the Sugar Act of 1948, as amended; section 56-60

of Public Act No. 320, 74th Congress; the Packers and Stockyards Act, as amended and supplemented; the Perishable Agricultural Commodities Act, 1930, as amended; the Federal Seed Act, as amended; the Commodity Exchange Act as amended and supplemented; the Plant Quarantine Act of 1912, as amended; statutes providing for the voluntary inspection or grading of agricultural products; and all statutes, regulations, order, etc., of a regulatory nature except when provided otherwise:

(1) Receiving, filing, and acknowledging the receipt of complaints, petitions, answers, briefs, arguments, and all other documents that may be submitted to the Secretary or the Department of Agriculture in such proceedings.

(2) Receiving and filing complaints, notices of inquiry, orders to show cause, notices of hearing, designations of Administrative Law Judges or presiding officers, answers, briefs, arguments, orders, and all other documents that may be promulgated or issued by the Secretary or other duly authorized officials of the Department of Agriculture in such proceedings.

(3) Supervising the service upon the parties concerned of any documents that are required to be served, and where required, preserving proof of service.

(4) Keeping a docket record of all such documents and proceedings.

(5) Filing a stenographic record of each administrative hearing.

(6) Preparing for certification and certifying under the Secretary's facsimile signature, material on file in the Hearing Clerk's office.

(7) Performing any other clerical duties with respect to the documents relative to such proceedings as may be required to be performed.

(8) Cooperating with the Office of Plant and Operations in the letting of contracts for stenographic and reporting services; auditing of vouchers for such services; and forwarding vouchers to appropriate agencies for payment.

(9) Receiving and compiling data, views or comments filed in response to notices of proposed standards or rules or regulations.

(10) Performing when requested by the agency head, the following services with respect to any hearings in such proceedings:

(i) Arranging for a suitable hearing place.

(ii) Arranging for stenographic reporting of hearings and handling details in connection therewith.

Immediately upon their receipt by the Department, all documents of the character above described will be transmitted to the Hearing Clerk for docketing and filing.

(c) "Agriculture Decisions." The "Agriculture Decisions" shall be prepared under the direction of the judicial officer.

§ 2.41 Designation to the Office of Administrative Law Judges.

The following designations are made by the Secretary of Agriculture to the Office of Administrative Law Judges:

(a) Administrative Law Judges (formerly Hearing Examiners) are designated pursuant to section 556(b)

(3) of title 5, United States Code, to hold hearings and perform related duties in proceedings subject to sections 556 and 557 of title 5, United States Code (formerly sections 7 and 8 of the Administrative Procedure Act), arising under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 2 et seq.); The Commodity Exchange Act, as amended (7 U.S.C. 1 et seq.); the Perishable Agricultural Commodities Act, as amended (7 U.S.C. 499a et seq.), the Federal Seed Act, as amended (7 U.S.C. 1551 et seq.); the (Laboratory) Animal Welfare Act, as amended (7 U.S.C. 2131 et seq.); the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. 181 et seq.); and any other Acts providing for hearings to which the provisions of sections 556 and 557 to title 5, United States Code, are applicable. Pursuant to the applicable rules of practice, the Administrative Law Judges shall make initial decisions in adjudication and rate proceedings subject to sections 556 and 557 of title 5, United States Code. Such decisions shall become final without further proceedings unless there is an appeal to the Secretary by a party to the proceeding in accordance with the applicable rules of practice or the Secretary reviews such decision on his own initiative in accordance with such rules: *Provided, however,* That no decision shall be final for purposes of judicial review except a final decision of the Secretary upon appeal or review on his own initiative. As used herein, "Secretary" means the Secretary of Agriculture, the Judicial Officer, or other

officer or employee of the Department delegated, pursuant to the Act of April 4, 1940 (7 U.S.C. 450c-450g), and Reorganization Plan No. 2 of 1953, "regulatory functions" as that term is defined in the 1940 Act, in acting as a final deciding officer in adjudication and rate proceedings subject to sections 556 and 557 of title 5, United States Code.

Subpart E—Delegations of Authority by the Under Secretary

§ 2.45 Director, Office of Planning and Evaluation.

(a) *Delegations.* Pursuant to § 2.15(b), subject to reservations in § 2.16(b), the following delegations of authority are made by the Under Secretary to the Director, Office of Planning and Evaluation:

(1) Exercise specific functional responsibility in program planning and evaluation to:

(i) Develop, maintain, and coordinate a comprehensive program planning and evaluation system integrated with departmental budgeting, management information, and control systems;

(ii) Coordinate, direct, and conduct policy and program analyses and special analytic studies; evaluation effectiveness of programs in achieving departmental objectives; and help prepare and review program and financial plans;

(iii) Represent the Department in its relationships with other agencies in the executive and legislative branches on policy and other considerations relating to specific functional responsibilities delegated herein.

(b) *Reservations.* The following authorities are reserved to the Under Secretary:

(1) Exercising final responsibility for coordinating all program planning, evaluation, and budgeting in the Department.

§ 2.46 Director, Office of Intergovernmental Affairs.

(a) *Delegations.* Pursuant to § 2.15(c), the following delegations of authority are made by the Under Secretary to the Director, Office of Intergovernmental Affairs:

(1) Coordinate programs involving State and local government relations by maintaining liaison with:

- National Association of State Departments of Agriculture.
- Office of Emergency Preparedness.

- Defense Civil Preparedness Agency.
- Office of Intergovernmental Relations (Office of the Vice President).
- Advisory Commission on Intergovernmental Relations.
- Council of State Governments.
- National Governors Conference.
- National Association of Counties.
- National League of Cities.
- International City Managers Association.
- U.S. Conference of Mayors.
- Other agencies and departments in carrying out the responsibilities of this Office.

(2) Maintain an emergency center in USDA whereby the Department can react immediately when notified of a civil defense or natural disaster emergency by means of an Emergency Duty Officer.

(3) Maintain an overview of emergency relocation facilities and assure that resources are in a constant state of readiness.

(4) Direct activities of USDA representatives to the 10 Federal Regional Councils.

(5) Serve as the USDA contact with the Advisory Commission on Intergovernmental Relations for implementation of OMB Circular A-85 to provide advance notification to State and local governments of proposed changes in Department programs that affect such governments.

(6) Act as the Department representative for Federal executive board matters.

(7) Direct the entire defense program of USDA. This includes: (i) Maintaining liaison with executive departments and the Congress with respect to policy matters; (ii) supervising and directing USDA State, county, and metropolitan emergency boards; (iii) directing the USDA part of the national defense executive reserve program; and (iv) providing policy guidance to USDA agencies in carrying out specific defense assignments.

(8) Coordinate and facilitate USDA operations of natural disaster programs including liaison with executive departments and the Congress in disaster matters.

§ 2.47 Deputy Under Secretary for Congressional Relations.

(a) *Delegations.* Pursuant to § 2.15(d), the following delegation of authority is made by the Under Secretary to the Deputy Under Secretary for Congressional Relations:

(1) Exercise responsibility for coordination of all congressional relations matters in the Department.

Subpart F—Delegations of Authority by the Assistant Secretary for Marketing and Consumer Services

§ 2.50 Administrator, Agricultural Marketing Service.

(a) *Delegations.* Pursuant to § 2.17(a), subject to reservations in § 2.18(a), the following delegations of authority are made by the Assistant Secretary for Marketing and Consumer Services to the Administrator, Agricultural Marketing Service:

(1) Exercise the functions of the Secretary of Agriculture contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627), including payments to State departments of agriculture in connection with cooperative marketing service projects under section 204(b) (7 U.S.C. 1623(b)), and transportation activities under section 203(j) (7 U.S.C. 1622(j)), but excepting matters otherwise assigned.

(2) Administer transportation activities under section 201 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1291).

(3) Exercise the functions of the Secretary of Agriculture contained in the following legislation:

(i) U.S. Cotton Standards Act (7 U.S.C. 51–65).

(ii) Cotton futures provisions of the Internal Revenue Code of 1954 (26 U.S.C. 4854, 4862–4865, 4876, and 7263).

(iii) Cotton Statistics and Estimates Act, as amended (7 U.S.C. 471–476), except as otherwise assigned.

(iv) U.S. Grain Standards Act, as amended (7 U.S.C. 71–87h).

(v) Naval Stores Act (7 U.S.C. 91–99).

(vi) Tobacco Inspection Act (7 U.S.C. 511–511q).

(vii) Wool Standards Act (7 U.S.C. 415–415d).

(viii) Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601, 602, 608a–608e, 610, 612, 614, 624, 671–674).

(ix) Cotton Research and Promotion (7 U.S.C. 2101–2119).

(x) Export Apple and Pear Act (7 U.S.C. 581–590).

(xi) Export Grape and Plum Act (7 U.S.C. 591–599).

(xii) Federal Seed Act, as amended (7 U.S.C. 1551–1611).

(xiii) Perishable Agricultural Commodities Act (7 U.S.C. 499a–499s).

(xiv) Produce Agency Act (7 U.S.C. 491–497).

(xv) Tobacco Seed and Plant Exportation Act (7 U.S.C. 516–517).

(xvi) U.S. Warehouse Act, as amended (7 U.S.C. 241–273).

(xvii) Tobacco Statistics Act (7 U.S.C. 501–508).

(xviii) Section 32 of the Act of August 23, 1935 (7 U.S.C. 612c), as supplemented by the Act of June 28, 1937 (15 U.S.C. 713c), and related legislation, except functions which are otherwise assigned relating to the domestic distribution and donation of agricultural commodities and products thereof following the procurement thereof.

(xix) Procurement of agricultural commodities and other foods under section 6 of the National School Lunch Act of 1946, as amended (42 U.S.C. 1755).

(xx) In carrying out the procurement functions in subdivisions (xviii) and (xix) of this subparagraph, the Agricultural Marketing Service shall, to the extent practicable, use the commodity procurement, handling, payment, and related services of the Agricultural Stabilization and Conservation Service.

(xxi) Process or Renovated Butter Act (26 U.S.C. 4817–4818).

(xxii) Section 401(a) of the Organic Act of 1944 (7 U.S.C. 415e).

(xxiii) Agricultural Fair Practices Act (7 U.S.C. 2301–2306).

(xxiv) Wheat Research and Promotion Act (7 U.S.C. 1292 note).

(xxv) Plant Variety Protection Act (7 U.S.C. 2321–2331, 2351–2357, 2371–2372, 2401–2404, 2421–2427, 2441–2443, 2461–2463, 2481–2486, 2501–2504, 2531–2532, 2541–2545, 2561–2569, 2581–2583).

(xxvi) Egg Products Inspection Act (21 U.S.C. 1031–1056).

(xxvii) Potato Research and Promotion Act (7 U.S.C. 2611–2627).

(xxviii) Act of May 23, 1908, regarding inspection of dairy products for export (21 U.S.C. 693).

(4) Administer the warehouse examination function for the Agricultural Stabilization and Conservation Service, except functions of inventory management.

(b) *Reservations.* The following authorities are reserved to the Assistant Secretary for Marketing and Consumer Services:

(1) Taking final action on regulations under section 8c(15)(A) of the Agricul-

tural Marketing Agreement Act of 1937 (7 U.S.C. 608c(15)(A)), section 12(a) of the Cotton Research and Promotion Act (7 U.S.C. 2111(a)), and section 311(a) of the Potato Research and Promotion Act (7 U.S.C. 2620(a)).

(2) Issuing, amending, terminating, or suspending any marketing agreement or order or any provision thereof under the Agricultural Marketing Agreement Act of 1937, the Cotton Research and Promotion Act, or the Potato Research and Promotion Act.

§ 2.51 Administrator, Animal and Plant Health Inspection Service.

(a) *Delegations.* Pursuant to § 2.17(b), subject to reservations in § 2.18(b), the following delegations of authority are made by the Assistant Secretary for Marketing and Consumer Services to the Administrator of the Animal and Plant Health Inspection Service: Exercise functions of the Secretary of Agriculture under the following Acts:

(1) The Mexican Pink Bollworm Act (7 U.S.C. 145).

(2) Section 102, Organic Act of 1944, as amended, and the Act of April 3, 1937, as amended (7 U.S.C. 147a, 148-148e), relating to control and eradication of plant pests and diseases.

(3) The Mexican Border Act, as amended (7 U.S.C. 149).

(4) The Golden Nematode Act (7 U.S.C. 150-150g).

(5) The Federal Plant Pest Act (7 U.S.C. 150aa-150jj).

(6) The Plant Quarantine Act, as amended (7 U.S.C. 151-165, 167).

(7) The Terminal Inspection Act, as amended (7 U.S.C. 166).

(8) The Honeybee Act, as amended (7 U.S.C. 281-282).

(9) The Halogeton Glomeratus Act (7 U.S.C. 1651-1656).

(10) Tariff Act of June 17, 1930, as amended, section 306 (19 U.S.C. 1306).

(11) Act of August 30, 1890, as amended (21 U.S.C. 102-105).

(12) Act of May 29, 1884, as amended, Act of February 2, 1903, as amended, and Act of March 3, 1905, as amended, and supplemental legislation (21 U.S.C. 111-114a, 114a-1, 115-130).

(13) Act of February 28, 1947, as amended (21 U.S.C. 114b-114c, 114d-1, and Public Law 92-152).

(14) Act of June 16, 1948 (21 U.S.C. 114e-114f).

(15) Act of September 6, 1961 (21 U.S.C. 114g-114h).

(16) Act of July 2, 1962 (21 U.S.C. 134-134h).

(17) Act of May 6, 1970 (21 U.S.C. 135-135b).

(18) Poultry Products Inspection Act, as amended (21 U.S.C. 451-470).

(19) Federal Meat Inspection Act, as amended, and related legislation (21 U.S.C. 601-692, 694, 695).

(20) Humane Slaughter Act (7 U.S.C. 1901-1906).

(21) (Laboratory) Animal Welfare Act, as amended (7 U.S.C. 2131-2155).

(22) Horse Protection Act (15 U.S.C. 1821-1831).

(23) 28 Hour Law, as amended (45 U.S.C. 71-74).

(24) Export Animal Accommodation Act, as amended (46 U.S.C. 466a-466b).

(25) Purebred animal duty-free-entry provision of Tariff Act of June 17, 1930, as amended (19 U.S.C. 1202, Part 1, Item 100.01).

(26) Virus-Serum-Toxin Act (21 U.S.C. 151-158).

(27) Anti-Hog-Cholera Serum and Hog-Cholera Virus Act (7 U.S.C. 851-855).

(28) The Agricultural Marketing Act of 1946, sections 203, 205, as amended (7 U.S.C. 1622, 1624), with respect to voluntary inspection and certification of edible meat and other products; certified products for dogs, cats, and other carnivora; and animal byproducts (9 CFR 156, 350, 355).

(29) Talmadge-Aiken Act (7 U.S.C. 450) with respect to cooperation with States in control and eradication of plant and animal diseases and pests and administration of the Federal Meat Inspection Act and Poultry Products Inspection Act.

§ 2.52 Administrator, Commodity Exchange Authority.

(a) *Delegations.* Pursuant to § 2.17(c), subject to reservations in § 2.18(c), the following delegations of authority are made by the Assistant Secretary for Marketing and Consumer Services to the Administrator of the Commodity Exchange Authority:

(1) Administer the Commodity Exchange Act, as amended and supplemented (7 U.S.C. 1 et seq.).

(b) *Reservations.* The following authorities are reserved to the Assistant

Secretary for Marketing and Consumer Services:

(1) Designating contract markets, promulgating of regulations and issuing of complaints under the Commodity Exchange Act, as amended.

§ 2.53 Administrator, Food and Nutrition Service.

(a) *Delegations.* Pursuant to § 2.17(d), subject to reservations in § 2.18(d), the following delegations of authority are made by the Assistant Secretary for Marketing and Consumer Services to the Administrator, Food and Nutrition Service:

(1) Administer of the following legislation:

(i) The Food Stamp Act of 1964, as amended (7 U.S.C. 2011-2025).

(ii) National School Lunch Act of 1946, as amended (42 U.S.C. 1751-1763), except procurement of agricultural commodities and other foods under section thereof.

(iii) Child Nutrition Act of 1966, as amended (42 U.S.C. 1771-1785).

(2) Administer those functions relating to the distribution and donation of agricultural commodities and products thereof under the following legislation:

(i) Clause (3) of section 416, Agricultural Act of 1949, as amended (7 U.S.C. 1431), except the estimate and announcement of the types and varieties of food commodities, and the quantities thereof, to become available for distribution thereunder.

(ii) Section 709 of the Food and Agriculture Act of 1965, as amended (7 U.S.C. 1446a-1).

(iii) Section 32 of the Act of August 24, 1935, as amended (7 U.S.C. 612c), as supplemented by the Act of June 28, 1937 (15 U.S.C. 713c), and related legislation.

(iv) Section 9 of Act of Sept. 6, 1958 (7 U.S.C. 1431b).

(v) Section 210 of the Agricultural Act of 1956 (7 U.S.C. 1859), except with respect to donation to Federal penal and correctional institutions.

(vi) Section 402 of the Mutual Security Act of 1954, as amended (22 U.S.C. 1922).

(vii) Section 707 of the Older Americans Act of 1965, as amended (42 U.S.C. 3045f).

(viii) Sections 203 and 238 of the Disaster Relief Act of 1970 (42 U.S.C. 4413, 4457).

(3) Administer those functions relating to the distribution of food coupons under section 238 of the Disaster Relief Act of 1970 (42 U.S.C. 4457).

(4) In connection with the functions assigned in subparagraphs (1), (2), and (3) of this paragraph, relating to the distribution and donation of agricultural commodities and products thereof, and food coupons to eligible recipients, authority to determine the requirements for such agricultural commodities, and products thereof, and food coupons to be so distributed.

(5) Authority to receive donations of food commodities under clause (3) of section 416 of the Agricultural Act of 1949, as amended, and section 709 of the Food and Agriculture Act of 1965, as amended.

§ 2.54 Administrator, Packers and Stockyards Administration.

(a) *Delegations.* Pursuant to § 2.17(e), subject to reservations in § 2.18(e), the following delegations of authority are made by the Assistant Secretary for Marketing and Consumer Services to the Administrator, Packers and Stockyards Administration:

(1) Administer the Packers and Stockyards Act, as amended and supplemented (7 U.S.C. 181-229).

(2) Enforce provisions of the Consumer Credit Protection Act (15 U.S.C. 1601-1665, 1681-1681t), with respect to any activities subject to the Packers and Stockyards Act, 1921, as amended and supplemented.

Subpart G—Delegation of Authority by the Assistant Secretary for Rural Development and Conservation

§ 2.58 Administrator, Farmer Cooperative Service.

(a) *Delegations.* Pursuant to § 2.20(c), the following delegations of authority are made by the Assistant Secretary for Rural Development and Conservation to the Administrator, Farmer Cooperative Service:

(1) Administer programs authorized by the Cooperative Marketing Act of 1926 (7 U.S.C. 451-457).

(2) Conduct research relating to the economic and marketing aspect of cooperatives as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627).

§ 2.60 Chief, Forest Service.

(a) *Delegations.* Pursuant to § 2.19(c), subject to reservation in § 2.20, the following delegations of authority are made by the Assistant Secretary for Rural Development and Conservation to the Chief of the Forest Service:

(1) Provide national leadership in forestry. (As used here and elsewhere in this section the term "forestry" encompasses the tangible physical resources such as forests, forest-related rangeland, grassland, brushland, woodland, alpine areas, minerals, water areas, wildlife habitat, and less tangible forest-related values such as outdoor recreation, air and water quality, economic strength, and social well-being.)

(2) Protect, manage, and administer the national forests, national forest purchase units, national grasslands, and other lands and interests in lands administered by the Forest Service, which collectively are hereby designated as the National Forest System, including the acquisition and disposition of lands and interests in lands as may be required in these programs.

(3) Conduct research programs to provide fundamental knowledge and technology, for improved policy decisions and professional management of forest and range ecosystems; increased efficiency in timber production; forest soils and watersheds; range, wildlife, and fish habitat management, forest recreation; environmental forestry; forest fire; forest insects; forest diseases, forest products utilization; forest engineering; forest resource surveys; forest products marketing; and forest economics.

(4) Administer program of cooperation in the protection, planning, development, conservation, multiple purpose management and utilization of forest and related resources.

(5) Administer forest insect, disease, and other pest control and eradication programs.

(6) Administer programs under section 23 of the Federal Highway Act (23 U.S.C. 101(a), 202(b), 204(a)-(c), 205 (a)-(c), 317).

(7) Exercise the custodianship of lands and interests in lands under lease or contract of sale to States and local agencies pursuant to title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010-1012).

(8) Administer, under such general program criteria and procedures as may be established by the Soil Conservation Service, for the forestry aspects of subdivisions (i), (ii), and (iii) of this subparagraph on the National Forest System and rangelands within national forest boundaries and adjacent rangelands which are administered under formal agreement, and other forest lands.

(i) Cooperative river basin surveys and investigations program (16 U.S.C. 1006).

(ii) Eleven authorized watershed improvement programs and emergency flood prevention measures program under the Flood Control Act (33 U.S.C. 701b-1).

(iii) Small watershed protection program under the Pilot Watershed Protection and Watershed Protection and Flood Prevention Acts (67 Stat. 214 and 16 U.S.C. 1001-1011).

(9) Provide assistance to the Agricultural Stabilization and Conservation Service in connection with the rural environmental assistance program, the naval stores conservation program, and the cropland conversion program, authorized by section 7-17 of the Soil Conservation and Domestic Allotment Act, as amended (16 U.S.C. 590g-590q).

(10) Coordinate mapping work of the Department, including: (i) Clearing mapping projects to prevent duplication; (ii) keeping a record of mapping done by Department agencies; (iii) preparing and submitting required Departmental reports; (iv) serving as liaison on mapping with the Office of Management and Budget, Department of the Interior, and other Departments and establishments; (v) promoting interchange of technical information, including techniques which may reduce costs or improve quality; and (vi) maintenance of the mapping records formerly maintained by the Office of Plant and Operations.

(11) Enter into research agreements (grants, contracts, agreements, and cooperative aid) under the provisions of 7 U.S.C. 4501; 42 U.S.C. 1891-1893; and 16 U.S.C. 581; 7 U.S.C. 4271(a); and 7 U.S.C. 1624, for the support of applied and/or basic scientific research in forestry activities.

(12) Provide assistance to the Farmers Home Administration in connection with grants and loans under authority of the Consolidated Farmers Home Adminis-

tration Act of 1961, 7 U.S.C. 1923; and consultation with the Department of Housing and Urban Development under the authority of 40 U.S.C. 461(e).

(13) Exercise responsibility, under such general program criteria and procedures as may be established by the Soil Conservation Service for the Forestry aspects of the resource conservation and development program authorized by title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1011(e)).

(14) Administer the radio frequency licensing work of the Department, including: (i) Representing the Department on the Interdepartment Radio Advisory Committee and its Frequency Assignment subcommittee, in the office of the Director of Telecommunications Management; (ii) establishing policies, standards, and procedures, for allotting and assigning frequencies within the Department and for obtaining effective utilization of them; (iii) providing licensing action necessary to assign radio frequencies for use by the agencies of the Department and maintenance of the records necessary in connection therewith; and (iv) providing inspection of the Department's radio operations to insure compliance with national and international regulations and policies for radio frequency use.

(15) Administer of the Youth Conservation Corps Act (42 U.S.C. Precede 2711 Note) for the Department of Agriculture.

(16) Establish and operate the Job Corps Civilian Conservation Centers on National Forest lands as authorized by title I, sections 106 and 107 of the Economic Opportunity Act of 1964 (42 U.S.C. 2716-2717), in accordance with the terms of an agreement dated May 11, 1967, between the Secretary of Agriculture and the Secretary of Labor; and administration of other cooperative manpower training and work experience programs where the Forest Service serves as host or prime sponsor with other Departments of Federal, State, or local governments.

(17) Administer the Volunteers in the National Forests Act of 1972 (16 U.S.C. 558a-558d, 558a note).

(b) *Reservations.* The following authorities are reserved to the Assistant Secretary of Agriculture for Rural Development and conservation:

(1) The authority to issue regulations.

(2) The authority as a member of the National Forest Reservation Commission (16 U.S.C. 513).

(3) The making of recommendations to the President with respect to the transfer of lands pursuant to the provisions of subsection (e) of section 32 of title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1011(a)).

(4) Making recommendations to the President for the establishing of national forests or parts thereof under the provisions of section 9 of the Act of June 7, 1924 (16 U.S.C. 471).

(5) Giving final approval and submitting to the Congress the results of preliminary examinations and survey reports under the Flood Control Act of 1936, as amended and supplemented (33 U.S.C. 701a et seq.).

(6) Approving requests for apportionment of reserves pursuant to section 3679, Revised Statutes, as amended (31 U.S.C. 665), for forest pest control.

(7) Making recommendations to the President for the establishing of or adding to National Wild and Scenic Rivers System (16 U.S.C. 1271-1278); National Scenic Trails System (16 U.S.C. 1241-1249); and the National Wilderness Preservation System (16 U.S.C. 1131-1136).

(8) Signing of Declarations of Taking and requests for condemnation.

§ 2.61 Administrator, Rural Electrification Administration.

(a) *Delegations.* Pursuant to § 2.19(d), the following delegations of authority are made by the Assistant Secretary for Rural Development and Conservation to the Administrator, Rural Electrification Administration:

(1) Administer the "Rural Electrification Act," as amended (7 U.S.C. 901-950(b)).

(b) *Reservations.* The following authorities are reserved to the Assistant Secretary for Rural Development and Conservation:

(1) Making requests and certifications to the Secretary of the Treasury in connection with loans to the Administrator of the Rural Electrification Administration for the rural electrification and rural telephone programs (7 U.S.C. 903(a)).

(2) Approving acquisitions of telephone lines, facilities, or systems financed by the Rural Telephone Bank under (7 U.S.C. 948(a)(2)).

§ 2.62 Administrator, Soil Conservation Service.

(a) *Delegations.* Pursuant to § 2.19(e), subject to reservations in § 2.20(e), the following delegations of authority are made by the Assistant Secretary for Rural Development and Conservation to the Administrator, Soil Conservation Service:

(1) Provide national leadership in the conservation development and productive use of the Nation's soil, water, and related resources. Such leadership encompasses soil, water, plant, and wildlife conservation; small watershed protection and flood prevention; and resource conservation and development. Integrated in these programs are erosion control, sediment reduction, pollution abatement, land use planning, multiple use, improvement of water quality, and several surveying and monitoring activities related to environmental improvement. All are designed to assure: (i) Quality in the natural resource base for sustained use; (ii) quality in the environment to provide attractive, convenient, and satisfying places to live, work, and play; and (iii) quality in the standard of living based on community improvement and adequate income.

(2) Evaluate and coordinate land use policy.

(3) Administer the basic program of soil and water conservation under Public Law 46, 74th Cong., as amended, and related laws (16 U.S.C. 590a-f, 590i-1, 590q, 590q-1; 42 U.S.C. 3271-3274; 7 U.S.C. 2201), including:

(i) Technical assistance to landusers in carrying out locally adapted soil and water conservation programs primarily through the conservation districts in the 50 States, Puerto Rico and the Virgin Islands, but also to communities, watershed groups, Federal and State agencies and other cooperators including such assistance as:

(a) Comprehensive planning assistance in nonmetropolitan districts.

(b) Assistance in the field of income-producing recreation on rural non-Federal lands.

(c) Forestry assistance, as a part of total technical assistance, to private landowners and landusers when such

services are in integral part of land management and such services are not available from a State agency; and forestry services in connection with windbreaks and shelter belts to prevent wind and water erosion of lands.

(d) Assistance in developing programs relating to natural beauty.

(e) Assistance to other Department agencies in connection with the administration of their programs, as follows:

(i) Agricultural Stabilization and Conservation Service in the development and technical servicing of certain programs, such as the rural environmental assistance program, water bank program, Appalachian regional development program and other such similar conservation programs.

(ii) Farmers Home Administration in connection with their loan programs.

(ii) Soil surveys, including:

(a) Providing leadership for the Federal part of the National Cooperative Soil Survey which includes conducting and publishing of soil surveys.

(b) Conducting soil surveys for resource planning and development.

(c) Performing the cartographic services essential to carrying out the functions of the Soil Conservation Service, including furnishing photographs, mosaics, and maps.

(iii) Conducting and coordinating snow surveys and making water supply forecasts pursuant to Reorganization Plan No. 4 of 1940 (5 U.S.C. App.).

(iv) Operating plant materials centers for the assembly and testing of plant species in conservation programs, including the use, administration and disposition of lands under the administration of the Soil Conservation Service for such purposes under title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010-1011).

(v) Providing leadership in the inventorying and monitoring of soil, water, land, and related resources of the Nation.

(4) Administer the watershed protection and flood prevention programs, including:

(i) The 11 Authorized Watershed projects under Public Law 534, 78th Cong., 33 U.S.C. 701b-1, except for responsibilities assigned to the Forest Service.

(ii) The Emergency Flood Control Work under section 216 of Public Law 516, 81st Cong., 33 U.S.C. 701b-1.

(iii) The cooperative river basin surveys and investigations program under section 6 of Public Law 566, 83d Cong., 16 U.S.C. 1006, except for responsibilities assigned to the Forest Service. Representation on the Water Resources Council and river basin commissions created by Public Law 89-80, 42 U.S.C. 1962, and on river basin interagency committees.

(iv) The pilot watershed projects under Public Law 46, 74th Cong., 16 U.S.C. 590a-f, and Public Law 156, 83d Cong., except for responsibilities assigned to the Forest Service.

(v) The watershed protection and flood prevention program under Public Law 566, 83d Cong., as amended 16 U.S.C. 1001-1009, except for responsibilities assigned to the Farmers Home Administration and the Forest Service.

(vi) The joint investigations and surveys with the Department of the Army under Public Law 639, 87th Cong., 16 U.S.C. 1009.

(5) Administer the Great Plains conservation program under Public Law 1021, 84th Cong., as amended 16 U.S.C. 590p(b).

(6) Administer the resource conservation and development program under Public Laws 46, 74th Cong., and 703, 87th Cong., as amended 16 U.S.C. 590a and 7 U.S.C. 1010-1011, except for responsibilities assigned to the Farmers Home

(b) *Reservations.* The following authorities are reserved to the Assistant Secretary for Rural Development and Conservation:

(1) Executing cooperative agreements and memorandums of understanding containing representations in the name of the Secretary or the Department of Agriculture as a whole, including the cooperation of the Department with conservation districts and other districts organized for soil and water conservation within the States, territories, and possessions.

(2) Giving final approval and transmitting to the Congress watershed work plans that require Congressional approval; and approving and transmitting to the Congress comprehensive river basin reports.

(3) Giving approval for operations of designated Resource Conservation and Development areas; and approving additions to authorized projects.

Subpart H—Delegations of Authority by the Assistant Secretary for International Affairs and Commodity Programs

§ 2.65 Administrator, Agricultural Stabilization and Conservation Service.

(a) *Delegations.* Pursuant to § 2.21 (a), subject to the reservations in § 2.22(a), the following delegations of authority are made by the Assistant Secretary for International Affairs and Commodity Programs to the Administrator of the Agricultural Stabilization and Conservation Service.

(1) Administer the acreage allotment and farm marketing quota program under the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1301 et seq.).

(2) Coordinate and prevent duplication of aerial photographic work of the Department, including: (i) Clearing of photography projects; (ii) assigning symbols for new aerial photography, maintaining symbol records, and furnishing symbol books; (iii) recording departmental aerial photography flown and coordinating the issuance of aerial photography status maps of latest coverage; (iv) promoting interchange of technical information and techniques to develop lower costs and better quality; (v) representing the Department on the Interagency Committee on Sales Prices of Aerial Photographic and Satellite Imagery Reproductions and serving as liaison with other governmental agencies on aerial photography and related activities including classification of departmental aerial photography but excluding mapping; and (vi) providing a Chairman for the Photography Sales Committee of the Department.

(3) Administer the rural environmental assistance program and diversion programs (except Great Plains program and naval stores conservation program) under sections 7 to 17 of the Soil Conservation and Domestic Allotment Act, as amended (16 U.S.C. 590g et seq.).

(4) Administer the land stabilization, conservation, and erosion program authorized by section 203 of the Appalachian Regional Development Act of 1965, as amended (40 U.S.C. App. 203), with assistance from the Soil Conservation Service.

(5) Administer the beekeeper indemnity payment program under section 804

of the Agricultural Act of 1970 (7 U.S.C. 135b note).

(6) Administer the conservation reserve program under the Soil Bank Act of 1956, as amended (7 U.S.C. 1801 note).

(7) Administer the cropland adjustment program under title VI of the Food and Agriculture Act of 1965, as amended (7 U.S.C. 1938).

(8) Administer the cropland conversion program under section 16(e) of the Soil Conservation and Domestic Allotment Act, as amended (16 U.S.C. 590p(e)).

(9) Administer the dairy indemnity program under Public Law 90-484, as amended (7 U.S.C. 450j-1).

(10) Administer responsibilities and functions under the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), the

(11) Conduct refinancing operations pursuant to section 304 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2094).

(12) Administer the emergency conservation program under Public Law 85-58, as amended (71 Stat. 177).

(13) Provide management support activities for the Export Marketing Service with respect to both program and administrative matters, including fiscal, accounting, budget, personnel, and administrative service functions, the preparation and issuance of information releases on agricultural exports, and the processing and disposition for the Export Marketing Service of all claims arising under Department functions for which the Export Marketing Service has responsibility; and in participation with other agencies of the U.S. Government, develop and formulate amendments to credit agreements under title I, Public Law 480, and the Export Credit Sales Program involving the rescheduling of amounts due from foreign countries under such agreements.

(14) Administer the feed grain set-aside program under section 105 of the Agricultural Act of 1949, as amended (7 U.S.C. 1441 note).

(15) Administer the haybank program pursuant to section 805, of the Agricultural Act of 1970 (7 U.S.C. 1339d).

(16) Serve as focal point in the Department for consultation on the leasing of federally owned farmlands to insure consistency with the Government's farm programs to reduce production of price-

supported crops in surplus supply and determine and proclaim agricultural commodities in surplus supply, pursuant to Presidential memorandum of May 21, 1956.

(17) Administer assigned activities under the Strategic and Critical Materials Stockpiling Act (50 U.S.C. 98-98h).

(18) Administer the Sugar Act of 1948, as amended (7 U.S.C. 1100 et seq.).

(19) Administer the International Sugar Agreement (7 U.S.C. 1161).

(20) Supervise and direct Agricultural Stabilization and Conservation Service State and county offices, and designate functions to be performed by Agricultural Stabilization and Conservation Service State and county committees.

(21) Administer the upland cotton program set-aside program under section 103 of the Agricultural Act of 1949, as amended (7 U.S.C. 1444).

(22) Administer the waterbank program under Public Law 91-599 (16 U.S.C. 1301-1311).

(23) Administer the wheat certificate and set-aside programs under subtitles B and D, title III, Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1339 and 1379a et seq.). (Other than as specified in § 2.21(b).)

(24) Administer the distress and disaster relief under section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427) and the Disaster Relief Act of 1970, Public Law 91-606, as amended (42 U.S.C. 4401).

(25) Administer the emergency livestock feed assistance program under section 407 of the Agricultural Act of 1949, as amended, and Public Law 86-299, as amended (7 U.S.C. 1427 and 1427 note).

(26) Determine the quantities of agricultural commodities subject to price support available for export programs. Estimate and announce the types, quantities, and varieties of food commodities, to become available for distribution under clause (3) of section 416, Agricultural Act of 1949, as amended (7 U.S.C. 1431).

(27) Administer programs to stabilize, support, and protect farm income and prices and to assist in the maintenance of balanced and adequate supplies of agricultural commodities, including programs to sell or otherwise dispose of and aid in the disposition of such commodities, except those specified in §§ 2.17(d), 2.21(b), and 2.21(d).

(28) Administer procurement, processing, handling, distribution, disposition, transportation, payment, and related services on surplus removal and supply operations, under section 5 (b), (c), and (d) of the CCC Charter Act (15 U.S.C. 714c (b), (c), and (d)), section 210 of the Agricultural Act of 1949, as amended (7 U.S.C. 1431), section 210 of the Agricultural Act of 1956 (7 U.S.C. 1859), the Act of August 19, 1958 (7 U.S.C. 1431 note), and section 709 of the Food and Agriculture Act of 1965, as amended (7 U.S.C. 1446a), except as specified in §§ 2.17(d) and 2.21(b).

(29) Administer commodity procurement and supply, transportation (other than from point of export except for movement to trust territories or possessions), handling, payment and related services in connection with programs under title II of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1721-1725) hereinafter referred to as "Public Law 480"; and payment and related services for the Export Marketing Service with respect to export subsidy and barter operations, operations under title I of Public Law 480 (7 U.S.C. 1701-1710), and the Export Credit Sales Program.

(30) Administer functions relating to agreements under section 708 of the National Wool Act of 1954, as amended (7 U.S.C. 1787).

(31) Administer other functions on behalf of CCC as assigned in accordance with CCC bylaws.

(b) *Reservations.* The following authorities are reserved to the Assistant Secretary for International Affairs and Commodity Programs:

(1) Designating counties and areas for emergency programs under Public Law 85-58, as amended.

(2) Designating such areas as emergency areas under section 407 of the Agricultural Act of 1949, as amended with respect to feed assistance for foundation herds and under Public Law 86-299 (7 U.S.C. 1427 note) with respect to feed assistance for livestock.

§ 2.66 General Sales Manager, Export Marketing Service.

(a) *Delegations.* Pursuant to § 2.21(b) subject to reservations in § 2.22(b), the following delegations of authority are made by the Assistant Secretary for International Affairs and Commodity Pro-

grams to the General Sales Manager, Export Marketing Service:

(1) Formulate and administer programs under section 5(f) of the CCC Charter Act (15 U.S.C. 714c(f) and section 4, Public Law 89-808 (7 U.S.C. 1707a) to finance commercial export credit sales of agricultural commodities by U.S. exporters.

(2) Formulate and administer barter programs, under which agricultural commodities are exported, under section 5(f) of the CCC Charter Act (15 U.S.C. 714c(f)).

(3) Negotiate and implement between CCC and private trade entities to finance the sales and exportation of agricultural commodities for dollars on long term credit under title I of the Agricultural Trade Development and Assistance Act, as amended (7 U.S.C. 1707), hereinafter referred to as "Public Law 480".

(4) Perform functions of the Department in connection with the development and implementation of basic country agreements under title I of Public Law 480 to finance the sales and exportation of agricultural commodities on long term credit or for foreign currencies.

(5) Participate in program development, evaluation and review, including related liaison with the Agency for International Development, private relief agencies and intergovernment organizations, and activities involving operational responsibilities with respect to making agricultural commodities available for distribution in foreign countries under title II, Public Law 480 (7 U.S.C. 1721-1725).

(6) Coordinate within the Department activities arising under Public Law 480 (except as assigned to the Foreign Agricultural Service and to the Economic Research Service pursuant to §§ 2.68, and 2.85 respectively), and to represent the Department in its relationships in such matters with the Department of State, the Interagency Staff Committee on Public Law 480, and other departments, agencies, and committees of the Government.

(7) Arrange for transportation in connection with moving commodities from point of export under Public Law 480 and under section 5 of the CCC Charter Act (15 U.S.C. 714c) except for movement to trust territories or possessions.

(8) Formulate policy for export pricing and price review, in connection with

export sales of CCC-owned commodities, except for tobacco, peanuts, tung oil, and gum naval stores and for export sales under Public Law 480.

(9) Formulate and administer programs for sales for export of CCC-owned agricultural commodities, except for tobacco, peanuts, tung oil, and gum naval stores.

(10) Allocate among the various export programs, agricultural commodities determined by Agricultural Stabilization and Conservation Service to be available for export.

(11) Formulate and administer export payment programs (other than those under section 32, Public Law 320, 74th Congress (7 U.S.C. 612)) and other programs as assigned to encourage or cause the export of U.S. agricultural commodities.

(12) Administer domestic operations to implement the Wheat Trade Convention of the International Wheat Agreement.

(13) Formulate and direct the program relating to acquisition of wheat export marketing certificates by exporters under Subtitle D, title III, of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1379a et seq.).

(14) Develop foreign markets for agricultural commodities under section 5(f) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(f)), except as otherwise specifically assigned to the Foreign Agricultural Service.

(15) Perform those functions under section 203(j) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(j)) with respect to improvement of transportation service, facilities, and rates for the export of agricultural commodities and farm supplies which involve action before the Federal Maritime Commission, the Maritime Administration or other similar transportation regulatory body, or which involve working directly with individual ocean carriers of groups of such carriers.

§ 2.67 Manager, Federal Crop Insurance Corporation.

(a) *Delegations.* Pursuant to § 2.21(c), subject to reservations in § 2.22(c), the following delegation of authority is made by the Assistant Secretary for International Affairs and Commodity Programs to the Manager, Federal Crop Insurance Corporation:

(1) Pursuant to the Federal Crop Insurance Act, as amended, the Manager, Federal Crop Insurance Corporation, is its chief executive officer with such power and authority as may be conferred upon him by the Board.

(b) *Reservations.* The following authority is reserved to the Assistant Secretary for International Affairs and Commodity Programs:

(1) Exercise general supervision of the Federal Crop Insurance Corporation.

§ 2.68 Administrator, Foreign Agricultural Service.

(a) *Delegations.* Pursuant to § 2.21(d), subject to reservations in § 2.22(d) the following delegations of authority are made by the Assistant Secretary for International Affairs and Commodity Programs to the Administrator, Foreign Agricultural Service.

(1) Coordinate the carrying out by Department agencies of their functions involving foreign agricultural policies and programs of the Department and their operations and activities in foreign areas (other than those functions arising under the Agricultural Trade Development Act of 1954, as amended (7 U.S.C. 1701-1710, 1721-1725, 1731-1736), which are not related to Foreign Agriculture and those functions relating to international development, technical assistance and training assigned to the Director of Agricultural Economics). Act as liaison agency on these matters and functions relating to Foreign Agriculture between the Department of Agriculture and the Department of State, the Special Representative for Trade Negotiations, the Trade Expansion Act Advisory Committee, and other departments, agencies and committees of the U.S. Government, foreign governments, Organization for Economic Cooperation and Development, the European Common Market, the Food and Agriculture Organization of the United Nations and other international organizations, and the contracting parties to the General Agreement of Tariffs and Trade.

(2) Administer Departmental programs concerned with development of foreign markets for agricultural products of the United States except functions relating to Export Marketing Operations, under section 32, Public Law 320, 74th Congress (7 U.S.C. 612c) dele-

gated to the Assistant Secretary for Marketing and Consumer Services, and utilization research delegated to the Director of Science and Education. Legal authority for these programs is contained in section 104(b)(1) of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704(b)(1)) and section 601 of the Agricultural Act of 1954, as amended (7 U.S.C. 1761).

(3) Conduct studies of worldwide production, trade, marketing, prices, consumption, and other factors affecting exports and imports of U.S. agricultural commodities and to obtain information on methods used by other countries to move farm commodities in world trade on a competitive basis for use in the development of programs of this Department, provision of information to domestic producers, agricultural trade, the public and other interests, and the promotion of normal commercial markets abroad. This delegation excludes basic and long range analyses of world conditions and developments affecting supply, demand, and trade in farm products and general economic analyses of the international financial and monetary aspects of agricultural affairs as assigned to the Director of Agricultural Economics.

(4) Conduct functions of the Department relating to the General Agreement of Tariffs and Trade (GATT), the Trade Expansion Act of 1962 (19 U.S.C. 1801 et seq.) and other legislation affecting international agricultural trade including those programs designed to reduce foreign tariffs and other trade barriers.

(5) Maintain a worldwide Agricultural Attache intelligence and reporting system, including provision of foreign agricultural representation abroad to protect and promote U.S. agricultural interests, and to acquire information on demand, competition, marketing and distribution of U.S. agricultural products abroad pursuant to title VI of the Agricultural Act of 1954, as amended, Public Law 83-690 (7 U.S.C. 1761-1766).

(6) Conduct Department activities to carry out the provisions of the International Coffee Agreement Act of 1968 (19 U.S.C. 1356f-j).

(7) Administer functions of the Department relating to import controls, including, among others, functions under

section 22 of the Agricultural Adjustment Act (of 1933), as amended (7 U.S.C. 624), section 2 of Public Law 88-482 (19 U.S.C. 1202 note), and section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), but not including those functions reserved to the Secretary under § 2.22(d), those relating to the Sugar Act of 1948, as amended (7 U.S.C. 1100 et seq.), as specified in § 2.21(a) and those relating to section 8e of the Agricultural Adjustment Act (of 1933), as amended (7 U.S.C. 608e-1), as assigned to the Assistant Secretary for Marketing and Consumer Services.

(8) Represent the Department on the Interdepartmental Committee for Export Control and to conduct Departmental activities to carry out the provisions of the Export Administration Act of 1969, as amended (50 U.S.C. App. 2401-2413), except as reserved to the Secretary under § 2.22(d).

(9) Conduct international negotiations and contacts in connection with the International Wheat Agreement and authority for the administration of the Food Aid Convention of the IWA within the Department.

(10) Plan and provide overall direction to the programs and activities undertaken to carry out the foreign market promotion portions of the Wheat Research and Promotion Act (Public Law 91-430); the Cotton Research and Promotion Act (Public Law 89-502); and the Potato Research and Promotion Act (Public Law 91-670). This authority includes determining the programs and activities to be undertaken and assuring that they are coordinated with the overall departmental programs to develop foreign markets for U.S. agricultural products.

Subpart J—Delegations of Authority by the Assistant Secretary for Administration

§ 2.75 Director, Office of Budget and Finance.

(a) *Delegations.* Pursuant to § 2.25(b), the following delegations of authority are made by the Assistant Secretary for Administration to the Director, Office of Budget and Finance:

(1) Exercise general responsibility and authority for all matters related to the

administration of the Department's financial affairs including:

(1) Budgetary administration, including all phases of acquisition, distribution, and control of funds.

(ii) Financial administration, including accounting and related activities.

(iii) Budgetary and financial reporting.

(iv) Legislative reporting and related activities.

(v) The Department's central payroll, personnel, and related services, central voucher payment service, and central accounting system.

(2) Formulate and promulgate departmental financial policies, procedures, and regulations.

(3) Provide staff assistance to the Secretary, General Officers, and other Department and agency officials.

(4) Review budgetary, financial, legislative, and fiscal management aspects of agency operations and proposals.

(5) Represent the Department in contacts with the Office of Management and Budget, the General Accounting Office, the Treasury Congressional Committees on Appropriations, and any other organizations or agencies on matters related to his responsibility.

(6) The Director, Office of Budget and Finance, is designated as the Department's Director of Finance and the Department's Budget Officer to carry out the Department's responsibilities under the Budget and Accounting Act of 1921 and other applicable statutes.

(b) *Reservations.* The following authorities are reserved to the Assistant Secretary for Administration:

(1) All matters which have a significant impact on the financial operations of the Department shall be forwarded to the Assistant Secretary for Administration with the recommendation(s) of the Director, Office of Budget and Finance.

§ 2.76 Director, Office of Information Systems.

(a) *Delegations.* Pursuant to § 2.25(c), the following delegations of authority are made by the Assistant Secretary for Administration to the Director, Office of Information Systems:

(1) Administer the Department's management improvement program including the provision of assistance to agencies through management studies;

review the management and operating policies and processes, search for more economical approaches to the conduct of business and provide such other assistance as will aid in improving the management effectiveness, organization and operation of the Department's programs.

(2) Administer the Department's records, forms, reports, and directives management programs (authority to maintain, review, update and amend Departmental Delegations of Authority is included in this delegation).

(3) Administer the Department's Management Review Program. This authority includes the development and promulgation of Departmental directives regulating the management review function.

(4) Develop, design, install and revise systems, processes, work methods and techniques, and undertake other system engineering efforts to improve the management and operational effectiveness of the USDA.

(5) Manage and operate the total USDA data processing program through all stages of the data processing management cycle: Advance planning, feasibility, design, equipment selection and acquisition readiness effort, systems installation, system impact appraisal, time sharing and service center arrangements, systems monitoring and evaluation. These authorities will be transferred from the various agencies involved to the Office of Information Systems (authority to specify functions, resources and timing is included in this delegation).

(6) Exercise full Department-wide contracting and procurement authority for automatic data processing and data transmission equipment, software, services, maintenance, and related supplies. This authority includes the promulgation of departmental directives regulating the management of contracting and procurement functions related to the above.

(7) Plan, develop, install and manage USDA information systems, and assist in the maintenance of such systems to satisfy agency needs.

(8) Develop an integrated computer network for use by Department agencies and offices; manage telecommunications related to automatic data processing and coordinate with GSA in these areas.

§ 2.77 Director, Office of Management Services.

(a) *Delegations.* Pursuant to § 2.25 (d), the following delegations of authority are made by the Assistant Secretary for Administration to the Director, Office of Management Services:

(1) Under agreements with the General Officers or Agency Heads concerned, provide management support services to the Under Secretary, the Assistant Secretaries, the Director of Agricultural Economics, the Director of Science and Education, and to the following agencies:

- (i) Rural Development Service.
- (ii) Commodity Exchange Authority.
- (iii) Packers and Stockyards Administration.
- (iv) Farmers Cooperative Service.
- (v) Economic Research Service.
- (vi) Statistical Reporting Service.
- (vii) Cooperative State Research Service.
- (viii) National Agricultural Library.
- (ix) Office of Planning and Evaluation.
- (x) Office of Equal Opportunity.
- (xi) Office of Budget and Finance.
- (xii) Office of Information.
- (xiv) Office of Information Systems.
- (xv) Office of Management Services.
- (xvi) Office of Personnel.
- (xvii) Office of Plant and Operations.
- (xviii) Office of the General Counsel.
- (xix) Office of the Inspector General.
- (xx) The Judicial Officer.

(2) The Director, Office of Management Services shall also provide management support services to the Secretary of Agriculture. As used herein, the term management support services shall include:

- (i) Budget, accounting, and related financial management services, with authority to take actions required by law or regulation to discharge the budget, accounting, and related financial management functions for working capital fund and general appropriated and trust funds.
- (ii) Personnel, organization, and related service, with authority to take actions required by law or regulation to perform personnel management functions including employment, classification, organization, employee security, and related matters.
- (iii) Procurement, property management, space management, communications, messenger, paperwork manage-

ment, and related administrative services, with authority to take actions required by law or regulation to perform administrative services functions of procurement and contracting, personal property management, paperwork management, records management, and related matters.

(iv) Information services with authority to take actions required by law or regulation to develop, issue, and distribute information materials.

§ 2.78 Director, Office of Personnel.

(a) *Delegations.* Pursuant to § 2.25 (e), (h), subject to reservations in § 2.26 (e), the following delegations of authority are made by the Assistant Secretary for Administration to the Director of Personnel.

(1) Authority to formulate and issue Department policy, standards, rules and regulations relating to personnel.

(2) Provide personnel management procedural guidance and operational instructions.

(3) Design and establish automated data personnel systems.

(4) Inspect and evaluate personnel management operations and issue instructions or take direct action to insure conformity with appropriate laws, Executive orders, Civil Service Commission rules and regulations, and other appropriate rules and regulations.

(5) Exercise final authority in all personnel matters, including individual cases, that involve the jurisdiction of more than one General Officer.

(6) Receive, review, and recommend action on all requests for the Secretary's or Assistant Secretary for Administration's approval in personnel matters.

(7) Make final decisions on complaints, adverse actions and grievance appeals, except in those cases where the Director of Personnel has participated, when it is determined that such complaint, adverse action or grievance appeals are not being decided in a timely manner.

(8) Represent the Department in personnel matters in all contacts outside the Department.

(9) Specific authorities in the following operational matters:

- (i) Authorize cash awards above \$2,500.
- (ii) Waive payment of training expenses where employee fails to fulfill service agreement.

(iii) Establish or change standards and plans for awards to private citizens.

(iv) Execute, change, extend, or renew:

(a) Labor-Management Agreements.

(b) Association of Management Officials or Supervisor's Agreements.

(v) Represent any part of the Department in all contacts and proceedings with the National Offices of Labor Organizations.

(vi) Change a position (with no material change in duties) from GS to a pay system other than a wage system, or vice versa.

(vii) Grant restoration rights, and release employees with administrative re-employment rights.

(viii) Change working hours for groups of 50 or more employees in the Washington, D.C. metropolitan area.

(ix) Authorize any mass dismissals of employees in the Washington, D.C. metropolitan area.

(x) Approve "normal line of promotion" cases in the excepted service where not in accordance with time-in-grade criteria.

(xi) Make final decision on formal grievance, adverse action and performance rating appeals in all cases where the Deciding Official:

(a) Was involved directly in the grievance, adverse action, or performance rating appeal, or

(b) Made the informal decision, or

(c) Determines that the Examiner's findings or Committee's recommendation is unacceptable.

(xii) Make the final decision on all classification appeals from Agency appellate decisions.

(xiii) Authorize organization changes which occur in:

(a) Department Service:

(1) Division (or comparable component);

(2) Branch (or comparable component);

(b) Field Service:

(1) First organization level;

(2) Next lower organization level—required only for those types of field installations where the establishment, change in location, or abolition of same, requires approval in accordance with 1 AR 673.

(xiv) Authorize all employment actions (except nondisciplinary separations and LWOP) and classification actions for the following positions:

(a) GS-16-18 and equivalent, and

(b) Region, area, State, and country-wide administration.

(xv) Authorize employment actions (promotions, transfers, reassignments, accessions, or extensions) for newly established GS-14-15 and equivalent positions.

(xvi) Authorize all employment actions (except LWOP) for the following positions:

(a) Schedule C, and

(b) Administrative Law Judge,

(xvii) Authorize employment actions (accessions or extensions) for the following:

(a) Experts and Consultants.

(b) Employees whose records are flagged.

(c) Contract services.

(xix) Authorize all classification actions at GS-15 and equivalent.

(xx) Authorize adverse actions for positions on GS-14-15 and equivalent.

(xxi) Approve assignments to White House details.

(xxii) Authorize adverse actions based in whole or in part on an allegation of violation of Subchapter III, Chapter 73, 5 U.S.C. for employees in the excepted service.

(xxiii) Authorize long-term training in programs which require Department-wide competition.

(xxiv) Issue all Coordinated Federal Wage System (CFWS) Department-wide Wage Schedules, and Lithographic Wage Schedules in the Washington, D.C. Metropolitan Area.

(10) As used herein, the term personnel includes:

(i) Organizational analysis and planning.

(ii) Position classification.

(iii) Employment.

(iv) Pay administration.

(v) Automation of personnel data and systems design.

(vi) Hours of duty.

(vii) Performance evaluation and standards.

(viii) Promotions.

(ix) Employee development.

(x) Incentive programs.

(xi) Leave.

(xii) Retirement.

(xiii) Program evaluation.

(xiv) Social security.

(xv) Life insurance.

(xvii) Unemployment compensation.

- (xviii) Employee safety.
- (xix) Employee health programs.
- (xx) Labor management relations.
- (xxi) Intramanagement consultation.
- (xxii) Security.
- (xxiii) Discipline.
- (xxiv) Complaints and grievances.
- (xxv) Appeals.

(11) Perform staff work and prepare proposed decisions on complaints of discrimination including the ordering of such corrective measures considered necessary, and the recommendation for such disciplinary action as is warranted when an employee has been found to have engaged in a discriminatory practice; and transmit such proposed decisions to the Director of Equal Employment Opportunity through the Director, Office of Equal Opportunity, for such recommendations as the latter may consider warranted.

(12) Prepare, in consultation with the Director, Office of Equal Opportunity, regulations, plans, and procedures necessary to carry out the Department's equal employment opportunity program for issuance by the Assistant Secretary for Administration.

(b) *Reservations.*—The following authorities are reserved to the Assistant Secretary for Administration:

(1) Authorize organization changes which occur in a department service or office.

§ 2.79 Director, Office of Plant and Operations.

(a) *Delegations.*—Pursuant to § 2.25 (f), the following delegations of authority are made by the Assistant Secretary for Administration to the Director, Office of Plant and Operations:

(1) Promulgate departmental policies, standards, techniques, and procedures, and to represent the Department, in the following:

(i) Contracting for and the procurement of administrative and operating supplies, services, and construction, except for automatic data processing or transmission.

(ii) Socioeconomic programs related to contracting, including small business assistance, labor surplus area assistance, disadvantaged business assistance, and labor standards.

(iii) Utilization of the resources of State and local governments and of the

private sector in domestic program operations.

(iv) Selection, standardization, and simplification of program delivery processes utilizing grants, contracts, and/or agreements.

(v) Acquisition, leasing, utilization, value analysis, construction, maintenance, and disposition of real and personal property including control of space assignments and use.

(vi) Acquisition, storage, distribution, and disposition of forms and supplies.

(vii) Telecommunications, except for data transmission for automatic data processing systems.

(viii) Mail management.

(ix) Motor vehicle fleet and other vehicular transportation.

(x) Transportation of things.

(xi) Security of physical facilities, self-protection, and warden systems.

(xii) Prevention, control, and abatement of air and water pollution at Federal facilities (E.O. 11507).

(xiii) Implementation of the Uniform Relocation Assistance and Real Property Policies Act of 1970 (Public Law 91-646).

(2) Operate, or provide for the operation of, centralized departmental services to provide printing, copy reproduction, offset composition, supply, telephone, telegraph, mail, automated mailing lists, excess property pool, space allocation, central Secretary's records, departmental administrative regulation and secretarial issuances, and related management support.

(3) Exercise the following special authorities:

(i) The Director, Plant and Operations, is designated as the Department debarring officer, and authorized to perform the functions of 41 CFR Subpart 1-1.6 and 41 CFR 4-1.6.601-1(a).

(ii) Department designee appointed by the President to the Committee for Purchase of Products and Services of the Blind and other Severely Handicapped pursuant to 41 U.S.C. 46-48c.

(iii) Promulgation of Department schedule of fees and charges for reproductions, furnishing of copies, and making searches for official records pursuant to the Freedom of Information Act, 5 U.S.C. 552.

(iv) Conduct liaison with the Office of the Federal Register including the making of required certifications pursuant to 1 CFR Part 4.

(v) Maintain custody and permit appropriate use of the official seal of the Department.

(vi) Promulgate policy for use of the official flags of the Secretary and the Department.

(vii) Make determinations and findings authorizing use of negotiation in accordance with 41 U.S.C. 252(c) (11) for purchases and contracts for experimental, developmental, or research work, or for the manufacture or furnishing of property for experimentation, development, research, or test which will not require the expenditure of more than \$25,000 (41 CFR 1-3.211; 1-3.303).

(viii) Coordinate collection of historical material for Presidential Libraries.

(ix) Oversee the safeguarding of unclassified materials designated "For Official Use Only."

(x) Establish standards for and coordinate the issuance of employee identification within the Department.

(b) *Reservations.*—The following authorities are reserved to the Assistant Secretary for Administration:

(1) Make determinations and findings authorizing the use of negotiation in accordance with 41 U.S.C. 252(c) (11), (12), and (13) with report to purchases and contracts:

(i) For experimental, developmental, or research work, or for the manufacture or furnishing of property for experimentation, development, research, or test which will require the expenditure of more than \$25,000.

(ii) For property or service when the character, ingredients, or components thereof are such that the contract should not be publicly disclosed.

(iii) For technical equipment when it is determined that the procurement thereof without advertising is necessary in special situations or in particular localities in order to assure standardization of equipment and interchangeability is necessary in the public interest.

(2) Make determinations and findings authorizing the omission of the examination of records clause from contracts with foreign contractors and foreign subcontractors under the authority granted in 41 U.S.C. 304(c) (41 CFR 1-3.303; 1-6.1004).

§ 2.80 Director, Office of Equal Opportunity.

(a) *Delegations.*—Pursuant to § 2.25 (h), the following delegations of author-

ity are made by the Assistant Secretary for Administration to the Director, Office of Equal Opportunity:

(1) Administer the Department's contract compliance program, including the formulation in consultation with the office of plant and operations, of Department contract compliance policy, standards, rules and regulations pursuant to Executive Order 11246, Executive Order 11375, Executive Order 11598, and Department of Labor rules and regulations for issuance by the Assistant Secretary for Administration.

(2) Is designated as the Department's deputy contract compliance officer to assist the contract compliance officer in the performance of his duties.

(3) Order proceedings and hearings in the Department of Agriculture pursuant to §§ 15.9(e) and 15.86 of this subtitle consolidated for hearing with proceedings of other Federal departments and agencies.

(4) Make determinations required by § 15.8(d) of this subtitle that compliance cannot be secured by voluntary means.

(5) Issue orders to give a notice of hearing or opportunity to request a hearing pursuant to Part 15 of this subtitle; arrange for the designation of an administrative law judge to preside over any such hearing; and determine whether the administrative law judge so designated will make an initial decision or certify the record to the Secretary of Agriculture with his recommended findings and proposed decision.

(6) Authorize the taking of action pursuant to § 15.8(a) of this subtitle relating to compliance by "other means authorized by law."

(7) Take action pursuant to § 15.8(d) of this subtitle relating to compliance by "other means authorized by law."

(8) Review proposed decisions on complaints of discrimination prepared by the Director, Office of Personnel, and make such recommendations as he may consider warranted to the Director of Equal Employment Opportunity.

Subpart K—Delegations of Authority by the Director of Agricultural Economics

§ 2.85 Administrator, Farmer Cooperative Service.

(a) *Delegations.*—Pursuant to § 2.27(a), the following delegations of authority are made by the Assistant Sec-

retary for Rural Development and Conservation to the Administrator, Farmer Cooperative Service:

(1) Administer programs authorized by the Cooperative Marketing Act of 1926 (7 U.S.C. 451-457).

(2) Conduct research relating to the economic and marketing aspects of cooperatives as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627).

§ 2.86 Administrator, Economic Research Service.

(a) *Delegations.*—Pursuant to § 2.27 (b), (d), the following delegations of authority are made by the Director of Agricultural Economics to the Administrator, Economic Research Service:

(1) Conduct farm economics research consisting of a nationwide program of research dealing with the economic problems of agricultural production and resource use, which shall include the following:

(i) Farm production economics research including analyses of farm production costs and efficiency, use of capital, labor, and other resources in agriculture, profitable adjustments in farming, and financial problems of farmers.

(ii) Natural resources economics research including studies of the use and management of land and water resources, the quality of these resources, resource institutions, and watershed and river basin development problems.

(iii) Economic development research including a broad program of economic studies on development of rural areas, employment opportunities for farm and other rural people, and availability and factors affecting the availability of public and private facilities and services necessary to improve the quality of rural life, including local governments and their organization. This authority excludes performance of forest economics research. Title I and title II of the Act of August 14, 1946, as amended (7 U.S.C. 427, 1621-1627).

(2) Conduct marketing economics research including economic analyses and research relating to the marketing of agricultural commodities, the organizational structure, practices, and performance of commodity markets from the farm to the consumer, costs and margins

involved in the marketing of agricultural products, farmer's bargaining power, the economics of product quality and grade, market potentials, distribution and merchandising of agricultural products, and the economics of transportation. Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621-1627).

(3) Perform domestic and foreign economic analysis which shall include the following:

(i) Domestic economic analysis including economic and statistical research on agricultural prices, farm income, commodity outlook and situation, supply and consumption of farm products, and agricultural history.

(ii) Foreign economic analysis including studies of supply and demand and trade in farm products in foreign countries and their effect on prospects for U.S. exports; analysis of farm export programs, progress in economic development and its relationship to sales of farm products, assembly and analysis of agricultural trade statistics; and analysis of international financial monetary programs and policies as they affect the competitive position of U.S. farm products, but excluding specific commodity investigations relating to foreign market developments, competition and reporting, as delegated to the Assistant Secretary for International Affairs and Commodity Programs. Section 601 of the Act of August 28, 1954 (7 U.S.C. 1761).

(4) Supervise, direct and operate the Outlook and Situation Board which is responsible for technical review and approval of all economic outlook and situation reports and statements prepared within the Department.

(5) Coordinate and administer the Department's programs in international development, technical assistance, and training. Represent the Department of Agriculture in participating with international and U.S. organizations concerned with international agricultural development matters.

(6) Investigate and make findings as to the effect upon the production of food and upon the agricultural economy of any proposed action pending before the Administrator of the Environmental Protection Agency for presentation in the public interest, before said Administrator, other agencies or before the courts.

(7) Make grants under section 2 of the Act of August 4, 1965 (7 U.S.C. 450i), and the Act of September 6, 1958 (42 U.S.C. 1891–1893).

(8) Perform economic research under section 104(b) (1) and (3) of the Agricultural Trade Development and Assistance Act of 1954 with funds administered by the Foreign Agricultural Service and the Agricultural Research Service.

(9) Review economic data and analyses used in speeches by Department personnel and in materials prepared for release through the press, radio, and television. This authority does not in any way affect the procedures established for review and clearance of speeches and publications. Materials that should be submitted for review by the Administrator, ERS include the following:

(i) Statistics on: Farm income and farm costs; acreage and yield of crops; production, utilization, supply of crops, livestock and livestock products; consumption of farm products; prices for farm products at all marketing levels; prices paid by farmers; economic projections; farm population, employment, and levels of living; foreign trade in agricultural products; foreign agriculture; agricultural marketing costs and charges; farm real estate; farm assets and debts; farm taxes and insurance; farm cooperatives; and statistics on the nonfarm economy.

(ii) Statements and data on the outlook and situation.

(iii) Economic analyses and interpretations based on published data.

(iv) Analyses and data on the effects of current or proposed programs on farm income, prices, supplies, utilization or other economic factors.

(10) Designated Chairman of the Commodity Exchange Commission (7 U.S.C. 2).

(b) *Reservations.* The following authorities are reserved to the Director of Agricultural Economics:

(1) Review all proposed decisions involving substantial economic policy implications.

§ 2.87 Administrator, Statistical Reporting Service.

(a) *Delegations.* Pursuant to § 2.27(c), subject to reservations in § 2.28(c), the following delegations of

authority are made by the Director of Agricultural Economics to the Administrator, Statistical Reporting Service:

(1) Prepare crop and livestock estimates and administer reporting programs including estimates of production, supply, price and other aspects of the U.S. agricultural economy, collection of statistics, conduct of enumerative and objective measurement surveys, and related activities. Prepare reports of the Crop Reporting Board of the Department of Agriculture covering official State and national estimates (7 U.S.C. 411(a), 475, 476, 951).

(2) Withhold information relating to crop reports and taking such security precautions as are necessary to prevent disclosure of crop report information prior to the scheduled issuance time approved in advance by the Secretary of Agriculture (18 U.S.C. 1902, 2072).

(3) Conduct research relating to household, industrial and institutional consumers, and producers, handlers and processors, with respect to sensory perceptions, attitudes, opinions, and related factual data affecting marketing and consumption of agricultural products.

(4) Review, clear, coordinate, and improve statistics in the Department including review of all statistical forms survey plans, and reporting and record keeping requirements originating in the Department and requiring approval by the Office of Management and Budget under the Federal Reports Act; liaison with OMB and other Federal agencies for coordination of statistics, general improvement of statistical methods and techniques in the Department (44 U.S.C. 3501–3511).

(5) Make grants under section 2 of the Act of August 4, 1965 (7 U.S.C. 450i) and the Act of September 6, 1958 (42 U.S.C. 1891–1893).

(6) Collect data and prepare estimates of fertilizer production.

Subpart L—Delegations of Authority by the Director of Science and Education

§ 2.90 Administrator, Agricultural Research Service.

(a) *Delegations.* Pursuant to § 2.29(a), subject to reservations in § 2.30(a), the following delegations of authority are

made by the Director of Science and Education to the Administrator, Agricultural Research Service:

(1) Conduct research concerning domestic animals and poultry, their protection and use, causes of contagious, infectious and communicable diseases and means for the prevention and cure of the same (7 U.S.C. 391).

(2) Conduct research related to the dairy industry and dissemination of information for the promotion of the dairy industry (7 U.S.C. 402).

(3) Conduct research at Mandan, N. Dak., and Lewisburg, Tenn., concerning dairy livestock breeding, growing, and feeding, and other problems pertaining to the establishment of dairy and livestock industries (7 U.S.C. 421-422).

(4) Conduct research on new uses for cotton and on cotton ginning and processing (7 U.S.C. 423-424).

(5) Conduct research into the basic problems of agriculture in its broadest aspects, including, but not limited to, production marketing (other than statistical and economic research but including consumer and food economic research), distribution, processing, utilization of plant and animal commodities, problems of human nutrition, development of markets for agricultural commodities, discovery, introduction, and breeding of new crops, plants, and animal both foreign and native; conservation development, and development of efficient use of farm buildings, homes, and farm machinery, including the application of electricity and other forms of power (7 U.S.C. 427, 1621-1627, 2201, 2204).

(6) Administer a program for the improvement of poultry, poultry products, and hatcheries (7 U.S.C. 429).

(7) Advancement of the livestock and agricultural interests of the United States including the breeding of horses suited to the needs of the United States (7 U.S.C. 437).

(8) Enter into agreements with and receive funds from any State or political subdivision, organization, or person for the purpose of conducting cooperative research projects (7 U.S.C. 450a).

(9) Make grants to State agricultural experiment stations, colleges, universities, other research institutions and or-

ganizations and Federal and private organizations and individuals for research to further the programs of the Department (7 U.S.C. 450i).

(10) Maintain four regional research laboratories and research at such laboratories to develop new scientific, chemical, and technical uses and new and extended markets and outlets for farm commodities and products and byproducts (7 U.S.C. 1292).

(11) Conduct a special cotton research program designed to reduce the cost of producing upland cotton in the United States (7 U.S.C. 1441 Note).

(12) Administer and coordinate a foreign contracts and grants program of market development research in the physical and biological sciences under section 104(b)(1) of the Agricultural Trade, Development and Assistance Act of 1954, but excluding agricultural economics research; and administer and coordinate a foreign contracts and grants program of agricultural and forestry research under section 104(b)(3) of such Act (7 U.S.C. 1704(b)(1), (3)).

(13) Conduct research in tropical and subtropical agriculture for the improvement and development of tropical and subtropical food products for dissemination and cultivation in friendly countries as provided by the Food for Peace Act of 1966 (7 U.S.C. 1736(a)(4)).

(14) Conduct research to develop and determine methods of humane slaughter of livestock (7 U.S.C. 1904).

(15) Conduct research related to soil and water conservation, engineering operations and methods of cultivation to provide for the control and prevention of soil erosion (7 U.S.C. 1010, 16 U.S.C. 590a).

(16) Maintain a national arboretum for purposes of research and education concerning tree and plant life (20 U.S.C. 191-194).

(17) Conduct research on foot-and-mouth disease and other animal diseases (21 U.S.C. 113a).

(18) Conduct research on control and eradication of cattle grubs (screw-worms) (21 U.S.C. 144e).

(19) Conduct research and technical studies of farm dwellings and other buildings for the purpose of reducing

costs and adapting and developing fixtures and appurtenances for more efficient and economical farm use (42 U.S.C. 1476(b)).

(20) Make grants for the support of basic scientific research at nonprofit institutions of higher education or nonprofit organizations whose primary purpose is the conduct of scientific research (42 U.S.C. 1891).

(21) Administer the Virgin Islands agricultural research programs (48 U.S.C. 1409m-o).

(22) Conduct research related to the use of domestic agricultural commodities for the manufacture of any material determined to be strategic and critical or substitute therefore, under section 7(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98f).

§ 2.91 Administrator, Cooperative State Research Service.

(a) *Delegations.*—Pursuant to § 2.29 (b), subject to reservations in § 2.30 (b), the following delegations of authority are made by the Director of Science and Education to the Administrator, Cooperative State Research Service:

(1) Administer the Hatch Act of 1887, as amended (7 U.S.C. 361a-361i).

(2) Administer the Act of October 10, 1962, as amended (16 U.S.C. 582a-582a-7).

(3) Make grants under section 2 of the Act of August 4, 1965 (7 U.S.C. 450i).

(4) Administer the Act of July 22, 1963 (7 U.S.C. 390-390k).

(5) Maintain a current research information system for all research work units of USDA and research projects of cooperating institutions receiving USDA funds.

(6) Maintain a research referral office for the effective review and coordination of all USDA-supported research work units.

§ 2.92 Administrator, Extension Service.

(a) *Delegations.*—Pursuant to § 2.29 (c), subject to reservations in § 2.30 (c), the following delegations of authority are made by the Director of Science and Education to the Administrator, Extension Service:

(1) Administer the Smith-Lever Act, as amended (7 U.S.C. 341-349).

(2) Conduct educational and demonstration work under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621-1627).

(3) Conduct educational and demonstration work in the cooperative farm forestry program conducted under section 5 of the Act of June 7, 1924, as amended (16 U.S.C. 568).

(4) Provide educational and technical assistance to persons not receiving financial assistance under title 5 of the Housing Act of 1949 (42 U.S.C. 1476).

(5) Administer sections 109-111 of the District of Columbia Public Education Act, as amended, relating to cooperative extension programs in the District of Columbia (District of Columbia Code 31-1609-1611).

(6) Authorize the use of the 4-H Club name and emblem (18 U.S.C. 707).

(7) Act as the liaison between the Department and officials of the land-grant colleges and universities on all matters relating to cooperative extension work and educational activities relating thereto.

(8) Provide educational leadership for the Department's farm safety educational program.

(9) Serve as a focal point for the Department in contacts and working relationships with national town-country church leaders and denominational and interdenominational church organizations.

(10) Provide leadership and direct assistance to the Cooperative Extension Service in planning, conducting, and evaluating extension programs with Indians under a memorandum of agreement with the Bureau of Indian Affairs dated May 1956.

(11) Administer information and educational services, essential to carrying out preemergency and emergency USDA defense operations through the Cooperative Extension Service.

(12) Exercise responsibilities of the Secretary under regulations dealing with Equal Employment Opportunity in the Cooperative Extension Service (Part 18 of this subtitle).

(13) Provide educational support of resource development programs in rural areas and cooperate with other Federal and State agencies, private organizations

and groups in providing information concerning assistance available for resource development programs.

(14) Represent the Department in dealings with international organizations and foreign countries on matters related to Extension education methods, programs, and organizations.

(b) *Reservations.* The following authorities are reserved to the Director of

(1) Coordination of all educational activities of the Department.

§ 2.93 Director, National Agricultural Library.

(a) *Delegations.* Pursuant to § 2.29(d), the following delegations of authority are made by the Director of Science and Education to the Director, National Agricultural Library:

(1) Acquire and preserve all information concerning agriculture.

(2) Formulate immediate and long-range library policies, procedures, practices, and technical standards necessary for acquisition, cataloging, loan, bibliographic, and reference service to meet the needs of scientific, technical, research, and administrative staffs of the Department, both in Washington and the field.

(3) Evaluate special library programs developed for agencies of the Department; exercising such controls as are needed to coordinate library services in the Department and to avoid duplication of effort.

(4) Provide consultative service in library science and documentation, including systems for information storage and retrieval, to Department officials.

(5) Coordinate scientific and technical information activities of the Department.

(6) Coordinate the collection policy and program of the National Agricultural Library with the Library of Congress and the National Library of Medicine.

(7) Represent the Department on library and science information matters before Congressional Committees, professional societies, and international organizations; and cooperate with other Government agencies, and educational institutions on all matters relating to library services.

(8) Make grants under section 2 of the Act of August 4, 1965 (7 U.S.C. 4501).

(9) Make copies of bibliographies prepared by the Department library, microfilm and other photographic reproductions of books and other library materials in the Department, and sell such bibliographies and reproductions at cost.

(10) Organize and coordinate a national agricultural science information system (network) for procuring, preserving, and diffusing agricultural information.

(11) Accept gifts and order disbursement from the Treasury under the Act of December 28, 1970 (7 U.S.C. 2264, 2265).

PART 3—DEBT SETTLEMENT

Sec.

3.1 Purposes of the act and regulations.

3.2 Definitions.

3.3 Settlement of indebtedness.

3.4 Investigations and findings.

3.5 Delegations of authority.

3.6 Forms and records.

3.8 Penalties.

3.9 Indebtedness referred to Secretary of the Treasury or the Attorney General.

3.10 Scope of the act.

AUTHORITY: The provisions of this Part 3 issued under sec. 1, 58 Stat. 836; 12 U.S.C. 1150, unless otherwise noted.

SOURCE: The provisions of this Part 3 appear at 10 F.R. 807, Jan. 23, 1945, unless otherwise noted. Redesignated at 13 F.R. 6903, Nov. 24, 1948.

§ 3.1 Purposes of the act and regulations.

The principal purposes of the act and of the regulations in this part are to provide means of: (a) Settling, by compromise, adjustment or cancellation, relatively small debts long past due and owing to the Government arising from loans or payments made under farm programs administered by the Department; (b) recovering by the Department of substantial sums which are found uncollectible when the indebtednesses are treated as full obligations, and which otherwise would probably never be collected; (c) clearing the accounts of balances so small as not to warrant continued efforts of collection; and (d) the clearing of the accounts of the records of indebtedness made uncollectible by

reason of the death or disappearance of the debtors.

The existence of the act will neither serve as grounds for any relaxation in the general collection policy of the Department nor should it serve as grounds for any lessening of the efforts of farmers to pay their indebtedness.

§ 3.2 Definitions.

(a) "Department" means Department of Agriculture.

(b) "Indebtedness" with respect to any person, means his debt to the Government under each of the acts and programs listed in § 3.10, except that the total amount owed by any person under all loan, purchase, sale and other programs of the Commodity Credit Corporation with respect to a single commodity and without being limited to any crop year or marketing season shall be considered to be an "indebtedness".

(c) "Compromise" means final liquidation of the indebtedness through the immediate payment of a portion thereof, and acceptance by the United States of such payment in full satisfaction of the indebtedness.

(d) "Adjustment" means the scaling down of the amount of the indebtedness including interest, conditioned upon the payment of the adjusted amount at some specified future time or times; such adjustment is not to be considered as effective as a settlement under this act until the provisions of the adjustment arrangement have been carried out.

(e) "Cancellation" means the complete discharge, without payment, of the indebtedness and the debtor.

[10 F.R. 807, Jan. 23, 1945, as amended at 11 F.R. 11984, Oct. 15, 1946]

§ 3.3 Settlement of indebtedness.

(a) Indebtedness will be compromised, adjusted, or canceled, upon applicability by the debtor except in those cases where it is found that it is legally impossible for the debtor to make application, and upon the making of all the following findings:

(1) That said indebtedness has been due and payable for five years or more;

(2) That the debtor is unable to pay said indebtedness in full and has no reasonable prospect of being able to do so; officers of the Department shall not make such findings on the basis of mere un-

willingness to pay on the part of the debtor, or mere financial disadvantage to him, but should find that the settlement is the most advantageous arrangement possible from the standpoint of the Government under the findings prescribed in this part. In no event shall cancellation be made unless, in addition to the foregoing requirements, there is an advantage in removing the indebtedness from the accounts.

(3) That the debtor has acted in good faith in an effort to meet his obligation; and

(4) That the principal amount of said indebtedness is not in excess of \$1,000.

(b) Indebtedness may also be canceled without application when any one of the following circumstances is found:

(1) The amount of said indebtedness, including interest, is less than \$10; such efforts of collection have been made as are warranted under the circumstances, and the cost of collection or of continued maintenance of accounts is deemed greater than the amount of the indebtedness;

(2) The debtor is deceased and there is no reasonable prospect of recovering from his estate;

(3) The debtor's whereabouts has remained unknown for two years and there is no reasonable prospect of obtaining collection; heads of agencies designated in § 3.5 will prescribe procedures which will assure that cancellations on this ground will be made only after a diligent effort has been made to locate the debtor, including such contact with other agencies of the Department or otherwise as the amount of the indebtedness and the circumstances warrant;

(4) The debtor has been discharged of the indebtedness in any proceeding under "An act to establish a uniform system of bankruptcy throughout the United States."

(5) It is impossible or impracticable for legal or other reasons to obtain the debtor's application but all of the findings required by paragraph (a) of this section are made.

[10 F.R. 807, Jan. 23, 1945, as amended at 12 F.R. 441, Jan. 22, 1947, 21 F.R. 3213, May 16, 1956]

§ 3.4 Investigations and findings.

The heads of agencies designated in § 3.5 shall prescribe procedures for the conduct of investigations to determine the facts incident to the settlement of any indebtedness. These procedures should include, among other things, provisions for consultations with local authorities, businessmen, or local representatives of other Government agencies, or for obtaining the recommendations of committees or other groups or persons designated by each agency for assistance in its regular program, or otherwise. The file relating to each debtor shall contain the formal findings required by § 3.3, together with such evidence as has been obtained in support of such findings.

In order to effect uniformity in settlements, agency procedures should also provide that, where it appears from the application of the debtor or from investigation that the debtor is otherwise indebted to the United States, to the extent practicable consultation should be had (other than in cases under § 3.3 (b) (1) and (4) with any other creditor agencies, to ascertain pertinent information as to the status of such other obligation or obligations. Such information shall be considered in connection with the settlement and for inclusion in the findings.

The head of each agency shall provide for review of proposed indebtedness settlements within his agency by officers or employees designated for that purpose under such conditions as he shall determine to be adequate to insure the protection of the interests of the United States.

§ 3.5 Delegations of authority.

The heads of any administration or other agency having jurisdiction over any of the acts or programs listed in § 3.10 (including those of Commodity Credit Corporation and Federal Crop Insurance Corporation) are hereby authorized, within their respective jurisdictions, to exercise any or all of the functions prescribed by this part. The head of each of such agencies may delegate and authorize the redelegation of any of the functions vested in him by this part: *Provided*, That the determination of any settlement shall not be delegated beyond the head of the highest field office having jurisdiction, except that in the case of the Agricultural Stabilization and Conservation State

Offices, such authority may also be delegated to the State Administrative Officers and except that in the case of the Farmers Home Administration, such authority may also be delegated to Assistant State Directors and Chiefs, Production Loan Operations, in State offices of that administration.

[21 F. R. 3213, May 16, 1956]

§ 3.6 Forms and records.

The Office of Budget and Finance may prescribe or approve forms for applications for settlement of indebtedness under this part; and shall require each agency to establish records to insure the immediate availability of necessary information of operations under this part.

Each agency shall furnish to the Office of Budget and Finance a report of operations under this part quarterly, or for such other periods as the Director of Finance may designate.

[21 F. R. 3213, May 16, 1956]

§ 3.8 Penalties.

The act prescribes the punishment by a fine of not more than \$1,000 or imprisonment for not more than one year, or both, upon conviction, for anyone making any material representation, knowing it to be false, for the purpose of influencing in any way the action of the Secretary or of any person acting under his authority in connection with any compromise, adjustment, or cancellation of indebtedness provided for in the act. The act also prohibits the acceptance by any officer, employee, or other person to whom is delegated any power or function under the act, of any fee, commission, gift, or other consideration, directly or indirectly, for or in connection with any transaction or business relating to the compromise, adjustment, or cancellation of indebtedness under the act.

§ 3.9 Indebtedness referred to Secretary of the Treasury or the Attorney General.

No settlement shall be effected under this part if the indebtedness is pending before the Secretary of the Treasury for compromise, or the Attorney General for collection.

§ 3.10 Scope of the act.

The authorities prescribed in this part are applicable to indebtedness arising

from loans or payments made or credit extended pursuant to the following acts and programs:

1. Act of July 1, 1918 (40 Stat. 635), Loans for seed.
2. Act of March 3, 1921 (41 Stat. 1347), Loans for seed.
3. Act of March 20, 1922 (42 Stat. 467), Loans for seed.
4. Act of April 26, 1924 (43 Stat. 110), Loans for seed and feed.
5. Act of February 25, 1927 (44 Stat. 1245), Loans for seed, feed and fertilizer.
6. Act of February 28, 1927 (44 Stat. 1251), Hurricane damage loans.
7. Act of February 25, 1929 (45 Stat. 1306), as amended May 17, 1929 (46 Stat. 3), Loans for seed, feed and fertilizer and to vegetable and fruit growers.
8. Act of March 3, 1930 (46 Stat. 78-79), as amended April 24, 1930 (46 Stat. 254), Loans for seed, feed, fertilizer, fuel and oil.
9. Act of December 20, 1930 (46 Stat. 1032), as amended February 14, 1931 (46 Stat. 1160), Loans for seed, feed, fertilizer, fuel and oil and crop production, and for assisting in forming local agricultural credit corporations, livestock loan companies, or like organizations.
10. Act of February 23, 1931 (46 Stat. 1276), Loans for seed, feed, fertilizer, fuel and oil.
11. Act of January 22, 1932 (47 Stat. 5), Loans for crop production.
12. Act of March 3, 1932 (47 Stat. 60), Loans for agricultural credit corporations, livestock loan companies, or like organizations.
13. Act of February 4, 1933 (47 Stat. 795), Loans for crop production and harvesting.
14. Act of February 23, 1934 (48 Stat. 354), Loans for crop production and harvesting.
15. Act of June 19, 1934 (48 Stat. 1056), Loans for emergency relief and for seed, feed, freight, summer fallowing and similar purposes.
16. Act of February 20, 1935 (49 Stat. 28), Loans for crop production and harvesting.
17. Act of March 21, 1935 (49 Stat. 50), appropriation to effectuate Act of February 20, 1935.
18. Act of April 8, 1935 (49 Stat. 115), E. O. 7305, Loans for crop production and harvesting.
19. Act of January 29, 1937 (50 Stat. 5), Loans for crop production and harvesting.
20. Act of February 4, 1938 (52 Stat. 27), Loans for crop production and harvesting.
21. Agricultural Adjustment Act (of 1933), as heretofore amended.
22. Bankhead Cotton Act of April 21, 1934, as heretofore amended, on account of the several cotton tax-exemption certificate pools.
23. Jones-Connally Cattle Act of April 7, 1934, as heretofore amended.
24. Emergency Appropriation Act, fiscal year 1935, approved June 19, 1934 (48 Stat. 1056), as heretofore amended, (amendment to Agricultural Adjustment Act of 1933, relating to cotton option contracts.)
25. Kerr Tobacco Act of June 28, 1934 and Public Resolution No. 76 of March 14, 1936 as heretofore amended.
26. Section 32 of the Act of August 24, 1935 and related legislation, as heretofore amended.
27. Supplemental Appropriation Act, fiscal year 1936, as heretofore amended, (rental and benefit payments and cotton price adjustment payments).
28. Sections 7 to 17 of the Soil Conservation and Domestic Allotment Act as heretofore amended.
29. Sugar Act of 1937 as heretofore amended.
30. Sections 303 and 381 (a) of the Agricultural Adjustment Act of 1938 and related or subsequent legislation as heretofore amended, authorizing parity or adjustment payments.
31. Title IV and Title V of the Agricultural Adjustment Act of 1938 and related legislation, as heretofore amended, (Cotton Pool Participation Trust Certificates (Title IV), and crop insurance (Title V)).
32. Any other Act of Congress heretofore enacted authorizing payments to farmers under programs administered through the Agricultural Adjustment Agency.
33. Act of April 8, 1935 (49 Stat. 115). Loan for rural rehabilitation and relief.
34. Act of June 22, 1936 (49 Stat. 1608). Loan for rural rehabilitation and relief.
35. Act of February 9, 1937 (50 Stat. 8). Loans for rural rehabilitation and relief.
36. Act of June 29, 1937 (50 Stat. 352). Loans for rural rehabilitation and relief.
37. The Bankhead-Jones Farm Tenant Act (50 Stat. 522 et seq.).
38. The Water Facilities Act of August 28, 1937 (50 Stat. 869 et seq.).
39. Act of March 2, 1938 (52 Stat. 83, Pub. Res. 80), Loans for rural rehabilitation and relief.
40. Act of June 21, 1938 (52 Stat. 809), Loans for rural rehabilitation and relief.
41. Act of June 30, 1939 (53 Stat. 927), Loans for rural rehabilitation and relief.
42. Act of June 26, 1940 (54 Stat. 611), Loans for rural rehabilitation and relief.
43. Act of July 1, 1941 (55 Stat. 408), Loans for rural rehabilitation.
44. Act of July 22, 1942 (56 Stat. 664), Loans for rural rehabilitation.
45. Act of July 12, 1943 (57 Stat. 392), Loans for rural rehabilitation.
46. Act of June 28, 1944 (58 Stat. 425), Loans for rural rehabilitation.
47. Flood restoration loans, Second Deficiency Appropriation Act, 1943 (57 Stat. 537, 542).
48. Subsequent legislation appropriating or making available funds for such loans as those listed under numbers 33 through 47, made by or through Resettlement Administration or the Farm Security Administration.

49. Commodity loan, purchase, sale and other programs of the Commodity Credit Corporation;

50. Crop-insurance programs formulated pursuant to Title V of the Agricultural Adjustment Act of 1938 (the Federal Crop Insurance Act), and any amendment or supplement thereto heretofore or hereafter enacted.

51. Any indebtedness of farmers evidenced by notes or accounts receivable, title to which has been acquired in the liquidation of loans to cooperative associations made under the provisions of the Act of June 15, 1929 (46 Stat. 11).

(Sec. 2, 58 Stat. 836; 12 U. S. C. 1150a)

PART 4—CLAIMS AGAINST INDEMNITY FUND UNDER PROGRAMS ADMINISTERED BY AGRICULTURAL STABILIZATION AND CONSERVATION COUNTY COMMITTEES

Sec.

4.1 Identification of fund.

4.2 Indemnification to producers for losses sustained from erroneous destruction of crops.

4.3 Filing of claims.

4.4 Processing claims.

4.5 Recoveries.

AUTHORITY: The provisions of this Part 4 issued under sec. 375, 52 Stat. 66, as amended, sec. 403, 61 Stat. 932, sec. 124, 70 Stat. 198, sec. 4, 49 Stat. 164, sec. 602, 79 Stat. 1206; 7 U.S.C. 1153, 1375, 1812, 1838, 16 U.S.C. 590d; Comp. Gen. Decision A-44002, Nov. 1, 1938.

SOURCE: The provisions of this Part 4 appear at 35 F.R. 381, Jan. 10, 1970, unless otherwise noted.

§ 4.1 Identification of fund.

A general Indemnity Fund is maintained in the Treasury of the United States for indemnifying certain losses resulting from the discharge of responsibilities by Agricultural Stabilization and Conservation (ASC) county committees.

§ 4.2 Indemnification to producers for losses sustained from erroneous destruction of crops.

(a) Losses sustained by producers in excess of \$10 from the destruction of crops under any program assigned or hereafter assigned to county ASC committees as a result of reliance on an erroneous notice of acreage furnished by ASC committeemen or employees of the ASC committees may be indemnified under the following conditions:

(1) The producer relied in good faith on an erroneous written notice of acreage: *Provided*, That the Deputy Admin-

istrator, State and County Operations, ASCS, may make an exception to the requirement that the notice be in writing where he determines that the producer relied in good faith on oral misinformation furnished by the county ASC committee or employees thereof;

(2) Neither the farm operator nor any other producer on the farm was in any way responsible for the error;

(3) The extent of the error was such that the farm operator could not reasonably be expected to question the erroneous notice;

(4) There was no fraud, deceit, error, or failure to cooperate on the part of the farm operator or any other producer on the farm which contributed to the erroneous determination of acreage; and

(5) The claim is made in writing to the county ASC committee within 90 days of the date of destruction of the crop. If the producer makes the claim in writing within such period but cannot determine the value of the loss at such time, he shall perfect his claim within 90 days following the earliest date the value can be established, such date to be determined by the State ASC committee. Notwithstanding the foregoing provisions of this subparagraph, the county ASC committee may extend the period for filing a claim if it determines, with the approval of the State ASC committee, that there is evidence that (i) the claim would have been eligible for filing if it had been made within the 90-day period and (ii) the producer did not become aware of the erroneous destruction in time to file within the 90-day period.

(b) The amount of indemnification to be paid the producer shall be recommended by the county ASC committee so as to reflect the loss of net income from the crop which was destroyed. In determining such amount, the county ASC committee shall take into consideration the following:

(1) The actual yield per acre on the acreage actually harvested and the proceeds from the harvested acreage;

(2) The estimated costs which would have been incurred by the producer in producing, harvesting, and marketing the crop on the acreage destroyed had the crop on such acreage been harvested and marketed;

(3) The net return from any replacement crop produced and marketed; and

(4) The estimated amount of any ASCS program payments which would

have been made with respect to the destroyed crop if such acreage had been carried to harvest and which have not been paid to the producer under other provisions of law.

§ 4.3 Filing of claims.

(a) Claims for indemnification may be filed with the county ASC committee by the producer or his duly authorized agent. If the producer entitled to make a claim dies, the claim may be made only by his successor in interest.

(b) The party making the claim must file a written statement of facts describing (1) the circumstances under which the loss occurred, (2) the estimated value of the loss, and (3) the method used in computing the value of the loss. The claim shall be filed with the county ASC committee in the county in which the loss occurred. Since payment from the Indemnity Fund is proper only where there has been negligence or error by ASC committeemen or employees of ASC committees, it is necessary that the negligence or error be clearly indicated either in the claim itself or in an accompanying ASC committee explanation.

§ 4.4 Processing claims.

(a) The county ASC committee shall transmit each claim to the State ASC committee with its recommendation as to whether the claim should be honored or denied.

(b) The State ASC committee shall make final determination and settlement with respect to each claim based on a written notice of acreage which does not exceed \$500.

(c) The State ASC committee shall transmit to the Fiscal Division, ASCS, for final determination and settlement each claim which exceeds \$500 and each claim, regardless of amount, based on oral information furnished by the county ASC committee or employees thereof, together with the State ASC committee's recommendation as to whether the claim should be honored or denied.

§ 4.5 Recoveries.

The existence of the Indemnity Fund does not impair the right or lessen the obligation of the United States or other entities or persons to use other legal recourse to recover from any person the amount of any loss which was caused by his action.

PART 5—DETERMINATION OF PARITY PRICES

- Sec.
- 5.1 Parity index and index of prices received by farmers.
 - 5.2 Marketing season average price data.
 - 5.3 Selection of calendar year price data.
 - 5.4 Commodities for which parity prices shall be calculated.
 - 5.5 Publication of season average, calendar year, and parity price data.
 - 5.6 Revision of the parity price of a commodity.

AUTHORITY: The provisions of this Part 5 issued under sec. 875, sec. 301, 52 Stat. 66, 38; 7 U.S.C. 1875, 1301.

§ 5.1 Parity index and index of prices received by farmers.

(a) The parity index for the purpose of calculating parity prices after January 1, 1959, according to the formula contained in section 301(a) of the Agricultural Adjustment Act of 1938, as amended by the Agricultural Acts of 1948, 1949, 1954, and 1956 (hereinafter referred to as section 301(a)) shall be the index of prices paid by farmers, interest, taxes, and farm wage rates, as revised January 1959 and published in the January 30, 1959, and subsequent issues (including supplements) of the monthly report, "Agricultural Prices". The publication of this index by the Statistical Reporting Service in the monthly report, "Agricultural Prices", shall be continued.

(b) The measure of the general level of prices received by farmers as provided for in section 301(a)(1)(B)(ii) after January 1, 1959, shall be the index of prices received by farmers as revised January 1959 and published in the January 30, 1959, and subsequent issues of "Agricultural Prices". The simple average of the 120 monthly indices included in the preceding 10 calendar years plus an adjustment to take account of the effect on the index of any adjustment made on average prices of individual commodities as hereinafter specified shall be used in the calculation of the adjusted base prices.

Parity prices heretofore published for periods prior to January 1, 1959 shall not be revised.

(c) The term "milkfat" as used in these regulations is synonymous with the term "butterfat", and when any statute requires calculation of the parity price

of butterfat, the parity price of milkfat shall be the parity price of butterfat.

[24 F.R. 697, Jan. 31, 1959, as amended by Amdt. 6, 24 F.R. 9778, Dec. 5, 1959; Amdt. 16, 30 F.R. 2521, Feb. 26, 1965]

§ 5.2 Marketing season average price data.

It is hereby found that it is impractical to use averages of prices received by farmers on a calendar year basis for the following agricultural commodities for the purpose of calculating adjusted base prices and, therefore, marketing season average prices will be used. An allowance for any supplemental payment resulting from price support operations shall be included in the determination of the adjusted base prices. For cigar binder tobacco, types 51-52, for each of the marketing seasons beginning in the years 1949 through 1958, 37.9 cents per pound shall be used in lieu of the average of prices received by farmers for such tobacco during each such marketing season.

BASIC COMMODITIES

Extra long staple cotton; peanuts; rice, and the following types of tobacco: Flue-cured, types 11-14; Virginia fire-cured, type 21; Kentucky-Tennessee fire-cured, types 22-23; burley, type 31; dark air-cured, types 35-36; sun-cured, type 37; Pennsylvania seed-leaf, type 41; cigar filler and binder, types 42-44 and 53-55; Puerto Rican filler, type 46 (price refers to year of harvest); and cigar binder, types 51-52.

DESIGNATED NONBASIC COMMODITIES

Tung nuts; honey, wholesale extracted.

WOOL AND MOHAIR

Wool and mohair (including payments made under terms of § 704 of the National Wool Act of 1954).

OTHER NONBASIC COMMODITIES

CITRUS FRUIT

Grapefruit; lemons; limes; oranges; tangerines; and Temples.

DECIDUOUS AND OTHER FRUIT

Apples for processing; apricots for fresh consumption; apricots for processing (except dried); dried apricots; avocados; blackberries; boysenberries; gooseberries; loganberries; black raspberries; red raspberries; youngberries; tart cherries; sweet cherries; cranberries; dates; grapes, raisins, dried; all grapes excluding raisins, dried; nectarines for fresh consumption, nectarines for processing; olives for processing (except crushed for oil); olives, crushed for oil; olives for canning; papayas (Hawaii), for fresh consumption; peaches for fresh consumption; clingstone peaches for processing

(except dried); freestone peaches for processing (except dried); dried peaches; pears for fresh consumption; pears for processing (except dried); dried pears; plums (California), for fresh consumption; plus (California), for processing; dried prunes (California); prunes and plums (excluding California), for processing (except dried); strawberries for fresh consumption; and strawberries for processing.

SEED CROPS

Alfalfa, bentgrass, crimson clover, Chewings fescue, red fescue, tall fescue, Kentucky bluegrass, Merion Kentucky bluegrass, Lardino clover, lespedeza, orchard grass, red clover, sweetclover, timothy, hairy vetch and white clover.

SUGAR CROPS

Sugar beets (including conditional payment under the Sugar Act), sugarcane for sugar (including conditional payment under the Sugar Act).

TREE NUTS

Almonds; filberts; pecans, all; and walnuts.

VEGETABLES FOR FRESH MARKET

Artichokes, asparagus, snap beans, broccoli, cabbage, cantaloupe, carrots, cauliflower, celery, sweet corn, cucumbers, eggplant, escarole, garlic, honeydew melons, lettuce, onions, green peppers, spinach, tomatoes, and watermelons.

VEGETABLES FOR PROCESSING

Asparagus, lima beans, snap beans, beets, cabbage, sweet corn, cucumbers, green peas, spinach, and tomatoes.

OTHER COMMODITIES

Beeswax; castor beans; cottonseed; hops; peas, dry field; peppermint oil; popcorn; potatoes; spearmint oil; and tobacco, types 61 and 62. All other commodities for which monthly price data are not available.

[21 F.R. 761, Feb. 3, 1956, as amended by Amdt. 1, 22 F.R. 693, Feb. 2, 1957; Amdt. 5, 24 F.R. 1981, Mar. 18, 1959; Amdt. 17, 31 F.R. 10767, Aug. 13, 1966; Amdt. 18, 31 F.R. 15631, Dec. 13, 1966; Amdt. 22, 33 F.R. 9085, June 20, 1968; Amdt. 23, 34 F.R. 1132, Jan. 24, 1969; Amdt. 24, 34 F.R. 14759, Sept. 25, 1969; Amdt. 27, 36 F.R. 15516, Aug. 17, 1971]

§ 5.3 Selection of calendar year price data.

In computing the adjusted base price for those commodities for which calendar year price data are used, " * * * the average of the prices received by farmers for such commodity, at such times as the Secretary may select during each year * * *" as used in section 301(a) (1) (B) (1), shall be the simple average of the 12 monthly estimates of the prices received by farmers as published by the Statistical Reporting Service in "Agri-

cultural Prices" for those commodities for which such prices are available. An allowance for unredeemed loans and purchase agreement deliveries, any supplemental payments resulting from price support operations, and the value of marketing certificates, such as those received by producers of wheat pursuant to the Agricultural Adjustment Act of 1938, as amended, and others of generally similar character and effect, shall be added to the price specified above. Prices received for milk wholesale, milkfat, beef cattle, sheep, and lambs shall include wartime subsidy payments as provided by section 301(a) (1) (B). For Maryland Tobacco, type 32, the price data for each calendar year shall be the weighted average price of type 32 tobacco sold during the period January 1–December 31. [Amdt. 14, 29 F.R. 12451, Sept. 1, 1964]

§ 5.4 Commodities for which parity prices shall be calculated.

Parity prices shall be calculated for the following commodities:

BASIC COMMODITIES

Wheat; corn; American upland cotton; extra long staple cotton; rice; peanuts; ¹ and the following types of tobacco: flue-cured, types 11–14; Virginia fire-cured, type 21; Kentucky-Tennessee fire-cured, types 22–23; burley, type 31; Maryland, type 32; dark air-cured, types 35–36; sun-cured, type 37; Pennsylvania seedleaf, type 41; cigar filler and binder, types 42–44 and 53–55; Puerto Rican filler, type 46; and cigar binder, types 51–52.

DESIGNATED NONBASIC COMMODITIES

Milk sold to plants; milkfat in cream; tung nuts; honey, wholesale extracted.

WOOL AND MOHAIR

Wool and mohair.

OTHER NONBASIC COMMODITIES

CITRUS FRUIT

Grapefruit; lemons; limes; oranges; tangerines; and Temples.

DECIDUOUS AND OTHER FRUIT

Apples (primarily for fresh use); apples for processing; apricots for fresh consumption; apricots for processing (except dried); dried apricots; avocados; blackberries; boysenberries; gooseberries; loganberries; black raspberries; red raspberries; youngberries;

tart cherries; sweet cherries; cranberries; dates; grapes, raisins, dried; all grapes, excluding raisins, dried; nectarines for fresh consumption; nectarines for processing; olives for processing (excluding crushed for oil); olives, crushed for oil; olives for canning; papayas (Hawaii), for fresh consumption; peaches for fresh consumption; clingstone peaches for processing (except dried); freestone peaches for processing (except dried); dried peaches; pears for fresh consumption; pears for processing (except dried); dried pears; plums (California), for fresh consumption; plums (California), for processing; dried prunes (California); prunes and plums (excluding California), for processing (except dried); strawberries for fresh consumption; and strawberries for processing.

SEED CROPS

Alfalfa, bentgrass, crimson clover, Chewings fescue, red fescue, tall fescue, Kentucky bluegrass, Marion Kentucky bluegrass, Ladino clover, lespedeza, orchard grass, red clover, sweetclover, timothy, hairy vetch, and white clover.

SUGAR CROPS

Sugar beets, and sugarcane for sugar.

TREE NUTS

Almonds; filberts; pecans, all; and walnuts.

VEGETABLES FOR FRESH MARKET

Artichokes, asparagus, snap beans, broccoli, cabbage, cantaloups, carrots, cauliflower, celery, sweet corn, cucumbers, eggplant, escarole, garlic, honeydew melons, lettuce, onions, green peppers, spinach, tomatoes, and watermelons.

VEGETABLES FOR PROCESSING

Asparagus, lima beans, snap beans, beets, cabbage, sweet corn, cucumbers, green peas, spinach and tomatoes.

OTHER COMMODITIES

Beef cattle; hogs; lambs; calves; sheep; turkeys; eggs; beeswax; potatoes; hops; peppermint oil; popcorn; spearmint oil; tobacco, Types 61 and 62; barley; beans, dry edible; cottonseed; peas, dry field; flaxseed; hay, all baled; oats; rye; sorghum grain; soybeans; sweetpotatoes; and crude pine gum. [21 F.R. 763, Feb. 3, 1956, as amended by Amdt. 1, 22 F.R. 693, Feb. 2, 1957; Amdt. 3, 23 F.R. 1565, Mar. 5, 1958; Amdt. 17, 31 F.R. 10767, Aug. 13, 1966; Amdt. 23, 34 F.R. 1132, Jan. 24, 1969; Amdt. 25, 34 F.R. 15785, Oct. 14, 1969; Amdt. 26, 35 F.R. 3158, Feb. 19, 1970; Amdt. 27, 36 F.R. 15516, Aug. 17, 1971]

§ 5.5 Publication of season average, calendar year, and parity price data.

(a) New adjusted base prices for all of the commodities on a calendar year basis and for as many of the commodities on a marketing season average basis as are practicable shall be published on or about January 31 of each year. In cases where

¹For the purpose of calculating parity prices the commodity peanuts shall exclude peanuts produced for oil in 1950 and 1951 under the provisions of subsections (g) and (h) of section 359 of the Agricultural Adjustment Act of 1938 as amended.

preliminary marketing season average price data are used in estimating the adjusted base prices published in January, any additional price data which becomes available shall be used in estimating a revised adjusted base price which shall be published prior to the beginning of the marketing season for the commodity.

(b) The official parity prices determined under section 301(a) (1) and the regulations in this part and the indexes and relevant price data shall be published in the monthly report "Agricultural Prices" issued by the Statistical Reporting Service. Parity prices for all commodities for which parity prices are computed shall be so published in the January and July issues each year. The parity prices published in other issues may be restricted to those which the Statistical Reporting Service, after consultation with the Consumer and Marketing Service, the Agricultural Stabilization and Conservation Service, and any other interested government agency, considers necessary or desirable. The parity prices determined in accordance with this part shall be the parity prices used in other reports, determinations, or documents of the Department.

[21 F.R. 763, Feb. 3, 1956, as amended by Amdt. 16, 30 F.R. 2521, Feb. 28, 1965]

§ 5.6 Revision of the parity price of a commodity.

(a) *Initiation of hearings.* The "modernized" parity formula specified in section 301(a) (1) of the Agricultural Adjustment Act of 1938, as amended, takes into consideration the average prices received by farmers for agricultural commodities during the last ten years and is designed gradually to adjust relative parity prices of specific commodities for persistent or continuing changes in demand and supply conditions which are reflected in market prices. Accordingly, only in rare cases is it possible for the parity price of any agricultural commodity to become seriously out of line with the parity prices of other agricultural commodities. In any case, however, in which producers of any agricultural commodity believe that the parity price of such commodity, as computed pursuant to the provisions of section 301 (a) (1), is seriously out of line with the parity prices of other agricultural commodities, a request for a public hearing under section 301 (a) (1) (F) may be submitted to the Secretary of

Agriculture by a substantial number of interested producers. The producers shall also furnish to the Secretary, with such request or separately, data supporting their conclusion that the parity price of such commodity is seriously out of line with the parity prices of other commodities. Upon receipt of such a request with supporting data, or at any time upon the Secretary's own motion, this Department will make a preliminary study of the relationship between the parity price of such commodity and the parity prices of other commodities, and if the Secretary concludes that there appears to be reasonable grounds for believing that the parity price of such commodity is seriously out of line with the parity prices of other agricultural commodities, a hearing will be held pursuant to the provisions of section 301 (a) (1) (F).

(b) *Notice of hearing.* If the Secretary of Agriculture determines that such a hearing shall be held, he shall issue a notice of the hearing, which shall be filed with the Hearing Clerk of the United States Department of Agriculture, who shall promptly (1) cause such notice to be published in the FEDERAL REGISTER, and (2) mail a copy thereof to each of the producers who requested the hearing and to grower organizations known to be interested in the hearing. Legal notice of the hearing shall be deemed to be given upon filing such notice with the FEDERAL REGISTER for publication, and failure to give notice in the manner otherwise provided in this paragraph shall not affect the legality of the notice. The notice of hearing shall state the purpose of the hearing and the time and place of the hearing. The time of the hearing shall not be less than fifteen days after the date of publication of the notice in the FEDERAL REGISTER, unless the Secretary shall determine that an emergency exists which requires a shorter period of notice, in which case the period of notice shall be that which the Secretary determines to be reasonable in the circumstances.

(c) *Conduct of hearing.*—(1) *Presiding officer.* Each hearing held under section 301 (a) (1) (F) shall be presided over by a Hearing Examiner of the Office of Hearing Examiners of the United States Department of Agriculture or such other employee of the Department as the Secretary may designate for the purpose.

(2) *Time and place of hearing.* Each hearing shall be heard at the time and place set forth in the notice of hearing but may be continued by the presiding

officer from day to day or adjourned to a later date or to a different place without notice other than the announcement thereof at the hearing.

(3) *Order of procedure.* At the commencement of the hearing, the presiding officer shall file as an exhibit a copy of the FEDERAL REGISTER containing the notice of the hearing and shall then outline briefly the procedure to be followed. Evidence shall then be received from interested persons in such order as the presiding officer shall prescribe.

(4) *Submission of evidence.* The hearing shall be conducted in such a way as to obtain a clear and orderly record. All interested persons appearing at the hearing shall be given reasonable opportunity to offer data, views, or arguments relevant to (i) whether the parity price for the agricultural commodity involved is or is not seriously out of line with the parity prices of other agricultural commodities, and (ii) the proper relationship between the parity price of such commodity and the parity prices of other agricultural commodities and the revisions, if any, which should be made in computing the parity price of such commodity. All documentary exhibits shall be submitted in duplicate. The presiding officer shall, insofar as possible, exclude irrelevant, immaterial, or unduly repetitious evidence but shall not apply technical judicial rules of evidence. Every witness shall be subject to questioning by the presiding officer or by any other representative of the Department, but cross-examination by other persons shall not be allowed, except in the discretion of the presiding officer. The proceedings at the hearing shall be transcribed verbatim.

(5) *Written arguments.* The presiding officer shall fix a time, not to exceed ten days from the close of the hearing, within which interested persons may file written arguments with the Hearing Clerk.

(d) *Preparation and issuance of determination.*—(1) *Preparation of recommendation.* As soon as practicable after the close of the hearing, the presiding officer, or such employees of the Department as may be assigned for the purpose, shall review, consider, and weigh all evidence of probative value, views, and arguments which have been submitted, and may consider other pertinent information and data which is available in the Department of Agriculture, and shall

submit a recommendation thereon to the Secretary.

(2) *Determination by the Secretary.* As soon as possible after receipt of the recommendation, the Secretary shall determine whether the parity price of such commodity computed in accordance with section 301 (a) (1) appears to be seriously out of line with the parity prices of other agricultural commodities, whether the facts require a revision of the method of computing the parity price of such commodity, and the revision, if any, which is required in the method of computing the parity price of such commodity. Such determination by the Secretary shall be final. The Secretary's determination shall be filed with the Hearing Clerk who shall cause the determination to be published promptly in the FEDERAL REGISTER. The Hearing Clerk shall also mail a copy of the determination to each producer and grower organization which participated in or is known to be interested in the hearing. Upon application to the Hearing Clerk, any person shall be entitled to a copy of the determination.

[23 F. R. 9252, Nov. 29, 1958]

PART 6—IMPORT QUOTAS AND FEES

Subpart—General Provisions

- | | |
|------|--|
| Sec. | |
| 6.2 | Responsibility for actions under section 22 and section 8 (a). |
| 6.3 | Requests by interested persons for action by Department of Agriculture. |
| 6.4 | Investigations. |
| 6.5 | Hearings under section 22. |
| 6.6 | Submission of recommendations under section 22. |
| 6.7 | Submission of recommendations under section 8 (a) (emergency treatment). |
| 6.8 | Representation at Tariff Commission hearings. |
| 6.9 | Information. |

Subpart—Section 22 Import Quotas

- | | |
|------|--|
| | PRICE DETERMINATION FOR CERTAIN QUOTAS |
| 6.15 | General. |
| 6.16 | Price determination. |

LICENSING REGULATIONS

- | | |
|------|--|
| 6.20 | Determination. |
| 6.21 | Definitions. |
| 6.22 | Prohibitions and restrictions on imports. |
| 6.23 | Exceptions. |
| 6.24 | Applications for licenses. |
| 6.25 | Eligibility. |
| 6.26 | Allocation of annual quota and issuance of licenses. |
| 6.27 | Use of licenses. |
| 6.28 | Records and inspection. |

Sec.

- 6.29 Suspension or revocation of eligibility.
 6.30 Delegation of authority.
 6.31 Effective date.

Appendix 1—Articles Subject to Import Regulation 1, Revision 4, and Annual Import Quotas for Each Quota Year

Subpart—Reentry of Cotton into the United States

- 6.71 General statement.
 6.72 Reentry cotton.
 6.73 Offset cotton.
 6.74 Documentary requirements.
 6.75 Certificate and authorization.

AUTHORITY: The provisions of this Part 6 issued under sec. 10, 48 Stat. 37, sec. 22, 49 Stat. 773; 7 U.S.C. 610, 624, unless otherwise noted.

Subpart—General Provisions

AUTHORITY NOTE: §§ 6.2 to 6.9 interpret or apply sec. 8, 65 Stat. 75; 19 U. S. C. 1365.

SOURCE: §§ 6.2 to 6.9 appear at 17 F. R. 8287, Sept. 16, 1952, 19 F. R. 57, Jan. 6, 1954.

CROSS REFERENCE: For United States Tariff Commission regulations on investigations of effects of imports on agricultural programs, see 19 CFR Part 204.

§ 6.2 Responsibility for actions under section 22 and section 8(a).

The primary responsibility within the Department of Agriculture for action on matters for which the Secretary is responsible under section 22 of the Agricultural Adjustment Act of 1933, as amended, and section 8(a) of the Trade Agreements Extension Act of 1951 is assigned to the Administrator, Foreign Agricultural Service (referred to in this part as the "Administrator"), but the other offices, agencies, and bureaus of the Department whose activities will be affected by any action under section 22 or section 8(a) shall be consulted by the Administrator in discharging his responsibility under this part.

§ 6.3 Requests by interested persons for action by Department of Agriculture.

(a) *Section 22.* A request for action under section 22 should be submitted in duplicate to the Administrator, Foreign Agricultural Service, United States Department of Agriculture, Washington 25, D. C. Such request shall include a statement of the reasons why action would be warranted under section 22 and shall be supported by appropriate information and data.

(b) *Section 8 (a).* A request for action under section 8 (a) should be sub-

mitted in duplicate to the Administrator, Foreign Agricultural Service, United States Department of Agriculture, Washington 25, D. C. Such request shall include a statement of the reasons why the commodity is perishable, and why, due to such perishability, a condition exists requiring emergency treatment, and shall be supported by appropriate information and data. A request under section 8 (a) submitted in connection with a proposed section 7 (Trade Agreements Extension Act of 1951) investigation shall not be acted upon until a section 7 application has been properly filed by the person making the request with the Tariff Commission, and a copy of such application and supporting information and data are furnished the Administrator.

§ 6.4 Investigations.

(a) *Section 22.* The Administrator shall cause an investigation to be made whenever, based upon a request submitted pursuant to § 6.3 or upon other information available to him, he determines that there is reasonable ground to believe that the imposition of import quotas or fees under section 22 may be warranted, or that the termination or modification of import quotas or fees in effect under section 22 may be warranted.

(b) *Section 8 (a).* The Administrator shall cause an immediate investigation to be made whenever (1) a request is received for emergency treatment in connection with an application properly filed with the Tariff Commission under section 7; (2) a request is received for emergency treatment under section 22 if the Administrator determines that there is reasonable ground to believe that the imposition of import quotas or fees under section 22 may be warranted; or (3) the Administrator, upon the basis of other information available to him, has reasonable ground for believing that emergency treatment under section 8 (a) is necessary. The Administrator shall expedite to the fullest practicable extent his attention to requests for emergency treatment under section 8 (a), and such requests shall receive priority over requests for other action under section 22. The investigation shall cover (1) whether the commodity is a perishable agricultural commodity; (2) whether, due to the perishability of the commodity, a condition exists requiring emergency treatment as indicated by such factors as (1) the marketing season for the com-

modity, (ii) past and prospective domestic production, stocks, requirements, and prices, (iii) past and prospective imports; and (3) such other matters as the Administrator determines are relevant to a determination as to whether emergency treatment for the commodity is necessary. No public hearing shall be held in connection with investigations under this paragraph.

§ 6.5 Hearings under section 22.

The Administrator is authorized to provide for such public hearings as he deems necessary to discharge the responsibility for action under section 22 vested in him by §§ 6.2 and 6.4(a). In view of the need, however, for prompt action on requests for action under section 22, public hearings shall be held in connection with investigations conducted under § 6.4 (a) only when the Administrator determines that a public hearing is necessary to obtain supplementary information not otherwise available. Any public hearing which is held shall be conducted by representatives designated for the purpose by the Administrator; shall be preceded by such public notice as, in the opinion of the Administrator, will afford interested persons reasonable opportunity to attend and present information; and minutes of the proceedings at such hearing shall be obtained. Hearings shall be informal and technical rules of evidence shall not apply. Such hearings are for the purpose of obtaining information for the assistance of the Secretary. However, in discharging his responsibilities under section 22, the Secretary is not restricted to the information adduced at the hearings.

§ 6.6 Submission of recommendations under section 22.

(a) The Administrator shall make a report to the Secretary upon the completion of each investigation made by him pursuant to § 6.4(a). The report shall summarize the information disclosed by the investigation; shall contain the recommendations of the Administrator; and, in case action under section 22 is recommended, shall be accompanied by a suggested letter from the Secretary to the President recommending that the Tariff Commission be directed to conduct an investigation. Such report shall be submitted to the other offices, agencies, and bureaus of the Department of Agriculture whose activi-

ties would be affected, for concurrence or comment.

(b) The Secretary will recommend that the President direct the Tariff Commission to conduct an investigation under section 22 only if he has reason to believe, upon the basis of the information available to him, that import quotas or fees should be imposed.

§ 6.7 Submission of recommendations under section 8(a) (emergency treatment).

(a) *Section 22.* The Administrator's report submitted pursuant to § 6.6 shall indicate whether or not emergency treatment is necessary. If emergency treatment is recommended, the report shall discuss the condition which requires emergency treatment and be accompanied by suggested letters from the Secretary to the President, to the Tariff Commission, and to the petitioner (if any) advising them of the Secretary's determination. The suggested letter from the Secretary to the President shall include a recommendation as to whether such emergency treatment should take the form of action by the President prior to receiving the recommendations of the Tariff Commission, or whether a decision by the President may appropriately be withheld until the recommendations of the Tariff Commission are received. If emergency treatment requested is not recommended, the report to the Secretary shall be accompanied by suggested letters from the Secretary to the petitioner and the Tariff Commission stating the action taken.

(b) *Section 7.* The Administrator shall make a report to the Secretary upon the completion of each investigation made by him pursuant to § 6.4 (b). The report shall summarize the information disclosed by the investigation, including the points listed in § 6.4 (b) which were considered in reaching the recommendation, and shall contain the recommendations of the Administrator as to whether or not emergency treatment is required. If emergency treatment is recommended, the report shall discuss the condition which requires emergency treatment and shall be accompanied by suggested letters from the Secretary to the President, to the Tariff Commission, and to the petitioner advising them of the Secretary's determination. The suggested letter from the Secretary to the President shall include a recommendation as to whether such emergency

treatment should take the form of action by the President prior to receiving the recommendations of the Tariff Commission, or whether a decision by the President may appropriately be withheld until the recommendations of the Tariff Commission are received. If emergency treatment is not recommended, the report to the Secretary shall be accompanied by suggested letters from the Secretary to the petitioner and to the Tariff Commission stating the action taken. Each such report shall be submitted to the other offices, agencies, and bureaus of the Department of Agriculture whose activities would be affected, for concurrence or comment.

§ 6.8 Representation at Tariff Commission hearings.

The Department of Agriculture shall be represented at all hearings conducted by the Tariff Commission under section 22 by persons designated by the Administrator, assisted by a representative of the Office of the General Counsel. Such representatives shall present the recommendations of the Department of Agriculture, shall submit such information and data in support thereof as are available, and shall exercise the right of examining other witnesses which is granted to the Secretary.

[17 F. R. 8287, Sept. 16, 1952; 20 F. R. 1830, Mar. 25, 1955]

§ 6.9 Information.

Persons desiring information from the Department of Agriculture regarding section 22 or section 8(a), or any action with respect thereto, should address such inquiries to the Administrator, Foreign Agricultural Service, United States Department of Agriculture, Washington 25, D.C.

Subpart—Section 22 Import Quotas

PRICE DETERMINATION FOR CERTAIN QUOTAS¹

AUTHORITY: Section 6.15 and 6.16 issued pursuant to sec. 3, 62 Stat. 1248, as amended, 7 U.S.C. 624; Proclamation 4138 of June 3, 1972, Part 3 of the Appendix to the Tariff Schedules of the United States, 19 U.S.C. 1202.

§ 6.15 General.

The import restrictions set forth in items 950.10B through 950.10E of Part 3 of the Appendix to the Tariff Schedules of the United States are applicable to

certain cheese having a purchase price falling within the range of prices provided for therein. One of these prices is that determined in accordance with headnote 3(a)(v) of said Part 3, which provides such price shall be the Commodity Credit Corporation purchase price for cheddar cheese, U.S. Grade A or higher, standard moisture basis, under the milk price support program, rounded to the nearest whole cent, plus 7 cents, such price to be determined by the Secretary of Agriculture, certified to the Secretary of the Treasury, and published in the FEDERAL REGISTER.

[37 F.R. 11234, June 6, 1972]

§ 6.16 Price determination.

The price referred to in items 950.10B through 950.10E of Part 3 of the Appendix to the Tariff Schedules, determined by the Secretary of Agriculture in accordance with headnote 3(a)(v) of said Part 3, is 62 cents per pound. This price shall continue in effect until changed by amendment of this section.

[37 F.R. 11234, June 6, 1972]

LICENSING REGULATIONS¹

AUTHORITY: §§ 6.20 to 6.31 issued under sec. 3, 62 Stat. 1248, as amended, 7 U.S.C. 624; Proclamations 3548, 3558, 3562, 3597, 3709, 3790, 3822, 3856, 3870, and 3884 and sec. 88 of the Tariff Schedules Technical Amendments Act of 1965 (79 Stat. 950); Part 3 of the Appendix to the Tariff Schedules of the United States, 19 U.S.C. 1202.

SOURCE: §§ 6.20 to 6.31 appear at 34 F.R. 9743, June 24, 1969, unless otherwise noted.

§ 6.20 Determination.

Part 3 of the Appendix to the Tariff Schedules of the United States, which contains the quantitative limitations on certain articles imported into the United States proclaimed by the President pursuant to section 22 of the Agricultural Adjustment Act, as amended, provides that articles which are listed in appendix 1 to this regulation may be entered only by or for the account of a person or firm to which a license has been issued by or under the authority of the Secretary of Agriculture and only in accordance with the terms of such license. It is further provided that such licenses shall be issued under regulations of the Secretary of Agriculture which he determines will, to the fullest extent practicable, result in (a) the equitable distribution of the respective quotas for such articles among

¹ 37 F.R. 11234, June 6, 1972.

¹ 37 F.R. 11234, June 6, 1972.

importers or users and (b) the allocation of shares of the respective quotas for such articles among supplying countries, based upon the proportion supplied by such countries during previous representative periods, taking due account of any special factors which may have affected or may be affecting the trade in the articles concerned and that no licenses shall be issued which will permit any of the cheese or substitutes for cheese to be entered during the first 6 months of a quota year in excess of more than one-half of the annual import quotas specified for such articles. It is hereby determined that the regulations will, to the fullest extent practicable, accomplish this result.

§ 6.21 Definitions.

Except where the context otherwise requires, the following terms shall have the meanings set forth in this section:

(a) "Annual quota" means the quantity of an article which may be imported in a quota year as provided in appendix 1.

(b) "Appendix 1" means appendix 1 to the regulation in this Subpart.

(c) "Article" means an article referred to in appendix 1.

(d) The meaning of the terms "butter," "dried cream," "malted milk," "dried whole milk," "dried skim milk," "dried buttermilk," "dried whey," "milk chocolate crumb," and "cheese" shall be that as provided in appendix 1.

(e) The terms "Country of origin" and "Supplying country" mean the country in which the article was produced and from which it was exported under a through bill of lading.

(f) "Date of entry" means the date the formal consumption entry or withdrawal from warehouse for consumption is accepted by the Bureau of Customs.

(g) "Eligible applicant" means a person applying for a license to import an article who has established, to the satisfaction of the Licensing Authority, his eligibility to import such commodity.

(h) "Import or enter" means to enter, or withdraw from warehouse, for consumption in the customs territory of the United States.

(i) "Licensee" means any person to whom an import license has been issued pursuant to the regulation.

(j) "Licensing Authority" means the Chief, Import Branch, Foreign Agricultural Service, U.S. Department of Agriculture, and any other officer or employee of the Department designated in

writing as Acting Chief in the absence of the Chief.

(k) "Other Countries" shall refer to those countries as shown in appendix 1 as sharing a common quota and for the purpose of the regulation, shall be deemed to be one country of origin.

(l) "Person" includes any individual, firm, corporation, partnership, association, or other legal entity. It also includes any government (other than the Government of the United States and any agency thereof).

(m) "Quota share" means that part of the annual quota of an article listed in appendix 1 for which a person is eligible.

(n) "Quota year" means the 12-month period beginning on January 1 of any year.

(o) "The regulation" means the regulation contained in this subpart.

(p) "United States" means the United States, the District of Columbia, and Puerto Rico.

§ 6.22 Prohibitions and restrictions on imports.

(a) No person shall import or cause to be imported any article listed in Appendix 1, except as provided in § 6.23 or as authorized by an import license issued pursuant to the regulation.

(b) The issuance of an import license does not relieve any person from compliance with any requirement of the regulation or any other applicable laws and regulation.

§ 6.23 Exceptions.

The requirements of the regulation shall not apply to—

(a) Articles imported by or for the account of any agency of the U.S. Government.

(b) Articles with an aggregate value not over \$10 in any shipment, if imported as samples for taking orders, for the personal use of the importer, or for research.

(c) Articles imported for exhibition, display, or sampling at a trade fair, or for research, if written approval of the Licensing Authority is obtained.

§ 6.24 Applications for licenses.

Applications to the Licensing Authority for the issuance of licenses to import articles shall be addressed to the Chief, Import Branch, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C. 20250, Ref. IR-1 (Agricultural Imports). Each application must state the article (including type thereof

in the case of cheese), the country of origin from which importation is to be made, and the port or ports of entry at which importations are to be made.

§ 6.25 Eligibility.

(a) *Historical eligibility.* Any person shall be eligible for a license to import a quota share of any article who imported such article during the specified base period or has been recognized by the Licensing Authority as a successor-in-interest of such person: *Provided*, That any person shall be eligible for a license to import from New Zealand a quota share of cheese subject to the quota provided for in TSUS 950.10D if such person was by reason of base period imports, a licensee in the first 6 months of the 1969 quota year for the importation from New Zealand of cheese subject to the quotas provided for in TSUS Items 950.08A and 950.08B (Cheddar and American cheese other than Cheddar). Eligibility shall be established upon the submission of evidence, satisfactory to the Licensing Authority, of such importations and that such person is actively operating an individual business of importing such article.

(b) *Nonhistorical eligibility.* (b) (1) Any person who is not eligible under paragraph (a) of this section to receive a license to import a particular article listed in Groups II through VI of appendix I and who meets the requirements of this paragraph shall be eligible to obtain a license to import a quota share of such article for which nonhistorical set-asides have been established as shown in appendix 1, except that a person may establish such eligibility for only one of the types of cheese listed under Group II of the appendix. Eligibility shall be established upon submission of (1) evidence satisfactory to the Licensing Authority that such person during the quota year preceding that for which application for license is made, was and continues to be actively engaged in the commercial importation in his own name of cheese or cheese products, and (2) a certification by such person that he is not a part of or an affiliate of the business of any other person eligible for an import license for the cheese for which application for license is made and is not an officer, member, partner, associate, or employee of such business.

(2) Any person who is not eligible under paragraph (a) of this section to re-

ceive a license to import chocolate provided for in Group VII of appendix I shall be eligible to obtain a license to import a quota share thereof upon submission of (i) evidence satisfactory to the Licensing Authority that such person, during the quota year preceding that for which application is made, imported for commercial processing chocolate provided for in items 156.25 or 156.47 of part 10, schedule 1, of the Tariff Schedules of the United States and (ii) a certification by such person that he is not a part of or an affiliate of the business of any other person eligible for an import license for chocolate provided for in Group VII of appendix I and is not an officer, member, partner, associate, or employee of such business.

(c) *Establishment of eligibility.* Evidence required to establish the eligibility of a person making application to receive an article must be received and approved by the licensing authority no later than 30 days preceding the quota year for which the license to import such commodity is first requested, except as may otherwise be provided by notice published in the FEDERAL REGISTER or approved by the Administrator for good cause shown.

(d) *Continuation of eligibility.* The eligibility of a person to receive a license to import a quota share of any article established under the regulation will be continued for subsequent quota years unless suspended or revoked pursuant to § 6.29.

(e) *Transfer of eligibility.* Upon receipt of evidence acceptable to the Licensing Authority that the entire dairy products and milk chocolate crumb business of a person who has established eligibility for a quota share has been sold or otherwise transferred to a person who is assuming the operation of the entire business involving dairy products and milk chocolate crumb, the Licensing Authority will recognize the successor-in-interest as having eligibility for such quota share: *Provided, however*, That, in the event of the merger of the businesses of two or more persons, the successor-in-interest, with the historical eligibility of all persons for whom he is successor-in-interest, shall be considered only as one person for the purpose of determining eligibility for non-historical quota shares. [34 F.R. 9743, June 24, 1969, as amended by Amdt. 1, 34 F.R. 18895, Nov. 27, 1969]

§ 6.26 Allocation of annual quota and issuance of licenses.

(a) *Nonhistorical licensees.* There shall be set aside for allocations to non-historical eligible applicants the amounts specified under nonhistorical set-aside in appendix 1. The initial maximum annual nonhistorical quota share for such article shall be as follows:

Article	TSUS Item No.	Quantity
		<i>Pounds</i>
Blue-mold cheese.....	950.07	2,500
Italian type cow's milk cheese in original loaves.....	950.10	5,000
Natural Edam and Gouda cheese.....	950.09A	10,000
Processed Edam and Gouda cheese.....	950.09B	5,000
Swiss or Emmenthaler cheese with eye formation.....	950.10B	20,000
Swiss or Emmenthaler cheese other than with eye formation.....	950.10C	20,000
Cheddar cheese.....	950.08A	20,000
American type cheese.....	950.08B	20,000
"Other" cheese (not from New Zealand).....	950.10D	20,000
"Other" cheese (from New Zealand).....	950.10D	20,000
"Other" low-fat cheese.....	950.10E	20,000
Italian-type cow's milk cheese in other than original loaves.....	950.10A	5,000
Milk chocolate crumb.....	950.15	20,000

A nonhistorical quota share shall be determined on the following basis:

(1) A quota share for an article may not exceed the applicable maximum quota quantity set forth above nor the quantity requested by applicant.

(2) A quota share may not be less than 2,500 pounds and may be imported from only one country of origin, *Provided*, That such limitation shall not be applicable to a quota share for which 1969 quota year eligibility was established.

(3) Beginning with the 1970 quota year no new applications for nonhistorical licenses will be accepted for an article listed in Group II or for an article listed in Groups III, IV, V, VI, and VII to be imported from a specified country, if such acceptance would result in quota shares of less than 2,500 pounds.

(4) Subject to (i), (ii), and (iii) the amount set aside for nonhistorical licensees shall be allocated proportionately among eligible applicants for such licenses. Any amounts unallocated on this basis shall be made available for distribution to historical licensees.

(b) *Historical licensees.* The annual quota amounts, less the quantities allo-

cated to nonhistorical licensees, shall be allocated among historical eligible applicants on the basis of their average imports during the respective base periods as shown in appendix 1. The quantity of an article imported during the base period by a person who is not as of the beginning of a quota year actively operating an independent business of importing such articles shall, for the purpose of determining the quota shares of eligible applicants, be deemed to have been imported by his successor-in-interest, if any, to whom such business has been sold or otherwise transferred (which transfer has been recognized by the licensing authority) and who is actively operating such business as of the beginning of the quota year.

(c) *Reduction of quota share.* The quota share of a person or firm, who has imported during each of the preceding 2 quota years less than 85 percent of his authorized quota share, shall be reduced in the following quota year to 110 percent of his average imports during the preceding 3 quota years, unless the licensee establishes that he was unable to import the quota share either due to the lack of supply in the country of origin or other reasons acceptable to the licensing authority: *Provided*, (1) That once such reduced quota share has been established the quota share of the licensee in each of the following quota years shall be no less than 110 percent of his imports during the quota year immediately preceding; (2) That a reduced quota share of an article shall not be less than one-half of the initial maximum nonhistorical quota share for that article except that such minimum shall not apply in case of further failures to import the quota share; (3) That once a reduced quota share has again reached 85 percent of the average of the quota shares during the quota years on which the reduced quota share was based, the original quota base shall be reestablished.

(d) *Licenses.* (1) Annual basis. Licenses to import quota shares of articles, other than cheese and milk chocolate crumb, may be issued on an annual basis.

(2) *Semiannual basis.* In the absence of specific circumstances which the li-

censing authority determines would warrant an annual quota share license, quota shares of cheese and milk chocolate crumb shall be divided into two parts, as nearly equal as practicable, each to be covered by a license valid on the first day of the first and seventh month of each calendar year: *Provided*, That licenses shall not be issued which would permit the importation of any such article during the first 6 months of the quota year in excess of one-half the annual quota therefor.

(e) *Advance against next period license.* Notwithstanding any other provision herein, any person eligible for a license to import a quota share of any article may be given an advance against his next period license in order to permit him to import an additional quantity of such article upon a determination by the licensing authority that not to grant the advance against his next period license would result in an undue hardship to such person: *Provided*, That no advance may be given which would permit the total quantity of any such article to be imported in excess of the quota therefor, as set forth in Part III of appendix 1 to the TSUS.

(Sec. 3, 62 Stat. 1248, as amended, (7 U.S.C. 624); part 3 of the Appendix of the Tariff Schedules of the United States (19 U.S.C. 1202))

[34 F.R. 9743, June 24, 1969, as amended by Amdt. 1, 34 F.R. 18896, Nov. 27, 1969; Amdt. 2, 36 F.R. 12506, July 1, 1971; 37 F.R. 28889, Dec. 30, 1972]

§ 6.27 Use of licenses.

(a) The article imported must be a product of the country of origin specified in the license under which it is entered.

(b) Notwithstanding any other rules, regulations, or procedures for the importation of goods, the article entered under license shall be accompanied by a through bill of lading from the country of origin named in the license and may be entered or withdrawn from warehouse only in the name of the licensee either by him or by his agent acting in the licensee's name under power of attorney, and the quantity so entered must be charged against the license in effect on the date of entry.

(c) In the event of a sale in transit, an article may be entered as a consumption entry under a license issued to an authorized person to whom the sale has been made against a properly endorsed through bill of lading and a certified copy of the bill of sale from the original consignee showing the amount paid and the date of purchase;

(d) In the event of the loss of the original through bill of lading, an article may be entered as a consumption entry under a license issued to the authorized person named as consignee on a carrier's certificate which certifies the shipment is a through shipment;

(e) An article may be entered as a warehouse entry under bond only in the manner prescribed above for consumption entries. Withdrawal of goods from bond may be made only under license issued to the authorized person who made the entry; or, in the event of a sale in bond, under license issued to an authorized person or firm to whom the sale has been made and only upon the presentation of a properly endorsed Customs Form 7505 and a certified copy of the bill of sale, showing the amount and date of sale.

(f) Consolidated entries or withdrawals from bond may not be made except with the written approval of the licensing authority.

(g) Entries or withdrawals from bond may be made only at the port of entry designated on the license, except when the licensing authority has, upon prior request of the licensee, authorized entry at another port.

(h) Each entry or withdrawal from bonded warehouse for consumption must be accompanied by a copy of Customs entry Form 7501 or Customs warehouse withdrawal Form 7505. The Bureau of Customs will stamp the copy with the "duty paid" stamp, the date of entry and the Customs entry or withdrawal number and submit it to the Import Branch.

§ 6.28 Records and inspection.

Any person making an importation, except as provided in § 6.23 of an article listed in appendix 1 shall retain all records, including invoices, of all purchases, entries, withdrawals, sales, and deliveries of such articles for a period of not less than 2 years subsequent to the

end of the quota year during which importation was made. The licensing authority or his designee shall be entitled to make such audit and inspection of such records, to inspect the premises and stocks of articles of such person, and to make such other investigations as may be necessary or appropriate in the enforcement or administration of the regulation.

§ 6.29 Suspension or revocation of eligibility.

(a) *Failure to import quota share.* (1) The eligibility of a person for a quota share of an article shall, upon his failure to import any of such article in any quota year, be suspended for the following quota year unless application to receive a license to import such article is received and approved by the licensing authority no later than 6 months after the beginning of such following quota year.

(2) The eligibility of a person for a quota share of an article shall, upon his failure to import any of such article during 2 consecutive quota years be revoked unless the licensee establishes that he was unable to import such article due to reasons acceptable to the licensing authority.

(b) *Violation of regulations—(1) Charge against licenses.* Any quantity of an article imported by any person contrary to this regulation may be charged against any unused import license held by, or to be issued to, such person for such article.

(2) *Civil and criminal liability.* Any person who violates any provision of the regulation may be prosecuted under any and all applicable laws. Civil action may also be instituted to enforce any liability or duty created by, or enjoin any violation of any provision of the regulation or requirements pursuant hereto.

(3) *Withholding of licenses.* The Administrator, Foreign Agricultural Service, upon reasonable cause to believe that a licensee has violated the provisions of the regulation or has furnished false or incomplete information in connection therewith, may, after notice to the licensee, withhold for a period of not to exceed 6 months, the issuance of further licenses to the licensee for a quota share of an article.

(4) *Suspension and revocation.* The Administrator, Foreign Agricultural Service, may suspend or revoke the eligibility of a person for a quota share of an article or article upon written notice to such person and with opportunity for a hearing, if he determines on the basis of information available to him and the records of the administrative hearing, if one is held, that such person has violated the provisions of the regulation or has furnished false or incomplete information in connection therewith.

§ 6.30 Delegation of authority.

(a) The administration of the regulation is vested in the Administrator, Foreign Agricultural Service, or his designee, who may promulgate interpretative rules and procedures and issue statements of policy which he determines necessary for the efficient administration thereof, taking due account of any special factors which may have affected or may be affecting the trade in the article. This authority may include transfer of quota shares to other countries of origin but may not permit the total quantity of any article to be imported in excess of the quota therefor.

(b) The powers vested in the Administrator, FAS, insofar as such powers relate to the functions vested in the licensing authority by the regulation are hereby delegated to the licensing authority.

§ 6.31 Effective date.

The regulation shall become effective July 1, 1969, and, except as herein provided, shall supersede the provisions of Import Regulation 1, Revision 4, as amended, heretofore in effect. With respect to violations, rights accrued, liabilities incurred, or appeals taken concerning Import Regulations, as amended and revised, prior to the effective date hereof, all provisions of said Import Regulation 1, as amended and as revised, in effect at the time when such violations occurred, rights accrued, liabilities incurred, or appeals taken shall be deemed to continue in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violation, right, liability, or appeal.

APPENDIX 1—ARTICLES¹ SUBJECT TO IMPORT REGULATION 1, REVISION 5, AND ANNUAL IMPORT QUOTAS FOR EACH QUOTA YEAR

Articles ¹ by TSUS item numbers	Base period ²	Annual import quota (pounds)	Non-historical set aside (pounds)
Group I:			
(a) Butter (Item 950.05)	Jan. 1, 1961, to Dec. 31, 1965.....		
New Zealand.....		332,000	
Denmark.....		212,000	
Other countries as follows: Argentina, Australia, Canada, Netherlands, Norway, Sweden, and Switzerland.....		163,000	
(b) Dried cream (Item 950.04)	Jan. 1, 1951, to Dec. 31, 1952.....	500	
(c) Malted milk (Item 950.11)	July 1, 1951, to June 30, 1952.....	6,000	
(d) Dried whole milk (Item 950.03)	Jan. 1, 1951, to Dec. 31, 1952.....	7,000	
(e) Dried skimmed milk (Item 950.02)	July 1, 1950, to Aug. 8, 1951.....	1,807,000	
(f) Dried buttermilk and whey (Item 950.01)	Jan. 1, 1951, to Dec. 31, 1952.....	496,000	
Group II: ³			
Edam and Gouda cheese (Item 950.09A).....	Jan. 1, 1948, to Dec. 31, 1950 ⁴	9,200,400	920,000
Blue-mold cheese (except Stilton), and cheese and substitutes for cheese containing or processed from Blue-mold cheese (Item 950.07).....		5,016,999	200,000
Italian-type cheeses made from cow's milk, in original loaves. Romano made from cow's milk, Reggiano, Parmesano, Provoloni, Provolette, Sbrinz (Item 950.10).....		11,500,100	1,150,000
Group III: ³			
Cheddar cheese, and cheese and substitutes for cheese containing or processed from Cheddar cheese (Item 950.08A):	Jan. 1, 1961, to Dec. 31, 1965.....		\$ 1,508,100
Australia.....		1,696,150	
Canada.....		612,352	
Ireland.....		562,250	
New Zealand.....		5,502,498	
Sweden.....		130,850	
Other countries as follows: Austria, Belgium, Bulgaria, Denmark, Israel, Italy, Netherlands, Portugal, Switzerland, United Kingdom, and West Germany.....		308,400	
American-type cheese, including Colby washed curd, and granular cheese (but not including Cheddar) and cheese and substitutes for cheese containing, or processed from, such American-type cheese (Item 950.08B):			
Australia.....		1,680,000	420,000
Ireland.....		560,000	140,000
New Zealand.....		3,360,000	840,000
Sweden.....		125,000	31,250
Other countries as follows: Austria, Belgium, Bulgaria, Italy, Denmark, Israel, Netherlands, Portugal, Switzerland, United Kingdom, and West Germany.....		371,600	92,900
Group IV: ³			
Cheese and substitutes for cheese containing, or processed from Edam and Gouda cheese (Item 950.09B):	Jan. 1, 1965, to Dec 31, 1967.....		
Denmark.....		1,714,000	171,400
Ireland.....		331,000	33,100
Netherlands.....		169,000	16,900
Norway.....		368,000	36,800
West Germany.....		513,000	51,300
Other countries.....		56,000	5,600
Group V: ³			
Cheese described below, if shipped otherwise than in pursuance to a purchase, or if having a purchase price ⁵ under 62 cents per pound.			
Swiss or Emmenthaler cheese with eye formation; Gruyere-process cheese; and cheese and substitutes for cheese containing, or processed from, such cheeses.	Jan. 1, 1967, to Dec. 31, 1967..... Jan. 1, 1970, to Dec. 31, 1970.....		
Swiss or Emmenthaler with eye formation (Item 950.10B):			
Austria.....		8,222,000	822,200
Denmark.....		3,396,000	339,600
Finland.....		6,111,000	611,100
Norway.....		1,672,000	167,200
Switzerland.....		269,000	26,900
West Germany.....		292,000	29,200
Netherlands.....		210,000	21,000
Israel.....		60,000	6,000
Other.....		188,000	18,800

See footnotes at end of table.

APPENDIX 1—ARTICLES¹ SUBJECT TO IMPORT REGULATION 1, REVISION 5, AND ANNUAL IMPORT QUOTAS FOR EACH QUOTA YEAR—Continued

Articles ¹ by TSUS item numbers	Base period ²	Annual import quota (pounds)	Non-historical set aside (pounds)
Group V: 4—Continued			
Other than Swiss or Emmenthaler with eye formation (Item 950.10C):			
Austria.....		1,406,000	140,600
Denmark.....		3,435,000	343,500
Finland.....		1,606,000	160,600
Switzerland.....		2,234,000	223,400
West Germany.....		1,818,000	181,800
Ireland.....		210,000	21,000
Norway.....		82,000	8,200
Portugal.....		275,000	27,500
Other.....		176,000	17,600
Cheeses and substitutes for cheese provided for in items 117.75 and 117.85, part 4C, schedule 1 (except cheese not containing cow's milk; cheese, except cottage cheese, containing 0.5 percent or less by weight of butterfat), and articles within the scope of other import quotas provided for in Part 3 of the Appendix to the Tariff Schedules of the United States (Item 950.10D):	Jan. 1, 1967, to Dec. 31, 1967..... Jan. 1, 1970, to Dec. 31, 1970.....		
Belgium.....		469,000	46,900
Denmark.....		16,820,000	1,682,000
Finland.....		1,239,000	123,900
France.....		2,882,000	288,200
Iceland.....		649,000	64,900
Ireland.....		161,050	16,100
Netherlands.....		422,000	42,200
Norway.....		356,000	35,600
Poland.....		2,064,000	206,400
Sweden.....		1,707,000	170,700
Switzerland.....		215,000	21,500
United Kingdom.....		496,000	49,600
West Germany.....		2,148,000	214,800
New Zealand.....		7,556,000	755,600
Canada.....		2,670,000	267,000
Portugal.....		227,000	22,700
Austria.....		199,000	19,900
Italy.....		17,000	1,700
Israel.....		145,000	14,500
Other.....		288,000	28,800
Cheese and substitutes for cheese, containing 0.5 percent or less by weight of butterfat, as provided for in items 117.75 and 117.85 of subpart C, Part 4, schedule 1, except articles within the scope of other import quotas provided for in Part 3 of the Appendix to the Tariff Schedules of the United States (Item 950.10E):	July 1, 1969, to June 30, 1970.....		
Denmark.....		6,680,000	668,000
United Kingdom.....		791,000	79,100
Ireland.....		756,500	75,650
West Germany.....		100,000	10,000
Poland.....		385,600	38,560
Australia.....		123,600	12,360
Iceland.....		64,300	6,430
Other.....		None	None
Group VI: 3			
Italian-type cheeses, made from cow's milk, not in original loaves (Romano made from cow's milk, Reggiano, Parmesano, Provoloni, Provolette, and Sbrinz), and cheese and substitutes for cheese containing, or processed from, such Italian-type cheeses, whether or not in original loaves (Item 950.10A):			
Argentina.....		1,347,000	134,700
Italy.....		104,500	10,450
Australia.....		13,700	None
Other countries.....		28,800	28,800
Group VII: 3			
(Chocolate provided for in item 156.30, of part 10, schedule 1, if containing over 5.5 percent by weight of butterfat (except articles for consumption at retail as candy or confection) (Item 950.15):			
Ireland.....	Jan. 1, 1965, to Dec. 31, 1967.....	9,450,000	945,000
United Kingdom.....		7,450,000	745,000
Netherlands.....		100,000	100,000
Other Countries.....		None	None

See footnotes at end of table.

APPENDIX 1—ARTICLES¹ SUBJECT TO IMPORT REGULATION 1, REVISION 5, AND ANNUAL IMPORT QUOTAS FOR EACH QUOTA YEAR—Continued

Articles ¹ by TSUS item numbers	Base period ²	Annual import quota (pounds)	Non-historical set aside (pounds)
Group VIII: ³ Chocolate provided for in Item 156.30 of part 10 and articles containing chocolate provided for in Item 182.95, part 15, schedule 1, containing 5.5 percent or less by weight of butterfat (except articles for consumption at retail as candy or confection) (Item 950.10).	July 1, 1969, to June 30, 1970.....		
United Kingdom.....		930,000	None
Ireland.....		3,750,000	None
Other.....		None	None

¹ Each time a particular TSUS Item No. is referred to in this appendix it includes all the articles classified under that item number in Part III of the Appendix to the Tariff Schedules of the United States except where specifically otherwise provided in the article description.

² Importers of record during following periods have historical eligibility; each importer's quota share is prorated on basis of his historical imports from each country of origin. For TSUS Items Nos. 950.10B, 950.10C, and 950.10D each importer's quota share is a combination of his quota share determined for the respective cheese priced under 47 cents per pound (1967 base period) and a quota share determined on the basis of imports of the respective cheese priced from 47 cents to 62 cents per pound during the 1970 base period.

³ Annual quota allocated 2 times annually on Jan. 1 and July 1 of each quota year.

⁴ Importer's allocation based on 1950 imports or base period averages, whichever are higher.

⁵ Up to 307,400 pounds may be set aside from the amount allocated to "Other" countries. Not more than 25 percent of the amounts allocated to each of the individual countries, New Zealand, Australia, Ireland, and Sweden, may be set aside.

⁶ "Purchase price," in accordance with headnote 3(a)(iii) of Part 3 of the Appendix to the Tariff Schedules of the United States, is determined by the District Director of Customs on the basis of the aggregate price received by the exporter, including all expenses incident to placing the merchandise in condition, packed ready for shipment to the United States, but excluding transportation, insurance, duty, and other charges incident to bringing the merchandise from the place of shipment from the country of exportation to the place of delivery in the United States.

(Sec. 3, 62 Stat. 1248, as amended (7 U.S.C. 624); part 3 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202)) [34 F.R. 9746, June 24, 1969; 34 F.R. 9961, June 28, 1969, as amended by Amdt. 1, 34 F.R. 18896, Nov. 27, 1969; Amdt. 2, 36 F.R. 12506, July 1, 1971; 37 F.R. 28889, Dec. 30, 1972]

Subpart—Reentry of Cotton Into the United States

AUTHORITY: §§ 6.71 to 6.75 interpret or apply Proc. 2351, 3 CFR 1938-1943 Comp., p. 113; Proc. 2544, 3 CFR 1938-1943 Comp., p. 294.

SOURCE: §§ 6.71 to 6.75 appear at 20 F. R. 7028, Sept. 20, 1955, unless otherwise noted.

§ 6.71 General statement.

The proclamation issued by the President of the United States on September 5, 1939 (Proc. 2351, 4 F.R. 3822; 3 CFR, Cum Supp. (1943)), placed limitations upon the importation or withdrawal from warehouse for consumption of certain cotton and cotton waste. The proclamation issued by the President on March 31, 1942 (Proc. 2544, 7 F. R. 2587; 3 CFR, Cum. Supp. (1943)), suspends the proclamation of September 5, 1939, as to cotton produced in the United States, sold for export and actually exported on or after January 31, 1940, where the Secretary of Agriculture certifies that there has been exported without benefit of subsidy, as an offset to the proposed reentry, an equal or greater number of pounds of cotton produced in the United States, of any grade or staple length. Such a certificate is required

by the provisions of the proclamation whether or not a subsidy program is in effect. The regulations in this subpart state the procedure to be followed in order to obtain such a certificate from the Secretary of Agriculture.

§ 6.72 Reentry cotton.

The cotton which is to be reentered into the United States (referred to as "reentry cotton" in this subpart) must have been produced in the United States, sold for export, and actually exported on or after January 31, 1940.

§ 6.73 Offset cotton.

In order to reenter any such reentry cotton, an equal or greater number of pounds of cotton (referred to in this subpart as "offset cotton") must have been exported. The offset cotton must have been exported by the person or firm desiring to make the reentry, must have been exported without benefit of subsidy, and must have been shipped as an offset to the proposed reentry.

§ 6.74 Documentary requirements.

(a) The person or firm desiring to reenter any cotton must submit documentary evidence sufficient to establish his right to reenter the cotton. The fol-

lowing suggested documents will ordinarily be sufficient:

No. of Copies	Description of documents
1—A	certified copy of the sales for export agreement covering the reentry cotton.
1—A	certified copy of the sales for cotton, agreement covering the offset is the (This may be omitted if it export same as above.)
3—A	sworn statement that, to the best of the importer's knowledge and belief, the reentry cotton was grown in the United States.
3—A	sworn statement that, to the best of the importer's knowledge and belief, the offset cotton was grown in the United States, and that the cotton was exported without benefit of subsidy.
1—A	certified copy of the invoice covering the reentry cotton.
1—A	certified copy of the weight sheet or mill's invoice covering the rejected (reentry) cotton.
3—A	certified copy of the invoice covering the offset cotton.
1—A	certified copy of the bill of lading covering the reentry of cotton.
3—A	certified copies of the bill of lading covering the offset cotton.
1—A	landing certificate covering the reentry cotton.
3—A	landing certificate covering the offset cotton.
1—A	statement from the carrier showing actual exportation of the reentry cotton may be furnished in lieu of a bill of lading and landing certificate covering the reentry cotton, if preferred.

(b) The exporter's marks or other means of identification should be shown on the documents covering the reentry cotton and the offset cotton. The port through which the cotton is to be reentered must be named, and separate documents must be submitted for each port.

(c) All documentary evidence must be listed on a schedule and transmitted to the Director, Import Division, Foreign Agricultural Service, United States Department of Agriculture, Washington 25, D. C.

§ 6.75 Certificate and authorization.

Authority to issue certificates that offset cotton has been exported is hereby delegated to the Director, Import Division, Foreign Agricultural Service. When such certificates are issued, they will be transmitted to the Bureau of Customs, Treasury Department, Washington, D. C., for appropriate action, and the authorizations for the reentry of

cotton will be issued by the Bureau of Customs upon the basis of such certificates. It will also be necessary for the importer to secure a permit to import the reentry cotton from the Plant Quarantine Division, Agricultural Research Service of the United States Department of Agriculture.

PART 7—SELECTION AND FUNCTIONS OF AGRICULTURAL STABILIZATION AND CONSERVATION COUNTY AND COMMUNITY COMMITTEES

NAMES OF COMMITTEES	
Sec.	
7.1	Local or community committee.
7.2	County committee.
PURPOSE OF COMMITTEES	
7.3	Purpose.
SELECTION OF COMMITTEES	
7.4	Method.
7.5	Who may vote for community committeemen and delegates.
7.6	Restrictions on voting.
7.7	Determination of elective areas.
7.8	Calling of elections.
7.9	Conduct of community elections.
7.10	Conduct of county convention.
7.11	Election of community committee and delegates to the county convention.
7.12	Election of the county committee.
7.13	Tie votes.
7.14	Vacancies.
7.14a	Appeals.
ELIGIBILITY REQUIREMENTS	
7.15	County committeemen, community committeemen, and delegates.
7.16	All other personnel.
7.17	Dual office.
TERMS OF OFFICE	
7.18	County and community committeemen.
7.19	Delegates to the county convention.
DUTIES	
7.20	County committee.
7.21	Chairman of the county committee.
7.22	Community committee.
7.23	Chairman of the community committee.
7.24	Delegate to the county convention.
7.25	County executive director.
PRIVATE BUSINESS ACTIVITY AND CONFLICTS OF INTERESTS	
7.26	All personnel.
POLITICAL ACTIVITY	
7.27	All personnel.
REMOVAL FROM OFFICE OR EMPLOYMENT	
7.28	County and community committeemen, delegates to county convention.

- Sec.
- 7.29 County office personnel.
- 7.30 Delegation of authority to Deputy Administrator.
- 7.31 Right of review.

CUSTODY AND USE OF BOOKS, RECORDS, AND DOCUMENTS

- 7.32 Custody.
- 7.33 Use.

GENERAL PROVISIONS

- 7.34 Administrative operations.
- 7.35 Implementation.
- 7.36 Applicability.
- 7.37 Secretary, Administrator, or Deputy Administrator, not precluded from exercising authority.

AUTHORITY: The provisions of this Part 7, issued under secs. 4, 8, 49 Stat. 164, 1149, as amended; 16 U.S.C. 590d, 590h (b).

SOURCE: The provisions of this Part 7 appear at 35 F.R. 10831, July 3, 1970, unless otherwise noted.

NAMES OF COMMITTEES

§ 7.1 Local or community committee.

Each local committee elected under the provisions of this part shall be known as the Agricultural Stabilization and Conservation Community Committee, referred to in this part as the "community committee."

§ 7.2 County committee.

Each county committee elected under the provisions of this part shall be known as the Agricultural Stabilization and Conservation County Committee, referred to in this part as the "county committee."

PURPOSE OF COMMITTEES

§ 7.3 Purpose.

The purpose of the county committee shall be to direct the administration of sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act of 1936, the Agricultural Adjustment Act of 1933, the Sugar Act of 1948, the Soil Bank Act, and any amendments to such acts, such other acts of Congress as the Secretary of Agriculture or the Congress may designate, and to perform such other functions as may be designated by the Secretary. This shall be done through community committees and committeemen and other personnel responsible to the county committee, and in accordance with applicable laws, regulations, and official instructions. The county and

community committees shall not engage in any other activity.

[Amdt. 1, 36 F.R. 6887, Apr. 10, 1971]

SELECTION OF COMMITTEES

§ 7.4 Method.

County and community committees shall be elected in accordance with the provisions of this part.

§ 7.5 Who may vote for community committeemen and delegates.

(a) Any person, regardless of race, color, religion, sex, or national origin, who has an interest in a farm as owner, tenant, or sharecropper and who is of legal voting age in the State in which the farm is located, and any person not of such legal voting age who is in charge of the supervision and conduct of the farming operations on an entire farm, shall be eligible to vote for community committeemen and delegates in the community in which he has such an interest if any one or more of the following is applicable:

(1) A payment or grant of conservation materials or services is or will be made with respect to the farm under the current agricultural conservation program or there is being carried out on the farm one or more of the current program practices approved for the State by the State Agricultural Stabilization and Conservation Committee, referred to in this part as the "State committee";

(2) A marketing quota or acreage allotment is currently established for the farm;

(3) Such person is eligible for a co-operator's loan or other price support with respect to the farm;

(4) Such person is eligible for a payment under the Sugar Act program with respect to the farm;

(5) Such person is eligible for a payment under the National Wool Act program with respect to the farm; or

(6) Such person is eligible to participate with respect to the farm in any other program administered by the county committee.

(b) In any State having a community property law, the spouse of a person who is eligible to vote under paragraph (a) of this section shall also be eligible to vote.

(c) The term "person" as used in this section means an individual, partnership, association, corporation, estate,

trust, other business enterprise or legal entity, or a State, political subdivision of a State or any agency thereof.

(d) The vote may be cast by:

(1) An individual for himself.

(2) A duly authorized partner of a partnership for the partnership.

(3) A duly authorized officer of a corporation for the corporation.

(4) A guardian who is legally appointed for a minor or incompetent person.

(5) A duly authorized representative of any other eligible voter entity, except an individual.

(e) Each county office shall have a prepared list of eligible voters for each community within the county available for public inspection in advance of the election.

§ 7.6 Restrictions on voting.

Each eligible voter shall be entitled to only one vote on any one ballot in any election held in any one community. If the eligible voter has an interest in a farm in more than one community in the county, such voter shall not be entitled to vote in more than one such community in the county. There shall be no voting by proxy.

§ 7.7 Determination of elective areas.

Each county shall be divided into local administrative areas, referred to in this subpart as "communities." The term "county" in Alaska shall be the area so designated by the State committee. The boundaries of the communities shall be fixed by the State committee after considering any recommendations by the county committee. No such community shall include more than one county or parts of different counties. The county committee shall give public notice of the community boundaries in advance of the election.

§ 7.8 Calling of elections.

(a) Each election of community committeemen shall be held on a date or within a period of time fixed by the Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service (called "Deputy Administrator" in this part) which will in his judgment best afford full opportunity for participation therein by all persons eligible to vote: *Provided*, That such date or period of time shall fall within a period beginning on or after

July 1 and ending not later than December 30, each year. Each such election shall be held in accordance with detailed instructions issued by the Deputy Administrator which shall be available for examination in each county office.

(b) If the number of eligible voters voting in any election of community committeemen is so small that the State committee determines that the result of the election does not represent the views of a substantial number of eligible voters, it shall declare the election void and call a new election. If it is determined by the State committee that the election for any position on a community committee has not been held substantially in accordance with official instructions, the State committee shall declare such election void and call a new election.

§ 7.9 Conduct of community elections.

(a) The county committee serving at the time shall be responsible for the conduct of the community elections for the election of community committees and delegates to the county convention in accordance with official instructions issued by the Deputy Administrator.

(b) To prevent endorsement of any nongovernmental function either directly or indirectly by association or implication, community elections shall not be associated with or held in conjunction with any other election or referendum conducted for any other purpose.

(c) The county committee shall give advance public notice of how, when, and where eligible voters may vote, when and where the votes will be counted, and the right to witness the vote counting.

(d) All nominees shall be notified in writing of the outcome of the election by the county executive director.

§ 7.10 Conduct of county convention.

(a) The county committee serving at the time shall be responsible for designating the place at which the county convention for the election of the county committee will be held and for the conduct of the convention in accordance with official instructions issued by the Deputy Administrator, which shall be available for examination in each county office.

(b) To prevent endorsement of any nongovernmental function either directly or indirectly by association or implication, county conventions shall not be associated with or held in con-

junction with any other election or referendum conducted for any other purpose.

(c) The county committee shall give advance public notice of the county convention. It shall be open to the public.

(d) The county executive director shall notify in writing all newly elected county committee members, alternates, and county committeemen with unexpired terms, of the election results.

§ 7.11 Election of community committee and delegates to the county convention.

(a) Except as provided in paragraph (c) of this section, the eligible voters in a community shall elect annually a community committee composed of three members and shall elect first and second alternates to serve as acting members of the community committee in the order elected in case of the temporary absence of a member, or to become a member of the community committee in the order elected in case of the resignation, disqualification, removal, or death of a member. An acting member of the community committee shall have the same duties and the same authority as a member. The election shall be conducted by the mail ballot method in all counties, except that the Deputy Administrator may authorize use of the meeting or polling place method in a specific county where such is deemed justified. Where elections are by mail or by polling place, the county committee shall give advance public notice that nominations may be made by petition. Election shall be by secret ballot and by plurality vote, with each eligible voter having the option of writing in the names of candidates of his own choice. Except as provided in paragraph (c) of this section, the three regular members of the community committee shall be the delegates to the county convention and the first and second alternates to the community committee shall also be in that order alternate delegates to the county convention: *Provided, however,* That a person may not serve as delegate if he has been a member of the county committee for that county during the 90 days preceding the community election. Failure to elect the prescribed number of alternates at the regular election shall not invalidate such election or require a special election to elect additional alternates.

(b) In any county where there is only one community, the community committee shall be the county committee.

(c) Where there is only one community in the county, at the first election held on or after January 1, 1965, one committeeman shall be elected to hold office for a term of 3 years or until his successor is elected and qualified, one committeeman shall be elected to hold office for a term of 2 years or until his successor is elected and qualified, and one committeeman shall be elected to hold office for a term of 1 year or until his successor is elected and qualified. At each annual election held thereafter, one committeeman shall be elected to hold office for a term of 3 years or until his successor is elected and qualified, so that the term of office of one committeeman will expire in each year. There shall also be elected annually a first alternate and second alternate to serve as acting members in the order elected in case of the temporary absence of a member or to become a member in the order elected in the case of resignation, disqualification, removal, or death of any member of the committee. In the event an alternate fills a permanent vacancy on the committee, he shall not thereby assume the unexpired term of the committeeman he replaced. An acting member shall have the same duties and authority as a member.

(d) The community committee shall select a secretary who shall be either the county agricultural extension agent for the county or an employee of the county committee.

[35 F.R. 10831, July 3, 1970, as amended at 37 F.R. 3349, Feb. 15, 1972]

§ 7.12 Election of the county committee.

(a) The delegates elected pursuant to § 7.11(a) shall meet in a convention held before the close of the same calendar year in which they were elected to elect committeemen for vacancies on the county committee. The Deputy Administrator may fix the exact date. Each delegate shall be entitled to only one vote on any ballot, and there shall be no voting by proxy. A majority of the delegates so elected and qualified to vote at the time of the convention shall constitute a quorum. A county committee shall consist of three members. At the first county convention held on or after January 1, 1965, one committeeman shall be elected to hold office for a term of 3 years or until his successor is elected and qualified, one

committeeman shall be elected to hold office for a term of 2 years or until his successor is elected and qualified, and one committeeman shall be elected to hold office for a term of 1 year or until his successor is elected and qualified. At each annual county convention held thereafter, one committeeman shall be elected to hold office for a term of 3 years or until his successor is elected and qualified, so that the term of office of one committeeman will expire in each year.

(b) One member shall be elected annually by the delegates as chairman, and one member as vice chairman.

(c) At each convention, the delegates shall also elect annually a first and second alternate to the county committee to serve as acting members of the committee in the order elected in case of the temporary absence of a member, or to become a member in the order elected in case of the resignation, disqualification, removal, or death of a member of the county committee. In the event an alternate fills a permanent vacancy on the county committee, he shall not thereby assume the unexpired term of the committeeman he replaced. An acting member of the county committee shall have the same duties and authority as a member.

(d) The county committee shall select a secretary who shall be either the county executive director or other employee of the county committee, or the county agricultural extension agent for the county. If the county agricultural extension agent is not selected secretary to the county committee, he shall be ex officio a member of the county committee but shall not have the power to vote.

§ 7.13 Tie votes.

(a) Tie votes in community committee elections held by mail or polling place method shall be settled by lot. Tie votes in such elections held by the meeting method which cannot be settled by further balloting on the same day shall be settled by lot. In one-community counties, a tie vote in determining the chairman and vice chairman which cannot be settled by further balloting on the same day shall be settled by lot.

(b) In the county convention, tie votes which cannot be settled by further balloting on the same day shall be settled by lot.

[37 F.R. 3349, Feb. 15, 1972]

§ 7.14 Vacancies.

(a) In case of a vacancy in the office of chairman of a county or community committee, the respective vice chairman shall become chairman; in case of a vacancy in the office of vice chairman, the respective third regular member shall become vice chairman; in case of a vacancy in the office of the third regular member, the respective first alternate shall become the third regular member; and in case of a vacancy in the office of the first alternate, the respective second alternate shall become the first alternate: *Provided*, That when unanimously recommended by the three members of the county committee as constituted under this paragraph or as constituted under this paragraph and paragraph (c) of this section, and approved by the State committee, the offices of chairman and vice chairman of the county committee may be filled from such membership without regard to the order of succession prescribed in this paragraph or the action of the delegates to the county convention.

(b) In case of a vacancy in the panel of delegates to the county convention, the respective alternates shall act as delegates.

(c) In the event that a vacancy, other than one caused by temporary absence, occurs in the membership of the county committee and no alternate is available to fill the vacancy, the State committee shall call a meeting of the delegates to the county convention to elect persons to fill such vacancies as exist in the membership of the county committee and in the panel of alternates, except as provided in § 7.28.

(d) In the event that a vacancy, other than one caused by temporary absence, occurs in the membership of the community committee and no alternate is available to fill the vacancy, a special election shall be held to fill such vacancies as exist in the membership and in the panel of alternates.

§ 7.14a Appeals.

(a) Any eligible voter in the county may appeal to the county committee in writing or in person, or both:

(1) The eligibility or ineligibility of persons to vote,

(2) The eligibility of persons to hold office, and

(3) The validity of the community committee elections. Such appeals must

be made within 15 days of the election date, except that appeals on a determination of eligibility of a person nominated by petition must be made within 15 days of the date of notification of ineligibility.

(b) Any eligible voter in the county may appeal to the State committee in writing, in person, or both:

(1) A county committee decision on an election appeal, and

(2) The validity of a county convention. An appeal of a county committee decision must be made within 15 days of the notification of the decision. An appeal on the validity of a county convention must be made within 15 days of the county convention.

ELIGIBILITY REQUIREMENTS

§ 7.15 County committeemen, community committeemen, and delegates.

To be eligible to hold office as a county committeeman, a community committeeman, a delegate, or an alternate to any such office, a person must:

(a) Be eligible to vote in the county in which the election is held if proposed for county committeeman or alternate and in the community in which the election is held if proposed for community committeeman or alternate;

(b) Be residing in the county in which the election is held if proposed for county committeeman; and, unless waived by the State committee, be residing in the community in which the election is held if proposed for community committeeman: *Provided, however,* That in cases where a county or community boundary runs through a farm, eligible persons residing on such farm may hold office in the county or community in which the farm has been determined to be located for program participation purposes;

(c) Not be ineligible under § 7.27;

(d) Not have been dishonorably discharged from any branch of the armed services; not have been removed for cause from any public office; not have been convicted of any fraud, larceny, embezzlement, or felony; unless any such disqualification is waived by the State committee or the Deputy Administrator.

(e) Not have been removed as a county committeeman, community committeeman, delegate, alternate to any such office, or as an employee for failure to perform the duties of his office, or committing, or attempting, or conspiring to commit fraud, or incompetency, or impeding the effectiveness of any program administered in the county, or refusal to carry out the Department's policy relating to equal opportunity and civil rights, including the equal employment policy, or interfering with others in carrying out such policy, or for violation of official instructions, unless such disqualification is waived by the State committee or the Deputy Administrator;

(f) Not have been disqualified for future service because of a determination by a State committee that during previous service as a county committeeman, community committeeman, delegate, alternate to any such office, or as an employee, he failed to perform the duties of his office or employment, or he committed, attempted, or conspired to commit fraud, or he impeded the effectiveness of any program administered in the county, or refused to carry out the Department's policy relating to equal opportunity and civil rights, including the equal employment policy, or interfered with others in carrying out such policy, or violated official instructions, unless such disqualification is waived by the State committee or the Deputy Administrator;

(g) Not be during his term of office a full-time employee of the U.S. Department of Agriculture;

(h) Not have passed his 70th birthday by the date his term of office, or new term of office, begins unless this provision is waived by the State committee.

(i) If the office is that of county committeeman, not be during his term of office a sales agent or employee of the Federal Crop Insurance Corporation;

(j) If the office is that of delegate to the county convention, not have been a county committeeman for that county during the 90 days preceding the community election;

(k) If the office is that of county committeeman, not be serving as a county committeeman with one or more years following the current election remaining in his term of office;

(l) If the office is that of county committeeman, not have served three consecutive terms as county committeeman just prior to the current election: *Provided, however,* That any term which began on or prior to January 1, 1965, or any partial year served thereafter by an alternate who filled a permanent vacancy on the county committee, shall not count toward this three term limitation. The tenure of office of any county

committeeman, community committeeman, delegate, or alternate to any such office, shall be terminated as soon as any such person becomes ineligible for office under the provisions of this section.

[35 F.R. 10831, July 3, 1970, as amended at 37 F.R. 3349, Feb. 15, 1972]

§ 7.16 All other personnel.

(a) The county executive director or any other employee must not be ineligible under § 7.27.

(b) The county executive director and other employees must not have been dishonorably discharged from any branch of the armed services, or not have been removed for cause from any public office, or not have been convicted of any fraud, larceny, embezzlement, or felony, unless any such disqualification is waived by the State committee or the Deputy Administrator.

(c) The county executive director or any other employee must not have been removed as a county committeeman, community committeeman, delegate, alternate to any such office, county executive director, or other employee for failure to perform the duties of his office, or committing, or attempting, or conspiring to commit fraud, or incompetency, or impeding the effectiveness of any program administered in the county, or refusal to carry out the Department's policy relating to equal opportunity and civil rights, including the equal employment policy, or interfering with others in carrying out such policy, or for violation of official instructions, unless such disqualification is waived by the State committee or the Deputy Administrator.

(d) The county executive director or any other employee must not have been disqualified for future employment because of a determination by a State committee that during previous service as a county committeeman, community committeeman, delegate, alternate to any such office, or as an employee, he failed to perform the duties of his office or employment; or committed, attempted, or conspired to commit fraud; or impeded the effectiveness of any program administered in the county; or refused to carry out the Department's policy relating to equal opportunity and civil rights, including the equal employment policy; or interfered with others in carrying out such policy; or violated official instructions, unless such disqualification is

waived by the State committee or the Deputy Administrator.

(e) The tenure of employment of any county executive director or other employee shall be terminated as soon as any such person becomes ineligible for employment under the provisions of this section.

§ 7.17 Dual office.

(a) *County committee membership.* A member of the county committee may not be at the same time:

- (1) A member of a community committee;
 - (2) A delegate to a county convention;
 - (3) The secretary to or the treasurer of a county committee;
 - (4) A member of the State committee;
- or
- (5) County executive director or any other county office employee.

(b) *Community committee membership.* A member of the community committee may not be at the same time:

- (1) A member of a county committee;
 - (2) The secretary to or the treasurer of a county committee;
 - (3) A member of the State committee;
- or
- (4) County executive director.

(c) *Delegate to the county convention.* A delegate to the county convention may not be a member of the State committee.

TERMS OF OFFICE

§ 7.18 County and community committeemen.

The terms of office of county and community committeemen and alternates to such office shall begin on a date fixed by the Deputy Administrator which shall be after their election and not later than the first day in the next January. *Provided, however,* That before any such county committeeman or alternate county committeeman may take office he shall sign a pledge that he will faithfully, fairly, and honestly perform to the best of his ability all of the duties devolving on him as a committeeman. A term of office shall continue until a successor is elected and qualified as provided in §§ 7.11 and 7.12.

[37 F.R. 3349, Feb. 15, 1972]

§ 7.19 Delegates to the county convention.

The terms of office of delegates and alternates to the county convention shall begin immediately upon their election

and shall continue until their respective successors have been elected and qualified.

DUTIES

§ 7.20 County committee.

The county committee, subject to the general direction and supervision of the State committee, and acting through community committeemen and other personnel, shall be generally responsible for carrying out in the county the agricultural conservation program, the price support programs as assigned, the acreage allotment and marketing quota programs, the wool incentive payment program, the programs under the Soil Bank Act, and the sugar program, formulated pursuant to the acts of Congress specified in § 7.3, and any other program or functions assigned to it by the Secretary of Agriculture.

(a) Enter into leasing agreements for such office space as needed in accordance with prescribed procedures of the Deputy Administrator;

(b) Employ the county executive director, subject to standards and qualifications furnished by the State committee, to serve at the pleasure of the county committee, except that incumbent directors shall not be removed other than under the provisions of § 7.29, until all members of the county committee have been in office for at least 90 days: *Provided also*, That there shall be no employment discrimination due to race, religion, color, sex, or national origin. The county executive director may not be removed under this paragraph for advocating or carrying out the Department's policy on equal opportunity and civil rights, including the equal employment policy, and in the event it is claimed that dismissal is for such reason, the dismissal shall not become effective until the State committee and the Deputy Administrator have determined that dismissal was not because of such reason;

(c) Direct the activities of the community committees elected in the county;

(d) Pursuant to official instructions, review, approve, and certify forms, reports, and documents requiring such action under such instructions;

(e) Recommend to the State committee needed changes in boundaries of communities;

(f) Make available to farmers and the public information concerning the objectives and operations of the programs administered through the county committee;

(g) Make available to agencies of the Federal Government and others information with respect to the county committee activities in accordance with instructions issued by the Deputy Administrator;

(h) Give public notice of the designation and boundaries of each community within the county not less than 50 days prior to the election of community committeemen and delegates;

(i) Direct the giving of notices in accordance with applicable regulations and instructions;

(j) Recommend to the State committee desirable changes in or additions to existing programs;

(k) Conduct such hearings and investigations as the State committee may request; and

(l) Perform such other duties as may be prescribed by the State committee.

[35 F.R. 10831, July 3, 1970, as amended by Amdt. 1, 36 F.R. 6887, Apr. 10, 1971]

§ 7.21 Chairman of the county committee.

The chairman of the county committee or the person acting in his stead shall preside at meetings of the county committee, certify such documents as may require his certification, and perform such other duties as may be prescribed by the State committee.

§ 7.22 Community committee.

The community committee shall:

(a) Assist the county committee in carrying out programs assigned to it;

(b) Inform farmers concerning the purposes and provisions of programs being administered in the county by the county committee;

(c) Assist in arranging for and conducting necessary community meetings; and

(d) Perform such other duties as may be assigned to it by the county committee.

§ 7.23 Chairman of the community committee.

The chairman of the community committee or the person acting in his stead shall preside at meetings of the community committee, and perform such other

duties as may be assigned to him by the county committee.

§ 7.24 Delegate to the county convention.

Each delegate shall meet with other delegates in a county convention within a period of time fixed by the Deputy Administrator and at the place designated by the county committee to elect county committeemen for the county.

§ 7.25 County executive director.

The county executive director shall:

(a) Execute the policies established by the county committee and be responsible for the day-to-day operations of the county office;

(b) Employ the personnel of the county office, in accordance with standards and qualifications furnished by the State committee, to serve at his pleasure: *Provided, however,* That there shall be no employment discrimination due to race, religion, color, sex, or national origin. An employee may not be removed under this paragraph for advocating or carrying out the Department's policy on equal opportunity and civil rights, including the equal employment policy, and in the event it is claimed that dismissal is for such reason, the dismissal shall not become effective until the State committee and the Deputy Administrator have determined that dismissal was not because of such reason;

(c) Receive, dispose of, and account for all funds, negotiable instruments, or property coming into the custody of the county committee;

(d) Serve as counsellor to the county convention chairman on election procedures; and

(e) Supervise, under the direction of the county committee, the activities of the community committees elected in the county.

PRIVATE BUSINESS ACTIVITY AND CONFLICTS OF INTEREST

§ 7.26 All personnel.

(a) No county committeeman, community committeeman, delegate, alternate to any such office, or any person employed in the county office shall at any time use such office or employment to promote any private business interest.

(b) County committeemen, community committeemen, delegates, or alternates, and any person employed in the county office shall be subject to the offi-

cial instructions of the Deputy Administrator issued with respect to conflicts of interest and proper conduct.

POLITICAL ACTIVITY

§ 7.27 All personnel.

(a) No person may be a member of the county governing body or hold a Federal, State, or county office filled by an election held pursuant to law and also hold office as a county committeeman, community committeeman, delegate, alternate to any such office, or be employed in any capacity, except, that members of school boards, soil conservation district boards, irrigation district boards, drainage district boards, weed control district boards, or of similar boards are not ineligible to hold office or employment under this paragraph solely because of membership on such boards.

(b) No person may be a candidate for membership on the county governing body or for any Federal, State, or county office filled by an election held pursuant to law and hold office as a county committeeman, community committeeman, delegate, alternate to any such office, or be employed in any capacity, except, that candidates for school boards, soil conservation district boards, irrigation district boards, drainage district boards, weed control district boards, or for similar boards are not ineligible to hold office or employment under this paragraph solely because of candidacy for such boards.

(c) No person may be an officer, employee, or delegate to a convention of any political party or political organization and hold office as a county committeeman, community committeeman, delegate, alternate to any such office, or be employed in any capacity.

(d) The tenure of office of any county committeeman, community committeeman, delegate, alternate to any such office, or the employment of any employee, shall be automatically terminated as soon as any such person becomes ineligible for office or employment under the provisions of paragraph (a), (b), or (c) of this section.

(e) No county committeeman, community committeeman, delegate, or alternate to any such office, or any employee shall at any time engage in the following political activities:

(1) Solicit or receive any contributions (including the sale of tickets) for

political party organizations or for a candidate for political office or for any other political purpose in any room or building used for the transaction of any Federal official business, or at any place from any other county committeeman, community committeeman, delegate, or alternate to any such office or employee.

(2) Use official authority or influence to discharge, remove, demote, or promote any employee, or threaten or promise to so do, for withholding or giving contributions (including the buying or the refusal to buy tickets) for political purposes, or for supporting or opposing any candidate or any political organization in any primary, general, or special election for political office.

(f) No county committeeman, or alternate to such office, or any employee on any day when entitled to pay for services in performance of duties, and no employee who serves during a continuous period of 90 days or more and has a regular tour of duty established in advance at any time, shall solicit, collect, receive, disburse or otherwise handle contributions of money, pledges, gifts, or anything of value (including the sale of tickets) made for:

(1) Political party organizations;

(2) A candidate for political office in any primary, general, or special election, but excluding such activities on behalf of individual candidates in township and municipal elections;

(3) Any other political purpose.

REMOVAL FROM OFFICE OR EMPLOYMENT

§ 7.28 County and community committeemen, and delegates to county convention.

(a)(1) Any county committeeman, community committeeman, delegate to the county convention, or any alternate to any such office, who fails to perform the duties of his office; or who commits or attempts, or conspires to commit fraud; or is incompetent; or who impedes the effectiveness of any program administered in the county; or who violates the provisions of § 7.27 (e) or (f); or who refuses to carry out the Department's policy relating to equal opportunity and civil rights, including the equal employment policy; or who interferes with others in carrying out such policy; or who violates official instructions, shall be suspended by the State committee. Any such person who is under formal investigation for any of the

above cited reasons may be suspended by the State committee. Any person suspended under the provisions of this paragraph shall be given a written statement of the reasons for such action and 15 days from the date of mailing in which to advise the State committee in writing, in person, or both, why he should be restored to duty.

(2) The State committee, following such further investigation as is deemed necessary, shall either restore to duty or remove the suspended person. In the event further investigation develops reasons, in addition to those disclosed in the suspension notice, for the action taken, the suspended person shall be given written notification of such additional reasons and 15 days from the date of mailing in which to advise the State committee why he should be restored to duty. In the event a person under suspension submits his resignation, or his term expires, acceptance thereof shall not prevent a determination by the State committee that he would have been removed had he remained in the position, and such a determination shall constitute removal within the meaning of §§ 7.15(e), 7.16(c), and 7.31. The person so removed shall be given written notification of any such determination and the reasons therefor.

(b) If in the event of suspensions or vacancies there are less than two members, including alternates, available to serve on the county committee, the State committee shall designate a person to administer the programs in the county pending the exoneration or removal of those under investigation, and if removed, pending the election of new county committee members and alternates. Such person may be the remaining member or alternate member of the committee if available. Any person named by the State committee in such capacity shall have full authority to perform all duties regularly performed by a duly elected county committee.

(c) Any former county committeeman, community committeeman, delegate, or any alternate to any such office, who during such term of office failed to perform the duties of his office; or committed, attempted, or conspired to commit fraud; or who impeded the effectiveness of any program administered in the county; or who violated the provisions of § 7.27 (e) or (f); or who refused to carry out the Department's

policy relating to equal opportunity and civil rights, including the equal employment policy; or who interfered with others in carrying out such policy; or who violated official instructions, may be disqualified by the State committee from future service or employment. Before any such disqualification determination is made, the State committee shall undertake such investigation as it deems necessary after which the State committee shall give the affected person a written statement of reasons for the proposed disqualification action. Such person shall have 15 days from the date of mailing to advise in writing, in person, or both, why the action should not be taken. If any further investigation develops substantial additional reasons for disqualification, the person involved shall be given a written statement of such reasons and 15 days from the date of mailing in which to respond.

(d) Any county committeeman, community committeeman, delegate to the county convention, or any alternate to any such office, who, prior to taking his present office, committed, or attempted or conspired to commit fraud, or who impeded the effectiveness of any program administered in the county, may be suspended by the State committee. Any such person who is under formal investigation for any of the above cited reasons may be suspended by the State committee. The proceedings under this paragraph shall be the same as in paragraph (a) of this section.

§ 7.29 County office personnel.

(a)(1) Any county executive director who fails to perform the duties of his employment or who commits, or attempts, or conspires to commit fraud; or is incompetent; or who impedes the effectiveness of any program administered in the county; or who violates the provisions of § 7.27 (e) or (f); or who refuses to carry out the Department's policy relating to equal opportunity and civil rights, including the equal employment policy; or who interferes with others in carrying out such policy; or who violates official instructions, shall be suspended by the county committee or State committee. Any county executive director who is under formal investigation for any of the above cited reasons may be suspended by the county committee or State committee. A person suspended under the

provisions of this paragraph shall be given a written statement of the reasons for such action and 15 days from the date of mailing in which to advise the committee which made the suspension, in writing, in person, or both, why he should be restored to duty.

(2) The committee which made the suspension following such further investigation as is deemed necessary shall either restore to duty or remove the suspended person; except that, the county committee may not restore a suspended person to duty without prior written approval of the State committee, and upon refusal of such approval shall promptly remove such person. Upon refusal or failure of the county committee promptly to remove the suspended person, the State committee shall remove such person. In the event further investigation develops reasons, in addition to those disclosed in the suspension notice, for the action taken, the suspended person shall be given written notification of such additional reasons and 15 days from the date of mailing in which to advise why he should be restored to duty. In the event a person under suspension submits his resignation, acceptance thereof shall not prevent a determination by the county committee or State committee that he would have been removed had he remained in the position, and such a determination shall constitute removal within the meaning of §§ 7.15(e), 7.16(c), and 7.31. The person so removed shall be given written notification of any such determination and the reasons therefor.

(b)(1) Any employee, other than the county executive director, who fails to perform the duties of his employment; or who commits, or attempts, or conspires to commit fraud; or is incompetent; or who impedes the effectiveness of any program administered in the county; or who violates the provisions of § 7.27 (e) or (f); or who refuses to carry out the Department's policy relating to equal opportunity and civil rights, including the equal employment policy; or who interferes with others in carrying out such policy; or who violates official instructions, shall be suspended by the county executive director, county committee, or State committee. Any employee who is under formal investigation for any of the above cited reasons may be suspended by the county executive director, county committee or State committee.

(2) A person suspended under the provisions of this paragraph shall be given a written statement of the reasons for such action and 15 days from the date of mailing in which to advise the county committee, or the State committee if it made the suspension, in writing, in person, or both, why he should be restored to duty. The county committee, or the State committee if it made the suspension, following such further investigation as is deemed necessary, shall either restore to duty or remove the suspended person; except that, the county committee may not restore a suspended person to duty without prior written approval of the State committee, and upon refusal of such approval shall promptly remove such person. Upon refusal or failure of the county committee promptly to remove the suspended person, the State committee shall remove such person. In the event further investigation develops reasons, in addition to those disclosed in the suspension notice, for the action taken, the suspended person shall be given written notification of such additional reasons and 15 days from the date of mailing in which to advise why he should be restored to duty. In the event a person under suspension submits his resignation, acceptance thereof shall not prevent a determination by the county committee or the State committee that he would have been removed had he remained in the position and such a determination shall constitute removal within the meaning of §§ 7.15(e), 7.16(c), and 7.31. The person so removed shall be given written notification of any such determination and the reasons therefor.

(c) Any former county executive director or other employee who during his term of employment failed to perform the duties of his employment; or who committed, attempted, or conspired to commit fraud; or who impeded the effectiveness of any program administered in the county; or who violated the provisions of § 7.27 (e) or (f); or who refused to carry out the Department's policy relating to equal opportunity and civil rights, including the equal employment policy; or who interfered with others in carrying out such policy; or who violated official instructions, may be disqualified from future service or employment by the State committee. Before any such disqualification determination is made, the State committee shall under-

take such investigation as it deems necessary, after which the State committee shall give the affected person a written statement of reasons for the proposed disqualification action. Such person shall have 15 days from the date of mailing to advise in writing, in person, or both, why the action should not be taken. If any further investigation develops substantial additional reasons for disqualification, a person involved shall be given a written statement of such reasons and 15 days from the date of mailing in which to respond.

(d) Any county executive director who, prior to taking his present office or employment, committed, or attempted, or conspired to commit fraud, or who impeded the effectiveness of any program administered in the county, may be suspended by the county committee or State committee. Any county executive director who is under formal investigation for any of the above cited reasons may be suspended by the county committee or State committee. The proceedings under this paragraph shall be the same as in paragraph (a) of this section.

(e) Any employee, other than the county executive director, who, prior to taking his present office or employment, committed, or attempted, or conspired to commit fraud, or who impeded the effectiveness of any program administered in the county, may be suspended by the county executive director, county committee or State committee. Any employee who is under formal investigation for any of the above cited reasons may be suspended by the county executive director, county committee, or State committee. The proceedings under this paragraph shall be the same as in paragraph (b) of this section.

§ 7.30 Delegation of authority to Deputy Administrator.

Notwithstanding the authority vested in the State committee, a county committee, and the county executive director by this part, the Deputy Administrator shall have authority to suspend and remove any county committeeman, community committeeman, delegate to the county convention, an alternate to any such office, county executive director, or other county employee, for any and all of the reasons and causes authorizing such suspension and removal by the State committee, the county committee, or

the county executive director. When the Deputy Administrator suspends any person hereunder he shall give a written statement of the reasons for such action. Any person suspended shall have 15 days from date of mailing in which to advise the Deputy Administrator in writing, in person, or both, why he should be restored to duty. The Deputy Administrator following such further investigation as he deems necessary shall either restore to duty or remove the suspended person. In the event further investigation develops reasons for the action taken, in addition to those disclosed in the suspension notice, the suspended person shall be given written notification of such additional reasons and 15 days from date of mailing within which to advise the Deputy Administrator why he should be restored to duty.

§ 7.31 Right of review.

(a) Any person removed from employment by the county committee under the provisions of § 7.27 (e) or (f), or § 7.29 (a) or (b) shall have the right to present to the State committee reasons in writing, in person, or both, as to why he should be restored to duty. The State committee may either uphold the decision of the county committee or order the person restored to duty. If the person removed is dissatisfied with the decision of the State committee, he may present the reasons in writing, in person, or both, to the Deputy Administrator as to why he should be restored to duty. The Deputy Administrator may uphold the decision or order the person restored to duty. Any person removed from office or employment or disqualified for future office or employment by the State committee under the provisions of § 7.27 (e) and (f), § 7.28, § 7.29, or § 7.30 shall have the right to present to the Deputy Administrator reasons in writing, in person, or both, as to why he should be restored to duty or have the disqualification removed. The Deputy Administrator may uphold the decision or order the person restored to duty or order the disqualification removed. Any person removed from office or employment by the Deputy Administrator under the provisions of § 7.30 shall have the right to request of the Deputy Administrator a reconsideration of his decision, and to present reasons therefor in writing, in person, or both.

(b) Any presentation under this section shall be in accordance with such procedures as the Deputy Administrator may prescribe. Notice of intent to make any presentation under this section must be filed within 30 days of the date the notice of removal or disqualification decision is mailed to any such person.

CUSTODY AND USE OF BOOKS, RECORDS, AND DOCUMENTS

§ 7.32 Custody.

(a) All books, records, and documents of or used by the county committee in the administration of programs assigned to it, or in the conduct of elections, shall be the property of the United States Department of Agriculture and shall be maintained in good order in the county office.

(b) For polling and mail type elections, ballots shall remain in sealed boxes until the prescribed date for counting. Following the counting of ballots in all types of elections, the ballots shall be placed in sealed containers and retained for 30 days unless otherwise determined by the State committee.

§ 7.33 Use.

The books, records, and documents referred to in § 7.33 shall be available for use and examination:

(a) At all times by authorized representatives of the Secretary of Agriculture, the Administrator and Deputy Administrator, Agricultural Stabilization and Conservation Service;

(b) By State, county, and community committeemen, and authorized employees of the State and county office in the performance of duties assigned to them under this part, subject to any limitations prescribed by the Deputy Administrator in instructions;

(c) At any reasonable time to any program participant insofar as his interests under the programs administered by the county committee may be affected, subject to any limitations prescribed by the Deputy Administrator in instructions; and

(d) To any other person only in accordance with instructions issued by the Deputy Administrator.

GENERAL PROVISIONS

§ 7.34 Administrative operations.

The administrative operations of county committees including but not limited to the following, shall be conducted, except as otherwise provided in these regulations, in accordance with instructions issued by the Deputy Administrator:

- (a) Annual, sick, and other types of employee leave;
- (b) Location and use of county committee office;
- (c) Call, conduct, and records of county and community committee meetings.

§ 7.35 Implementation.

The Deputy Administrator is authorized to issue instructions implementing the regulations in this part.

§ 7.36 Applicability.

The regulation in this part shall apply to each State of the United States.

§ 7.37 Secretary, Administrator, or Deputy Administrator, not precluded from exercising authority.

Nothing in these regulations shall preclude the Secretary; Administrator, Agricultural Stabilization and Conservation Service; or Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service, from administering any or all programs or exercising other functions delegated to the community committee, county committee, State committee, or any employee. In exercising this authority either the Secretary, Administrator, or Deputy Administrator may designate a person or persons of his choice to be in charge with full authority to carry on the programs or other functions without regard to the committee, committees, or their employees for such period of time as he may deem necessary.

PART 8—4-H CLUB NAME AND EMBLEM

- Sec. 8.1 Policy.
- 8.2 Delegation of authority.
- 8.3 Definitions.
- 8.4 Basic premises.
- 8.5 Revocation of present authorizations.
- 8.6 Authorization for use.
- 8.7 Continued use.
- 8.8 Use by public informational services.

Sec.

- 8.9 Use on calendars.
- 8.10 Mailing lists and sales promotion by employees.

AUTHORITY: The provisions of this Part 8 issued under sec. 707, 62 Stat. 733; 5 U.S.C. 301, 18 U.S.C. 707.

SOURCE: The provisions of this Part 8 appear at 20 F.R. 1065, Feb. 18, 1955, unless otherwise noted.

§ 8.1 Policy.

The Cooperative Extension Service, of which the 4-H Club work is a part, invites and appreciates the cooperation of all organizations, agencies, and individuals whose interest, products or services will contribute to the educational effort of the Cooperative Extension Service as conducted through 4-H Club work.

§ 8.2 Delegation of authority.

The Administrator, Federal Extension Service, U.S. Department of Agriculture, may authorize the use of the 4-H Club name and emblem in accordance with the regulations in this part.

§ 8.3 Definitions.

(a) The term "4-H Club name and emblem" as used in this part means the emblem consisting of a green four-leaf clover with stem and the letter "H" in white or gold on each leaflet, or any insignia in colorable imitation thereof or the words "4-H Club" or "4-H Clubs" or any combination of these or other words or characters in colorable imitation thereof.

(b) The term "Administrator" means the Administrator, Federal Extension Service, United States Department of Agriculture.

§ 8.4 Basic premises.

(a) The 4-H Club name and emblem are held in trust by the Secretary of Agriculture of the U.S. Department of Agriculture for the educational and character building purposes of the 4-H Club program and can be used only as authorized by the statute and in accordance with the authorization of the Secretary or his designated representative.

(b) The 4-H Club name and emblem may be used by authorized representatives of the U. S. Department of Agriculture, the land-grant colleges, and the Cooperative Extension Service, in accordance with the regulations in this

part, for serving the educational needs and interests of boys and girls enrolled in 4-H Clubs.

(c) Any use of the 4-H Club name and emblem is forbidden if it exploits the 4-H Club program, its volunteer leaders or members, or the U. S. Department of Agriculture, land-grant colleges, Cooperative Extension Service, or their employees.

§ 8.5 Revocation of present authorizations.

Effective July 1, 1955, except as provided in § 8.9, all authorization permits, except as provided in § 8.6, for the use of the 4-H Club name and emblem presently in effect will be revoked.

§ 8.6 Authorization for use.

(a) The Administrator may grant authorization for the use of the 4-H Club name and emblem:

(1) For educational or informational uses which the Cooperative Extension Service deems to be in the best interests of 4-H Club work and which can be properly controlled by the Cooperative Extension Service.

(2) For a service to youth which the Cooperative Extension Service determines it is not in a position itself to perform.

(b) Authorizations, when issued, will be valid for specified purposes and periods of time only. Application forms for requesting authorization to use the 4-H Club name and emblem may be obtained from the Administrator, Federal Extension Service, United States Department of Agriculture, Washington 25, D.C.

(c) Granting an authorization to an individual, organization or institution for a specific use does not preclude granting a similar authorization to another individual, organization or institution for the same or a similar purpose.

(d) All uses of the 4-H Club name or emblem shall be consistent with the educational purposes, character building objectives and dignity of the 4-H Club program and the emblem shall be given a position of prominence. It is not proper to superimpose any letter, design, or object on the 4-H Club emblem, or to materially alter its intended shape.

(e) Specific authorization is not required to use the 4-H Club name or

emblem for news media such as newspapers, periodicals, and radio and television programs when such use is primarily for an educational or informational purpose. Likewise specific authorization is not required to use the name or emblem in those exhibits, displays, etc., which are designed primarily to pay tribute to or salute the 4-H Club program and are in keeping with the policy enunciated herein.

(f) Authorization must be obtained for the use of the 4-H Club name and emblem by other than representatives of the Cooperative Extension Service in connection with contests and awards; supplies to be sold; books, booklets, charts, posters and similar printed materials; all calendars regardless of origin or use; theatrical and non-theatrical motion pictures; slide films and other visual materials; supplies (whether to be sold or provided without charge); titles of persons and advertisements.

(g) Any authorization or permission for the use of the 4-H Club name and emblem may be revoked at any time after notice.

§ 8.7 Continued use.

(a) The land-grant colleges, the State and county Extension Services, and the local 4-H Clubs recognized by the Secretary of Agriculture and the Cooperative Extension Service, are authorized to use the 4-H Club name and emblem for their own educational or informational purposes in accordance with this part, on materials which are originated, requested, purchased, or distributed by them. The land-grant colleges, county Extension Services and local 4-H Clubs may only authorize, create and purchase 4-H materials for their own use. They are not permitted to authorize manufacturers, wholesalers, retailers, purchasers, or others to manufacture, or sell or distribute materials bearing the 4-H Club name and emblem for other uses or for resale:

(1) Distribution of materials requested by a local 4-H Club or county Extension Service is limited to the boundaries of the county within which the request originated.

(2) Distribution of materials requested by a State Extension Service is limited to the boundaries of the State within which the request originated.

(3) Any request for distribution of 4-H materials on an interstate basis shall

be brought to the attention of the Administrator.

(b) The National Committee on Boys and Girls Club Work, Inc., and the National 4-H Club Foundation of America, Inc., are granted authority to use the 4-H Club name and emblem in accordance with this part:

(1) The National Committee on Boys and Girls Club Work, Inc., shall be, to the maximum degree possible, the source of supplies for the 4-H Club work except where they are not in the best position to provide a particular item.

§ 8.8 Use by public informational services.

(a) In any advertisement, display, exhibit, film, news release, publication, radio and television program devoted in whole or in part to the 4-H Clubs, the 4-H message or salute must be distinctly set apart from any commercial message or reference.

(b) Advertisements, public releases or displays in any form must not include actual or implied testimonials or endorsements of business firms, their products or services, either by 4-H Clubs, 4-H members, volunteer 4-H leaders, the Cooperative Extension Service or its employees. Statements that a product is used or preferred to the exclusion of similar products are not permitted.

(c) The granting of an authorization for the production of films, visual materials, books, publications, etc., using the 4-H Club name and emblem is contingent upon approval of the script of the film or draft of the publication when the draft is in its final working form. Preliminary plans and drafts may be submitted as work progresses in order to expedite final action.

§ 8.9 Use on calendars.

(a) The revocation of present authorizations provided in § 8.4 does not apply to authorizations for calendars now in production for hang-up before or in the year 1957.

(b) No State or county Extension Service or local 4-H Club is authorized to produce a 4-H Club calendar or authorize others to produce or sell a 4-H Club calendar.

(c) Calendars will be approved only on the basis of very high standards of quality and acceptable distribution plans:

(1) All organizations wishing to manufacture and merchandise calendars

bearing the 4-H Club name and emblem shall submit to the Administrator the following specific materials and any supplementary information or materials which will help to provide complete information regarding the calendar, its promotion and sales plan:

(i) Application for authorization to use the 4-H Club name and emblem.

(ii) Samples (actual or dummy) of the various types of calendars on which the manufacturer wishes to use the 4-H Club name and emblem, including complete specifications as to size, art work, copy, color, paper stock, etc.

(iii) A statement on promotion, sales and distribution plans for the calendar bearing the 4-H Club name and emblem, including prices in various quantities, number of salesmen employed, or to be employed, extent of sales, territory to be covered, means of distribution to users, etc.

(iv) Copies of any and all sales or promotion literature which makes reference to 4-H Club work or calendars bearing the 4-H Club name and emblem.

(d) Notification of the grant of an authorization for the use of the 4-H Club name and emblem for a specific year will be received by the calendar manufacturer from the Administrator.

(e) During each year that the authorization is in effect, art work, copy and related plans for each complete calendar and any pertinent changes from the original approved sales and distribution plan, must be submitted for approval to the Administrator, Federal Extension Service, U. S. Department of Agriculture, Washington 25, D. C.

(f) The main illustration shall be used only on the calendar series for which authorization is granted and shall not be used on other calendars. The main illustration and other illustrations used shall be in keeping with the ideals, spirit and objectives of the 4-H Club Program. Natural color oil paintings or photo reproductions of real life situations depicting the educational work of 4-H Clubs shall be used.

(g) All calendar copy must contain a line near the advertiser's name indicating that the distribution of the calendar is designed to further the educational program of 4-H Club work.

(h) Copy, art work, subject matter, and information appearing in or on the calendar shall not in any way imply endorsement of the firm or individual sponsoring the calendar, nor of its prod-

ucts, services, or calendar copy by the United States Department of Agriculture, land-grant colleges, or Extension Service, including the 4-H Clubs, or its representatives.

(i) Space devoted to advertising shall not exceed 10 percent of the total calendar space. The name of only one sponsor or advertiser shall appear on a calendar.

(j) It is preferred that calendars be sold or distributed by purveyors of common necessities such as credit (banks), farm machinery, seeds, fertilizers, groceries, lumber, etc., or through farm organizations, insurance companies, etc.

(k) Calendars bearing the 4-H Club name and emblem shall not be sold to or distributed through any business whose sponsorship or use thereof might reflect unfavorably on the Extension Service or on 4-H Club work. Sales are strictly prohibited to any firm or individual engaging primarily in the manufacture, sale or distribution of liquor and to any establishment engaged primarily in the manufacture, distribution and sale of tobacco products.

(l) Appropriate staff members of the Extension Service shall have the privilege of passing at any time upon the general classification and character of firms to whom calendars are sold. Calendar manufacturers shall refrain from selling and distributing calendars in any State where approval for sales and distribution is not first given by the State Extension Director.

(m) Sales representatives shall contact the State Extension Director or his representative before conducting sales in that State, and shall contact the county Extension office before selling or distributing within a county. State or county staff members will advise with authorized company representatives relative to acceptable sales and distribution policies and plans in the State or county concerned.

(n) To the extent practicable, the State Extension Director shall receive an annual list of sponsors of calendars in his State, including the number purchased by each and the distribution by counties.

(o) Calendar manufacturers shall fully inform their promotional, educational and sales representatives regarding the organization, structure, objective and policies of the Cooperative Extension Service of which the 4-H Club program is a part, as they relate to carrying

out the provisions of these regulations. Special care must be exercised to avoid statements or implications which would embarrass the Cooperative Extension Service. No claims may be made of an exclusive franchise or agency for 4-H calendars.

§ 8.10 Mailing lists and sales promotion by employees.

The Extension Service or its employees shall not make available mailing lists of 4-H Club leaders, members, or other co-operators. Extension Service employees may not engage in or promote the sale of calendars.

PART 9—AWARD OF FELLOWSHIPS TO APPLICANTS FROM OTHER AMERICAN REPUBLICS

Sec.

- 9.1 Type of fellowship.
- 9.2 Qualifications.
- 9.3 Award of fellowships.
- 9.4 Allowances and expenses.
- 9.5 Duration of fellowships.
- 9.6 Official notification.
- 9.7 Definitions.

AUTHORITY: The provisions of this Part 9 issued under 5 U.S.C. 301. Interpret or apply secs. 1, 2, 53 Stat. 1290; 22 U.S.C. 501, 502.

SOURCE: The provisions of this Part 9 appear at 9 F.R. 5031, May 13, 1944, unless otherwise noted. Redesignated at 37 F.R. 28463, Oct. 27, 1972.

NOTE: Part 9 redesignated from Part 2 at 37 F.R. 28463, Dec. 27, 1972.

§ 9.1 Type of fellowship.

Fellowships shall be of the intern-training type, consisting of instruction by the respective bureaus of the Department of Agriculture as follows:

(a) Agricultural Research Service (Option I): (1) Agricultural economics, (2) agricultural program formulation and administration, (3) agricultural statistics, (4) rural sociology, and (5) technological research in agriculture or more specialized application in dairy industry, animal husbandry, entomology or plant industry and soils.

(b) Agricultural Extension Service (Option II): Methods and techniques for adult education in agriculture, home-making and rural life, and 4-H Club work.

(c) Soil Conservation Service (Option III): Agronomy, forestry, biology, range management, climatology, sedimenta-

tion, hydrology, agricultural and civil engineering.

§ 9.2 Qualifications.

Each applicant selected for a fellowship shall be:

(a) A bona fide citizen of any of the American republics other than the United States;

(b) In possession of a certificate of medical examination issued by a licensed physician within sixty days of the date of application, describing the applicant's physical condition, and stating that he is free from any communicable disease or disability that would interfere with the proper pursuit of studies or research or the performance of any activity incident to the fellowship;

(c) Able to speak, read, write and understand the English language;

(d) Of good moral character and possessing intellectual ability and suitable personal qualities;

(e) In possession of acceptable evidence of studies indicating the completion of the equivalent of a four-year college course in agriculture, economics, engineering or related science at a recognized institution of learning, or a minimum of two years of such education accompanied by at least four years of experience in the field of his option.

§ 9.3 Award of fellowships.

Fellowships will be awarded by the Secretary of Agriculture of the United States, upon the recommendation of the heads of the respective bureaus, and with the approval of the Secretary of State of the United States, or the duly authorized representative of the Secretary of State. No applicant will be considered in awarding fellowships unless his application shall have been transmitted by the government of the American republic of which the applicant is a citizen, through the diplomatic mission of the United States of America accredited to that republic.

§ 9.4 Allowances and expenses.

An applicant awarded a fellowship may be granted any or all of the following, upon recommendation of the head of the respective bureau:

(a) *Monthly allowances.* Monthly allowances for quarters and subsistence during the entire period spent in the United States, or its Territories or possessions, in pursuance of a fellowship, beginning on the date of arrival at his

initial headquarters and ending on the date of departure for his home, as follows: (1) Not exceeding \$180 per month while under assignment to headquarters in a Department or agency of the Federal or a local government in a city of more than 100,000 population; or not exceeding \$150 per month while under such assignment in a city of less than 100,000 population; and (2) not exceeding \$135 per month while under assignment to receive training at colleges or universities and residing in quarters usually occupied by students in attendance thereat or in similar quarters, irrespective of the population of the city wherein the institution is located.

(b) *Transportation expenses.* Transportation expenses from the home of the applicant (or place in which appointment is accepted) to the place or places in the United States, its Territories, or possessions, where the studies and research are to be pursued, and return to the home of the applicant (or point of departure), including travel via Washington, D. C., en route to the place of study or research and from the place of study or research to Washington, D. C., and return to that place, if necessary, for consultation with reference to the fellowship, and between places of study and research in the United States, its Territories or possessions, in accordance with the Standardized Government Travel Regulations and the act of June 3, 1926, as amended, in which connection claim for reimbursement may be made only for items in the following schedule and contingent upon prior authorization:

(1) Rail fare: 'First-class fare. If travel is performed on an extra-fare train, expenses in excess of the first-class fare must be borne by the traveler. No receipts are necessary. (Government transportation requests are to be used, if practicable, within the United States.)

(2) Pullman fare: 'Lower berth or parlor car seat. No receipts are necessary if Government transportation requests are used. If purchased with cash the Pullman stub must be attached to the reimbursement voucher.

(3) Steamer fare: 'Not exceeding the lowest minimum first-class fare of the ship on which travel is performed. American vessels must be used if available (section 901 of the Merchant Marine Act of 1936, 49 Stat. 2015. This requirement has been suspended with respect to appropriations for the fiscal year 1944

by section 302 of Public Law 216—78th Congress, approved December 23, 1943). No receipts are necessary.

(4) **Airplane fare:** ¹Transportation by air will be allowed regardless of the cost when authorized by the head of the respective bureau. When air travel has not been specifically authorized, the traveler may proceed by air with the understanding that he may claim reimbursement therefor only in an amount not exceeding what it would have cost had the travel been performed by public conveyance over land or water. No receipts are necessary.

(5) **Taxicab:** At the beginning and termination of the journey and at all points where a change of conveyance is necessary while in a direct travel status. No receipts are necessary.

(6) **Excess baggage charges:** For personal effects (not household furniture) which are not carried free by the transportation company. Receipts are necessary and they should indicate that the traveler has availed himself of the free allowance, if such an allowance is granted.

(7) **Drayage or transfer of baggage:** For the hauling of personal effects from home to the station or dock, et cetera. Receipts are not necessary but should be submitted if possible. Charges by porters for handling the bags or baggage will not be allowed.

(8) **Steamer rug and steamer chair:** Receipts are necessary. Charges for steamer cushions will not be allowed.

(9) **Tips and gratuitous fees:** Will not be reimbursed.

CROSS REFERENCE: For forms and procedures with respect to Government requests for transportation of passengers, see 4 CFR Part 51.

(c) *Per diem.* Per diem in lieu of subsistence while in travel status proceeding from, and to, his home at the following rates: \$6 over land and by air in and outside of the United States, and \$4 aboard vessels outside of the United States. No per diem will be allowed concurrently with monthly allowances, but per diem may be substituted therefor at the rate of \$6 per day for any period of authorized travel.

¹ In all cases, round trip tickets must be purchased if possible. In the event that the return portion of the ticket cannot be used, it should be returned to the respective bureau for collection of the refund.

§ 9.5 Duration of fellowships.

Fellowships will be awarded for periods not exceeding one year each from date of arrival in Washington, and may be extended for not exceeding the same periods in the manner prescribed under § 9.3 and subject to the availability of appropriations. Fellowships may be cancelled for cause by the Secretary of Agriculture on the recommendation of the appropriate bureau head, and with the approval of the Secretary of State, or the duly authorized representative of the Secretary of State.

§ 9.6 Official notification.

Each applicant recommended for a fellowship by the head of a bureau and approved by the Secretary of Agriculture and the Secretary of State, or the duly authorized representative of the Secretary of State, shall be notified of his award through diplomatic channels. The notification shall name the option in which the award is granted, state the duration and type of fellowship, and the allowances authorized; and shall describe in general terms the program of studies: *Provided, however,* That the head of the bureau concerned may in his discretion subsequently amend the course of studies and duration of the fellowship within the broad outlines of the prescribed option in order to develop a program better suited to the needs and capabilities of the individual fellow.

§ 9.7 Definitions.

As used in the regulations in this part, the term "bureau" includes the Agricultural Research Service, the Extension Service, and the Soil Conservation Service of the United States Department of Agriculture. The term "heads of the respective bureaus" includes the Administrator of the Agricultural Research Service, the Director of the Extension Service, and the Administrator of the Soil Conservation Service.

PART 11—SALES OF AGRICULTURAL COMMODITIES FOR FOREIGN CURRENCIES

Subpart A—Regulations Governing the Financing of Commercial Sales of Surplus Agricultural Commodities for Foreign Currencies

- Sec.
11.1 General statement.
11.2 Definition of terms.
11.3 Purchase authorizations.

- Sec.
- 11.4 Subauthorizations.
- 11.5 Eligible commodities.
- 11.6 Contracts between suppliers and importers.
- 11.7 Commodity price provisions.
- 11.8 Fees, discounts, commissions, ship's dollar disbursements, and brand names.
- 11.9 Adjustment refunds and insurance.
- 11.10 Reimbursement method of financing.
- 11.11 Letter of commitment method of financing.
- 11.12 Ocean transportation.
- 11.13 Documentation.
- 11.14 Documents in support of drafts drawn on CCC by banking institutions.
- 11.15 Responsibilities of banking institutions for transactions under letters of commitment.
- 11.16 ASCS offices.
- 11.17 Supplier's records.
- 11.18 Effective date.

Appendix A—Regulations Governing the Financing of Commercial Sales of Surplus Agricultural Commodities for Foreign Currencies

Appendix B—Regulations Governing the Financing of Commercial Sales of Surplus Agricultural Commodities for Foreign Currencies—Special Documentation Provisions

Subpart B—Agreements To Help Develop Foreign Markets for Agricultural Commodities

- 11.51 Definition of terms.
- 11.52 Legal basis.
- 11.53 Participation in projects.
- 11.54 Contributions by cooperators.
- 11.55 Third party agreements.
- 11.56 Offices abroad.
- 11.57 Reports.
- 11.58 Initiation of projects.
- 11.59 Consideration of project proposals.
- 11.60 Delegations by Administrator.
- 11.61 Further information.

Subpart A—Regulations Governing the Financing of Commercial Sales of Surplus Agricultural Commodities for Foreign Currencies

AUTHORITY: The provisions of this Subpart A issued under secs. 2, 101, 102, 106, 109, 304, 68 Stat. 454, 455, 457, 459, 69 Stat. 44, 78 Stat. 1035; 7 U.S.C. 1691, 1693, 1701, 1702, 1706, 1709, E.O. 10900, 3 CFR 1959-1963 Comp., p. 429.

SOURCE: The provisions of this Subpart A appear at 30 F.R. 15514, Dec. 16, 1965, unless otherwise noted.

§ 11.1 General statement.

(a) *What this subpart covers.* This subpart (hereinafter called the regulations) contains the regulations governing the sale and exportation of surplus

agricultural commodities or the products thereof for foreign currencies under Title I of Public Law 480, Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1701-1709). Under this statute, Agricultural Commodities Agreements are entered into by the governments of the importing countries and the United States of America covering financing of the sale and exportation of surplus agricultural commodities and products thereof including certain ocean transportation costs. The agreements provide for repayment to the United States in the currency of the importing country. The Administrator, Foreign Agricultural Service, administers this program. These regulations prescribe procedures to be followed by importing countries in making application to the Administrator, Foreign Agricultural Service, for authorizations to purchase such commodities and products thereof, the issuance of such purchase authorization by the Administrator, and the financing by Commodity Credit Corporation of the sale and exportation of such commodities or products thereof through private trade channels to the maximum extent practicable, including the financing of certain ocean transportation costs.

(b) *Purchase authorizations and approval of vessels.* After approval of the importing country's application therefor, purchase authorization(s) will be issued by the Administrator, Foreign Agricultural Service. The importing country through its authorized importers or agents will procure the commodities from U.S. sources and will arrange for shipment in U.S.-flag vessels when such vessels are required to be used. Following issuance of purchase authorizations and upon application, the Controller, Commodity Credit Corporation, will issue letters of commitment to U.S. Banking institutions designated by the importing country and acceptable to Commodity Credit Corporation (see § 11.11), unless the importing country elects to procure the commodities under the reimbursement method of financing (see § 11.10). Prior approval for the use of all vessels must be obtained from the applicable office of the U.S. Department of Agriculture (see § 11.12(b)). The advice of vessel approval will state whether or not the cost of ocean transportation will be financed by Commodity Credit Corporation and the amount, if

any, of the freight differential approved for each vessel.

(c) *Letters of commitment and reimbursement method of financing.* If the purchase authorization is issued under the letter of commitment method of financing the U.S. suppliers of agricultural commodities will receive payment under letters of credit opened or requested by the approved applicant (see definition in § 11.2(c)(2)) in the importing country, issued, confirmed or advised by the U.S. bank, for the cost of the commodities and, when authorized and included as a part of the commodity cost, the cost of ocean transportation and insurance. If the purchase authorization is issued under the reimbursement method of financing, the U.S. suppliers will obtain payment from the importing country or its assignee (see § 11.10(c)). When the cost of ocean transportation is approved for financing and is to be financed separately from the commodity cost, the supplier of ocean transportation will obtain payment from the importing country or its assignee. Commodity Credit Corporation will reimburse U.S. banks for payments made under letters of commitment and will reimburse the importing country or its assignee for the cost of ocean transportation which is financed separately from the commodity cost and for commodities procured under the reimbursement method of financing.

(d) *Advice of amount financed and deposit of foreign currency.* The U.S. bank will forward documents and advice of the amount financed by Commodity Credit Corporation to the foreign correspondent bank, and advice of payment will also be furnished to the approved applicant or its designee if it is other than the foreign correspondent bank, in the case of payments under the letter of commitment method of financing. CCC will forward advice of the amount financed to the importing country or its assignee in the case of payments under the reimbursement method of financing. The importing country will arrange for prompt deposit of the equivalent foreign currency.

(e) *Where information is obtainable.* General information about this program and information about purchase authorizations and related operations under the program may be obtained from the Director, Program Operations Division, FAS, U.S. Department of Agriculture, Washington, D.C., 20250. Information about financing operations under the

program, including forms prescribed for use thereunder, may be obtained from the Controller, CCC, U.S. Department of Agriculture, Washington, D.C., 20250. The Foreign Agricultural Service will make public the issuance of each purchase authorization through a USDA press announcement.

§ 11.2 Definition of terms.

Terms used in this subpart, subject to amplification in subsequent sections, are defined as follows:

(a) *Terms relating to the United States, its agencies and officials.* (1) "C&MS" shall mean Consumer and Marketing Service, U.S. Department of Agriculture.

(2) "CCC" shall mean the Commodity Credit Corporation, U.S. Department of Agriculture.

(3) "The Controller, CCC", shall mean the Controller, Commodity Credit Corporation, or his designee.

(4) "ASCS" shall mean the Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

(5) "ASCS Offices" shall mean the ASCS Offices listed in § 11.16, and any other offices or agencies which may succeed to the functions of such offices.

(6) "FAS" shall mean the Foreign Agricultural Service, U.S. Department of Agriculture.

(7) "USDA" shall mean the U.S. Department of Agriculture and shall include all or any of the offices mentioned in subparagraphs (1) through (6) of this paragraph.

(8) "The Administrator" shall mean the Administrator of the Foreign Agricultural Service or his designee.

(9) "United States" shall mean the 50 States, the District of Columbia, and Puerto Rico.

(b) *Terms relating to ocean transportation.* (1) "Dry bulk carriers" are irregularly scheduled vessels commonly referred to as "tramps". They go where full cargoes are offered. Rates are negotiated by charter arrangements covering the movement of a specific commodity, a specific quantity, at a specific time from a specific port or ports to specific destination port or ports. Cargoes generally include grain, coal, fertilizers, lumber, pitch, salt, sugar, etc.

(2) "Dry cargo liners" are regularly scheduled vessels on specific trade routes. Any cargo can be shipped in this service including part-cargoes (parcels) of bulk items as grain, coal, etc., generally not

exceeding 60 percent of the capacity of the vessel. Petroleum, vegetable oils, and similar bulk liquids carried in deep tanks of dry cargo liner vessels are classified as liner cargoes.

(3) "Tankers" are vessels which are designed to carry full cargoes of liquids. Because of compartmentation, tankers can carry a combination of such cargoes, including bulk grain. Rates are negotiated by charter arrangements in the same manner as with dry bulk carriers.

(4) "Form CCC 106" shall mean "Advice of Vessel Approval", Form CCC 106-1 (Supplier of Commodity), Form CCC 106-2 (Ocean Carrier), or Form CCC 106-3 (Cotton), or any or all of them, as applicable. Colors of the original form are: Form CCC 106-1 yellow; Form CCC 106-2 blue; and Form CCC 106-3 white.

(5) "Ocean bill of lading" shall mean a non-negotiable copy (or photostat) of an "On-Board" bill of lading or a bill of lading with an "On-Board" endorsement dated and signed or initialed on behalf of the carrier.

(6) "Ocean Transportation" shall mean, and is interchangeable with, the term "ocean freight".

(7) "Notice of Arrival" shall mean a written notice or copy of a cablegram acceptable to CCC reciting that the vessel has arrived at the first port of discharge.

(c) *Other terms.* (1) "Affiliate": A firm (corporation, partnership, individual, or other legal entity) is an "affiliate" of another firm, if either owns more than a 50 percent interest in or controls the other or if a third firm owns more than a 50 percent interest in, or controls, both.

(2) "Approved applicant" shall mean the bank in the importing country or any other agency designated by the importing country acceptable to USDA, named in any letter of commitment issued to a banking institution under this subpart. This term shall include any agent authorized to act on behalf of such an applicant.

(3) "Banking institution" shall mean a banking institution organized under the laws of the United States, any State, or the District of Columbia.

(4) "Form CCC 329" shall mean the signed original of Form CCC 329, Supplier's Certificate, with Invoice and Contract Abstract on the reverse.

(5) "Commodity" shall mean the surplus agricultural commodity or product thereof specified in the applicable purchase authorization.

(6) "Copy" shall mean a copy or photostat of an original document showing all data shown on the original, including signature or the name of the person signing the original, or, if the signature or name is not shown on the copy, a statement that the original was signed.

(7) "Delivery" shall mean the transfer to or for the account of an importer of custody and right of possession of the commodity in export channels as specified in the purchase authorization.

(8) "Importer" shall mean any person or organization, governmental or otherwise, in the importing country who contracts with the supplier for the importation of the commodity.

(9) "Importing country" shall mean any nation with which an agreement has been negotiated pursuant to Title I, Public Law 480.

(10) "Letters of credit" shall mean irrevocable commercial letters of credit issued, confirmed, or advised by a banking institution on behalf of an approved applicant.

(11) "Purchase Authorization" shall mean FAS Form 480-A, "Authorization to Purchase Surplus Agricultural Commodities with Foreign Currency", or FAS Form 480-A (Ocean Transportation), "Authorization to Procure Ocean Transportation", issued to an importing country pursuant to this subpart.

(12) "Supplier" shall mean any firm (corporation, partnership, individual, or other legal entity) which sells any agricultural commodity or products thereof to an importer under the terms of a purchase authorization for delivery to such importer in export channels, or which sells ocean transportation to an importer or supplier of the commodity under the terms of a purchase authorization.

(13) "Selling Agent" shall mean any firm (corporation, partnership, individual, or other legal entity) which operates as a formally appointed sales agent for the supplier of the commodity and who is not affiliated with the importer or the importing country.

(14) "Foreign Currency" shall mean, and is interchangeable with the term "Local Currency", and refers to the currency of the country which signs an Agricultural Commodities Agreement with the United States and to which a purchase authorization is issued.

(15) "Title I" shall mean Title I of the Agricultural Trade Development and Assistance Act of 1954, as amended.

[30 F.R. 15514, Dec. 16, 1965, as amended at 31 F.R. 3059, Feb. 24, 1966]

§ 11.3 Purchase authorizations.

(a) *Application.* The importing country shall submit an Application for authorization to purchase agricultural commodities with foreign currency or authorization to procure ocean transportation, or both, for each commodity to the Administrator. The application shall be submitted in triplicate on FAS Form 480-1 and shall include a statement as to the usual marketings of the commodity in accordance with the applicable Agricultural Commodities Agreement and any other information required by the Administrator.

(b) *Issuance of purchase authorizations.* Upon approval of the application by the Administrator, appropriate purchase authorizations as described below will be issued to the importing country, and financing should be in accordance with such purchase authorization.

(1) Authorization to Purchase Surplus Agricultural Commodities with Foreign Currency, FAS Form 480-A.

(2) Authorization to Procure Ocean Transportation, FAS Form 480-A (Ocean Transportation).

(c) *Provisions of purchase authorizations.* Each purchase authorization will specify:

(1) *Authorizations to purchase surplus agricultural commodities with foreign currency.* (i) The commodity to be purchased, and the approximate quantity and maximum dollar value thereof;

(ii) Contracting requirements in addition to or in lieu of those enumerated in Appendix A of this subpart, if any;

(iii) The periods during which contracts between suppliers and importers may be entered into and during which deliveries may be made;

(iv) The terms of delivery to the importer in export channels of trade;

(v) Documentation required in support of drafts presented to banking institutions by suppliers, other than the documentation specified in this subpart;

(vi) Provisions relating to local currency deposits;

(vii) The ASCS Office which will administer the financing operation on behalf of CCC;

(viii) The method of financing;

(ix) Any other provision deemed necessary by the Administrator.

(2) *Authorization to procure Ocean Transportation, FAS Form 480-A.* (i) The commodity to be shipped;

(ii) The delivery period;

(iii) The maximum dollar amount;

(iv) Provisions relating to local currency deposits;

(v) Any other provisions deemed necessary by the Administrator.

(3) *Applicability of this subpart.* In addition to the provisions of the particular purchase authorization, each purchase authorization shall be subject to the provisions of the regulations in this subpart to the same extent as if they were fully set forth in the purchase authorization.

(d) *Modification or revocation.* The Administrator reserves the right at any time for any reason or cause whatsoever to supplement, modify, or revoke any purchase authorization, including the termination of deliveries thereunder. CCC shall reimburse suppliers of commodities and ocean transportation who would otherwise be entitled to be financed, for costs incurred as a result of such action by the Administrator in connection with firm sales or shipping contracts, and not otherwise recovered after a reasonable effort to minimize such costs: *Provided, however,* That such reimbursement shall not be made to a supplier if the Administrator determines that his action was taken because the supplier failed to comply with the requirements of these regulations or the applicable purchase authorizations.

(e) *Refund to CCC.* The importing country shall pay in U.S. dollars promptly to CCC upon demand by the Administrator the entire amount financed by CCC (or such lesser amount as the Administrator may demand) whenever the Administrator determines that the importing country has failed to comply with any agreement or commitment made by it in connection with the transaction financed.

(f) *Extension of delivery periods in purchase authorizations.* Requests for extensions of delivery periods will be considered by the Administrator only if submitted by the importing country. Such requests should be submitted as far as possible in advance of the expiration of the delivery period and in any event as soon as the importing country has knowledge that there is a possibility that delivery will not be completed within the

period specified in the purchase authorization. Requests for extension must establish to the satisfaction of the Administrator that failure to complete delivery was due to a cause other than the fault or negligence of the importer or the supplier. The Administrator may also approve requests for extension if he determines that such extensions would be in the interest of the United States.

§ 11.4 Subauthorizations.

The importing country may issue subauthorizations to importers within the terms of each purchase authorization. The importing country, in subauthorizing, shall instruct importers to use the purchase authorization number in placing orders, and shall specify to importers all the provisions of the purchase authorization which are applicable to the subauthorization. Each importer to whom a subauthorization has been issued by his Government must inform his supplier that the transaction is to be financed under Title I and must give to his supplier the purchase authorization number that has been given to him. Copies of purchase authorizations may be obtained from the Administrator. The importer must also inform his supplier of any special provisions which affect the supplier in carrying out the transactions.

§ 11.5 Eligible commodities.

(a) *Surplus agricultural commodities.* To be eligible for financing, the commodities must be agricultural commodities grown in the United States and, if processed, grown and processed in the United States, which are at the time of exportation in excess of domestic requirements, adequate carryover, and anticipated exports for dollars, as determined by the Secretary of Agriculture.

(b) *Commodity description and specification.* Only the commodity described and specified in the purchase authorization shall be eligible for financing.

(c) *Payment-in-kind and cash payment-export programs.* Any commodity exported under this subpart to which a payment-in-kind or cash export subsidy is applicable under any export subsidy program will be eligible for such subsidy payment if the terms and conditions of such export subsidy program are met.

§ 11.6 Contracts between suppliers and importers.

(a) *Eligibility for financing.* In order to be eligible for financing under Title

I, contracts shall comply with the following requirements unless otherwise specified in the purchase authorization:

(1) Contracts between importers and commodity suppliers must be entered into within the contracting period specified in the purchase authorization and shall provide for deliveries to the importer in accordance with the delivery terms and during the delivery period specified in the purchase authorization, unless an extension of such contracting or delivery period is granted in writing by the Administrator;

(2) Any contracts for a commodity, under a purchase authorization which limits contracting to f.o.b. or f.a.s terms, must be separate and apart from the contract for ocean transportation on such commodity;

(3) The contracted price must not be on a cost plus-a-percentage-of cost basis;

(4) The supplier must be engaged in the business of selling for export, or furnishing ocean transportation, from the United States, must maintain a bona fide business office in the United States, and must have a person, principal or agent, upon whom service of judicial process may be had in the United States. A firm of which more than 50 percent is owned or which is controlled by a foreign government is not eligible to act as supplier.

(5) The Administrator reserves the right at any time to require of any supplier relevant information as to the supplier and his selling agents. The details of all sales contracts between the suppliers and importers are required to be stated in the notification of sale pursuant to Appendix A or in the purchase authorization and will be subject to prior approval by USDA.

(b) *Invitation to bid.* (1) Importers may make purchases through negotiation with a supplier or suppliers of the importer's choice or on the basis of invitations to submit competitive offers. If competitive offers are invited, such invitations shall not limit the right to submit offers to any specified group or class of suppliers but shall permit submission of offers by any supplier who meets the requirements of paragraph (a) (4) of this section.

(2) An importer's request for offers pursuant to which an export sales contract is entered into must not preclude such offers being made for shipment

from any U.S. port(s). This requirement does not preclude the importer from accepting offers on the basis of shipment from port(s) which result in the lowest total landed cost of the commodity. The purchase authorization, however, may provide otherwise as to ports of shipment.

(c) *Minimum offers.* Requests by importers for offers shall not establish minimum quantities that will be eligible for consideration. All offers regardless of size must be considered and evaluated.

(d) *Record of offers submitted by suppliers.* The importing country shall maintain a record of all offers received from U.S. suppliers either as a result of public tenders or negotiation. The Administrator reserves the right to examine these records or to request specific information in connection with the offers until the expiration of 3 years after final payment under contracts awarded pursuant to the purchase authorization.

(e) *Shipment prior to letter of credit.* If the supplier of the commodity permits shipment or the ocean carrier accepts the commodity before receipt of an acceptable letter of credit from a U.S. bank they take such action at their own risk. This action in itself does not affect eligibility for CCC financing provided acceptable documentation is presented within the time limitations prescribed in this subpart.

(f) *Webb-Pomerene Law (Export Trade Act).* A supplier who is a member of a Webb-Pomerene Association and who enters into contracts with importers as a member of such an association shall so indicate in Block 11 of Form CCC 329.

(g) *Contract information.* The supplier shall state in Block 21 of Form CCC 329 the contract delivery periods or dates and quantities covered by the entire contract.

(h) *Affiliate clause.* The supplier shall state in Block 21 of Form CCC 329 either: "I am an affiliate of the importer", or "I am not an affiliate of the importer".

(i) *Contract disputes.* Contracts between suppliers and importers should stipulate the responsibility of each party for payment of any costs not eligible for financing by CCC and should provide a method for amicable settlement of any dispute arising therefrom. Questions as to financing of such ineligible costs are to be resolved between the parties to the contract.

(j) *Special contracting provisions.* In addition to the general provisions for contracting set forth in paragraphs (a) through (i) of this section, additional special contracting provisions applicable to individual commodities are prescribed in Appendix A attached to this subpart. Each purchase authorization, unless it is otherwise provided therein, shall be subject to the special provisions of Appendix A, for the specific commodity named in the purchase authorization, as if such special provisions were fully set forth in the purchase authorizations.

(k) All contracts entered into for financing hereunder shall be deemed to include all terms and conditions required to be included in order to be eligible for financing hereunder.

§ 11.7 Commodity price provisions.

(a) *Maximum price.* The supplier's sales price must not exceed the prevailing range of export market prices as applied to the terms of sale at the time of sale, as determined by USDA, and, in addition, where the purchase authorization provides for a maximum price, expressed either in dollars or cents or to be computed on a stated basis, the supplier's sales price shall not exceed such maximum price. The "time of sale," unless otherwise defined for specific commodities in Appendix A, shall mean the day as of which the sale price is established in or pursuant to the contract between the importer and the supplier or the day of any amendment thereto if such amendment in any manner affects the sales price, as determined by USDA. In the event USDA is unable to ascertain the prevailing range of export market prices for a specific commodity, USDA will determine a maximum export market price, representing the top of the range of export market prices, for the commodity at the time of sale for the time and place of delivery provided for in the contract. In so determining a maximum export market price, USDA will utilize, as needed, available domestic or export market information for the same or other quality descriptions, packagings, locations, and dates; will apply appropriate market differentials where applicable and such other factors as would be reflected in the export market price at the time of sale for the time and place of delivery; and will take into account CCC export sales prices where appropriate.

(b) *Prior approval of contract price.* Prior approval by the Administrator, FAS, or his designee, of the contracted price of the commodity is required as a condition of eligibility for financing unless otherwise provided in the purchase authorization. The detailed instructions for requesting and obtaining such prior approval are set forth in Appendix A, or will be stated in the purchase authorization.

(c) *Maximum price for affiliates.* In the event the importer procured the commodity through his affiliate, the copy of the invoice required by § 11.13(c) (3) shall include an itemization of the amounts specified in this paragraph (c) or the supplier must furnish such information in a separate signed statement attached to the invoice to the ASCS Office named in the purchase authorization.

In addition to the maximum price provisions in section 11.7(a) above, the sales price for the commodities sold to an affiliate of the supplier shall not be in excess of the aggregate amount of the following:

- (1) The initial cost to the supplier in his acquisition from U.S. sources;
- (2) The actual cost, if available, otherwise the average cost, incurred by the supplier for any handling, processing, and transportation to point of delivery; and
- (3) Any markup regularly and customarily charged.

(d) *Reduction for unauthorized selling agent's commissions.* If it is established that (1) an agent employed or engaged by the supplier is not a selling agent as defined in § 11.2(c) (13) of this subpart or (2) a sales commission is in excess of the rate or percentage customarily and usually charged for the services performed and the commodity involved, the supplier's sales price, if otherwise eligible for financing, will be reduced for financing purposes in the case of subparagraph (1) of this paragraph by the amount of the commission to the ineligible agent and in the case of subparagraph (2) of this paragraph by the amount of excess commission. Such reductions in the supplier's sales price for the purpose of determining the amount which will be financed will be made even though the sales price meets the requirement of § 11.7.

(e) *Refund of excess price.* If the sale has been financed and it is determined that the sales price exceeds the maximum price permissible under para-

graph (a) or (c) of this section, the supplier shall refund the amount of such excess to CCC promptly after determination and notification of the amount thereof by CCC. If not promptly refunded, such amount may be set-off by CCC against monies owed by it to the supplier. CCC will make appropriate refund of equivalent local currency to the importing country. The making of any such refund to CCC, or any set-off by CCC, shall not, however, prejudice the right of the supplier to challenge the correctness of such determination in a court action brought against CCC for recovery of the amount refunded or set-off.

[30 F.R. 15514, Dec. 16, 1965, as amended at 31 F.R. 3059, Feb. 24, 1966]

§ 11.8 Fees, discounts, commissions, ship's dollar disbursements, and brand names.

(a) *Consular fees.* Consular fees imposed for the issuance or legalization of consular invoices or certificates in connection with the importation of commodities into a foreign country will not be financed by CCC.

(b) *Discounts.* If a contract provides for one or more discounts (including but not limited to trade or quantity discounts and discounts for prompt payment) whether expressed as such or as "commission" to the importer, only the invoice amount after discount (supplier's contracted price less all discounts) will be eligible for financing.

(c) *Commissions.* (1) A commission to a selling agent employed or engaged by the supplier to obtain a contract, except as stated in subparagraph (3) of this paragraph, will be financed to the extent that such commission is not in excess of the rate or percentage customarily and usually charged for the services performed and the commodity involved, as determined by USDA.

(2) If the supplier of the commodity or ocean transportation has employed any person or firm, other than a selling agent, to obtain a contract under any agreement the amount paid to such person or firm will not be eligible for financing.

(3) No commission paid or to be paid to any agency, including a corporation, owned or controlled by the government of the importing country or to any affiliate of the supplier will be eligible for financing, whether included in the

price of the commodity or separately stated.

(4) No commission paid or to be paid to any agent, broker, or other representatives of the importing country will be eligible for financing, whether included in the price of the commodity or separately stated. This is not applicable to ocean transportation brokerage commissions which do not exceed 2½ percent of the freight financed.

(5) In the case of ocean transportation, CCC will not finance: Address commissions; brokerage commissions in excess of 2½ percent of the freight financed; or ship's dollar disbursements.

(d) *Brand names.* Brand names are not required to be shown on packaged commodities. If, however, a brand name is used, it must be a bona fide U.S. brand. The container or label attached thereto must show the name and U.S. business address of the supplier or the manufacturer. Any reference on the container or label attached thereto to foreign addresses of suppliers or foreign brand names is prohibited and the sale will be ineligible for financing. If the markings on the shipping container include a brand name, such brand name shall be identical with the brand name on the unit container.

§ 11.9 Adjustment refunds and insurance.

(a) *Adjustment refunds*—(1) *Letter of commitment method of financing.* All claims by importers for adjustment refunds arising out of the terms of the contract or out of the normal customs of the trade, including arbitration and appeal awards, amicable allowances, and claims for overpayment of ocean transportation, if such refunds relate to amounts financed by CCC, shall be settled by payment in U.S. dollars and such payment shall be remitted by the supplier for the account of the importer to the banking institution to which the supplier presented the documents covering the original transaction. The remittance to the banking institution shall be identified with the date and amount of the original payment, the commercial letter of credit number, and the applicable purchase authorization number. Upon demand by CCC the importing country shall pay to CCC an amount in U.S. dollars equal to the dollar value of the adjustment refunds.

(2) *Reimbursement method of financing.* Special provisions relating to ad-

justment refunds will be contained in commodity purchase authorizations under the reimbursement method and in ocean transportation purchase authorizations.

(b) *Insurance for the account of the importer in c.i.f. sales.* Where the cost of insurance is included in the net c.i.f. invoice price of the commodity financed pursuant to specific authorization for c.i.f. sales in the applicable purchase authorization and the supplier furnishes insurance in favor of or for the account of the importer, the policies or certificates of insurance shall provide that all claims shall be paid in U.S. dollars and that the underwriter shall notify the Controller, CCC, at the time a claim thereunder is paid, indicating the purchase authorization number; the name and address of the supplier, importer, and payee of the claim; the amount paid; the nature of the claim; the quantity of the commodity involved in the claim; the date of shipment; the bill of lading number; and the name of the vessel. Upon demand by CCC, the importing country shall pay to CCC U.S. dollars in the amount paid by the insurance underwriters.

(c) *Ineligible transactions.* Suppliers shall refund dollars to CCC, upon demand by CCC, for transactions or portions thereof which are not eligible for financing, as determined by CCC.

(d) *Violation of Agricultural Commodities Agreement.* Whenever the Administrator determines that the importing country has failed to comply with any agreement or commitment made by it in connection with the Agricultural Commodities Agreement between the United States and the importing country pursuant to which the importation took place, the importing country shall pay in U.S. dollars to CCC promptly upon demand by the Administrator the entire amount financed by CCC or such lesser amount as the Administrator shall demand.

(e) *Refund of foreign currency.* Immediately after receipt by CCC of U.S. dollar payments from or for the account of importing countries under paragraphs (a), (b), (c), or (d) of this section, CCC will provide for payment to the importing country of the foreign currency equivalent of dollars received, provided such foreign currency is deposited for the transaction represented, as follows:

(1) For payments under paragraph (a), (b), or (c) of this section, the for-

foreign currency equivalent will be at the exchange rate agreed upon by the Government of the United States and the government of the importing country in effect on the last day of the calendar month during which dollar payment was remitted by the supplier or the insurer to or for the account of the importer, except that if there has been a change in the exchange system or structure of the importing country, such payment shall be made at the agreed exchange rate which was in effect on the date of dollar disbursement for the transaction financed, and except further that foreign currency shall not be paid under such paragraphs (a), (b), or (c) of this section where the dollars are to be reauthorized for replacement of the commodity.

(2) For payment under paragraph (d) of this section, the foreign currency equivalent will be at the agreed exchange rate in effect on the date of the dollar disbursement for the transaction financed; provided, that foreign currency will not be refunded to the extent that deposits of such currency have been made available to the importing country on a grant basis.

§ 11.10 Reimbursement method of financing.

(a) *Contracted price of commodity.* Whenever a purchase authorization for the commodity (including ocean transportation and insurance when included in the commodity price) provides for the reimbursement method of financing, CCC will reimburse the importing country or its assignee for dollar payments to suppliers upon submission of the documents required by § 11.13(c). Letters of commitment will not be issued under reimbursement type purchase authorizations.

(b) *Ocean transportation.* Purchase authorizations which authorize financing the cost of ocean freight separately from the commodity cost shall be financed by the reimbursement method. CCC will reimburse the importing country or its assignee for dollar payments to suppliers of ocean freight upon submission of the documents required by § 11.13(e). Letters of commitment will not be issued for ocean transportation purchase authorizations.

(c) *Assignment.* (1) The right to receive reimbursement under a reimbursement type purchase authorization may be assigned by the importing country to any bank, trust company or other financ-

ing institution in the United States by sending a completed Instrument of Assignment, Form CCC 335, in an original and one copy, to the assignee.

(2) If the assignee accepts the assignment, the original and two copies of the Notice of Assignment, Form CCC 334, should be prepared by the assignee and together with one copy of the signed Instrument of Assignment, Form CCC 335, filed with the Controller, CCC. The copy of the signed Instrument of Assignment submitted with the Notice of Assignment must contain all of the signatures, seals, acknowledgments, etc., which appear on the original. The Controller, CCC, will acknowledge receipt of the assignment.

(d) *Limitation on assignment.* The assignment may be made only to a bank, trust company, or other financing institution in the United States. The assignment shall cover all amounts payable under the purchase authorization and not already paid, shall not be made to more than one party, and shall not be subject to further assignment, except that any such assignment may be made to one party as agent or trustee for two or more parties participating in the financing. Unless otherwise provided by the purchase authorization, the right of any such assignee to obtain reimbursement shall not be contingent upon the deposit of currency by the importing country.

(e) *Protection of assignee.* A supplement, modification, or revocation of a reimbursement type purchase authorization shall become effective as to the assignee upon receipt by the assignee from the Controller, CCC, of written notice of such supplement, modification or revocation except that such supplement, modification, or revocation shall in no event affect or impair the right to obtain reimbursement to the extent of any payments made in reliance upon the assignment by such assignee prior to receipt of such notice, or any irrevocable obligations incurred prior to receipt of such notice under a letter of credit issued or confirmed by such assignee in reliance upon such assignment, for which the assignee has not been repaid by the importing country (there shall be no obligation on the assignee's part to obtain such repayment). The term "purchase authorization", as used in any assignment of the right to receive reimbursement under a reimbursement type purchase authorization, shall be deemed to include

each such supplement or modification from and after receipt by the assignee from the Controller, CCC, of written notice of the same, subject always, however, to the foregoing provisions preserving rights of reimbursement on behalf of the assignee.

(f) *Requests for reimbursement.* (1) All requests for reimbursement, supported by the required documentation, shall be submitted to the ASCS office named in the reimbursement type purchase authorization or to the bank holding an assignment acknowledged by CCC, not later than 210 days after expiration of the delivery period specified in such purchase authorization or any extension of such 210-day period granted by the Administrator. When the request for reimbursement is submitted by a banking institution to CCC, a statement by the bank that the documents had been received within the 210-day period and that payment to the supplier was authorized within such 210-day period, shall satisfy the requirements of this paragraph even though submission to CCC is made subsequent to the 210-day period.

(g) *Set-off of overpayments.* Amounts improperly paid to any assignee by CCC may be set-off against amounts due the assignee under the same reimbursement type purchase authorization. Such overpayments may also be set-off against amounts due the same assignee under other reimbursement type purchase authorizations issued to the same importing country provided such assignee is notified of the amount to be set-off at the time receipt of the assignment is acknowledged by CCC.

(h) *Deposit of foreign currency.* The importing country shall provide, as hereinafter stated, for the deposit of foreign currency equivalent to dollars disbursed by CCC, except that foreign currency shall not be deposited for the amount of ocean freight differential. Deposits shall be at the rate of exchange for U.S. dollars provided in the applicable Agricultural Commodities Agreement. Documentation for each such deposit shall be furnished to the U.S. Disbursing Officer, located at the American Embassy in the importing country, and shall show the number of the purchase authorization, the date and amount of the related dollar disbursement, the exchange rate applicable to the deposit, and the amount of foreign currency deposited. Deposits shall be made immediately after receipt

by the importing country or its designee of documentation showing the date and net amount of dollar reimbursement (after deduction of ocean freight differential, if any) by CCC to the importing country, or to its assignee if the right to receive reimbursement under the purchase authorization has been assigned.

(i) *Special provisions.* Requirement for handling adjustment refunds, special documentation, and other provisions not otherwise specified in these regulations for reimbursement type purchase authorizations will be set forth in the purchase authorizations as needed.

[30 F.R. 15514, Dec. 16, 1965, as amended at 31 F.R. 3059, Feb. 24, 1966]

§ 11.11 Letter of commitment method of financing.

(a) *General.* (1) Letters of commitment issued by the Controller, CCC, to banking institutions designated by the importing country and acceptable to CCC will assure reimbursement to the banking institution, in accordance with the terms of such letters of commitment, for payments made or drafts accepted, not in excess of the amount specified in the letter of commitment, made under letters of credit for the account of the approved applicant.

(2) Each letter of commitment will name the Federal Reserve Bank(s) to which drafts shall be presented by the banking institution in order to obtain reimbursement of amounts paid under the letters of credit and will name the ASCS Office which will administer the financing operations under the letter of commitment on behalf of CCC.

(b) *Application.*—(1) *Original applications.* The importing country shall apply for a letter of commitment by submitting the signed original of the Application for Letter of Commitment or Amendment, Form CCC 327, to the Controller, CCC. This form will identify the U.S. bank designated to receive the letter of commitment and the approved applicant, and show the maximum amount to be financed under the letter of commitment.

(2) *Amendments.* The importing country shall submit the signed original of Form CCC 327 to the Controller, CCC, to request changes in letters of commitment, except for reductions in amounts which may be made by banking institutions in accordance with paragraph (f) of this section.

(c) *Issuance.* Upon approval of the importing country's original application for a letter of commitment, the Controller, CCC, will issue the original and one copy of Form CCC 328, Letter of Commitment, to the designated banking institution. Upon approval of the importing country's application for an amendment of a letter of commitment, the Controller, CCC, will issue the original and one copy of Form CCC 328-1, Amendment to Letter of Commitment, to the designated banking institution.

(d) *Acceptance by banking institution.* All letters of commitment and all amendments thereto issued in accordance with paragraph (c) of this section, except amendments which increase the amounts of letters of commitment, shall be accepted or rejected by the banking institution. The banking institution shall promptly return to CCC the copy of Form CCC 328 or Form CCC 328-1, indicating acceptance or rejection.

(e) *Advice to importing country.* The Controller, CCC, will send to the appropriate office of the importing country, a copy of each letter of commitment or amendment accepted by the banking institution, as well as amendments increasing the amounts of letters of commitment.

(f) *Reduction by banking institution.* The amount of a letter of commitment may be reduced by a banking institution, when so requested by the importing country, by issuing a Notice of Reduction of Letter of Commitment, Form CCC 328-2. The request of the importing country to the banking institution may be made by letter or telegram or other method acceptable to the banking institution. Instructions to the banking institution for the preparation and distribution of this form are contained in the form.

(g) *Successors.* The letter of commitment shall inure to the benefit of the banking institution's legal successors and assigns.

(h) *Issuance of letters of credit.* In issuing, confirming, or advising letters of credit pursuant to a letter of commitment, the banking institution shall observe the following:

(1) *General.* The application or request for, and any agreement relating to, any letter of credit issued, confirmed, or advised in connection with a letter of commitment to a banking institution, may contain such provisions as the ap-

proved applicant and the banking institution may agree upon, and the approved applicant and the banking institution may agree to any extension of the life of, or any other modification of, or variation from, the provisions of any such letter of credit: *Provided*, That such provisions and any such extension, modification, or variance shall be in no respect inconsistent with or contrary to the provisions of the letter of commitment; in the case of any such inconsistency or conflict, the provisions of the letter of commitment shall prevail with respect to CCC financing: *And provided further*, That where letters of credit provide for acceptance of time drafts such letters of credit (or applications therefor) shall specify that the discount and acceptance fees shall be for the account of the importer. Every application for a letter of credit shall provide for submission to the banking institution of the documentation required by this subpart and by the purchase authorization.

(2) *Identification.* Each letter of credit, modification, or extension shall bear the number of the applicable purchase authorization and, if possible, of the letter of commitment.

(3) *Commodity description.* The commodity description in letters of credit shall not be inconsistent with the description in the purchase authorization. In making payments or accepting time drafts under letters of credit, the banking institution shall, on the basis of the information contained in the required documents, act in accordance with good commercial practice. (As to Form CCC 329 (Reverse), see §§ 11.15(a)(3) and 11.15(c)(2).)

(4) *Time drafts.* Immediately after acceptance of time drafts, the banking institutions shall forward the documents required by § 11.13, to the ASCS Office named in the letter of commitment. Drafts drawn by the banking institution on CCC shall be presented to the Federal Reserve Bank and shall be supported by the documents required by § 11.13 or shall be supported by Form CCC 339, "Advice of Receipt of Documents," if such documents were submitted to CCC prior to presentation of the draft.

(5) *Delays in opening letters of credit.* Interest or carrying charges incurred as a result of delays in opening letter(s) of credit are not eligible for CCC financing.

(6) *Delay in presenting documents.* No transaction under a letter of credit

which provides for deferred presentation of documentation required by CCC shall be eligible for financing.

(l) *Availability of information to CCC.* The banking institution shall make available to CCC, upon request, a copy of each letter of credit issued, confirmed, or advised by it, and of any extension or modification thereof; a copy of each application and agreement relating to such letter of credit; a copy of each document in its possession received by it under the letter of credit; and detailed advice of the interest, commissions, expenses, or other items charged by it in connection with each such letter of credit.

(j) *Acceptability of documents.* Acceptance by the banking institution of any document in the ordinary course of business in good faith as being genuine and valid and sufficient in the premises, and the delivery thereof to the Federal Reserve Bank or the ASCS Office as required, shall constitute full compliance by the banking institution with any provisions of this subpart, the purchase authorization, or the letter of commitment requiring delivery of a document of the sort that the document actually delivered purports to be. The banking institution shall be entitled to receive and retain reimbursement of the amount of all payments made or acceptances by it against documents so accepted, notwithstanding that such payments or acceptances may be made in connection with a sale at a price in excess of the maximum specified in § 11.7 except to the extent provided in § 11.15(b) (7).

(k) *Truth or accuracy of supplier's statements.* The banking institution shall have no responsibility for the truth or accuracy of the statements contained in the supplier's certificate or invoice-and-contract abstract. The rights of the banking institution under the letter of commitment will not be affected by the fact that such abstracts may be incomplete, or may indicate noncompliance with any provision of this subpart, or of the purchase authorization or of the letter of commitment, or may be inconsistent with other required documents.

(l) *Notice of supplement, modification, or revocation.* A supplement, modification, or revocation of any purchase authorization or letter of commitment shall become effective as to a banking institution upon the receipt by it from the Controller, CCC, of a written

notice of such supplement, modification, or revocation, except that such supplement, modification, or revocation shall in no event affect or impair the right of the banking institution to obtain reimbursement to the extent of any payments made or drafts accepted or irrevocable obligations incurred in reliance upon the letter of commitment prior to receipt of such notice, under a letter of credit issued or confirmed by the banking institution, and for which the banking institution has not been repaid by the approved applicant. The banking institution, however, is under no obligation to obtain such repayment. The term "purchase authorization" as used in a letter of commitment shall be deemed to include each such supplement or modification from and after receipt by the banking institution from the Controller, CCC, of written notice thereof, subject always, however, to the foregoing terms and provisions preserving the banking institution's right of reimbursement.

(m) *Compliance with changes in purchase authorizations.* In the event the Administrator shall revoke a purchase authorization or supplement, or modify the requirements therein with regard to the disposition of any document(s), and the Controller, CCC, shall give the banking institution written notice thereof, the banking institution shall in all respects comply with the instruction of the Controller, CCC, to the extent it may do so without impairing or affecting any irrevocable obligation or liability theretofore incurred by it under any letter of credit issued or confirmed by it. The banking institution shall be reimbursed by CCC for the costs, expenses, and liabilities paid or incurred by it as a result of compliance with such instruction. Such reimbursement shall be made by CCC upon application therefor filed with the ASCS Office named in the letter of commitment and supported by an itemized statement of the costs, expenses, and liabilities certified to by an officer of the banking institution. The banking institution shall have no obligation whatsoever to the approved applicant for anything done or omitted to be done by it pursuant to such instruction of the Controller, CCC.

(n) *Payments in anticipation of letter of commitment.* Payments made or time drafts accepted by a banking institution in anticipation of a letter of com-

mitment, and falling within the scope of payments authorized by such letter of commitment when issued, will be deemed to be payments to be reimbursed thereunder.

(o) *Deposit of foreign currency.* The importing country shall provide, as hereinafter stated, for the deposit of its local currency in an amount equivalent to the dollars disbursed by the banking institutions or by CCC except that local currency shall not be deposited for the amount of ocean freight differential stated on Form CCC 106 for the tonnage involved in the shipment. Deposits shall be at the rate of exchange for U.S. dollars provided in the applicable Agricultural Commodities Agreement. Documentation for each such deposit shall be furnished to the U.S. Disbursing Officer, and shall show the number of the purchase authorization, the date and amount of the related dollar disbursement, the exchange rate applicable to the deposit, and the amount of local currency deposited. The times and circumstances under which deposits shall be effected are as follows:

(1) Where time drafts are accepted under letters of credit, deposits shall be made on the date of maturity of each such draft or on an earlier date on which CCC disburses the amount of the draft to the banking institution.

(2) In the case of all other payments under letters of credit, deposits shall be made immediately after receipt by the approved applicant of documentation showing the amount of dollar disbursement to suppliers by banking institutions under such letters of credit.

(p) *Final date for submission of drafts.* Drafts drawn by banking institutions on CCC shall be supported by documents presented by the supplier to the banking institution to which the letter of commitment has been issued. Such drafts shall be presented not later than 210 days after the expiration of the delivery period specified in the applicable purchase authorization or any extension of such 210-day period granted by the Administrator, except that they may be presented subsequent to that date if accompanied by a statement by the banking institution that the documents were received within the 210-day period and that payment to the supplier was made in due course.

[30 F.R. 15514, Dec. 16, 1965, as amended at 31 F.R. 3059, Feb. 24, 1966]

§ 11.12 Ocean transportation.

(a) *General.* The cost of ocean transportation will be financed by CCC only when specifically provided for in the purchase authorization. Unless the purchase authorization provides otherwise, this section will apply to the financing of ocean transportation. Unless otherwise specifically provided in the applicable purchase authorization or unless otherwise requested by FAS, the pertinent terms of all proposed charters (whether single voyage charters, consecutive voyage charters, or time charters) and all proposed liner bookings must be submitted to the appropriate USDA Office (see paragraph (b) of this section) for review and approval prior to fixture of the vessel. Tentative advance approvals may be obtained by telephone or telegram, provided Form CCC 105, Ocean Shipment Data—PL 480 ("Request for Vessel Approval"), is furnished promptly confirming the information supplied by telephone or telegram. Approvals of charters and liner bookings will be given on Form CCC 106, "Advice of Vessel Approval." If the purchase authorization requires that a part of the tonnage of the commodity be shipped on privately owned U.S.-flag commercial vessels, the offices specified in paragraph (b) of this section shall determine the quantity of the commodity which must be shipped on such U.S.-flag vessels.

(b) *Request for vessel approval.* In order to obtain approval of proposed vessel bookings the following forms shall be submitted in duplicate to the office indicated:

(1) *For cotton.* Form CCC 105 (Cotton), Ocean Shipment Data—PL 480—"Request for Vessel Approval," shall be submitted to the Director, ASCS Commodity Office, U.S. Department of Agriculture, Wirth Building, 120 Marais Street, New Orleans, La., 70112.

(2) *For commodities other than cotton.* Form CCC 105, Ocean Shipment Data—PL 480—"Request for Vessel Approval," shall be submitted to the Director, Program Operations Division, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C., 20250.

(c) *Special charter party provisions required when freight is financed by CCC.* Where CCC finances the ocean freight for commodities booked on charter terms, a copy of the charter party shall be

forwarded immediately after its execution to the Director, Program Operations Division, FAS, for review and approval prior to issuance of Form CCC 106. In the event of any conflict between the provisions of this subpart and the charter party or bills of lading issued pursuant thereto, the provisions of this subpart shall prevail. The charter party shall contain or, for the purpose of financing pursuant to this subpart, be deemed to contain the following provisions:

(1) That if there is any failure on the part of the supplier of ocean transportation to perform the charter party after the vessel has tendered at the loading port, the charterer shall be entitled to incur all expenses which in the judgment of the Administrator are required to enable the vessel to undertake and carry out her obligations under the charter party, including but not limited to, expenses for lifting any liens asserted against the vessel.

(2) That, notwithstanding any prior assignments of freight made by the owner or operator, the expenses authorized in subparagraph (1) of this paragraph may be deducted from the freight earned under the charter party.

(3) That the supplier of ocean transportation shall release copies of the ocean bills of lading to the supplier of the commodity promptly upon completion of loading of the vessel.

(4) That ocean freight is earned and that 90 percent thereof is payable by the charterer when the vessel and cargo arrive at the first port of discharge, subject to subparagraph (5) of this paragraph. This provision does not relieve the carrier of the obligation to carry to other points of discharge if this is required by the charter party or bill of lading. The final 10 percent shall be settled, subject to adjustments, if any, after submission of loading and discharging laytime statements and statement(s) of fact.

(5) That if a force majeure situation as described in § 11.13(e) (2) prevents the vessel's arrival at the first port of discharge, not to exceed 90 percent of the freight shall be payable by the charterer at the time the Administrator determines that such force majeure was the cause of nonarrival. Any dispatch earned at loading port will be deducted from this payment. The remaining 10 percent of freight shall not be due or payable.

(6) That laydays are reversible.

(7) That in case of a dispute as to any rights of CCC, including rights as successor or assignee, which cannot be settled by agreement, the decision respecting any such rights shall not be subject to arbitration, but shall be decided if necessary by the U.S. courts.

(d) *Special charter party information required when freight is financed by CCC.* Where CCC finances the ocean freight for commodities booked on charter terms, the charter party shall contain the following information:

(1) The name of each party participating in the ocean freight brokerage commission (if any) and the percentage thereof payable to each party;

(2) The name of the vessel and the name of the substitute vessel, if any.

(e) *Notice of arrival.* Each Form CCC 106-2 will indicate whether or not a notice of arrival is required. A notice of arrival, when required, must be furnished promptly by the importing country, or its designated agent or other source acceptable to CCC (excluding the carrier or his agent), and must include the name of the vessel, the purchase authorization number, the first port of discharge, and the date of arrival.

(f) *Advice of vessel approval.* Advice of vessel approval will be issued as follows:

(1) *For cotton.* Form CCC 106-3 (white) signed for the Director, New Orleans ASCS Commodity Office, will be issued only for the supplier of the cotton on sales made on a c.i.f. or c. & f. basis. When cotton is shipped on an f.a.s. basis, if CCC finances the ocean freight, two signed original copies of this form will be issued; one for the supplier of the cotton and the other for the ocean carrier.

(2) *For commodities other than cotton.* Form CCC 106 signed for the Director, Program Operations Division, FAS, will be issued as follows:

(i) On shipments to be made on an f.o.b. or f.a.s. basis, the original of Form CCC 106-1 (yellow) will be issued for the supplier of the commodity and where CCC finances the cost of ocean freight, the original of Form CCC 106-2 (blue) will be issued for the ocean carrier.

(ii) On shipments to be made on a c.i.f. or c. & f. basis, the original of Form CCC 106-1 (yellow) will be issued for the supplier of the commodity.

(g) *Foreign-flag vessels.* CCC will not finance the cost of ocean transportation on foreign-flag vessel(s), either as a part of the commodity contract price or separate therefrom.

(h) *United States-flag vessels.* Where a commodity is required to be shipped on a privately-owned United States-flag commercial vessel, Form CCC 106 will set forth the amount of the ocean freight differential, if any, which the Director, Program Operations Division, determines to exist between the prevailing foreign-flag vessel rate and the United States-flag vessel rate. CCC will authorize reimbursement of such ocean freight differential to the extent of the full tonnage for which the commodity cost is to be financed by CCC.

(1) *Ocean transportation financed by CCC.* Where ocean transportation will be financed either separately from or as part of the commodity contract price, the following shall apply:

(1) Loading, trimming and other related shipping expenses will not be financed as items separate from the ocean transportation rate;

(2) Discharge costs may be included in the ocean transportation rate only when in accordance with trade customs;

(3) The cost of "dead freight" will not be financed;

(4) The cost of lighterage or lightening will not be financed by CCC unless specifically approved by the Administrator;

(5) Cargo dues and taxes assessed by the importing country will not be financed;

(6) Surcharges assessed by steamship conferences or carriers will not be financed;

(7) General average contributions will not be financed;

(8) Charters and liner booking contracts must reflect the ocean transportation rate from one port loading to one port discharge. A charter or liner booking contract may provide for an increase in rate for additional port(s) of loading or discharge, alternate route(s) or any other option; CCC, however, will finance initially the lowest such rate. Increased amounts (if any) due because of the exercise of such option(s) will be financed only after receipt of evidence that an option was exercised. If an option is exercised conclusively prior to the issuance of ocean bill of lading, CCC will finance the rate applicable to the option so exercised.

(9) In the case of transshipment from a United States-flag vessel to a foreign-flag vessel, CCC will finance the cost of ocean freight only to the point of transshipment, at a rate to be determined by the Administrator, and the cost of ocean freight beyond the point of transshipment will not be financed by CCC unless specifically approved by the Administrator. If the commodity was transported from a U.S. port and was transshipped at another U.S. port, CCC will not finance the cost of the transportation which took place prior to the transshipment.

(10) Ocean freight will be financed only to the extent that the rate charged does not exceed the lowest of the following rates for the category of vessel concerned:

(i) For commodities covered by published tariff rates—the published Conference contract rate;

(ii) For other commodities (bulk commodities and other commodities for which no tariff rates are currently effective, whether carried on liners, dry bulk carriers, or tankers)—the market rate prevailing at the time of request for approval was determined by the Director, Program Operations Division, but in any event not in excess of rates charged other shippers (irrespective of booking dates) for like commodities on the voyage concerned.

(11) Reimbursement will be made for cost of shipment from loading points to discharge points at rates approved by the Director, Program Operations Division, on Form CCC 106 in conformity with subparagraph (10) of this paragraph.

(j) *Initial reimbursement for ocean freight separately financed.* (1) Where the Form CCC 106 states that Notice of Arrival is not required and the carrier's invoice includes a certification that the contract does not provide for dispatch earnings, reimbursement will be made for 100 percent of freight upon presentation of required documents.

(2) When the Form CCC 106 indicates that a Notice of Arrival is required, reimbursement for advances made to the supplier of the ocean transportation up to 90 percent of the cost of ocean freight may be obtained prior to arrival at the first port of discharge if the supplier furnishes CCC financial coverage in the form of an acceptable letter of credit from a U.S. bank or Form CCC 124,

Freight Refund Bond, executed by an acceptable surety. The amount of coverage may be computed as follows:

(i) 90 percent of the cost of ocean freight based upon the tonnage shown on the related "on-board" bill of lading (copy must be supplied to CCC) times the approved rate per ton shown on the related Form CCC 106, or

(ii) 100 percent of the cost of ocean freight based upon the tonnage stated in the charter party (without tolerance) times the rate per ton shown on the related Form CCC 106. Upon receipt of an acceptable letter of credit or Freight Refund Bond, the Controller, CCC, or his designee, will issue a waiver of the Notice of Arrival. The waiver may be submitted in lieu of a Notice of Arrival when such notice is required under § 11.13(e)(2) for reimbursement of 90 percent of the cost of ocean transportation.

(3) Where the charter party or liner booking contract provides for dispatch earnings, reimbursement of 90 percent of the cost of ocean transportation may be obtained prior to presentation of signed laytime statements and statements of fact upon presentation of the required documents. Where, in such instances the Form CCC 106 indicates that a Notice of Arrival is required, the waiver described in subparagraph (2) of this paragraph may be substituted for the Notice of Arrival as a document required to obtain the 90 percent reimbursement.

(4) The Administrator will waive the requirement for the Notice of Arrival by written notice to the supplier of ocean transportation, upon the receipt of evidence satisfactory to the Administrator that the vessel is lost or unable to proceed to destination after completion of loading as a result of one or more of the following causes: Damage caused by perils of the sea or other waters; collisions; wrecks; stranding without the fault of the carrier; jettison; fire from any cause; Act of God; public enemies or pirates; arrest or restraint of princes, rulers, or peoples without the fault of the supplier of the ocean transportation; wars; public disorders; captures; or detention by public authority in the interest of public safety.

(k) **Demurrage.** Demurrage incurred in excess of dispatch earnings will not be financed. Dispatch shall be credited first against demurrage, if any, incurred in connection with the same voyage; any

balance of dispatch shall be deducted from the amount of the final request for reimbursement. Stevedore overtime pay at loading port will be financed by CCC only if the Director, Program Operations Division, determines that by incurring such expense net dispatch is earned by the vessel.

(l) **Reimbursement for balance of ocean freight.** In cases where the charter party or liner booking contract provides for dispatch earnings or where Form CCC 106 indicates that a Notice of Arrival is required and subsequent to the initial reimbursement of 90 percent of the dollar cost of ocean transportation, it is established that a part or all of the final 10 percent is eligible for reimbursement, the supplier of transportation is entitled to prompt payment by the charterer of that portion of the final 10 percent which is not in dispute. Upon request of such supplier, the importing country must arrange for the Notice of Arrival and signed loading and discharging laytime statements and statements of fact, to permit the supplier to present documents required by § 11.13(e) covering payment of any portion of the final 10 percent not in dispute. Upon presentation of acceptable documentation, the importing country must promptly make or authorize payment therefor.

(m) **Eligibility of ocean transportation contracts for financing.** Contracts for ocean transportation shall not be eligible for financing by CCC if the supplier of the ocean transportation is also the supplier of the commodity or is an affiliate of such supplier of the commodity, unless the supplier of ocean transportation (1) is the owner of the vessel named in the Form CCC 106 or (2) is the operator of such vessel by time charter or bareboat charter and the ocean freight rate for which reimbursement is claimed is not in excess of the rate he contracted for with the owner of the vessel.

(n) **Ocean transportation included in the commodity contract price.** (1) If the contract is basis c. & f. or c.i.f. and the price includes the cost of ocean transportation as well as the cost of the commodity, the cost of ocean transportation will be financed only to the extent specifically provided in the applicable purchase authorization.

(2) When the Form CCC 106 provides that the cost of ocean transportation will not be financed by CCC, it will require that the supplier's detailed invoice

covering the commodity shipped show a deduction for ocean transportation. [80 F.R. 15514, Dec. 16, 1965, as amended at 31 F.R. 3059, Feb. 24, 1966]

§ 11.13 Documentation.

(a) *General.* Requests for payment submitted to banking institutions by suppliers and requests submitted to CCC for reimbursement of commodity or ocean transportation payments or both shall be supported, except as otherwise provided in the purchase authorization, by the documents required by this section, the purchase authorization, the letter of commitment, and Appendix B unless previously submitted to CCC. Such documents, however, need not be submitted when and to the extent that the Controller, CCC, determines that the intended purpose of a document is served by documents otherwise available to or under the control of CCC or by alternate documents specified in such determination. The documents required herein are in addition to any other documents the supplier may be required to submit to a bank under the applicable letter of credit. The supplier must present documentation required by CCC to the banking institution for immediate payment or acceptance of a time draft.

(b) *Identification.* (1) The following documents must be identified with the appropriate purchase authorization numbers or be readily identifiable therewith:

(i) Documents to be submitted by suppliers to banking institutions with request for payment of commodity price (including ocean transportation and insurance when covered by the commodity price) and such documents when submitted to CCC for reimbursement.

(ii) Documents to be submitted to CCC to obtain reimbursement under a purchase authorization for ocean transportation shall be identified with the number thereof including the "OT" suffix, except that a copy of the ocean bill of lading may bear the related commodity purchase authorization number.

(2) The supplier must put the appropriate purchase authorization number on all documents specified in this Section which are prepared under his control. He should arrange for the appropriate purchase authorization number to be put on all other required documents at the time of their preparation.

(c) *Documents required for financing commodity price (including ocean transportation and insurance when covered by the commodity price).* (1) Signed originals of supplier's certificates, with invoice-and-contract abstract on the reverse side (Form CCC 329) as follows:

(i) When the cost of ocean transportation is financed by CCC, in whole or in part, two Forms 329 are required, that is, one covering the commodity supplier's invoice price expressed in dollars (to be executed by the supplier of the commodity), and one covering the cost of ocean transportation expressed in dollars (to be executed by the ocean carrier).

(ii) When no part of the ocean transportation cost is being financed by CCC, only one Form CCC 329 is required covering the supplier's net invoice price for the commodity expressed in dollars, executed by the supplier of the commodity.

(2) One copy of the ocean bill of lading (on-board or showing on-board endorsement dated and signed or initialed on behalf of the carrier).

(3) One copy of the supplier's detailed invoice showing quantity, description, contracted price, and net total invoice price expressed in dollars and basis of delivery (e.g., f.o.b. vessel, c. & f.) of the commodity. In the case of the reimbursement method of financing the invoice shall also be marked "paid." Whenever the Form CCC 106 provides for an ocean freight rate differential on a c. & f. or c.i.f. sale and authorizes financing of ocean transportation costs by CCC, the supplier's detailed invoice shall show a computation of the dollar amount of ocean freight rate differential. In arriving at the net invoice price there shall be deducted:

(i) The cost of ocean transportation, or portion thereof, which is not being financed by CCC when the cost of ocean transportation is included in the contracted price;

(ii) All discounts from the supplier's contracted price through payments, credits, or other allowances made or to be made to the importers, his agent or consignee;

(iii) All purchasing agent's commissions applicable;

(iv) All other amount not eligible for financing.

(4) Signed original of Form CCC 106-1 or 106-3.

(5) One nonnegotiable copy of the insurance certificate or policy where the cost of insurance is included in the price

of the commodity to be financed by CCC.

(6) Signed original of Form CCC 329-3, "Statement of Transmittal of Ocean Bills of Lading", showing that two nonnegotiable copies of ocean bills of lading have been sent to the Administrator, Foreign Agricultural Service, USDA, Washington, D.C., 20250.

(7) Requests for additional payments, submitted in connection with transactions for which all or part of the required documents have been previously submitted to the banking institution, shall be supported by the following documents as applicable:

(1) The supplier's certificate, with the invoice-and-contract abstract on the reverse and the supplier's detailed invoice, covering the additional amount requested. The supplier's invoice must show the date, serial number and the amount of the original invoice and the basis for the additional amount claimed;

(ii) If the payment is stated to be due because of the exercise of a higher-rated option provided in a liner booking contract or charter party, a statement signed by the ship's master or owner (or agent of either of them) showing exercise of the higher-rated option.

(8) Any additional or substitute documentation that may be required by the purchase authorization or the letter of commitment.

(9) Whenever a copy of a weight certificate is required by this subpart or the applicable purchase authorization, the supplier shall submit a weight certificate issued by or on authority of a State or other governmental Weighing Department, Chamber of Commerce, Board of Trade, Grain Exchange, or other independent organization or firm providing public weighing services. Such organization or firm must have (i) qualified, impartial, paid employees who are stationed at the port facility or, if authorized under the applicable purchase authorization, other facility where weights customarily are determined, one of whom performed the weighing covered by the certificate, or (ii) qualified, independent, impartial, supervised weighmasters stationed at the port facility or, if authorized under the applicable purchase authorization, other facility where weights are customarily determined one of whom supervised the employee of such a facility in the performance of the weighing covered by the certificate.

(10) Appendix B or the applicable purchase authorization will specify the par-

ticulars of any required inspection certificate. Federal appeal inspection certificates when included in the documents presented for payment shall supersede any other inspection certificate required by this subpart, the applicable purchase authorization, or the letter of commitment.

(d) *Special documentation requirements.* In addition to the general documentation requirements set forth in paragraphs (a) through (c) of this section, each purchase authorization or letter of commitment (1) will refer to specific sections of Appendix B for special documentation requirements and (2) will specify any additions to or deletions from the provisions of Appendix B.

(e) *Documents required for reimbursement of ocean transportation financed separately from commodity price.* In order to obtain reimbursement of ocean transportation which is financed separately from the commodity price, the following documentation shall be submitted:

(1) Signed original of supplier's (ocean carrier or agent) certificate, with invoice-and-contract abstract on the reverse side (Form CCC 329) to be executed by the carrier or agent, covering the dollar cost of ocean transportation.

(2) One copy of the ocean bill of lading (on-board or showing on-board endorsement dated and signed or initialed on behalf of the carrier) and, if required by the related Form CCC-106-2, a Notice of Arrival at the first port of discharge of the vessel named in the Form CCC-106-2. In lieu of a Notice of Arrival the carrier may present a waiver of the Notice of Arrival signed by the Administrator or Controller, CCC.

(3) One copy of carrier's detailed invoice marked, "Paid." Such invoice shall contain the following typed or stamped certification, executed by the supplier:

"The undersigned hereby certifies that the vessel named herein and for which the cost of ocean freight is claimed, qualifies as a privately owned U.S.-flag commercial vessel within the requirements of Public Law 87-266 and is an eligible U.S.-flag vessel for the purposes of Public Law 664, 83d Congress."

(4) Signed original of the 106-2 (or 106-3 in the case of cotton).

(5) One copy of the charter party in the case of shipment by dry bulk cargo vessel or tanker.

(6) Requests for reimbursement of any balance claimed on a shipment after initial reimbursement of 90 percent of the dollar cost of ocean transportation as provided in § 11.12(j), shall be supported by the following documents:

(i) A copy of the carrier's final invoice marked, "Paid". Where the freight contract does not provide for dispatch and the supplier certifies this fact on his final invoice the documents in subdivisions (iii) and (iv) of this subparagraph are not required.

(ii) A Notice of Arrival, if required by the Form CCC 106 and not previously presented to support the 90 percent payment.

(iii) A copy of loading and discharging laytime statement(s) and statement(s) of fact signed by the ship's master or owner and the charterer or consignee. Agent's signature is acceptable.

(iv) If a copy of the charter party was not presented pursuant to subparagraph (5) of this paragraph, a copy of the freight contract showing the terms of dispatch and demurrage.

(v) Supplier's Certificate, Form CCC 329 covering the balance claimed.

(7) Requests for payment of any amounts claimed because of the exercise of a higher-rated option following payment of a lower-rated option pursuant to § 11.12(i) (8) shall be supported by the following documents:

(i) Copy of the carrier's detailed invoice marked, "Paid";

(ii) Supplier's Certificate for the balance claimed;

(iii) A statement signed by the ship's master or owner and signed laytime statements or other written concurrence of charterer showing the exercise of the higher-rated option. Agent's signature is acceptable.

(f) Any additional or substitute documents that may be required by the purchase authorization.

[30 F.R. 15514, Dec. 16, 1965, as amended at 31 F.R. 3060, Feb. 24, 1966]

§ 11.14 Documents in support of drafts drawn on CCC by banking institutions.

Drafts drawn on CCC by banking institutions under letters of commitment for reimbursement of amounts disbursed to suppliers shall be supported by the following documents:

(a) *Documents obtained from suppliers.* Documents specified in § 11.13

and such additional or substitute documents as may be required with respect to any particular transaction as specified in the purchase authorization and in Appendix B or in the letter of commitment. A banking institution holding a letter of commitment is not required by CCC to obtain from suppliers any documents other than those required in the preceding sentence.

(b) *Documents originated by banking institutions.* (1) Form CCC 331, "Advice of Payment or Acceptance of Draft," containing an authorized signature for the banking institution.

(2) A copy of the advice of payment for ocean freight differential when required by § 11.15(a) (7).

(c) *Documents originated by ASCS Offices.* (1) Form CCC 339, "Advice of Receipt of Documents", signed for CCC, in those instances in which documentation was previously submitted to and acknowledged by CCC.

[30 F.R. 15514, Dec. 16, 1965, as amended at 31 F.R. 3060, Feb. 24, 1966]

§ 11.15 Responsibilities of banking institutions for transactions under letters of commitment.

The responsibilities of banking institutions under this subpart for transactions under letters of commitment are limited to the responsibilities stated under (a) and (b) of this section and as stated in §§ 11.11 and 11.14.

(a) *Full responsibilities.* The banking institution shall have full responsibility for the following:

(1) *Delivery of documents:* The banking institution shall deliver to the Federal Reserve Bank named in the letter of commitment, documents required by this subpart, the letter of commitment, and the purchase authorization. In addition to the general documentation requirements set forth in paragraphs (a) through (c) of § 11.13 of this subpart, each purchase authorization or letter of commitment (i) will refer to specific sections of Appendix B for special documentation requirements and (ii) will specify any additions to or deletions from the provisions of Appendix B.

(2) *Advice to approved applicant.* The banking institution shall give advice of the amount of dollar disbursement or the dollar amount and maturity of time drafts accepted to the approved applicant or its designee, which advice shall accompany documents transmitted to the approved applicant. There shall

be included in the transmittal a request that the local currency equivalent of dollar disbursements be deposited immediately in the account of the U.S. Disbursing Officer, or that the local currency equivalent of the dollar amount of time drafts being financed by CCC be deposited in the account of the U.S. Disbursing Officer at maturity.

(3) *Examination of documents.* The banking institution shall examine the required documents, except the "invoice-and-contract abstract" (Form CCC 329—reverse), in accordance with good commercial practice.

(4) *Delivery date.* The banking institution shall ascertain that the bills of lading bear a date within the delivery period specified in the purchase authorization, or any extension thereof granted by the Administrator.

(5) *Destination.* The banking institution shall ascertain that the required documents are consistent, under good commercial practice, with shipment, transshipment, or reshipment to the importing country shown in the purchase authorization.

(6) *Description.* Section 11.11(h) (3) provides that the commodity description in letters of credit shall not be inconsistent with the description in the purchase authorization. In making payment or accepting time drafts under letters of credit, the banking institution shall, on the basis of the description contained in the required documents act in accordance with good commercial practice.

(7) *Verification of computation of ocean freight differential and notification to approved applicant.* Whenever Form CCC 106 provides for an ocean freight rate differential on a c. & f. or c.i.f. sale, and authorizes financing of ocean transportation costs by CCC, and the total transaction is financed by the bank under a letter of credit, the banking institution shall determine that the supplier's detailed invoice shows a computation of the dollar amount of ocean freight differential; shall verify the computation of such amount of differential, using the rate stated in Form CCC 106 and the gross weight shown on the supplier's detailed invoice or the bill of lading, whichever is less; and shall include with the advice of dollar disbursement or time draft accepted under the letter of credit, advice of the net dollar amount

for which the equivalent in local currency is to be deposited immediately or at maturity of a time draft as provided in § 11.11(o). This advice shall specify that deposit of local currency is not required for the value of the ocean freight differential. Such advice shall be in substantially the following language:

The amount of \$----- paid to the beneficiary includes an ocean freight differential of \$----- according to the provisions of the attached copy of Form CCC 106, "Advice of Vessel Approval." You are requested to deposit only the local currency equivalent to the net amount of \$-----.

A copy of such advice, whenever the amount paid includes such differential, shall be sent with the other required documents to the ASCS Office named in the letter of commitment. The commodity supplier will obtain payment of the ocean transportation differential from the ASCS Office when such differential is not financed by the bank under a letter of credit.

(8) *Reimbursement of CCC for losses.* Upon demand therefor made by CCC, the banking institution shall promptly reimburse CCC for the amounts of any losses sustained as a direct result of failure on the part of the banking institution to carry out its responsibilities as required by this subpart and shall pay to CCC interest on the amounts of such losses at a per annum rate equal to the Federal Reserve Bank of New York's discount rate in effect on the date that CCC makes demand upon the banking institution, computed from and including the date of the original payment by or reimbursement by CCC to but not including the date that the banking institution reimburses CCC for the amounts of such losses.

(9) *Adjustment refunds.* The banking institution shall at the end of each calendar month, report to the Controller, CCC, the total amount of any adjustment refunds received during the month. A copy of each advice sent to approved applicants or agents shall accompany each monthly report. The banking institution has no other responsibility under § 11.9.

(10) *Purchase authorization number.* The banking institution shall examine required documents to determine that they bear the appropriate purchase authorization number or are readily identifiable therewith.

(11) *Additional requirements.* Any additional particulars for which the banking institution is to be responsible will be specified in the purchase authorization or letter of commitment as (i) additional required documents, (ii) additional statements to be contained in the required documents, or (iii) additional actions to be performed.

(b) *Limited responsibilities.* The banking institution shall have limited responsibility for transactions under letters of commitment as follows:

(1) *Contracting.* Section 11.6(a) provides that contracts must meet certain specific requirements in order to be eligible for financing. The banking institution is responsible only to the extent of ascertaining that the required documents show delivery terms as required by the purchase authorization (f.o.b., f.a.s., c. & f., or c.i.f.). The banking institution has no responsibility under other provisions of § 11.6.

(2) *Vessel approval.* The banking institution shall not make payment under the letter of credit unless the name of the vessel shown on Form CCC 106 agrees with the name of the vessel shown on the bill of lading. The banking institution is not required to verify the signature appearing on Form CCC 106 or to make an independent inquiry as to the correctness of the information shown thereon.

(3) *Discounts, purchasing agent's commissions and consular fees.* The banking institution is not required to make independent inquiry as to whether the net invoice price includes either discounts (whether expressed as such or as "commissions" to the importer, or made or to be made through payments, credits or other allowances to the buyer or consignee), commissions payable to purchasing agents, or consular fees but shall not honor any such items when disclosed by required documents other than Form CCC-329-Reverse. The provisions of §§ 11.7(d) and 11.8(c) regarding commissions are intended primarily for the instruction of suppliers, and banking institutions are not responsible for compliance therewith except to the extent set forth above.

(4) *Weight certificate.* The banking institution is responsible for ascertaining that a weight certificate is included in the documentation when required by the purchase authorization or appendix B, and that the quantity invoiced does not exceed the weight shown on the

certificate. The banking institution is not responsible for ascertaining that the weight certificate meets the requirements of § 11.13(c) (9).

(5) *Insurance.* The banking institution is responsible only for ascertaining that a copy of the policy or certificate of insurance accompanies the required documents whenever the cost of insurance is included in the commodity price under a purchase authorization which specifically authorizes contracting on a c.i.f. basis.

(6) *Deduction for ocean transportation on c. & f. or c.i.f. invoices.* If Form CCC 106 provides that the cost of ocean transportation is not to be financed by CCC, the banking institution shall not make payment or accept time drafts under the letter of credit unless a deduction for the cost of ocean transportation is shown on the CCC copy of the supplier's detailed invoice. The banking institution is not required to verify the correctness of the amount(s) of such deduction(s).

(7) *Price.* The banking institution is responsible for verifying that the unit price stated in the supplier's invoice does not exceed the unit price stated in the document showing price approval by USDA whenever such document is required, but is not responsible for the price provisions set forth in § 11.7.

(8) *Ocean transportation.* The banking institution is responsible for provisions relating to ocean transportation as set forth in § 11.12 only to the extent specified in paragraphs (a) (5) and (7) of this section, and subparagraphs (2) and (6) of this paragraph.

(9) *Information from other sources.* The right of reimbursement for payments made or drafts accepted by a banking institution in accordance with good commercial practice will not be affected, except for those particulars set forth in paragraph (a) of this section and this paragraph, by the fact that the documents received by the banking institution or information or notice received from any other source indicates noncompliance with any provisions of this subpart, or of the purchase authorization or the letter of commitment.

(10) The banking institution is not responsible for delivery of documents required by the provisions of Appendix B of this subpart, except as provided in paragraph (a) (1) of this section.

(c) *No responsibility.* For transactions under a letter of commitment, the banking institution has no responsibility for the following:

(1) *Supplier's certification.* The banking institution is not responsible for the truth or accuracy of information contained in the supplier's certificate or in any special certification required by this subpart, the terms of the purchase authorization or the letter of commitment. The banking institution is entitled to rely on such certifications.

(2) *Invoice-and-contract abstract.* The banking institution is not responsible for the truth or accuracy of information contained in the Invoice-and-Contract Abstract, Form CCC 329 (Reverse), for the sufficiency or completeness of such information or for any indication by such information of non-compliance with any provision of this subpart or the purchase authorization.

(3) *Contracting period.* The purchase authorization specifies the period during which contracts may be entered into by suppliers and importers. A banking institution has no responsibility with regard to compliance with this requirement.

(4) *Statements in required documents.* The banking institution is not responsible for the truth or accuracy of the statements, if any, contained in the required documents. A banking institution is not obligated to look beyond these documents or to make independent investigations as to the accuracy of statements made therein. Acceptability of documents is described in § 11.11(j).

(5) *Affiliate.* The banking institution is not responsible for determining whether or not the supplier and the importer are affiliates. Also, the banking institution is not responsible for the furnishing or verification of any information required to be furnished pursuant to § 11.7(c).

(6) *Deposit of local currency.* The banking institution is not responsible for the deposit of local currency.

(7) *Purchase Authorizations—Eligible Commodities.* The banking institution is not responsible for ascertaining compliance with the provisions of §§ 11.3 and 11.5, except to the extent specified in this section.

(8) The banking institution is not responsible for ascertaining compliance

with the provisions of Appendix A of this subpart except as set forth in the purchase authorization or the letter of commitment as the responsibility of the banking institution.

(d) *Responsibilities under reimbursement method of financing.* No letters of commitment are issued for purchase authorizations which provide for the reimbursement method for financing.

[30 F.R. 15514, Dec. 16, 1965, as amended at 31 F.R. 3060, Feb. 24, 1966]

§ 11.16 ASCS Offices.

The addresses of the ASCS Offices are as follows:

ASCS Commodity Office, U.S. Department of Agriculture, 2201 Howard Street, Evanston, Ill., 60202.

ASCS Commodity Office, U.S. Department of Agriculture, 8930 Ward Parkway, Post Office Box 205, Kansas City, Mo., 64161.

ASCS Commodity Office, U.S. Department of Agriculture, 6400 France Avenue South, Minneapolis, Minn., 55424.

ASCS Commodity Office, U.S. Department of Agriculture, Wirth Building, 120 Marais Street, New Orleans, La., 70112.

New York Field Office, Fiscal Division, ASCS, 80 Lafayette Street, New York, N.Y., 10013.

Fiscal Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C., 20250.

§ 11.17 Supplier's records.

The supplier shall permit authorized representatives of USDA to have access to his premises during regular hours to inspect, examine, audit and make copies of such books, records and accounts. The supplier shall keep accurate books, records and accounts, with respect to all contracts entered into hereunder. Such records shall be retained until the expiration of three years after final payment under such contracts.

§ 11.18 Effective date.

This revision of this subpart shall become effective upon publication in the FEDERAL REGISTER as to purchase authorizations originally issued on and after the date of such publication. Purchase authorizations originally issued prior to such date of publication shall continue to be subject to the provisions of this subpart which were applicable thereto prior to this revision unless made subject to this revision by amendment or modification of such purchase authorizations.

APPENDIX A—REGULATIONS GOVERNING THE FINANCING OF COMMERCIAL SALES OF SURPLUS AGRICULTURAL COMMODITIES FOR FOREIGN CURRENCIES

In addition to the other provisions of the Regulations and unless otherwise provided in the applicable purchase authorization, the following special provisions apply in the case of specific commodities.

(a) *Wheat in bulk or bags.*

(1) *Payment-in-kind:* Contracts will not be eligible for financing unless the supplier has complied with the requirements of the "Wheat Export Program, Payment-in-Kind (GR-345) Terms and Conditions" as amended or revised, as they pertain to sales pursuant to Title I, Public Law 480.

(2) *Contract approval:* Contracts between suppliers and importers made subject to the applicable purchase authorization shall be deemed to be conditioned on the approval by the Foreign Agricultural Service, U.S. Department of Agriculture, of the supplier, the supplier's agent if any, the contract price(s), and the commission, if any.

(3) *Time of sale:* In order to amplify the definition of "time of sale" in section 11.7 of the Regulations, the "time of sale" shall mean the earliest time on the day of sale that the supplier has knowledge that a firm contract exists with the foreign buyer.

(4) *Quality description:* Contracts shall provide for quality description in terms of the Official Grain Standards of the United States.

(5) *Transshipment:* To the extent that exportation of wheat from Canadian transshipment point(s) is required in U.S.-flag vessels, the Form CCC 106 will require that an equivalent quantity of U.S. wheat was moved from U.S. Great Lakes ports to the Canadian transshipment point(s) via the St. Lawrence Seaway in U.S.-flag vessels.

(6) *Weight and grade (bulk):* In the case of bulk wheat, the weight shall be determined at point of loading to vessel and the grade shall be determined by an inspector holding a license under the U.S. Grain Standards Act or the Agricultural Marketing Act at point of loading to vessel.

(7) *Weight and grade (bags):* In the case of wheat in bags, the grade shall be determined by an inspector holding a license under the U.S. Grain Standards Act or the Agricultural Marketing Act made not more than 15 days prior to loading to vessel while the wheat was at port under the supervision of the Port Authority, and the weight shall be determined by check-loading by the Grain Division, Agricultural Marketing Service, U.S. Department of Agriculture, at the time of loading the wheat for shipment to port for export or at time of loading the wheat to vessel.

(8) *Dockage:* In determining weights, there shall be deducted the amount of any dockage indicated on the inspection certificates.

(b) *Wheat flour.*

(1) Minimum flour specifications eligible for financing will be provided in the applicable purchase authorization.

(2) Contracts shall state the type and weight of bags required by the importer.

(3) Contracts will not be eligible for financing hereunder unless the supplier has complied with the requirements of the "Flour Export Program, Cash Payment (GR-346) Terms and Conditions" (as amended or revised) as they pertain to sales pursuant to Title I, Public Law 480. (The approved price for flour which meets the minimum and maximum quality specifications described above, but which does not meet the quality specifications shown on Form CCC 362 shall be subject to the discounts provided in section (b) (4) of this Appendix A.)

(4) Contracts between suppliers and importers made subject to the applicable purchase authorization shall be deemed to be conditioned on the approval by the Foreign Agricultural Service, U.S. Department of Agriculture, of the supplier, the supplier's agent if any, the contract price(s), and commission if any.

(5) In order to amplify the definition of "time of sale" in section 11.7 of the regulations, the "time of sale" shall mean the earliest time on the date of sale that the supplier has knowledge that a firm contract exists with the foreign buyer.

(6) Ten (10) days prior to sampling the supplier must furnish contract specifications regarding quality, in duplicate, to the Program Operations Division, FAS, USDA, Washington, D.C., 20250, together with a citation to the name and address of the persons, firms, or agency that will perform the sampling and analysis service and the location of the flour and dates available for sampling.

(7) *Sampling, analysis, weighing, bags and markings:*

(1) *Sampling:* The drawing of samples shall be performed by the Inspection Branch, Grain Division, Agricultural Marketing Service, U.S. Department of Agriculture, or by an independent surveyor mutually acceptable to the importer(s) and supplier(s). Supplier(s) shall request inspection of the flour upon arrival at port of loading to vessel. If the inspection certificate is dated more than fifteen (15) days prior to the on-board date shown on the ocean bill of lading the supplier shall obtain additional inspection within fifteen (15) days of the on-board date shown on the ocean bill of lading showing that the flour was free of infestation.

(ii) *Minimum rates for sampling:* The following minimum rate applies to any delivery or portions of delivery for which a separate inspection has been requested. The minimum rate of sampling shall be one composite sample of flour for each 500,000 pounds or part thereof. A composite sample shall consist of all the products from 50 probes. Each of the 50 probes shall be obtained from a

different bag of flour selected at random. When it is desired to increase the sampling rate because of nonuniformity of the flour or for other reasons, it shall be done by increasing the number (not size) of composite samples for each 500,000 pound portion. Each composite sample shall be tested separately in a laboratory to determine quality. The results of the analyses of composite samples will be averaged (weighted average) and certified on one certificate when no individual composite sample deviates from the contract specification for any factor by more than the tolerance in the following schedule:

MAXIMUM DEVIATION OF A SAMPLE RESULT FROM THE CONTRACT SPECIFICATION

- Minus 0.5 percent protein.
- Plus 0.2 percent moisture.
- Plus 0.02 percent ash.

If one or more composite samples exceed the tolerances in the above schedule for any factor, each of these shall be certified separately. The remaining composite samples shall be averaged and certified on one certificate.

(iii) *Re-coopering*: Re-coopering of bags shall be the responsibility of the supplier and performed at his expense.

(8) *Analysis*: The quality of the flour exported shall be determined by the Inspection Branch, Grain Division, Consumer and Marketing Service, U.S. Department of Agriculture, or by a commercial laboratory mutually acceptable to buyer and seller.

(9) *Check sampling and analysis*: If the services are performed by independent samplers and commercial laboratories, FAS may at any time request the Inspection Branch, Grain Division, AMS, USDA, to draw check samples and perform check analysis. The cost of such check sampling and analyses will be for the account of CCC.

(10) *Weighing*: The flour to be exported shall be check-weighed at the mill at the time of loading to sealed cars or trucks for shipment to port of export, or at the port of export while the flour was at port under the control of the Port Authority, by the Inspection Branch, Grain Division, Agricultural Marketing Service, U.S. Department of Agriculture, or by an independent weighmaster or an independent surveyor mutually acceptable to the importer(s) and seller(s) to determine (1) gross weight, (2) net weight, and (3) tare weight.

(11) *Bag specifications*: Compliance with contract specifications and suitability of bags for export shall be determined by an independent surveyor. Each bag shall be marked with the name of the importing country and the purchase authorization number.

(12) *Schedule of Discounts on deficient protein and excess moisture or ash and either excess or deficient maltose*: (protein, ash and maltose will be on the basis of 14 percent moisture). If the flour exported meets the minimum and maximum specifications set forth in section (b) (7) (ii) of the Appendix

A but does not meet the quality specifications as shown on the Form CCC 362 (7-11-61), the approved price shall be reduced by the following schedule of discounts:

Excess ash	Excess moisture	Deficient protein.
<i>Per each 100 pounds</i>	<i>Per each 100 pounds</i>	<i>Per each 100 pounds</i>
0.01—2 cents.....	0.1—2 cents.....	0.1—2 cents.
0.02—4 cents.....	0.2—4 cents.....	0.2—4 cents.
0.03—6 cents.....	0.3—6 cents.....	0.3—6 cents.
0.04—8 cents.....	0.4—8 cents.....	0.4—8 cents.
0.05—12 cents.....	0.5—12 cents.....	0.5—12 cents.
Over 0.05—12 cents plus 12 cents for each 0.01 percent.	Over 0.5—12 cents plus 12 cents for each 0.1 percent.	Over 0.5—12 cents plus 12 cents for each 0.1 percent.

(c) *Feed grains in bulk or bags.*

(1) *Notification of sale by supplier*: The supplier shall, immediately after the date of export sale, furnish a written or telegraphic notification of sale to the Office of the General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C., 20250. Written notification of any contract amendments shall also be furnished to the General Sales Manager immediately after the date of the amendment. If the supplier fails to furnish the notification within 5 days after the date of export sale, or the date of an amendment to the contract, if applicable, CCC shall have the right to refuse to finance the sale under the program. The following information shall be included in the written notification of sale:

- Supplier's name and address.
- Purchase authorization number.
- Name of importer.
- Sales contract or order number, if any.
- Date and time of sale.
- Complete commodity description—(contract specification).

If other than bulk shipment, show complete pack and package material specification. Quantity expressed in contract units and in bushels.

Price per contract unit and per bushel. Delivery terms (f.o.b., f.a.s., etc.) and coastal range of export (specify Pacific, Gulf, Atlantic, Great Lakes, or St. Lawrence River ports) and any option to be exercised by the exporter and/or the foreign importer).

- Contract delivery schedule.
- Name and address of sales agent, if any.
- Percentage of sales commission, if any, included in price.

A statement as to whether the supplier is, or is not, an affiliate of the importer.

If the supplier is an affiliate of the importer, the supplier shall furnish the price information required by section 11.7(c) of the Title I, Public Law 480 Regulations.

The supplier will be notified by letter, and by telephone if requested, from the Office of the General Sales Manager, promptly after receipt of the notification of sale or notification of any amendment to the contract as

to whether or not price and commission, if any, are approved for financing.

(2) *Contract approval*: Contracts between suppliers and importers made subject to the applicable purchase authorization shall be deemed to be conditioned on the approval by the Foreign Agricultural Service, U.S. Department of Agriculture, of the supplier, the supplier's agent if any, the contract price(s), and the commission, if any.

(3) *Weight and grade (bulk)*: In the case of feed grains in bulk, the weight shall be determined at point of loading to vessel and the grade shall be determined by an inspector holding a license under the U.S. Grain Standards Act or the Agricultural Marketing Act at point of loading to vessel.

(4) *Weight and grade (bags)*: In the case of feed grains in bags, the grade shall be determined by an inspector holding a license under the U.S. Grain Standards Act or the Agricultural Marketing Act not more than 15 days prior to loading to vessel while the feed grain was at port under the supervision of the Port Authority, and the weight shall be determined by checkloading by the Grain Division, Agricultural Marketing Service, U.S. Department of Agriculture, at the time of loading the feed grain for shipment to port for export or at time of loading the feed grain to vessel.

(5) *Transshipment*: To the extent that exportation of feed grain from a Canadian transshipment point(s) is required in U.S.-flag vessels, the Form CCC 108 will require that an equivalent quantity of U.S. feed grain was moved from U.S. Great Lakes ports to the Canadian transshipment point(s) via the St. Lawrence Seaway in U.S.-flag vessels.

(6) *Quality description*: Contracts shall provide for quality description in terms of the Official Grain Standards of the United States.

(7) *Dockage*: Dockage shown on inspection certificates must be deducted from official weights, except for barley. Dockage must also be deducted for barley unless the supplier's sale is approved and such sale specifically provides for a specified dockage allowance. Such sales for barley will not be approved if dockage allowed exceeds 2 percent.

(d) *Corn meal (edible)*.

(1) *Notification of sale*: The supplier immediately after the date of export sale furnish a written or telegraphic notification of sale to the Office of the General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C., 20250. Written notification of any contract amendments shall also be furnished to the General Sales Manager immediately after the date of the amendment. If the supplier fails to furnish the notification within 5 days after the date of export sale, or the date of an amendment to the contract, if applicable, CCC shall have the right to refuse to finance the sale under the program. The following

information shall be included in the written notification of the sale:

- Supplier's name and address.
- Purchase authorization number.
- Name of importer.
- Sales contract or order number, if any.
- Date and time of sale.
- Complete commodity description—(contract specification).
- Complete pack and package material specification.
- Quantity expressed in contract units and in 100 pounds net weight.
- Price per contract unit and 100 pounds net weight.

- Delivery terms (f.o.b., f.a.s., etc.) and coastal range of export (specify Pacific, Gulf, Atlantic, Great Lakes or St. Lawrence River ports and any option to be exercised by the exporter and/or the foreign buyer).

- Contract delivery schedule.
- Name and address of sales agent, if any.
- Percentage of sales commission, if any, included in price.

A statement as to whether the supplier is, or is not, an affiliate of the importer.

If the supplier is an affiliate of the importer, the supplier shall furnish the price information required by section 11.7(c) of the Title I, Public Law 480 Regulations.

The supplier will be notified by letter, and telephone if requested, from the Office of the General Sales Manager promptly after receipt of the notification of sale or notification of any amendment to the contract as to whether or not price and commission, if any, are approved for financing.

(2) *Contract approval*: Contracts between suppliers and importers made subject to the applicable purchase authorization shall be deemed to be conditioned on the approval by the Foreign Agricultural Service, U.S. Department of Agriculture, of the supplier, the supplier's agent if any, the contract price(s), and the commission, if any.

(3) *Specifications*: Corn meal shall be degermed yellow corn meal, Type II, Class B, Granulation 2, Color b. The corn meal shall conform with the requirements of Federal Specifications N-C-521-c (and shall meet all the requirements of sections 1 through 4 of such Federal Specifications).

(4) *Sampling, analysis and weighting*:

(i) *Sampling*: The drawing of samples shall be performed by the Inspection Branch, Grain Division, Agricultural Marketing Service, U.S. Department of Agriculture, at point of loading to vessel not more than fifteen (15) days prior to loading to vessel.

(ii) *Re-coopering* of bags shall be the responsibility of the supplier and performed at his expense.

(iii) *Analysis*: The quality of the corn meal exported shall be determined by the Inspection Branch, Grain Division, Agricultural Marketing Service, U.S. Department of Agriculture.

(iv) *Advice of contract specifications*: Ten (10) days prior to sampling the supplier must

furnish contract specifications regarding quality to the Grain Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C., 20250. The U.S. supplier(s) shall submit, with the contract specifications, the names of the port(s) of exportation.

(v) *Weighting*: The corn meal to be exported shall be checkloaded at the mill at the time of loading to sealed cars or trucks for shipment to port of export, or at the port of export while the corn meal is at port under the control of the Port Authority by the Inspection Branch, Grain Division, Agricultural Marketing Service, United States Department of Agriculture, to determine (a) gross weight, (b) net weight, and (c) tare weight.

(vi) *Bag specifications*: Compliance with contract specifications and suitability of bags for export shall be determined by an independent surveyor. Each bag shall be marked with the name of the importing country and the purchase authorization number.

(5) *Quality discount for corn meal—not meeting specifications*: If the quality of the corn meal does not meet the quality specifications required by paragraph (d) (3) of this Appendix A, but falls within the limits listed below, the maximum price financed by CCC will be the contract price, less the applicable discount shown below for each 100 pounds of corn meal. Corn meal will not be financed which deviates from specifications more than the limits indicated below:

DISCOUNTS

Percent ash degermed	Percent fat degermed	Percent moisture
.60—0 cents	1.50—0 cents	13.5—0 cents.
0.70—1 cent	1.60—2 cents	13.6—2 cents.
0.80—2 cents	1.70—4 cents	13.7—4 cents.
0.90—4 cents	1.80—6 cents	13.8—6 cents.
1.00—6 cents	1.90—10 cents	13.9—8 cents.
1.10—8 cents	2.00—12 cents	14.0—12 cents.

GRANULATION

Not more than 20 percent thru 80 sieve.	
Not more than 30 percent thru 45 sieve.	
Not less than 90 percent thru 25 sieve.	
Not less than 99 percent thru 20 sieve.	
1 percent off	1 cent.
2 percent and 3 percent off	2 cents.
4 percent and 5 percent off	3 cents.
6 percent and 7 percent off	5 cents.
8 percent to 10 percent off	7 cents.

(e) *Cracked corn or corn meal.*

(1) *Notification of sale by supplier*: The supplier shall immediately after the date of export sale, furnish a written or telegraphic notification of sale to the Office of the General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C., 20250. Written notification of any contract amendments shall also be furnished to the General Sales Manager immediately after the date of the amendment. If the supplier fails to furnish the notification within 5 days after the date of

export sale, or the date of an amendment to the contract, if applicable, CCC shall have the right to refuse to finance the sale under the program. The following information shall be included in the written notification of sale:

- Supplier's name and address.
- Purchase authorization number.
- Name of importer.
- Sales contract or order number, if any.
- Date and time of sale.
- Complete commodity description—(contract specification).
- Complete pack and package material specification. Quantity expressed in contract units and in bushels. Price per contract unit and per bushel.
- Delivery terms (f.o.b., f.a.s., etc.) and coastal range of export (specify Pacific, Gulf, Atlantic, Great Lakes, or St. Lawrence River ports and any option to be exercised by the exporter and/or the foreign importer).
- Contract delivery schedule.
- Name and address of sales agent, if any.
- Percentage of sales commission, if any, included in price.

A statement as to whether the supplier is, or is not, an affiliate of the importer.

If the supplier is an affiliate of the importer, the supplier shall furnish the price information required by section 11.7(c) of the Title I, Public Law 480 Regulations.

The supplier will be notified by letter, and by telephone if requested, from the Office of the General Sales Manager promptly after receipt of the notification of sale or notification of any amendments to the contract as to whether or not price and commission, if any, are approved for financing.

(2) *Contract approval*: Contracts between suppliers and importers made subject to the applicable purchase authorization shall be deemed to be conditioned on the approval by the Foreign Agricultural Service, U.S. Department of Agriculture, of the supplier, the supplier's agent if any, the contract price(s), and the commission if any.

(3) *Inspection and weight*: A determination by an inspector holding a license under the U.S. Grain Standards Act shall show that the yellow corn from which the commodity was processed graded No. 4 or better, and the weight of the processed commodity shall be determined by checkloading by or under the supervision of the Grain Division, Agricultural Marketing Service, U.S. Department of Agriculture, at the time of loading for shipment to port for export or at time of loading to vessel.

(4) *Kind and size of bags*: The contract shall specify the kind and size of bags and whether such bags are new or used.

(f) *Soybean oil or cottonseed oil.*

(1) *Notification of sale*: The supplier shall, immediately after the date of export sale, furnish a written or telegraphic notification of sale to the Office of the General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C.,

20250. Written notification of any contract amendments shall also be furnished to the General Sales Manager immediately after the date of the amendment. If the supplier fails to furnish the notification within 5 days after the date of export sale, or the date of an amendment to the contract, if applicable, CCC shall have the right to refuse to finance the sale under the program. The following information shall be included in the written notification of the sale:

Supplier's name and address.
 Purchase authorization number.
 Name of importer.
 Sales contract or order number, if any.
 Date of sale.
 Complete commodity description—(contract specification).

If other than bulk shipment, show complete pack and package material specification.

Quantity expressed in contract units and in pounds.

Price per contract unit and per pound.

Delivery terms (f.o.b., f.a.s., etc.) and coastal range of export (specify Pacific, Gulf, Atlantic, Great Lakes, or St. Lawrence River ports and any option to be exercised by the exporter and/or the foreign importer).

Contract delivery schedule.

Name and address of sales agent, if any.

Percentage of sales commission, if any, included in price.

A statement as to whether the supplier is, or is not, an affiliate of the importer.

If the supplier is an affiliate of the importer, the supplier shall furnish the price information required by section 11.7(c) of the Title I, Public Law 480 Regulations.

The supplier will be notified by letter, and by telephone if requested, from the Office of the General Sales Manager promptly after receipt of the notification of sale or notification of any amendment to the contract as to whether or not price and commission, if any, are approved for financing.

(2) *Contract approval:* Contracts between suppliers and importers made subject to the applicable purchase authorization shall be deemed to be conditioned on the approval by the Foreign Agricultural Service, U.S. Department of Agriculture, of the supplier, the supplier's agent if any, the contract price(s), and the commission if any.

(3) *Quality and containers:* Contracts for cottonseed and/or soybean oil will not be eligible for financing unless the oil meets quality specifications as provided in the applicable purchase authorization. If the commodity is to be purchased in drums, they must be new or reconditioned drums, if in barrels, they must be new barrels, and if in bags, state the type, size and weight of the bags.

(4) *Advice of contract specifications:* Ten (10) days prior to sampling the supplier must furnish contract specifications regarding quality, in duplicate, to the Program Operations Division, Foreign Agricultural

Service, U.S. Department of Agriculture, Washington, D.C., 20250, together with a citation to the name and address of the persons, firms or agency that will perform the sampling and analysis service and the location of the oil and dates when available for sampling.

(5) *Sampling and analysis:* The drawings of samples and laboratory analysis may be performed by the Inspection Branch, Grain Division, Agricultural Marketing Service, U.S. Department of Agriculture, or by independent surveyor(s) and commercial laboratories mutually agreeable to the importer and the supplier. If the services are performed by independent surveyor(s) and commercial laboratories, FAS may at any time request the Inspection Branch, Grain Division, AMS, USDA, to draw check samples and perform check analysis. The cost of such check sampling and analysis will be for the account of CCC.

(i) *Bulk oil:* In the case of bulk oil, the samples shall be obtained in accordance with American Oil Chemists' Society Method C 1-47.

(ii) *Drums or barrels:* In the case of oil in drums, or barrels, samples shall be drawn not more than 30 days prior to on-board date shown on the ocean bill of lading, while the containers are being filled.

(iii) *Flakes in bags:* In the case of flakes in bags, samples shall be drawn from 10 percent of bags selected at random at the time and point of loading to vessel.

(6) *Weighting:* Determination of weight shall be by an independent weighmaster or independent surveyor.

(i) *Bulk oil:* The weight shall be determined at the time of loading aboard the vessel.

(ii) *Oil in drums, barrels, or bags:* The weight of the oil exported shall be determined at time of filling containers.

(7) *Surveying of containers:*

(i) *Bulk oil:* Each tank into which the oil is to be loaded shall be examined by an independent surveyor prior to loading to determine that the tank(s) are clean and otherwise suitable for receipt of the oil.

(ii) *Oil in drums:* Drums shall be examined, prior to filling, by an independent surveyor. The drums shall be new or reconditioned and shall be rejected if mechanically unsound; or contaminated with previous contents; or printed with labels or markings for other commodities. The weight of each drum shall be determined at the time of inspection for the purpose of establishing the tare weight.

(iii) *Oil in barrels:* Barrels must be new and shall be examined prior to filling by an independent surveyor. They shall be rejected if mechanically unsound, or printed with labels or markings for other commodities. The weight of each barrel shall be determined at the time of inspection for the purposes of establishing the tare weight.

(iv) *Flakes in bags:* Suitability of the bags for export and compliance with contract

specifications shall be determined by an independent surveyor.

(8) *Markings:* Markings requested by the importer shall be stenciled on the drums, barrels or bags and shall include the name or symbol of the supplier, the purchase authorization number and the name of the importing country.

(g) *Unmanufactured and/or tobacco products.*

(1) *Unmanufactured tobacco;*

(i) *Prices, loading on vessel, and weights:*

A determination that the supplier's prices are not in excess of the prices which may be approved pursuant to the regulations shall be made by the Producer Associations Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, following examination at port of loading to vessel. In the case of tobacco examined at the loading pier, a certification by an official of the port authority that the tobacco was loaded on board vessel is required; and in the case of tobacco examined at a public warehouse in the port area, a certification by a warehouse official that the tobacco was consigned to the port authority and a certification by an official of the port authority that such tobacco was received and was loaded aboard vessel are required.

(ii) *Notification of sale by supplier:* As soon as possible after the contract is signed and at least ten days prior to exportation the supplier must notify the Director, Producer Associations Division, ASCS, U.S. Department of Agriculture, Washington, D.C., 20250, of the date and port at which the tobacco or tobacco products will be available for examination together with contract data as follows:

(a) Supplier's name and address.

(b) Purchase authorization number.

(c) Country of destination.

(d) Commodity description including hogshead or shipping numbers, grade, number of cases, type, and selling price per hundred weight.

(e) Name and address of the sales agent, if any.

(f) Percentage of sales commission, if any, included in price.

(g) Such additional information as may be required by the Director, Producer Associations Division.

(iii) *Marking containers:* In addition to other markings required by the importer, there shall be stenciled on each hogshead or case the hogshead or case number (or designated shipping number), gross weight, purchase authorization number and name of importing country.

(iv) *Costs of inspection and other services:* Any costs involved in the examination of the tobacco, and for services of port officials, warehouse officials and weighmasters as required by the purchase authorization will be for the account of the supplier.

(v) *Contents:* The unmanufactured tobacco shall include cigar cuttings, scraps,

siftings, stems (except the stem of leaf sold), trimmings, and homogenized leaf.

(2) *Tobacco products, cigarettes, and/or packaged and cut tobacco:*

(1) *CCC financing:* The portion of the contracted price which will be financed by CCC, unless otherwise specified in the purchase authorization, is as follows:

Cigarettes:

Nonfilter standard brands (including all-tobacco tip standard brands); \$2.25 per thousand.

Filter and "Economy" Brands: \$1.75 per thousand.

Pipe and cut tobacco: 75 percent of the unit price.

(ii) *Contracts:* All contracts between suppliers and importers shall state:

(a) The tobacco product, the quantity, the contract unit price, and the total contract price of such product.

(b) The portion of the contract unit price of the tobacco product to be financed by CCC which represents the unmanufactured U.S. leaf tobacco used in its manufacture. (The portion of total contract price to be financed by CCC computed in accordance with section (g) (2) (i) of this Appendix A will be the basis for the completion of Blocks 18, 19, 20 of Form CCC 329 (Reverse).)

(c) The portion of the unit price of the tobacco product to be financed by the importer.

(d) Commissions to sales agents are not to be reported in Blocks 13, 14, and 15 of Form CCC 329 (Reverse), since CCC financing represents only the value of the unmanufactured leaf content used in the manufacture of the product.

(3) *Tobacco products—cased strips and shredded tobacco:*

(1) *Prices, loading on vessel, and weights:*

A determination that the supplier's prices are not in excess of the prices which may be approved pursuant to the Regulations shall be made by the Producer Associations Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, following examination at port of loading to vessel. In the case of tobacco examined at the loading pier, a certification by an official of the port authority that the tobacco was loaded on board vessel is required; and in the case of tobacco examined at a public warehouse in the port area, a certification by a warehouse official that the tobacco was consigned to the port authority and a certification by an official of the port authority that such tobacco was received and was loaded aboard vessel are required.

(ii) *Notification of sale by supplier:* As soon as possible after the contract is signed and at least 10 days prior to exportation the supplier must notify the Director, Producer Associations Division, ASCS, U.S. Department of Agriculture, Washington, D.C., 20250, of the date and port at which the tobacco or tobacco products will be available for ex-

amination together with contract data as follows:

- (a) Supplier's name and address.
- (b) Purchase authorization number.
- (c) Country of destination.
- (d) The basis of the contract in terms of the f.a.s. vessel value of the untreated tobacco strip or shredded tobacco to be included in the tobacco product as follows:

Grade	No. Hhds. or cases	Net weight	Type	F.A.S. vessel value per cwt.

(e) The supplier must also notify the Director, Producer Associations Division, the time and place at which the tobacco strip or shredded tobacco may be examined immediately prior to processing and the tobacco product sampled immediately after processing.

(f) Name and address of the sales agent, if any.

(g) Percentage of sales commission, if any, included in price.

(h) Such additional information as may be required by the Director, Producer Associations Division.

(iii) *Marking containers:* In addition to other markings required by the importer, there shall be stenciled on each hogshead or case the hogshead or case number (or designated shipping number), gross weight, purchase authorization number and name of importing country.

(iv) *Costs of inspection and other services:* Any cost involved in the examination of the tobacco, and for services of port officials, warehouse officials and weighmasters as required by this authorization will be for the account of the supplier.

(v) *Contents:* The unmanufactured leaf from which the tobacco product is made shall not include cigar cuttings, scrap, siftings, stems (except the stem of leaf sold), trimmings, and homogenized leaf.

(vi) *CCC financing exclusive of any freight and insurance* will be the lesser of (1) the amount determined by CCC to represent the f.a.s. value of the untreated tobacco strip or shredded tobacco contained in the tobacco product, or (2) the contract price less the cost of the flavoring, casing material, and other tobacco added including its application.

(vii) *Contracts:* All contracts between suppliers and importers shall state:

(a) The tobacco product, the quantity, the contract unit price, and the total contract price of such product.

(b) The portion of the contract unit price of the tobacco product to be financed by CCC which represents the unmanufactured U.S. leaf tobacco used in its manufacture.

(c) The portion of the unit price of the tobacco product to be financed by the importer.

(viii) *Supplier's certificate, Form CCC 329:* The Invoice and Contract Abstract part of this form will be prepared on the basis of the tobacco product(s).

(h) *Rice (milled and/or brown) bags and/or bulk.*

(1) *Payment-in-kind:* Contracts will not be eligible for financing unless the supplier has complied with the requirements of the "Rice Export Program, Payment-in-Kind (GR-369) Terms and Conditions" as amended or revised, as they pertain to sales pursuant to Title I, Public Law 480.

(2) *Contract approval:* Contracts between suppliers and importers shall be deemed to be conditioned on the approval by the Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C., 20250, of the supplier, the supplier's agent, if any, the contract price(s), and the commission, if any.

(3) *Weights and grades:*

(i) In the case of rice in bags, weights shall be determined by checkloading by or under the supervision of the Grain Division, AMS, USDA, at time of loading of the rice for shipment to port for export, or at time of loading rice to ocean vessel but not in excess of the net weight evidenced by the on-board bill of lading.

Grades shall be determined by lot inspection by or under the supervision of the Grain Division, AMS, USDA, made not more than 15 days prior to loading to ocean vessel while the rice was at port under the supervision of the Port Authority.

(ii) In the case of rice in bulk, weights shall be obtained at point of loading to ocean vessel; or if the supplier has obtained approval from the Director, Program Operations Division, FAS, USDA, to furnish weights to be taken at a point other than at point of loading to ocean vessel, 99.5 percent of the weight shown on a weight certificate (weights to be taken at time of loading to barge less a deduction for the weight of any rice loaded onto the barge which was not unloaded into the ocean vessel, or to be the difference between heavy and light weights of rail car or truck loading direct to ocean vessel). The supplier shall obtain a copy of a Commodity Examination Report (Form GR-116) issued by or under the supervision of the Grain Division, AMS, USDA, which shows that the rice was transferred from the carrier to ocean vessel in the manner specified in the letter of approval from the Director, Program Operations Division, FAS, USDA, and containing a notification regarding any rice not so transferred.

Grades shall be determined by lot inspection by or under the supervision of the Grain Division, AMS, USDA, at point of loading to ocean vessel.

(1) *Dry edible beans.*

(1) *Notification of sale by supplier:* The supplier shall, immediately after the date of export sale, furnish a written or telegraphic

notification of sale to the Office of the General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C., 20250. Written notification of any contract amendments shall also be furnished to the General Sales Manager immediately after the date of the amendment. If the supplier fails to furnish the notification within 5 days after the date of export sale, or the date of an amendment to the contract, if applicable, CCC shall have the right to refuse to finance the sale under the program. The following information shall be included in the written notification of the sale:

Supplier's name and address.
 Purchase authorization number.
 Name of importer.
 Sales contract or order number, if any.
 Date and time of sale.
 Complete commodity description—(contract specification).

Complete pack and package material specification.

Quantity expressed in contract units and in 100 pounds net weight.

Price per contract unit and 100 pounds net weight.

Delivery terms (f.o.b., f.a.s., etc.) and coastal range of export (specify Pacific, Gulf, Atlantic, Great Lakes, or St. Lawrence River ports and any option to be exercised by the exporter and/or the foreign importer).

Contract delivery schedule.

Name and address of sales agent, if any.

Percentage of sales commission, if any, included in price.

A statement as to whether the supplier is, or is not, an affiliate of the importer.

If the supplier is an affiliate of the importer, the supplier shall furnish the price information required by section 11.7(c) of the Title I, Public Law 480 Regulations.

The supplier will be notified by letter, and telephone if requested, from the Office of the General Sales Manager promptly after receipt of the notification of sale or notification of any amendments to the contract as to whether or not price and commission, if any, are approved for financing.

(2) *Contract approval:* Contracts between suppliers and importers made subject to this purchase authorization shall be deemed to be conditioned on the approval by the Foreign Agricultural Service, U.S. Department of Agriculture, of the supplier, the supplier's agent if any, the contract price(s), and the commission if any.

(3) *Quality:* Quality description shall be in terms of the United States Standards for beans.

(4) *Weights and grades:* Weights shall be determined by checkloading by the Grain Division, Consumer and Marketing Service, U.S. Department of Agriculture, at time of loading the beans for shipment to port for export, or at time of loading of the beans to vessel; and grade shall be determined by or under the supervision of the Grain Divi-

sion, Agricultural Marketing Service, not more than 15 days prior to loading to vessel while the beans were at port under the supervision of the Port Authority.

(j) *Dry edible peas.*

(1) *Notification of sale by supplier:* The supplier shall, immediately after the date of export sale, furnish a written or telegraphic notification of sale to the Office of the General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C., 20250. Written notification of any contract amendments shall also be furnished to the General Sales Manager immediately after the date of the amendment. If the supplier fails to furnish the notification within 5 days after the date of export sale, or the date of an amendment to the contract, if applicable, CCC shall have the right to refuse to finance the sale under the program. The following information shall be included in the written notification of the sale:

Supplier's name and address.

Purchase authorization number.

Name of importer.

Sales contract or order number, if any.

Date and time of sale.

Complete commodity description—(contract specification).

Complete pack and package material specification.

Quantity expressed in contract units and in 100 pounds net weight.

Price per contract unit and 100 pounds net weight.

Delivery terms (f.o.b., f.a.s., etc.) and coastal range of export (specify Pacific, Gulf, Atlantic, Great Lakes, or St. Lawrence River ports and any option to be exercised by the exporter and/or the foreign importer).

Contract delivery schedule.

Name and address of sales agent, if any.

Percentage of sales commission, if any, included in price.

A statement as to whether the supplier is, or is not, an affiliate of the importer.

If the supplier is an affiliate of the importer, the supplier shall furnish the price information required by section 11.7(c) of the Title I, Public Law 480 Regulations.

The supplier will be notified by letter, and telephone if requested, from the Office of the General Sales Manager promptly after receipt of the notification of sale or notification of any amendment to the contract as to whether or not price and commission, if any, are approved for financing.

(2) *Contract approval:* Contracts between suppliers and importers made subject to the applicable purchase authorization shall be deemed to be conditioned on the approval by the Foreign Agricultural Service, U.S. Department of Agriculture, of the supplier, the supplier's agent if any, the contract price(s), and the commission, if any.

(3) *Quality:* Quality description shall be in terms of the United States Standards for dry peas.

(4) *Weights and grades:* Weights shall be determined by checkloading by or under the supervision of the Grain Division, Agricultural Marketing Service, U.S. Department of Agriculture, at time of loading the peas for shipment to port for export or at time of loading of the peas to vessel; and grade shall be determined by or under the supervision of the Grain Division, Agricultural Marketing Service, not more than 15 days prior to loading to vessel while the peas were at port under the supervision of the Port Authority.

(k) *Tallow (inedible).*

(1) *Notification of sale by supplier:* The supplier shall, immediately after the date of export sale, furnish a written telegraphic notification of sale to the Office of the General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C., 20250. Written notification of any contract amendments shall also be furnished to the General Sales Manager immediately after the date of the amendment. If the supplier fails to furnish the notification within 5 days after the date of export sale, or the date of an amendment to the contract, if applicable, CCC shall have the right to refuse to finance the sale under the program. The following information shall be included in the written notification of the sale:

Supplier's name and address.

Purchase authorization number.

Name of importer.

Sales contract or order number, if any.

Date of sale.

Complete commodity description—(contract specification).

If other than bulk shipment, show complete pack and package material specification.

Quantity expressed in contract units and in pounds.

Price per contract unit and per pound.

Delivery terms (f.o.b., f.a.s., etc.) and coastal range of export (specify Pacific, Gulf, Atlantic, Great Lakes, or St. Lawrence River ports and any option to be exercised by the exporter and/or the foreign importer).

Contract delivery schedule.

Name and address of sales agent, if any.

Percentage of sales commission, if any, included in price.

A statement as to whether the supplier is, or is not, an affiliate of the importer.

If the supplier is an affiliate of the importer, the supplier shall furnish the price information required by section 11.7(c) of the Title I, Public Law 480 Regulations.

The supplier will be notified by letter or telephone if requested, from the Office of the General Sales Manager promptly after receipt of the notification of sale or notification of any amendment to the contract as to whether or not price and commission, if any, are approved for financing.

(2) *Contract approval:* Contracts between suppliers and importers made subject to the

applicable purchase authorization shall be deemed to be conditioned on the approval by the Foreign Agricultural Service, U.S. Department of Agriculture, of the supplier, the supplier's agent if any, the contract price(s), and the commission, if any.

(3) *Quality:* Description shall be as defined in the "Rules of the New York Produce Exchange for Animal Oils and Fats" (Export Contract for Bulk Tallows and Greases) that are in effect the date the contract is entered into. The minimum quality eligible for financing shall be "Special Grade." In the case of "Special Grade" inedible tallow, no tolerances will be applicable. If the contract provides for "Prime Grade" or better, tolerances and discounts as provided in the NYPE rules will apply.

(4) *Advice of contract specifications:* Ten (10) days prior to sampling the supplier must furnish contract specifications regarding quality, in duplicate to the Program Operations Division, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C., 20250, together with a citation to the name and address of the persons, firms or agency that will perform the sampling and analysis service and the location of the tallow and dates when available for sampling.

(5) *Sampling and analysis:*

(1) The drawing of samples and laboratory analysis may be performed by the Meat Grading Branch, Livestock Division, AMS, USDA, or by independent surveyors and commercial laboratories mutually agreeable to the importer and the supplier. If the services are performed by independent surveyor(s) and commercial laboratories, FAS may at any time request the Meat Grading Branch, Livestock Division, AMS, USDA, to draw check samples and perform check analysis. The cost of such check sampling and analysis will be for the account of CCC.

(11) In the case of bulk tallow, the samples shall be obtained in accordance with the American Oil Chemists' Society Method O 1-47.

(111) In the case of tallow in drums, samples must be obtained at the time of filling drums. Samples shall be drawn from at least 5 percent of the drums but in all cases the higher of 10 drums or 5 percent of the total drums in the lot shall be sampled. The samples from each 1,000 drum lot or portion thereof shall be composited and a single sample drawn from the composited sample for analysis.

(6) *Weighting:* Determination of weight shall be by an independent weighmaster or independent surveyor or by the Meat Grading Branch, Livestock Division, AMS, USDA.

(1) *Bulk tallow:* The weight shall be determined at the time of loading aboard vessel.

(11) *Tallow in drums:* The weight shall be determined at the time of filling drums.

(7) *Kind of drums:* The drums must be new or reconditioned.

(8) *Surveying of containments:*

(1) Suitability of the tanks, holds, or drums for export shall be determined by an

independent surveyor or by the Meat Grading Branch, Livestock Division, AMS, USDA.

(ii) *Bulk tallow*: Each tank or hold into which the tallow is to be loaded shall be examined by an independent surveyor or by the Meat Grading Branch, Livestock Division, AMS, USDA, prior to loading to determine that the tanks are clean and in such condition as not to contaminate the product and that the tank is otherwise acceptable for receipt of tallow.

(iii) *Tallow in drums*: Drums shall be examined, prior to filling, by an independent surveyor or the Meat Grading Branch, Livestock Division, AMS, USDA. The drums shall be new or reconditioned and shall be rejected if mechanically unsound, contaminated with previous contents, or printed with labels or markings for other commodities. The weight of each drum shall be determined at the time of inspection for the purpose of establishing the tare weight.

(9) *Markings*: Markings requested by the importer shall be stenciled on the drums, and shall include the name or symbol of the supplier, purchase authorization number, the name of the importing country, and the word "inedible."

(1) *Lard*.

(1) *Notification of sale by supplier*: The supplier shall, immediately after the date of export sale, furnish a written or telegraphic notification of sale to the Office of the General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C., 20250. Written notification of any contract amendments shall also be furnished to the General Sales Manager immediately after the date of the amendment. If the supplier fails to furnish the notification within 5 days after the date of export sale, or the date of an amendment to the contract, if applicable, CCC shall have the right to refuse to finance the sale under the program. The following information shall be included in the written notification of sale:

- Supplier's name and address.
- Purchase authorization number.
- Name of importer.
- Sales contract or order number, if any.
- Date of sale.
- Complete commodity description—(contract specification).

If other than bulk shipment, show complete pack and package material specification.

Quantity expressed in contract units and in pounds.

Price per contract unit and per pound.
 Delivery terms (f.o.b., f.a.s., etc.) and coastal range of export (specify Pacific, Gulf, Atlantic, Great Lakes, or St. Lawrence River ports and any option to be exercised by the exporter and/or the foreign importer).

Contract delivery schedule.
 Name and address of sales agent, if any.
 Percentage of sales commission, if any, included in price.

A statement as to whether the supplier is, or is not, an affiliate of the importer.

If the supplier is an affiliate of the importer, the supplier shall furnish the price information required by section 11.7(c) of the Title I, Public Law 480 Regulations.

The supplier will be notified by letter, and telephone if requested, from the Office of the General Sales Manager promptly after receipt of the notification of sale or notification of any amendment to the contract as to whether or not price and commission, if any, are approved for financing.

(2) *Contract approval*: Contracts between suppliers and importers made subject to the applicable purchase authorization shall be deemed to be conditioned on the approval by the Foreign Agricultural Service, U.S. Department of Agriculture, of the supplier, the supplier's agent if any, the contract price(s) and the commission if any.

(3) *Quality*: Quality description shall be as defined in Federal Specifications No. EE-S-321-b (Shortening Compound and Lard).

(4) *Advice of contract specifications*: The supplier must furnish contract specifications, regarding quality and packaging to the Meat and Poultry Inspection Program, APHIS, U.S. Department of Agriculture Office, having supervision of his establishment.

(5) *Wholesomeness, specifications, and weight*: The Meat and Poultry Inspection Program, APHIS, USDA, shall make determination as to the wholesomeness of the lard. The Meat Grading Branch, Livestock Division, C&MS, USDA, shall make determinations at the point of origin as to compliance with specifications and as to weight and shall also make determination at dockside as to quantity and condition of containers and that the product is the same as that examined at the point of origin.

(6) *Markings*: Labeling and marking of cans and shipping containers shall be according to the Meat Inspection Division Regulations.

(m) *Poultry (frozen chickens and turkeys)*.

(1) *Notification of sale by suppliers*: The supplier shall, immediately after the date of export sale, furnish a written or telegraphic notification of sale to the Office of the General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C., 20250. Written notification of any contract amendments shall also be furnished to the General Sales Manager immediately after the date of the amendment. If the supplier fails to furnish the notification within 5 days after the date of export sale, or the date of an amendment to the contract, if applicable, CCC shall have the right to refuse to finance the sale under the program. The following information shall be included in the written notification of sale:

- Supplier's name and address.
- Purchase authorization number.
- Name of importer.

Sales contract or order number.

Date of sale.

Complete commodity description—(give full contract specification including quality factors).

Details of package, label, and shipping container material specifications.

Quantity expressed in contract units.

Price per contract unit.

Delivery terms (f.o.b., f.a.s., etc.) and coastal range of export (specify Pacific, Gulf, Atlantic, Great Lakes, or St. Lawrence River ports and any option to be exercised by the exporter and/or the foreign importer).

Contract delivery schedule.

Name and address of sales agent, if any.

Percentage of sales commission, if any, included in price.

A statement as to whether the supplier is, or is not, an affiliate of the importer.

If the supplier is an affiliate of the importer, the supplier shall furnish the price information required by section 11.7(c) of the Title I, Public Law 480 Regulations.

The supplier will be notified by letter, and telephone if requested, from the Office of the General Sales Manager promptly after receipt of the notification of sale or notification of any amendment to the contract as to whether or not price and commission, if any, are approved for financing.

(2) *Contract approval:* Contracts between suppliers and importers made subject to the applicable purchase authorization shall be deemed to be conditioned on the approval by the Foreign Agricultural Service, U.S. Department of Agriculture, of the supplier, the supplier's agent if any, the contract price(s), and the commission if any.

(3) *Advice of contract specifications:* The supplier shall notify the Grading Branch, Poultry Division, AMS, USDA, Washington, D.C., 20250, sufficiently in advance to permit USDA inspectors to plan inspection.

(4) *Slaughtering:* Slaughtering shall be performed according to contracts between suppliers and importers.

(5) *Packaging and markings:* Whole birds shall be individually packaged in a bag of shrinkable or wrapped in shrinkable film. If bags are used they shall be vacuumed and sealed with a clip or any other suitable closure which will maintain the seal. If the whole birds are wrapped in sheets of shrinkable film, they shall be heat sealed and shrunk. Parts shall be tray-packed in a shrinkable film or polyethylene wrap which can be heated-sealed. All bags and wraps shall bear the phrase "Product of U.S.A." Brand names may also be included.

(6) *In the case of chickens:* Shipping containers shall comply with the requirements for Level A as set forth in section 5 of Federal Specifications PP-C-248c, as amended August 15, 1961.

(7) *In the case of turkeys:* Shipping containers shall comply with the requirements for Level A as set forth in section 5 of Federal Specifications PPT-791f.

(8) Each shipping container shall be marked with an official inspection and a grade mark issued by the Poultry Division, Agricultural Marketing Service, USDA.

(9) *Grading and weight certificates:* Determination shall be made at shipside in the United States by Poultry Division, Agricultural Marketing Service, U.S. Department of Agriculture, that the lot(s) meets the requirement(s) of the Special Provisions of the applicable purchase authorization, if any with respect to wholesomeness, class, condition, packaging, weight and quality, and wholesomeness, class, condition, packaging, weight and quality shall be determined by the Poultry Division, Agricultural Marketing Service, USDA, at the inland inspection point.

(10) *Canned milk (sweetened condensed and/or evaporated).*

(1) *Notification of sale:* The supplier shall, immediately after the date of export sale, furnish a written or telegraphic notification of sale to the Office of the General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C., 20250. Written notification of any contract amendments shall also be furnished to the General Sales Manager immediately after the date of the amendment. If the supplier fails to furnish the notification within 5 days after the date of export sale, or the date of an amendment to the contract, if applicable, CCC shall have the right to refuse to finance the sale under the program. The following information shall be included in the written notification of sale:

Supplier's name and address.

Purchase authorization number.

Name of importer.

Sales contract or order number.

Date of sale.

Complete commodity description—(give full contract specifications including quality factors).

Details of package, label, and shipping container material specifications.

Quantity expressed in contract units.

Price per contract unit.

Delivery terms, (f.o.b., f.a.s., etc.) and coastal range of export (specify Pacific, Gulf, Atlantic, Great Lakes, or St. Lawrence River ports and any option to be exercised by the exporter and/or the foreign importer).

Contract delivery schedule.

Name and address of sales agent, if any.

Percentage of sales commission, if any, included in price.

A statement as to whether the supplier is, or is not an affiliate of the importer.

If the supplier is an affiliate of the importer, the supplier shall furnish the price information required by section 11.7(c) of the Title I, Public Law 480 regulations.

The supplier will be notified by letter, and telephone if requested, from the Office of the General Sales Manager promptly after receipt of the notification of sale or notification of any amendment to the contract as

to whether or not price and commission, if any, are approved for financing.

(2) *Contract approval:* Contracts between suppliers and importers made subject to the applicable purchase authorization shall be deemed to be conditioned on the approval by the Foreign Agricultural Service, U.S. Department of Agriculture, of the supplier, the supplier's agent if any, the contract price(s), and the commission if any.

(3) Quality and packaging shall be as specified in the contract(s) between the supplier(s) and importer(s).

(4) *In the case of sweetened condensed milk:* Quality and composition for sweetened condensed milk shall comply with the following requirements:

(i) The product shall contain not less than 28 percent total milk solids, not less than 8.5 percent milk fat, and not less than 61.5 percent sugar (sucrose) in water ratio.

(ii) The product shall possess a sweet, pleasing, desirable flavor of a milk and sugar mixture with not more than a definite cooked flavor.

(iii) The color of the products shall be white to light cream and free from visible brown specks. The product shall be of uniform consistency and appearance free from fat separation, lumps, and may possess not more than very slight lactose precipitation. The product, at 75° F., shall be sufficiently viscous that upon being poured it piles up above the surface of the previously poured milk but does not retain a definite form.

(iv) Determination shall be made by the Inspection and Grading Branch, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, showing the quality, condition, and weight of the sweetened condensed milk; that the sweetened condensed milk was packaged in accordance with the requirements of the contract(s) between supplier(s) and importer(s); and that the requirements under section (a) (7) of Appendix A were complied with.

(5) *In the case of evaporated milk:*

(i) Quality and composition for the evaporated milk shall comply with Federal Specifications C-M-37b(1), February 13, 1951, sections 3.3 and 3.4.

(ii) Determination shall be made by the Inspection and Grading Branch, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, showing the quality, condition, and weight of the evaporated milk; that the evaporated milk was packaged in accordance with the requirements of the contract(s) between supplier(s) and importer(s); and that the requirements of section 11.8(d) of this subpart were complied with.

(6) *Advise of contract specifications:* The supplier must furnish contract specifications, regarding quality, packaging and the location of the milk and dates available for sampling to the Inspection and Grading Branch, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C., 20250.

(7) *Labels:* Canned milk exported with a brand label attached to the unit container shall conform to the following:

(i) The label shall be printed or lithographed and shall contain a statement clearly establishing the commodity as being produced, processed, and packaged in the United States. Stamped or stenciled label information will not be acceptable.

(ii) If the markings on the shipping container include a brand name; such brand name shall be identical with the brand name on the unit container.

(o) *Nonfat dry milk.*

(1) *Notification of sale:* The supplier shall, immediately after the date of export sale, furnish a written or telegraphic notification of sale to the Office of the General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C., 20250. Written notification of any contract amendments shall also be furnished to the General Sales Manager immediately after the date of the amendment. If the supplier fails to furnish the notification within 5 days after the date of export sale, or the date of an amendment to the contract, if applicable, CCC shall have the right to refuse to finance the sale under the program. The following information shall be included in the written notification of the sale:

- Supplier's name and address.
- Purchase authorization number.
- Name of importer.
- Sales contract or order number.
- Date of sale.

Complete commodity description—(give full contract specifications including quality factors).

Details of package, label, and shipping container material specifications.

Quantity expressed in contract units.

Price per contract unit.

Delivery terms (f.o.b., f.a.s., etc.) and coastal range of export (specify Pacific, Gulf, Atlantic, Great Lakes, or St. Lawrence River ports and any option to be exercised by the exporter and/or the foreign importer).

Contract delivery schedule.

Name and address of sales agent, if any.

Percentage of sales commission, if any, included in price.

A statement as to whether the supplier is, or is not, an affiliate of the importer.

If the supplier is an affiliate of the importer, the supplier shall furnish the price information required by section 11.7(c) of the Title I, Public Law 480 Regulations.

The supplier will be notified by letter, and telephone if requested, from the Office of the General Sales Manager promptly after receipt of the notification of sale or notification of any amendment to the contract as to whether or not price and commission, if any, are approved for financing.

(2) *Contract approval:* Contracts between suppliers and importers made subject to the applicable purchase authorization shall be deemed to be conditioned on the approval

by the Foreign Agricultural Service, U.S. Department of Agriculture, of the supplier, the supplier's agent if any, the contract price(s), and the commission if any.

(3) *Quality*: Quality and packaging shall be as specified in the contract(s) between the supplier(s) and importer(s). Quality shall be in accordance with U.S. Standards for Grades of nonfat dry milk effective July 1, 1958, and amendments thereto, issued by the Consumer and Marketing Service, U.S. Department of Agriculture.

(4) *Advice of contract specifications*: The supplier must furnish contract specifications, regarding quality and packaging, the location of the milk and dates available for sampling to the Inspection and Grading Branch, Dairy Division, Agricultural Marketing Services, U.S. Department of Agriculture, Federal Center Building, Hyattsville, Md., 20781.

(5) *Grade and weight*: Determination shall be made by the Inspection and Grading Branch, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, showing the grade and weight of the nonfat dry milk; that the milk was packaged in accordance with the requirements of the contract(s) between supplier(s) and importer(s); and that the requirements of section 11.8(d) of this subpart were complied with.

(6) *Labels*: Nonfat dry milk exported with a brand label attached to the unit container shall conform to the following: The label shall be printed or lithographed and shall contain a statement clearly establishing the commodity as being produced, processed, and packaged in the United States. Stamped or stenciled label information will not be acceptable.

(p) *Dry whole milk*.

(1) *Notification of sale*: The supplier shall, immediately after the date of export sale, furnish a written or telegraphic notification of sale to the Office of the General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C., 20250. Written notification of any contract amendments shall also be furnished to the General Sales Manager immediately after the date of the amendment. If the supplier fails to furnish the notification within 5 days after the date of export sale, or the date of an amendment to the contract, if applicable, CCC shall have the right to refuse to finance the sale under the program. The following information shall be included in the written notification of sale:

Supplier's name and address.

Purchase authorization number.

Name of importer.

Sales contract or order number.

Date of sale.

Complete commodity description—(give full contract specifications including quality factors).

Details of package, label, and shipping container material specifications.

Quantity expressed in contract units.

Price per contract unit.

Delivery terms (f.o.b., f.a.s., etc.) and coastal range of export (specify Pacific, Gulf, Atlantic, Great Lakes, or St. Lawrence River ports and any option to be exercised by the exporter and/or the foreign importer).

Contract delivery schedule.

Name and address of sales agent, if any.

Percentage of sales commission, if any, included in price.

A statement as to whether the supplier is, or is not, an affiliate of the importer.

If the supplier is an affiliate of the importer, the supplier shall furnish the price information required by section 11.7(c) of the Title I, Public Law 480 Regulations. The supplier will be notified by letter, and telephone if requested, from the Office of the General Sales Manager promptly after receipt of the notification of sale or notification of any amendment to the contract as to whether or not price and commission, if any, are approved for financing.

(2) *Contract approval*: Contracts between suppliers and importers made subject to the applicable purchase authorization shall be deemed to be conditioned on the approval by the Foreign Agricultural Service, U.S. Department of Agriculture, of the supplier, the supplier's agent if any, the contract price(s), and the commission if any.

(3) *Quality*: Quality and packaging shall be as specified in the contract(s) between the supplier(s) and importer(s). Quality shall be in accordance with U.S. Standards for Grades of Dry Whole Milk effective September 4, 1954, and amendments thereto, issued by the Agricultural Marketing Service, USDA.

(4) *Advice of contract specifications*: The supplier must furnish contract specifications regarding quality and packaging and the location of the milk and dates available for sampling to the Inspection and Grading Branch, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C., 20250.

(5) *Grade and weight*: Determination shall be made by the Inspection and Grading Branch, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, showing the grade and weight of the dry whole milk; that the dry whole milk was packaged in accordance with the requirements of the contract(s) between supplier(s) and importer(s); and that the requirements under section (p)(6) of Appendix A were complied with.

(6) *Labels*: Dry whole milk exported with a brand label attached to the unit container shall conform to the following: The label shall be printed or lithographed and shall contain a statement clearly establishing the commodity as being produced, processed, and packaged in the United States. Stamped or stenciled label information will not be acceptable.

(q) *Butter*.

(1) *Notification of sale*: The supplier shall, immediately after the date of export sale,

furnish a written or telegraphic notification of sale to the Office of the General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C., 20250. Written notification of any contract amendment shall also be furnished to the General Sales Manager immediately after the date of the amendment. If the supplier fails to furnish the notification within 5 days after the date of export sale, or the date of an amendment to the contract, if applicable, CCC shall have the right to refuse to finance the sale under the program. The following information shall be included in the written notification of the sale:

- Supplier's name and address.
- Purchase authorization number.
- Name of importer.
- Sales contract or order number.
- Date of sale.
- Complete commodity description—(give full contract specifications including quality factors).

Details of package, label, and shipping container material specifications.

- Quantity expressed in contract units.
- Price per contract unit.
- Delivery terms (f.o.b., f.a.s., etc.) and coastal range of export (specify Pacific, Gulf, Atlantic, Great Lakes, or St. Lawrence River ports and any option to be exercised by the exporter and/or the foreign importer).

- Contract delivery schedule.
- Name and address of sales agent, if any.
- Percentage of sales commission, if any, included in price.

A statement as to whether the supplier is, or is not an affiliate of the importer.

If the supplier is an affiliate of the importer, the supplier shall furnish the price information required by section 11.7(c) of the Title I, Public Law 480 Regulations.

The supplier will be notified by letter, and telephone if requested, from the Office of the General Sales Manager promptly after receipt of the notification of the sale or notification of any amendment to the contract as to whether or not price and commission, if any, are approved for financing.

(2) *Contract approval:* Contracts between suppliers and importers made subject to the applicable purchase authorization shall be deemed to be conditioned on the approval by the Foreign Agricultural Service, U.S. Department of Agriculture, of the supplier, the supplier's agent if any, the contract price(s), and the commission if any.

(3) *Quality:* Quality and packaging shall be as specified in the contract(s) between the supplier(s) and importer(s). Quality shall be in accordance with U.S. Standards for Grade of Butter, effective April 1960 and amendments thereto issued by the Agricultural Marketing Service, USDA. If the butter is unsalted the ph shall be less than 5.0 but not less than 4.6.

(4) *Advice of contract specifications:* The supplier must furnish contract specifications, regarding quality and packaging and the

location of the butter and dates available for sampling to the Inspection and Grading Branch, Dairy Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250.

(5) *Grade and weight:* Determination shall be made by the Inspection and Grading Branch, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, showing the quality, condition, and weight of the butter; that the butter was packaged in accordance with the requirements of the contract(s) between supplier(s) and importer(s); and that the requirements under section (q) (6) of Appendix A were complied with.

(6) *Labels:* Butter exported with a brand label attached to the unit container shall conform to the following: The label shall be printed or lithographed and shall contain a statement clearly establishing the commodity as being produced, processed, and packaged in the United States. Stamped or stenciled label information will not be acceptable.

(r) *Anhydrous milk fat or anhydrous butter fat or butteroil.*

(1) *Notification of sale:* The supplier shall, immediately after the date of export sale, furnish a written or telegraphic notification of sale to the Office of the General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C. 20250. Written notification of any contract amendments shall also be furnished to the General Sales Manager immediately after the date of the amendment. If the supplier fails to furnish the notification within 5 days after the date of export sale, or the date of an amendment to the contract, if applicable, CCC shall have the right to refuse to finance the sale under the program. The following information shall be included in the written notification of the sale:

- Supplier's name and address.
- Purchase authorization number.
- Name of importer.
- Sales contract or order number.
- Date of sale.
- Complete commodity description—(give full contract specifications including quality factors).

Details of package, label, and shipping container material specifications.

- Quantity expressed in contract units.
- Price per contract unit.
- Delivery terms (f.o.b., f.a.s., etc.) and coastal range of export (specify Pacific, Gulf, Atlantic, Great Lakes, or St. Lawrence River ports and any option to be exercised by the exporter and/or the foreign importer).

- Contract delivery schedule.
- Name and address of sales agent, if any.
- Percentage of sales commission, if any, included in price.

A statement as to whether the supplier is, or is not, an affiliate of the importer.

If the supplier is an affiliate of the importer, the supplier shall furnish the price

information required by section 11.7(c) of the Title I, Public Law 480 Regulations.

The supplier will be notified by letter, and telephone if requested, from the Office of the General Sales Manager promptly after receipt of the notification of sale or notification of any amendment to the contract as to whether or not price and commission, if any, are approved for financing.

(2) *Contract approval:* Contracts between suppliers and importers made subject to the applicable purchase authorization shall be deemed to be conditioned on the approval by the Foreign Agricultural Service, U.S. Department of Agriculture, of the supplier, the supplier's agent if any, the contract price(s), and the commission if any.

(3) *Anhydrous milk fat or anhydrous butterfat:*

(1) The anhydrous milk fat must have been manufactured from fresh sweet cream produced in the continental United States from which Grade A or better butter could be manufactured. The anhydrous butterfat must have been manufactured from U.S. Grade A or better unsalted butter not over 30 days old.

(11) The finished product shall be free from lumps and large crystals such as produced by slow cooling. The color shall be uniform and of a normal yellow butter color. The flavor and odor of the product shall be sweet and clean and free from rancid, tallowy, fishy, cheesy, soapy, scorched, storage or other objectionable flavors and odors.

The product shall meet the following analytical requirement:

Milk fat: Not less than 99.8 percent.
Moisture: Not more than 0.1 percent.
Copper: Not more than 0.10 p.p.m.¹
Peroxide value: Not more than 0.5 mill equivalent per kilogram of fat.
Free fatty acid: Not more than 0.3 percent.

¹ If all equipment and utensils coming into direct contact with the product during processing do not show exposed copper and are made of non-copper-bearing metals or alloys and testing of product indicated compliance with requirements, subsequent testing for copper shall be on a reduced basis. Testing one lot from each contract or spot testing on a 3-month basis, may be considered adequate provided no exposed surfaces of copper are observed and testing shows compliance, otherwise each production lot shall be tested.

(4) *Butteroil:* The color shall be uniform, normal yellow butter. The flavor and odor shall be bland, and free from rancid, tallowy, fishy, cheesy, soapy, scorched, storage or other objectionable flavors and odors. Butteroil shall meet the following analytical requirements:

Milkfat: Not less than 99.6 percent.
Moisture: Not less than 0.3 percent.
Other butter constituents not more than 0.1 percent of which salt shall be not more than 0.5 percent.

Copper: Not more than 0.1 p.p.m.¹
Peroxide value: Not more than 0.5 mill equivalent per kilogram of fat.

Free fatty acid: Not more than 0.5 percent.

(5) *Processing supervision:* The processing of the anhydrous milk fat, anhydrous butter fat and butteroil shall be under the supervision of the Inspection and Grading Branch, Dairy Division, Agricultural Marketing Service, USDA.

(6) *Advice of contract specifications:* The supplier must furnish contract specifications regarding quality and packaging and the location of the commodities and dates available for sampling to the Inspection and Grading Branch, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

(7) *Grade and weight:* Determinations shall be made by the Inspection and Grading Branch, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, showing the quality, condition, and weight of the product, that the product was packaged in accordance with the requirements of the contract(s) between supplier(s) and importer(s); and that the requirements under section (r) (8) of Appendix A were complied with.

(8) *Labels:* Products exported with a brand label attached to the unit container shall conform to the following: The label shall be printed or lithographed and shall contain a statement clearly establishing the commodity as being produced, processed, and packaged in the United States. Stamped or stenciled label information will not be acceptable.

(s) *Cheese (cheddar and/or process).*

(1) *Notification of sale:* The supplier shall immediately after the date of export sale, furnish a written or telegraphic notification of sale to the Office of the General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C. 20250. Written notification of any contract amendments shall also be furnished to the General Sales Manager immediately after the date of the amendment. If the supplier fails to furnish the notification within 5 days after the date of export sale, or the date of an amendment to the contract, if applicable, CCC shall have the right to refuse to finance the sale under the program. The following

¹ If all equipment and utensils coming in direct contact with the product during processing do not show exposed copper and are made of non-copper-bearing metals or alloys and testing of product indicated compliance with requirements, subsequent testing for copper shall be on a reduced basis. Testing one lot from each contract may be considered adequate provided no exposed surfaces of copper are observed and testing shows compliance, otherwise each production lot will be tested.

information shall be included in the written notification of the sale:

- Supplier's name and address.
- Purchase authorization number.
- Name of importer.
- Sales contract or order number.
- Date of sale.

Complete commodity description—(give full contract specifications including quality factors).

Details of package, label, and shipping container material specifications.

- Quantity expressed in contract units.
- Price per contract unit.

Delivery terms (f.o.b., f.a.s., etc.) and coastal range of export (specify Pacific, Gulf, Atlantic, Great Lakes, or St. Lawrence River ports and any option to be exercised by the exporter and/or the foreign importer).

- Contract delivery schedule.
- Name and address of sales agent, if any.
- Percentage of sales commission, if any, included in price.

A statement as to whether the supplier is, or is not, an affiliate of the importer.

If the supplier is an affiliate of the importer, the supplier shall furnish the price information required by section 11.7(c) of the Title I, Public Law 480 Regulations.

The supplier will be notified by letter, and telephone if requested, from the Office of the General Sales Manager promptly after receipt of the notification of sale or notification of any amendment to the contract as to whether or not price and commission, if any, are approved for financing.

(2) *Contract approval:* Contract(s) between supplier (s) and importer(s) made subject to the applicable purchase authorization shall be deemed to be conditioned on the approval by the Foreign Agricultural Service, U.S. Department of Agriculture, of the supplier, the supplier's agent if any, the contract price (s), and the commission if any.

(3) *Quality:* Quality and packaging shall be as specified in the contract(s) between the supplier(s) and importer(s).

(i) Quality for cheddar cheese shall be in accordance with U.S. Standards for Grades of Cheddar Cheese effective May 1, 1956, and amendments thereto, issued by the Agricultural Marketing Service, USDA.

(ii) The quality for pasteurized process cheese shall meet the requirements of section 3, Federal Specifications C-C 291a, Cheese, Process Pasteurized dated March 6, 1956, and amendments thereto or subsequent revision thereof, for Type I (Process American) or Type III (Process Cheddar). In addition, for process cheese packaged in cans the pH shall be in the range of 5.5 to 5.7.

(4) *Grade and weight:* Determinations shall be made by the Inspection and Grading Branch, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, showing the quality, condition, and weight of the cheese; that the cheese was packaged in accordance with the require-

ments of the contract(s) between supplier(s) and importer(s); and that the requirements under section (s) (6) of Appendix A were complied with.

(5) *Advice of contract specifications:* The supplier must furnish contract specifications, regarding quality and packaging, the location of the products, and dates available for sampling, to the Inspection and Grading Branch, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C., 20250.

(6) *Labels:* Cheese exported with a brand label attached to the unit container shall conform to the following: The label shall be printed or lithographed and shall contain a statement clearly establishing the commodity as being produced, processed, and packaged in the United States. Stamped or stenciled label information will not be acceptable.

(t) *Ghee.*

(1) *Notification of sale:* The supplier shall, immediately after the date of export sale, furnish a written or telegraphic notification of sale to the Office of the General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C., 20250. Written notification of any contract amendments shall also be furnished to the General Sales Manager immediately after the date of the amendment. If the supplier fails to furnish the notification within 5 days after the date of export sale, or the date of an amendment to the contract, if applicable, CCC shall have the right to refuse to finance the sale under the program. The following information shall be included in the written notification of the sale:

- Supplier's name and address.
- Purchase authorization number.
- Name of importer.
- Sales contract or order number.
- Date of sale.

Complete commodity description—(give full contract specification including quality factors).

Details of package, label, and shipping container material specifications.

- Quantity expressed in contract units.
- Price per contract unit.

Delivery terms (f.o.b., f.a.s., etc.) and coastal range of export (specify Pacific, Gulf, Atlantic, Great Lakes, or St. Lawrence River ports and any option to be exercised by the exporter and/or the foreign importer).

- Contract delivery schedule.
- Name and address of sales agent, if any.
- Percentage of sales commission, if any included in price.

A statement as to whether the supplier is, or is not, an affiliate of the importer.

If the supplier is an affiliate of the importer, the supplier shall furnish the price information required by section 11.7(c) of the Title I, Public Law 480 Regulations.

The supplier will be notified by letter, and telephone if requested, from the Office of the

General Sales Manager, promptly after receipt of the notification of sale or notification of any amendment to the contract as to whether or not price and commission, if any, are approved for financing.

(2) *Contract approval*: Contract(s) between supplier(s) and importer(s) made subject to the applicable purchase authorization shall be deemed to be conditioned on the approval by the Foreign Agricultural Service, U.S. Department of Agriculture, of the supplier, the supplier's agent if any, the contract price(s), and the commission if any.

(3) *Quality*: Quality and packaging shall be as specified in the contract(s) between the supplier(s) and importer(s).

(4) *Specifications*: The ghee shall have a pleasant flavor and odor. It may have a slightly cooked or caramelized flavor. The product shall have a uniform, typical grainy texture characteristic of ghee. When melted it shall be transparent, clear and practically free from curd.

The product shall meet the following analytical requirements:

Milk Fat: Not less than 99.6 percent.

Copper: Not more than 0.1 p.p.m.¹

Peroxide value: Not more than 0.5 milliequivalent per kilogram of fat.

Free fatty acid: Not more than 0.5 percent.

¹ If all equipment and utensils coming in direct contact with the product during processing do not show exposed copper and are made of non-copper-bearing metals or alloys and testing of product indicated compliance with requirements, subsequent testing for copper shall be on a reduced basis. Testing one lot from each contract may be considered adequate provided no exposed surfaces of copper are observed and testing shows compliance, otherwise each production lot will be tested.

The processing of ghee shall be under the supervision of the Inspection and Grading Branch, Dairy Division, Agricultural Marketing Service, USDA.

(5) *Advice of contract specifications*: The supplier must furnish contract specifications, regarding quality and packaging and the location of the ghee and dates available for sampling to the Inspection and Grading Branch, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C., 20250.

(6) *Grade and weight*: Determinations shall be made by the Inspection and Grading Branch, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, showing the quality, condition, and weight of the ghee; that the ghee was packaged in accordance with the requirements of the contract(s) between supplier(s) and importer(s); and that the requirements under section (t)(7) of Appendix A were complied with.

(7) *Labels*: Ghee exported hereunder with a brand label attached to the unit container shall conform to the following: The label

shall be printed or lithographed and shall contain a statement clearly establishing the commodity as being produced, processed, and packaged in the United States. Stamped or stenciled label information will not be acceptable.

(u) *Stabilized dried whole eggs*.

(1) *Notification of sale*: The supplier shall, immediately after the date of export sale, furnish a written or telegraphic notification of sale to the Office of the General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C., 20250. Written notification of any contract amendments shall also be furnished to the General Sales Manager immediately after the date of the amendment. If the supplier fails to furnish the notification within 5 days after the date of export sale, or the date of an amendment to the contract, if applicable, CCC shall have the right to refuse to finance the sale under the program. The following information shall be included in the written notification of the sale:

Supplier's name and address.

Purchase authorization number.

Name of importer.

Sales contract or order number.

Date of sale.

Complete commodity description—(give full contract specifications including quality factors).

Details of package, label, and shipping container material specifications.

Quantity expressed in contract units.

Price per contract unit.

Delivery terms (f.o.b., f.a.s., etc.) and coastal range of export (specify Pacific, Gulf, Atlantic, Great Lakes, or St. Lawrence River ports and any option to be exercised by the exporter and/or the foreign importer).

Contract delivery schedule.

Name and address of sales agent, if any.

Percentage of sales commission, if any, included in price.

A statement as to whether the supplier is, or is not, an affiliate of the importer.

If the supplier is an affiliate of the importer, the supplier shall furnish the price information required by section 117(c) of the Title I, Public Law 480 Regulation.

The supplier will be notified by letter, and telephone if requested, from the Office of the General Sales Manager promptly after receipt of the notification of sale or notification of any amendment to the contract as to whether or not price and commission, if any, are approved for financing.

(2) *Contract approval*: Contracts between suppliers and importers made subject to the applicable purchase authorization shall be deemed to be conditioned on the approval by the Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C., 20250, of the supplier's agent if any, the contract price(s), and the commission if any.

(3) *USDA approved processors*: The stabilized dried whole eggs purchased under the applicable purchase authorization must be

produced only by processors who are USDA approved establishments under the supervision of the Grading Branch, Poultry Division, Agricultural Marketing Service, U.S. Department of Agriculture, and shall be inspected in accordance with the Regulations contained in Part 55 of Title 7, as amended, of the Code of Federal Regulations, "Grading and Inspection of Egg Products," which govern the inspection of egg products.

(4) *Quality:* Quality and packaging shall be as specified in the contract(s) between the supplier(s) and importer(s). Quality shall be in accordance with Schedule SS Revised (March 1962) USDA, Dried Whole Egg Solids (Stabilized) Specifications and Amendments thereto, issued by the Agricultural Marketing Service, USDA, Washington, D.C. 20250.

(5) *Advice of contract specifications:* The supplier must furnish contract specifications regarding quality and packaging and the locations of the eggs and dates available for sampling to the Grading Branch, Poultry Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C., 20250.

(6) *Grade and Weights:* Determinations shall be made by the Grading Branch, Poultry Division, Agricultural Marketing Service, U.S. Department of Agriculture at the processing plant showing the quality, condition, and weight of the dried eggs; that the eggs were packaged in accordance with the requirements of the contract(s) between supplier(s) and importer(s), and that the requirements of section (u) (8) of Appendix A were complied with. Determinations shall also be made at shipside in the United States by the Grading Branch, Poultry Division, Agricultural Marketing Service, U.S. Department of Agriculture, that the lot(s) meet the requirement(s) of the contract and that the product is the same as that previously examined at the processing plant.

(7) *Markings:* Each shipping container shall be marked with the Official Inspection Mark (shield) as approved by the Poultry Division, Consumer and Marketing Service, USDA.

(8) *Labels:* Stabilized dried whole eggs exported with a brand label attached to the unit container shall comply with section 55.36 of Part 55 "Grading and Inspection of Egg Products". The label shall be printed or lithographed and shall contain a statement clearly establishing the commodity as being produced, processed, and packaged in the United States. Stamped or stenciled label information will not be acceptable.

(v) *Upland cotton.*

(1) *Financing:* The letter(s) of credit opened by the importing country must provide for payment to the supplier of 100 percent of the contracted price where CCC financing is utilized in whole or in part as set forth below. No transaction under a letter or letters of credit which provides for payment of less than 100 percent of the contracted price, where CCC financing is utilized

in whole or in part, shall be eligible for CCC financing.

(a) *Contracts basis USDA Form A Certificate:* If USDA Form A Certificates are required under the terms of the contract CCC will finance:

(i) 100 percent of the c.i.f. or c. & f. invoice value if registered as a c.i.f. or c. & f. sale and CCC freight financing is authorized on Form CCC-106-3, Advice of Vessel Approval—Cotton.

(ii) 100 percent of the c.i.f. or c. & f. invoice value less freight if registered as a c.i.f. or c. & f. sale and CCC freight financing is not authorized on Form CCC-106-3.

(iii) 100 percent of the invoice value (basis f.a.s.) if registered as a f.a.s. sale (CCC does not finance freight on f.a.s. sales except under a separate Purchase Authorization for the Procurement of Ocean Transportation).

(b) *Contracts basis foreign arbitration:* For all contracts other than those which require USDA Form A Certificates CCC will finance:

(i) 98 percent of the invoice value of cotton and insurance plus 100 percent of freight for c.i.f. sales if registered as c.i.f. and CCC freight financing is authorized on Form CCC-106-3.

(ii) 98 percent of the invoice value of cotton plus 100 percent of freight for c. & f. sales if registered as c. & f. and CCC freight financing is authorized on Form CCC-106-3.

(iii) 98 percent of invoice value less freight for c.i.f. and c. & f. sales if registered as such and CCC freight financing is not authorized on Form CCC-106-3.

(iv) 98 percent of invoice value (basis f.a.s.) for all sales registered as f.a.s.

(c) *Refunds:* The provisions of section 11.9 (a) (1) of the Title I Public Law 480 Regulations that all adjustment refunds shall be remitted by the supplier for the account of the importer through the U.S. bank which financed the original transaction remain in effect. (For transactions where the supplier is billed by CCC for refunds of amounts over-financed, the supplier shall remit directly to the billing office.) The provision that the importing country shall pay an equal amount of dollars to CCC upon demand shall not apply under a purchase authorization which is subject to this Appendix A. The importing country may retain all dollar exchange received in connection with the adjustment refunds under a purchase authorization which is subject to this Appendix A. In the case of ineligible cotton, the supplier shall remit directly to CCC. CCC will make appropriate local currency refunds to importers for dollar recoveries by CCC direct from suppliers.

(d) *Insurance:* The provision of section 11.9(b) of the Regulations with regard to insurance claims remains in effect except that CCC will not make demand upon the importing country for exchange of dollars for local currency.

(2) *Notification of sale:* The supplier shall, within 5 days from the date of export sale,

furnish the Director, ASCS Commodity Office, Wirth Building, 120 Marais Street, New Orleans, La., 70112, with a copy of his sales confirmation, and if the supplier fails to do so, CCC shall have the right to refuse to finance the sale under the program.

(3) *Price confirmation:* The ASCS Commodity Office will undertake, on behalf of CCC, to check the sales confirmation as to price and to inform the supplier, within 3 business days from receipt of the sales confirmation, whether such price is in conformance with section 11.7(a) of the Title I, Public Law 480 Regulations.

(1) If the ASCS Commodity Office determines that the sales price is in conformance with section 11.7(a) of the Title I, Public Law 480 Regulations, the supplier will immediately be informed by telegram of the registration number assigned to the sale by CCC.

(1) *Failure by the ASCS Commodity Office* to so notify the supplier by telegram within 5 business days after receipt of the copy of the sales confirmation will indicate that the sale price is not acceptable, and the sale will not be financed under the program unless the supplier satisfies CCC that the sale price is in conformance with section 11.7(a) of the Title I, Public Law 480 Regulations.

(4) *U.S. net weight:* Net weight shall be determined in the United States and certified by a U.S. warehouseman, or it shall be determined at the U.S. port of export and certified by other authorized weigher (sales basis landed weight, ex-dock and ex-warehouse are not eligible for financing).

(5) *Quality:* Although seller's offers may be on the basis of private types, in all invitations for bids the quality shall be described in terms of the Official U.S. Cotton Standards. Quality shall be specified in contracts between importers and suppliers. A contract shall cover only one quality. Quality descriptions in contracts shall be in terms of the Official U.S. Cotton Standards, except where sales are made on the basis of private types. In the case of private-type sales, the supplier must make such private types available for classification by C&MS no later than the date the sales confirmation is furnished the New Orleans ASCS Commodity Office.

(6) *Arbitration:* Cotton shall be subject to arbitration for quality unless the contract provides for USDA Form A Certificates and for other terms under rules of an established cotton exchange or association agreed upon by the importer and supplier, such established cotton exchange or association to be identified in the contract. An importer of cotton shall if requested by CCC, obtain foreign quality arbitration under the specified market rules. If the contract provides for USDA Form A Certificate, CCC will not request such arbitration. The arbitration award may be appealed by the supplier or the importer and shall be appealed by the importer upon request by CCC, under the applicable rules specified in the contract. If

the costs paid by the importer for an arbitration or appeal requested by CCC are in excess of the award, CCC will reimburse the importer, or other party designated by the importer, in an amount equal to such excess, upon submission to the Director, ASCS Commodity Office, New Orleans, La., of documentation showing the amount of costs incurred by the importer and the amount of the award. These provisions shall not alter the rights of the importer and the supplier to effect adjustments by arbitration or otherwise in accordance with the provisions of the contract or customs of the trade for other than quality deficiencies, or for quality deficiencies if CCC does not request arbitration.

(7) *Certification as to quality and classification:* Block 21 of the signed original Form CCC 329 or a signed attachment thereto shall contain the following certification: "The undersigned hereby represents that he believes the quality and classification of the cotton shipped under this contract are substantially as stated in the contract. The supplier does not guarantee the quality or classification, and agrees to adjust the price for any difference in quality or classification determined by arbitration as provided in the Regulations or purchase authorization."

(8) *Delayed letter of credit:* Interest or carrying charges incurred as a result of delays in establishing letters of credit are not eligible for financing.

(9) *Sampling, Classification, and adjustment of contract price:* (This provision is applicable to all sales hereunder unless the contract provides for Form A Certificates.)

(1) *Tag lists and sampling:* The supplier shall furnish to any permanent Agricultural Marketing Service classing office of the supplier's choice a tag list of the cotton included in a single export shipment showing the supplier's name and address; the CCC registration number; the purchase authorization number; the supplier's sale number, if any; the name, address, and CCC code number of the warehouse in which cotton is stored; and the warehouse bale numbers of the cotton to be exported listed in numerical sequence. A separate tag list must be submitted for the cotton to be shipped from each warehouse. Samples will be required from a minimum of 10 percent of the bales of cotton (larger percentages will be used on small lots). The bales to be sampled will be selected by the chosen AMS classing office and entered on a Record Sheet. If the supplier desires a larger percentage of samples to be drawn than the minimum required, he should indicate such percentage on the tag list. At the time the copy of the tag list is furnished the warehouseman by the supplier, he shall instruct him to sample the bales of cotton listed on the Record Sheet and to handle such samples in accordance with instructions issued by the New Orleans ASCS Commodity Office. The supplier shall also instruct the warehouseman that the cotton must not be shipped until

after it has been sampled in accordance with instructions issued by the New Orleans ASCS Commodity Office. All costs relating to the samples and sampling will be for the supplier.

(ii) *Submitting private-type for classification:* If the sale is made on the basis of private-type and if the particular type has not been classed under the revised standards effective June 15, 1963, the supplier shall submit the private-type for classing directly to the Appeal Board of Review Examiners, Cotton Division, AMS, U.S. Department of Agriculture, 4841 Summer Avenue, Memphis, Tenn., 38117, along with a complete Request for Classification (Form CN-357). The type shall be identified by the supplier's name and address and private-type name of designation. If the sale is made on the basis of a private-type classed under the revised standards effective June 15, 1963, the supplier shall so advise the New Orleans, ASCS Commodity Office and identify such private-type by furnishing the supplier's name and address, the number of the AMS classification memorandum, the date of such classification memorandum, and the supplier's private-type or designation.

The private-type submitted for classification hereunder shall be identical in quality with the private-type on which the sale is based and the private-type supplied to the arbitration board in connection with the contract covering the sale.

(iii) *Adjustment of contract price:* In addition to the other requirements for quality arbitration, the following will also apply:

(a) If the allowances awarded whether by an arbitration board or an appeal board for quality differences on a shipment covered by one lot mark average 150 points or more per pound and CCC has determined the maximum export price to be less than 28.00 cents per pound for such shipment based on a C&MS classing memorandum issued for samples drawn and handled pursuant to (i) above, or if no such classing memorandum was received by CCC, such award shall be increased by the larger of the following two amounts: The amount of such allowances awarded, or the sum of any additional penalties for abnormal quality differences imposed under the contract or applicable association rules for such differences.

(b) If the allowances awarded whether by an arbitration board or an appeal board for quality differences on a shipment covered by one lot mark average 300 points or more per pound and CCC has determined the maximum export price to be 28.00 or more cents per pound for such shipment based on a C&MS classing memorandum issued for samples drawn and handled pursuant to (i) above, or if no such classing memorandum was received by CCC, such award shall be increased by the larger of the following two amounts: One-half the amount of such allowances awarded, or the sum of any additional penalties for abnormal quality differ-

ences imposed under the contract or applicable association rules for such differences.

(c) If the classification of the cotton is determined by an appeal board in connection with an appeal from an arbitration award, the contract price shall be reduced by the larger of the following two amounts: The award assigned under (a) or (b) above or the amount by which the contract price exceeds the prevailing range of export prices at the time of sale as determined by CCC on the basis of the classification assigned by the appeal board in connection with such appeal. In any case where the classification of the cotton is not determined by an appeal board in connection with an appeal from an arbitration award, the contract price shall be reduced by the award.

(10) *Extra copy of invoice:* Supplier shall forward, immediately after shipment of the cotton, a legible copy of his invoice to the Director, ASCS Commodity Office, New Orleans, Wirth Building, 120 Marais Street, New Orleans, La. 70112, Attention: CO-8-JPD. Such copy is in addition to the copy for CCC to be submitted with other required documents to the banking institution.

(w) *Extra long staple cotton.*

(1) *Financing:* The letter(s) of credit opened by the importing country must provide for payment to the supplier of 100 percent of the contracted price where CCC financing is utilized in whole or in part as set forth below. No transaction under a letter or letters of credit which provide for payment of less than 100 percent of the contracted price, where CCC financing is utilized in whole or in part, shall be eligible for CCC financing.

(a) *Contract basis USDA Form A Certificate:* If USDA Form A Certificates are required under the terms of the contract CCC will finance:

(i) 100 percent of the c.i.f. or c. & f. invoice value if registered as a c.i.f. or c. & f. sale and CCC freight financing is authorized on Form CCC-106-3, Advice of Vessel Approval—Cotton.

(ii) 100 percent of the c.i.f. or c. & f. invoice value less freight if registered as a c.i.f. or c. & f. sale and CCC freight financing is not authorized on Form CCC-106-3.

(iii) 100 percent of the invoice value (basis f.a.s.) if registered as a f.a.s. sale (CCC does not finance freight on f.a.s. sales except under a separate Purchase Authorization for the Procurement of Ocean Transportation).

(b) *Contracts basis foreign arbitration:* For all contracts other than those which require USDA Form A Certificates CCC will finance:

(i) 98 percent of the invoice value of cotton and insurance plus 100 percent of freight for c.i.f. sales if registered as c.i.f. and CCC freight financing is authorized on Form CCC-106-3.

(ii) 98 percent of the invoice value of cotton plus 100 percent of freight for c. & f.

sales if registered as c. & f. and CCC freight financing is authorized on Form CCC-106-3.

(iii) 98 percent of invoice value less freight for c.i.f. and c. & f. sales if registered as such and CCC freight financing is not authorized on Form CCC-106-3.

(iv) 98 percent of invoice value (basis f.a.s.) for all sales registered as f.a.s.

(c) *Refunds*: The provisions of section 11.9 (a) (1) of the Title I Public Law 480 Regulations that all adjustment refunds shall be remitted by the supplier for the account of the importer through the U.S. bank which financed the original transaction remain in effect. (For transactions where the supplier is billed by CCC for refund of amounts over-financed, the supplier shall remit directly to the billing office.) The provision that the importing country shall pay an equal amount of dollars to CCC upon demand shall not apply under a purchase authorization which is subject to this Appendix A. The importing country may retain all dollar exchange received in connection with the adjustment refunds under a purchase authorization which is subject to this Appendix A. In the case of ineligible cotton, the supplier shall remit directly to CCC. CCC will make appropriate local currency refunds to importers for dollar recoveries by CCC direct from suppliers.

(d) *Insurance*: The provision of section 11.9(b) of the Regulations with regard to insurance claims remains in effect except that CCC will not make demand upon the importing country for exchange of dollars for local currency.

(2) *Notification of sale*: The supplier shall, within 5 days from the date of export sale, furnish the Director, ASCS Commodity Office, Wirth Building, 120 Marais Street, New Orleans, La., 70112, with a copy of his sales confirmation, and if the supplier fails to do so, CCC shall have the right to refuse to finance the sale under the program.

(3) *Price confirmation*: The ASCS Commodity Office will undertake, on behalf of CCC, to check the sales confirmation as to price and to inform the supplier, within 3 business days from receipt of the sales confirmation, whether such price is in conformance with section 11.7(a) of the Title I, Public Law 480 Regulations.

(i) If the ASCS Commodity Office determines that the sale price is in conformance with section 11.7(a) of the Title I, Public Law 480 Regulations, the supplier will immediately be informed by telegram of the registration number assigned to the sale by CCC.

(ii) Failure by the ASCS Commodity Office to so notify the supplier by telegram within 5 business days after receipt of the copy of the sales confirmation will indicate that the sale price is not acceptable, and the sale will not be financed under the program unless the supplier satisfies CCC that the sale price is in conformance with section 11.7(a) of the Title I, Public Law 480 Regulations.

(4) *U.S. net weight*: Net weight shall be determined in the United States and certified

by a U.S. warehouseman, or it shall be determined at the U.S. port of export and certified by other authorized weigher (sales basis landed weight, ex-dock and ex-warehouse are not eligible for financing).

(5) *Quality*: Although sellers' offers may be on the basis of private types, in all invitations for bids the quality shall be described in terms of the Official U.S. Cotton Standards. Quality shall be specified in contracts between importers and suppliers. A contract shall cover only one quality. Quality descriptions in contracts shall be in terms of the Official U.S. Cotton Standards, except where sales are made on the basis of private types. In the case of private-type sales, the supplier must make such private types available for classification by C&MS no later than the date the sales confirmation is furnished the New Orleans ASCS Commodity Office.

(6) *Arbitration*: Cotton shall be subject to arbitration for quality unless the contract provides for USDA Form A Certificates and for other terms under rules of an established cotton exchange or association agreed upon by the importer and supplier, such association or established cotton exchange to be identified in the contract. An importer of cotton shall, if requested by CCC, obtain foreign quality arbitration under the specified market rules. If the contract provides for USDA Form A Certificate, CCC will not request such arbitration. The arbitration award may be appealed by the supplier or the importer and shall be appealed by the importer upon request by CCC, under the applicable rules specified in the contract. If the costs paid by the importer for an arbitration or appeal requested by CCC are in excess of the award, CCC will reimburse the importer, or other party designated by the importer, in an amount equal to such excess, upon submission to the Director, ASCS Commodity Office, New Orleans, La., of documentation showing the amount of costs incurred by the importer and the amount of the award. These provisions shall not alter the rights of the importer and the supplier to effect adjustments by arbitration or otherwise in accordance with the provisions of the contract or customs of the trade for other than quality deficiencies, or for quality deficiencies if CCC does not request arbitration.

(7) *Certification as to quality and classification*: Block 21 of the signed original Form CCC 329 or a signed attachment thereto shall contain the following certification: "The undersigned hereby represents that he believes the quality and classification of the cotton shipped under this contract are substantially as stated in the contract. The supplier does not guarantee the quality or classification, and agrees to adjust the price for any difference in quality or classification determined by arbitration as provided in the Regulations or purchase authorization."

(8) *Delayed letter of credit*: Interest or carrying charges incurred as a result of delays in establishing letters of credit are not eligible for financing hereunder.

(9) *Sampling, classification and adjustment of contract price:* (This provision is applicable to all sales hereunder unless the contract provides for Form A Certificates.)

(1) *Tag lists and sampling:* The supplier shall furnish to any permanent Agricultural Marketing Service classing office of the supplier's choice a tag list of the cotton included in a single export shipment showing the supplier's name and address; the CCC registration number; the purchase authorization number; the supplier's sale number, if any; the name, address and CCC code number of the warehouse in which the cotton is stored; and the warehouse bale number of the cotton to be exported listed in numerical sequence. A separate tag list must be submitted for the cotton to be shipped from each warehouse. Samples will be required from a minimum of 10 percent of the bales of cotton (larger percentages will be used on small lots). The bales to be sampled will be selected by the chosen AMS classing office and entered on a Record Sheet. If the supplier desires a larger percentage of samples to be drawn than the minimum required he should indicate such percentage on the tag list. At the time the copy of the tag list is furnished the warehouseman by the supplier, he shall instruct him to sample the bales of cotton listed on the Record Sheet and to handle such samples in accordance with instructions issued by the New Orleans ASCS Commodity Office. The supplier shall also instruct the warehouseman that the cotton must not be shipped until after it has been sampled in accordance with instructions issued by the New Orleans ASCS Commodity Office. All costs relating to the samples and sampling will be for the account of the supplier.

(ii) *Submitting private-type for classification:* If the sale is made on the basis of private-type and if the particular type has not been submitted on or after August 1, 1962, for classification, the supplier shall submit the private-type for classing directly to the Appeal Board for Review Examiners, Cotton Division, AMS, U.S. Department of Agriculture, 4841 Summer Avenue, Memphis, Tenn., 38117. The type shall be identified by the supplier's name and address and private-type name or designation. The classification of any type submitted prior to August 1, 1962, will not be acceptable. If the sale is made on the basis of a private-type previously submitted on or after August 1, 1962, for classification, the supplier shall so advise the New Orleans ASCS Commodity Office and identify such private-type by furnishing the supplier's name and address, the number of the AMS classification memorandum, the date of such classification memorandum, and the supplier's private-type name or designation. The private-type submitted for classification hereunder shall be identical in quality with the private-type on which the sale is based and the private-type supplied to the arbitration board in

connection with the contract covering the sale.

(iii) *Adjustment of contract price:* In addition to the other requirements for quality arbitration, the following will also apply:

(a) If the allowances awarded whether by an arbitration board or an appeal board for quality differences on a shipment covered by one lot mark average 300 points or more per pound, such award shall be increased by the larger of the following two amounts: The amount of such allowances awarded, or the sum of any additional penalties for abnormal quality differences imposed under the contract or applicable association rules for such differences.

(b) If the classification of the cotton is determined by an appeal board in connection with an appeal from an arbitration award, the contract price shall be reduced by the larger of the following two amounts: The award assigned under (a) above or the amount by which the contract price exceeds the prevailing range of export prices at the time of sale as determined by CCC on the basis of the classification assigned by the appeal board in connection with such appeal.

(c) In any case where the classification of the cotton is not determined by an appeal board in connection with an appeal from an arbitration award, the contract price shall be reduced by the award.

(10) *Extra copy of invoice:* The supplier shall forward, immediately after shipment of the cotton, a legible copy of his invoice to the Director, ASCS Commodity Office, New Orleans, Wirth Building, 120 Marais Street, New Orleans, La., 70112, Attention: CO-8-JPD. Such copy is in addition to the copy for CCC to be submitted with other required documents to the banking institution.

APPENDIX B—REGULATIONS GOVERNING THE FINANCING OF COMMERCIAL SALES OF SURPLUS AGRICULTURAL COMMODITIES FOR FOREIGN CURRENCIES—SPECIAL DOCUMENTATION PROVISIONS

Special documentation for specific commodities is required to be submitted in addition to the documentation required by section 11.13 of the regulations, the purchase authorization, and the letter of commitment, as follows:

SPECIAL DOCUMENTATION PROVISIONS

(a) *Wheat in bulk or bags.*

(1) *Notice of price approval.* One copy of Form CCC 359, Declaration of Sale, signed by the General Sales Manager, Deputy General Sales Manager, or Assistant General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, shall be submitted to the U.S. bank with the documents covering the first transaction under the contract. The unit price shown on the supplier's invoice must not exceed the approved price shown on Form CCC 359, Declaration of Sale. For subsequent transactions under the same contract, the supplier shall certify

on the CCC copy of the detailed invoice as follows:

"I hereby certify that the applicable signed copy of the Declaration of Sale was submitted to -----

(Name of U.S. bank)

with documents covering Invoice No. ----- dated ----- for \$-----."

(2) *Transshipment.* If the Form CCC 106 requires the wheat to be exported from a Canadian transshipment point(s) in U.S.-flag vessel(s), and if it authorizes financing of ocean transportation by CCC, the following certification is required on the supplier's invoice: "The undersigned hereby certifies that a quantity of the same kind of grain covered by this invoice, at least equal to the quantity covered by this invoice, has been shipped in U.S.-flag vessels from U.S. Great Lakes ports via the St. Lawrence Seaway and received by the undersigned at Canadian transshipment points and such quantity was not previously exported by the undersigned under Title I of Public Law 480 or under any other government program to which the provisions of Public Law 664, 83d Congress, are applicable." "Kind of grain" as used in the above certification is defined as wheat, without regard to grade or class.

(3) *In the case of wheat in bulk.*

(1) *Inspection Certificate.* One copy of a Grain Inspection Certificate issued by an inspector holding a license under the U.S. Grain Standards Act, or a Commodity Inspection Certificate (Form GR-292) for grain issued by an inspector holding a license under the Agricultural Marketing Act, issued at point of loading to vessel.

(11) *Weight Certificate.* One copy of a weight certificate issued at point of loading to vessel.

(4) *In the case of wheat in bags.*

(1) *Inspection Certificate.* One copy of a Grain Inspection Certificate issued by an inspector holding a license under the U.S. Grain Standards Act, or a Commodity Inspection Certificate (Form GR-292) for grain issued by an inspector holding a license under the Agricultural Marketing Act, covering inspection at port of loading to vessel.

(11) *Examination report.* One copy of a Commodity Examination Report (Form GR-116) issued by the Agricultural Marketing Service, which shows that the bagged wheat was checkloaded.

(111) *On-board ocean bill of lading.* The on-board ocean bill of lading shall show the net weight of the wheat loaded aboard the vessel or shall show the number of bags, and the gross weight of the wheat loaded aboard the vessel, provided that the weight of the bags is either shown on the bill of lading or is evidenced by the following certification furnished by the supplier: "The undersigned hereby certifies that the weight of the bags is ----- pounds."

(1v) *Supplier's detailed invoice.* The supplier's detailed invoice shall show the size and type of bags and whether they are new or used.

(b) *Wheat flour.*

(1) One copy of Form CCC 362, Declaration of Sale, signed by the General Sales Manager, Deputy General Sales Manager, or Assistant General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, shall be submitted to the U.S. bank with the documents covering the first transaction under the contract. The unit price shown on the supplier's invoice must not exceed the approved price shown on Form CCC 362, Declaration of Sale. For subsequent transactions under the same contract, the supplier shall certify on the CCC copy of the detailed invoice as follows: "I hereby certify that the applicable signed copy of the Declaration of Sale was submitted to ----- with documents

(Name of U.S. Bank)

covering Invoice No. ----- dated ----- for \$-----."

(2) One copy of a Commodity Inspection Certificate (Form GR-133) issued by the Grain Division, Agricultural Marketing Service, United States Department of Agriculture, or One copy of a Laboratory Report issued by a commercial laboratory which shall bear the following certification:

"The undersigned hereby certifies that the Laboratory Report was issued as a result of the analysis of samples received from (name and address of independent surveyor) and that the samples were drawn in accordance with the requirements of the purchase authorization."

NOTE: In lieu of the above certification, a certification will be accepted from the laboratory with which will be included a certification by the independent surveyor, as follows:

(From the independent surveyor): "The undersigned hereby certifies that samples furnished to (name and address of laboratory) were drawn in accordance with the provisions of the purchase authorization."

(From the laboratory): "The undersigned hereby certifies that the Laboratory Report was issued as a result of samples received from (name and address of independent surveyor)."

The Commodity Inspection Certificate (Form GR-133) issued by the Grain Division, AMS, USDA, or the laboratory report issued by a commercial laboratory shall show the exact moisture, protein, and ash contents of the flour delivered under this authorization.

(3) If the commodity Inspection Certificate (GR-133) or the Laboratory Report is dated more than fifteen (15) days prior to the on-board date shown on the ocean bill of lading, the following additional documentation:

(1) One copy of a Commodity Examination Report (GR-116) issued by the Grain Division, AMS, USDA, dated not more than 15 days prior to the "on-board" date and showing that the flour was free from infestation, or (11) One copy of an Independent Surveyor's Report dated not more than 15 days prior to the "on-board" date and

showing that the flour was free from infestation.

(4) One copy of a Commodity Examination Report (GR-116) issued by the Grain Division, Agricultural Marketing Service, U.S. Department of Agriculture, or one copy of a weight certificate issued by an independent weighmaster or an independent surveyor.

(5) The ocean bill of lading shall show thereon or in a separate listing attached thereto, the identifying lot number(s) which appear on the Commodity Inspection Certificate or laboratory report. The lot number may be the warehouse number, the rail car number, truck license number, or any other number that will accurately identify the lot.

(6) The on-board ocean bill of lading shall show the net weight of the flour loaded aboard the vessel or shall show the number of bags and gross weight of the flour loaded aboard the vessel, provided that the weight of the bags is either shown on the bill of lading or is evidenced by the following certification furnished by the supplier:

"The undersigned hereby certifies that the weight of the bags is ----- pounds."

(7) The supplier's detailed invoice shall show the gross weight of the flour in bags, the weight of the bags, and the net weight of the flour invoiced. The invoice shall also show the size and type of bags.

(c) *Feed Grains in bulk or bags.*

(1) *Notice of price approval.* A letter signed by the General Sales Manager, Deputy General Sales Manager, or Assistant General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, by which the supplier will have been notified that the price and commission are approved for financing shall be submitted to the U.S. bank with the documents covering the first transaction under the contract. The unit price shown on the supplier's invoice must not exceed the approved price shown on the letter to the supplier from the Office of the General Sales Manager. For subsequent transactions under the same contract, the supplier shall certify on the detailed invoice as follows:

"I hereby certify that the signed copy of the notification of price and commission approval was submitted to -----

(Name of U.S. Bank)

with documents covering Invoice No. ----- dated ----- for \$-----."

(2) *Transshipment.* If the Form CCC 106 requires the feed grains to be exported from a Canadian transshipment point(s) in U.S.-flag vessel(s) and if it authorizes financing of ocean transportation by CCC, the following certification is required on the supplier's invoice:

"The undersigned hereby certifies that a quantity of the same kind of grain covered by this invoice, at least equal to the quantity covered by this invoice, has been shipped in U.S.-flag vessels from U.S. Great Lakes ports via the St. Lawrence Seaway and received by the undersigned at Canadian transshipment

points and such quantity was not previously exported by the undersigned under Title I of Public Law 480 or under any other government program to which the provisions of Public Law 664, 83d Congress are applicable."

"Kind of grain" as used in the above certification is defined as the same kind of grain covered by the invoice without regard to grade or class.

(3) *In the case of feed grains in bulk.*

(i) *Inspection Certificate.* One copy of a Grain Inspection Certificate issued by an inspector holding a license under the U.S. Grain Standards Act, or a Commodity Inspection Certificate (Form GR-292) for grain issued by an inspector holding a license under the Agricultural Marketing Act, issued at point of loading to vessel.

(ii) *Weight Certificate.* One copy of a weight certificate issued at point of loading to vessel.

(4) *In the case of feed grains in bags.*

(i) *Inspection Certificate.* One copy of a Grain Inspection Certificate issued by an inspector holding a license under the U.S. Grain Standards Act, or a Commodity Inspection Certificate (Form GR-292) for grain issued by an inspector holding a license under the Agricultural Marketing Act covering inspection at port of loading to vessel.

(ii) *Examination Report.* One copy of a Commodity Examination Report (Form GR-116) issued by the Agricultural Marketing Service, which shows that the bagged feed grain was checkloaded.

(iii) *On-board bill of lading.* The on-board ocean bill of lading shall show the net weight of the feed grain loaded aboard the vessel or shall show the number of bags and the gross weight of the feed grain loaded aboard the vessel provided that the weight of the bags is either shown on the bill of lading or is evidenced by the following certification furnished by the supplier:

"The undersigned hereby certifies that the weight of the bags is -----pounds."

(iv) *Supplier's detailed invoice.* The supplier's detailed invoice shall show the size and type of bags and whether they are new or used.

(d) *Corn Meal (Edible).*

(1) A letter signed by the General Sales Manager, Deputy General Sales Manager, or Assistant General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, by which the supplier will have been notified that the price and commission are approved for financing shall be submitted to the U.S. bank with the documents covering the first transaction under the contract. The unit price shown on the supplier's invoice must not exceed the approved price shown on the letter to the supplier from the Office of the General Sales Manager. For subsequent transactions under the same contract, the supplier shall certify on the detailed invoice as follows:

"I hereby certify that the signed letter of notification of price and commission ap-

proval was submitted to _____
 (Name of U.S. bank)
 with documents covering Invoice No. _____
 dated _____ for \$_____”

(2) *Inspection Certificate.* One copy of a Commodity Inspection Certificate (Form GR-133) issued by the Grain Division, Consumer and Marketing Service, U.S. Department of Agriculture, covering inspection at point of loading to vessel.

(3) *Examination Report.* One copy of a Commodity Examination Report (Form GR-116) issued by the Grain Division, Agricultural Marketing Service, U.S. Department of Agriculture, which shows that the corn meal was checkloaded.

(4) *Independent Surveyor's Report.* One copy of an independent surveyor's report stating that the bags, bag markings, and brand names or labels meet the requirements of section 11.8(d) of this subpart, and that the bags are suitable for the export of corn meal.

(5) *Identifying lot number.* The ocean bill of lading shall show thereon or in a listing attached thereto the identifying lot number(s) which appear on the Commodity Inspection Certificate. The lot number may be the warehouse number, the rail car number, truck license number, or any other number that will accurately identify the lot.

(6) *On-board ocean bill of lading.* The on-board ocean bill of lading shall show the net weight of the corn meal loaded aboard the vessel or shall show the number of bags and the gross weight of the corn meal loaded aboard the vessel, provided that the weight of the bags is either shown on the bill of lading or is evidenced by the following certification furnished by the supplier:

“The undersigned hereby certifies that the weight of the bags is _____ pounds.”

(7) *Supplier's detailed invoice.* The supplier's detailed invoice shall show the size and type of bags and whether they are new or used.

(c) *Cracked Corn and/or Corn Meal.*

(1) *Notice of price approval.* A letter signed by the General Sales Manager, Deputy General Sales Manager, or Assistant General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, by which the supplier will have been notified that the price and commission are approved for financing shall be submitted to the U.S. bank with the documents covering the first transaction under the contract. The unit price shown on the supplier's invoice must not exceed the approved price shown on the letter to the supplier from the Office of the General Sales Manager. For subsequent transactions under the same contract, the supplier shall certify on the detailed invoice as follows:

“I hereby certify that the signed letter of notification of price and commission approval was submitted to _____

(Name of U.S. bank)
 with documents covering Invoice No. _____
 dated _____ for \$_____”

(2) *Inspection Certificate.* One copy of a Grain Inspection Certificate issued by an in-

spector holding a license under the United States Grain Standards Act.

(3) *Examination Report.* One copy of a Commodity Examination Report (Form GR-116) issued by the Agricultural Marketing Service, which shows that the processed commodity (cracked corn and/or corn meal) was check loaded.

(4) *On-board ocean bill of lading.* The on-board ocean bill of lading shall show the net weight of the cracked corn and/or corn meal loaded aboard the vessel or shall show the number of bags and the gross weight of the cracked corn and/or corn meal loaded aboard the vessel, provided that the weight of the bags is either shown on the bill of lading or is evidenced by the following certification furnished by the supplier:

“The undersigned hereby certifies that the weight of the bags is _____ pounds.”

(5) *Supplier's detailed invoice.* The supplier's detailed invoice shall show the kind and size of bags and whether they are new or used.

(f) *Soybean Oil and/or Cottonseed Oil.*

(1) *Notice of price approval.* A letter signed by the General Sales Manager, Deputy General Sales Manager, or Assistant General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, by which the supplier will have been notified that the price and commission are approved for financing shall be submitted to the U.S. bank with the documents covering the first transaction under the contract. The unit price shown on the supplier's invoice must not exceed the approved price shown on the letter to the supplier from the Office of the General Sales Manager. For subsequent transactions under the same contract, the supplier shall certify on the detailed invoice as follows:

“I hereby certify that the signed copy of notification of price and commission approval was submitted to _____ with

(Name of U.S. bank)
 documents covering Invoice No. _____ dated _____ for \$_____”

(2) *Inspection Certificate.*

(1) One copy of a Commodity Inspection Certificate (Form GR-133) issued by the Inspection Branch of the Grain Division, Agricultural Marketing Service, USDA, or one copy of a chemical analysis certificate issued by a commercial laboratory which shall bear the following certification:

“The undersigned hereby certifies that the chemical analysis certificate was issued as a result of the analysis of samples taken by independent surveyor(s), and that such chemical analysis was performed in accordance with the procedure prescribed in the Trading Rules of the National Soybean Processors Association, or in the Trading Rules of the National Cottonseed Products Association.”

(2) The Commodity Inspection Certificate (GR-133) or the Chemical Analysis Certificate shall state that the oil met the analytical requirements of the specifications as provided in the applicable purchase authoriza-

tion, and if shipped in containers, the certificate shall state that markings are in conformance with the applicable purchase authorization and shall also show other markings appearing thereon.

NOTE: If the chemical analysis on bulk oil is performed by a commercial laboratory, one copy of a certificate of the sampler or inspector stating that the samples were drawn in accordance with American Oil Chemists Society Official Method C 1-47.

(3) *In the case of oil in bulk.*

(i) One copy of weight certificate or survey report issued by an independent weighmaster or by an independent surveyor.

(ii) The weight certificate or survey report shall state that the ship's tank(s) was examined and found suitable for receipt of the oil.

(4) *In the case of oil exported in drums, barrels, or bags.*

(i) One copy of weight certificate.

(ii) One copy of an independent surveyor's certificate stating that the barrels were new or the drums were new or reconditioned, or the bags were new or used and that the drums, barrels, or bags are suitable for export and that the drums, barrels, or bags comply with contract specifications.

(g) *Unmanufactured Tobacco and/or Tobacco Products.*

(1) *Unmanufactured Tobacco.*

(i) The signed original of Tobacco Examination Report, FAS Form 480-C.

(ii) The signed original of FAS Form 480-D, "Certification by Port Official with Respect to Loading Certain Tobacco", or the signed originals of FAS Form 480-E, "Certification of Warehouse Official with Respect to Consignment of Certain Tobacco" and FAS Form 480-F, "Certification of Port Official with Respect to Receiving and Loading Certain Tobacco".

(iii) The signed original of FAS Form 480-G, "Weight Certificate" or FAS Form 480-G-1, "Packaging Certificate".

(iv) The invoice shall contain the following certification signed by the supplier:

"The undersigned hereby certifies that the unmanufactured tobacco represented on this invoice does not contain cigar cuttings, scrap, siftings, stems (except the stem of the leaf sold), trimmings, or homogenized leaf."

(v) The supplier's invoice shall identify the tobacco by U.S. type and recapitulate the quantity and value of the tobacco by type. This information is required on only one copy of the detailed invoice and such copy shall be included with the documents submitted to CCC. The supplier's detailed invoice shall contain a certification that the tobacco covered by the invoice was produced in the continental United States or Puerto Rico.

(2) *Tobacco Products: Cigarettes and/or Packaged Pipe and Cut Tobacco.* The supplier's invoice shall show the name of the tobacco products, the quantity, the brand name, and in case of cigarettes, whether

standard or "economy" brand and whether filter, non-filter or all-tobacco tip. The CCC copy of each invoice must also show the net weight of the unmanufactured U.S. leaf tobacco used in the manufacture of the tobacco products.

(3) *Tobacco Products: Cased strips and shredded tobacco.*

(i) The signed original of Tobacco Examination Report, FAS Form 480-C.

(ii) The signed original of FAS Form 480-D, "Certification by Port Official with Respect to Loading Certain Tobacco," or the signed originals of FAS Form 480-E, "Certification of Warehouse Official with Respect to Consignment of Certain Tobacco" and FAS Form 480-F, "Certification of Port Official with Respect to Receiving and Loading Certain Tobacco."

(iii) The signed original of FAS Form 480-C "Weight Certificate" or FAS Form 480-G-1, "Packaging Certificate" shall be submitted for the strip or shredded tobacco before flavoring, casing material, or other tobacco is added, and a signed original of *Weight Certificate* (FAS Form 480-G) shall be submitted for the tobacco product containing such material.

(iv) *Invoice.* The invoice shall contain the following certifications signed by the supplier:

"The undersigned hereby certifies that the manufactured tobacco represented on this invoice does not contain cigar cuttings, scrap, siftings, stems (except the stem of the leaf sold), trimmings, or homogenized leaf."

The supplier's detailed invoice shall show the following: The supplier's invoice shall identify the tobacco by U.S. type and recapitulate the quantity of the tobacco by type. This information is required on only one copy of the detailed invoice and such copy shall be included with the documents submitted to CCC. The supplier's detailed invoice shall contain a certification that the tobacco covered by the invoice was produced in the continental United States or Puerto Rico.

ALLOCATION OF NET INVOICE PRICE

Invoice total for . . . pounds tobacco product. \$-----
Less amount to be financed by importer:

(1) Cost of casing and flavoring material (including all costs incurred in application)..... \$-----
(2) Cost of tobacco not covered by FAS Form 480-C..... \$-----
Amount to be financed by CCC -----

The CCC copy of the suppliers invoice shall show the number of pounds of unmanufactured U.S. leaf tobacco contained in the tobacco product covered by the invoice.

(h) *Rice (Milled and/or Brown) in bags or bulk.*

(1) *Form CCC 421, Declaration of Sale.* One copy of Form CCC 421, Declaration of Sale, signed by the General Sales Manager, Deputy General Sales Manager, or Assistant General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, shall be submitted to the U.S. bank with the

documents covering the first transaction under the contract. The unit price shown on the supplier's invoice must not exceed the approved price shown on Declaration of Sale. For subsequent transactions under the same contract, the supplier shall certify on the CCC copy of the detailed invoice as follows:

"I hereby certify that the signed copy of the applicable Declaration of Sale was submitted to _____ with

(Name of U.S. bank)

documents covering Invoice No. _____ dated _____ for \$_____."

(1) *In the case of rice in bags.*

(a) *Inspection Certificate.* One copy of a Rice Inspection Certificate (lot inspection) issued by or under the supervision of the Grain Division, Agricultural Marketing Service, USDA, covering inspection at port of loading to vessel.

(b) *Examination Report.* One copy of Commodity Examination Report (Form GR-116) issued by or under the supervision of the Grain Division, Agricultural Marketing Service, USDA, which shows the rice was checkloaded.

(c) *Supplier's invoice.* The supplier's detailed invoice shall show the kind and size of bags and whether they are new or used.

(d) *On-board ocean bill of lading.* The on-board ocean bill of lading shall show the net weight of the rice loaded aboard the vessel, or shall show the number of bags and the gross weight of the rice loaded aboard the vessel, provided that the weight of the bags is either shown on the bill of lading or is evidenced by the following certification furnished by the supplier:

"The undersigned hereby certifies that the weight of the bags is _____ pounds."

(i) *In the case of rice in bulk.*

(a) One copy of a Rice Inspection Certificate (lot inspection) issued by or under the supervision of the Grain Division, Agricultural Marketing Service, USDA, covering inspection at point of loading to ocean vessel.

(b) One copy of a weight certificate issued at point of loading to ocean vessel, or one copy of a letter signed by the Director, Program Operations Division, FAS, USDA, approving the supplier's request to furnish weights taken at a point other than at point of loading to ocean vessel, and one copy of a weight certificate, and one copy of a Commodity Examination Report (Form GR-116) issued by or under the supervision of the Grain Division, AMS, USDA, which shows that the rice was transferred from the carrier to ocean vessel in the manner specified in the letter of approval from the Director, Program Operations Division, FAS, USDA, and containing a notification regarding any rice not so transferred, and the supplier's invoice must show the quantity represented by the weight certificate, a reduction identified as 0.5 percent (one-half of 1 percent) and the reduced weight. The invoice shall show that the value was computed by using the reduced weight times contracted price.

(1) *Dry Edible Beans.*

(1) A letter signed by the General Sales Manager, Deputy General Sales Manager, or Assistant General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, by which the supplier will have been notified that the price and commission are approved for financing shall be submitted to the U.S. bank with the documents covering the first transaction under the contract. The unit price shown on the supplier's invoice must not exceed the approved price shown on the letter to the supplier from the Office of the General Sales Manager. For subsequent transactions under the same contract, the supplier shall certify on the detailed invoice as follows:

"I hereby certify that the signed letter of notification of price and commission approval was submitted to _____

(Name of U.S. bank)

with documents covering Invoice No. _____ dated _____ for \$_____."

(2) *Inspection Certificate.* One copy of a Bean Inspection Certificate (lot inspection) issued by or under the supervision of the Grain Division, Agricultural Marketing Service, USDA, covering inspection at port of loading to vessel.

(3) *Examination Report.* One copy of a Commodity Examination Report (Form GR-116) issued by or under the supervision of the Grain Division, Agricultural Marketing Service, USDA, which shows the beans were checkloaded.

(4) *On-board ocean bill of lading.* The on-board ocean bill of lading shall show the net weight of the beans loaded aboard the vessel, or shall show the number of bags and the gross weight of the beans loaded aboard the vessel, provided, that the weight of the bags is either shown on the bill of lading, or is evidenced by the following certification furnished by the supplier:

"The undersigned hereby certifies that the weight of the bags is _____ pounds."

(5) *Supplier's Invoice.* The supplier's detailed invoice shall show the kind and size of bags and whether they are new or used.

(j) *Dry Edible Peas.* A letter signed by the General Sales Manager, Deputy General Sales Manager, or Assistant General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, by which the supplier will have been notified that the price and commission are approved for financing shall be submitted to the U.S. bank with the documents covering the first transaction under the contract. The unit price shown on the supplier's invoice must not exceed the approved price shown on the letter to the supplier from the Office of the General Sales Manager. For subsequent transactions under the same contract, the supplier shall certify on the detailed invoice as follows:

"I hereby certify that the signed letter of notification of price and commission approval was submitted to _____

(Name of U.S. bank)

with documents covering Invoice No. ----- dated ----- for \$-----."

(2) *Inspection Certificate.* One copy of a Pea Inspection Certificate (lot inspection) issued by or under the supervision of the Grain Division, Agricultural Marketing Service, USDA, covering inspection at port of loading to vessel.

(3) *Examination Report.* One copy of a Commodity Examination Report (Form GR-116) issued by or under the supervision of the Grain Division, Agricultural Marketing Service, USDA, which shows the peas were checkloaded.

(4) *On-board ocean bill of lading.* The on-board ocean bill of lading shall show the net weight of the peas loaded aboard the vessel, or shall show the number of bags and the gross weight of the peas loaded aboard the vessel, provided, that the weight of the bags is either shown on the bill of lading or is evidenced by the following certification furnished by the supplier:

"The undersigned hereby certifies that the weight of the bags is ----- pounds."

(5) *Supplier's Invoice.* The supplier's detailed invoice shall show the kind and size of bags and whether they are new or used.

(k) *Tallow (Inedible).* (1) A letter signed by the General Sales Manager, Deputy General Sales Manager, or Assistant General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, by which the supplier will have been notified that the price and commission are approved for financing shall be submitted to the U.S. bank with the documents covering the first transaction under the contract. The unit price shown on the supplier's invoice must not exceed the approved price shown on the letter to the supplier from the Office of the General Sales Manager. For subsequent transactions under the same contract, the supplier shall certify on the detailed invoice as follows:

"I hereby certify that the signed letter of notification of price and commission approval was submitted to -----"

(Name of U.S. bank)

with documents covering Invoice No. ----- dated ----- for \$-----."

(2) *Weight Certificate.* One copy of a Weight Certificate or Survey Report, issued by an independent surveyor or an independent weighmaster, or Agricultural Products Certificate (Form LS-5) issued by the Meat Grading Branch, Livestock Division, AMS, USDA.

(3) *Drums inspection or tank inspection.*

(1) *In the case of tallow exported in drums.* One copy of an independent surveyor's certificate or one copy of Agricultural Products Certificate (Form LS-5) issued by the Meat Grading Branch, Livestock Division, AMS, USDA, stating that the drums were either new or reconditioned and that the drums were in conformance with contract specifications, and the provisions of section (k) (8) (iii) of Appendix A were complied with.

(ii) *In the case of bulk tallow,* the Survey Report issued by an independent surveyor or Agricultural Products Certificate (Form LS-5) issued by the Meat Grading Branch, Livestock Division, C&MS, USDA, shall state that the ship's tank(s) was examined and found suitable for receipt of the tallow.

(4) *Inspection Certificate.* One copy of Agricultural Products Certificate (Form LS-5) issued by the Meat Grading Branch of the Livestock Division, C&MS, USDA, or one copy of a laboratory report issued by a commercial laboratory. The Agricultural Products Certificate or the Laboratory Report, whichever is applicable, shall state that the tallow met contract specifications as approved by USDA, and if shipped in drums, that the markings are in accordance with the contract specifications.

(1) *Lard.*

(1) A letter signed by the General Sales Manager, Deputy General Sales Manager, or Assistant General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, by which the supplier will have been notified that the price and commission are approved for financing shall be submitted to the U.S. bank with the documents covering the first transaction under the contract. The unit price shown on the supplier's invoice must not exceed the approved price shown on the letter to the supplier from the Office of the General Sales Manager. For subsequent transactions under the same contract, the supplier shall certify on the detailed invoice as follows:

"I hereby certify that the signed letter of notification of price and commission approval was submitted to -----"

(Name of U.S. bank)

with documents covering Invoice No. ----- dated ----- for \$-----."

(2) *Inspection Certificate.* A copy of a certificate (MI Form 412-3) issued by the Meat and Poultry Inspection Program, APHIS, USDA, containing a determination as to wholesomeness. This certificate shall bear a serial number and shall show the export stamp numbers applied on the containers.

(B) *Agricultural Products Certificates.* A copy of Agricultural Products Certificate (Form LS-5) issued by the Meat Grading Branch, Livestock Division, C&MS, USDA, at the point of origin showing the name of the product, the number of containers in the unit shipment, gross tare and net weights, identity and seal numbers of car or truck, and compliance with specifications, and a copy of another Agricultural Products Certificate (Form LS-5) issued by the Meat Grading Branch, Livestock Division at dockside, showing the quantity and condition of containers and that the product is the same as that examined at the point of origin.

(m) *Poultry (Frozen Chickens and Turkeys).*

(1) A copy of the letter signed by the General Sales Manager, Deputy General Sales Manager, or Assistant General Sales Manager, Foreign Agricultural Service, U.S. De-

partment of Agriculture, by which the supplier will have been notified that the price and commission are approved for financing, shall be submitted to the U.S. bank with the documents covering the first transaction under the contract. The unit price shown on the supplier's invoice must not exceed the approved price shown on the letter to the supplier from the Office of the General Sales Manager. For subsequent transactions under the same contract, the supplier shall certify on the detailed invoice as follows:

"I hereby certify that the signed copy of the notification of price and commission approval was submitted to _____

(Name of U.S. bank)

with documents covering Invoice No. _____ dated _____ for \$_____."

(2) *Grading Certificate.* One copy of Poultry Grading Certificate (Form PY-224), issued by the Poultry Division, AMS, USDA, at the inland inspection point showing wholesomeness, class, condition, packaging, weight and quality.

(3) *Poultry Products Certificate.* One copy of Poultry Products Grading Certificate (Form PY-225) issued by the Poultry Division, AMS, USDA, at shipside stating that the lot(s) met the requirement(s) of the contract, and the provisions of section (m) of Appendix A with respect to wholesomeness, class, condition, packaging, weight and quality.

(n) *Canned Milk (Sweetened Condensed or Evaporated).*

(1) *Notification of price approval.* A letter signed by the General Sales Manager, Deputy General Sales Manager or Assistant General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, by which the supplier will have been notified that the price and commission are approved for financing, shall be submitted to the U.S. bank with the documents covering the first transaction under the contract. The unit price shown on the supplier's invoice must not exceed the approved price shown on the letter to the supplier from the Office of the General Sales Manager. For subsequent transactions under the same contract, the supplier shall certify on the detailed invoice as follows:

"I hereby certify that the letter of notification of price and commission approval was submitted to _____ with

(Name of U.S. bank)

documents covering Invoice No. _____ dated _____ for \$_____."

(2) *In the case of sweetened condensed milk.*

(1) *Inspection Certificate.* (Quality, Weight, etc.) One copy of Inspection, Grading and Weight Certificate (Form DA-214 or DA-214-A) issued by the Inspection and Grading Branch, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, showing the quality and weight of the sweetened condensed milk and a statement that the product meets the specifications of the contract and section (n) (4) of

Appendix A and was packaged in accordance with the requirements of the contract(s) and of section 11.8(d) of this subpart.

(1) *Inspection Certificate.* (Dockside.) One copy of Inspection, Grading and Weight Certificate (Form DA-214 or DA-214-A) covering inspection of the commodity at dockside showing quantity and condition of containers and verification that the product is same as that reported on the Inspection, Grading and Weight Certificates obtained under paragraph (2) (1) above.

(3) *In the case of evaporated milk,*

(1) *Inspection Certificate.* (Quality, Weight, etc.)

One copy of Evaporated Milk Grading Certificate (Form DA-142 or DA-142-A) issued by the Inspection and Grading Branch, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, showing the quality and weight of the product and a statement that the product meets the specifications of the contract and section (n) (5) of Appendix A and was packaged in accordance with the requirements of the contract(s) and section 11.8(d) of this subpart.

(1) *Inspection Certificate.* (Dockside.) One copy of Evaporated Milk Grading Certificate (Form DA-142 or DA-142-A) covering inspection of commodity at dockside showing quantity and condition of containers and verification that the product is same as that reported on the Evaporated Milk Grading Certificate obtained under paragraph (3) (1) above.

(o) *Nonfat Dry Milk.*

(1) *Notification of price approval.* A letter signed by the General Sales Manager, Deputy General Sales Manager, or Assistant General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, by which the supplier will have been notified that the price and commission are approved for financing shall be submitted to the U.S. bank with the documents covering the first transaction under the contract. The unit price shown on the supplier's invoice must not exceed the approved price shown on the letter to the supplier from the Office of the General Sales Manager. For subsequent transactions under the same contract, the supplier shall certify on the detailed invoice as follows:

"I hereby certify that the signed letter of notification of the price and commission approval was submitted to _____

(Name of U.S. bank)

with documents covering Invoice No. _____ dated _____ for \$_____."

(2) *Grading Certificate.* (Inspection at Processing Plant.) One copy of Dry Milk Grading Certificate (Form DA-136, DA-136-1, or DA-136-A) issued by the Inspection and Grading Branch, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, showing the quality and weight of the product and a statement that the product met the specifications of the contract and section (o) (3) of Appendix A

and was packaged in accordance with the requirements of the contract(s) and of section 11.8(d) of this subpart, or in the event the nonfat dry milk was obtained from CCC pursuant to CCC Announcement MP-10, and it is being exported in the same package as received from CCC stocks, the following shall apply: In lieu of the copy of the Dry Milk Grading Certificate (Form DA-136, DA-136-1, or DA-136-A) required above, a copy of the Dry Milk Grading Certificate (Form DA-136, DA-136-1, or DA-136-A) covering the nonfat dry milk at the time of delivery by CCC to the supplier shall be required. The dry Milk Grading Certificate(s) shall be accompanied by the supplier's statement:

"The nonfat dry milk is being exported in the same packages as received from CCC, and such packaging is in accordance with the requirements of the contract."

(3) *Grading Certificate. (Dockside.)* One copy of Dry Milk Grading Certificate (Form DA-136, DA-136-1, or DA-136-A) covering inspection of commodity at dockside showing quantity and condition of containers and verification that the product is same as that reported on the Dry Milk Grading Certificates obtained under paragraph (2) above. In the case of nonfat dry milk exported in the same packages as received from CCC, any labels or brand names applied must be noted on the certificate.

(4) *Supplier's invoice.* The supplier's detailed invoice shall show the following typed or stamped certification executed by the supplier:

"The undersigned hereby certifies that any quantity of the nonfat dry milk covered by this invoice, which is being exported in satisfaction of an export obligation arising out of a purchase of nonfat dry milk from CCC, is of the same grade as, or a better grade than, such nonfat dry milk purchased from CCC."

(p) *Dry Whole Milk.*

(1) *Notification of price approval.* A letter signed by the General Sales Manager, Deputy General Sales Manager, or Assistant General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, by which the supplier will have been notified that the price and commission are approved for financing shall be submitted to the U.S. bank with the documents covering the first transaction under the contract. The unit price shown on the supplier's invoice must not exceed the approved price shown on the letter to the supplier from the Office of the General Sales Manager. For subsequent transactions under the same contract, the supplier shall certify on the detailed invoice as follows:

"I hereby certify that the signed letter of notification of price and commission approval was submitted to _____

(Name of U.S. bank)

with documents covering Invoice No. _____ dated _____ for \$_____."

(2) *Grading Certificate. (Inspection at Processing Plant.)* One copy of Dry Milk Grading Certificate (Form DA-136, DA-136-

1, or DA-136-A) issued by the Inspection and Grading Branch, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, showing the quality and weight of the product and a statement that the product met the specifications of the contract and section (p) (3) of Appendix A and was packaged in accordance with the requirements of the contract(s) and of section 11.8 (d) of this subpart.

(3) *Grading Certificate. (Dockside.)* One copy of Dry Milk Grading Certificate (Form DA-136, DA-136-1, or DA-136-A) covering inspection of commodity at dockside showing quantity and condition of containers and verification that the product is the same as that reported on the Dry Milk Grading Certificates obtained under paragraph (2) above.

(q) *Butter.*

(1) *Notification of price approval.* A letter signed by the General Sales Manager, Deputy General Sales Manager, or Assistant General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, by which the supplier will have been notified that the price and commission are approved for financing shall be submitted to the U.S. bank with the documents covering the first transaction under the contract. The unit price shown on the supplier's invoice must not exceed the approved price shown on the letter to the supplier from the Office of the General Sales Manager. For subsequent transactions under the same contract, the supplier shall certify on the detailed invoice as follows:

"I hereby certify that the signed letter of notification of price and commission approval was submitted to _____

(Name of U.S. bank)

with documents covering Invoice No. _____ dated _____ for \$_____."

(2) *Grading Certificate. (Quality, Weight, etc.)* One copy of Butter Grading Certificate (Form DA-126 or DA-126-a) issued by the Inspection and Grading Branch, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, showing the quality and weight of the product and a statement that the product met the specifications of the contract and of section (q) (3) of Appendix A and was packaged in accordance with the requirements of the contract(s) and of section 11.8(d) of this subpart, or in the event the butter was obtained from CCC pursuant to CCC Announcement MP-10, and it is being exported in the same packages as received from CCC stocks, the following shall apply:

In lieu of the copy of the Butter Grading Certificates (Form DA-126 or DA-126a) required above, a copy of the Butter Grading Certificate (Form DA-126 or DA-126a) covering the butter at the time of delivery by CCC to the supplier shall be required. The Butter Grading Certificate(s) shall be accompanied by the supplier's statement:

"The butter is being exported in the same packages as received from CCC, and such

packaging is in accordance with the requirements of the contract."

(3) *Grading Certificate.* (Docksides.) One copy of Butter Grading Certificate (Form DA-126 or DA-126a) covering inspection of commodity at docksides showing quantity and condition of containers and verification that the product is same as that reported on Butter Grading Certificate obtained under paragraph (2) above. In the case of butter exported in the same packages received from CCC, any labels or brand names applied must be noted on the certificate. (If labels or brand names are used they must comply with the requirements of section 11.8(d) of this subpart.)

(4) *Supplier's invoice.* The supplier's detailed invoice shall show the following typed or stamped certification executed by the supplier:

"The undersigned hereby certifies that any quantity of the butter covered by this invoice, which is being exported in satisfaction of an export obligation arising out of a purchase of butter from CCC, is of the same grade as, or a better grade than, such butter purchased from CCC."

(r) *Anhydrous Milk Fat and/or Anhydrous Butter Fat and/or Butter Oil.*

(1) *Notification of price approval.* A letter signed by the General Sales Manager, Deputy General Sales Manager, or Assistant General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, by which the supplier will have been notified that the price and commission are approved for financing shall be submitted to the U.S. bank with the documents covering the first transaction under the contract. The unit price shown on the supplier's invoice must not exceed the approved price shown on the letter to the supplier from the Office of the General Sales Manager. For subsequent transactions under the same contract, the supplier shall certify on the detailed invoice as follows:

"I hereby certify that the signed letter of notification of price and commission approval was submitted to _____

(Name of U.S. bank)

with documents covering Invoice No. _____ dated _____ for \$_____."

(2) *Inspection Certificate.* (Quality, Weight, etc.) One copy of Inspection, Grading and Weight Certificate (Form DA-214 or DA-214-A) issued by the Inspection and Grading Branch, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, showing the quality and weight of the product and a statement that the product met the specifications of the contract and of section (r)(3) of appendix A and was packaged in accordance with the requirements of the contract(s) and of section 11.8(d) of this subpart.

(3) *Inspection Certificate.* (Docksides.) One copy of Inspection, Grading and Weight Certificate (Form DA-214 or DA-214-A) covering inspection of commodity at docksides showing quantity and condition of contain-

ers and verification that product is same as that reported on the Inspection, Grading and Weight Certificate obtained under paragraph (2) above.

(4) *Supplier's invoice.* The supplier's detailed invoice shall show the following typed or stamped certification executed by the supplier:

"The undersigned hereby certifies that any quantity of the products covered by this invoice, which is being exported in satisfaction of an export obligation arising out of a purchase of the product from CCC, is of the same grade as, or a better grade than, such product purchased from CCC."

(8) *Cheese (Cheddar and/or Process).*

(1) *Notification of price approval.* A letter signed by the General Sales Manager, Deputy General Sales Manager, or Assistant General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, by which the supplier will have been notified that the price and commission are approved for financing shall be submitted to the U.S. bank with the documents covering the first transaction under the contract. The unit price shown on the supplier's invoice must not exceed the approved price shown on the letter to the supplier from the Office of the General Sales Manager. For subsequent transactions under the same contract, the supplier shall certify on the detailed invoice as follows:

"I hereby certify that the letter of notification of price and commission approval was submitted to _____ with

(Name of U.S. bank)

documents covering Invoice No. _____ dated _____ for \$_____."

(2) *Grading Certificate.* (Quality, Weight, etc.) One copy of Cheese Grading Certificate (Form DA-131 or DA-131a) issued by the Inspection and Grading Branch, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, showing the quality and weight of the product and a statement that the product met the specifications of the contract and of section (s)(3) of Appendix A was packaged in accordance with the requirements of the contract(s) and of section 11.8(d) of this subpart, or in the event the cheese was obtained from CCC pursuant to CCC Announcement MP-10, and it is being exported in the same packages as received from CCC stocks, the following shall apply:

In lieu of the copy of the Cheese Grading Certificate (Form DA-131 or DA-131a) required above, a copy of the Cheese Grading Certificate (Form DA-131, or DA-131a) covering the cheese at the time of delivery by CCC to the supplier shall be required. The Cheese Grading Certificate shall be accompanied by the supplier's statement:

"The cheese is being exported in the same packages as received from CCC, and such packaging is in accordance with the requirements of the contract."

(3) *Inspection at Docksides.* One copy of Cheese Grading Certificate (Form DA-131 or

DA-131a) covering inspection of commodity at docksides showing quantity and condition of containers and verification that product is same as that reported on the Cheese Grading Certificate obtained under paragraph (2) above. In the case of cheese exported in the same packages as received from CCC any labels or brand names applied must be noted on the certificate. (If labels or brand names are used they must comply with the requirements of section 11.8(d) of this subpart.)

(4) *Supplier's invoice.* The supplier's detailed invoice shall show the following typed or stamped certification executed by the supplier:

"The undersigned hereby certifies that any quantity of the cheese covered by this invoice, which is being exported in satisfaction of an export obligation arising out of a purchase of cheese from CCC, is of the same grade as, or a better grade than, such cheese purchased from CCC."

(t) *Ghee.*

(1) *Notification of price approval.* A letter signed by the General Sales Manager, Deputy General Sales Manager, or Assistant General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, by which the supplier will have been notified that the price and commission are approved for financing shall be submitted to the U.S. bank with the documents covering the first transaction under the contract. The unit price shown on the supplier's invoice must not exceed the approved price shown on the letter to the supplier from the Office of the General Sales Manager. For subsequent transactions under the same contract, the supplier shall certify on the detailed invoice as follows:

"I hereby certify that the letter of notification of price and commission approval was submitted to _____ with

(Name of U.S. bank)

documents covering Invoice No. _____ dated _____ for \$_____."

(2) *Inspection Certificate.* (Quality, Weight, etc.)

One copy of Inspection, Grading and Weight Certificate (Form DA-214 or DA-214-A) issued by the Inspection and Grading Branch, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, showing the quality and weight of the product and a statement that the product met the specifications of the contract and of section (t)(4) of Appendix A and was packaged in accordance with the requirements of the contract(s) and of section 11.8 (d) of this subpart.

(3) *Inspection.* (Docksides.) One copy of Inspection, Grading and Weight Certificate (Form DA-214 or DA-214-A) covering inspection of ghee at docksides showing quantity and condition of containers and verification that the ghee is same as that reported on the Inspection, Grading and Weight Certificate obtained under paragraph (2) above.

(4) *Supplier's invoice.* The supplier's de-

tailed invoice shall show the following typed or stamped certification executed by the supplier: "The undersigned hereby certifies that any quantity of the ghee covered by this invoice, which is being exported in satisfaction of an export obligation arising out of a purchase of butter from CCC was processed from butter of the same or better grade as such butter purchased from CCC."

(u) *Stabilized Dried Whole Eggs.*

(1) *Notice of price approval.* A letter signed by the General Sales Manager, Deputy General Sales Manager, or Assistant General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, by which the supplier will have been notified that the price and commission are approved for financing shall be submitted to the U.S. bank with the documents covering the first transaction under the contract. The unit price shown on the supplier's invoice must not exceed the approved price shown on the letter to the supplier from the Office of the General Sales Manager. For subsequent transactions under the same contract, the supplier shall certify on the detailed invoice as follows:

"I hereby certify that the signed letter of notification of price and commission approval was submitted to _____ with

(Name of U.S. bank)

documents covering Invoice No. _____ dated _____ for \$_____."

(2) *Inspection Certificate.* (Quality, weight, etc.) One copy of Egg Products Inspection Certificate (Form PY-200) issued by the Grading Branch, Poultry Division, Agricultural Marketing Service, U.S. Department of Agriculture, showing the quality and weight of the product and a statement that the product met the specifications of the contract and of section (u)(4) of Appendix A and was packaged in accordance with the requirements of the contract(s) and of section 11.8(d) of this subpart.

(3) *Inspection Certificate.* (Docksides.) One copy of Poultry Products Grading Certificate (Form PY-225) issued by the Poultry Division, AMS, USDA, at docksides showing quantity and condition of containers and a certification that the product is the same as that reported on Egg Products Inspection Certificate (Form PY-200).

(v) *Upland Cotton.*

(1) *Weight Certificate.* One copy (or photostat) of the weight and tare sheets certified by a U.S. warehouseman or one copy (or photostat) of a weight certificate and tare sheets issued at U.S. port of export by an authorized weigher. The certification of the U.S. warehouseman or authorized weigher must show markings, supplier's name, CCC Registration Number, Purchase Authorization Number, gross weight, type of bagging, number of ties, and weight of patches, if any, for each bale and the tare. The gross weight minus tare shall constitute net weight. The certification must also state that cotton in the shipment was weighed

after the last sampling and not more than 30 days prior to the date of certification.

(2) *Port or Custody Bill of Lading.* In lieu of the bill of lading required in section 11.13 of the Regulations there may be substituted a nonnegotiable copy (or photostat) of a Port or Custody Bill of Lading dated within the delivery period specified in the purchase authorization, with on-board endorsement dated not later than 20 days after the final delivery date specified in the purchase authorization.

(3) *Supplier's invoice.* The supplier's invoice shall show the contract terms of weight settlement, and unless the sale is made against private types, the quality described in terms of the Official Cotton Standards of the United States.

(4) *CCC Registration Number.* All documents shall be identified with the CCC Registration Number.

(5) *Eligibility for financing.* In order to be eligible for CCC financing the provisions of section (v) (1) of Appendix A must be complied with.

(w) *Extra Long Staple Cotton.*

(1) *Weight Certificate.* One copy (or photostat) of the weight and tare sheets certified by a United States warehouseman or one copy (or photostat) of a weight certificate and tare sheets issued at U.S. port of export by an authorized weigher. The certification of the United States warehouseman or authorized weigher must show markings, supplier's name, CCC Registration Number, Purchase Authorization Number, gross weight, type of bagging, number of ties, and weight of patches, if any, for each bale and the tare. The gross weight minus tare shall constitute net weight. The certification must also state that cotton in the shipment was weighed after the last sampling and not more than 30 days prior to the date of certification.

(2) *Port or Custody Bill of Lading.* In lieu of the bill of lading required in section 11.13 of the Regulations there may be substituted a nonnegotiable copy (or photostat) of a Port or Custody Bill of Lading dated within the delivery period specified in the purchase authorization, with on-board endorsement dated not later than 20 days after the final delivery date specified in the purchase authorization.

(3) *Supplier's invoice.* The supplier's invoice shall show the contract terms of weight settlement, and unless the sale is made against private types, the quality described in the terms of the Official Cotton Standards of the United States.

(4) *CCC Registration Number.* All documents shall be identified with the CCC Registration Number.

(5) *Eligibility for financing.* In order to be eligible for CCC financing the provisions of section (w) (1) of Appendix A must be complied with.

Subpart B—Agreements To Help Develop Foreign Markets for Agricultural Commodities

AUTHORITY: The provisions of this Subpart B issued under sec. 104(a), 68 Stat. 456, as amended; 7 U.S.C. 1704(a). E.O. 10560, 19 F.R. 5927, 3 CFR 1954-58 Comp., p. 204.

SOURCE: The provisions of this Subpart B appear at 26 F.R. 1387, Feb. 17, 1961.

§ 11.51 Definition of terms.

For the purpose of this subpart:

(a) "The act" means the Agricultural Trade Development and Assistance Act of 1954, as amended.

(b) A "cooperative program agreement" is an agreement by FAS and a cooperator to cooperate generally in the development of foreign markets for surplus agricultural commodities, more detailed provisions for such development to be embodied in cooperative project agreements.

(c) A "cooperative project agreement" is an agreement by FAS and a cooperator pursuant to which FAS contributes foreign currencies derived under the act and the cooperator contributes or causes to be contributed dollars, foreign currencies, property, services, or combinations thereof, all to be used in a cooperative project.

(d) A "cooperative project" is a project, as described under paragraph (i) of this section, operated by a cooperator, part of the financing being provided by FAS in accordance with the applicable cooperative project agreement.

(e) "Developing new markets" means creating new foreign markets for United States agricultural commodities as well as maintaining or expanding such foreign markets already in existence.

(f) "FAS" means the Foreign Agricultural Service, United States Department of Agriculture.

(g) "FAS contract" is a contract between FAS and a contractor, different from a cooperative agreement, pursuant to which FAS procures, for a stated consideration, property and services needed in developing markets for United States agricultural commodities.

(h) "FAS project" is a project as described under paragraph (i) of this section, operated directly by FAS with its own personnel or through direct procurement of property and services for needed market development.

(1) A "project" is a unit of market development work which constitutes the basis for programming as well as for budgeting and accounting for expenditures. A project may be directed at: (1) market promotion, that is, expanding and maintaining a market for United States agricultural commodities in foreign countries using such techniques as market studies, general publicity, commodity promotions, and exchanges of know-how and personnel; (2) marketing assistance, that is, assistance to foreign importers, processors and wholesale and retail dealers on distribution or technical problems; or (3) marketing research and surveys. A project may be a "cooperative project" or an "FAS project," as defined under paragraphs (d) and (h) of this section, respectively.

§ 11.52 Legal basis.

Section 104(a) of the act, as amended (7 U.S.C. 1704(a)), authorizes the President to use, or enter into agreements with friendly nations or organizations of nations to use, the foreign currencies which accrue under Title I of the act to help develop new markets for United States agricultural commodities on a mutually benefiting basis. By Executive Order 10560, dated September 9, 1954 (19 F.R. 5927), as amended, the President delegated the functions conferred upon him by Title I to the Secretary of Agriculture. The Administrator, FAS, is authorized to develop foreign markets for agricultural commodities pursuant to section 104(a) of the act by delegation of authority from the Secretary of Agriculture, 19 F.R. 74, except for utilization research which has been delegated by the same delegation to the Agricultural Research Service of the Department of Agriculture.

§ 11.53 Participation in projects.

As far as practicable, the United States Department of Agriculture relies upon representatives of private trade and agricultural groups in the United States and foreign countries as cooperators to carry out section 104(a) projects. In appropriate cases, such as where research or surveys are required, projects may be carried out in cooperation with, or under contract with, colleges, foundations, and similar educational institutions. Generally, cooperative agreements are not entered into with individual United States or foreign firms, except (a) on an experimental or pilot basis, or (b) where a trade group designates a particular

firm to represent and act on behalf of the group. FAS projects are established where it is considered desirable to have the work done and where it is impracticable to establish a project on a cooperative basis.

§ 11.54 Contributions by cooperators.

In accordance with the policy established by the Foreign Agricultural Service, cooperators shall, and third parties making agreements with cooperators may, be required to contribute to project activities in accordance with cooperative agreements made by FAS and cooperators.

§ 11.55 Third party agreements.

When a cooperator carries out a share or all of a cooperative project agreement through a third party, the cooperator continues to be responsible for the project.

§ 11.56 Offices abroad.

With the approval of FAS, the cooperator may establish field offices in foreign countries to develop, supervise, and conduct market development activities.

§ 11.57 Reports.

A cooperator shall make reports, as required by FAS, in the course of the operation of the projects as well as upon their completion.

§ 11.58 Initiation of projects.

Market development projects may be initiated upon the suggestion of cooperators, FAS personnel, or other individuals or groups within or outside the Department of Agriculture.

§ 11.59 Consideration of project proposals.

Suggested projects are undertaken only if it is determined that such projects give promise of contribution to the effective creation, expansion, or maintenance of markets abroad for United States agricultural commodities, with primary emphasis on commercial markets.

§ 11.60 Delegations by Administrator.

(a) Authority to execute cooperative project agreements as defined in § 11.51 (c) is delegated by the Administrator, FAS, to the Assistant Administrator for Market Development and Programs.

(b) Authority to execute all other agreements, including FAS contracts as defined in § 11.51(g), pursuant to section 104(a) of the act is delegated by the

Administrator, FAS, to the Assistant Administrator for Management, except that the Administrator, FAS, executes cooperative program agreements, as defined in § 11.51 (b), and except that agreements for utilization research are executed by the Agricultural Research Service (see § 11.52).

(c) These authorities may not be re delegated.

§ 11.61 Further information.

Further information as to entering into agreements to develop new markets for United States agricultural commodities and as to operations under such agreements can be obtained, upon request, from the Director, Foreign Trade Promotion Division, FAS, U.S. Department of Agriculture, Washington 25, D.C.

PART 12—DETERMINATION OF SURPLUS AGRICULTURAL COMMODITIES UNDER SECTION 211 OF THE AGRICULTURAL ACT OF 1956

SUBPART—1958 CROP YEAR

Sec.

12.1 Basis and purpose.

12.2 Determination of surplus agricultural commodities.

AUTHORITY: The provisions of this Part 12 issued under sec. 211, 70 Stat. 202; 7 U.S.C. 1860.

SOURCE: The provisions of this Part 12 appear at 22 F.R. 7923, Oct. 5, 1957, unless otherwise noted.

§ 12.1 Basis and purpose.

(a) This proclamation is issued to announce the agricultural commodities which have been determined by the Secretary of Agriculture to be in surplus supply for the purposes of section 211 of the Agricultural Act of 1956 during the 1958 crop year. Section 211 provides that, on or before October 1 of each year, the Secretary shall determine and proclaim the agricultural commodities the supplies of which are in excess of estimated requirements for domestic consumption and export plus adequate reserves for emergencies. The commodities so proclaimed are to be considered as being in surplus supply for the purposes of section 211 during the succeeding crop year. Section 211 further provides that such surplus crops shall not receive certain Federal payments, loans, or benefits if grown on newly irrigated, drained, or reclaimed lands within irrigation,

drainage, or flood control projects authorized after May 28, 1956, the date of enactment of the Agricultural Act of 1956.

(b) The determinations made by the Secretary are contained in § 12.2 and have been made on the basis of the latest available statistics of the Federal Government. In making these findings and determinations, all crops which might be produced during the 1958 crop year on the lands described in section 211 and which might reasonably be expected to receive payments, loans, or benefits of the types specified in section 211 were considered. Tree crops were not considered, since such crops could not be produced during the 1958 crop year on trees newly planted on lands irrigated, drained, or reclaimed since May 28, 1956. Commodities which could not receive benefits except under a Federal Crop Insurance Corporation insurance policy were not considered because the Corporation does not insure commodities to be produced on newly irrigated, drained, or reclaimed lands on which adequate production history is not available as a basis for determining premiums.

§ 12.2 Determination of surplus agricultural commodities.

Pursuant to section 211 of the Agricultural Act of 1956, it is hereby determined and proclaimed for the purposes of such section 211 that the supplies of barley, dry edible beans, corn, upland cotton, extra long staple cotton, grain sorghums, soybeans, oats, peanuts, rice, rye, tobacco, wheat, and potatoes are now in excess of estimated requirements for domestic consumption and export plus adequate reserves for emergencies.

PART 13—SETOFFS AND WITHHOLDINGS

Sec.

13.1 Purpose.

13.2 Definitions.

13.3 Cases in which withholdings shall be made.

13.4 Cases in which setoffs shall be made.

13.5 Conditions under which setoff or withholding shall not be made.

13.6 Requests for setoff.

13.7 Order of priority of setoffs.

13.8 Assignments.

13.9 Rights of debtors.

13.10 Procedures and instructions.

AUTHORITY: The provisions of this Part 13 issued under 5 U.S.C. 301.

SOURCE: The provisions of this Part 13 appear at 29 F.R. 9425, July 10, 1964.

§ 13.1 Purpose.

This part states the conditions under which any amounts approved by Agricultural Stabilization and Conservation county committees for disbursement to persons under programs administered by the Department of Agriculture, or any agency thereof, will be withheld or set off against debts of such persons owing to any department or agency of the United States.

§ 13.2 Definitions.

(a) The term "department" means one of the executive departments enumerated in section 1 of title 5, United States Code.

(b) The term "agency" includes any department, establishment, commission, administration, authority, board, bureau, or service of the United States, or any corporation all of the capital stock of which is owned by the United States.

(c) The term "CCC" means Commodity Credit Corporation, U.S. Department of Agriculture.

(d) The term "ASCS" means the Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

(e) The term "withholding" means the taking of action temporarily to prevent the payment of a specified amount from amounts payable to a debtor.

(f) The term "setoff" means the application of a specified amount from amounts payable to a debtor as liquidation, in whole or in part, of an amount owed by the debtor.

§ 13.3 Cases in which withholdings shall be made.

Withholding shall be made and appropriate notification thereof forwarded to the debtor in all of the following cases involving programs of CCC or ASCS (withholdings shall not be made in cases involving programs of other agencies):

(a) Where there has been a serious breach of contract or violation of program requirements and the withholding action is considered necessary to protect the financial interest of the Government.

(b) Where there is substantial evidence of violations of criminal or civil frauds statutes and criminal prosecution or civil frauds action is of primary importance to program operations

(c) Where prior experience with the debtor indicates that collection will be difficult if amounts payable to the debtor are not withheld.

(d) Where there is doubt that the debtor will be financially able to pay a judgment on the debt.

(e) When requested by the Department of Justice.

The amount to be withheld in such cases shall not exceed the actual or estimated amount of the debt, including interest and out-of-pocket expenses paid by or accruing to the Government where applicable, unless the Department of Justice requests that a larger specified amount be withheld.

§ 13.4 Cases in which setoffs shall be made.

Setoff shall be made and appropriate notification thereof forwarded to the debtor in all cases (but in none other) where:

(a) A person has been administratively determined to be indebted to any agency of the Department of Agriculture, except that indebtedness in any matter falling within the Civil Frauds Statute, section 231 of title 31, United States Code, and indebtedness in any other matter referred to the Department of Justice but not reduced to judgment, shall be governed by paragraph (b) of this section. In case of indebtedness subject to setoff under this paragraph, the head of any creditor agency of the Department of Agriculture, or his designee, may, if such action is not prohibited by law, defer or subordinate in whole or in part, the right of the creditor agency to recover through setoff all or part of any indebtedness to such agency, or may withdraw a request for setoff, if he determines that such action is in the best interest of the program administered by such creditor agency and that the financial rights of the Government are protected.

(b) The Department of Justice has approved setoff of an indebtedness in a matter falling within the Civil Frauds Statute, section 231 of title 31, United States Code, or in any other matter referred to that Department, arising in connection with a program administered by any agency of the Department of Agriculture.

(c) A person is indebted under a judgment in favor of the United States or any agency thereof.

(d) A person is indebted to the Internal Revenue Service for taxes due the United States and such Service has filed a notice of lien in accordance with the

Internal Revenue Code and has submitted a written request for setoff, or has served a Notice of Levy in accordance with section 6331 of the Internal Revenue Code, title 26 of the United States Code, against amounts payable to such person.

(e) A person is indebted to the Department of Labor under an agreement entered into with the United States pursuant to section 1462 of title 7, United States Code, in connection with the employment of Mexican agricultural workers.

(f) A person is otherwise indebted to any agency of the United States and the Administrator, ASCS, or his designee, has specifically authorized setoff.

§ 13.5 Conditions under which setoff or withholding shall not be made.

Setoff or withholding shall not be made:

(a) If the amount available for setoff or withholding represents loan or purchase proceeds with respect to a commodity which is subject to the rights of the holder of a valid enforceable prior lien on such commodity. However, any amount that exceeds the amount of the prior lien shall be available for withholding or setoff.

(b) Where suit has not been filed and the applicable period of limitation for enforcing payment of the debt in the courts expired prior to the date the amount became payable to the debtor.

(c) Where collection of a debt has been barred by a discharge in bankruptcy and the debtor has not expressed a desire to make payment.

(d) If the debt is in an amount of \$3.00 or less.

§ 13.6 Requests for setoff.

(a) Indebtedness to CCC and ASCS shall be set off in accordance with instructions issued by ASCS, without a request for setoff having been made to the appropriate ASCS State office.

(b) Setoffs to recover indebtedness to agencies other than those described in paragraph (a) of this section shall be made only upon filing of a request or serving of a Notice of Levy in accordance with this section. No request shall be filed until the creditor agency has made reasonable efforts through other administrative means available to it to collect the indebtedness.

(c) The following requests for setoff and Notices of Levy shall be mailed or

delivered to the appropriate ASCS State office:

(1) Requests for setoff made by other agencies within the Department of Agriculture.

(2) Requests for setoff submitted or Notices of Levy served by the Internal Revenue Service.

(3) Requests submitted by the Department of Labor for setoff of a debt which arose in connection with the employment of Mexican agricultural workers.

(d) All other requests for setoff made by other agencies of the United States shall be mailed or delivered to the Administrator, ASCS, or his designee.

(e) Any creditor agency may inquire from the ASCS county office as to whether the debtor has evidenced an intention to participate in one or more programs for a particular crop year under which funds might become available for setoff under this part, but any request for setoff must be made in accordance with this section.

(f) All requests for setoff shall be submitted in writing signed by an authorized representative of the creditor agency, and shall comply with the following:

(1) Each request shall state the amount of the indebtedness separately as to principal and interest, and interest (if any) shall be computed to a date shown in the request. If the creditor agency desires that additional interest be computed on the principal, a daily or monthly interest factor per dollar of principal shall be shown in the request. The amount to be set off shall not exceed the principal sum owed by the debtor plus interest computed in accordance with the request.

(2) Each request shall also state the name and address of the debtor and a brief description of the indebtedness, including identification of the court judgment, if any.

(3) If a notice of lien has been filed in accordance with the provisions of the Internal Revenue Code, section 6323 of title 26, United States Code, the request or Notice of Levy shall also state the date of filing such notice of lien.

(4) If the request is submitted by a corporate agency in connection with a debt which has not been reduced to judgment, the request shall include an agreement to save CCC harmless from liability in the event that the setoff is made against an amount payable by CCC.

§ 13.7 Order of priority of setoffs.

(a) Debts shall be collected by setoff in the following order of priority:

- (1) Debts to CCC and ASCS.
- (2) Debts to other agencies of the Department of Agriculture.
- (3) Debts to the Internal Revenue Service.
- (4) Debts to other agencies.

(b) Within each priority grouping in paragraph (a) of this section, the order of setoff shall be the chronological order of the dates of entry of the debts on the debt record in the ASCS county office.

§ 13.8 Assignments.

In case of an assignment the following shall apply:

(a) No amount payable to a debtor shall be paid to his assignee until there have been collected any amounts owed by the debtor as follows:

(1) Setoff shall be made of any debts of the assignor which were entered on the debt record of the ASCS county office prior to the date the notice of assignment was accepted by such county office.

(2) Setoff shall be made, if the Internal Revenue Service so requests or has served a Notice of Levy, of any amounts for which the assignor is indebted to the United States for taxes, with respect to which a notice of lien was filed in accordance with the provisions of the Internal Revenue Code prior to the date the notice of assignment was accepted by the ASCS county office. The burden of determining whether a notice of lien has been filed shall be upon the assignee.

(b) No withholdings shall be made of amounts payable under assignments accepted by the ASCS county office; however, setoffs shall be made in appropriate cases in accordance with the provisions of this section.

(c) Any amount due and payable to the assignor which remains after deduction of amounts (including interest and other charges) owing to the assignee shall be available for setoff or withholding.

§ 13.9 Rights of debtors.

Setoffs made pursuant to this part shall not deprive a debtor of any right he might otherwise have to contest the justness of the debt involved in the setoff action either by administrative appeal or by legal action.

§ 13.10 Procedures and instructions.

The Administrator, ASCS, or his designee, is authorized to issue such procedures and instructions as may be required from time to time for the proper administration of this part.

PART 14—SALES OF AGRICULTURAL COMMODITIES ON CREDIT UNDER LONG-TERM SUPPLY CONTRACTS

Subpart A—Regulations Governing the Financing of Commercial Export Sales of Surplus Agricultural Commodities on Credit

- | | |
|--|---|
| <p>Sec.
14.1
14.2
14.3
14.4
14.5
14.6
14.7
14.8
14.9
14.10
14.11
14.12
14.13
14.14
14.15
14.16
14.17
14.18
14.19</p> | <p>General statement.
Definition of terms.
Purchase authorizations.
Subauthorizations.
Eligible commodities.
Contracts between suppliers and importers.
Price provisions.
Adjustment refunds.
Insurance on c.i.f. sales for account of importer.
Fees, discounts, commissions and ship's dollar disbursements.
Reimbursement for ocean transportation.
Letters of commitment to banking institutions.
Ocean transportation.
Documentation.
Documents in support of drafts drawn on CCC by banking institutions.
Responsibilities of banking institutions.
Supplier's records.
ASCS Commodity Offices.
Effective date.</p> |
|--|---|

Subpart B—Policies and Procedures Applicable to Agreements With the Private Trade Pursuant to Title IV of Public Law 480, the Agricultural Trade Development and Assistance Act of 1954, as Amended

- | | |
|--|--|
| <p>14.51
14.52
14.53
14.54
14.55
14.56
14.57
14.58
14.59
14.60
14.61
14.62
14.63
14.64</p> | <p>General statement.
Definition of terms.
Basic considerations.
Eligibility of private trade entities.
Commodity eligibility.
Supply periods.
Assurance of payment.
Credit terms and other financing provisions.
Countries to which commodities may be exported.
Purposes for which credit may be utilized.
Export costs to be financed.
Submission of applications.
Principals preferred.
Fees for services in obtaining agreements.</p> |
|--|--|

Sec.

- 14.65 Signing agreements.
- 14.66 Compliance policies and provisions.
- 14.67 Remedies and penalties.

Subpart A—Regulations Governing the Financing of Commercial Export Sales of Surplus Agricultural Commodities on Credit

AUTHORITY: The provisions of this Subpart A issued under secs. 101, 102, 103, 106, 107, 68 Stat. 455-457, 69 Stat. 44, secs. 401-404, 406, 73 Stat. 610, sec. 201, 76 Stat. 610; 7 U.S.C. 1731-1734, 1736, 1701, 1702, 1703(a), 1706, 1707; E.O. 10900, 26 F.R. 143, 1959-1963 Comp., p. 429.

SOURCE: The provisions of this Subpart A appear at 28 F.R. 10858, Oct. 10, 1963; 28 F.R. 11011, Oct. 15, 1963, unless otherwise noted.

§ 14.1 General statement.

(a) This subpart contains the regulations governing the sale, exportation and financing of surplus agricultural commodities and products thereof pursuant to authority contained in Title IV of Public Law 480, the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1731-1736). Title IV authorizes agreements between the United States of America and the governments of friendly importing countries as well as between the Secretary, U.S. Department of Agriculture, and the foreign and United States private trade to assist the development of the economies of friendly nations and to maximize dollar trade. The agreements will provide for the financing of the sale and exportation of surplus agricultural commodities and products thereof for specified supply periods and certain ocean transportation costs, and will provide for repayment in United States dollars of the amount financed plus accrued interest thereon. The regulations in this subpart, which apply to both types of agreements, set forth procedures to be followed by importing countries and private trade entities in making application for purchase authorizations; by the Administrator, Foreign Agricultural Service, in the issuance of purchase authorizations; and by Commodity Credit Corporation in financing the sale and exportation of such commodities and products thereof through private trade channels.

(b) The Administrator, Foreign Agricultural Service, will issue purchase authorizations following approval of applications received from the importing

country or the private trade entity with which an agreement has been entered into. The importing country or the private trade entity, directly or through authorized importers or agents, will procure the commodities from U.S. private trade sources and will arrange for shipment in U.S.-flag vessels when such vessels are required to be used. Agreements with private trade entities may when appropriate authorize the export of surplus agricultural commodities and products thereof which are owned by the private trade entity. Prior approval for the use of all vessels must be obtained from the appropriate office of the United States Department of Agriculture. Such approval will state whether or not the cost of ocean transportation will be financed by Commodity Credit Corporation and the amount, if any, of the freight differential approved for each vessel.

(c) The Controller, Commodity Credit Corporation, following receipt and approval of applications, will issue letters of commitment to the U.S. banking institutions designated by the importing country or the private trade entity, in case of purchase authorizations which provide for the letter of commitment method of financing. The U.S. supplier of the commodity will receive payment, under letters of credit opened or requested by the approved applicant and issued, confirmed or advised by the U.S. bank to which the letter of commitment was issued, for the cost of the commodities and, when authorized and included as a part of the commodity cost, the cost of ocean transportation and insurance. When the cost of ocean transportation is approved for financing and is to be financed separately from the commodity cost, the supplier of the ocean transportation will obtain payment from the importing country or the private trade entity, or the assignee of either such party (see § 14.11(b)(1)). Commodity Credit Corporation will reimburse U.S. banks for payments made under letters of commitment and will reimburse the importing country or the private trade entity, or the assignee of either such party, for the cost of ocean transportation which is financed separately from the commodity cost. The U.S. bank will forward documents and advice of the amount financed by Commodity Credit Corporation to the approved applicant which will notify the

importing country or the private trade entity, as the case may be. It is the responsibility of the importing country or the private trade entity to arrange with its authorized importers or agents and approved applicants for the transfer to such importing country or private trade entity of the foreign currency equivalent of the U.S. dollars disbursed by U.S. banks and by CCC.

(d) When the letter of commitment method of financing is not to be used under an agreement with a private trade entity, such an agreement and related purchase authorizations will provide the method of financing.

(e) General information pertaining to this program and to the development and negotiation of agreements pursuant to Title IV of Public Law 480 may be obtained upon request to the General Sales Manager, Foreign Agricultural Service, United States Department of Agriculture, Washington 25, D.C. Information pertaining to purchase authorizations and related operations under this program may be obtained upon request to the Director, Program Operations Division, FAS, United States Department of Agriculture, Washington 25, D.C. Information relating to financing operations and related prescribed forms may be obtained upon request to the Controller, CCC, United States Department of Agriculture, Washington 25, D.C. The Foreign Agricultural Service will make public, with respect to each credit purchase authorization, information necessary to enable suppliers to initiate negotiations for any sales to be made under the purchase authorization. Such information will be issued daily or as often as necessary in the form of a public release.

§ 14.2 Definition of terms.

Terms used in this subpart are defined as follows:

(a) *Terms relating to the United States, its agencies and officials.* (1) "CCC" shall mean the Commodity Credit Corporation, United States Department of Agriculture.

(2) "The Controller, CCC" shall mean the Controller, Commodity Credit Corporation, or his designee.

(3) "ASCS" shall mean the Agricultural Stabilization and Conservation Service, United States Department of Agriculture.

(4) "ASCS Offices" shall mean the ASCS Divisions, the ASCS Commodity

Offices listed in § 14.18, and any other offices or agencies which may succeed to the functions of such offices.

(5) "FAS" shall mean the Foreign Agricultural Service, United States Department of Agriculture.

(6) "The Administrator" shall mean the Administrator of the Foreign Agricultural Service, or his designee.

(7) "United States" shall mean the fifty states, the District of Columbia, and Puerto Rico.

(b) *Terms relating to ocean transportation.* (1) Categories of carriers:

(i) "Dry bulk carriers" shall mean irregularly scheduled vessels, other than tankers, commonly referred to as "tramps". They go where full cargoes offer. Rates are negotiated by charter arrangements covering the movement of a specific quantity of a specific commodity, at a specific time from specific port or ports to specific destination port or ports. Cargoes under this category generally include grain, coal, fertilizers, lumber, pitch, salt, sugar, etc.

(ii) "Dry cargo liners" shall mean regularly scheduled vessels on specific trade routes. Any cargo can be shipped in this service including part-cargoes (parcels) of such bulk items as grain, coal, etc., generally not exceeding 60 percent of the capacity of the vessel. Petroleum, vegetable oils, and similar bulk liquids carried in deep tanks of dry cargo liner vessels are classified as liner cargoes.

(iii) "Tankers" shall mean vessels which are designed to carry full cargoes of liquids. Because of compartmentation, tankers can carry a combination of such cargoes, including bulk grain. Rates are negotiated by charter arrangements in the same manner as with dry bulk carriers.

(2) "Form CCC 106" shall mean Form CCC 106-1, Advice of Vessel Approval (Supplier of Commodity); Form CCC 106-2, Advice of Vessel Approval (Ocean Carrier); or Form CCC 106-3, Advice of Vessel Approval (Cotton); or any or all of them, as applicable.

(3) "Ocean bill of lading" shall mean a nonnegotiable copy (or photostat) of an "On-Board" bill of lading, or other type of ocean bill of lading with an "on-board" endorsement dated and signed or initialed on behalf of the carrier.

(4) "Ocean transportation" shall mean, and is interchangeable with, the term, "ocean freight".

(c) *Terms relating to purchase authorizations.* (1) "Credit purchase authorization" shall mean LTC Form 501, Credit Purchase Authorization—Surplus Agricultural Commodities (Title IV, Public Law 480).

(2) "Purchase authorization" shall mean either Credit Purchase Authorization—Surplus Agricultural Commodities (Title IV, Public Law 480), LTC Form 501, or Credit Purchase Authorization for Ocean Transportation, LTC Form 502, or both forms.

(3) "Transportation purchase authorization" shall mean LTC Form 502, Credit Purchase Authorization for Ocean Transportation.

(d) *Other terms:* (1) "Affiliate" shall mean (i) a supplier which is a United States branch office of the importer, (ii) an importer which is owned or controlled by the supplier, or (iii) a firm (a corporation, partnership, individual or other legal entity) which (a) owns or controls the importer or supplier; (b) is owned or controlled by the importer or supplier; or (c) is owned or controlled by the same firm which owns or controls the importer or supplier.

(2) "Approved applicant" shall mean the bank in the importing or destination country or other agency named in any letter of commitment issued to a banking institution under this subpart and shall include any agent authorized to act on behalf of such an applicant.

(3) "Banking institution" shall mean a banking institution organized under the laws of the United States, any State, or the District of Columbia.

(4) "Commodity" shall mean the surplus agricultural commodity or product thereof specified in the applicable purchase authorization.

(5) "Copy" shall mean a copy or photostat of an original document showing all data shown on the original, including signature or the name of the person signing the original, or if the signature or name is not shown on the copy, a statement that the original was signed.

(6) "Delivery" shall mean the transfer to or for the account of an importer of custody and right of possession of the commodity in export channels as specified in the credit purchase authorization.

(7) "Destination country" shall mean the foreign country to which the commodities are exported under a private trade agreement.

(8) "Importer" shall mean any person or organization, governmental or other-

wise, to which an importing country issues a subauthorization under a purchase authorization. "Importer" shall also mean the private trade entity or any person or entity to which the private trade entity issues a subauthorization under a purchase authorization.

(9) "Importing country" shall mean any nation with which an agreement has been negotiated pursuant to Title IV.

(10) "Letters of credit" shall mean irrevocable commercial letters of credit issued, confirmed or advised by a banking institution on behalf of an approved applicant.

(11) "Private trade agreement" means an agreement between CCC and a private trade entity for the supply and financing of surplus agricultural commodities, entered into pursuant to Title IV.

(12) "Private trade entity" means the private individual or organization which enters into the private trade agreement with CCC under Title IV.

(13) "Supplier" shall mean any individual, partnership, corporation, or other legal entity who or which sells any agricultural commodity or products thereof to an importer under the terms of a credit purchase authorization for delivery to such an importer in export channels, or who or which sells ocean transportation to an importer or supplier under the terms of a purchase authorization.

(14) "Title IV" shall mean Title IV of the Agricultural Trade Development and Assistance Act of 1954, as amended.

§ 14.3 Purchase authorizations.

(a) *Application.* The importing country or the private trade entity, as the case may be, shall submit an Application for Authorization to Purchase Surplus Agricultural Commodities and/or Authorization to Procure Ocean Transportation (LTC Form 501-1) for each commodity to the Administrator. The application shall be submitted in triplicate and shall include such information as may be required by the Administrator. Upon request by the Administrator, the importing country or the private trade entity shall submit such supplementary information as is required.

(b) *Issuance of purchase authorizations.* Upon approval of the application by the Administrator, appropriate

purchase authorizations will be issued to the importing country or the private trade entity as follows:

(1) Credit Purchase Authorization, LTC Form 501.

(2) Transportation Purchase Authorization, LTC Form 502.

(c) *Provisions of purchase authorizations*—(1) *Credit purchase authorizations*. Each credit purchase authorization will specify the commodity to be purchased, the approximate quantity, the maximum dollar amount, the method of financing, the ASCS office which will administer the financing operation on behalf of CCC, the periods during which contracts between importers and suppliers may be entered into and during which deliveries may be made and any other provisions deemed necessary.

(2) *Transportation purchase authorizations*. Each transportation purchase authorization will specify the commodity to be shipped, the delivery period, the maximum dollar amount and any other provisions deemed necessary.

(3) *Applicability of this subpart*. In addition to the provisions of the particular purchase authorization, each purchase authorization shall be subject to the provisions of the regulations in this subpart to the same extent as though fully set forth in the purchase authorization.

(d) *Modification or revocation*. The Administrator reserves the right at any time for any reason or cause whatsoever to supplement, modify or revoke any purchase authorization, including the termination of deliveries thereunder. CCC shall reimburse suppliers, who would otherwise be entitled to be financed, for costs incurred in connection with firm sales contracts, and not otherwise recovered, as the result of such action by the Administrator: *Provided, however*, That such reimbursement shall not be made to a supplier if the Administrator determines that such action was taken because the supplier failed to comply with the requirements of the regulations in this subpart or the applicable purchase authorizations.

§ 14.4 Subauthorizations.

The importing country or the private trade entity, as the case may be, will issue subauthorizations to importers within the terms of each credit purchase authorization. The importing country or the private trade entity, in subauthor-

izing, shall instruct importers to use the credit purchase authorization number in placing orders, and shall specify to importers all the provisions of the credit purchase authorization which are applicable to the subauthorization. Each importer to whom a subauthorization has been issued must inform his supplier that the transaction is to be financed under Title IV and must give to his supplier the credit purchase authorization number that has been given to him. Copies of credit purchase authorizations may be obtained from FAS. The importer must also inform his supplier of any special provisions which affect the supplier in carrying out the transaction.

§ 14.5 Eligible commodities.

(a) *Surplus agricultural commodities*. To be eligible for financing, the commodities must be agricultural commodities or products thereof, produced in the United States, which are at the time of exportation in excess of domestic requirements, adequate carryover, and anticipated exports for dollars, as determined by the Secretary of Agriculture.

(b) *Commodity description and specification*. Only the commodity described and specified in the purchase authorization shall be eligible for financing.

§ 14.6 Contracts between suppliers and importers.

(a) *Eligibility for financing*. In order to be eligible for financing under Title IV, contracts shall comply with the following requirements:

(1) Contracts between importers and suppliers must be entered into within the contracting period specified in the purchase authorization and shall provide for deliveries to the importer in accordance with the delivery terms and during the delivery period specified in the credit purchase authorization, unless an extension of such contracting or delivery period is granted in writing by the Administrator.

(2) Any contract for a commodity, under a credit purchase authorization which limits contracting to f.o.b. or f.a.s. terms, must be separate and apart from the contract for ocean transportation of such commodity.

(3) The contracted price must not be on a cost plus-a-percentage-of-cost basis.

(4) The supplier must be engaged in the business of selling for export from or furnishing ocean transportation from the United States, must maintain a home

vide business office in the United States, and must have a person, principal or agent upon whom service of judicial process may be had in the United States.

(b) *Invitations to bid.* (1) Importers may make purchase through negotiation with a supplier or suppliers of the importer's choice or on the basis of invitations to submit competitive offers. If competitive offers are invited, such invitations shall not limit the right to submit offers to any specified group or class of suppliers but shall permit submission of offers by any supplier who meets the requirements of paragraph (a)(4) of this section.

(2) An importer's request for offers pursuant to which an export sales contract is entered into must not preclude such offers from being made for shipment from any United States port(s). This requirement does not preclude the importer from accepting offers on the basis of shipment from port(s) which result in the lowest total landed cost of the commodity.

(c) *Shipment prior to letter of credit.* It is the responsibility of the supplier to assure that he does not make shipments or deliveries of commodities until he has been informed by a banking institution in the United States that a letter of credit has been issued, confirmed, or advised in his favor.

(d) *Interest and carrying charges for account of importer.* CCC will not finance interest or carrying charges assessed by suppliers against importers because of delays in establishing letters of credit.

§ 14.7 Price provisions.

(a) *Maximum price.* The supplier's sales price must not exceed the prevailing range of export market prices (or such other maximum price level as may be specified in the credit purchase authorization) as applied to the terms of sale at the time of sale, as determined by CCC. "Time of sale" shall mean the day as of which the sales price is established in or pursuant to the contract between the importer and the supplier. In addition to the foregoing, the sales price for commodities sold to an affiliate of the supplier shall not be in excess of the aggregate amount of the following:

(1) The initial cost to the supplier for acquisition from U.S. sources;

(2) The actual cost, if available, otherwise the average cost incurred for

any handling, processing and transportation to point of delivery; and

(3) Any markup regularly and customarily charged.

(b) *Refund of excess price.* In the event the sales price exceeds the maximum permissible under paragraph (a) of this section, the supplier shall refund the amount of such excess to CCC promptly after determination and notification of the amount thereof by CCC. If not promptly refunded, such amount may be set-off by CCC against monies owed by it to the supplier. CCC will credit the account of the importing country or the private trade entity, as the case may be, with the amount of the refund or set-off. The making of any such refund to CCC, or any set-off by CCC, shall not, however, prejudice the right of the supplier to challenge the correctness of such determination in a court action brought against CCC for recovery of the amount refunded or set-off.

(c) *Cotton.* In the case of cotton, the following shall apply in lieu of the provisions of paragraph (b) of this section:

(1) The supplier shall, within 5 days after the date of export sale, forward to the Director, ASCS Commodity Office, Wirth Building, 120 Marais Street, New Orleans 16, La. a copy of the sales confirmation furnished by the supplier to his purchaser, and if the supplier fails to do so, CCC shall have the right to refuse to finance the sale under the program.

(2) The ASCS Commodity Office will undertake, on behalf of CCC, to check the sales confirmation as to price and to inform the supplier, within 3 business days from receipt of the sales confirmation, whether such price is in conformance with paragraph (a) of this section.

(i) If the ASCS Commodity Office determines that the sales price is in conformance with paragraph (a) of this section, the supplier will promptly be informed by telegram of the registration number assigned to the sale by CCC.

(ii) Failure by the ASCS Commodity Office so to notify the supplier by telegram within 5 business days after receipt of the copy of the sales confirmation will indicate that the sales price is not acceptable and the sale will not be financed under the program unless the supplier satisfies CCC that the sales price is in conformance with paragraph (a) of this section.

(d) *Commodities other than cotton.* The supplier's sales price for certain commodities must be submitted to the Administrator for review and approval prior to the financing of the sale under this subpart. The credit purchase authorizations for these commodities will provide the procedures and documentation for such prior price approval.

§ 14.8 Adjustment refunds.

(a) *Credit purchase authorizations providing for letters of commitment.*

(1) All claims by importers against suppliers for adjustment refunds representing amounts financed by CCC arising out of the terms of the contract or out of the normal customs of the trade, including arbitration and appeal awards, amicable allowances, and claims for overpayment of ocean transportation included in the commodity price, shall be settled by payment by the supplier to the banking institution to which the supplier presented the documents covering the original transaction. The amount of such adjustment refunds shall not be reduced by the amount of any claims of the supplier against the importer assessed because of delay in establishing letters of credit or for any other charges not eligible for financing by CCC.

(2) The remittance to the banking institution shall be identified with the date and amount of the original payment, the applicable letter of credit number, and the applicable credit purchase authorization number.

(3) The banking institution shall remit the refund to the Controller, CCC, as provided in § 14.16(a) (9) and shall advise the approved applicant in writing of the amount of the refund and that the refund will be remitted to CCC as required by the regulations in this subpart.

(b) *Credit purchase authorizations which do not provide for letters of commitment.* Special provisions relating to adjustment refunds will be contained in credit purchase authorizations issued pursuant to private trade agreements under which the letter of commitment method of financing will not be used.

(c) *Transportation purchase authorization.* (1) The supplier for whom ocean transportation is financed by CCC separately from the commodity cost shall remit directly to the Controller, CCC, the amount of any refunds due the contractor (charterer or booking agent) because of overpayments of ocean trans-

portation. Suppliers shall advise the contractor of the amount of the refund.

(2) The remittance to the Controller and the advice to the contractor shall be identified with the name of the vessel, the date and amount of the original payment, and the applicable transportation purchase authorization number.

(d) *Credit to account of importing country or private trade entity.* CCC will credit the account of the importing country or the private trade entity, as the case may be, with the amount of refunds received by CCC pursuant to paragraphs (a) and (c) of this section.

§ 14.9 Insurance on c.i.f. sales for account of importer.

The provisions of this section apply only to transactions under credit purchase authorizations that specifically authorize c.i.f. sales in which the cost of insurance is included in the net c.i.f. invoice price of the commodity financed. When the supplier furnishes insurance in favor of or for the account of the importer, the policies or certificates of insurance shall include a loss payable clause which provides that all claims shall be paid in United States dollars to the Controller, CCC. Such payments shall be accompanied by advice of the credit purchase authorization number, the names and addresses of the supplier and importer, the nature of the claim, the quantity of the commodity involved in the claim, the date of shipment, the bill of lading number, and the name of the vessel. CCC will credit the account of the importing country or the private trade entity, as the case may be, with the amount of such payments received and will promptly notify the importing country or the private trade entity of amounts so received and credited.

§ 14.10 Fees, discounts, commissions, and ship's dollar disbursements.

(a) *Consular fees.* Consular fees imposed in connection with the exportation of commodities for the issuance or legalization of consular invoices or certificates will not be financed by CCC.

(b) *Discounts.* If a contract provides for one or more discounts (including but not limited to trade or quantity discounts and discounts for prompt payment) whether expressed as such or as "commissions" to the importer, only the invoice amount after discount (supplier's contracted price less all discounts) will be eligible for financing.

(c) *Commissions.* (1) A commission to a bona fide commercial or selling agent employed or engaged by the supplier to obtain a contract will be financed to the extent that such commission is not in excess of the rate or percentage customarily and usually charged for the services performed and the commodity involved, as determined by CCC.

(2) If the supplier has employed any person or firm, other than a bona fide established commercial or selling agent, to obtain a contract under any agreement for a commission, percentage, or contingent fee, only the amount of the contract less the amount of any such commission, percentage or contingent fee will be eligible for financing.

(3) No commission paid or to be paid to any agent, broker, or other representative of the importer will be eligible for financing, whether included in the price of the commodity or separately stated. This is not applicable to ocean transportation brokerage commissions otherwise allowable under subparagraph (4) of this paragraph.

(4) With respect to ocean transportation, CCC will not finance:

(i) Address commissions, or

(ii) Brokerage commissions in excess of 2½ percent of the freight charged.

(d) *Ship's dollar disbursements.* CCC will not finance ship's dollar disbursements.

§ 14.11 Reimbursement for ocean transportation.

(a) *General.* CCC will reimburse importing countries or private trade entities, as the case may be, for the cost of ocean transportation which is financed separately from the commodity cost, to the extent authorized in the transportation purchase authorization and as provided in § 14.13.

(b) *Assignment.* (1) The right to receive reimbursement under a transportation purchase authorization may be assigned by the importing country or by the private trade entity to any bank, trust company or other financing institution in the United States by sending a completed Instrument of Assignment, Form CCC 335, in an original and one copy, to the assignee.

(2) An original and two copies of the Notice of Assignment, Form CCC 334, must be prepared by the assignee and, together with one signed copy of the Instrument of Assignment, filed with the Controller, CCC. The signed copy of the

Instrument of Assignment submitted with the Notice of Assignment must contain all of the signatures, seals, acknowledgments, etc., which appear on the original.

(c) *Limitation on assignment.* The assignment may be made only to a bank, trust company, or other financing institution in the United States. The assignment shall cover all amounts payable under the transportation purchase authorization and not already paid, shall not be made to more than one party, and shall not be subject to further assignment, except that any such assignment may be made to one party as agent or trustee for two or more parties participating in the financing.

(d) *Protection of assignee.* No supplement, modification, or revocation of a transportation purchase authorization shall affect or impair the right of an assignee to obtain reimbursement to the extent of any payments made or irrevocable obligations incurred under a letter of credit, issued or confirmed by such assignee prior to receipt of a written notice from the Controller, CCC, of such supplement, modification, or revocation, for which the assignee has not been repaid by the importing country or the private trade entity (without, however, any obligation on the assignee's part to obtain such repayment). The term "purchase authorization" as used in any assignment of the right to receive reimbursement under a transportation purchase authorization shall be deemed to include each such supplement or modification from and after receipt by the assignee from the Controller, CCC, of written notice of the same, subject always, however, to the foregoing terms and provisions preserving the assignee's right of reimbursement.

(e) *Requests for reimbursement.* (1) All requests for reimbursement, supported by the required documentation, shall be submitted to the ASCS Office named in the transportation purchase authorization not later than 210 days after expiration of the delivery period specified in such transportation purchase authorization or any extension thereof granted by the Administrator.

(2) One copy of each Notice of Assignment, Form CCC 334, bearing a receipt of notice executed by CCC must be attached to the first voucher or invoice for reimbursement submitted to CCC by an assignee.

(f) *Collection of improper payments.* Amounts improperly paid to an assignee by CCC may be collected by CCC by set-off from amounts due the assignee under the same transportation purchase authorization. Such overpayments may also be collected by CCC by set-off against amounts due the same assignee under other transportation purchase authorizations issued to the same importing country or private trade entity, provided such assignee is notified of the amount to be collected by set-off at the time receipt of the assignment is acknowledged by CCC.

§ 14.12 Letters of commitment to banking institutions.

(a) *General.* (1) Letters of commitment issued by the Controller, CCC, to banking institutions designated by the importing country or the private trade entity, as the case may be, will assure reimbursement to the banking institution, in accordance with the terms of such letters of commitment, for payments, not in excess of the amount specified in the letter of commitment, made under letters of credit for the account of the approved applicant.

(2) Each letter of commitment will name the Federal Reserve Bank(s) to which drafts shall be presented by the banking institution in order to obtain reimbursement of amounts paid under the letters of credit, and will name the ASCS Office which will administer the financing operation under the letter of commitment on behalf of CCC.

(b) *Application*—(1) *Original applications.* The importing country or the private trade entity shall apply for a letter of commitment by submitting the signed original of the Application for Letter of Commitment or Amendment, CCC Form 327, to the Controller, CCC. This form will identify the U.S. bank designated to receive the letter of commitment and the approved applicant, and show the maximum amount to be financed under the letter of commitment.

(2) *Amendments.* The importing country or the private trade entity shall submit the signed original of CCC Form 327 to the Controller, CCC, to request changes in letters of commitment, except for reductions in amounts which may be made by banking institutions in accordance with paragraph (f) of this section.

(c) *Issuance.* Upon approval of the original application for a letter of com-

mitment, the Controller, CCC, will issue the original and one copy of Form CCC 528, Letter of Commitment, to the designated banking institution. Upon approval of the application for an amendment of a letter of commitment, the Controller, CCC, will issue the original and one copy of CCC Form 328-1, Amendment to Letter of Commitment, to the designated banking institution.

(d) *Acceptance by banking institution.* All letters of commitment and all amendments thereof issued in accordance with paragraph (c) of this section, except amendments which increase the amounts of letters of commitment, shall be accepted or rejected by the banking institution. The banking institution shall promptly return to CCC the copy of Form CCC 528, or CCC Form 328-1, indicating acceptance or rejection.

(e) *Advice to importing country or the private trade entity.* The Controller, CCC, will send to the importing country or the private trade entity a copy of each letter of commitment or amendment accepted by the banking institution, as well as amendments increasing the amounts of letters of commitment.

(f) *Reduction by banking institution.* The amount of a letter of commitment may be reduced by a banking institution, when so requested by the importing country or the private trade entity by issuing a Notice of Reduction of Letter of Commitment, Form CCC 328-2. The request of the importing country or the private trade entity to the banking institution may be made by letter or telegram or other method acceptable to the banking institution. Instructions to the banking institution for the preparation and distribution of this form are contained on the form.

(g) *Successors.* The letter of commitment shall inure to the benefit of the banking institution's legal successors and assigns.

(h) *Issuance of letters of credit.* In issuing, confirming, or advising letters of credit pursuant to a letter of commitment, the banking institution shall observe the following:

(1) *General.* The application or request for, and any agreement relating to, any letter of credit issued, confirmed, or advised in connection with a letter of commitment to a banking institution, may contain such terms and provisions as the approved applicant and the banking institution may agree upon, and the

approved applicant and the banking institution may agree to any extension of the life of, or any other modification of, or variation from the terms of any such letter of credit: *Provided*, That such terms and provisions and any such extension, modification or variance shall be in no respect inconsistent with or contrary to the terms and provisions of the letter of commitment. In case of any such inconsistency, or conflict, the terms and provisions of the letter of commitment shall prevail. In any event, every application for a letter of credit shall provide for submission to the banking institution of the documentation required by this subpart and by the credit purchase authorization.

(2) *Identification*. Each letter of credit, modification, or extension shall bear the numbers of the applicable letter of commitment and credit purchase authorization.

(3) *Commodity description*. The commodity description in letters of credit shall not be inconsistent with the description in the credit purchase authorization. In making payments under letters of credit the banking institution shall, on the basis of the description contained in the required documents, other than Form CCC-529, Invoice-and-Contract Abstract, act in accordance with good commercial practice.

(1) *Availability of information to CCC*. The banking institution shall make available to CCC upon request, a copy of each letter of credit issued, confirmed, or advised by it, and of any extension or modification thereof, a copy of each application and agreement relating to such letter of credit, a copy of each document in its possession received by it under the letter of credit, and detailed advice of the interest, commissions, expenses, or other items charged by it in connection with each such letter of credit.

(j) *Acceptability of documents*. Acceptance by the banking institution of any documents in the ordinary course of business in good faith as being genuine and valid and sufficient in the premises, and the delivery thereof to the Federal Reserve Bank, or the ASCS Office as required, shall constitute full compliance by the banking institution with any provision of this subpart, the credit purchase authorization, or the letter of commitment requiring delivery of a document of the sort that the document actually so delivered purports to be. The

banking institution shall be entitled to receive and retain reimbursement of the amount of all payments made by it against documents so accepted, notwithstanding that such payments may be inconsistent with § 14.7.

(k) *Truth or accuracy of supplier's statements*. The banking institution shall have no responsibility for the truth or accuracy of the statements contained in the supplier's certificate or invoice-and-contract abstract. The rights of the banking institution under the letter of commitment will not be affected by the fact that such abstracts may be incomplete, or may indicate noncompliance with any provision of this subpart, or of the credit purchase authorization or of the letter of commitment, or may be inconsistent with other required documents.

(l) *Notice of supplement, modification, or revocation*. No supplement, modification, or revocation of any credit purchase authorization or letter of commitment shall affect or impair the right of the banking institution to obtain reimbursement to the extent of any payments made or irrevocable obligations incurred under a letter of credit, issued or confirmed by the banking institution prior to receipt of a written notice from the Controller, CCC, of such supplement, modification, or revocation, for which the banking institution has not been repaid by the approved applicant (without, however, any obligation on the part of the banking institution to obtain such repayment). The term "credit purchase authorization" as used in a letter of commitment shall be deemed to include each such supplement or modification from and after receipt by the banking institution from the Controller, CCC, of written notice of the same, subject always, however, to the foregoing terms and provisions preserving the banking institution's right of reimbursement.

(m) *Compliance with changes in credit purchase authorizations*. In the event the Administrator shall revoke a credit purchase authorization, or supplement or modify the same in relation to the disposition of any document(s) and the Controller, CCC, shall give the banking institution written notice thereof, the banking institution shall in all respects comply with the instruction of the Controller, CCC, to the extent it may do so without impairing or affecting any

irrevocable obligation or liability theretofore incurred by it under any letter of credit issued or confirmed by it, and it shall be repaid and reimbursed by CCC for the costs, expenses and liabilities paid or incurred by it in relation to such instruction. Such repayment and reimbursement shall be made by CCC upon application therefor filed with the ASCS Office named in the letter of commitment and supported by an itemized statement of the costs, expenses, and liabilities certified to by an officer of the banking institution. The banking institution shall have no obligation whatsoever to the approved applicant for anything done or omitted to be done by it pursuant to such instructions of the Controller, CCC.

(n) *Payments in anticipation of letter of commitment.* Payments made by a banking institution in anticipation of a letter of commitment, and falling within the scope of payments authorized by such letter of commitment when issued, will be deemed to be payments to be reimbursed thereunder.

(o) *Deadline for submission of drafts.* Drafts drawn by banking institutions on CCC shall be presented not later than 210 days after expiration of the delivery period specified in the applicable credit purchase authorization or any extension thereof granted by the Administrator.

§ 14.13 Ocean transportation.

(a) *General.* Unless otherwise specifically provided in the applicable credit purchase authorization or unless otherwise requested by the appropriate U.S. Department of Agriculture office, the terms of all proposed charters (whether single voyage charters, consecutive voyage charters or time charters) and all proposed liner bookings must be submitted to the appropriate U.S. Department of Agriculture office (§ 14.13(b)) for review and approval prior to the fixture of the vessel. Tentative advance approvals may be obtained by telephone or telegram, provided CCC Form 105, Ocean Shipment Data, is furnished promptly confirming the information supplied by telephone or telegram. Approvals of charters and liner bookings will be given on Form CCC 106, Advice of Vessel Approval. The Form CCC 106 will state whether the vessel is a dry cargo liner, dry bulk carrier, or tanker, and whether or not financing of ocean transportation by CCC is authorized. If the credit purchase authorization re-

quires that a part of the commodity shall be shipped on privately-owned United States-flag commercial vessels, the appropriate U.S. Department of Agriculture office shall determine the quantity of the commodity under each sale which must be shipped on such United States-flag vessels.

(b) *Request for vessel approval.* In order to obtain approval of proposed vessel bookings the following forms shall be submitted in duplicate to the office indicated:

(1) For cotton—CCC Form 105 (Cotton), Ocean Shipment Data, shall be submitted to the Director, ASCS Commodity Office, U.S. Department of Agriculture, Wirth Building, 120 Marais Street, New Orleans 16, Louisiana.

(2) For commodities other than cotton—CCC Form 105, Ocean Shipment Data, shall be submitted to the Director, Program Operations Division, FAS, U.S. Department of Agriculture, Washington, D.C.

(c) *Special requirements for charter parties on required U.S.-flag vessels.*

(1) Where a charter is involved in connection with the required use of a U.S.-flag vessel, a copy of the charter party shall be forwarded immediately after its execution to the Director, Program Operations Division, FAS, U.S. Department of Agriculture, Washington, D.C., for review and approval prior to issuance of Form CCC 106-2. In the event there is any conflict between the provisions of this subpart and the charter party, the provisions of this subpart shall prevail.

(2) Each charter party for a United States-flag chartered vessel shall contain the following information:

(i) The name of each party participating in the ocean freight brokerage commission (if any) and the percentage payable to each party;

(ii) The name of the vessel and the name of the substitute vessel, if authorized.

(3) The charter party shall contain or be deemed to contain the following provisions:

(i) If there is any failure on the part of the supplier of ocean transportation to perform the charter party after the vessel has tendered at the loading port, the charterer shall be entitled to incur all expenses which in the judgment of the Administrator are required to enable the vessel to undertake and carry out her obligations under the charter party, including, but not limited to, expenses

for lifting any liens asserted against the vessel. Such expenses may be deducted from the freight earned under the charter party notwithstanding any prior assignments of freight made by the owner or operator of the vessel.

(i) The supplier of ocean transportation shall release a copy of the ocean bill of lading to the supplier of the commodity promptly upon completion of loading of the vessel.

(ii) Ocean freight is earned and 90 percent thereof is payable when the vessel and cargo arrive at the first port of discharge, subject to subdivision (iv) of this subparagraph. The final 10 percent shall be settled, subject to adjustments, if any, after submission of loading and discharging laytime statements and statements of fact.

(iv) If a force majeure situation, as defined in § 14.14(d)(2), prevents the vessel's arrival at the first port of discharge, not to exceed 90 percent of the freight shall be payable at the time CCC determines that such force majeure was the cause of non-arrival. Any dispatch earned at loading port will be deducted from this payment. The remaining 10 percent of freight shall be deemed not payable.

(v) Laydays are reversible.

(vi) In case of dispute as to any rights or obligations of CCC, as successor or otherwise, which cannot be settled by agreement, such dispute shall, in the discretion of CCC, not be subject to arbitration but shall be decided by the courts.

(d) *Notice of arrival.* A notice of arrival when required by § 14.14(d)(2) must be furnished promptly by the importing country or the private trade entity, as the case may be, or its designated agent, and must include the name of the vessel, the purchase authorization number, the name of first port of discharge, and the date of arrival.

(e) *Advice of vessel approval.* Advice of vessel approval will be issued as follows:

(1) For cotton—Form CCC 106-3 (white) signed for the Director, New Orleans ASCS Commodity Office, will be issued to the supplier of the commodity on sales made on a c.i.f. or c & f basis. In the event the shipment of cotton is to be made on an f.o.b. or f.a.s. basis the signed original of this form will be issued to the supplier of the commodity, and, if CCC will finance the ocean freight, an

additional signed original will be issued to the ocean carrier.

(2) *For commodities other than cotton*—Form CCC 106 signed for the Director, Program Operations Division, FAS, will be issued as follows:

(1) On shipments to be made on an f.o.b. or f.a.s. basis the original of Form CCC 106-1 (yellow) will be issued to the supplier of the commodity, and, if CCC will finance the ocean freight, the original of Form CCC 106-2 (blue) will be issued to the ocean carrier.

(ii) On shipments to be made on a c.i.f. or c.&f. basis the original of Form CCC 106-1 (yellow) will be issued to the supplier of the commodity.

(f) *Non-U.S.-flag vessels.* CCC will not finance the cost of ocean transportation on flag vessels of the importing country or the destination country either as a part of the contracted price or separate therefrom. The cost of ocean transportation will be financed by CCC on other non-U.S.-flag vessels only when specifically provided for in the applicable credit purchase authorization.

(g) *U.S.-flag vessels.* Where it is required that the commodity be shipped on a United States-flag vessel, the Form CCC 106 will set forth the amount of the ocean freight differential, if any, which the appropriate U.S. Department of Agriculture office determines to exist between the prevailing foreign-flag vessel rate and the United States-flag vessel rate. The amount of such ocean freight differential is authorized to be reimbursed by CCC to the extent of the tonnage for which the ocean freight is authorized to be financed by CCC.

(h) *Ocean transportation financed by CCC.* Where ocean transportation will be financed by CCC, either separately from or as part of the contracted price, the following shall apply:

(1) Loading, trimming, other related shipping expenses, and dues and taxes assessed by the importing country or the destination country against the cargo will not be financed by CCC as items separate from the dollar cost of ocean transportation. Discharge costs may be included in the dollar cost of ocean transportation financed separately by CCC, or be for the account of the vessel when ocean transportation is financed as part of the contracted price, only when in accordance with trade customs. The cost of "dead freight" will not be financed by CCC.

(2) In the case of transshipment from a United States-flag vessel to a foreign-flag vessel, the cost of ocean freight from the port of transshipment to the importing country or to the destination country will not be financed by CCC.

(3) Ocean freight will be financed only to the extent that the rates charged do not exceed the lowest of the following rates for the category of vessel concerned:

(i) *For commodities covered by published tariff rates.* The published conference contract rate.

(ii) *For other commodities (bulk commodities and other commodities for which no tariff rates are currently effective, whether carried on liners, dry bulk carriers or tankers).* The rate charged other shippers for commodities of the same or similar kind on the voyage concerned; or in the absence of such a rate, the market rate prevailing on the date of request for approval, as determined by CCC.

(4) Reimbursement will be made for the cost of shipment from points of loading to points of discharge at rates established in the applicable charter party or liner booking contract and approved by CCC on Form CCC 106.

(5) If the charter party or liner booking contract provides for more than one rate because of optional ports of loading or discharge, alternate routes, or any other option arising from ocean transportation, CCC will finance initially the lowest of such rates. Increased amounts (if any) due because of the use of the higher-rated port, route, or other option will be financed by CCC when reimbursement is requested therefor in accordance with the provisions of § 14.14 (d)(7). Notwithstanding the foregoing provisions of this subparagraph, if the option is exercised conclusively prior to the issuance of ocean bills of lading, and such exercise of the option is clearly reflected in such ocean bills of lading, the rate applicable to the option so exercised will be financed initially by CCC.

(i) *Ocean transportation financed separately from the commodity price.* Reimbursement for the cost of ocean transportation financed separately from the commodity price will be made by CCC upon the submission of the pertinent documentation required in § 14.14, subject to the following:

(1) In the case of liner booking contracts, reimbursement will be made for 100 percent of the dollar cost of ocean

transportation if the carrier's invoice includes a certification by the carrier that the contract does not provide for dispatch earnings. When the invoice does not include a certification by the carrier that the liner booking contract does not provide for dispatch earnings, reimbursement will be made for not to exceed 90 percent of the dollar cost of ocean transportation.

(2) In the case of bookings covered by charter parties, notice of vessel's arrival at first port of discharge is required as a condition of reimbursement for any part of the cost of ocean freight, unless such requirement for notice is waived by the Controller, CCC, as provided for in this subparagraph or in § 14.14(d)(2). Reimbursement will be made for not to exceed 90 percent of the dollar cost of ocean transportation upon notice from the importing country or the private trade entity, or its designated agent, of the vessel's arrival at first port of discharge. If the supplier of ocean transportation furnishes to CCC financial coverage in the form of an acceptable letter of credit or freight refund bond, the Controller, CCC, will waive the requirement for the notice of arrival as a condition for reimbursement of 90 percent of the cost of ocean freight. The amount of such financial coverage to be furnished should be not less than:

(i) 90 percent of the cost of ocean freight based upon the related on-board ocean bill of lading, a copy of which bill of lading must be furnished to the Controller, CCC, if coverage is furnished after loading, or

(ii) An amount determined by multiplying the rate per ton by the quantity in the charter party, without tolerance, if coverage is furnished before loading.

(3) Reimbursement for any balance of the cost of ocean transportation not included in payments made under subparagraphs (1) and (2) of this paragraph, will be made upon submission of the documents required by § 14.14(d)(6).

(4) Demurrage incurred in excess of dispatch earnings will not be financed. Amounts earned for dispatch shall be credited first against demurrage, if any, incurred in connection with the same voyage; any balance of dispatch shall be deducted from the amount of the final request for reimbursement. Discharge costs may be for the account of the vessel only when in accordance with trade customs.

(5) Contracts for ocean transportation shall not be eligible for financing by CCC if the supplier of the ocean transportation is also the supplier of the commodity, or is an affiliate of such supplier of the commodity, unless the supplier of ocean transportation is the owner of the vessel named in the Form CCC 106 or is the operator of such vessel by time charter, and the ocean freight rate for which reimbursement is claimed is not in excess of the rate originally contracted for with the importer.

(j) *Ocean transportation financed as part of the contracted price.* (1) The cost of ocean transportation will be financed as part of the contracted price only to the extent specifically provided in the applicable credit purchase authorization. In the absence of a specific provision in the applicable credit purchase authorization, the cost of ocean transportation will not be financed by CCC as part of the contracted price and must not be covered by the net invoice price.

(2) Form CCC 106 issued for vessels for which the cost of ocean transportation will not be financed by CCC, will require that the supplier's detailed invoice covering the commodity shipped on such vessels show a deduction for ocean transportation.

§ 14.14 Documentation.

(a) *General.* Requests for payment submitted to banking institutions by suppliers, and requests submitted to CCC for reimbursement, shall be supported by the documents required by this section unless previously submitted to CCC, except when and to the extent the Controller, CCC, determines that the intended purpose of a document is served by documents otherwise available to or under the control of CCC, or by alternate documents specified in such determination. The documents required herein are in addition to any other documents the supplier may be required to submit to a bank under the applicable letter of credit.

(b) *Identification.* (1) Each document must be identified as provided below with the appropriate purchase authorization number or be readily identifiable therewith:

(1) Documents to be submitted by suppliers to banking institutions with requests for payment, and requests to CCC for reimbursement, of commodity price (including ocean transportation and in-

sureance when covered by the commodity price) shall be identified with the credit purchase authorization number.

(ii) Documents to be submitted to CCC to obtain reimbursement under a transportation purchase authorization shall be identified with the transportation purchase authorization number including the "OT" suffix, except that the copy of the ocean bill of lading may bear the credit purchase authorization number.

(2) The supplier must put the appropriate purchase authorization number on all documents specified in this section which are prepared under his control. He should arrange for the appropriate purchase authorization number to be put on all other required documents at the time of their preparation.

(c) *Documents relating to commodity price (including ocean transportation and insurance when covered by the commodity price).* (1) Signed originals of supplier's certificates, with invoice-and-contract abstract on the reverse side (Form CCC 529) as follows:

(1) When the cost of ocean transportation is financed by CCC, in whole or in part, two Forms CCC 529 are required. One will cover the supplier's net invoice price expressed in dollars and will be executed by the supplier of the commodity. The other will cover the cost of ocean transportation expressed in dollars and will be executed by the ocean carrier.

(ii) When no part of the cost of ocean transportation is being financed by CCC, only one Form CCC 529 is required. It will cover the supplier's net invoice price for the commodity expressed in dollars and will be executed by the supplier of the commodity.

(2) One copy of the ocean bill of lading.

(3) One copy of supplier's detailed invoice showing quantity, description, contracted price and net invoice price expressed in dollars and basis of delivery (e.g., f.o.b. vessel, c. & f.) of the commodity. In the event the importer procured the commodity through his affiliate, this copy of the invoice shall include an itemization of the amounts specified in § 14.7(a) or the supplier must furnish such information in a separate signed statement to the ASCS Office named in the purchase authorization. Whenever the Form CCC 106 provides for an ocean freight rate differential on a c. & f. or c.i.f. sale and authorizes financing of

ocean transportation costs by CCC, the supplier's detailed invoice shall show a computation of the dollar amount of ocean freight differential. In arriving at the net invoice price there shall be deducted:

(1) The cost of ocean transportation, or portion thereof, which is not being financed by CCC when the cost of ocean transportation is included in the contracted price.

(ii) All discounts from the supplier's contracted price through payments, credits, or other allowances made or to be made to the importer, his agent or consignee.

(iii) All purchasing agents' commissions applicable.

(4) Signed original of Form CCC 106-1 or 106-3.

(5) One nonnegotiable copy of the insurance certificate or policy where the cost of insurance is covered by the price of the commodity to be financed by CCC. Such certificate or policy must contain a loss payable clause running to CCC as provided in § 14.9.

(6) Signed original of Form CCC 329-3, Statement of Transmittal of Ocean Bills of Lading, showing that two nonnegotiable copies of ocean bills of lading have been sent to the Administrator, Foreign Agricultural Service, USDA, Washington 25, D.C.

(7) Requests for additional payments, submitted in connection with transactions for which all or part of the required documents have been previously submitted to the banking institution shall be supported by the following documents as applicable:

(1) The supplier's certificate, with the invoice-and-contract abstract on the reverse and the supplier's detailed invoice, as required by subparagraphs (1) and

(3) of this paragraph, covering the additional amount requested. The supplier's invoice must show the date, serial number and the amount of the original invoice and the basis for the additional amount claimed.

(ii) If the payment is stated to be due because of the exercise of a higher-rated option provided in a liner booking contract or charter party, a statement signed by the ship's master or owner (or agent of either of them) showing exercise of the higher-rated option. An agent's signature is acceptable.

(8) Any additional or substitute documentation that may be required by the

purchase authorization or the letter of commitment.

(d) *Documents required for reimbursement of ocean transportation which is financed separately from commodity price.* (1) Signed original of supplier's certificate, with invoice-and-contract abstract on the reverse side (Form CCC 529) to be executed by the carrier, covering the dollar cost of ocean transportation.

(2) One copy of the ocean bill of lading and, if required by the related Form CCC 106-2, a notice of arrival at the first port of discharge of the vessel named in the Form CCC 106-2, except that a notice of arrival will not be required in the event the vessel is lost or unable to proceed to destination after completion of loading because of damage caused by perils of the sea or other waters, collisions, stranding, jettison, wreck, fire from any cause, Act of God, public enemies or pirates, or by arrest or restraint of princes, rulers or peoples without the fault of the supplier of the ocean transportation, wars, public disorders, captures or detention by public authority in the interest of public safety, provided the owner or operator supplies evidence satisfactory to CCC of such disability. Upon receipt of satisfactory evidence of force majeure the Controller, CCC, will waive the requirement for the notice of arrival. The requirement for the notice of arrival may also be waived by the Controller, CCC, under § 14.13(1)(2).

(3) One copy of carrier's detailed invoice marked "Paid".

(4) Signed original of Form CCC 106-2 or 106-3 in the case of cotton.

(5) One copy of the charter party in the case of shipment by dry bulk cargo vessel or tanker.

(6) Requests for reimbursement of any balance claimed on a shipment involving dispatch after initial reimbursement of 90 percent of the dollar cost of ocean transportation as provided in § 14.13(1)(2) shall be supported by the following documents:

(1) A copy of the carrier's final invoice marked "Paid".

(ii) A copy of the laytime statement(s) signed by the ship's master or owner and the charterer or consignee. Agent's signatures are acceptable.

(iii) If a copy of the charter party was not presented pursuant to subparagraph (5) of this paragraph, a copy of the freight contract showing the terms of dispatch and demurrage.

(iv) Supplier's certificate for the balance claimed.

(7) Requests for reimbursement of any amounts claimed because of the exercise of a higher-rated option following payment of a lower-rated option pursuant to § 14.13(h) (5) shall be supported by the following documents:

(i) Copy of the carrier's detailed invoice marked "Paid".

(ii) Supplier's certificate for the balance claimed.

(iii) A statement signed by the ship's master or owner showing the exercise of the higher-rated option. An agent's signature is acceptable.

(8) Any additional or substitute documents that may be required by the purchase authorization.

(e) *Weight certificates.* Whenever a copy of a weight certificate is required by the purchase authorization, the supplier shall submit a weight certificate issued by or on authority of a State or other governmental Weighing Department, Chamber of Commerce, Board of Trade, Grain Exchange, or other independent organization or firm providing public weighing services (1) having qualified, impartial, paid employees who are stationed at storage or other facilities where weights customarily are determined, one of whom performed the weighing covered by the certificate, or (2) having qualified, independent, impartial, supervised weighmasters stationed at storage or other facilities where weights are customarily determined one of whom supervised the employees of such a facility in the performance of the weighing covered by the certificate.

(f) *Inspection certificate.* The terms of the credit purchase authorization will specify the particulars of any required inspection certificate.

§ 14.15 Documents in support of drafts drawn on CCC by banking institutions.

Drafts drawn on CCC by banking institutions under letters of commitment for reimbursement of amounts disbursed to suppliers shall be supported by the following documents:

(a) *Documents to be obtained from suppliers.* Documents specified in § 14.14 and such additional or substitute documents as may be required with respect to any particular transaction as specified in the credit purchase authorization or in the letter of commitment. A banking

institution holding a letter commitment is not required by CCC to obtain from suppliers any documents other than those specified in § 14.14.

(b) *Document originated by banking institutions.* CCC Form 331, "Advice of Payment or Acceptance of Draft", signed by an officer of the banking institution.

§ 14.16 Responsibilities of banking institutions.

(a) For transactions under letter of commitment, the banking institution is responsible only for the following:

(1) *Delivery of documents.* The banking institution shall deliver to the Federal Reserve Bank documents required by this subpart, the letter of commitment, and the credit purchase authorization.

(2) *Advice to approved applicant.* The banking institution shall give advice of the amount of dollar disbursement to the approved applicant, which advice shall accompany documents transmitted to the approved applicant. There shall be included in the transmittal a request that the approved applicant notify the importing country or the private trade entity, as the case may be, that "the net amount of the supplier's invoice financed by CCC under the transaction is \$-----".

(3) *Examination of documents.* The banking institution shall examine documents in accordance with good commercial practice.

(4) *Delivery date.* The banking institution shall ascertain that the shipping documents bear a date within the delivery period specified in the credit purchase authorization.

(5) *Destination.* The banking institution shall ascertain that the required documents are consistent, under good commercial practice, with shipment or transshipment to the importing country or the destination country shown in the credit purchase authorization.

(6) *Description.* Section 14.12(h) (3) provides that the commodity description in letters of credit shall not be inconsistent with the description in the credit purchase authorization. In making payment under letters of credit the banking institution shall, on the basis of the description contained in the required documents other than Form CCC 529, Invoice-and-Contract Abstract, act in accordance with good commercial practice.

(7) *Verification of computation of ocean freight differential and notification to approved applicant.* Whenever Form CCC 106 provides for an ocean freight rate differential on a c. & f. or c.i.f. sale and authorizes financing of ocean transportation costs by CCC, the banking institution shall determine that the supplier's detailed invoice shows a computation of the dollar amount of ocean freight differential; shall verify the computation of such amount of differential, using the rate stated in Form CCC 106 and the gross weight shown on the supplier's detailed invoice or the bill of lading, whichever is less; and shall include with the advice of dollar disbursement under the letter of credit, a request that the approved applicant notify the importing country or the private trade entity of the amount of such differential:

(i) In the case of the importing country, the notice shall be: "The amount of \$----- paid to the beneficiary includes an ocean freight differential of \$-----. The importing country is indebted to the Government of the United States for the net amount of \$-----."

(ii) In the case of the private trade entity, the notice shall be: "The amount of \$----- paid to the beneficiary includes an ocean freight differential of \$-----. The private trade entity is indebted to CCC for the net amount of \$-----." (See also paragraph (a) (2) of this section.)

(8) *Reimbursement of CCC for losses.* Upon demand therefor made by the ASCS Office named in the letter of commitment, the banking institution shall promptly reimburse CCC for any losses sustained as a direct result of failure on the part of the banking institution to carry out its responsibilities as required by this section.

(9) *Adjustment refunds.* The banking institution shall, at the end of each calendar quarter, remit to the Controller, CCC, the total amount of any adjustment refunds received during the quarter. A copy of each advice sent to approved applicants or agents shall accompany each quarterly report. (See also § 14.8 (a) (3).)

(10) *Credit purchase authorization number.* The banking institution shall examine required documents to determine that they bear the appropriate credit purchase authorization number or are readily identifiable therewith.

(11) *Additional requirements.* Any additional particulars for which the banking institution is to be responsible will be specified in the credit purchase authorization or letter of commitment as (i) additional required documents, (ii) additional statements to be contained in the required documents or (iii) additional actions to be performed.

(b) The banking institution shall have limited responsibilities for transactions under a letter of commitment as follows:

(1) *Contracting.* Section 14.6(a) provides that contracts must meet certain specified requirements in order to be eligible for financing. The banking institution is responsible only to the extent of ascertaining that the required documents show delivery terms as required by the credit purchase authorization (f.o.b., f.a.s., c. & f. or c.i.f.). The banking institution has no responsibility under § 14.6(b) with regard to invitations to bid.

(2) *Vessel approval.* The banking institution shall not make payment under the letter of credit unless the name of the vessel shown on Form CCC 196 is identical with the name of the vessel shown on the bill of lading. The banking institution is not required to verify the signature appearing on Form CCC 106 or to make an independent inquiry as to the correctness of the information shown thereon.

(3) *Discounts, purchasing agent's commissions and consular fees.* The banking institution is not required to make independent inquiry as to whether the net invoice price includes either discounts (whether expressed as such or as "commissions" to the importer, or made or to be made through payments, credits or other allowances to the buyer or consignee), commissions payable to purchasing agents, or consular fees, but shall not honor any such items when disclosed by the required documents other than Form CCC-529, Invoice-and-Contract Abstract. The provisions of § 14.10(c) regarding commissions are included primarily for the instruction of suppliers, and banking institutions are not responsible for compliance therewith except to the extent set forth above.

(4) *Weight certificate.* The banking institution is responsible for ascertaining that a weight certificate is included in the documentation when required by the credit purchase authorization and

that the quantity invoiced does not exceed the weight shown on the certificate. The banking institution is not responsible for ascertaining that the weight certificate meets the requirement of § 14.14(e).

(5) *Insurance.* The banking institution shall be responsible for determining compliance with § 14.9 only to the extent of ascertaining that the policy or certificate of insurance includes a loss payable clause which provides for payment of any claims in United States dollars to the Controller, CCC.

(6) *Deduction for ocean transportation on c.&f. or c.i.f. invoices.* If Form CCC 106 provides that the cost of ocean transportation is not to be financed by CCC, the banking institution shall not make payment under the letter of credit unless a deduction for the cost of ocean transportation is shown on the CCC copy of the supplier's detailed invoice. The banking institution is not required to verify the correctness of the amount(s) of such deduction(s).

(c) For transactions under a letter of commitment, the banking institution is not responsible for the following:

(1) *Supplier's certification.* The banking institution shall have no responsibility for the truth or accuracy of the statements contained in the supplier's certificates or in any special certification required by this subpart, the terms of the purchase authorization or the letter of commitment. The banking institution is entitled to rely on such certifications.

(2) *Invoice and contract abstract.* The banking institution is not responsible for the truth or accuracy of information contained in the invoice-and-contract abstract, for the sufficiency or completeness of such information, or for any indication by such information of noncompliance with any provision of this subpart or of the purchase authorization, or for any inconsistency with other required documents.

(3) *Contracting period.* The credit purchase authorization specifies the period during which contracts may be entered into by suppliers and importers. A banking institution has no responsibility with regard to compliance with this requirement.

(4) *Other required documents.* The banking institution is not responsible for the truth or accuracy of the statements

contained in any of the required documents. A banking institution is not obligated to look beyond these documents nor to make independent investigation as to the accuracy of statements made therein.

(5) *Affiliate.* The banking institution is not responsible for determining whether or not the supplier and the importer are affiliates. Also the banking institution is not responsible for the furnishing or verification of any information required to be furnished pursuant to § 14.14(c) (3).

(d) *Responsibilities under reimbursement method of financing for transportation purchase authorizations.* Purchase authorizations for the procurement of ocean transportation are of the reimbursement type. No letters of commitment are issued for such purchase authorizations.

§ 14.17 Supplier's records.

The Administrator shall have access to and the right to examine any directly pertinent books, documents, papers, and records of the supplier involving transactions related to contracts between the supplier and the importer until the expiration of three years after final payment under such contracts.

§ 14.18 ASCS Commodity Offices.

The addresses of the ASCS Commodity Offices are as follows:

ASCS Commodity Office, U.S. Department of Agriculture, 2201 Howard Street, Evanston, Ill.

ASCS Commodity Office, U.S. Department of Agriculture, 560 Westport Road, Kansas City 41, Mo.

ASCS Commodity Office, U.S. Department of Agriculture, 6400 France Avenue South, Minneapolis 10, Minn.

ASCS Commodity Office, U.S. Department of Agriculture, 120 Marais Street, New Orleans 16, La.

§ 14.19 Effective date.

This revision of this subpart shall become effective upon publication in the FEDERAL REGISTER as to purchase authorizations originally issued on and after the date of such publication. Purchase authorizations originally issued prior to such date of publication shall continue to be subject to the provisions of this subpart applicable thereto prior to this revision unless made subject to this revision by amendment or modification of such purchase authorizations.

Subpart B—Policies and Procedures Applicable to Agreements With the Private Trade Pursuant to Title IV of Public Law 480, the Agricultural Trade Development and Assistance Act of 1954, as Amended

AUTHORITY: The provisions of this Subpart B issued under secs. 101–103, 106, 107, 68 Stat. 455–457, 69 Stat. 44, secs. 401–404, 406, 73 Stat. 610, sec. 201, 76 Stat. 610; 7 U.S.C. 1701–1703, 1707, 1708, 1731–1734, 1736.

SOURCE: The provisions of this Subpart B appear at 28 F.R. 7285, July 17, 1963; 28 F.R. 7419, July 20, 1963, unless otherwise noted.

§ 14.51 General statement.

Title IV of Public Law 480, 83d Congress, the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1731–1736) authorizes the Secretary of Agriculture to enter into agreements with foreign or United States private trade entities, under which the Secretary will provide for the delivery of United States surplus agricultural commodities and for the extension of dollar credit in connection therewith, over the periods of time and under the terms and conditions set forth in Title IV. This subpart outlines the policies and procedures applicable to the negotiation of such private trade agreements including the requirements for filing applications therefor. Except as is otherwise provided in the particular private trade agreement, Subpart A—Regulations Governing the Financing of Commercial Export Sales of Surplus Agricultural Commodities on Credit (26 F.R. 1388) as amended and revised will apply to agreements with private trade entities.

§ 14.52 Definition of terms.

Terms used in this subpart are defined as follows:

(a) “Administrator” means the Administrator of the Foreign Agricultural Service, United States Department of Agriculture, or his designee.

(b) “Assurer” means the institution which assures, on behalf of the private trade entity, repayment in dollars of the amount financed for the account of the private trade entity with interest as due, in accordance with the provisions of the private trade agreement.

(c) “CCC” means the Commodity Credit Corporation, United States Department of Agriculture.

(d) “Friendly nation” means any country other than (1) the U.S.S.R., or (2) any nation or area dominated or controlled by the foreign government or foreign organization controlling the world Communist movement.

(e) “General Sales Manager” means the General Sales Manager of the Foreign Agricultural Service, United States Department of Agriculture, or his designee.

(f) “Private trade agreement” means an agreement between CCC and a private trade entity for the supply and financing of surplus agricultural commodities on credit, entered into pursuant to this subpart.

(g) “Private trade entity” means the private individual or organization which enters into the private trade agreement.

(h) “Project” means the private enterprise or other non-governmental activities to be undertaken by a private trade entity in accordance with the provisions of the private trade agreement.

(i) “Secretary” means the Secretary of Agriculture of the United States, or his designee.

(j) “Subpart A” means Subpart A—Regulations Governing the Financing of Commercial Export Sales of Surplus Agricultural Commodities on Credit (26 F.R. 1388) as amended and revised. Terms defined in Subpart A shall have the same meaning under this subpart.

§ 14.53 Basic considerations.

The purpose of this program is to stimulate and increase the sale of surplus agricultural commodities for dollars through long-term supply agreements and through the extension of credit for the purchase of such commodities, by agreements with the private trade, thereby assisting the development of the economies of friendly nations and maximizing dollar trade. The private trade agreements will require that cash dollar exports of the United States be safeguarded and will require assurance that sales thereunder will not unduly disrupt world prices of agricultural commodities or normal patterns of commercial trade with friendly countries. Emphasis under this program will be placed on agreements pursuant to which commodities or credit or both will be used for economic development by private enterprise in less developed countries, especially agreements covering projects which will assist in the development of markets for United States agricultural commodities.

§ 14.54 Eligibility of private trade entities.

Private trade entities of the United States and friendly foreign countries, which will utilize the credit for the project, are eligible for private trade agreements.

§ 14.55 Commodity eligibility.

(a) To be eligible for inclusion in a private trade agreement, commodities must have been determined by the Secretary, as of the date the agreement is entered into, to be surplus agricultural commodities produced in the United States and otherwise eligible for supply under Title IV private trade agreements.

(b) Even though included in an agreement, the commodities must be surplus agricultural commodities at time of delivery in order to be eligible for financing under the agreement. Private trade entities will be notified in the event that commodities included in private trade agreements are determined not to be eligible for export under the agreement because they are no longer surplus agricultural commodities or for other reasons. In such event, the Administrator will give consideration to a request for the delivery of substitute commodities.

(c) Information about the eligibility of commodities and other matters dealt with in this section may be obtained from the General Sales Manager.

§ 14.56 Supply periods.

Private trade agreements shall provide for delivery of specified eligible surplus agricultural commodities and quantities thereof for specified periods. As a general policy, supply periods shall not exceed three years, but longer supply periods not to exceed 10 years may be provided if the longer period is essential in order to accomplish the purposes of the project. Generally, the supply period shall be expressed in terms of calendar years or United States fiscal years, but other periods may be authorized.

§ 14.57 Assurance of payment.

(a) An assurer may be a United States bank or financial institution; a foreign private bank or financial institution located in a friendly nation; or the central bank, a governmental financial agency or the government of a friendly nation. CCC prefers that assurances of payment by foreign banks or financial

institutions be advised by or through a United States bank.

(b) Payment of amounts due for commodities financed under private trade agreements shall be secured by the irrevocable assurance of an assurer, except where an acceptable financial institution signs the agreement as the private trade entity or jointly with another private trade entity.

(c) The assurance of payment shall obligate the assurer, in case of default on any scheduled annual payment, to pay CCC in dollars the amount of principal in default with accrued interest. In addition, depending on the particular circumstances, the assurer may be required to assure performance of other provisions of the agreement.

(d) Applications for private trade agreements will be rejected if the proposed assurer is not acceptable from the standpoint of providing reasonable and adequate assurance of payment.

(e) The private trade entity shall furnish CCC an acceptable assurance of payment prior to the issuance of the purchase authorization.

§ 14.58 Credit terms and other financing provisions.

(a) The maximum period over which payments may be made for all deliveries of all commodities in a particular calendar year is 20 years from the date of the last delivery in such calendar year. The credit period approved for a particular private trade agreement shall be related to the project to be undertaken under the agreement.

(b) Payment of the principal amount due for commodities delivered in each calendar year, including ocean transportation or other costs applicable to such deliveries which are financed by CCC under the agreement, shall be made in approximately equal annual amounts, the first payment being due on a date specified in the agreement but in no event later than December 31 following the calendar year in which such deliveries were made. Subsequent annual payments shall become due on the anniversary dates of such first payment provided that, in the case of agreements calling for 20 annual payments, the final payment for commodities delivered in any calendar year shall become due 20 years from the date of last delivery of commodities in such calendar year. Any annual payment may be made prior to the due date thereof.

(c) The interest rate fixed in an agreement shall be the cost of funds to the United States Treasury for comparable maturities. The interest rate shall be fixed as of the time the agreement is entered into, such rate continuing for the life of the agreement. Interest on the unpaid balance of the principal amount due with respect to commodities delivered in each calendar year shall begin on the date of last delivery of commodities in such calendar year. Interest on each such unpaid balance shall be paid annually not later than the date on which the annual payment of principal becomes due.

(d) Information as to interest rates may be obtained from the General Sales Manager.

§ 14.59 Countries to which commodities may be exported.

(a) Exports of commodities may be made to any friendly nation if it is determined that exports to such nation under the proposed private trade agreement are in accordance with the basic considerations as set forth in § 14.53. Information as to eligibility of specific nations may be obtained from the General Sales Manager.

(b) Commodities shall be exported only to friendly nations specified in the private trade agreement and shall not be transshipped or reexported to other nations.

(c) The private trade agreement will require that imports of commodities into the countries specified in the agreement be additional to imports of such commodities from the United States and friendly historic supplying nations on a cash dollar or other commercial basis. Information with regard to this requirement may be obtained from the General Sales Manager.

(d) As a general policy, agreements will provide that commodities will be exported to countries in which the credit is to be utilized. Exceptions may be made when it is determined that the basic purposes set forth in § 14.53 can best be achieved by an exception.

§ 14.60 Purposes for which credit may be utilized.

(a) Benefits derived from credit extended to the private trade entity under a private trade agreement shall be used only for private enterprise or other non-governmental projects set forth in the agreement, to accomplish one or more

of the following objectives: The expansion of dollar exports of United States surplus agricultural commodities, the development of foreign markets for United States agricultural commodities, and assistance in the economic development of friendly nations. The provision of relatively short-term working capital assistance for foreign importers or users of the commodity, which in turn will result in an expansion of dollar exports of United States surplus agricultural commodities, is an acceptable project.

(b) Benefits derived from credit extended to the private trade entity under the private trade agreement shall not be used to procure supplies, materials, equipment, or services from nations unfriendly to the United States. Private trade agreements involving procurement of United States supplies, materials, equipment, or services shall be given preference, other factors being equal.

§ 14.61 Export costs to be financed.

CCC will finance only such costs relating to the sale and exportation of commodities as are specified in the private trade agreement.

§ 14.62 Submission of applications.

(a) The private trade entity shall submit an application in duplicate in English. Information as to such application may be obtained from the General Sales Manager. Prior to preparing a complete application, the private trade entity may informally discuss with the General Sales Manager proposals for private trade agreements. The Administrator reserves the right to reject any application.

(b) The application shall be signed by the private trade entity. In the case of a corporation or similar entity, a duly authorized officer of the entity shall sign on its behalf.

§ 14.63 Principals preferred.

CCC prefers to deal with principals, especially in the negotiation of the private trade agreement, but the applicant may engage attorneys, engineers, or other qualified persons to advise and assist in preparing material required to be submitted in connection with the application, or to assist in carrying out activities pursuant to the agreement.

§ 14.64 Fees for services in obtaining agreements.

(a) Every applicant for a private trade agreement shall warrant that no person

or selling agency has been employed or retained to solicit or secure the private trade agreement upon an undertaking or agreement for a contingent fee to be paid as a commission, percentage, brokerage, or in other form, excepting bona fide employees or bona fide commercial or selling agencies maintained by the private trade entity for the purpose of securing business. For breach or violation of this warranty, CCC shall have the right to cancel the private trade agreement without liability or in its discretion to recover the full amount of such fee from the private trade entity or to deduct such fee from any payments to be made by CCC to the private trade entity.

(b) Prior to the execution of the agreement, the private trade entity shall report any amounts paid or agreed to be paid for any bona fide professional, technical or other comparable services in connection with the submission of the application and obtaining of the agreement.

§ 14.65 Signing agreements.

Agreements shall be signed by the private trade entity. In the case of a corporation or similar entity, a duly authorized officer of the entity shall sign on its behalf. The Administrator of the Foreign Agricultural Service, who is a Vice President of CCC, shall sign on behalf of CCC.

§ 14.66 Compliance policies and provisions.

(a) The private trade entity shall furnish the Administrator such information and reports as he may require with regard to carrying out projects specified in the private trade agreement and with regard to compliance with other provisions of the agreement.

(b) The private trade entity shall maintain books and records covering all transactions relating to the private trade agreement. Such books and records as well as pertinent documents, correspondence, memoranda and other records of the private trade entity shall be subject to examination by the Administrator at all reasonable times until the entire amount due under the agreement has been paid to CCC.

(c) Activities under a private trade agreement shall be subject to such other review or investigation as the Administrator deems necessary to assure compliance with the provisions of the agree-

ment. The private trade entity shall cooperate with and give reasonable assistance to the Administrator in such review or investigation as well as the examination referred to in paragraph (b) above.

§ 14.67 Remedies and penalties.

(a) If the Administrator determines that any of the provisions of the private trade agreement have not been complied with, he may, in addition to other remedies available to CCC, demand immediate payment by the private trade entity of all amounts financed by CCC, with interest.

(b) The representations, certifications, warranties and covenants required in connection with the negotiation of a private trade agreement are deemed to be material to, and an inducement for CCC to enter into, the agreement. Falsifications in any such representation, certificate, or warranty, or the breach of any such covenant shall entitle the CCC to cancel the private trade agreement in whole or in part or to use such additional remedies as may be provided in the agreement.

(c) The remedies provided in this subpart and in the private trade agreement shall be in addition to any liability or penalty under criminal or civil frauds statutes.

PART 15—NONDISCRIMINATION

Subpart A—Nondiscrimination in Federally-Assisted Programs of the Department of Agriculture—Effectuation of Title VI of the Civil Rights Act of 1964

- Sec.
- 15.1 Purpose and application of part.
- 15.2 Definitions.
- 15.3 Discrimination prohibited.
- 15.4 Assurances required.
- 15.5 Compliance.
- 15.6 Complaints.
- 15.7 Intimidatory or retaliatory acts prohibited.
- 15.8 Procedure for effecting compliance.
- 15.9 Hearings.
- 15.10 Decisions and notices.
- 15.11 Judicial review.
- 15.12 Effect on other regulations; forms and instructions.

APPENDIX

Subpart B—Nondiscrimination—Direct USDA Programs and Activities

- 15.50 Applicability.
- 15.51 Discrimination prohibited.
- 15.52 Complaints.

Subpart C—Rules of Practice and Procedure for Hearings, Decisions and Administrative Review Under the Civil Rights Act of 1964

GENERAL INFORMATION

- Sec.
 15.60 Scope of rules.
 15.61 Records to be public.
 15.62 Definitions.
 15.63 Computation of time.
 15.64 Parties.
 15.65 Appearance.
 15.66 Complainants not parties.
 15.67 Intervener.
 15.68 Ex parte communications.

FORM, EXECUTION, FILING AND SERVICE OF DOCUMENTS

- 15.71 Form of documents to be filed.
 15.72 Filing.
 15.73 Service.
 15.74 Date of service.

INITIAL NOTICE AND RESPONSE

- 15.81 How proceedings are commenced.
 15.82 Notice of hearing and response thereto.
 15.83 Notice of opportunity to request a hearing and response thereto.
 15.84 Answer.
 15.85 Amendment of notice or answer.
 15.86 Consolidated or joint hearings.

HEARING OFFICER

- 15.91 Who presides.
 15.92 Designation of hearing officer.
 15.93 Time and place of hearing.
 15.94 Disability of hearing officer.
 15.95 Responsibilities and duties of hearing officer.

MOTIONS

- 15.101 Form and content.
 15.102 Responses to motions.
 15.103 Disposition of motions.

HEARING PROCEDURES

- 15.110 Prehearing conferences.
 15.111 Purpose of hearing.
 15.112 Statement of position and brief.
 15.113 Testimony.
 15.115 Affidavits.
 15.116 Depositions.
 15.117 Evidence.
 15.118 Cross-examination.
 15.119 Objections.
 15.120 Exceptions to rulings of hearing officer unnecessary.
 15.121 Official notice.
 15.122 Offer of proof.
 15.123 Appeals from ruling of hearing officer.
 15.124 Admissions as to facts and documents.

THE RECORD

- 15.131 Official transcript.
 15.132 Record for decision.

POSTHEARING PROCEDURES

- Sec.
 15.135 Posthearing briefs.
 15.136 Decisions and notices.
 15.137 Exceptions to initial or proposed decision.
 15.138 Review of initial decision.
 15.139 Oral argument.
 15.140 Service of decisions.
 15.141 Contents of decision.
 15.142 Content of orders.
 15.143 Decision where financial assistance affected.

Subpart A—Nondiscrimination in Federally-Assisted Programs of the Department of Agriculture—Effectuation of Title VI of the Civil Rights Act of 1964

AUTHORITY: The provisions of this Subpart A are issued under sec. 602, 78 Stat. 252; 42 U.S.C. 2000d-1; and the laws referred to in the Appendix.

SOURCE: The provisions of this Subpart A appear at 29 F.R. 16274, Dec. 4, 1964; 29 F.R. 16966, Dec. 11, 1964, unless otherwise noted.

§ 15.1 Purpose and application of part.

(a) The purpose of the regulations in this part is to effectuate the provisions of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the "Act") to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity of an applicant or recipient receiving Federal financial assistance from the Department of Agriculture or any Agency thereof.

(b) The regulations in this part apply to any program or activity of an applicant or recipient for which Federal financial assistance is authorized under a law administered by the Department including, but not limited to, the Federal financial assistance listed in the appendix to this part. They apply to money paid, property transferred, or other Federal financial assistance extended to an applicant or recipient for its program or activity after the effective date of these regulations pursuant to an application approved or statutory or other provision made therefor prior to such effective date. The regulations in this part do not apply to (1) any Federal financial assistance by way of insurance or guaranty contract, (2) money paid, property transferred, or other assistance extended prior

to the effective date of the regulations in this part, (3) any assistance to an applicant or recipient who is an ultimate beneficiary under any such program, or (4) except as provided in § 15.3(c), any employment practice of any employer, employment agency or labor organization. The fact that a specific kind of Federal financial assistance is not listed in the appendix, shall not mean, if title VI of the Act is otherwise applicable, that such Federal financial assistance is not covered. Other Federal financial assistance under statutes now in force or hereinafter enacted may be added to this list by notice approved and issued by the Secretary and published in the FEDERAL REGISTER.

[29 F.R. 16274, Dec. 4, 1964, as amended at 35 F.R. 18382, Dec. 3, 1970]

§ 15.2 Definitions.

(a) "Department" means the Department of Agriculture, and includes each of its operating agencies and other organizational units.

(b) "Agency" means any service, bureau, agency, office, administration, instrumentality of or corporation within the U.S. Department of Agriculture extending Federal financial assistance to any program or activity, or any officer or employee of the Department to whom the Secretary delegates authority to carry out any of the functions or responsibilities of an agency under this part.

(c) "Secretary" means the Secretary of Agriculture or any officer or employee of the Department to whom the Secretary has heretofore delegated, or to whom the Secretary may hereafter delegate, the authority to act in his stead under the regulations in this part.

(d) "Hearing Officer" means a hearing examiner appointed pursuant to 5 U.S.C. 3105, and designated to hold hearings under the regulations in this part or any person authorized to hold a hearing and make a final decision under the regulations in this part.

(e) "Recipient" means any State, political subdivision of any State, or instrumentality of any State or political subdivision, any public or private agency, institution, or organization, or other entity or any individual in any State, to whom Federal financial assistance is extended, directly or through another recipient, for any program, including any successor, assignee, or transferee thereof, but such term does not include any ultimate

beneficiary under any such program.

(f) "Primary recipient" includes any recipient which is authorized or required to extend Federal financial assistance to another recipient for the purpose of carrying out a program.

(g) "Federal financial assistance" or "financial assistance" includes (1) grants and loans of Federal funds, (2) the grant or donation of Federal property and interests in property, (3) the detail of Federal personnel, (4) the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property or the furnishing of services without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale, lease or furnishing of services to the recipient, and (5) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

(h) "Grant, loan or contract" includes any grant, loan agreement or commitment to loan, contract or agreement to provide financial assistance or any other arrangement between the Department or any Agency and a recipient of financial assistance.

(i) "United States" means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and the territories and possessions of the United States, and the term "State" means any one of the foregoing.

(j) "Applicant" means one who submits an application, request, or plan required to be approved by an Agency, or by a primary recipient, as a condition to eligibility for Federal financial assistance, and "application" means such an application, request, or plan.

(k) "Program" includes any program, project, or activity for the provision of services, financial aid, or other benefits to individuals (whether provided through employees of the recipient of Federal financial assistance or provided by others through contracts or other arrangements with the recipient, and including work opportunities and cash or loan or other assistance to individuals), or for the provision of facilities for furnishing services, financial aid or other benefits to

individuals. The services, financial aid, or other benefits provided under a program receiving Federal financial assistance shall be deemed to include any services, financial aid, or other benefits provided with the aid of Federal financial assistance or with the aid of any non-Federal funds, property, or other resources required to be expended or made available for the program to meet matching requirements or other conditions which must be met in order to receive the Federal financial assistance, and to include any services, financial aid, or other benefits provided in or through a facility provided with the aid of Federal financial assistance or such non-Federal resources.

(1) "Facility" includes all or any portion of structures, equipment, or other real or personal property or interests therein, and the provision of facilities includes the construction, expansion, renovation, remodeling, alteration or acquisition of facilities.

[29 F.R. 16274, Dec. 4, 1964, as amended at 35 F.R. 18382, Dec. 3, 1970; 36 F.R. 3411, Feb. 24, 1971]

§ 15.3 Discrimination prohibited.

(a) *General.* No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity of the applicant or recipient to which these regulations apply. These regulations apply, but are not restricted, to unequal treatment in priority, quality, quantity, methods or charges for service, use, occupancy or benefit, participation in the service or benefit available, or in the use, occupancy or benefit of any structure, facility, or improvement.

(b) *Specific discriminatory actions prohibited.* (1) A recipient under any program to which the regulations in this part apply may not, directly or through contractual or other arrangements on the ground of race, color, or national origin:

(i) Deny an individual any service, financial aid, or other benefit provided under the program;

(ii) Provide any service, financial aid, or other benefit, to an individual which is different, or is provided in a different manner, from that provided to others under the program;

(iii) Subject an individual to segregation or separate treatment in any mat-

ter related to his receipt of any service, financial aid, or other benefit under the program;

(iv) Restrict an individual in any way in the enjoyment of any advantage or privilege, enjoyed by others receiving any service, financial aid, or other benefit under the program;

(v) Treat an individual differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility, membership or other requirement or condition which individuals must meet in order to be provided any service, financial aid, or other benefit provided under the program;

(vi) Deny an individual an opportunity to participate in the program through the provision of services or otherwise or afford him an opportunity to do so which is different from that afforded others under the program (including the opportunity to participate in the program as an employee but only to the extent set forth in paragraph (c) of this section).

(2) A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such program, or the class of individuals to whom, or the situations in which, such services, financial aid, other benefits, or facilities will be provided under any such program or the class of individuals to be afforded an opportunity to participate in any such program, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of a particular race, color, or national origin.

(3) In determining the site or location of facilities, an applicant or recipient may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any of its activities or programs to which the regulations in this part apply, on the grounds of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act and the regulations in this part.

(4) As used in this section, the services, financial aid, or other benefits pro-

vided under a program or activity of an applicant or recipient receiving Federal financial assistance shall be deemed to include any and all services, financial aid, or other benefit provided in or through a facility provided or improved in whole or part with the aid of Federal financial assistance.

(5) The enumeration of specific forms of prohibited discrimination in these regulations does not limit the applicability of the provisions of paragraph (a) of this section.

(6) The regulations in this part do not prohibit the consideration of race, color, or national origin if the purpose and effect are to remove or overcome the consequences of practices or impediments which have restricted the availability of, or participation in, the program or activity of the applicant or recipient receiving Federal financial assistance, on the grounds of race, color, or national origin. Where previous discriminatory practice or usage tends, on the grounds of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity of the applicant or recipient to which the regulations in this part apply, the applicant or recipient has an obligation to take reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage, and to accomplish the purposes of the Act and the regulations in this part.

(c) *Employment practices.* Where a primary objective of the Federal financial assistance to a program to which the regulations in this part apply is to provide employment, a recipient may not, directly or through contractual or other arrangements, subject an individual to discrimination on the ground of race, color, or national origin in its employment practices under the program including recruitment or recruitment advertising, employment, layoff or termination, upgrading, demotion, or transfer, rates of pay or other forms of compensation, and use of facilities. This paragraph applies to programs where a primary objective of the Federal financial assistance is (1) to reduce unemployment, (2) to assist individuals in meeting expenses incident to the commencement or continuation of their education or training, or (3) to provide work experience which contributes to education or training. Where a primary objective of the Federal financial assistance is not to

provide employment, but discrimination on the grounds of race, color, or national origin in the employment practices of the recipient or other persons subject to the regulations in this part, tends, on the grounds of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity of the applicant or recipient to which the regulations in this part apply, the foregoing provisions of this paragraph shall apply to the employment practices of the recipient or other persons subject to the regulations in this part, to the extent necessary to assure equality of opportunity to, and nondiscriminatory treatment of, beneficiaries. The requirements applicable to construction employment under any program or activity of the applicant or recipient shall be those specified in or pursuant to Part III of Executive Order 11246 or any Executive order which supersedes it.

(d) *Examples.* In order that all parties may have a clear understanding of the applicability of the regulations in this part to their activities, there are listed in this section programs and activities together with illustrations, by way of example only, of types of activity covered by the regulations in this part. These illustrations and examples, however, are not intended to be all inclusive. The fact that a particular program is not listed does not, of course, indicate that it is not covered by the regulations in this part. Moreover, the examples set forth with respect to any particular listed program are not limited to that program alone and the prohibited actions described may also be prohibited in other programs or activities whether or not listed below.

(1) *Cooperative agricultural extension program.* (i) Discrimination in making available or in the manner of making available instructions, demonstrations, information, and publications offered by or through the Cooperative Extension Service;

(ii) Discrimination in the use in any program or activity of the Cooperative Extension Service of any facility, including offices, training facilities, lecture halls, or other structures or improvements; or

(iii) Discrimination in training activities, admission to or participation in fairs, competitions, field days, and encampments, conducted or sponsored by,

or in which the Cooperative Extension Service participates.

(2) *Rural electrification and rural telephone programs.* (i) Refusal or failure by a borrower to accept applications for membership or applications to purchase shares of stock, or discrimination by a borrower in the terms and conditions of membership or stock ownership, where such membership or stock ownership is a condition pre-requisite to the furnishing of electric or telephone service by the borrower, or to the receipt of any benefits or advantages related to such service;

(ii) Refusal or failure by a borrower to extend, or discrimination by a borrower in the extension of, electric or telephone service to unserved persons;

(iii) Denial by a borrower to any person of the benefits of improvement, expansion or upgrading, or discrimination by a borrower among consumers or subscribers in improving, expanding or upgrading, of electric or telephone service;

(iv) Discrimination by a borrower in respect of rates, or terms or conditions of, service among consumers or subscribers;

(v) Exclusion by a borrower of any member or stockholder, if the borrower is a cooperative or mutual type of corporation, from participation in any meeting of members or stockholders of the borrower, discrimination among its members or stockholders in respect of the exercise of any of their rights as members or stockholders, or in the manner of the exercise of such rights; or

(vi) Exclusion by a borrower of any consumer or subscriber from, denial by a borrower to any consumer or subscriber of the use of, or discrimination by a borrower against any consumer or subscriber in his use of, any of the borrower's facilities.

(3) *Direct distribution program.* (i) Exclusion of an otherwise eligible recipient agency (school, summer camp for children, institution, welfare agency or disaster organization) or person from participation in the direct distribution program.

(ii) Discrimination in the allocation of food to eligible persons.

(iii) Discrimination in the manner in which or the place or times at which foods donated under the program are distributed by recipient agencies to eligible persons.

(iv) Segregation of persons served in different meal periods or by different seating or serving of different food or

different size portions by recipient agencies serving prepared meals containing donated foods.

(4) *National school lunch program.*

(i) Discrimination by a State agency in the selection of schools to participate in the program or in the assignment to schools of rates of reimbursement.

(ii) Exclusion of any child from participation in the program.

(iii) Discrimination by school officials in the selection of children to receive free or reduced price lunches.

(iv) Segregation of participating children in different lunch periods or different seating, and discrimination by serving different food or different size portions.

(v) Failure to offer free and reduced-price lunches, on an equitable basis in schools of a school district in which children are assigned to schools on the basis of race, color, or national origin.

(5) *Food stamp program.* (i) Discrimination by a State agency in certifying households as eligible for the program.

(ii) Segregation or other discrimination in the manner in which or the times at which eligible households are issued food coupons.

(6) *Special milk program for children.*

(i) Discrimination by a State agency in the selection of schools and child-care institutions to participate in the program.

(ii) Discrimination by a State agency in the selection of needy schools to receive reimbursement for milk served free.

(iii) Discrimination by a State agency in the assignment of reimbursement rates to schools and child-care institutions or in the adjustment of such rates, or in fixing allowable distribution costs.

(iv) Exclusion of any child from participation in the program and segregation of participating children in different serving periods or different places of service.

(v) Discrimination by school officials or child-care institutions in the selection of children to receive free milk.

(7) *Price support programs carried out through producer associations or cooperatives or through persons who are required to provide specified benefits to producers.* (i) Denial of the benefits of price support for a producers commodity.

(ii) Denial of membership or stock ownership to any producer by any association or cooperative.

(iii) Discrimination among producers in the manner of making or paying any price support advances, loans, or payments.

(iv) Discrimination in the fees or charges collected from or in the net gains distributed to producers.

(v) Discrimination in the use of facilities and services generally made available to members or patrons under the price support program.

(8) *Forest service programs.* (i) Refusal or failure by a recipient of a permit or lease to provide to any person the benefits from the use of land administered by the Forest Service, the resources therefrom, or improvements thereon.

(ii) Refusal or failure by any recipient to provide to any person the benefits from Federal payments based on a share of the receipts from lands administered by the Forest Service.

(iii) Refusal or failure by any recipient to provide to any person the benefits from Federal assistance in cooperative programs for the protection, development, management, and use of forest resources.

(iv) Refusal or failure by any cooperator or other recipient to provide to any person the benefits from Federal assistance through grants or advances of funds for research.

(9) *Farmers Home Administration programs—*(i) *Direct soil and water loans to association.* (a) A borrower's denial of, or discrimination in furnishing, services under a program or activity financed wholly or partially with the aid of the loan, as in the case of a water supply system.

(b) A borrower's denial of, or discrimination or segregation in permitting, the use of facilities which are part of a project financed wholly or partially with the aid of the loan, as in the case of a golf course, swimming pool, tennis courts, parking areas, lounges, dining rooms, and rest rooms of a recreation association.

(c) Discrimination by a borrower in the terms and conditions of membership or stock ownership, or refusal or failure of a borrower to accept applications for membership or for purchase of shares of stock, or discrimination by a borrower in acting or failing to act upon such applications, where such membership or stock ownership is a pre-requisite to the participation in services furnished by, or

the use of facilities of, the borrower which are financed wholly or partially with the aid of the loan or to the receipt of any benefits or advantages related to such services or the use of such facilities.

(d) Denial or impairment by a borrower of any person's rights as a member or stockholder of the borrower, or borrower's discrimination against or segregation of persons in the exercise of their rights as members or stockholders of the borrower.

(ii) *Direct senior citizens rental housing loans to private nonprofit corporations and consumer cooperatives.* (a) A borrower's exclusion of any person from, discrimination in the terms and conditions of eligibility for, or discrimination against or segregation of any person in, the use and occupancy of the housing and related facilities financed wholly or partially with the aid of the loan.

(b) Discrimination by a borrower in the terms and conditions of membership or stock ownership, or refusal or failure of a borrower to accept applications for membership or for purchase of shares of stock, or discrimination by a borrower in acting or failing to act upon such applications, where such membership or stock ownership is a condition of eligibility for use and occupancy of the housing and related facilities financed wholly or partially with the aid of the loan or to the receipt of any benefits or advantages related to such housing or facilities.

(c) Denial or impairment by a borrower of any person's rights as a member or stockholder of the borrower, or a borrower's discrimination against or segregation of persons in the exercise of their rights as members or stockholders of the borrower.

(10) *Cooperative State research programs.* (i) Discrimination in making available information whether published or provided through public or private statement, correspondence, demonstration or field day.

(ii) Discrimination in participation in any cooperative research program or project.

(iii) Discrimination in the use of any facility, including offices, laboratories, or other structures, or research plots or fields.

(iv) Discrimination in employment of graduate students to conduct research when such students receive substantial

research training benefits as a result of such employment.

[29 F.R. 16274, Dec. 4, 1964, as amended at 35 F.R. 18383, Dec. 3, 1970]

§ 15.4 Assurances required.

(a) *General.* (1) Every application for Federal financial assistance to carry out a program to which the regulations in this part apply, except a program to which paragraph (b) of this section applies, and every application for Federal financial assistance to provide a facility, shall as a condition to its approval and the extension of any Federal financial assistance pursuant to the application, contain or be accompanied by an assurance that the applicant's program or activity will be conducted or the facility operated in compliance with all requirements imposed by or pursuant to the act and the regulations in this part. In the case where the Federal financial assistance is to provide or is in the form of personal property, or real property, or interest therein, or structures thereon, the assurance shall obligate the recipient, or, in the case of a subsequent transfer, the transferee, for the period during which the property is used for the purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services and benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. In all other cases, the assurance shall obligate the recipient for the period during which Federal financial assistance is extended pursuant to the application. The Agency shall specify the form of the foregoing assurances and the extent to which like assurances will be required of subgrantees, contractors, and subcontractors, successors in interest and other participants. Any such assurance shall include provisions which give the United States a right to seek its judicial enforcement.

(2) In the case of real property, structures or improvements thereon, or interests therein, which was acquired through Federal financial assistance, or in the case where Federal financial assistance is provided in the form of a transfer of real property or interest therein from the Federal Government, the instrument effecting or recording the transfer shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Fed-

eral financial assistance is extended or for another purpose involving the provision or similar services or benefits, or for as long as the recipient retains ownership or possession of the property, which ever is longer. Where no transfer of property is involved, but property is improved through Federal financial assistance, the recipient shall agree to include such a covenant in any subsequent transfer of such property. Where the property is obtained from the Federal Government, such covenant may also include a condition coupled with a right to be reserved by the Agency to revert title to the property in the event of a breach of the covenant where, in the discretion of the Agency concerned, such a condition and right of reverter is appropriate to the purposes of the Federal financial assistance under which the real property is obtained and to the nature of the grant and the grantee. In such event, if a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on such property for the purposes for which the property was transferred, the Agency may agree, upon request of the transferee and if necessary to accomplish such financing, and upon such conditions as it deems appropriate, to forbear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective.

(3) Transfers of surplus property are subject to regulations issued by the Administrator of General Services (41 CFR 101-6.2).

(b) Every application by a State or a State Agency, including a State Extension Service, but not including an application for aid to an institution of higher education, to carry out its program or activity involving continuing Federal financial assistance to which the regulations in this part apply shall as a condition to its approval and the extension of any Federal financial assistance pursuant to the application (1) contain or be accompanied by a statement that the program is (or, in the case of a new program, will be) conducted in compliance with all requirements imposed by or pursuant to this part, and (2) provide or be accompanied by provision for such methods of administration for the program as are found by the Agency to give reasonable assurance that the applicant and all recipients of Federal financial

assistance under such program will comply with all requirements imposed by or pursuant to the regulations in this part: *Provided*, That where no application is required prior to payment, the State or State Agency, including a State Extension Service, shall, as a condition to the extension of any Federal financial assistance, submit an assurance complying with the requirements of subparagraphs (1) and (2) of this paragraph.

(c) *Assurances from institutions.* The assurance required with respect to an institution of higher education, or any other institution, insofar as the assurance relates to the institution's practices with respect to admission or other treatment of individuals or to the opportunity to participate in the provision of services or other benefits to such individuals, shall be applicable to the entire institution unless the applicant establishes, to the satisfaction of the Agency, that the institution's practices in designated parts or programs of the institution will in no way affect its practices in the program of the institution for which Federal financial assistance is sought, or the beneficiaries of or participants in such program. If in any such case the assistance sought is for the construction of a facility or part of a facility, the assurance shall in any event extend to the entire facility and to facilities operated in connection therewith.

(d) *Recipients other than applicants.* Each recipient not required to submit an application for Federal financial assistance, shall furnish, as a condition to the extension of any such assistance, an assurance or statement as is required of applicants under paragraphs (a), (b) (1) and (2) of this section.

(e) *Elementary and secondary schools.* The requirements of paragraphs (a), (b), or (d) of this section with respect to any elementary or secondary school or school system shall be deemed to be satisfied if such school or school system (1) is subject to a final order of a court of the United States for the desegregation of such school or school system, and provides an assurance that it will comply with such order, including any future modification of such order, or (2) submits a plan for the desegregation of such school or school system which the responsible official of the Department of Health, Education, and Welfare determines is adequate to accomplish the purposes of the Act and this part, and provides

reasonable assurance that it will carry out such plan; in any case of continuing Federal financial assistance the said responsible official of the Department of Health, Education, and Welfare may reserve the right to redetermine, after such period as may be specified by him, the adequacy of the plan to accomplish the purposes of the Act and this part within the earliest practical time. In any case in which a final order of a court of the United States for the desegregation of such school or school system is entered after submission of such a plan, such plan shall be revised to conform to such final order, including any future modification of such order.

[29 F.R. 16274, Dec. 4, 1964, as amended at 32 F.R. 3967, Mar. 11, 1967; 35 F.R. 18383, Dec. 3, 1970]

§ 15.5 Compliance.

(a) *Cooperation and assistance.* Each Agency shall to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with the regulations and this part and shall provide assistance and guidance to recipients to help them comply voluntarily with the regulations in this part. As a normal part of the administration of programs covered by the regulations in this part, designated personnel will in their program reviews and other activities or as specifically directed by the Agency, review the activities of recipients to determine whether they are complying with the regulations in this part. Reports by such personnel shall include statements regarding compliance and instances, if any, of noncompliance. In the event of noncompliance, the Agency shall seek to secure voluntary compliance by all appropriate means.

(b) *Compliance reports.* Each recipient shall keep such records and submit to the Agency timely, complete and accurate compliance reports at such times, and in such form and containing such information, as the Agency may determine to be necessary to ascertain whether the recipient has complied or is complying with the regulations in this part. In the case of any program under which a primary recipient extends Federal financial assistance to any other recipient, such other recipient shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations under the regulations in this part.

(c) *Access to sources of information.* Each recipient shall permit access by authorized employees of this Department during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with the regulations in this part. Where any information required of a recipient is in the exclusive possession of any other agency, institution or person and this agency, institution or person shall fail or refuse to furnish this information, the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information.

(d) *Information to beneficiaries and participants.* Each recipient shall make available to participants, beneficiaries, and other interested persons such information regarding the provisions of the regulations in this part and their applicability to the program under which the recipient receives Federal financial assistance, and make such information available to them in such manner, as the Department or its Agencies finds necessary to apprise such persons of the protections against discrimination assured them by the Act and the regulations in this part.

§ 15.6 Complaints.

Any person who believes himself or any specific class of individuals to be subjected to discrimination prohibited by the regulations in this part may by himself or by an authorized representative file with the Secretary or any Agency a written complaint. A complaint must be filed not later than 90 days from the date of the alleged discrimination, unless the time for filing is extended by the Agency or the Secretary. Such complaint shall be promptly referred to the Office of the Inspector General. The complaint shall be investigated in the manner determined by the Inspector General and such further action taken by the Agency or the Secretary as may be warranted.

§ 15.7 Intimidatory or retaliatory acts prohibited.

No recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by section 601 of the Act or the regulations in this part, or because he has made a complaint, testified, assisted, or participated in any manner

in an investigation, proceeding, or hearing under the regulations in this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of the regulations in this part, including the conduct of any hearing or judicial proceeding arising thereunder.

§ 15.8 Procedure for effecting compliance.

(a) *General.* If there appears to be a failure or threatened failure to comply with the regulations in this part, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with the regulations in this part may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance, upon a finding, in accordance with the procedure hereinafter prescribed, or by any other means authorized by law. Such other means may include, but are not limited to, (1) a reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States (including other Titles of the Act), or any assurance or other contractual undertaking, and (2) any applicable proceeding under State or local law.

(b) *Noncompliance with § 15.4.* If an applicant fails or refuses to furnish an assurance required under § 15.4 or otherwise fails or refuses to comply with the requirement imposed by or pursuant to that section, Federal financial assistance may be refused in accordance with the procedures of paragraph (c) of this section. The Department shall not be required to provide assistance in such a case during the pendency of the administrative proceedings under such paragraph, except that the Department shall continue assistance during the pendency of such proceedings where such assistance is due and payable pursuant to an application therefor approved prior to the effective date of the regulations in this part.

(c) *Termination of or refusal to grant or to continue Federal financial assistance.* No order suspending, terminating, or refusing to grant or to continue Federal financial assistance shall become effective until (1) the Agency has advised the applicant or recipient of his failure to comply and has determined that compliance cannot be secured by

voluntary means, (2) there has been an express finding on the record, after opportunity for hearing, of a failure by the applicant or recipient to comply with the requirement imposed by or pursuant to the regulations in this part, (3) the action has been approved by the Secretary pursuant to § 15.10(e), and (4) the expiration of 30 days after the Secretary has filed with the committee of the House and the committee of the Senate, having legislative jurisdiction over the program involved, a full written report of the circumstances and the grounds for such action. Any action to suspend or terminate or to refuse to grant or to continue Federal financial assistance shall be limited to the particular political entity, or part thereof, or other applicant or recipient as to whom such a finding has been made and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found.

(d) *Other means authorized by law.* No action to effect compliance by any other means authorized by law shall be taken until (1) the Secretary has determined that compliance cannot be secured by voluntary means, (2) the recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance, and (3) the expiration of at least ten days from the mailing of such notice to the recipient or other person. During this period of at least ten days, additional efforts shall be made to persuade the recipient or other person to comply with the regulations in this part and to take such corrective action as may be appropriate.

§ 15.9 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required under the regulations in this part, reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected applicant or recipient. This notice shall advise the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action, and either (1) fix a date not less than 20 days after the date of such notice within which the applicant or recipient may request of the Secretary or the Agency that the matter be scheduled for hearing or (2) advise the applicant or recipient that the matter in

question has been set down for hearing at a stated place and time. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing under this subsection or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under section 602 of the Act and the regulations in this part and consent to the making of a decision on the basis of such information as is available.

(b) *Time and place of hearing.* Hearings shall be held at the offices of the Department in Washington, D.C., at a time fixed by the hearing officer or by the Secretary unless it is determined that the convenience of the applicant or recipient or of the Department requires that another place be selected. Hearings shall be held before a hearing officer.

(c) *Right to counsel.* In all proceedings under this section, the applicant or recipient and the Department shall have the right to be represented by counsel.

(d) *Procedures, evidence, and record.* (1) The hearing, decision, and any administrative review thereof shall be conducted in conformity with 5 U.S.C. 554-557, and in accordance with such rules of procedure promulgated by the Secretary as not inconsistent with this section, relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both the Department and the applicant or recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the hearing officer conducting the hearing at the outset of or during the hearing.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to these regulations in this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the

hearing officer. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

(e) *Consolidated or joint hearings.* In cases in which the same or related facts are asserted to constitute noncompliance with these regulations with respect to two or more programs to which the regulations in this part apply, or noncompliance with the regulations in this part and the regulations of one or more other Federal Departments or Agencies issued under Title VI of the Act, the Secretary may, by agreement with such other Departments or Agencies, where applicable provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules of procedure not inconsistent with the regulations in this part. Final decisions in such cases, insofar as the regulations in this part are concerned, shall be made in accordance with § 15.10.

[29 F.R. 16274, Dec. 4, 1964, as amended at 35 F.R. 18384, Dec. 3, 1970]

§ 15.10 Decisions and notices.

(a) *Decision by hearing officer or Secretary.* (1) The hearing officer shall either make an initial decision, if so authorized, or certify the entire record including his recommended findings, and proposed decision to the Secretary for a final decision, and a copy of such initial decision or certification shall be mailed to the applicant or recipient. The applicant or recipient may within 30 days of the mailing of such notice of initial decision file with the Secretary his exceptions to the initial decision, with his reasons therefor.

(2) In the absence of exceptions, the Secretary may on his own motion within 45 days after the initial decision serve on the applicant or recipient a notice that he will review the decision. Upon the filing of such exceptions or of such notice of review the Secretary shall review the initial decision and issue his own decision thereon including the reasons therefor. In the absence of either

exceptions or a notice of review the initial decision shall constitute the final decision of the Secretary.

(b) *Decisions on record or review.* Whenever a record is certified to the Secretary for decision or he reviews the decision of a hearing officer pursuant to paragraph (a), the applicant or recipient shall be given reasonable opportunity to file with him briefs or other written statements of its contentions, and a copy of the final decision of the Secretary shall be given in writing to the applicant or recipient, and to the complainant, if any.

(c) *Decisions on record where a hearing is waived.* Whenever a hearing is waived pursuant to § 15.9(a), a decision shall be made by the Secretary on the record and a copy of such decision shall be given in writing to the applicant or recipient, and to the complainant, if any.

(d) *Rulings required.* Each decision of a hearing officer shall set forth his ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to the regulations in this part with which it is found that the applicant or recipient has failed to comply.

(e) *Decision by Secretary.* The Secretary shall make any final decision which provides for the suspension or termination of, or the refusal to grant or continue Federal financial assistance, or the imposition of any other sanction available under the regulations in this part or the Act.

(f) *Content of orders.* The final decision may provide for suspension or termination of, or refusal to grant or continue Federal financial assistance, in whole or in part, under the program involved, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and the regulations in this part, including provisions designed to assure that no Federal financial assistance will thereafter be extended under such program to the applicant or recipient determined by such decision to be in default in its performance of an assurance given by it pursuant to the regulations in this part, or to have otherwise failed to comply with the regulations in this part, unless and until it corrects its noncompliance and satisfies the Agency that it will fully comply with the regulations in this part.

(g) *Post termination proceedings.* (1) An applicant or recipient adversely af-

ected by an order issued under paragraph (f) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with the Act and the regulations in this part and provides reasonable assurance that it will fully comply therewith. An elementary or secondary school or school system which is unable to file an assurance of compliance with § 15.4 (a), (b), or (d) shall be restored to full eligibility to receive Federal financial assistance if it complies with the requirements of § 15.4(e), and is otherwise in compliance with the Act and the regulations in this part.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (f) of this section may at any time request the Secretary to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of subparagraph (1) of this paragraph. If the Secretary determines that those requirements have been satisfied, he shall restore such eligibility.

(3) If the Secretary denies any such request, the applicant or recipient may submit a request for a hearing in writing, specifying why it believes the denial to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules of procedure set forth in Subpart C of this part. The applicant or recipient will be restored to such eligibility if it proves at such a hearing, that it has satisfied the requirements of subparagraph (1) of this paragraph. While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (f) of this section shall remain in effect.

[29 F.R. 16274, Dec. 4, 1964, as amended at 35 F.R. 18384, Dec. 3, 1970]

§ 15.11 Judicial review.

Action taken pursuant to section 602 of the Act is subject to judicial review as provided in section 603 of the Act.

§ 15.12 Effect on other regulations; forms and instructions.

(a) *Effect on other regulations.* All regulations, orders, or like directions heretofore issued by any officer of the

Department which impose requirements designed to prohibit any discrimination against individuals on the ground of race, color, or national origin under any program to which the regulations in this part apply, and which authorize the suspension or termination of or refusal to grant or to continue Federal financial assistance to any applicant for or recipient of such assistance under such program for failure to comply with such requirements, are hereby superseded to the extent that such discrimination is prohibited by the regulations in this part, except that nothing in the regulations in this part shall be deemed to relieve any person of any obligation assumed or imposed under any such superseded regulation, order, instruction, or like direction prior to the effective date of the regulations in this part. Nothing in these regulations, however, shall be deemed to supersede any of the following including future amendments thereof: (1) Executive Order 11246 and regulations issued thereunder; or (2) Executive Order 11063 and regulations issued thereunder or any other regulations or instructions insofar as they prohibit discrimination on the ground of race, color, or national origin in any program or situation to which the regulations in this part are inapplicable, or prohibit discrimination on any other ground.

(b) *Forms and instructions.* Each Agency shall issue and promptly make available forms and such implementing instructions and procedures consistent with the regulations in this part as may be necessary. Each Agency in making available Federal financial assistance to any program or activity may utilize contractual commitments in obtaining compliance with the regulations in this part, including obtaining compliance by recipients other than the contracting recipient.

(c) *Supervision and coordination.* The Secretary may from time to time assign to officials of other Departments or Agencies of the Government with the consent of such Department or Agency, responsibilities in connection with the effectuation of the purposes of Title VI of the Act and the regulations in this part (other than responsibility for final decision as provided in § 15.10) including the achievement of effective coordination and maximum uniformity within the Department and within the Executive Branch of the Government in the

application of Title VI and these regulations to similar programs and in similar situations. Any action taken, determination made, or requirement imposed by an official of another Department or Agency acting under this paragraph shall have the same effect as though such action had been taken by the Secretary or any Agency of this Department.

[29 F.R. 16274, Dec. 4, 1964, as amended at 35 F.R. 18384, Dec. 3, 1970]

APPENDIX

FEDERAL FINANCIAL ASSISTANCE OF THE DEPARTMENT OF AGRICULTURE COVERED BY TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Payments for Marketing Service Work, 7 U.S.C. 1623.

Grants for basic scientific research, 42 U.S.C. 1891-1893.

Foreign Market Development Projects, 7 U.S.C. 1691-1724.

Advisory service studies for Farmer cooperatives, 7 U.S.C. 451-457.

Cooperative Agricultural Extension Work, 7 U.S.C. 341-349.

Educational Aspects of Agricultural Marketing Act, 7 U.S.C. 1623-1624.

Direct loans and planning advances under the Soil and Water Association Loan Program pursuant to Sections 306 and 314 of the Consolidated Farmers Home Administration Act of 1961, 7 U.S.C. 1926, 1944.

Direct loans under the Rural Rental and Cooperative Housing loan program, section 515(a) of the Housing Act of 1949, as amended, 42 U.S.C. 1485(a).

Loans, technical assistance, and preliminary advances under the Rural Renewal loan program pursuant to Section 32(e) of the Bankhead-Jones Farm Tenant Act, 7 U.S.C. 1011(e).

Loans under the Resource Conservation and Development loan program pursuant to Section 32(e) of the Bankhead-Jones Farm Tenant Act and the Agricultural Appropriation Acts, 7 U.S.C. 1011(e) P.L. 88-250 and subsequent Appropriation Acts.

Direct loans under the Farm Ownership and Operating loan programs made for the purpose of installing or improving on farms recreation facilities available to the public, 7 U.S.C. 1922, 1923, 1941.

Loans to cooperative associations under Section 303, Economic Opportunity Act of 1964, P.L. 88-452, 78 Stat. 524.

Disaster and distress assistance through State and other agencies, 7 U.S.C. 1427.

Loans under the Watershed Protection and Flood Prevention loan program in addition to assistance by the Soil Conservation Service, 16 U.S.C. 1001-1008.

Special Milk Program, Act of July 1, 1958, as amended, 7 U.S.C. 1446 note.

School Lunch Program, National School Lunch Act, 42 U.S.C. 1751 *et seq.*

Food Stamp Program, Section 32 of the Act of August 24, 1935, 7 U.S.C. 612c. Food Stamp Act of 1964, 78 Stat. 703.

Direct Distribution Program, Section 416 of the Agricultural Act of 1949, as amended 7 U.S.C. 1431. Section 32 of the Act of August 24, 1935, 7 U.S.C. 612c. Sections 6 and 9 of National School Lunch Act, 42 U.S.C. 1755, 1758.

Hatch Act Experiment Stations, 7 U.S.C. 361a *et seq.*

Section 204(b) of the Agricultural Marketing Act of 1946, 7 U.S.C. 1623.

Cooperative Forestry Research Act, P.L. 87-788.

Experiment Station Research Facilities, 7 U.S.C. 390-390k.

Watershed Protection Program, Watershed Protection and Flood Prevention Act of August 4, 1954, 16 U.S.C. 1001-1008.

Flood Prevention Program, Flood Control Act of December 22, 1944, 58 Stat. 887.

Resource Conservation and Development Program, Title III of the Bankhead-Jones Farm Tenant Act, as amended by Section 102 of the Food and Agriculture Act of 1962, 7 U.S.C. 1010-1012. Soil Conservation Act of April 27, 1935, 16 U.S.C. 590a-f.

Program of Technical Assistance, and Grants of Equipment and Material, and Plant Materials to Soil Conservation Districts, Soil Conservation Act of April 27, 1935, 16 U.S.C. 590a-f.

Rural Electrification and Rural Telephone Programs, Rural Electrification Act of 1936, as amended, 7 U.S.C. 901 *et seq.*

Cropland Conversion Program, 16 U.S.C. 590p(e).

Price support programs operating through producer associations, cooperatives, and other recipients in which the recipient is required to furnish specified benefits to producers (e.g., tobacco, peanuts, naval stores, cotton, rice, honey, dry edible beans, cottonseed and soybeans price support programs), Agricultural Act of 1949, as amended, 7 U.S.C. 1421 *et seq.* Commodity Credit Corporation Charter Act, 15 U.S.C. 714 *et seq.*

Surplus removal programs operating through purchases or diversion payments under clause (2) of section 32 of the Act of August 24, 1935, as amended, in which the recipient under the program is required to provide specified benefits to producers, Section 32 of the Act of August 24, 1935.

Administration and management of National Forests and National Grasslands, and other lands administered by the Forest Service in which Federal assistance is rendered, including but not limited to the following activities:

a. Permits for use of National Forests and National Grasslands by other than individuals at a nominal or no charge, Act of June 4, 1897, as amended, 16 U.S.C. 551. Secretary's Regs. U-11, 36 C.F.R. 251.2. Time Permit Act of March 4, 1915, as amended, 16

U.S.C. 497. American Antiquities Act of June 8, 1906, 16 U.S.C. 433. Title III, Bankhead-Jones Farm Tenant Act of July 22, 1937, 7 U.S.C. 1011 (c), (d).

b. Permits for use of Government-owned improvements and land used therewith by other than individuals at a nominal charge, Section 7 of Granger-Thye Act of April 24, 1950, 16 U.S.C. 580c.

c. Easements for use of National Forests and National Grasslands by other than individuals at a nominal or no charge, Act of March 4, 1911, as amended, 16 U.S.C. 523. Act of May 13, 1946, as amended, 49 U.S.C. 1115. Title III, Bankhead-Jones Farm Tenant Act of July 22, 1937, 7 U.S.C. 1011(d).

d. Permits for disposal of common varieties of mineral materials from lands under Forest Service jurisdiction for use by other than individuals at a nominal or no charge, Act of July 31, 1947, as amended, 30 U.S.C. 601-603, 611. Act of June 11, 1960, 5 U.S.C. 511 note.

e. Timber granted free or at nominal cost to any group, Act of June 4, 1897, as amended, 16 U.S.C. 551. Title III, Bankhead-Jones Farm Tenant Act of July 22, 1937, 7 U.S.C. 1011(b). Secretary's Regs. S-24 and S-29, 36 C.F.R. 221.24, 221.29.

f. Road rights-of-way, Federal Highway Act of August 27, 1958, 23 U.S.C. 107.

g. Rights-of-way for wagon roads or railroads, Act of March 3, 1899, 16 U.S.C. 525.

h. Use of Federal land for airports, Federal Airport Act of May 13, 1946, as amended, 49 U.S.C. 1105, 1115.

1. Revenue sharing payment to States:

1. Payment of 25 percent of national forest receipts to States for schools and roads, Act of May 23, 1908, as amended, 16 U.S.C. 500.

2. Payment to Minnesota from national forest receipts of a sum based on a formula, Section 5 of the Act of June 22, 1948, as amended, 16 U.S.C. 577g-577g-1.

3. Payment to New Mexico and Arizona of proportion of national forest receipts for common-school fund, Sections 6 and 24 of Act of June 20, 1910, 36 Stat. 557, 562, 573.

4. Payment of 25 percent of net revenues from Title III, Bankhead-Jones Farm Tenant Act, lands to counties for school and road purposes or both, Section 33, Title III, of Bankhead-Jones Farm Tenant Act of July 22, 1937, 7 U.S.C. 1012.

Cooperation in the protection, development, management, utilization of forest resources administered by the Forest Service in which Federal assistance is rendered, including but not limited to the following activities:

a. Fire prevention and suppression, Section 2 of Clarke-McNary Act of June 7, 1924, as amended, 16 U.S.C. 565.

b. Forest seedling production and distribution, Section 4 of Clarke-McNary Act of June 7, 1924, as amended, 16 U.S.C. 567.

c. Assistance to States for tree planting, Title IV, Section 401, of Agricultural Act of 1956, as amended, 16 U.S.C. 568-e-g.

d. Technical assistance in forest management, Cooperative Forest Management Act of August 25, 1950, 16 U.S.C. 568 c, d.

e. General forestry assistance, Annual Appropriation Acts commencing with the Department Appropriation Act of 1905; Organic Act of 1862, 5 U.S.C. 511.

f. Control of white pine blister rust, White Pine Blister Rust Protection Act of April 26, 1940, 16 U.S.C. 594a.

g. Protections of forest resources from insects, pests and diseases, Forest Pest Control Act of June 25, 1947, 16 U.S.C. 594-1-5.

Research programs of the Forest Service in which Federal assistance is rendered, including but not limited to the following activities:

a. Advance of funds for cooperative research, Section 20 of Granger-Thye Act of April 24, 1950, added April 6, 1956, 16 U.S.C. 581-1.

b. Grants for support of scientific research, Act of September 6, 1958, 42 U.S.C. 1891-1893.

c. Research cooperation, McSweeney-McNary Act of May 22, 1928, as amended, 16 U.S.C. 581 et seq.

Supplement No. 1. Programs and activities of the Department of Agriculture covered by Title VI of the Civil Rights Act of 1964: Grants for research, P.L. 89-108, 79 Stat. 431.

Transfer of fire lookout towers, improvements, and land to States and political subdivisions, P.L. 85-464, 16 U.S.C. 565b.

Easements for road rights-of-way over National Forest lands, other lands administered by the Forest Service and related lands, P.L. 88-657, 16 U.S.C. 533.

Conveyance of land to States or political subdivisions for widening highways, streets and alleys, P.L. 86-608, 40 U.S.C. 345c.

Financial assistance to states and political subdivisions to provide low-rent housing and related facilities for domestic farm labor, P.L. 88-560, 42 U.S.C. 1486.

Financial and other assistance to landowners, operators, or occupiers to carry out land uses and conservation, section 203, P.L. 89-4, 79 Stat. 12.

Financial assistance to private timber organizations to carry out timber development programs, section 204a, P.L. 89-4, 79 Stat. 13.

Grants under sections 306 and 314 of the Consolidated Farmers Home Administration Act of 1961.

Cropland Adjustment Program, section 601 of the Food and Agriculture Act of 1965, 79 Stat. 1206.

Supplement No. 2. Programs and activities of the Department of Agriculture covered by Title VI of the Civil Rights Act of 1964: Consumer Food Programs, Child Nutrition Act of 1966, P.L. 89-642, 80 Stat. 885, 42 U.S.C. 1771.

Supplement No. 3. Programs and activities of the Department of Agriculture covered by Title VI of the Civil Rights Act of 1964:

Association Loans made out of the Agricultural Credit Insurance Fund under sections 306(a)(1) and 309(f)(1) of the Consolidated Farmers Home Administration Act of 1961, 7 U.S.C. 1926, 1929.

Farm Ownership Loans made out of the Agricultural Credit Insurance Fund under sections 303 and 309(f)(1) of the Consolidated Farmers Home Administration Act of 1961, 7 U.S.C. 1923, 1929, to install or improve recreational facilities.

Labor Housing Loans made out of the Rural Housing Insurance Fund under sections 514(a) and 517 (b) and (c) of the Housing Act of 1949, 42 U.S.C. 1484, 1487.

Rural Rental and Cooperative Housing Loans made out of the Rural Housing Insurance Fund under sections 515(b) and 517 (b) and (c) of the Housing Act of 1949, 42 U.S.C. 1485, 1487.

Supplement No. 4. Programs and Activities of the Department of Agriculture Covered by Title VI of the Civil Rights Act of 1964:

1. The listing in the appendix of "Food Stamp Program, section 32 of the Act of August 24, 1935, 7 U.S.C. 612c, Food Stamp Act of 1964; 78 Stat. 703." is amended to read "Food Stamp Act of 1964, 78 Stat. 703, as amended by Public Law 90-91, 81 Stat. 228 and Public Law 90-552, 82 Stat. 958, 7 U.S.C. 2011 et seq."

2. Direct Recreation Loans, and Insured Recreation Loans made out of the Agricultural Credit Insurance Fund, to individual farmowners or tenants to finance outdoor recreational enterprises or convert to recreational uses their farming or ranching operations, under section 304 of the Consolidated Farmers Home Administration Act of 1961, 7 U.S.C. 1924, as amended by Public Law 90-488, sec. 2.

3. Direct Recreation Loans to individual farmers or ranchers to finance outdoor recreational enterprises or convert to recreational uses their farming or ranching operations, under section 312 of the Consolidated Farmers Home Administration Act of 1961, 7 U.S.C. 1942, as amended by Public Law 90-488, sec. 8.

4. Financial assistance to States and their political subdivisions to provide housing and related facilities for rural trainees under section 522 of the Housing Act of 1949, 42 U.S.C. 1490b, as amended by Public Law 90-448, sec. 1002.

5. Financial assistance to approved public or private nonprofit organizations to assist in providing mutual and self-help housing for needy low-income individuals and families, under section 523(b)(1)(A) of the Housing Act of 1949, 42 U.S.C. 1490c, as amended by Public Law 90-448, sec. 1005.

6. Direct loans to public or private nonprofit organizations to acquire and develop land as building sites, to be subdivided and sold to families and other eligible parties,

under section 523(b)(1)(B) of the Housing Act of 1949, 42 U.S.C. 1490c, as amended by Public Law 90-448, sec. 1005.

7. Assistance under the Federal Meat Inspection Act, 34 Stat. 1260, as amended by Public Law 90-492, 82 Stat. 791, 21 U.S.C. 601 et seq.

8. Assistance under the Poultry Products Inspection Act, 71 Stat. 441, as amended by Public Law 90-492, 82 Stat. 791; 21 U.S.C. 451 et seq.

[29 F.R. 16274, Dec. 4, 1964, as amended at 30 F.R. 14845, Dec. 1, 1965; 32 F.R. 705, Jan. 21, 1967; 33 F.R. 7065, May 11, 1968; 34 F.R. 1132, Jan. 24, 1969; 35 F.R. 18384, Dec. 3, 1970]

Subpart B—Nondiscrimination—Direct USDA Programs and Activities

AUTHORITY: The provisions of this Subpart B of Part 15 issued under sec. 602, 78 Stat. 252; 5 U.S.C. 301, 42 U.S.C. 2000 d-1.

§ 15.50 Applicability.

The regulations in this subpart complement Subpart A of this part and cover those programs and activities of the Department not subject thereto in which the Department or any agency thereof makes available any benefit directly to persons under such programs and activities.

[29 F.R. 16966, Dec. 11, 1964]

§ 15.51 Discrimination prohibited.

(a) No agency, officer, or employee of the United States Department of Agriculture, shall exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States on the ground of race, color, creed, or national origin under any program or activity administered by such agency, officer, or employee.

(b) No agency, officer, or employee of the Department shall on the ground of race, color, creed, or national origin deny to any person in the United States (1) equal access to buildings, facilities, structures, or lands under the control of any agency of this Department or (2) under any program or activity of the Department, equal opportunity for employment, for participation in meetings, demonstrations, training activities or programs, fairs, awards, field days, encampments, for receipt of information disseminated by publication, news, radio, and other media, for obtaining contracts, grants, loans, or other financial assistance or for selection to assist in the administration of programs or activities of this Department.

[29 F.R. 16966, Dec. 11, 1964]

§ 15.52 Complaints.

(a) Any person who believes himself or any specific class of individuals to be subjected to discrimination prohibited by the regulations in this subpart may by himself or by an authorized representative file a written complaint based on the ground of such discrimination. No particular form of complaint shall be required. The complaint must be filed within 90 days from the date of the alleged discrimination unless the Secretary extends the time for filing. Any person who complains of discrimination shall be advised of his right to file a complaint as herein provided and each agency of the Department dealing with the public shall post in a conspicuous place in its office notice of the right to file a complaint under this subpart.

(b) Notwithstanding the foregoing provisions of this section, any complaint filed hereunder, to the extent that it involves a determination, decision or action under a program or activity covered by this subpart, shall be handled in accordance with the procedures established by law or regulation of the Department or any of its agencies for the handling of complaints or appeals under such program or activity which are not based on grounds of discrimination prohibited by this subpart; *Provided*, That the officer, committee or other employee receiving a complaint based on discrimination shall immediately furnish a notice and a factual report thereof to the Secretary in accordance with procedures established by each agency. Each action taken on any such complaint shall likewise be reported to the Secretary.

(c) Any complaint authorized by paragraph (a) of this section involving matters within the responsibility of an agency which has no complaint or appeal procedure established by law or regulations, may be filed directly with the Secretary of Agriculture. Any such complaint filed with any agency of the Department not having responsibility therefor shall be forwarded to the appropriate agency or to the Secretary.

(d) The investigative function with respect to complaints authorized by paragraph (a) of this section shall be discharged by the Office of the Inspector General in the manner determined by the Inspector General.

[31 F.R. 8175, June 10, 1966]

Subpart C—Rules of Practice and Procedure for Hearings, Decisions and Administrative Review Under the Civil Rights Act of 1964

AUTHORITY: The provisions of this Subpart C issued under sec. 602, 78 Stat. 252; 42 U.S.C. 2000d-1 sec. 15.9(d) of Subpart A to 7 CFR, Part 15, and laws referred to in the Appendix to Subpart A, Part 15, Title 7 CFR.

Source: The provisions of this Subpart C appear at 30 F.R. 14355, Nov. 17, 1965, unless otherwise noted.

GENERAL INFORMATION

§ 15.60 Scope of rules.

The rules of practice and procedure in this subpart supplement §§ 15.9-15.10 of Subpart A of this part and govern the practice for hearings, decisions, and administrative review conducted by the Department of Agriculture, pursuant to Title VI of the Civil Rights Act of 1964, section 602 (78 Stat. 252) and this part, Title 7, CFR, except these rules shall not apply to any stage of a proceeding which has occurred prior to the effective date hereof.

§ 15.61 Records to be public.

All documents and papers filed in any proceeding under this part may be inspected and copied in the Office of the Department Hearing Clerk.

§ 15.62 Definitions.

All terms used in this subpart shall, unless the context otherwise requires, have the same meaning as defined in Subpart A of this part.

§ 15.63 Computation of time.

A period of time begins with the day following the act or event and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed in the District of Columbia, in which case it shall be the following work-day. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation.

§ 15.64 Parties.

The term "party" shall include an applicant or recipient with respect to whom the agency has issued a notice of hearing or opportunity to request a hearing in accordance with Subpart A of this part and § 1581. The agency shall be deemed a party to all proceedings.

§ 15.65 Appearance.

Any party may appear in person or by counsel or authorized representative and participate fully in any proceeding.

§ 15.66 Complainants not parties.

A person submitting a complaint pursuant to § 15.6 is not a party to the proceedings governed by this subpart, but may petition, after proceedings have been commenced, to become an intervener.

§ 15.67 Intervener.

Any interested person or organization may file a petition to intervene which will include a statement of position and a statement of what petitioner expects to contribute to the hearing, and a copy of the petition will be served on all parties. Such petition should be filed prior to the prehearing conference, or if none is held, before the commencement of the hearing, unless the petitioner shows good cause for filing the petition later. The hearing officer may grant the petition if he believes that such participation will not unduly delay a hearing and will contribute materially to the proceeding. An intervener is not a party and may not introduce evidence at a hearing, or propound questions to a witness, unless the hearing officer determines that the proposed additional evidence is relevant and will clarify the facts. The intervener may submit and serve on all parties a brief in support or opposition to any brief of a party. All service and notice required by and upon a party shall apply to an intervener.

§ 15.68 Ex parte communications.

(a) *General.* After proceedings have been commenced, any communication or discussion ex parte, as regards the merits of the proceeding or a factually related proceeding, between an employee of the Department involved in the decisional process and a person not employed by the Department, and any such communication or discussion between any employee of the Department, who is or has been engaged in any way in the investigation or prosecution of the proceeding or a factually related proceeding, and an employee of the Department who is involved or may be involved in the decisional process of a proceeding, except at a conference, hearing or review proceeding under these rules is improper and prohibited.

(b) *Request for information.* A request for information about the status of a proceeding without discussing issues or expressing points of view and inquiries with respect to procedural matters or an emergency request for an extension of time are not deemed ex parte communications. When practical all parties should be notified of any request for an extension of time. Communication between an applicant or recipient and the agency or the Secretary with respect to securing voluntary compliance with any requirement of Subpart A of this part is not prohibited.

(c) *Un-sponsored written material.* Letters expressing views or urging action and other un-sponsored written material regarding matters in issue in a proceeding will be placed in the correspondence section of the docket of the proceeding. Such are not deemed part of the evidence or record.

FORM, EXECUTION, FILING AND SERVICE OF DOCUMENTS

§ 15.71 Form of documents to be filed.

All copies of documents filed in a proceeding shall be dated, signed in ink, shall show the address and position or title of the signatory, and shall show the docket number and title of the proceeding on the front page.

§ 15.72 Filing.

All documents relating to a proceeding under this subpart shall be filed in an original and two copies of such document with the Office of the Hearing Clerk at Room 112, Administration Building, Department of Agriculture, Washington, D.C., 20250, during regular business hours. Regular business hours are every Monday through Friday (legal holidays in the District of Columbia excepted) from 9 a.m. to 5:30 p.m., eastern standard or daylight saving time, whichever is effective in the District of Columbia at the time.

§ 15.73 Service.

Service shall be made by the Hearing Clerk by personal delivery of one copy to each person to be served or by mailing by first-class mail, or air mail if more than 300 miles, properly addressed with postage prepaid. When a party or intervener has appeared by attorney or representative, service upon such attorney or representative will be deemed proper service. The initial notice of

hearing, opportunity to request a hearing, or notice setting a date for a hearing shall be by certified mail, return receipt requested.

§ 15.74 Date of service.

The date of service shall be the day when the matter is deposited in the U.S. mail or is delivered in person, except that the date of service of the initial notice a hearing or notice of opportunity to request a hearing or notice setting a date for a hearing shall be the date of its delivery, or of its attempted delivery if delivery is refused.

INITIAL NOTICE AND RESPONSE

§ 15.81 How proceedings are commenced.

Proceedings are commenced by mailing a notice to an applicant or recipient of alleged noncompliance with the Act and the Secretary's regulations thereunder. The notice will be signed by the interested agency head or by the Secretary and shall be filed with the hearing clerk for proper service by the hearing clerk according to the rules of this subpart. The notice shall include either a notice of hearing or notice of opportunity to request a hearing as determined by the Secretary and shall comply with the requirements of § 15.9(a).

§ 15.82 Notice of hearing and response thereto.

A notice of hearing shall fix a date not less than 30 days from the date of service of the notice of a hearing on matters alleged in the notice. If the applicant or recipient does not desire a hearing, he should so state in writing, in which case the applicant or recipient shall have the right to submit written information and argument for the record, and the additional right to further participate in the proceeding. Failure to appear at the time set for a hearing, without good cause, shall be deemed a waiver of the right to a hearing under section 602 of the Act and the regulations in this part and consent to the making of a decision on such information as is available which may be presented for the record.

§ 15.83 Notice of opportunity to request a hearing and response thereto.

A notice of opportunity to request a hearing shall set a date not less than 20 days from service of said notice within which the applicant or recipient may

file a request for a hearing, or may waive a hearing and submit written information and argument for the record, in which case, the applicant or recipient shall have the right to further participate in the proceeding. When the applicant or recipient elects to file a request for a hearing, a time shall be set for the hearing at a date not less than 20 days from the date applicant or recipient is notified of the date set for the hearing. Failure of the applicant or recipient to request a hearing or to appear at the date set shall be deemed a waiver of the right to a hearing, under section 602 of the Act and the regulations in this part and consent to the making of a decision on such information as is available which may be presented for the record.

§ 15.84 Answer.

In any case covered by § 15.82 or § 15.83 the applicant or recipient shall file an answer. Said answer shall admit or deny each allegation of the notice, unless the applicant or recipient is without knowledge, in which case the answer shall so state, and the statement will be considered a denial. Failure to file an answer shall be deemed an admission of all allegations of fact in the notice. Allegations of fact in the notice not denied or controverted by answer shall be deemed admitted. Matters intended to be offered as affirmative defenses must be stated as a separate part of the answer. The answer under § 15.82 shall be filed within 20 days from the date of service of the notice of hearing. The answer under § 15.83 shall be filed within 20 days of service of the notice of opportunity to request a hearing.

§ 15.85 Amendment of notice or answer.

The notice of hearing or notice of opportunity to request a hearing may be amended once as a matter of course before an answer thereto is served, and each applicant or recipient may amend his answer once as a matter of course not later than 10 days before the date fixed for hearing but in no event later than 20 days from the date of service of his original answer. Otherwise a notice or answer may be amended only by leave of the hearing officer. An applicant or recipient shall file his answer to an amended notice within the time remaining for filing the answer to the original notice or within 10 days after

service of the amended notice, whichever period may be the longer, unless the hearing officer otherwise orders.

§ 15.86 Consolidated or joint hearings.

Two or more proceedings against the same respondent, or against different respondents in which the same or related facts are asserted to constitute non-compliance, may be consolidated for hearing or decision or both by the agency head, if he has the principal responsibility within the Department for the administration of all the laws extending the Federal financial assistance involved. If laws administered by more than one agency head are involved, such officials may by agreement order consolidation for hearing. The Secretary may order proceedings in the Department consolidated for hearing with proceedings in other Federal Departments or Agencies, by agreement with such other Departments or Agencies. All parties to any proceeding consolidated subsequently to service of the notice of hearing or notice of opportunity to request a hearing shall be promptly served with notice of such consolidation.

HEARING OFFICER

§ 15.91 Who presides.

A hearing officer shall preside over all proceedings held under this part. The hearing officer shall be a hearing examiner qualified under section 11 of the Administrative Procedure Act (5 U.S.C. 1001 et seq.), and designated to hold hearings under the regulations in this subpart or any person authorized to hold a hearing and make a final decision. The hearing officer will serve until he has made an initial decision, certified the record to the Secretary, or made a final decision if so authorized.

§ 15.92 Designation of hearing officer.

Unless otherwise provided by an order of the Secretary at the time the notice of alleged noncompliance provided in § 15.81 is filed with the Office of the Hearing Clerk, the hearing shall be held before a hearing examiner, who shall be appointed by the Chief Hearing Examiner, Office of Hearing Examiners within five days after the filing of such notice. Unless otherwise provided, the hearing examiner shall certify the entire record with his recommended findings and proposed decision to the Secretary for final decision.

§ 15.93 Time and place of hearing.

When a notice of hearing is sent to an applicant or recipient, the time and place of hearing shall be fixed by the Secretary, and when the applicant or recipient requests a hearing, the time and place shall be set by the hearing officer and in either case in conformity with § 15.9(b). The complainant, if any, shall be advised of the time and place of the hearing.

§ 15.94 Disability of hearing officer.

In the case of death, illness, disqualification, or unavailability of the designated hearing officer, another hearing officer may be designated by the Secretary to take his place. If such death, illness, disqualification or unavailability occurs during the course of a hearing, the hearing will be either continued under a substitute hearing officer, or terminated and tried de novo in the discretion of the Secretary. In the absence of the designated hearing officer any hearing examiner may rule on motions and other interlocutory papers.

§ 15.95 Responsibilities and duties of hearing officer.

The hearing officer shall have the duty to conduct a fair hearing, to take all necessary action to avoid delay, and to maintain order. He shall have all powers necessary to these ends, including (but not limited to) the power to:

- (a) Arrange and issue notice of the date, time and place of hearings, or, upon due notice to the parties, to change the date, time and place of hearings previously set.
- (b) Hold conferences to settle, simplify, or fix the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding.
- (c) Require parties and interveners to state their position with respect to the various issues in the proceeding.
- (d) Administer oaths and affirmations.
- (e) Rule on motions, and other procedural items on matters pending before him.
- (f) Regulate the course of the hearing and conduct of parties therein.
- (g) Examine witnesses and direct witnesses to testify.
- (h) Receive, rule on, exclude or limit evidence.

(l) Fix the time for filing motions, petitions, briefs, or other items in matters pending before him.

(j) In accordance with his authority issue an initial decision, or recommended findings and proposed decision, or final decision.

(k) Take any other action a hearing officer is authorized to take under these rules or Subpart A of this part.

MOTIONS

§ 15.101 Form and content.

(a) *General.* Motions shall state the relief sought and the authority relied upon. If made before or after the hearing, the motion shall be in writing and filed with the hearing clerk with a copy to all parties. If made at the hearing, they should be stated orally but the hearing officer may require that any motion be reduced to writing and filed and served on all parties in the same manner as a formal motion.

(b) *Extension of time or postponement.* A request for an extension of time should be filed and served on all parties and should set forth the reasons for the request and may be granted upon a showing of good cause. Answers to such requests are permitted, if made promptly.

§ 15.102 Responses to motions.

Within 8 days or such reasonable time as may be fixed by the hearing officer, or Secretary, if the motion is properly addressed to him, any party may file a response to the motion, unless the motion is made at a hearing in which case an immediate response may be required. The hearing officer may dispose of motions at a prehearing conference.

§ 15.103 Disposition of motions.

The hearing officer may not sustain or grant a motion prior to expiration of the time for filing responses thereto, but may overrule or deny such motion without waiting on a response: *Provided, however,* That prehearing conferences, hearings, and decisions need not be delayed pending disposition of motions. Oral motions may be ruled on immediately. Motions submitted to the hearing officer not disposed of in separate rulings or in his decision will be deemed denied. Oral argument shall not be held on written motions unless expressly ordered. Interlocutory appeals from rulings on motions shall be governed by § 15.123.

HEARING PROCEDURES

§ 15.110 Prehearing conferences.

(a) In any case in which it appears that such procedure will expedite the proceeding, the hearing officer may, prior to the commencement of the hearing, request the parties to meet with him or to correspond with him regarding any of the following:

(1) Simplification and clarification of the issues;

(2) Necessity or desirability of amendments to the pleadings;

(3) Stipulations, admissions of fact and of the contents and authenticity of documents;

(4) Matters of which official notice will be taken;

(5) Limitation of the number of experts or other witnesses;

(6) Disposal of all motions; and

(7) Such other matters as may expedite and aid in the disposition of the proceeding.

(b) The hearing officer shall enter in the record a written summary of the results of the conference or correspondence with the parties.

§ 15.111 Purpose of hearing.

(a) The hearing is directed to receiving factual evidence and expert opinion testimony related to the issues in the proceeding. Argument will not be received in evidence; rather it should be presented in statements, memoranda or briefs, as determined by the hearing officer. Brief opening statements, which shall be limited to a statement of the party's position and what he intends to prove, may also be made at hearings.

(b) Hearings for the reception of evidence will be held only in cases where issues of fact must be resolved in order to determine whether the respondent has failed to comply with one or more applicable requirements of Subpart A of this part. In any case where it appears from the answer of the applicant or recipient to the notice of hearing or notice of opportunity to request a hearing, from his failure timely to answer, or from his admissions or stipulations in the record that there are no matters of material fact in dispute, the hearing officer may enter an order so finding, and fixing the time for the submission of evidence by the Government for the record. Thereafter, the proceedings shall go to conclusion in accordance with Subpart A of this part and the rules of this subpart. An appeal from such order may be al-

lowed in accordance with the rules for interlocutory appeal in § 15.123.

§ 15.112 Statement of position and brief.

The hearing officer may require all parties and any intervener to file a written statement of position or brief prior to the beginning of a hearing.

§ 15.113 Testimony.

(a) Testimony shall be given orally under oath or affirmation by witnesses at the hearing, but the hearing officer, in his discretion, may require or permit that the testimony of any witness be prepared in writing and served on all parties in advance of the hearing. Such testimony may be adopted by the witness at the hearing and filed as part of the record thereof. Unless authorized by the hearing officer, witnesses will not be permitted to read prepared testimony into the record. Except as provided in §§ 15.115 and 15.116, witnesses shall be available at the hearing for cross-examination.

(b) Proposed exhibits shall be exchanged either at a prehearing conference, or otherwise prior to the hearing. Proposed exhibits not so exchanged may be denied admission as evidence unless good cause is shown why they were not exchanged. The authenticity of all proposed exhibits exchanged prior to hearing will be deemed admitted unless written objection thereto is filed prior to the hearing or unless good cause is shown at the hearing for failure to file such written objection.

§ 15.115 Affidavits.

An affidavit, intended to be used as evidence without cross-examination of the affiant, will be filed and served on the parties at least 15 days prior to the hearing; and not less than seven days prior to hearing a party may file and serve written objections to any affidavit on the ground that he believes it necessary to test the truth of assertions therein by cross-examination. In such event, the affidavit objected to will not be received in evidence unless the affiant is made available for cross-examination at the hearing or otherwise as prescribed by the hearing officer. In absence of an objection being filed within the time specified, such affidavit will be received in evidence.

§ 15.116 Depositions.

Upon such terms as may be just, the hearing officer, in his discretion, may

authorize the testimony of any witness to be taken by deposition.

§ 15.117 Evidence.

Irrelevant, immaterial, unreliable, and unduly repetitious evidence will be excluded, and technical rules of evidence shall not apply but rules or principles designed to assure the most credible evidence available and to subject testimony to test by cross-examination shall apply.

§ 115.118 Cross-examination.

Cross-examination will be limited to the scope of direct examination and matters at issue in the hearing.

§ 15.119 Objections.

Objections to evidence shall be timely and briefly state the ground relied upon. The ruling of the hearing officer will be part of the record. Argument in support of the objection will not be part of the record.

§ 15.120 Exceptions to rulings of hearing officer unnecessary.

Exceptions to rulings of the hearing officer are unnecessary. It is sufficient that a party, at the time the ruling of the hearing officer is sought, makes known the action which he desires the hearing officer to take, or his objection to an action taken, and his grounds therefor.

§ 15.121 Official notice.

A public document, or part thereof, such as an official report decision, opinion, or published scientific or economic statistical data issued by any branch of the Federal or a State Government which has been shown to be reasonably available to the public, may be offered for official notice and accepted in the record without further proof of authenticity. Where official notice is to be taken, any party, on timely request, shall have an opportunity to show the contrary.

§ 15.122 Offer of proof.

An offer of proof made in connection with an objection taken to any ruling of the hearing officer rejecting or excluding proposed oral testimony shall consist of a statement for the record of the substance of the evidence which counsel contends would be adduced by such testimony; and, if the excluded evidence consists of evidence in documentary or written form or of reference to documents or records, a copy of such evidence shall be marked for identification and shall accompany the record as an offer of proof.

§ 15.123 Appeals from ruling of hearing officer.

A ruling of the hearing officer may not be appealed to the Secretary prior to consideration of the entire proceeding by the hearing officer except with the consent of the hearing officer and where he certifies on the record or in writing that the allowance of an interlocutory appeal is clearly necessary to prevent exceptional delay, expense, or prejudice to any part or substantial detriment to the public interest. If an appeal is allowed, any party may file a brief with the Secretary within such period as the hearing officer directs. Oral argument will be heard in the discretion of the Secretary.

§ 15.124 Admissions as to facts and documents.

Not later than 15 days prior to the scheduled date of the hearing except for good cause shown, or prior to such earlier date as the hearing officer may order, any party may serve upon an opposing party a written request for the admission of the genuineness and authenticity of any relevant documents described in and exhibited with the request, or for the admission of the truth of any relevant matters of fact stated in the request. Each of the matters of which an admission is requested shall be deemed admitted, unless within a period designated in the request (not less than 10 days after service thereof, or within such further time as the hearing officer may allow upon motion and notice) the party to whom the request is directed serves upon the requesting party a sworn statement either denying specifically the matters of which an admission is requested or setting forth in detail the reasons why he cannot truthfully either admit or deny such matters. Copies of requests for admission and answers thereto shall be served on all parties. Any admission made by a party to such request is only for the purposes of the pending proceeding, or any proceeding or action instituted for the enforcement of any order entered therein, and shall not constitute an admission by him for any other purpose or be used against him in any other proceeding or action.

[31 F.R. 8586, June 21, 1966]

THE RECORD

§ 15.131 Official transcript.

The hearing clerk will designate the official reporter for all hearings. The

official transcript of testimony taken, together with any affidavits, exhibits, depositions, briefs, or memoranda of law shall be filed with the hearing clerk. Transcripts of testimony in hearings will be supplied by the official reporter to the parties and to the public at rates not to exceed the maximum rates fixed by the contract between the Department and the reporter. Upon notice to all parties, the hearing officer may authorize corrections to the transcript which involve matters of substance.

§ 15.132 Record for decision.

The transcript of testimony, exhibits, affidavits, depositions, briefs, memoranda of law, and all pleadings, motions, papers, and requests filed in the proceeding, except the correspondence section of the docket, including rulings, and any recommended findings and proposed decision, or initial decision shall constitute the exclusive record for final decision.

POSTHEARING PROCEDURES

§ 15.135 Posthearing briefs.

The hearing officer shall fix a reasonable time for filing posthearing briefs, which may contain proposed findings of fact and conclusions of law, and, if permitted, reply briefs. Briefs should include a summary of the evidence relied upon together with references to exhibit numbers and pages of the transcript, with citations of the authorities relied upon. Briefs shall be filed in the Office of the Hearing Clerk with a copy to all parties.

§ 15.136 Decisions and notices.

When the time for submission of posthearing briefs has expired the hearing officer shall either make an initial decision or final decision, if so authorized, or certify the entire record including his recommended findings and proposed decision to the Secretary for a final decision and a copy of such initial, or final decision or certification shall be mailed to the applicant or recipient and other parties by the hearing clerk.

§ 15.137 Exceptions to initial or proposed decision.

Within 30 days of the mailing of such notice of initial or recommended findings and proposed decision, the applicant or recipient and other parties may file with the hearing clerk for consideration by the Secretary exceptions to the initial or recommended findings and proposed

decision, with reasons therefor. Each party will be given reasonable opportunity to file briefs or other written statements of contentions in which the party may request that the decision be modified, reversed, affirmed or adopted.

§ 15.138 Review of initial decision.

In the absence of exceptions to an initial decision, the Secretary may on his own motion within 45 days after an initial decision serve upon the parties a notice that he will review the decision and will give the parties reasonable opportunity to file briefs or other written statements of contentions. At the expiration of said time for filing briefs, the Secretary will review the initial decision and issue a final decision thereon. In the absence of either exceptions to an initial decision or a notice or review, the initial decision shall constitute the final decision of the Secretary.

§ 15.139 Oral argument.

If any party desires to argue orally before the Secretary on the review of recommended findings and proposed decision, or an initial decision, he shall so state at the time he files his exceptions or brief. The Secretary may grant such request in his discretion. If granted, he will serve notice of oral argument on all parties and will set forth the order of presentation and the amount of time allotted, and the time and place of argument.

§ 15.140 Service of decisions.

All final decisions shall be promptly served on all parties and the complainant.

§ 15.141 Contents of decision.

Each decision of a hearing officer shall set forth his ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to the regulations in this part with which it is found that the applicant or recipient has failed to comply.

§ 15.142 Content of orders.

The final decision may provide for suspension or termination of, or refusal to grant or continue Federal financial assistance, in whole or in part, under the program involved, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and the regulations in this part, including provisions

designed to assure that no Federal financial assistance will thereafter be extended under such program to the applicant or recipient determined by such decision to be in default in its performance of an assurance given by it pursuant to the regulations in this part, or to have otherwise failed to comply with the regulations in this part, unless and until it corrects its noncompliance and satisfies the Agency that it will fully comply with the regulations in this part.

§ 15.143 Decision where financial assistance affected.

The Secretary shall make any final decision which provides for the suspension or termination of, or the refusal to grant or continue Federal financial assistance, or the imposition of any other sanction available under the regulations in this part or the Act.

PART 17—SALES OF AGRICULTURAL COMMODITIES MADE AVAILABLE UNDER TITLE I OF THE AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954, AS AMENDED

Subpart A—Regulations Governing the Financing of Commercial Sales of Agricultural Commodities

- Sec.
- 17.1 General statement.
- 17.2 Definition of terms.
- 17.3 Purchase authorization.
- 17.4 Subauthorizations.
- 17.5 Eligible commodities.
- 17.6 Contracts between suppliers and importers.
- 17.7 Commodity price provisions.
- 17.8 Fees, discounts, commissions, brand names.
- 17.9 Ocean transportation.
- 17.10 Letter of commitment method of financing.
- 17.11 Reimbursement method of financing.
- 17.12 Adjustment refunds and insurance.
- 17.13 Documentation.
- 17.14 Documents in support of drafts drawn on CCC by banking institutions.
- 17.15 Responsibilities of banking institutions for transactions under letters of commitment.
- 17.16 ASCS Offices.
- 17.17 Supplier's records.
- 17.18 Effective date.
- Appendix A—Contracting Requirements
- Appendix B—Documentary Requirements

AUTHORITY: The provisions of this Part 17 issued under secs. 101-110, 401-405, 409, 68

Stat. 455, sec. 5, 80 Stat. 1538; 7 U.S.C. 1701-1709, 1731-1735.

SOURCE: The provisions of this Part 17 appear at 31 F.R. 16818, Dec. 31, 1966, as amended at 34 F.R. 8963, June 5, 1969, unless otherwise noted.

§ 17.1 General statement.

(a) *What this subpart covers.* (1) This subpart contains the regulations governing the sale and exportation of agricultural commodities or the products thereof made available under Title I of the Agricultural Trade Development and Assistance Act of 1954, as amended (hereinafter called the Act), pursuant to agreements entered into on and after January 1, 1967. Under the Act, the Government of the United States enters into Agricultural Commodities Agreements with governments of the importing countries or private trade entities, covering financing of the sale and exportation of agricultural commodities and products thereof including certain ocean transportation costs.

(2) An Agricultural Commodities Agreement may provide for one or more of the following: Sales for dollars on credit terms, sales for foreign currencies on credit terms which permit conversion to dollars, and sales for foreign currencies, except that an agreement with a private trade entity is limited to a sale for dollars on credit terms.

(3) The regulations in this subpart cover among other things, (i) the making of applications to the General Sales Manager, Export Marketing Service, for authorizations to purchase agricultural commodities and products thereof, (ii) the issuance of purchase authorizations by the General Sales Manager, and (iii) the financing by Commodity Credit Corporation of the sale and exportation of such commodities or products thereof through private trade channels to the maximum extent practicable.

(b) *Purchase authorizations and approval of vessels.* (1) After approval of the participant's application, a purchase authorization will be issued by the General Sales Manager, EMS. The participant or its authorized importers or agents will procure the commodities from the U.S. suppliers and will arrange for shipment in U.S.-flag vessels when use of such vessels is required. Following issuance of a purchase authorization, and on application, the Controller, Commodity Credit Corporation will issue letters of commitment to banking institutions

designated by the participant and acceptable to CCC, unless the participant elects to procure the commodities under the reimbursement method of financing.

(2) The cost of ocean freight or ocean freight differential will be financed by CCC only when specifically provided for in the purchase authorization. Prior approval for the use of all vessels must be obtained from the appropriate office of the U.S. Department of Agriculture (§ 17.9(b)).

(c) *Letters of commitment and reimbursement method of financing.* (1) Under the letter of commitment method of financing the U.S. supplier of agricultural commodities will receive payment as provided in the regulations in this subpart under irrevocable letters of credit issued, confirmed or advised by a banking institution for the commodities and, when authorized in the purchase authorization and included as a part of the commodity cost, for the ocean freight or the ocean freight differential, and marine insurance. Notwithstanding any other provision of these regulations, if authorized by the purchase authorization, ocean freight differential shall be financed by CCC under the letter of commitment method of financing in cases where ocean freight is not included as a part of the commodity cost, subject to the applicable provisions of these regulations and such other provisions as may be specified in the purchase authorization. In such case, the U.S. supplier of ocean freight will receive payment for ocean freight differential as provided in these regulations and the purchase authorization under irrevocable letters of credit issued, confirmed or advised by a banking institution.

(2) Under the reimbursement method of financing, the U.S. supplier will obtain payment from the participant or its assignee as provided in the regulations in this subpart for the cost of commodities and, when authorized in the purchase authorization and included as a part of the commodity cost, for the ocean freight or the ocean freight differential, and marine insurance. When ocean freight or ocean freight differential is approved for financing on Form CCC-106 and is to be financed separately from the commodity cost, the supplier of ocean transportation will obtain payment from the participant or its assignee.

(3) To the extent provided in the regulations in this subpart, CCC will reimburse banking institutions for payments

made under letters of commitment and CCC will reimburse the participant or its assignee for ocean freight or ocean freight differential financed separately from the commodity and for the commodities procured under the reimbursement method of financing.

(d) *Advice of amount financed.* Under the letter of commitment method of financing, the banking institutions will forward documents and advice of the amount financed by CCC to the approved applicant or to the bank or agency authorized by the approved applicant to open related letters of credit. Under the reimbursement method of financing, CCC will forward advice of payment to the participant or its assignee.

(e) *Where information is obtainable.* General information about purchase authorizations and related operations under the regulations in this subpart may be obtained from the Director, Program Operations Division, Export Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250. Information about financing operations under these regulations including forms prescribed for use thereunder, may be obtained from the Controller, Commodity Credit Corporation, U.S. Department of Agriculture, Washington, D.C. 20250. The Export Marketing Service will make public the issuance of each purchase authorization through a U.S. Department of Agriculture press announcement. A copy of each announcement will be made available to the Office of Small Business Administration to assist small business firms to have adequate and fair opportunity to participate as suppliers.

[31 F.R. 16818, Dec. 31, 1966; 32 F.R. 3935, Mar. 10, 1967, as amended at 33 F.R. 5137, Mar. 29, 1968; 37 F.R. 16669, Aug. 18, 1972]

§ 17.2 Definition of terms.

Terms used in the regulations in this subpart are defined or identified as follows, subject to amplification in subsequent sections:

(a) *Terms relating to the United States, its agencies and officials.* (1) "C&MS" means Consumer and Marketing Service, U.S. Department of Agriculture.

(2) "CCC" means the Commodity Credit Corporation, U.S. Department of Agriculture.

(3) "Controller" means the Controller, Commodity Credit Corporation, or his designee.

(4) "ASCS" means the Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

(5) "ASCS Offices" mean the ASCS Offices listed in § 17.16, and any other offices or agencies which may succeed to the functions of such offices.

(6) "EMS" means the Export Marketing Service, U.S. Department of Agriculture.

(7) "USDA" means the U.S. Department of Agriculture and includes all or any of the offices mentioned in subparagraphs (1) through (6) of this paragraph.

(8) "Secretary" means the Secretary of Agriculture of the United States, or his designee.

(9) "General Sales Manager" and "GSM" mean the General Sales Manager, Export Marketing Service, or his designee.

(10) "United States" means the 50 States, the District of Columbia, and Puerto Rico.

(b) *Terms relating to ocean transportation.* (1) "Dry bulk carriers" mean irregularly scheduled vessels, other than tankers, commonly referred to as "tramps," which go where full cargoes are offered. Rates are negotiated covering the movement of a specific commodity, a specific quantity, at a specific time from a specific port or ports to specific destination port or ports.

(2) "Dry cargo liners" and "liners" are interchangeable terms meaning regularly scheduled vessels on specific trade routes. Shipments can be made on this service of part-cargoes (parcels) generally not exceeding 60 percent of the capacity of the vessel.

(3) "Tankers" mean vessels which are designed to carry full cargoes of liquids and which trade wherever full cargoes are offered. Because of compartmentation, tankers can carry a combination of cargoes, including bulk grain. Rates are negotiated in the same manner as with dry bulk carriers.

(4) "Form CCC-106" means "Advice of Vessel Approval", Form CCC-106-1 (Supplier of Commodity); Form CCC-106-2 (Ocean Carrier), or Form CCC-106-3 (Cotton), or any or all of them, as applicable. Colors of the original form are: Form CCC-106-1 yellow; Form CCC-106-2 blue; and Form CCC-106-3 white.

(5) "Ocean bill of lading" means an "On-Board" bill of lading, or a bill of lading with an "On-Board" endorsement,

which must be dated and signed or initialed on behalf of the carrier. Documentary requirements for a copy of an ocean bill of lading refer to a nonnegotiable copy thereof.

(6) "Ocean Transportation" means and is interchangeable with the term "Ocean freight".

(7) "Notice of Arrival" means a written notice or copy of a cablegram in accordance with § 17.9(f) reciting that the vessel has arrived at the first port of discharge.

(c) *Other terms.* (1) "Affiliate" and "associated company" mean any legal entity which owns or controls, or is owned or controlled by, another legal entity. For a corporation, ownership of the voting stock shall be the controlling criterion. The term "owns or controls" shall have the meaning as provided in § 17.6(j) (2).

(2) "Approved applicant" means the bank in the importing country or other agency acceptable to CCC designated by the participant and named in any letter of commitment issued to a banking institution. This term shall include any agent authorized to act on behalf of such an applicant.

(3) "Banking institution" means a banking institution organized under the laws of the United States, any State, or the District of Columbia.

(4) [Reserved.]

(5) "Form CCC-329" means the signed original of Form CCC-329 "Supplier's Certificate" having an issue date of January 1, 1967 or later.

(6) "Commodity" means an agricultural commodity produced in the United States or product thereof produced in the United States as specified in the applicable purchase authorization.

(7) "Copy" means a photocopy or other type of copy of an original document showing all data shown on the original, including signature or the name of the person signing the original, or, if the signature or name is not shown on the copy, a statement that the original was signed.

(8) "Delivery" means the transfer to or for the account of an importer of custody and right of possession of the commodity at U.S. ports or Canadian transshipment point in accordance with the delivery terms of the contract and purchase authorization. Delivery shall be deemed to occur as of the on-board date shown on the ocean bill of lading.

(9) "Destination country" means the foreign country to which the commodities

are exported under a private trade entity agreement.

(10) "Foreign currency" and "local currency" are interchangeable terms and mean a currency of the importing country.

(11) "Foreign currency sale" means sales for the currency of the importing country.

(12) "Importer" means any individual or other legal entity, governmental or otherwise, to which a participant issues a subauthorization and who contracts with the supplier for the importation of the commodity.

(13) "Importing country" means any nation with which an agreement has been negotiated pursuant to the Act.

(14) "Letter of credit" means an irrevocable commercial letter of credit issued, confirmed, or advised by a banking institution on behalf of an approved applicant.

(15) "Long-term credit sale" is the collective term used to denote any one or more of the following: (i) Sales to an importing country for dollars on credit terms (ii) sales to a private trade entity for dollars on credit terms and (iii) sales to an importing country for local currency on credit terms which permit conversion to dollars.

(16) "Participant" is the collective term used to denote the importing country or the private trade entity with whom an agreement has been negotiated pursuant to the Act.

(17) "Purchase authorization" means EMS Form-480 (Commodity) Authorization to Purchase Agricultural Commodity or EMS Form-480 (Ocean Transportation) Authorization to Procure Ocean Transportation, issued to a participant pursuant to these regulations in this subpart.

(18) "Private Trade Entity" means the individual or other nongovernmental legal entity with whom a long-term credit sale agreement has been negotiated pursuant to the Act.

(19) "Selling agent" means any individual or other legal entity who operates as a bona fide sales agent for the supplier of the commodity and who is not employed by or otherwise connected with the importer or the importing country.

(20) "Supplier" means any individual or other legal entity who sells any commodity to an importer under the terms of a purchase authorization for delivery to such importer, or who sells ocean

transportation to an importer or supplier of the commodity under the terms of a purchase authorization. (See § 17.6 (a) (4).)

(21) "Legal entity" shall include, but not be limited to, an individual (except that an individual and his or her spouse and their minor children shall be considered as one legal entity), partnership, association, company, corporation, and trust.

[31 F.R. 16818, Dec. 31, 1966; 32 F.R. 3935, Mar. 10, 1967, as amended at 32 F.R. 5977, Apr. 14, 1967; 33 F.R. 5137, Mar. 29, 1968; 34 F.R. 8963, June 5, 1969]

§ 17.3 Purchase authorization.

(a) *Application.* For each commodity the participant shall submit to the General Sales Manager an application for authorization to purchase the commodity or for authorization to procure ocean transportation, or both. The completed application shall be submitted in triplicate on EMS Form-480 (Application) and shall include a statement as to the usual marketings of the commodity in accordance with the applicable agreement and any other information required by the General Sales Manager.

(b) *Issuance of purchase authorization.* On approval of the application by the General Sales Manager, a purchase authorization will be issued to the participant. The forms used shall be EMS Form-480 (Commodity), Authorization to Purchase Agricultural Commodity and EMS Form-480 (Ocean Transportation), Authorization to Procure Ocean Transportation. Financing will be in accordance with the purchase authorization.

(c) *Provisions of purchase authorization.* Each purchase authorization will specify:

(i) *Authorization to purchase commodity.* (i) The commodity to be purchased and the approximate quantity and maximum dollar value;

(ii) Contracting requirements in addition to or in lieu of those enumerated in Appendix A of this subpart, if any;

(iii) The periods during which contracts between suppliers and importers must be entered into and during which deliveries must be made;

(iv) The terms of delivery to the importer;

(v) Documentation required in support of drafts presented to banks by suppliers in addition to or in lieu of the documentation specified in Appendix B of this subpart;

(vi) Provisions relating to payment to CCC, if applicable;

(vii) The ASCS Office which will administer the financing operation on behalf of CCC;

(viii) The method of financing;

(ix) Any limitation relating to financing by CCC in addition to or in lieu of those specified in the regulations in this subpart;

(x) Any other provisions deemed necessary by the General Sales Manager.

(2) *Authorization to procure ocean transportation.* (i) The commodity to be shipped;

(ii) The delivery period;

(iii) The maximum dollar amount for ocean transportation,

(iv) Any limitation relating to financing by CCC in addition to or in lieu of those specified in the regulations in this subpart;

(v) Any other provisions deemed necessary by the General Sales Manager.

(d) *Applicability of this subpart.* In addition to the provisions of the particular purchase authorization, each purchase authorization (unless otherwise provided) shall be subject to the provisions of this subpart to the same extent as if the provisions were fully set forth in the purchase authorization.

(e) *Modification or revocation.* The General Sales Manager reserves the right at any time for any reason or cause whatsoever to supplement, modify, or revoke any purchase authorization, including the termination of deliveries. CCC shall reimburse suppliers who would otherwise be entitled to be financed by CCC for costs which were incurred as a result of such action by the General Sales Manager in connection with firm sales or shipping contracts, and which were not otherwise recovered after a reasonable effort to minimize such costs: *Provided, however,* That such reimbursement shall not be made to a supplier if the General Sales Manager determines that his action was taken because the supplier failed to comply with the requirements of the regulations in this subpart or the applicable purchase authorization; *Provided further,* That reimbursement to suppliers of ocean transportation shall not exceed the ocean freight differential when the purchase authorization provides only for financing the differential.

(f) *Refund to CCC for failure to comply by the participant.* The participant shall pay in U.S. dollars promptly to CCC on demand by the General Sales Man-

ager the entire amount financed by CCC (or such lesser amount as the General Sales Manager may demand) whenever the General Sales Manager determines that the participant has failed to comply with any agreement or commitment made by it in connection with the transaction financed.

(g) *Extension of delivery periods in purchase authorizations.* Requests for extensions of delivery periods will be considered by the General Sales Manager only if submitted by the participant only if submitted by the participant. Such requests should be submitted as far as possible in advance of the expiration of the delivery period and in any event as soon as the participant has knowledge that delivery may not be completed within the period specified in the purchase authorization. Requests for extension must establish to the satisfaction of the General Sales Manager that failure to complete delivery was due to a cause other than the fault or negligence of the importer or the supplier. The General Sales Manager may also approve requests for extension if he determines that such extension would be in the interest of the United States.

(h) *Letters of conditional reimbursement.* The General Sales Manager, at his election, may issue to an importing country or a private trade entity, with which an Agricultural Commodities Agreement is being considered, a letter of agreement which authorizes it to apply for a purchase authorization under which it may obtain reimbursement for certain costs incurred by it in the procurement of the commodity and ocean freight before the signing of the agreement. Such reimbursement shall be conditioned on the signing of an Agricultural Commodities Agreement with the participant providing for the financing of such commodity and ocean freight and on the participant's complying with the terms and conditions set forth in the Agreement, the letter, and the purchase authorization.

[31 F.R. 16818, Dec. 31, 1966, as amended at 33 F.R. 5137, Mar. 29, 1968]

§ 17.4 Subauthorizations.

The participant may issue subauthorizations to importers within the terms of the applicable purchase authorization. The participant, in subauthorizing, shall instruct importers to use the applicable purchase authorization number in placing orders, and shall specify to importers

all the provisions of the applicable purchase authorization which are applicable to the subauthorization. Each importer granted a subauthorization must inform his supplier that the transaction is to be financed under the provisions of the regulations in this subpart. The importer must also provide his supplier with the applicable purchase authorization number. Copies of the purchase authorization may be obtained from the Export Marketing Service (see § 17.1(e)). The importer shall inform his supplier of any special provisions which affect the supplier in carrying out the transaction.

§ 17.5 Eligible commodities.

(a) *General.* Commodities eligible for financing under the regulations in this subpart shall be those determined by the Secretary to be available for disposition under the Act.

(b) *Commodity description and specification.* The commodity and quantity thereof to be financed shall be as described and specified in the purchase authorization.

(c) *Payment-in-kind and cash payment-export programs.* Any commodity exported under the regulations in this subpart to which a payment-in-kind or cash export subsidy is applicable under any export subsidy program will be eligible for such subsidy payment if the terms and conditions of such export subsidy program are met.

(d) *Export Wheat Marketing Certificate Program.* Any wheat exported under the regulations in this subpart is subject to any export wheat marketing certificate costs announced by USDA under the Export Wheat Marketing Certificate Regulations.

(e) *Cotton textiles.* (1) Except as provided in subparagraph (2) of this paragraph, financing of textiles under these regulations will be limited to cotton yarns and fabrics processed up to and including the dyed and printed stage, including preshrinking. If any further processing of such yarns and fabrics beyond such stage is desired, it shall be at the expense of the participant. Financing will be available only for textiles manufactured entirely of U.S. cotton in the United States.

(2) Purchase authorizations may permit cotton textiles processed beyond the stage described in subparagraph (1) of this paragraph to be procured from U.S. suppliers, but the maximum financing by

CCC under these regulations will be limited to the equivalent value of the cotton yarns and fabrics, described in subparagraph (1) of this paragraph, contained in such textiles plus eligible ocean transportation costs.

(3) If a purchase authorization for a textile of a specification not produced in the United States should be requested, a purchase authorization for such specification will not be issued and any purchase authorization issued shall provide instead for the financing of a textile produced in the United States which has a reasonably close specification to that requested.

[31 F.R. 16818, Dec. 31, 1966, as amended at 33 F.R. 5137, Mar. 29, 1968]

§ 17.6 Contracts between suppliers and importers.

(a) *Eligibility for financing.* To be eligible for financing, contracts shall comply with the following requirements unless otherwise specified in the purchase authorization.

(1) Contracts between importers and commodity suppliers must be entered into within the contracting period specified in the purchase authorization and shall provide for deliveries to the importer in accordance with the delivery terms and during the delivery period specified in the purchase authorization, unless an extension of such contracting or delivery period is granted in writing by the General Sales Manager (see § 17.3 (g));

(2) Contracts for a commodity, under a purchase authorization which limits contracting to f.o.b. or f.a.s. terms must be separate and apart from the contract for ocean transportation on such commodity;

(3) The contracted price must not be on a cost plus a percentage-of-cost basis;

(4) Contracts between suppliers and importers made subject to the applicable purchase authorization shall be deemed to be conditioned on the approval by EMS, of the supplier, the supplier's agent if any and the contract price.

(5) The supplier must be engaged in the business of selling for export, or furnishing ocean transportation, from the United States, must maintain a bona fide business office in the United States, and must have a person, principal or agent, on whom service of judicial process may be had in the United States. A

firm of which more than 50 percent is owned or which is controlled by a foreign government is not eligible to act as supplier.

(6) USDA reserves the right to permit a person or firm to act as a supplier only on submission of acceptable security which will assure that the supplier and his selling agents will perform the obligations required under this subpart and the purchase authorization. The officials responsible for approval of the suppliers are: (1) The Administrator, ASCS, for cotton and tobacco and (2) the General Sales Manager, EMS, for all other commodities. Such Administrators reserve the right at any time to require of any supplier relevant information as to the supplier and his selling agents including among other things information setting forth his background and experience in the exportation of agricultural commodities, evidence of financial responsibility, and such other information as may be requested relating to whether the person or firm is a responsible party and able to perform obligations imposed on him by this subpart and purchase authorization. The details of sales contracts between the suppliers and importers are required to be stated in the notification of sale pursuant to Appendix A or the purchase authorization, and will be subject to prior approval by USDA.

(b) *Invitation to bid.* (1) Importers may make purchases through negotiation with a supplier or suppliers of the importer's choice or on the basis of invitations (tenders) to submit competitive offers unless the General Sales Manager, specifies in the purchase authorization that purchases must be made on the basis of invitations to submit competitive offers. Such invitations shall not limit the right to submit offers to any specified group or class of suppliers but shall permit submission of offers by any supplier who meets the requirements of this section.

(2) An importer's request for offers pursuant to which an export sales contract will be entered into must not preclude such offers for shipment from any United States port(s). This requirement does not preclude the importer from accepting offers on the basis of shipment from port(s) which result in the lowest total landed cost of the commodity. The purchase authorization, however, may limit exportation to certain specified ports.

(c) *Minimum offers.* Request by importers for offers shall not establish minimum quantities that will be eligible for consideration. All offers regardless of size must be considered and evaluated.

(d) *Record of offers submitted by suppliers.* The participant shall maintain a record of all offers received from suppliers either as a result of public tenders or negotiation. The General Sales Manager reserves the right to examine these records or to request specific information in connection with the offers until the expiration of 3 years after final payment under contracts awarded pursuant to the purchase authorization.

(e) *Shipment before letter of credit.* If the supplier of the commodity permits shipment or the ocean carrier accepts the commodity before receipt of an acceptable letter of credit from a bank he takes such action at his own risk. This action in itself does not affect eligibility for CCC financing provided acceptable documentation is presented within the time limitations prescribed in the regulations in this subpart.

(f) *Export Trade Act (Webb-Pomerene Law).* A supplier who is a member of a Webb-Pomerene Association and who enters into contracts with importers as a member of such an association shall so indicate in a statement on, or attached to, the copy of the supplier's detailed invoice referred to in § 17.13 (c) (2).

(g) [Reserved]

(h) *Contract disputes.* Contracts between suppliers and importers should stipulate the responsibility of each party for payment of any costs not eligible for financing by CCC. Questions as to payment of ineligible costs should be resolved between the contracting parties.

(i) *Special contracting provisions.* The general provisions for contracting set forth in this section are supplemented by special contracting provisions in Appendix A applicable to individual commodities. Each purchase authorization, unless otherwise provided, shall be subject to the special provisions of Appendix A for the specific commodity named in the purchase authorization as though such special provisions were fully set forth in the purchase authorization. Each contract entered into for financing hereunder shall be deemed to include all terms and conditions required by the regulations in this subpart.

(j) *Prohibition against sales, trade, or commerce with North Vietnam.* (1) CCC

shall not finance the sale and export of agricultural commodities under this section for any supplier of commodities:

(i) Which is engaging in, or in the 6 months immediately preceding the application for such financing has engaged in, any sales, trade, or commerce with North Vietnam, or with any resident thereof, or

(ii) Which owns or controls any other legal entity which is engaging in, or in such 6-month period has engaged in, any such sales, trade, or commerce, or

(iii) Which is owned by or controlled by any other legal entity which is engaging in, or in such 6-month period has engaged in, any such sales, trade, or commerce, either directly or through any branch, subsidiary, affiliate, or associated company.

(2) A legal entity shall be deemed to own or control a second legal entity if—

(i) The legal entity owns an interest of 50 percent or more in the second legal entity,

(ii) The legal entity and one or more other legal entities, in which it owns an interest of 50 percent or more, together own an interest of 50 percent or more in the second legal entity, or

(iii) The legal entity owns an interest of 50 percent or more in another legal entity which in turn owns an interest of 50 percent or more in the second legal entity.

(3) In addition to the other requirements of the regulations covering contract approval, sales submitted by suppliers will not be approved unless the supplier has submitted a statement, maintained on a current basis in which are listed by name, address, and chief executive officers all legal entities, foreign and domestic, which the supplier owns or controls, and similar information for all legal entities which own or control the supplier and for all legal entities which are owned or controlled by any legal entity which owns or controls the supplier. The statement shall be submitted to the Director, Program Operations Division, EMS, U.S. Department of Agriculture, Washington, D.C. 20250, except that for tobacco sales it shall be submitted to the Director, Producer Associations Division, ASCS, U.S. Department of Agriculture, Washington, D.C. 20250, and for upland and extra long staple cotton sales to the Director, New Orleans ASCS Commodity Office, at the address provided in § 17.16. A statement filed by a subsidiary will be considered complete as to the legal entities which

it owns or controls and any other legal entities owned or controlled by the parent (including the chief executive officers for all such companies) if it certified thereon that such information has been furnished to USDA in a separate statement filed by the parent. A statement shall be considered to be maintained on a current basis if all changes are reported promptly after they have occurred and if changes in chief executive officers are reported at intervals of not less than 3 months on a calendar quarter basis. The term "chief executive officers" shall include:

(i) The president, or if no president, the Chairman of the Board of Directors, and

(ii) The vice president, but in cases of multiple vice presidents only the principal vice president, and then only if one is so designated, and

(iii) Any other person who is designated as or who acts in the capacity of a chief executive officer.

[31 F.R. 16818, Dec. 31, 1966, as amended at 33 F.R. 5137, Mar. 29, 1968; 34 F.R. 8963, June 5, 1969; 34 F.R. 12015, July 17, 1969]

§ 17.7 Commodity price provisions.

(a) *Maximum price.* The supplier's sales price must not exceed the prevailing range of export market prices as applied to the terms of sale at the time of sale, as determined by USDA, and when the purchase authorization provides for a maximum price, expressed in dollars and cents or computed on a stated basis, the supplier's sales price shall not exceed such maximum price. The "time of sale" unless otherwise defined for specific commodities in Appendix A, shall mean the day as of which the sale price is established in or pursuant to the contract between the importer and the supplier or the day of any amendment thereto if such amendment in any manner affects the sales price as determined by USDA. If USDA is unable to ascertain the prevailing range of export market prices for a specific commodity, USDA will determine a maximum export market price, representing the top of the range of export market prices, for the commodity at the time of sale for the time and place of delivery provided for in the contract. In so determining a maximum export market price, USDA will utilize, as needed, available domestic or export market information for the same or other quality descriptions, packagings, locations, and dates; will apply appro-

priate market differentials and such other factors as would be reflected in the export market price at the time of sale for the time and place of delivery; and will take into account CCC export sales prices when appropriate.

(b) *Prior approval of contract price.* Prior approval by USDA of the contracted price of the commodity is required as a condition of eligibility for financing unless otherwise provided in the purchase authorization. The detailed instructions for requesting and obtaining such prior price approval are set forth in Appendix A or will be stated in the purchase authorization.

(c) *Ineligible selling agents.* If at the time the supplier reports the sale for price approval, it is determined that an agent employed or engaged by the supplier to obtain a contract is not a selling agent as defined in § 17.2(c) (19) the sale will not be approved for financing.

(d) *Refund of excess price.* If the sale has been financed and the sales price is determined to exceed the maximum price permissible under this section, the supplier shall refund the amount of such excess in accordance with § 17.12 (d).

[31 F.R. 16818, Dec. 31, 1966, as amended at 32 F.R. 5977, Apr. 14, 1967]

§ 17.8 Fees, discounts, commissions, brand names.

(a) *Consular fees.* Consular fees imposed for the issuance or legalization of consular invoices or certificates in connection with the importation of commodities into a foreign country will not be financed by CCC.

(b) *Discounts.* If a contract provides for one or more discounts (including but not limited to trade or quantity discounts and discounts for prompt payment) whether expressed as such or as "commissions" to the importer, only the invoice amount after discount (supplier's contracted price less all discounts) will be eligible for financing.

(c) *Commissions.* (1) A commission to a selling agent as defined in § 17.2(c) (19) employed or engaged by the supplier to obtain a contract, except as stated in this paragraph, will be financed to the extent that such commission is included in the contract price.

(2) If the supplier of the commodity or ocean transportation has employed any person or firm, other than a selling agent, to obtain a contract, any commis-

sion paid to such person or firm will not be eligible for financing.

(3) No commission paid or to be paid to any agency, including a corporation, owned or controlled by the participant or the government of the destination country will be eligible for financing.

(4) No commission paid or to be paid to any agent, broker or other representatives of the participant or the importer will be eligible for financing. This limitation is not applicable to ocean transportation brokerage commissions which do not exceed 2½ percent of the freight financed.

(5) For ocean transportation, in addition to this paragraph, see also § 17.9(1) (8).

(6) If a commission is paid in violation of subparagraph (2), (3), or (4) of this paragraph, CCC reserves the right to demand dollar refund of the entire amount financed by CCC under the contract.

(d) *Brand names.* Brand names are not required to be shown on packaged commodities. If, however, a brand name is used, it must be a bona fide U.S. brand. The container or attached label must show the name and U.S. business address of the supplier or the manufacturer. Any reference on the container or attached label to foreign addresses of suppliers or foreign brand names is prohibited and will make the sale ineligible for financing. If the markings on the shipping container include a brand name such brand name shall be identical with the brand name on the unit container.

[31 F.R. 16818, Dec. 31, 1966, as amended at 32 F.R. 5977, Apr. 14, 1967]

§ 17.9 Ocean transportation.

(a) *General.* (1) This section will apply to the financing of ocean freight differential for sales for foreign currencies and to the financing of ocean freight for long-term credit sales. Ocean freight will be financed by CCC only to the extent specifically provided for in the purchase authorization. The purchase authorization may provide requirements in addition to or in lieu of those specified in this section.

(2) The offices specified in paragraph (b) of this section shall determine the quantity of the commodity which must be shipped on privately owned U.S.-flag commercial vessels.

(3) The supplier of ocean transportation shall release copies of the ocean bills of lading to the supplier of the com-

modity promptly upon completion of loading of the vessel.

(b) *Request for vessel approval.* The pertinent terms of all proposed charters (whether single voyage charters, consecutive voyage charters, or time charters) and all proposed liner bookings, regardless of whether any portion of ocean freight is financed by CCC must be submitted to the appropriate USDA office for review and approval before fixture of the vessel. Tentative advance vessel approvals may be obtained by telephone or telegram provided Form CCC-105, Ocean Shipment Data—Public Law 480 (Request for Vessel Approval), is furnished promptly confirming the information supplied by telephone or telegram. To obtain approval of proposed vessel charters and liner bookings the Form CCC-105 shall be submitted in duplicate to the office indicated:

(1) *For cotton.* Form CCC-105 (Cotton), Ocean Shipment Data—Public Law 480 Request for Vessel Approval, shall be submitted to the Director, ASCS Commodity Office, U.S. Department of Agriculture, Wirth Building, 120 Marais Street, New Orleans, La. 70112.

(2) *For commodities other than cotton.* Form CCC-105, Ocean Shipment Data—Public Law 480 Request for Vessel Approval shall be submitted to the Director, Ocean Transportation Division, Export Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

(c) *Advice of vessel approval.* Approvals of charters and liner bookings will be given on Form CCC-106, Advice of Vessel Approval. The Form CCC-106 will state whether the vessel is approved as a dry cargo liner, dry bulk carrier, or tanker, and whether or not financing by CCC of any part of the ocean freight is authorized. Form CCC-106, Advice of Vessel Approval, will be issued as follows:

(1) *For cotton.* Form CCC-106-3 (white), signed for the Director, New Orleans ASCS Commodity Office, will be issued only to the supplier of the cotton on sales made on a c.i.f. or cost and freight basis. If CCC finances any part of the ocean freight when cotton is shipped on an f.a.s. basis, two signed original copies of this form will be issued, one to the supplier of the cotton and the other to the ocean carrier.

(2) *For commodities other than cotton.* Form CCC-106, signed for the Di-

rector, Ocean Transportation Division, EMS, will be issued as follows:

(1) For shipments to be made on an f.o.b. or f.a.s. basis, the original of Form CCC-106-1 (yellow) will be issued to the supplier of the commodity and when CCC finances any part of the cost of ocean freight, the original of Form CCC-106-2 (blue) will be issued to the ocean carrier.

(ii) For shipments to be made on a c.i.f. or cost and freight basis, the original of Form CCC-106-1 (yellow) will be issued to the supplier of the commodity.

(d) *Special charter party provisions required when any part of ocean freight is financed by CCC.* When CCC finances any part of the ocean freight for commodities booked on charter terms, a copy of the charter party shall be forwarded immediately after its execution to the Director, Ocean Transportation Division, EMS, for review and approval prior to issuance of Form CCC-106-2. In the event of any conflict between the provisions of the regulations in this subpart and the charter party or ocean bills of lading issued pursuant thereto, the provisions of the regulations in this subpart shall prevail. The charter party shall contain or, for the purpose of financing pursuant to the regulations in this subpart, be deemed to contain the following provisions:

(1) That if there is any failure on the part of the supplier of ocean transportation to perform the charter party after the vessel has tendered at the loading port, the charterer shall be entitled to incur all expenses which in the judgment of the General Sales Manager are required to enable the vessel to undertake and carry out her obligations under the charter party including, but not limited to, expenses for lifting any liens asserted against the vessel.

(2) That, notwithstanding any prior assignments of freight made by the owner or operator, the expenses authorized in subparagraph (1) of this paragraph may be deducted from the freight earned under the charter party.

(3) That ocean freight is earned and that 90 percent thereof is payable by the charterers when the vessel and cargo arrive at the first port of discharge, subject to subparagraph (4) of this paragraph, and to the further condition that if a force majeure as described in paragraph (k) (7) of this section results in the loss of part of the vessel's cargo, 90 percent of the ocean freight is payable

on the part so lost as well as the quantity which arrives when the vessel arrives at the first port of discharge. This provision does not relieve the carrier of the obligation to carry to other points of discharge if so required by the charter party. The final 10 percent on the cargo which arrives shall be settled promptly, subject to adjustments, if any, after submission of loading and discharging laytime statements and statement(s) of fact. The remaining 10 percent on the cargo lost shall not be due or payable.

(4) That if a force majeure as described in paragraph (k) (7) of this section prevents the vessel's arrival at the first port of discharge, not to exceed 90 percent of the freight shall be payable by the charterer at the time the General Sales Manager determines that such force majeure was the cause of nonarrival. Any despatch earned at loading port will be deducted pro rata from amounts reimbursed by CCC as provided in § 17.9(1). The remaining 10 percent of freight shall not be due or payable.

(5) That laydays are reversible.

(6) That in a dispute involving any rights and obligations of CCC, including rights and obligations as successor or assignee, which cannot be settled by agreement, the dispute shall not be subject to arbitration.

(e) *Special charter party information required when any part of ocean freight is financed by CCC.* When CCC finances any part of the ocean freight for commodities booked on charter terms, the charter party shall contain the following information:

(1) The name of each party participating in the ocean freight brokerage commission, if any, and the percentage thereof payable to each party;

(2) The name of the vessel and the name of the substitute vessel, if any.

(f) *Notice of arrival.* Each Form CCC-106-2 will indicate whether a notice of arrival is required. A notice of arrival, when required, must be furnished promptly by the participant or its designated agent or other source acceptable to CCC (excluding the carrier or his agent) and must include the name of the vessel, the purchase authorization number, the first port of discharge, and the date of arrival. The notice of arrival of the vessel also constitutes prima facie evidence of arrival of the cargo.

(g) *Foreign-flag vessels.* CCC will not finance any part of the ocean freight on foreign-flag vessel(s), either as a

part of the commodity contract price or separately.

(h) *U.S.-flag vessels.* When a commodity is required to be shipped on privately owned U.S.-flag commercial vessel, Form CCC-106 will set forth: (1) The rate of the ocean freight differential, if any, which the Director, Ocean Transportation Division, EMS (or Director, New Orleans ASCS Commodity Office, for cotton), determines to exist between the prevailing foreign-flag vessel rate and the U.S.-flag vessel rate; and (2) the approximate tonnage for which CCC will authorize reimbursement of ocean freight or ocean freight differential, as appropriate.

(i) *Items not eligible for CCC financing.* The following costs will not be financed either separately or as part of the commodity contract price:

(1) Loading, trimming, and other related shipping expenses unless included in the ocean freight rate;

(2) Discharge costs except when in accordance with trade custom;

(3) The cost of "dead freight";

(4) Cargo dues and taxes assessed by the country of import;

(5) Surcharges assessed by steamship conferences or carriers, unless specifically authorized by the Director, Ocean Transportation Division, EMS.

(6) General average contributions;

(7) Stevedoring overtime and vessel crew overtime;

(8) Address commissions, brokerage commissions in excess of 2½ percent of the freight financed and ship's disbursements

(j) *General financing provisions.* When any part of ocean freight will be financed either separately or as part of the commodity contract price, the following shall apply:

(1) Charters and liner booking contracts must show the ocean freight rate from one loading port to one discharge port. A charter or liner booking contract may provide for an increase in rate for an additional port of loading or discharge, any alternate route or other option; CCC, however, will finance initially the lowest such rate or ocean freight differential, as appropriate. Increased amounts (if any) due because of the exercise of such option will be financed only after receipt of evidence that an option was exercised. Such increased financing shall apply to the ocean freight differential for shipments involving sales for foreign currencies, and to the full

rate on long-term credit sales. If an option is exercised conclusively before the issuance of an ocean bill of lading, as shown thereon, CCC will finance the ocean freight or ocean freight differential, as appropriate, applicable to the option so exercised without further evidence that the option was exercised.

(2) When transshipment from a U.S.-flag vessel to a foreign-flag vessel occurs, CCC will finance the ocean freight or ocean freight differential, as appropriate, only to the point of transshipment, at a rate determined by the General Sales Manager, and no part of the ocean freight beyond the point of transshipment will be financed by CCC unless specifically approved by the General Sales Manager. If the commodity was transported from a U.S. port and was transhipped at another U.S. port, CCC will not finance, without prior approval of the General Sales Manager, any part of the ocean freight incurred before transshipment.

(3) The ocean freight rate eligible for CCC financing and the rate used for the U.S.-flag vessel in calculating ocean freight differential shall not exceed the following rates for the category of the vessel concerned:

(i) For commodities covered by published tariff rates—the published conference contract rate;

(ii) For other commodities (bulk commodities and other commodities for which no tariff rates are currently effective, whether carried on liners, dry bulk carriers, or tankers)—the market rate prevailing at the time of request for approval as determined by the Director, Ocean Transportation Division, EMS (or for cotton by the Director, New Orleans ASCS Commodity Office), but in any event not in excess of rates charged other shippers (irrespective of booking dates) for like commodities on the voyage concerned.

(4) Reimbursement will be made for ocean freight or ocean freight differential as appropriate, from loading points to discharge points at rates approved by the Director, Ocean Transportation Division, EMS (or for cotton, by the Director, New Orleans ASCS Commodity Office), on Form CCC-106 in conformity with the preceding subparagraph (3).

(5) Freight shall not be eligible for financing unless the vessel complies with the provisions of P.L. 87-266. The bank is required to obtain a certification from the carrier that the provision has been

compiled with but is not responsible for the truth or accuracy of the certification.

(6) For cost and freight, c.i.f., and f.a.s. sales of cotton when the financing of ocean freight differential is authorized on Form CCC-106-3 and such differential is not financed by a banking institution under a letter of credit the supplier may obtain payment for the differential on application to the New Orleans ASCS Commodity Office.

(k) *Initial reimbursement for ocean freight or ocean freight differential separately financed.* (1) When the Form CCC-106 states that a notice of arrival is not required and the carrier's invoice includes a certification that the contract does not provide for despatch earnings, reimbursement will be made for 100 percent of the ocean freight or ocean freight differential, as appropriate, on presentation of required documents.

(2) When the Form CCC-106 indicates that a notice of arrival is required and the carrier's invoice includes a certification that the contract does not provide for despatch earnings, reimbursement for advances up to 90 percent of the ocean freight or ocean freight differential, as appropriate, may be obtained before arrival at the first port of discharge if the supplier furnishes CCC financial coverage in the form of an acceptable letter of credit from a U.S. bank.

(3) When the Form CCC-106 indicates that a notice of arrival is not required and the carrier's contract provides for despatch earnings, reimbursement for 90 percent of the ocean freight or ocean freight differential, as appropriate, will be made on presentation of required documents.

(4) When the Form CCC-106 indicates that a notice of arrival is required and the charter party provides for despatch earnings, reimbursement for advances made to the supplier of ocean transportation up to 90 percent of ocean freight or ocean freight differential, as appropriate, may be obtained prior to arrival at the first port of discharge if the supplier furnishes CCC financial coverage in the form of an acceptable letter of credit from a U.S. bank.

(5) The amount of financial coverage required by CCC under subparagraphs (2) and (4) of this paragraph may be computed as follows:

(i) If a copy of an ocean bill of lading is not furnished CCC, 100 percent of the ocean freight or ocean freight differential, as appropriate, on the basis of the

tonnage stated in the charter party (without tolerance) times the ocean freight rate or ocean freight differential rate, as appropriate, shown on the related Form CCC-106;

(ii) If a copy of an ocean bill of lading is furnished CCC, 90 percent of the ocean freight or ocean freight differential, as appropriate, on the basis of the tonnage shown on the related ocean bill of lading times the approved ocean freight rate or ocean freight differential rate, as appropriate, shown on the related Form CCC-106.

(6) On receipt of an acceptable letter of credit, the Controller will issue a waiver of the notice of arrival which is required under § 17.13(d) (2) for initial reimbursement of 90 percent of the ocean freight or ocean freight differential, as appropriate.

(7) The General Sales Manager will waive the requirement for the notice of arrival required by Form CCC-106-2 by a written notice to the supplier of ocean transportation on the receipt of evidence satisfactory to the General Sales Manager that the vessel is lost or unable to proceed to destination after completion of loading as a result of one or more of the following causes: Damage caused by perils of the sea or other waters; collisions; wrecks; stranding without the fault of the carrier; jettison; fire from any cause; Act of God; public enemies or pirates; arrest or restraint of princes, rulers, or peoples without the fault of the supplier of ocean transportation; wars; public disorders; captures; or detention by public authority in the interest of public safety. Such waiver may be substituted for the notice of arrival and in such cases reimbursement will be made for 90 percent of the ocean freight or ocean freight differential, as appropriate, or if the General Sales Manager determines that less than 90 percent of the ocean freight is payable to the carrier, reimbursement will be made for a corresponding percentage of the ocean freight or ocean freight differential, as appropriate, as provided in subparagraph (8) of this paragraph.

(8) When the General Sales Manager determines that a force majeure has occurred, as specified in the subparagraph (7) of this paragraph, the following shall apply:

(i) For shipments under long-term credit sales, not to exceed 90 percent of the ocean freight shall be eligible for reimbursement by CCC. Despatch shall

be deducted in determining amounts to be reimbursed by CCC. The 10 percent balance of ocean freight shall not be eligible for financing.

(ii) For shipments under sales for foreign currencies, not to exceed 90 percent of the ocean freight differential shall be eligible for reimbursement by CCC. A pro rata portion of despatch will be deducted in determining amount to be reimbursed by CCC. The 10 percent balance of the ocean freight differential shall not be eligible for financing.

(9) The determination of a force majeure by the General Sales Manager shall not relieve the participant from its obligation under the Agricultural Commodities Agreement to pay CCC, when due, the dollar amount of ocean freight, plus interest (exclusive of ocean freight differential), financed by CCC pursuant to subparagraph (8) (i) of this paragraph.

(1) *Demurrage/Despatch.* Despatch may be credited first against demurrage, if any, incurred in connection with the same voyage. Any remaining despatch may be credited against elevator or terminal overtime (excluding stevedoring and vessel crew overtime) at loading port. Demurrage or elevator or terminal overtime in excess of despatch earnings for the same voyage will not be financed by CCC. Any balance of despatch shall be divided in proportion to the freight financed respectively by the participant and CCC. CCC's portion thereof shall be deducted from the amount of the final request for reimbursement.

(m) *Reimbursement for balance of ocean freight or ocean freight differential.* When the charter party or liner booking contract provides for despatch earnings or when Form CCC-106 indicates that a notice of arrival is required and subsequent to the reimbursement of 90 percent of the dollar cost of the ocean freight or ocean freight differential, as appropriate, it is established that a part or all of the final 10 percent is eligible for reimbursement, the supplier of ocean freight is entitled to prompt payment by the participant of that portion of the final 10 percent which is not in dispute. On request of such supplier, the participant must arrange for the prompt submission of the notice of arrival, and when the charter party or liner booking provides for despatch earnings, for signed loading and discharging laytime statements and statements of fact unless

waived by the Controller. The participant must also make prompt payment of the undisputed balance due.

(n) *Eligibility of ocean freight contracts for financing.* USDA will not approve ocean freight contracts if the supplier of ocean transportation is also the supplier of the commodity or is an affiliate of such supplier of the commodity, unless the supplier of ocean transportation (1) is the owner of the vessel named in the Form CCC-106 or (2) is the operator of such vessel by time charter or bareboat charter and the ocean freight rate used in determining the amount of ocean freight or ocean freight differential, as appropriate, for which reimbursement is claimed is not in excess of the contract rate under such charter.

(o) *Ocean freight included in the commodity contract price.* (1) For cost and freight or c.i.f. contracts the ocean freight, or the ocean freight differential, as appropriate, will be financed only to the extent specifically provided in the applicable purchase authorization.

(2) For cost and freight or c.i.f. contracts when the Form CCC-106 provides that CCC will not finance ocean freight or ocean freight differential, as appropriate, the supplier's detailed invoice covering the commodity shall show a deduction for the full cost of ocean freight.

[31 F.R. 16818, Dec. 31, 1966; 32 F.R. 921, Jan. 26, 1967; 32 F.R. 3935, Mar. 10, 1967, as amended at 32 F.R. 5977, Apr. 14, 1967; 33 F.R. 5137, Mar. 29, 1968]

§ 17.10 Letter of commitment method of financing.

(a) *General.* (1) The banking institution to which a letter of commitment is issued by the Controller will be designated by the participant, and must be acceptable to CCC. The letter of commitment will assure reimbursement to the banking institution in accordance with the terms of such letter of commitment, not in excess of the amount specified in the letter of commitment, for payments made or drafts accepted under letters of credit for the account of the approved applicant.

(2) Each letter of commitment will name the Federal Reserve Bank to which drafts shall be presented by the banking institution to obtain reimbursement of amounts paid under the letters of credit and will name the ASCS Office which will administer the financing operations under the letter of commitment on behalf of CCC.

(b) *Application*—(1) *Original application*. The participant shall apply for a letter of commitment by submitting the signed original of the Application for Letter of Commitment or Amendment, Form CCC-327, to the Controller. This form will designate the banking institution to receive the letter of commitment, will identify the approved applicant, and will show the maximum amount to be financed under the letter of commitment.

(2) *Amendment*. The participant shall submit the signed original of Form CCC-327 to the Controller to request a change in a letter of commitment, except for reduction in amount which may be made by the banking institution in accordance with paragraph (f) of this section.

(c) *Issuance*. On approval of the application for a letter of commitment, the Controller will issue the original and one copy of Form CCC-328, Letter of Commitment, to the designated banking institution. On approval of an application for an amendment of a letter of commitment, the Controller will issue the original and one copy of Form CCC-328-1, Amendment to Letter of Commitment, to the designated banking institution.

(d) *Acceptance by banking institution*. Each letter of commitment and any amendment issued in accordance with paragraph (c) of this section, except an amendment which increases the amount of the letter of commitment, shall be accepted or rejected by the banking institution. The banking institution shall promptly return to CCC the copy of Form CCC-328 or Form CCC-328-1, indicating acceptance or rejection.

(e) *Advice to participant*. The Controller will send to the appropriate office of the participant a copy of each letter of commitment or amendment accepted by the banking institution, including any amendment increasing the amount of a letter of commitment.

(f) *Reduction by banking institution*. The amount of a letter of commitment may be reduced by a banking institution, when so requested by the participant, by issuing a Notice of Reduction of Letter of Commitment, Form CCC 328-2. Instructions to the banking institution for the preparation and distribution of this form are contained on the form. The request of the participant to the banking institution may be made by letter or telegram or other method acceptable to the banking institution.

(g) *Successors*. The letter of commitment shall inure to the benefit of the banking institution's legal successors and assigns.

(h) *Issuance of letters of credit*. In issuing, confirming, or advising a letter of credit pursuant to a letter of commitment, the banking institution shall observe the following:

(1) *General*. The application or request for, and any agreement relating to, any letter of credit issued, confirmed, or advised in connection with a letter of commitment to a banking institution, may contain such provisions as the approved applicant and the banking institution may agree on, and the approved applicant and the banking institution may agree to any extension of the life of, or any other modification of, or variation from, the provisions of any such letter of credit: *Provided*, That such provisions and any such extension, modification or variance shall be in no respect inconsistent with or contrary to the provisions of the letter of commitment; in the event of any such inconsistency or conflict, the provisions of the letter of commitment shall prevail with respect to CCC financing: *And provided further*, That when a letter of credit provides for acceptance of time drafts, such letter of credit (or application therefor) shall specify that the discount and acceptance fees shall be for the account of the importer. Every application for a letter of credit shall provide or shall be deemed to provide for submission to the banking institution of the documentation required by this regulation and by the purchase authorization.

(2) *Identification*. Each letter of credit, modification, or extension shall contain the number of the applicable purchase authorization and, if possible, of the letter of commitment.

(3) *Commodity description*. The commodity description in a letter of credit and the supplier's detailed invoice must correspond with the description as shown on page one of the purchase authorization. In making payment or accepting a time draft under a letter of credit, the banking institution shall, on the basis of the information contained in the required documents, act in accordance with good commercial practice.

(4) *Time drafts*. Immediately after acceptance of a time draft, the banking institution shall forward the documents required by § 17.13, to the ASCS Office named in the letter of commitment.

Each draft drawn by the banking institution on CCC under a letter of commitment shall be presented to the Federal Reserve Bank and shall be supported by Form CCC-339, "Advice of Receipt of Documents," if such documents were submitted to CCC before presentation of the draft.

(5) *Deferred opening of letter of credit.* CCC may refuse to finance a transaction under any arrangement to delay opening of a letter of credit; but in any event interest or carrying charges incurred as a result of a delay in opening a letter of credit shall not be eligible for CCC financing. The banking institution will nevertheless be reimbursed for payments made under such letters of credit.

(6) *Delay in presenting documents.* No transaction wherein a letter of credit provides for deferred presentation of documentation required by CCC shall be eligible for financing.

(1) *Availability of information to CCC.* The banking institution shall make available to CCC, upon request, a copy of each letter of credit issued, confirmed, or advised by it, and of any extension or modification thereof; a copy of each application and agreement relating to such letter of credit; a copy of each document in its possession received by it under the letter of credit; and detailed advice of the interest, commissions, expenses, or other items charged by it in connection with each such letter of credit.

(j) *Acceptability of documents.* Acceptance by the banking institution of any document in the ordinary course of business in good faith as being genuine and valid and sufficient in the premises, and the delivery thereof to the Federal Reserve Bank or the ASCS Office as required, shall constitute full compliance by the banking institution with any provisions of this subpart, the purchase authorization, or the letter of commitment requiring delivery of a document of the sort that the document actually delivered purports to be. The banking institution shall be entitled to receive and retain reimbursement of the amount of all payments made or acceptances by it against documents so accepted, notwithstanding that such payments or acceptances may be made in connection with a sale at a price in excess of the maximum specified in § 17.7 except to the extent provided in § 17.15(b) (7).

(k) *Truth or accuracy of supplier's statements.* The banking institution shall

have no responsibility for the truth or accuracy of the statements contained in the Form CCC-329 "Supplier's Certificate." The rights of the banking institution under the letter of commitment will not be affected by the fact that such Form CCC-329 may be incomplete, or may indicate noncompliance with any provision of these regulations, or of the purchase authorization or of the letter of commitment, or may be inconsistent with other required documents.

(1) *Notice of supplement, modification, or revocation.* A supplement, modification, or revocation of any purchase authorization or letter of commitment shall become effective as to a banking institution on the receipt by it from the Controller of a written notice of such supplement, modification, or revocation, except that such supplement, modification, or revocation shall in no event affect or impair the right of the banking institution to obtain reimbursement to the extent of any payments made or drafts accepted or irrevocable obligations incurred in reliance on the letter of commitment before receipt of such notice, under a letter of credit issued, confirmed or advised by the banking institution, and for which the banking institution has not been repaid by the approved applicant. The banking institution, however, is under no obligation to obtain such repayment. The term "purchase authorization" as used in a letter of commitment shall be deemed to include each such supplement or modification from and after receipt by the banking institution from the Controller of written notice thereof, subject always, however, to the foregoing terms and provisions preserving the banking institution's right of reimbursement.

(m) *Compliance with changes in purchase authorizations.* If the General Sales Manager revokes a purchase authorization or supplement, or modifies its requirements with regard to the disposition of any document(s), and the Controller gives the banking institution written notice thereof, the banking institution shall in all respects comply with the instruction of the Controller to the extent it may do so without impairing or affecting any irrevocable obligation or liability theretofore incurred by it under any letter of credit issued or confirmed by it. The banking institution shall be reimbursed by CCC for the costs, expenses, and liabilities paid or incurred by it as a

result of compliance with such instruction. Such reimbursement shall be made by CCC on application filed with the ASCS Office named in the letter of commitment and supported by an itemized statement of the costs, expenses, and liabilities certified to by an officer of the banking institution. The banking institution shall have no obligation whatsoever to the approved applicant for anything done or omitted to be done by it pursuant to such instruction of the Controller.

(n) *Payments in anticipation of letter of commitment.* Payments made or time drafts accepted by a banking institution in anticipation of a letter of commitment, and falling within the scope of payments authorized by such letter of commitment when issued, will be deemed to be payments to be reimbursed thereunder.

(o) *Deposit of foreign currency.* When the deposit of local currency is required by the terms of the purchase authorization, the importing country shall provide, as hereinafter stated, for the deposit of its local currency in an amount equivalent to the dollars disbursed by the banking institutions or by CCC except that local currency shall not be deposited for the amount of ocean freight differential stated on Form CCC-106 for the tonnage involved in the shipment. Each deposit shall be at the rate of exchange for U.S. dollars provided in the applicable Agricultural Commodities Agreement. Documentation for each such deposit shall be furnished in duplicate to the U.S. Ambassador's designee, and shall show the number of the purchase authorization, the date and amount of the dollar disbursement, the exchange rate applicable to the deposit, and the amount of local currency deposited. The times and circumstances under which a deposit shall be effected are as follows:

(1) When a time draft is accepted under a letter of credit, deposit shall be made on the date of maturity of each such draft or on an earlier date on which CCC disburses the amount of the draft to the banking institution.

(2) For any other payment under a letter of credit, deposit shall be made immediately after receipt by the approved applicant of documentation showing the amount of dollar disbursement to the supplier by the banking institution under such a letter of credit. Receipt of such documentation by banks in the importing country or other agents designated for this purpose by the approved applicant

shall be deemed to be receipt by the approved applicant.

(p) *Final date for submission of drafts.* A draft drawn by a banking institution on CCC shall be supported by documents required for reimbursement. Such draft shall be presented not later than 210 days after the expiration of the delivery period specified in the applicable purchase authorization or any extension of such 210-day period granted by the Administrator, except that the draft may be presented subsequent to that date if accompanied by a statement by the banking institution that the documents were received within the 210-day period and that payment to the supplier was made in due course.

[31 F.R. 16818, Dec. 31, 1966, as amended at 32 F.R. 5977, Apr. 14, 1967; 33 F.R. 5137, Mar. 29, 1968]

§ 17.11 Reimbursement method of financing.

(a) *Contracted price of commodity.* When a purchase authorization provides for the reimbursement method of financing, CCC will reimburse the participant or assignee for dollar payments to suppliers on submission of the documents required by § 17.13(c). Letters of commitment will not be issued under reimbursement type purchase authorizations.

(b) *Ocean transportation.* Purchase authorizations which authorize financing of ocean freight separately from the commodity cost shall authorize financing of ocean freight by the reimbursement method. CCC will reimburse the participant or assignee for dollar payments to suppliers of ocean freight on submission of the documents required by § 17.13(d). Letters of commitment will not be issued for ocean transportation purchase authorizations.

(c) *Assignment.* (1) The right to receive reimbursement under a reimbursement type purchase authorization may be assigned by the participant to any bank, trust company or other financing institution in the United States by sending a completed Instrument of Assignment, Form CCC-335, in an original and one copy, to the assignee.

(2) If the assignee accepts the assignment, the original and two copies of the Notice of Assignment, Form CCC-334, should be prepared by the assignee and together with one copy of the signed Instrument of Assignment, Form CCC-335,

filed with the Controller. The copy of the signed Instrument of Assignment submitted with the Notice of Assignment must contain all of the signatures, seals, acknowledgements, etc., which appear on the original. The Controller will acknowledge receipt of the assignment.

(d) *Limitation on assignment.* The assignment may be made only to a bank, trust company, or other financing institution in the United States. The assignment shall cover all amounts payable under the purchase authorization and not already paid, shall not be made to more than one party, and shall not be subject to further assignment, except that any such assignment may be made to one party as agent or trustee for two or more parties participating in the financing. Unless otherwise provided by the purchase authorization, the right of any such assignee to obtain reimbursement shall not be contingent on the deposit of currency by the importing country.

(e) *Protection of assignee.* A supplement, modification, or revocation of a reimbursement type purchase authorization shall become effective as to the assignee on receipt by the assignee from the Controller of written notice of such supplement, modification, or revocation except that such supplement, modification, or revocation shall in no event affect or impair the right to obtain reimbursement to the extent of any payments made in reliance on the assignment by such assignee before receipt of such notice, or any irrevocable obligations incurred before receipt of such notice under a letter of credit issued or confirmed by such assignee in reliance on such assignment, for which the assignee has not been repaid by the participant (there shall be no obligation on the assignee's part to obtain such repayment). The term "purchase authorization", as used in any assignment of the right to receive reimbursement under a reimbursement type purchase authorization shall be deemed to include each such supplement or modification from and after receipt by the assignee from the Controller of written notice of the same, subject always, however, to the foregoing provisions preserving rights of reimbursement on behalf of the assignee.

(f) *Requests for reimbursement.* All requests for reimbursement, supported by the required documentation, shall be submitted to the ASCS Office named in the reimbursement type purchase au-

thorization or to the bank, trust company, or other financing institution in the United States holding an assignment acknowledged by CCC, not later than 210 days after expiration of the delivery period specified in such purchase authorization or any extension of such 210-day period granted by the General Sales Manager. When the request for reimbursement is submitted by a bank to CCC, a statement by the bank that the documents had been received within the 210-day period, and that payment to the supplier was authorized within such 210-day period, shall satisfy the requirements of this paragraph even though submission to CCC is made subsequent to the 210-day period.

(g) *Setoff of overpayments.* Amounts improperly paid to any assignee by CCC may be set off against amounts due the assignee under the same reimbursement type purchase authorization. Such overpayments may also be set off against amounts due the same assignee under other reimbursement type purchase authorizations issued to the same participant, provided such assignee is notified of the amount to be set off at the time receipt of the assignment is acknowledged by CCC.

(h) *Deposit of foreign currency.* When the deposit of foreign currency is required by the terms of the purchase authorization, the importing country shall provide, as hereinafter stated, for the deposit of foreign currency equivalent to dollars disbursed by CCC, except that foreign currency shall not be deposited for the amount of ocean freight differential. Deposits shall be at the rate of exchange for U.S. dollars provided in the applicable Agricultural Commodities Agreement. Documentation for each such deposit shall be furnished to the U.S. Ambassador's designee in the importing country and shall show the number of the purchase authorization, the date and amount of the related dollar disbursement, the exchange rate applicable to the deposit, and the amount of foreign currency deposited. Deposit shall be made immediately after receipt by the importing country or its designee of documentation showing the date and net amount of dollar reimbursement (after deduction of ocean freight differential, if any) by CCC to the importing country, or to its assignee if the right to receive reimbursement under the purchase authorization has been assigned.

(i) *Special provisions.* Requirements for special documentation, and other provisions not otherwise specified in the regulations in this subpart for reimbursement type purchase authorizations will be set forth in the purchase authorizations.

§ 17.12 Adjustment refunds and insurance.

(a) *Adjustment refunds.* All claims by importers for adjustment refunds arising out of terms of the contract or out of the normal customs of the trade, including arbitration and appeal awards, allowances, and claims for over payment of ocean transportation, if such refunds relate to amounts financed by CCC, shall be settled by payment in U.S. dollars and such payment shall be remitted by the supplier to the CCC except refunds on cotton contracts. Such refunds on cotton contracts shall be made as provided in Appendix A. The remittance shall be identified with the date and amount of the original payment, the commercial letter of credit number, and the applicable purchase authorization number.

(b) *Insurance on c.i.f. sales for account of importer.* The provisions of this paragraph (b) apply only to transactions under purchase authorizations that specifically authorize c.i.f. sales in which the cost of insurance is included in the net c.i.f. invoice price of the commodity financed. When the supplier furnishes insurance in favor of or for the account of the importer, the policies of certificates of insurance shall include a loss payable clause which provides that all claims shall be paid in U.S. dollars to the Controller except for insurance claims on cotton which shall be paid as provided in Appendix A. Such payments shall be accompanied by advice of the purchase authorization number, the names and addresses of the supplier and importer, the nature of the claim, the quantity of the commodity involved in the claim, the date of shipment, the bill of lading number, and the name of the vessel. CCC will credit the account of the participant or will refund local currency in accordance with paragraph (e) of this section.

(c) *Violation of Agricultural Commodities Agreements.* Whenever the General Sales Manager determines that the participant has failed to comply with any agreement or commitment made by it in connection with the Agricultural

Commodities Agreement between the United States and the participant pursuant to which the importation took place, the participant shall pay in U.S. dollars to CCC promptly on demand by the General Sales Manager the entire amount financed by CCC or such lesser amount as the General Sales Manager shall demand.

(d) *Refund of ineligible amounts.* If a sale has been financed and CCC determines that the sales price exceeds the maximum price permissible under § 17.7 or that the sale is otherwise in whole or in part, ineligible for financing, the supplier shall refund in dollars such ineligible amount to CCC promptly on demand. If not promptly refunded, such amount may be set off by CCC against monies it owes to the supplier. The making of any such refund to CCC, or any such setoff by CCC shall not prejudice the right of the supplier to challenge such determination in a court action brought against CCC for recovery of the amount refunded or set off.

(e) *Refund of local currency or reduction of amount due.* Immediately after receipt by CCC of U.S. dollar payment from suppliers or from or for the account of the participant under this section, CCC will provide for payment to the importing country of the local currency equivalent of dollars received, if such local currency has been deposited for the particular transaction or will credit the participant's account as follows:

(1) For payments under this section, except paragraph (c), the local currency refunded will be at the exchange rate agreed to by the Government of the United States and the government of the importing country in effect at the time the local currency is paid to or for the account of the importer except that if there has been a change in the exchange system or structure of the importing country, such payment shall be made at the agreed exchange rate which was in effect on the date of dollar disbursement for the transaction financed, and except further that local currency shall not be paid when the dollars are to be reauthorized for replacement of the commodity.

(2) For payment under paragraph (c) of this section, the local currency refunded will be at the agreed exchange rate in effect on the date of the dollar disbursement for the transaction financed: *Provided*, That local currency

will not be refunded to the extent that deposits of such currency have been made available to the importing country on a grant basis.

(3) For refunds received by CCC under long-term credit agreements the participant's account shall be credited with the dollar amount refunded or otherwise recovered, and the participant notified accordingly.

§ 17.13 Documentation.

(a) *General.* A request for payment submitted to a banking institution by a supplier and a request submitted to CCC for reimbursement of commodity or ocean transportation payment, or both, shall be supported, except as otherwise provided in the purchase authorization, by the documents required by this section, the purchase authorization, the letter of commitment, and Appendix B unless such documents were previously submitted to CCC. Such documents, however, need not be submitted when and to the extent that the Controller determines that the intended purpose of a document is served by documents otherwise available to or under the control of CCC or by alternate documents specified in such determination. The documents required herein are in addition to any other documents the supplier may be required to submit to a bank under the applicable letter of credit. The supplier must present documentation required by CCC to the banking institution for immediate payment or acceptance of a time draft.

(b) *Identification.* (1) The following documents must be identified with the appropriate purchase authorization numbers or be readily identifiable therewith:

(i) Documents submitted by a supplier to a bank with request for payment of commodity price (including ocean freight or ocean freight differential, as appropriate, and insurance when covered by the commodity price) and such documents when submitted to CCC for reimbursement.

(ii) Documents submitted to CCC to obtain reimbursement under a purchase authorization for ocean freight, or for ocean freight differential, which shall be identified with the number thereof including the "OT" suffix, except that a copy of the ocean bill of lading may contain the related commodity purchase authorization number.

(2) The supplier must put the appropriate purchase authorization number on

all documents specified in this section which are prepared under his control. He should arrange for the appropriate purchase authorization number to be put on all other required documents at the time of their preparation.

(c) *Documents required for financing commodity price.* A detailed list of all documents required for each commodity is contained in Appendix B. Any additions, deletions or other changes will be stated in the purchase authorization or letter of commitment. General provisions relating to such documents are as follows:

(1) *Supplier's certificates.* Signed originals of Form CCC-329 "Supplier's Certificate" are required for each request for payment as follows:

(i) When ocean freight, or any portion of it, is financed by CCC, a Form CCC-329 is required from:

(a) The supplier of the commodity covering the net invoice price for the commodity; and

(b) The supplier of ocean freight covering the ocean freight or ocean freight differential, as appropriate, including any ocean freight financed on c.&f. or c.i.f. sales.

(ii) When no part of the ocean freight is being financed by CCC, only one Form CCC-329 is required covering the supplier's net invoice price for the commodity.

(2) *Supplier's detailed invoice (2 copies).* The copies of the supplier's detailed invoice submitted pursuant to appendix B shall show quantity, description, contracted price, net total invoice price expressed in dollars, the amount for which financing is requested from CCC, the amount not eligible for financing by CCC, and basis of delivery (e.g. f.o.b. Vessel, c.&f.) of the commodity. For the reimbursement method of financing the invoice shall also be marked "paid". Whenever the Form CCC-106 provides for an ocean freight rate differential on a cost and freight or c.i.f. sale and authorizes financing of any portion of ocean freight by CCC, the supplier's detailed invoice shall show a computation of the dollar amount of ocean freight differential. In arriving at the net invoice price there shall be deducted:

(i) The ocean freight, or portion thereof which is not being financed by CCC when ocean freight is included in the contracted price;

(ii) All discounts from the supplier's contracted price through payments,

credits, or other allowances made or to be made to the importer, his agent or consignee;

(iii) All purchasing agents' commissions;

(iv) All other amounts not eligible for financing.

(3) *Additional payment.* A request for an additional payment submitted for a transaction for which all or part of the required documents have been previously submitted to the bank, shall be supported by the following documents as applicable:

(i) A Form CCC-329 "Supplier's Certificate" and the supplier's detailed invoice, covering the additional amount requested. The supplier's invoice must show the date, serial number and the amount of the original invoice and the basis for the additional amount claimed;

(ii) A statement signed by the ship's master or owner (or agent of either of them) showing exercise of the higher-rated option, if the payment is stated to be due because of the exercise of a higher-rated option provided in a liner booking contract or charter party.

(4) *Weight certificate.* Whenever a copy of a weight certificate is required by these regulations in this subpart or the applicable purchase authorization, the supplier shall submit a weight certificate issued by or on authority of a State or other governmental weighing department, Chamber of Commerce, Board of Trade, Grain Exchange, or other independent organization or firm providing public weighing services. Such organization or firm must have (i) qualified, impartial, paid employees who are stationed at the port facility or, if authorized under the applicable purchase authorization, other facility where weights customarily are determined, one of whom performed the weighing covered by the certificate, or (ii) qualified, independent, impartial, supervised weighmasters stationed at the port facility or, if authorized under the applicable purchase authorization, other facility where weights are customarily determined, one of whom supervised the employee of such a facility in the performance of the weighing covered by the certificate.

(5) *Federal appeal inspection certificate.* A Federal appeal inspection certificate, when included in the documents presented for payment, shall supersede any other inspection certificate required by this subpart, the applicable purchase

authorization, or the letter of commitment. Appendix B or the applicable purchase authorization will specify the particulars of any required inspection certificate.

(6) *Notice of price approval.* (i) The document required for each commodity to show that the price is approved for financing (see Appendix B) shall be submitted to the bank with the documents covering the first transaction under the contract. The unit price shown on the supplier's invoice must not exceed the approved unit price shown on the price approval document.

(ii) For subsequent transactions under the same contract, the supplier shall certify on the CCC copy of the detailed invoice as follows:

I hereby certify that the applicable signed copy of the notice of price approval was submitted to (name of bank) with documents covering Invoice No. ----- dated ----- for \$-----.

(7) *Transshipment, certification required on invoice.* If the Form CCC-106 requires grain to be exported from a Canadian transshipment point in a U.S.-flag vessel, and if it authorizes financing of ocean freight or ocean freight differential by CCC, the following certification is required on the supplier's invoice:

The undersigned hereby certifies that an equivalent quantity of the same kind of grain covered by this invoice has been shipped in U.S.-flag vessels from U.S. Great Lakes ports via the St. Lawrence Seaway and received by the undersigned at Canadian transshipment points and such quantity was not previously applied by the undersigned to any government program to which the provisions of P.L. 664, 83d Congress are applicable.

"Kind of grain" as used in the above certification is defined as the same kind of grain covered by the invoice without regard to grade or class.

(8) *Other required documents.* The other required documents are as follows:

(i) Four copies of the ocean bill of lading.

(ii) Signed original of Form CCC-106-1 or 106-3.

(iii) One nonnegotiable copy of the insurance certificate or policy where the cost of insurance is included in the price of the commodity to be financed by CCC.

(d) *Documents required for reimbursement of ocean freight financed separately from commodity price.* To obtain reimbursement for ocean freight, or for ocean freight differential for any portion

thereof which is financed separately from the commodity price, the following documentation shall be submitted:

(1) Signed original of Form CCC-329, "Supplier's Certificate", to be executed by the carrier or its agent, covering the dollar cost of ocean freight or ocean freight differential.

(2) One copy of the ocean bill of lading and, if required by the related Form CCC 106-2, a notice of arrival at the first port of discharge of the vessel named in the Form CCC 106-2. In lieu of a notice of arrival the carrier may present a waiver of the notice of arrival signed by the General Sales Manager or Controller.

(3) One copy of the carrier's invoice marked "paid" which shows the total freight costs paid, the amount not eligible for financing by CCC, and the amount for which financing is requested from CCC. Such invoice shall contain the following typed or stamped certification, executed by the supplier:

The undersigned hereby certifies that the vessel named herein and for which ocean freight is claimed, qualifies as a privately owned U.S.-flag commercial vessel within the requirements of Public Law 87-266 and is an eligible U.S.-flag vessel for the purposes of Public Law 664, 83d Congress.

(4) Signed original of Form CCC 106-2 (or Form CCC-106-3 in the case of cotton).

(5) One copy of the charter party for shipment by dry bulk carrier or tanker.

(6) A request for reimbursement of any balance claimed on a shipment after initial reimbursement of 90 percent of ocean freight or ocean freight differential as provided in § 17.9(m), shall be supported by the following documents:

(i) One copy of the carrier's invoice as described in subparagraph (3) of this paragraph except for the certification required therein. When the freight contract does not provide for despatch and the supplier certifies this fact on his final invoice the documents in subdivisions (iii) and (iv) of this subparagraph are not required.

(ii) A notice of arrival, if required by the Form CCC-106 and not previously presented to support the 90 percent payment.

(iii) A copy of loading and discharging laytime statement and statement of fact signed by the ship's master or owner and the charterer or consignee. Agents' signatures are acceptable.

(iv) If a copy of the charter party was not presented pursuant to subparagraph (5) of this paragraph, a copy of the freight contract showing the terms of despatch and demurrage.

(v) The Form CCC-329, Supplier's Certificate covering the balance claimed.

(7) A request for payment of any amounts claimed because of the exercise of a higher rated option following payment of a lower rated option pursuant to § 17.9(j)(1) shall be supported by the following documents:

(i) One copy of the carrier's invoice as described in subparagraph (3) of this paragraph except for the certification required therein.

(ii) The Form CCC-329, Supplier's Certificate, for the balance claimed;

(iii) A statement signed by the ship's master, owner, or owner's agent, and signed laytime statements or other written concurrence of charterer or his agent showing the exercise of the higher rated option.

(e) *Documentary requirements.* In addition to the general requirements set forth in paragraphs (a) through (c) of this section, each purchase authorization or letter of commitment (1) will refer to a specific section of Appendix B for documentary requirements for the commodity, and (2) will specify any additions to or changes from Appendix B.

[31 F.R. 16818, Dec. 31, 1966; 32 F.R. 921, Jan. 26, 1967, as amended at 32 F.R. 5978, Apr. 14, 1967; 33 F.R. 5138, Mar. 29, 1968; 33 F.R. 10005, July 12, 1968; 35 F.R. 592, Jan. 16, 1970]

§ 17.14 Documents in support of drafts drawn on CCC by banking institutions.

Drafts drawn on CCC by banking institutions under letter of commitment for reimbursement of amount disbursed to suppliers shall be supported by the following documents:

(a) *Documents obtained from suppliers.* Documents specified in § 17.13 and such additional or substitute documents as may be required with respect to any particular transaction as specified in the purchase authorization or in the letter of commitment. A banking institution holding a letter of commitment is not required by CCC to obtain any other documents from suppliers.

(b) *Documents originated by banking institutions.* (1) Form CCC-331 "Advice of Payment or Acceptance of Draft" in duplicate, the original containing an

authorized signature for the banking institution.

(2) A copy of the advice of payment for ocean freight differential when required by § 17.15(a) (7).

(c) *Documents originated by ASCS Offices.* Form CCC-339, Advice of Receipt of Documents, signed for CCC when documentation was previously submitted to and acknowledged by CCC.

[31 F.R. 16818, Dec. 31, 1966, as amended at 32 F.R. 5978, Apr. 14, 1967; 33 F.R. 10006, July 12, 1968]

§ 17.15 Responsibilities of banking institutions for transactions under letters of commitment.

The responsibilities of banking institutions under the regulations in this subpart for transactions under letters of commitment are limited to the responsibilities stated under paragraphs (a) and (b) of this section and as stated in §§ 17.10 and 17.14.

(a) *Full responsibilities.* The banking institution shall have full responsibility for the following:

(1) *Delivery of documents.* The banking institution shall deliver to the Federal Reserve Bank named in the letter of commitment, documents required by the regulations in this subpart, the letter of commitment, and the purchase authorization. In addition to the general documentation requirements set forth in § 17.13 each purchase authorization or letter of commitment will (i) refer to specific sections of Appendix B for documentation requirements and (ii) specify any additions to or changes from the provisions of Appendix B.

(2) *Advice to approved applicant.* The banking institution shall airmail advice of the amount of dollar disbursement or the dollar amount and maturity date of time drafts accepted to the approved applicant or to the bank or agency authorized by the approved applicant to open related letters of credit. If documents and advice of payment are sent to such bank or agency, another advice of payment shall be airmailed to the approved applicant. The transmittal shall include one of the following:

(i) When the purchase authorization is for sales on long-term credit there shall be included a request that the approved applicant or the bank or agency authorized by the approved applicant to open related letters of credit notify the participant that "the net amount of the supplier's invoice

financed by CCC under the transaction is \$-----".

(ii) When the purchase authorization is for sales for foreign currency there shall be included a request that the local currency equivalent of dollar disbursements be deposited immediately in the account of the U.S. Disbursing Officer, or that the local currency equivalent of the dollar amount of time drafts being financed by CCC be deposited in the account of the U.S. Disbursing Officer at maturity.

(3) *Examination of documents.* The banking institution shall examine the required documents in accordance with good commercial practice.

(4) *Delivery date.* The banking institution shall ascertain that the ocean bills of lading bear a date within the delivery period specified in the purchase authorization, or any extension thereof granted by the Administrator.

(5) *Destination.* The banking institution shall ascertain that the required documents are consistent, under good commercial practice with shipment, transshipment, or reshipment to the country required by the purchase authorization.

(6) *Description.* Section 17.10(h) (3) provides that the commodity description in letters of credit and on the supplier's detailed invoice must correspond with the description on page 1 of the purchase authorization. In making payment or accepting time drafts under letters of credit, the banking institution shall, on the basis of the description contained in the required documents (other than Form CCC-329) act in accordance with good commercial practice.

(7) *Verification of computation of ocean freight differential and notification to approved applicant.* When Form CCC-106 provides for an ocean freight rate differential on a cost and freight or c.i.f. sale, and authorizes financing of any part of ocean freight by CCC, and the transaction is financed by the bank under a letter of credit, the banking institution shall:

(i) Determine that the supplier's detailed invoice shows a computation of the dollar amount of ocean freight differential;

(ii) Verify the computation of such amount of differential, using the rate stated in Form CCC-106 and the gross weight shown on the supplier's detailed

invoice or the ocean bill of lading, which-ever is less; and

(iii) Include with the advice of dollar disbursement or time draft accepted under the letter of credit, advice of whichever of the following is applicable:

(a) Under long-term credit sales the net dollar amount for which the participant is indebted to the Government of the United States. Such notice shall be in substantially the following language:

The amount of \$----- paid to the beneficiary includes an ocean freight differential of \$----- The participant is indebted to the Government of the United States for the net amount of \$-----

(b) Under sales for foreign currency, the net dollar amount for which the equivalent in local currency is to be deposited immediately or at maturity of a time draft as provided in § 17.10(o). This advice shall specify that deposit of local currency is not required for the value of the ocean freight differential. Such advice shall be in substantially the following language:

The amount of \$----- paid to the beneficiary includes an ocean freight differential of \$----- according to the provisions of the attached copy of Form CCC-106, Advice of Vessel Approval. You are requested to deposit only the local currency equivalent to the net amount of \$-----

A copy of such advice, when the amount paid includes such differential, shall be sent with the other required documents to the ASCS Office named in the letter of commitment.

(8) *Reimbursement of CCC for losses.* On demand by CCC, the banking institution shall promptly reimburse CCC for the amounts of any losses sustained as a direct result of failure on the part of the banking institution to carry out its responsibilities as required by the regulations in this subpart and shall pay to CCC interest on the amount of such losses at a per annum rate equal to the Federal Reserve Bank of New York's discount rate in effect on the date that CCC makes demand upon the banking institution, computed from and including the date of the original payment by or reimbursement by CCC to but not including the date that the banking institution reimburses CCC for the amounts of such losses.

(9) *Adjustment refunds.* (1) The banking institution shall at the end of each calendar month, report to the Controller the total amount of any adjust-

ment refunds for cotton sales received during the month pursuant to sections (V) and (W) of Appendix A which were remitted to the approved applicant or agent for the account of the importer.

(ii) A copy of each advice sent to approved applicants or agents shall accompany each monthly report. The banking institution has no other responsibility under § 17.12.

(10) *Purchase authorization number.* The banking institution shall examine required documents to determine that they bear the appropriate purchase authorization number or are readily identifiable therewith.

(11) *Additional requirements.* Any additional particulars for which the banking institution is to be responsible will be specified in the purchase authorization or letter of commitment as (i) additional required documents, (ii) additional statements to be contained in the required documents, or (iii) additional actions to be performed.

(b) *Limited responsibilities.* The banking institution shall have limited responsibility for transactions under letters of commitment as follows:

(1) *Contracting.* Section 17.6 provides that contracts must meet certain specific requirements to be eligible for financing. The banking institution is responsible only to the extent of ascertaining that the required documents show delivery terms as required by the purchase authorization (f.o.b., f.a.s., cost and freight, or c.i.f.). The banking institution has no other responsibility under § 17.6.

(2) *Vessel approval.* The banking institution shall not make payment under the letter of credit unless the name of the vessel shown on Form CCC-106 agrees with the name of the vessel shown on the ocean bill of lading. The banking institution is not required to verify the signature appearing on Form CCC-106 or to make an independent inquiry as to the correctness of the information shown thereon.

(3) *Discounts, purchasing agents' commissions and consular fees.* The banking institution is not required to make independent inquiry as to whether the net invoice price includes either discounts (whether expressed as such or as "commissions" to the importer, or made or to be made through payments, credits to other allowances to the buyer or consignee), commissions payable to purchasing agents, or consular fees but shall

not honor any such items when disclosed by required documents other than Form CCC-329. The provisions of § 17.8(c) regarding commissions are intended primarily for the instruction of suppliers, and banking institutions are not responsible for compliance therewith except to the extent set forth above.

(4) *Weight certificate.* The banking institution is responsible for ascertaining that a weight certificate is included in the documentation when required by the purchase authorization or Appendix B, and that the quantity invoiced does not exceed the weight shown on the certificate. The banking institution is not responsible for ascertaining that the weight certificate meets the requirements of § 17.13(c)(4).

(5) *Insurance.* The banking institution is responsible only for ascertaining that a copy of the policy or certificate of insurance accompanies the required documents whenever the cost of insurance is included in the commodity price under a purchase authorization which specifically authorized contracting on a c.i.f. basis.

(6) *Deduction for ocean freight on cost and freight or c.i.f. invoices.* (1) If Form CCC-106 provides that ocean freight is not to be financed by CCC, the banking institution shall not make payment or accept time drafts under the letter of credit unless a deduction for ocean freight is shown on the CCC copy of the supplier's detailed invoice. The banking institution is not responsible for the accuracy of such deduction.

(1) If the Form CCC-106 provides for ocean freight differential financing by CCC, the banking institution shall not make payment or accept a time draft unless a deduction is shown on the invoice for that part of the cost of ocean freight not being financed by CCC. See also subparagraph (8) of this paragraph. The banking institution is not responsible for the accuracy of the deduction.

(7) *Price.* The banking institution is responsible for verifying that the unit price stated in the supplier's invoice does not exceed the unit price stated in the document showing price approval by USDA when such document is required, but is not responsible for the price provisions set forth in § 17.7.

(8) *Ocean transportation.* The banking institution is responsible for provisions relating to ocean transportation as set forth in § 17.9 only to the extent

specified in paragraphs (a) (5) and (7), and (b) (2) and (6) of this section.

(9) *Information from other sources.* The right of reimbursement for payments made or drafts accepted by a banking institution in accordance with good commercial practice will not be affected, except for those particulars set forth in paragraphs (a) and (b) of this section, by the fact that the documents received by the banking institution or information or notice received from any other source indicates noncompliance with any provisions of the regulations in this subpart or of the purchase authorization or the letter of commitment.

(10) *Delivery of documents.* The banking institution is not responsible for delivery of documents required by the provisions of Appendix B, except as provided in paragraph (a) (1) of this section.

(c) *No responsibility.* For transactions under a letter of commitment, the following shall apply:

(1) *Supplier's Certification and required certifications or statements.* The banking institution is not responsible for the truth or accuracy of information contained in Form CCC-329, Supplier's Certificate, or in any special certification or statement required by these regulations, the terms of the purchase authorization or the letter of commitment. The banking institution is entitled to rely on such Form, certifications and statements and is not responsible for the sufficiency or completeness of the information contained therein, or for any indication by such information of noncompliance with any provisions of such regulations or the purchase authorization, or for any inconsistency with other required documents, certifications or statements. The banking institution is not responsible for ascertaining compliance with § 17.6(f). The provisions of this paragraph shall not supersede or alter the provisions of §§ 17.15(a) and 17.15(b).

(2) [Reserved]

(3) *Contracting period.* The purchase authorization specifies the period during which contracts may be entered into by suppliers and importers. A banking institution has no responsibility with regard to compliance with this requirement.

(4) *Statements in required documents.* The banking institution is not responsible for the truth or accuracy of the statements, if any, contained in the required documents. A banking institution

is not obligated to look beyond these documents or to make independent investigations as to the accuracy of statements made therein. Acceptability of documents is described in § 17.10(j).

(5) *Deposit or convertibility of local currency.* The banking institution is not responsible for the deposit or convertibility of local currency or the repayment of long-term obligations.

(6) *Purchase authorizations—Eligible commodities.* The banking institution is not responsible for ascertaining compliance with the provisions of §§ 17.3 and 17.5, except to the extent specified in this section.

(7) *Compliance with contracting provisions.* The banking institution is not responsible for ascertaining compliance with the provisions of Appendix A, except as set forth in the purchase authorization or the letter of commitment as the responsibility of the banking institution.

(d) *Responsibilities under reimbursement method of financing.* No letter of commitment is issued for purchase authorizations which provide for the reimbursement method of financing.

(e) This section shall not relieve the banking institutions of the responsibilities which they may have assumed under private trade entity agreements or guarantees pursuant to private trade entity agreements.

[31 F.R. 16818, Dec. 31, 1966; 32 F.R. 3935, Jan. 26, 1967, as amended at 32 F.R. 5978, Apr. 14, 1967; 33 F.R. 5138, Mar. 29, 1968; 33 F.R. 10005, July 12, 1968; 33 F.R. 16381, Nov. 8, 1968]

§ 17.16 ASCS Offices.

The addresses of the ASCS Offices are as follows:

ASCS Commodity Office, U.S. Department of Agriculture, Wirth Building, 120 Marais Street, New Orleans, La. 70112.

New York Field Office, Fiscal Division, ASCS, 26 Federal Plaza, Room 1755, New York, N.Y. 10007.

Fiscal Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250.

[31 F.R. 16818, Dec. 31, 1966, as amended at 33 F.R. 10005, July 12, 1968]

§ 17.17 Supplier's records.

The supplier shall permit authorized representatives of USDA to have access to his premises during regular hours to inspect, examine, audit and make copies of such books, records and accounts. The supplier shall keep accurate books, rec-

ords and accounts, with respect to all contracts entered into hereunder. Such records shall be retained until the expiration of 3 years after final payment under such contracts.

§ 17.18 Effective date.

The regulations in this subpart shall become effective upon publication in the FEDERAL REGISTER as to financing of the sale and exportation of commodities pursuant to Agricultural Commodities Agreements dated on or after January 1, 1967. The financing of sale and exportation of commodities pursuant to Agricultural Commodities Agreements dated before January 1, 1967, shall continue to be subject to the provisions of the regulations which were applicable before January 1, 1967, unless made subject to the regulations in this subpart by the applicable purchase authorization.

NOTE: The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1952.

Appendix A—Contracting Requirements

- (A) Wheat in bulk or bags.
- (B) Wheat flour.
- (C) Feed grains in bulk or bags.
- (D) Corn meal (edible).
- (E) Cracked corn or corn meal.
- (F) Soybean oil or cottonseed oil.
- (G) Unmanufactured and tobacco products:
 - (1) Unmanufactured tobacco.
 - (2) Tobacco products: Cigarettes, and packaged and cut tobacco.
 - (3) Tobacco products: Cased strips and shredded tobacco.
- (H) Rice (milled and brown) bags and bulk.
 - (I) Dry edible beans.
 - (J) Dry edible peas.
 - (K) Tallow (inedible).
 - (L) Lard.
 - (M) Poultry (frozen chickens and turkeys).
 - (N) Canned milk (sweetened condensed and evaporated).
 - (O) Nonfat dry milk.
 - (P) Dry whole milk.
 - (Q) Butter.
 - (R) Anhydrous milk fat and anhydrous butter fat and butterroll.
 - (S) Cheese (cheddar and process).
 - (T) Ghee.
 - (U) Stabilized dried whole eggs.
 - (V) Upland cotton.
 - (W) Extra long staple cotton.

In addition to the other provisions of the regulations in Part 17, Subpart A, and unless otherwise provided in the applicable purchase authorizations, the following special

provisions apply in the case of specific commodities.

(1) *Wheat in bulk or bags.*

(2) *Contract eligibility:* Contracts will not be eligible for financing unless the supplier has complied with the requirements of the "Wheat Export Program, (GR-345) Terms and Conditions," as amended, or the Export Wheat Marketing Certificate Regulations, as amended, as they pertain to sales pursuant to the Agricultural Trade Development and Assistance Act of 1954, as amended.

(2) *Contract approval:* Contracts between suppliers and importers made subject to the applicable purchase authorization shall be deemed to be conditioned on the approval by EMS, of the supplier, and the supplier's agent, if any, and the contract price.

(3) *Time of sale:* In lieu of the definition of time of sale in § 17.7(a) of the regulations, the time of sale shall have the same meaning as provided in GR-345, as amended, or the Export Wheat Marketing Certificate Regulations, as amended, whichever is applicable. Any amendment to a contract which has been registered under GR-345, or the Export Wheat Marketing Certificate Regulations, which affects the price shall subject the terms of sale of reexamination.

(4) *Quality description:* Contracts shall provide for quality description in terms of the Official Grain Standards of the United States.

(5) *Transshipment:* To the extent that exportation of wheat from Canadian transshipment point(s) is required in U.S.-flag vessels, the Form CCC-106 will require shipment of an equivalent quantity of U.S. wheat from U.S. Great Lakes ports to the Canadian transshipment point(s) via the St. Lawrence Seaway in U.S.-flag vessels.

(6) *Weight and grade (bulk):* In the case of bulk wheat, the weight shall be determined at point of loading to vessel and the grade shall be determined by an inspector holding a license under the U.S. Grain Standards Act or the Agricultural Marketing Act at point of loading to vessel.

(7) *Weight and grade (bags):* In the case of wheat in bags, the grade shall be determined by an inspector holding a license under the U.S. Grain Standards Act or the Agricultural Marketing Act not more than 15 days prior to loading to vessel while the wheat was at port under the supervision of the Port Authority, and the wheat shall be checkloaded by the Grain Division, AMS, at the time of loading the wheat for shipment to port for export or at time of loading the wheat to vessel.

(8) *Dockage:* In determining the quantities to be shown on the supplier's invoice, for which the supplier invoices the importer, there shall be deducted the amount of any dockage where there is a separate percentage for dockage shown on the inspection certificate.

(B) *Wheat flour.*

(1) *Contract eligibility:* Contracts will not

be eligible for financing hereunder unless the supplier has complied with the requirements of the "Flour Export Program, Cash Payment (GR-346) Terms and Conditions", as amended, as they pertain to sales pursuant to the Agricultural Trade Development and Assistance Act of 1954, as amended.

(2) *Contract specifications:* Contracts for flour shall provide for the following quality specifications:

(a) *Protein:* Not less than (percentage to be specified in the applicable purchase authorization) basis 14 percent moisture. (The minimum protein content eligible for financing shall be not more than 0.5 percent below the protein content specified in the contract.)

(b) *Ash:* Not more than 0.48 percent basis 14 percent moisture. (The maximum ash content eligible for financing shall be not more than 0.53 percent.)

(c) *Moisture:* Not more than 14 percent. (The maximum moisture content eligible for financing shall be not more than 0.5 percent above the moisture content specified in the contract.)

The approved price for flour which does not meet the protein, ash or moisture content shown on Form CCC-362 Declaration of Sale, shall be subject to the discounts provided in paragraph 7 of this section.

(3) Contracts shall state the type and weight of bags required by the importer.

(4) Contracts between the supplier and importer made subject to the applicable purchase authorization shall be deemed to be conditioned on the approval by EMS, of the supplier, the supplier's agent if any and the contract price.

(5) *Time of sale:* In lieu of the definition of time of sale in § 17.7(a) of the regulations, the time of sale shall have the same meaning as provided in GR-346. Any amendment to a contract which has been registered under GR-346 which affects the price shall subject the terms of sale to reexamination.

(6) *Sampling, Analysis, Checkweighing, Bags and Markings:*

(a) Ten (10) days prior to sampling the supplier must furnish contract specifications regarding quality, in duplicate, to the Program Operations Division, EMS, USDA, Washington, D.C. 20250, together with the name and address of the persons, firms, or agency that will perform the sampling and analysis service and the location of the flour and dates available for sampling.

(b) *Sampling:* The drawing of samples shall be performed by the Inspection Branch, Grain Division, AMS, or by an independent surveyor mutually acceptable to the importer and the supplier. The supplier shall request inspection of the flour upon arrival at port of loading to vessel. If the inspection certificate is dated more than fifteen (15) days prior to on-board date shown on the ocean bill of lading the supplier shall obtain additional inspection within fifteen (15) days of the on-board date shown on the ocean bill of lading showing that the flour was free of infestation.

(c) *Minimum rates for sampling:* The following minimum rate applies to any delivery or portions of delivery for which a separate inspection has been requested. The minimum rate of sampling shall be one composite sample of flour for each 500,000 pounds or part thereof. A composite sample shall consist of all the products from 50 probes. Each of the 50 probes shall be obtained from a different bag of flour selected at random. When it is desired to increase the sampling rate because of nonuniformity of the flour or for other reasons, it shall be done by increasing the number (not size) of composite sample for each 500,000 pound portion. Each composite sample shall be tested separately in a laboratory to determine quality. The result of the analyses of composite samples will be averaged (weighted average) and certified on one certificate when no individual composite sample deviates from the contract specification for any factor by more than the tolerance in the following schedule:

MAXIMUM DEVIATION OF A SAMPLE RESULT FROM THE CONTRACT SPECIFICATION

- Minus 0.5 percent protein.
- Plus 0.2 percent moisture.
- Plus 0.02 percent ash.

If one or more composite samples exceed the tolerance in the above schedule for any factor, each of these shall be certified separately. The remaining composite samples shall be averaged and certified on one certificate.

(d) *Recoopering:* Recoopering of bags shall be the responsibility of the supplier and performed at his expense.

(e) *Analysis:* The quality of the flour exported shall be determined by the Inspection Branch, Grain Division, AMS, or by a commercial laboratory mutually acceptable to buyer and seller.

(f) *Check sampling and analysis:* If the services are performed by independent surveyors and commercial laboratories, EMS may at any time request the Inspection Branch, Grain Division, AMS, to draw check samples and perform check analysis. The cost of such check sampling and analyses will be for the account of CCC.

(g) *Checkweighing:* The flour to be exported shall be checkweighed at the mill at the time of loading to sealed cars or trucks for shipment to port of export, or at the port of export while the flour was at port under the control of the Port Authority, by the Inspection Branch, Grain Division, AMS, or by an independent weighmaster or an independent surveyor mutually acceptable to the importer and seller to determine (i) gross weight, (ii) net weight, and (iii) tare weight.

(h) *Bag specifications:* Compliance with contract specifications and suitability of bags for export shall be determined by an independent surveyor. Each bag shall be marked with the name of the importing country and the purchase authorization number.

(7) *Schedule of Discounts on deficient protein and excess moisture or ash and either excess or deficient maltose:* (protein, ash and maltose will be on the basis of 14% moisture). If the flour exported does not meet the contract quality specifications as shown on the Form CCC-362, the approved price shall be reduced by the following schedule of discounts:

Excess ash	Excess moisture	Deficient protein
<i>Per each 100 pounds</i>	<i>Per each 100 pounds</i>	<i>Per each 100 pounds</i>
0.00-0.008—0 cents.	0.0-0.09—0 cents.	0.0-0.09—0 cents.
0.01-0.019—2 cents.	0.1-0.19—2 cents.	0.1-0.19—2 cents.
0.02-0.028—4 cents.	0.2-0.29—4 cents.	0.2-0.29—4 cents.
0.03-0.039—7 cents.	0.3-0.39—6 cents.	0.3-0.39—6 cents.
0.04-0.049—11 cents.	0.4-0.49—8 cents.	0.4-0.49—8 cents.
0.05—15 cents.	0.5—12 cents.	0.5—12 cents.
Over 0.05—16 cents plus 16 cents for each 0.01 percent.		

Flour with protein deficiency of more than 0.5 percent, excess moisture more than 0.5 percent, and ash content more than 0.53 percent will not be eligible for financing.

If specified in the terms of the contract, the approved price shall be reduced by the following schedule of discounts:

Excess or deficient diastatic activity (maltose content) below 300 or above 400 mg. for each 10 grams per each 100 lbs.

- 3 cents for 1-25 mg. maltose.
- 6 cents for 26-50 mg. maltose.
- 10 cents for 51-75 mg. maltose.
- 15 cents for 76-100 mg. maltose.

For each 25 mg. fraction thereof maltose over 100 mg. plus 15 cents.

(C) *Feed grains in bulk or bags.*

(1) *Notifications of sale by supplier:* The supplier shall, immediately after the date of export sale, furnish a written or telegraphic notification of sale to the Export Marketing Service (EMS), USDA, Washington, D.C. 20250. Such notification should not be withheld for performance of contract provisions which make a contract conditional on the occurrence of certain events, for instance, on the receipt of acceptable letters of credit or delivery instructions. Similarly, notifications should not be delayed pending receipt from a sales agent of individual contract numbers or buyers names and addresses for sales negotiated by the sale agent with a group of buyers under identical terms. Written notification of any contract amendments shall also be furnished to the GSM immediately after the date of the amendment. If the supplier fails to furnish the notification within 5 days after the date of export sale, or the date of an amendment to the contract if applicable, CCC shall have the right to refuse to finance the sale under the program. The following information shall be included in the written notification of the sale:

Supplier's name and address.

Purchase authorization number.

Name of importer.

Sales contract or order number, if any.

Date and time of sale.

Complete commodity description (give full contract specifications including quality factors).

If other than bulk shipment, show complete pack and package material specification.

Quantity expressed in contract units and bushels. Indicate separately, by percentage, the loading tolerance provided for in the contract (not to exceed 10 percent, more or less). If the contract does not provide for a loading tolerance, indicate "no loading tolerance." Also set forth separately contract options for additional quantities exercisable by the supplier or the foreign buyers. If there are no such options indicate "no options." Contract options for additional quantities exercisable by the supplier or foreign buyer shall not exceed 10 percent of the original contract quantity, exclusive of consideration of loading tolerance. Larger quantities must be contracted separately.

Price per contract unit and per bushel.

Delivery terms (f.o.b., f.a.s., etc.) and coastal range of export (specify Pacific, Gulf, Atlantic, Great Lakes, or St. Lawrence River ports and any option to be exercised by the exporter and/or foreign importer).

Contract delivery schedule.

Name and address of sales agent, if any.

The supplier will be notified by letter, and by telephone if requested from the GSM after receipt of the notification of sale or notification of any amendments to the contract as to whether or not the price is approved for financing.

When a price is disapproved, the supplier shall have 5 calendar days following the date of the notification of sale within which to submit a price which may be approved by the GSM. During such 5-day period, USDA will not recognize any new sale between the same supplier and foreign buyer in substitution of the original transaction. If an acceptable price is not submitted within such 5-day period, the original notification of sale, any subsequent notification of price adjustments and the related contract between supplier and the foreign buyer shall, for purposes of the price review program be considered null and void. Any subsequent negotiations after expiration of such 5-day period which result in a contract between the supplier and the same foreign buyer shall be subject to the submission of a new notification of sale.

(2) *Contract approval:* Contracts between supplier and importers made subject to the applicable purchase authorization shall be deemed to be conditioned on the approval by FAS, of the supplier, the supplier's agent, if any, and the contract price.

(3) *Weight and grade (bulk):* For feed grains in bulk, the weight shall be determined at point of loading to vessel and the

grade shall be determined by an inspector holding a license under the U.S. Grain Standards Act or the Agricultural Marketing Act at point of loading to vessel.

(4) *Weight and grade (bags):* For feed grains in bags, the grade shall be determined by an inspector holding a license under the U.S. Grain Standards Act or the Agricultural Marketing Act not more than 15 days prior to loading to vessel while the feed grain was at port under the supervision of the Port Authority, and the feed grains shall be checkloaded by the Grain Division, AMS, at the time of loading the feed grain for shipment to port for export or at time of loading the feed grain to vessel.

(5) *Transshipment:* To the extent that exportation of feed grain from a Canadian transshipment point is required in U.S.-flag vessels, the Form CCC-106 will require shipment of an equivalent quantity of U.S. feed grain from U.S. Great Lakes ports to the Canadian transshipment point via the St. Lawrence Seaway in U.S.-flag vessels.

(6) *Quality description:* Contracts shall provide for quality description in terms of the Official Grain Standards of the United States.

(7) *Dockage:* In determining the quantities to be shown on the supplier's invoice, for which the supplier invoices the importer, there shall be deducted the amount of any dockage where there is a separate percentage for dockage shown on the inspection certificate, except that dockage up to 2 percent for barley will not be deductible to the extent that the sales contract provides for a specified dockage allowance. Sales contracts for barley will not be approved if the dockage allowed exceeds 2 percent.

(D) *Corn Meal (edible).*

(1) *Notification of sale by supplier:* The supplier shall, immediately after the date of export sale, furnish a written or telegraphic notification of sale to the Export Marketing Service (EMS), USDA, Washington, D.C. 20250. Such notification should not be withheld for performance of contract provisions which make a contract conditional on the occurrence of certain events, for instance, on the receipt of acceptable letters of credit or delivery instructions. Similarly, notifications should not be delayed pending receipt from a sales agent of individual contract numbers or buyers names and addresses for sales negotiated by the sales agent with a group of buyers under identical terms. Written notification of any contract amendments shall also be furnished to the GSM immediately after the date of the amendment. If the supplier fails to furnish the notification within 5 days after the date of export sale, or the date of an amendment to the contract if applicable, CCC shall have the right to refuse to finance the sale under the program. The following information shall be included in the written notification of the sale:

Supplier's name and address.

Purchase authorization number.

Name of importer.

Sales contract or order number, if any.

Date and time of sale.

Complete commodity description (give full contract specifications including quality factors).

Complete pack and package material specifications.

Quantity expressed in contract units and 100 pounds net weight. Indicate separately, by percentage, the loading tolerance provided for in the contract (not to exceed 10 percent, more or less). If the contract does not provide for a loading tolerance indicate "no loading tolerance." Also set forth separately contract options for additional quantities exercisable by the supplier or the foreign buyers. If there are no such options indicate "no options." Contract options for additional quantities exercisable by the supplier or foreign buyer shall not exceed 10 percent of the original contract quantity, exclusive of consideration of loading tolerance. Larger quantities must be contracted separately.

Price per contract unit and per 100 pounds. Delivery terms (f.o.b., f.a.s., etc.) and coastal range of export (specify Pacific, Gulf, Atlantic, Great Lakes, or St. Lawrence River ports and any option to be exercised by the exporter and/or foreign importer).

Contract delivery schedule.

Name and address of sales agent, if any.

The supplier will be notified by letter, and by telephone if requested, from the GSM promptly after receipt of the notification of sale or notification of any amendment to the contract as to whether or not the price is approved for financing.

When a price is disapproved, the supplier shall have 5 calendar days following the date of the notification of sale within which to submit a price which may be approved by the GSM. During such 5-day period, USDA will not recognize any new sale between the same supplier and foreign buyer in substitution of the original transaction. If an acceptable price is not submitted within such 5-day period, the original notification of sale, any subsequent notification of price adjustments and the related contract between supplier and the foreign buyer shall, for purposes of the price review program be considered null and void. Any subsequent negotiations after expiration of such 5-day period which result in a contract between the supplier and the same foreign buyer shall be subject to the submission of a new notification of sale.

(2) **Contract approval:** Contracts between suppliers and importers made subject to the applicable purchase authorization shall be deemed to be conditioned on the approval by EMS, of the supplier, the supplier's agent, if any, and the contract price.

(3) **Specifications:** Corn meal shall be degermed yellow corn meal, Type II, Class B, Granulation 2, Color b. The corn meal shall conform with the requirements of Federal Specifications N-C-521-c (and shall meet all

the requirements of sections 1 through 4 of such Federal Specifications).

(4) Sampling, analysis, and weighing:

(a) Advice of contract specifications: Ten (10) days prior to sampling the supplier shall furnish contract specifications regarding quality to the Grain Division, AMS, USDA, Washington, D.C. 20250. The U.S. supplier shall submit, with the contract specifications, the names of the port(s) of exportation.

(b) Sampling: The drawing of samples shall be performed by the Inspection Branch, Grain Division, AMS, at point of loading to vessel not more than fifteen (15) days prior to loading to vessel.

(c) Recoopering of bags: Recoopering of bags shall be the responsibility of the supplier and performed at his expense.

(d) Analysis: The quality of the corn meal exported shall be determined by the Inspection Branch, Grain Division, AMS.

(e) Weighting: The corn meal to be exported shall be checkloaded at the mill at the time of loading to sealed cars or trucks for shipment to port of export, or at the port of export while the corn meal is at port under the control of the Port Authority by the Inspection Branch, Grain Division, AMS, to determine (i) gross weight, (ii) net weight, and (iii) tare weight.

(f) Bags specifications: Compliance with contract specifications and suitability of bags for export shall be determined by an independent surveyor. Each bag shall be marked with the name of the importing country and the purchase authorization number.

(5) Quality discount for corn meal—not meeting specifications: If the quality of the corn meal does not meet the quality specifications required by paragraph (3) of this section, but falls within the limits listed below, the maximum price financed by CCO will be the contract price, less the applicable discount shown below for each 100 pounds of corn meal. Corn meal will not be financed which deviates from specifications more than the limits indicated below.

DISCOUNTS

Percent ash	Percent fat degermed	Percent moisture
0.60—0 cent.....	1.50—0 cent.....	13.5—0 cent.
0.70—1 cent.....	1.60—2 cents.....	13.6—2 cents.
0.80—2 cents.....	1.70—4 cents.....	13.7—4 cents.
0.90—4 cents.....	1.80—6 cents.....	13.8—6 cents.
1.00—6 cents.....	1.90—10 cents.....	13.9—8 cents.
1.10—8 cents.....	2.00—12 cents.....	14.0—12 cents.

GRANULATION

Not more than 20 percent through 80 sieve.
 Not more than 30 percent through 45 sieve.
 Not less than 90 percent through 25 sieve.
 Not less than 99 percent through 20 sieve.

	Cents
1 percent off.....	5
2-3 percent off.....	1
4-5 percent off.....	2
6-7 percent off.....	3
8-10 percent off.....	7

(E) *Cracked corn or corn meal.*

(1) *Notification of sale by supplier:* The supplier shall, immediately after the date of export sale, furnish a written or telegraphic notification of sale to the Export Marketing Service (EMS), USDA, Washington, D.C. 20250. Such notification should not be withheld for performance of contract provisions which make a contract conditional on the occurrence of certain events, for instance, on the receipt of acceptable letters of credit or delivery instructions. Similarly, notifications should not be delayed pending receipt from a sales agent of individual contract numbers or buyers names and addresses for sales negotiated by the sales agent with a group of buyers under identical terms. Written notification of any contract amendments shall also be furnished to the GSM immediately after the date of the amendment. If the supplier fails to furnish the notification within 5 days after the date of export sale, or the date of an amendment to the contract if applicable, CCC shall have the right to refuse to finance the sale under the program. The following information shall be included in the written notification of the sale:

- Supplier's name and address.
- Purchase authorization number.
- Name of importer.
- Sales contract or order number, if any.
- Date and time of sale.
- Complete commodity description (give full contract specifications including quality factors).

Complete pack and package material specification.

Quantity expressed in contract units and 100 pounds net weight. Indicate separately, by percentage, the loading tolerance provided for in the contract (not to exceed 10 percent, more or less). If the contract does not provide for a loading tolerance indicate "no loading tolerance." Also set forth separately contract options for additional quantities exercisable by the supplier or the foreign buyers. If there are no such options indicate "no options." Contract options for additional quantities exercisable by the supplier or foreign buyer shall not exceed 10 percent of the original contract quantity, exclusive of consideration of loading tolerance. Larger quantities must be contracted separately.

Price per contract unit and per 100 pounds.

Delivery terms (f.o.b., f.a.s., etc.) and coastal range of export (specify Pacific, Gulf, Atlantic, Great Lakes or St. Lawrence River ports and any option to be exercised by the exporter and/or foreign importer).

Contract delivery schedule.

Name and address of sales agent, if any.

The supplier will be notified by letter, and by telephone if requested, from the GSM promptly after receipt of the notification of sale or notification of any amendments to the contract as to whether or not the price is approved for financing.

When a price is disapproved, the supplier shall have 5 calendar days following the date of the notification of sale within which to submit a price which may be approved by the GSM. During such 5-day period, USDA will not recognize any new sale between the same supplier and foreign buyer in substitution of the original transaction. If an acceptable price is not submitted within such 5-day period, the original notification of sale, any subsequent notification of price adjustments and the related contract between supplier and the foreign buyer shall, for purposes of the price review program be considered null and void. Any subsequent negotiations after expiration of such 5-day period which result in a contract between the supplier and the same foreign buyer shall be subject to the submission of a new notification of sale.

(2) *Contract approval:* Contracts between suppliers and importers made subject to the applicable purchase authorization shall be deemed to be conditioned on the approval by EMS, of the supplier, the supplier's agent if any, and the contract price.

(3) *Inspection and weight:* The yellow corn from which the commodity was processed must grade No. 4 or better as determined by an inspector holding a license under the U.S. Grain Standards Act. The processed commodity shall be checkloaded by or under the supervision of the Grain Division, AMS, at the time of loading for shipment to port for export or at time of loading to vessel.

(4) *Kind and size of bags:* The contract shall specify the kind and size of bags and whether such bags are new or used.

(F) *Soybean oil or cottonseed oil.*

(1) *Notification of sale by supplier:* The supplier shall, immediately after the date of export sale, furnish a written or telegraphic notification of sale to the Export Marketing Service (EMS), USDA, Washington, D.C. 20250. Such notification should not be withheld for performance of contract provisions which make a contract conditional on the occurrence of certain events, for instance, on the receipt of acceptable letters of credit or delivery instructions. Similarly, notification should not be delayed pending receipt from a sales agent of individual contract numbers or buyers names and addresses for sales negotiated by the sales agent with a group of buyers under identical terms. Written notification of any contract amendments shall also be furnished to the GSM immediately after the date of the amendment. If the supplier fails to furnish the notification within 5 days after the date of export sale, or the date of an amendment to the contract if applicable, CCC shall have the right to refuse to finance the sale under the program. The following information shall be included in the written notification of the sale:

- Supplier's name and address.
- Purchase authorization number.
- Name of importer.
- Sales contract or order number, if any.

Date of sale.

Complete commodity description (give full contract specifications including quality factors).

If other than bulk shipment, show complete pack and package material specification.

Quantity expressed in contract units and pounds. Indicate separately, by percentage, the loading tolerance provided for in the contract (not to exceed 10 percent, more or less). If the contract does not provide for a loading tolerance indicate "no loading tolerance." Also set forth separately contract options for additional quantities exercisable by the supplier or the foreign buyers. If there are no such options indicate "no options." Contract options for additional quantities exercisable by the supplier or foreign buyer shall not exceed 10 percent of the original contract quantity, exclusive of consideration of loading tolerance. Larger quantities must be contracted separately.

Price per contract unit and per pound.

Delivery terms (f.o.b., f.a.s., etc.) and coastal range of export (specify Pacific, Gulf, Atlantic, Great Lakes or St. Lawrence River ports and any option to be exercised by the exporter and/or foreign importer).

Contract delivery schedule.

Name and address of sales agent, if any.

The supplier will be notified by letter, and by telephone if requested, from the GSM promptly after receipt of the notification of sale or notification of any amendments to the contract as to whether or not the price is approved for financing.

When a price is disapproved, the supplier shall have 5 calendar days following the date of the notification of sale within which to submit a price which may be approved by the GSM. During such 5-day period, USDA will not recognize any new sale between the same supplier and foreign buyer in substitution of the original transaction. If an acceptable price is not submitted within such 5-day period, the original notification of sale, any subsequent notification of price adjustments and the related contract between supplier and the foreign buyer shall, for purposes of the price review program, be considered null and void. Any subsequent negotiations after expiration of such 5-day period which result in a contract between the supplier and the same foreign buyer shall be subject to the submission of a new notification of sale.

(2) *Contract approval:* Contracts between suppliers and importers made subject to the applicable purchase authorization shall be deemed to be conditioned on the approval by EMS, of the supplier, the supplier's agent if any, and the contract price.

(3) *Quality and containers:* Contracts for cottonseed and/or soybean oil will not be eligible for financing unless the oil meets quality specifications as provided in the applicable purchase authorization. If the commodity is to be purchased in drums, they must be new or reconditioned drums, if in

barrels, they must be new barrels, and if in bags, the contract must state the type, size and weight of the bags.

(4) Sampling and analysis:

(a) Ten (10) days prior to sampling the supplier must furnish contract specifications regarding quality, in duplicate, to the Program Operations Division, EMS, USDA, Washington, D.C. 20250, together with the name and address of the persons, firms or agency that will perform the sampling and analysis service and the location of the oil and dates when available for sampling.

(b) The drawing of samples and laboratory analysis may be performed by the Inspection Branch, Grain Division, AMS, or by independent surveyor(s) and commercial laboratories mutually agreeable to the importer and the supplier. The chemical analysis by commercial laboratories must be performed under procedures prescribed in the Trading Rules of the National Soybean Processors Association, or in the Trading Rules of the National Cottonseed Products Association.

If the services are performed by independent surveyor(s) and commercial laboratories, EMS may at any time request the Inspection Branch, Grain Division, AMS, to draw check samples and perform check analysis. The cost of such check sampling and analysis will be for the account of CCC.

(c) *Bulk oil:* For bulk oil, the samples shall be obtained in accordance with American Oil Chemists' Society Method C 1-47.

(d) *Oil in drums or barrels:* For oil in drums or barrels, samples shall be drawn not more than 30 days prior to onboard date shown on the ocean bill of lading, while the containers are being filled.

(e) *Flakes in bags:* For flakes in bags, samples shall be drawn from 10 percent of bags selected at random at the time and point of loading to vessel.

(5) *Weighting:* Determination of weight shall be by an independent surveyor or independent weighmaster.

(a) *Bulk oil:* The weight shall be determined at the time of loading aboard the vessel.

(b) *Oil in drums or barrels:* The weight of the oil in drums or barrels shall be determined at time of filling the containers.

(c) *Flakes in bags:* The weight of flakes in bags shall be determined at the time of filling the bags.

(6) Surveying of containers:

(a) *Bulk oil:* Each tank into which the oil is to be loaded shall be examined by an independent surveyor prior to loading to determine that the tank(s) are clean and otherwise suitable for receipt of the oil.

(b) *Oil in drums:* Drums shall be examined, prior to filling, by an independent surveyor. The drums shall be new or reconditioned and shall be rejected if mechanically unsound, contaminated with previous contents, or printed with labels or markings for other commodities. The weight of each

drum shall be determined at the time of inspection for the purpose of establishing the tare and weight.

(c) *Oil in barrels:* Barrels must be new and shall be examined prior to filling by an independent surveyor. They shall be rejected if mechanically unsound, or printed with labels or markings for other commodities. The weight of each barrel shall be determined at the time of inspection for the purposes of establishing the tare weight.

(d) *Flakes in bags:* Suitability of bags for export and compliance with contract specifications shall be determined by an independent surveyor.

(7) *Markings:* Markings requested by the importer shall be stenciled on the drums, barrels or bags and shall include the name or symbol of the supplier, the purchase authorization number and the name of the importing country.

(G) *Unmanufactured and/or tobacco products.*

(1) *Unmanufactured tobacco.*

(a) *Prices, loading on vessel, and weights:* A determination that the supplier's prices are not in excess of the prices which may be approved pursuant to the regulations shall be made by the Producer Associations Division, ASCS, Washington, D.C. 20250, following examination at port of loading to vessel. The following certificates shall be required: (i) For tobacco examined at the loading pier, a certification by an official of the port authority that the tobacco was loaded on board vessel; and (ii) for tobacco examined at a public warehouse in the port area, a certification by a warehouse official that the tobacco was consigned to the port authority and a certification by an official of the port authority that such tobacco was received and was loaded aboard vessel. Weights shall be determined as provided in the Tobacco Export Program Regulations (31 F.R. 12997) as amended.

(b) *Notification of sale by supplier:* As soon as possible after the contract is signed and at least 10 days prior to exportation the supplier must notify the Director, Producer Associations Division, ASCS, USDA, Washington, D.C. 20250, of the date and port at which the tobacco or tobacco products will be available for examination together with contract data as follows:

- Supplier's name and address.
- Purchase authorization number.
- Country of destination.

Commodity description including hogshead or shipping numbers, grade, number of cases, type, and selling price per hundred weight. Name and address of the sales agent, if any.

Such additional information as may be required by the Director, Producer Associations Division, ASCS.

(c) *Markings:* In addition to other markings required by the importer, there shall be stenciled on each hogshead or case the hogshead or case number (or designated shipping number), gross weight, purchase authoriza-

tion number and name of country of destination.

(d) *Costs of inspection and other services:* Any costs involved in the examination of the tobacco, and for services of port officials, warehouse officials and weighmasters as required by these regulations will be for the account of the supplier.

(e) *Contents:* The unmanufactured tobacco shall not include cigar cuttings, cigar trimmings, siftings, stems (except the stem of the leaf sold), homogenized leaf, or scrap: *Provided, however,* That the cigar types of tobacco processed into "short filer" lengths shall not be considered scrap.

(2) *Tobacco products, cigarettes, and/or packaged and cut tobacco.*

(a) *CCC financing:* The portion of the contracted price which will be financed by CCC, unless otherwise specified in the purchase authorization, is as follows:

Cigarettes:

Nonfilter Standard Brands (including all-tobacco tip standard brands) \$2.25 per thousand.

Filter and "Economy" brands—\$1.75 per thousand.

Pipe and Cut Tobacco—75 percent of the unit price.

(b) *Contracts:* All contracts between suppliers and importers shall state:

The tobacco products, the quantity, the contract unit price, and the total contract price of such product.

The portion of the contract unit price of the tobacco product to be financed by CCC which represents the unmanufactured U.S. leaf tobacco used in its manufacture.

The portion of unit price of the tobacco product to be financed by the importer.

(3) *Tobacco products—cased and shredded tobacco.*

(a) *Price, loading on vessel, and weights:* A determination that the supplier's prices are not in excess of the prices which may be approved pursuant to the regulations shall be made by the Producer Associations Division, ASCS, Washington, D.C. 20250, following examination at port of loading to vessel. In the case of tobacco examined at the loading pier, a certification by an official of the port authority that the tobacco was loaded on board vessel is required; and in the case of tobacco examined at a public warehouse in the port area, a certification by a warehouse official that the tobacco was consigned to the port authority and a certification by an official of the port authority that such tobacco was received and was loaded aboard vessel are required. Weights shall be determined as provided in the Tobacco Export Program Regulations (31 F.R. 12997) or as amended.

(b) *Notification of sale by supplier:* As soon as possible after the contract is signed and at least 10 days prior to exportation the supplier must notify the Director, Producer Associations Division, ASCS, USDA, Washington, D.C. 20250, of the date and port at which the tobacco or tobacco products will

be available for examination together with contract data as follows:

- Supplier's name and address.
- Purchase authorization number.
- Country of destination.

The basis of the contract in terms of the f.a.s. (vessel) value of the untreated case or shredded tobacco to be included in the tobacco products as follows:

Grade	No. Hhds. or cases	Net Weight	Type	F.a.s. vessel value per Hundred Weight

The time and place at which the cased or shredded tobacco may be examined immediately prior to processing and the tobacco product sampled immediately after processing.

Name and address of the sales agent, if any.

Such additional information as may be required by the Director, Producer Associations Division, ASCS.

(c) *Markings:* In addition to other markings required by the importer, there shall be stenciled on each hogshead or case the hogshead or case number (or designated shipping number), gross weight, purchase authorization number and name of the country of destination.

(d) *Costs of inspection and other services.* Any cost involved in the examination of the tobacco, and for services of port officials, warehouse officials and weighmasters as required by these regulations will be for the account of the supplier.

(e) *Contents:* The unmanufactured leaf from which the tobacco product is made shall not include cigar cuttings, cigar trimmings, siftings, stems (except the stem of the leaf sold), homogenized leaf, or scrap: Provided, however, the cigar types of tobacco processed into "short filler" lengths shall not be considered scrap.

(f) *CCC financing exclusive of any freight and insurance:* CCC financing exclusive of any freight and insurance will be the lesser of (1) the amount determined by CCC to represent the f.a.s. value of the untreated cased tobacco or shredded tobacco contained in the tobacco products, or (2) the contract price less the cost of the flavoring, casing material, and other tobacco added including its application, as evidenced by FAS Form 480-C.

(g) *Contracts:* All contracts between suppliers and importers shall state:

The tobacco product, the quantity, the contract unit price, and the total contract price of such product;

The portion of the contract unit price of the tobacco product to be financed by CCC which represents the unmanufactured U.S. leaf tobacco used in its manufacture;

The portion of the unit price of the tobacco product to be financed by the importer.

(H) *Rice, milled and/or brown in bags and/or bulk:*

(1) *Rice Export Program:* Contracts will not be eligible for financing unless the supplier has complied with the requirements of the "Rice Export Program (GR-369), Terms and Conditions" as amended or revised, as they pertain to sales pursuant to these regulations. The above shall apply even though the export payment is zero.

(2) *Contract approval:* Contracts between suppliers and importers shall be deemed to be conditioned on the approval by EMS, of the supplier, the supplier's agent, if any, and the contract price. Contracts shall be expressed in price terms per cwt., and in the unit price to be used in invoicing as well. Both the price per cwt. and such other unit price as may be intended for use shall be entered on Form CCC-421, Declaration of Sale.

(3) *Prices:* Supplier's sales price will not be approved for financing if such price exceeds:

(a) The prevailing range of export market prices as determined under Section 17.7 of these regulations, and (b) The price stated in the applicable purchase authorization for milled rice, basis U.S. No. 5 (maximum 20 percent broken kernels), in 100 lb. bags, f.a.s. Gulf and West Coast ports, or comparable prices for other varieties, grades, qualities, packaging specifications, and delivery points as determined by the General Sales Manager, EMS, less in either case the applicable export payment rate under Rice Export Program (GR-369), as amended or revised.

Comparable prices may be obtained from the Export Marketing Service (EMS), Washington, D.C. 20250.

(4) *Weights and grades:*

(a) *Rice in bags:* The rice shall be checked by or under the supervision of the Grain Division, AMS, at time of loading the rice for shipment to port for export, or at time of loading of rice to ocean vessel as shown on a Commodity Examination Report, Form GR-116.

Grades shall be determined by lot inspection by or under the supervision of the Grain Division, AMS, made not more than 15 days prior to loading to ocean vessel while the rice was at port under the supervision of the Port Authority.

(b) *Rice in bulk:* For rice in bulk, weights shall be obtained at point of loading to ocean vessel; or if the supplier has obtained approval from the Director, Program Operations Division, EMS, to furnish weights to be taken at point other than at point of loading to ocean vessel, weights shall be 99.5 percent of the weight shown on a weight certificate (weights to be taken at time of loading to barge less a deduction for the weight of any rice loaded onto the barge which was not unloaded into the ocean vessel, or to be the difference between heavy and light weights of rail car or truck loading direct to ocean vessel). The supplier shall

obtain a copy of a Commodity Examination Report, Form GR-116, issued by or under the supervision of the Grain Division, C&MS, which shows that the rice was transferred from the carrier to ocean vessel in the manner specified in the letter of approval from the Director, Program Operations Division, FAS, and containing a notification regarding any rice not so transferred.

Grades shall be determined by lot inspection by or under the supervision of the Grain Division, C&MS, at point of loading to ocean vessel.

(I) *Dry edible beans:*

(1) *Notification of sale by supplier:* The supplier shall, immediately after the date of export sale, furnish a written or telegraphic notification of sale to the Export Marketing Service (EMS), USDA, Washington, D.C. 20250. Such notification should not be withheld for performance of contract provisions which make a contract conditional on the occurrence of certain events, for instance, on the receipt of acceptable letters of credit or delivery instructions. Similarly, notification should not be delayed pending receipt from a sales agent of individual contract numbers or buyers names and addresses for sales negotiated by the sales agent with a group of buyers under identical terms. Written notification of any contract amendments shall also be furnished to the GSM immediately after the date of the amendment. If the supplier fails to furnish the notification within 5 days after the date of export sale, or the date of an amendment to the contract if applicable, CCC shall have the right to refuse to finance the sale under the program. The following information shall be included in the written notification of the sale:

Supplier's name and address.

Purchase authorization number.

Name of importer.

Sales contract or order number, if any.

Date and time of sale.

Complete commodity description (give full contract specifications including quality factors).

Complete pack and package material specification

Quantity expressed in contract units and in 100 pounds net weight.

Indicate separately, by percentage, the loading tolerance provided for in the contract (not to exceed 10 percent, more or less). If the contract does not provide for a loading tolerance indicate "no loading tolerance." Also set forth separately contract options for additional quantities exercisable by the supplier or the foreign buyers. If there are no such options indicate "no options." Contract options for additional quantities exercisable by the supplier or foreign buyer, shall not exceed 10 percent of the original contract quantity, exclusive of consideration of loading tolerance. Larger quantities must be contracted separately.

Price per contract unit and per 100 pounds net weight.

Delivery terms (f.o.b., f.a.s., etc.) and coastal range of export (specify Pacific, Gulf, Atlantic, Great Lakes or St. Lawrence River ports and any option to be exercised by the exporter and/or foreign importer).

Contract delivery schedule.

Name and address of sales agent, if any.

The supplier will be notified by letter, and by telephone if requested, from the GSM promptly after receipt of the notification of sale or notification of any amendments to the contract as to whether or not the price is approved for financing.

When a price is disapproved, the supplier shall have five calendar days following the date of the notification of sale within which to submit a price which may be approved by the GSM. During such 5-day period, USDA will not recognize any new sale between the same supplier and foreign buyer in substitution of the original transaction. If an acceptable price is not submitted within such 5-day period, the original notification of sale, any subsequent notification of price adjustments and the related contract between supplier and the foreign buyer shall, for purposes of the price review program, be considered null and void. Any subsequent negotiations after expiration of such 5-day period which result in a contract between the supplier and the same foreign buyer shall be subject to the submission of a new notification of sale.

(2) *Contract approval:* Contracts between suppliers and importers shall be deemed to be conditioned on the approval by EMS, of the supplier, the supplier's agent if any, and the contract price.

(3) *Quality:* Quality description shall be in terms of the U.S. Standards for beans.

(4) *Weights and grades:* The beans shall be checkloaded by the Grain Division, AMS, at time of loading the beans for shipment to port for export, or at time of loading of the beans to vessel; and grade shall be determined by or under the supervision of the Grain Division, AMS, not more than 15 days prior to loading to vessel while the beans were at port under the supervision of the Port Authority.

(J) *Dry edible peas:*

(1) *Notification of sale by supplier:* The supplier shall, immediately after the date of export sale, furnish a written or telegraphic notification of sale to the Export Marketing Service (EMS), USDA, Washington, D.C. 20250. Such notification should not be withheld for performance of contract provisions which make a contract conditional on the occurrence of certain events, for instance, on the receipt of acceptable letters of credit or delivery instructions. Similarly, notification should not be delayed pending receipt from a sales agent of individual contract numbers or buyers names and addresses for sales negotiated by the sales agent with a group of buyers under identical terms. Written notification of any contract amendments shall also be furnished to the GSM immediately after the date of the amendment. If the

supplier fails to furnish the notification within 5 days after the date of export sale, or the date of an amendment to the contract if applicable, CCC shall have the right to refuse to finance the sale under the program. The following information shall be included in the written notification of the sale:

- Supplier's name and address.
- Purchase authorization number.
- Name of importer.
- Sales contract or order number, if any.
- Date and time of sale.
- Complete commodity description (give full contract specifications including quality factors).
- Complete pack and packaging material specification.

Quantity expressed in contract units and in 100 pounds net weight.

Indicate separately, by percentage, the loading tolerance provided for in the contract (not to exceed 10 percent, more or less). If the contract does not provide for a loading tolerance indicate "no loading tolerance." Also set forth separately contract options for additional quantities exercisable by the supplier or the foreign buyers. If there are no such options indicate "no options." Contract options for additional quantities exercisable by the supplier or foreign buyer shall not exceed 10 percent of the original contract quantity, exclusive of consideration of loading tolerance. Larger quantities must be contracted separately.

Price per contract unit and per 100 pounds net weight.

Delivery terms (f.o.b., f.a.s., etc.) and coastal range of export (specify Pacific, Gulf, Atlantic, Great Lakes or St. Lawrence River ports and any option to be exercised by the exporter and/or foreign importer).

Contract delivery schedule.

Name and address of sales agent, if any.

The supplier will be notified by letter, and by telephone if requested, from the GSM promptly after receipt of the notification of sale or notification of any amendments to the contract as to whether or not the price is approved for financing.

When a price is disapproved, the supplier shall have 5 calendar days following the date of the notification of sale within which to submit a price which may be approved by the GSM. During such 5-day period, USDA will not recognize any new sale between the same supplier and foreign buyer in substitution of the original transaction. If an acceptable price is not submitted within such 5-day period, the original notification of sale, any subsequent notification of price adjustments and the related contract between supplier and the foreign buyer shall for purposes of the price review program, be considered null and void. Any subsequent negotiations after expiration of such 5-day period which result in a contract between the supplier and the same foreign buyer shall be subject to the submission of a new notification of sale.

(2) *Contract approval:* Contracts between suppliers and importers made subject to the applicable purchase authorization shall be deemed to be conditioned on the approval by the EMS, of the supplier, the supplier's agent, if any, and the contract price.

(3) *Quality:* Quality description shall be in terms of the U.S. Standards for dry peas.

(4) *Weights and grades:* The peas shall be checkloaded by or under the supervision of the Grain Division, AMS, at time of loading the peas for shipment to port for export or at time of loading of the peas to vessel; and grade shall be determined by or under the supervision of the Grain Division, AMS, not more than 15 days prior to loading to vessel while the peas were at port under the supervision of the Port Authority.

(K) *Tallow (inedible):*

(1) *Notification of sale by supplier:* The supplier shall, immediately after the date of export sale, furnish a written or telegraphic notification of sale to the Export Marketing Service (EMS), USDA, Washington, D.C. 20250. Such notification should not be withheld for performance of contract provisions which make a contract conditional on the occurrence of certain events, for instance, on the receipt of acceptable letters of credit or delivery instructions. Similarly, notifications should not be delayed pending receipt from a sales agent of individual contract numbers or buyers names and addresses for sales negotiated by the sales agent with a group of buyers under identical terms. Written notification of any contract amendments shall also be furnished to the GSM immediately after the date of the amendment. If the supplier fails to furnish the notification within 5 days after the date of export sale, or the date of an amendment to the contract if applicable, CCC shall have the right to refuse to finance the sale under the program. The following information shall be included in the written notification of the sale:

Supplier's name and address.

Purchase authorization number.

Name of importer.

Sales contract or order number, if any.

Date of sale.

Complete commodity description (give full contract specifications including quality factors).

If other than bulk shipment, show complete pack and package material specification.

Quantity expressed in contract units and in pounds. Indicate separately, by percentage, the loading tolerance provided for in the contract (not to exceed 10 percent, more or less). If the contract does not provide for a loading tolerance indicate "no loading tolerance."

Also set forth separately contract options for additional quantities exercisable by the supplier or the foreign buyers. If there are no such options indicate "no options." Contract options for additional quantities exercisable by the supplier or foreign buyer shall not exceed 10 percent of the original

contract quantity, exclusive of consideration of loading tolerance. Larger quantities must be contracted separately.

Price per contract unit and per pound.

Delivery terms (f.o.b., f.a.s., etc.) and coastal range of export (specify Pacific, Gulf, Atlantic, Great Lakes or St. Lawrence River ports and any option to be exercised by the exporter and/or foreign importer).

Contract delivery schedule.

Name and address of sales agent, if any.

The supplier will be notified by letter, and by telephone if requested, from the GSM promptly after receipt of the notification of sale or notification of any amendments to the contract as to whether or not the price is approved for financing.

When a price is disapproved, the supplier shall have 5 calendar days following the date of the notification of sale within which to submit a price which may be approved by the GSM. During such 5-day period, USDA will not recognize any new sale between the same supplier and foreign buyer in substitution of the original transaction. If an acceptable price is not submitted within such 5-day period, the original notification of sale, any subsequent notification of price adjustments and the related contract between supplier and the foreign buyer shall, for purposes of the price review program, be considered null and void. Any subsequent negotiations after expiration of such 5-day period which result in a contract between the supplier and the same foreign buyer shall be subject to the submission of a new notification of sale.

(2) *Contract approval:* Contracts between suppliers and importers made subject to the applicable purchase authorization shall be deemed to be conditioned on the approval by the EMS, of the supplier, the supplier's agent if any, and the contract price.

(3) *Quality description* shall be as defined in the "Rules of the New York Produce Exchange for Animal Oils and Fats" (Export Contract for Bulk Tallows and Greases) that are in effect on the date the contract is entered into. The minimum quality eligible for financing shall be "Special Grade." If the contract provides for "Special Grade" inedible tallow, tolerances and discounts with respect to Moisture, Insoluble Impurities, and Unsaponifiable Matter (MIU) only as provided in the NYPE rules shall apply. If the contract provides for "Prime Grade" or better, all tolerances and discounts as provided in the NYPE rules shall be applicable.

(4) *Sampling and analysis:*

(a) Ten (10) days prior to sampling the supplier must furnish contract specifications regarding quality, in duplicate, to the Program Operations Division, EMS, together with a citation to the name and address of the persons, firms or agency that will perform the sampling and analysis service and the location of the tallow and dates when available for sampling.

(b) The drawing of samples and laboratory analysis may be performed by the Meat

Grading Branch, Livestock Division, AMS, or by independent surveyors and commercial laboratories mutually agreeable to the importer and the supplier. If the services are performed by independent surveyor(s) and commercial laboratories, EMS may at any time request the Meat Grading Branch, Livestock Division, AMS, to draw check samples and perform check analysis. The cost of such check sampling and analysis will be for the account of CCC.

(c) *Bulk tallow:* For bulk tallow, the samples shall be obtained in accordance with the American Oil Chemists' Society Method C1-47.

(d) *Tallow in drums:* For tallow in drums, samples must be obtained at the time of filling drums. Samples shall be drawn from at least 5 percent of the drums, but in all cases the higher of 10 drums or 5 percent of the total drums in the lot shall be sampled. The samples from each lot shall be composited and a single sample drawn from the composited sample for analysis.

(5) *Weighting:* Determination of weight shall be by an independent weighmaster or independent surveyor or by the Meat Grading Branch, Livestock Division, AMS.

(a) *Bulk tallow:* The weight shall be determined at the time of loading aboard vessel.

(b) *Tallow in drums:* The weight of the tallow in drums shall be determined at the time of filling drums.

(6) *Kind of drums:* The drums must be new or reconditioned.

(7) *Surveying of containers:* Suitability of the tanks, holds, or drums for export shall be determined by an independent surveyor or by the Meat Grading Branch, Livestock Division, AMS.

(a) *Bulk tallow:* Each tank or hold into which the tallow is to be loaded shall be examined by an independent surveyor or by the Meat Grading Branch, Livestock Division, AMS, prior to loading to determine that the tanks are clean and in such condition as not to contaminate the product and that the tank is otherwise acceptable for receipt of tallow.

(b) *Tallow in drums:* Drums shall be examined, prior to filling, by an independent surveyor or the Meat Grading Branch, Livestock Division, AMS. The drums shall be new or reconditioned and shall be rejected if mechanically unsound, contaminated with previous contents, or printed with labels or markings for other commodities. The weight of each drum shall be determined at the time of inspection for the purpose of establishing the tare weight.

(8) *Markings:* Markings requested by the importer shall be stenciled on the drums, and shall include the name or symbol of the supplier, purchase authorization number, the name of the importing country, and the work "inedible."

(L) Lard:

(1) Notification of sale by supplier: The supplier shall, immediately after the date of export sale, furnish a written or telegraphic notification of sale to the Export Marketing Service (EMS), USDA, Washington, D.C. 20250. Such notification should not be withheld for performance of contract provisions which make a contract conditional on the occurrence of certain events, for instance, on the receipt of acceptable letters of credit or delivery instructions. Similarly, notifications should not be delayed pending receipt from a sales agent of individual contract numbers or buyers names and addresses for sales negotiated by the sales agent with a group of buyers under identical terms. Written notification of any contract amendments shall also be furnished to the GSM immediately after the date of the amendment. If the supplier fails to furnish the notification within 5 days after the date of export sale, or the date of an amendment to the contract if applicable, CCC shall have the right to refuse to finance the sale under the program. The following information shall be included in the written notification of the sale:

Supplier's name and address.

Purchase authorization number.

Name of importer.

Sales contract or order number, if any.

Date of sale.

Complete commodity description (give full contract specifications including quality factors).

If other than bulk shipment, show complete pack and package material specifications.

Quantity expressed in contract units and in pounds. Indicate separately, by percentage, the loading tolerance provided for in the contract (not to exceed 10 percent, more or less). If the contract does not provide for a loading tolerance indicate "no loading tolerance."

Also set forth separately contract options for additional quantities exercisable by the supplier or the foreign buyers. If there are no such options indicate "no options." Contract options for additional quantities exercisable by the supplier or foreign buyer shall not exceed 10 percent of the original contract quantity, exclusive of consideration of loading tolerance. Larger quantities must be contracted separately.

Price per contract unit and per pound.

Delivery terms (f.o.b., f.a.s., etc.) and coastal range of export (specify Pacific, Gulf, Atlantic, Great Lakes or St. Lawrence River ports and any option to be exercised by the exporter and/or foreign importer).

Contract delivery schedule.

Name and address of sales agent, if any.

The supplier will be notified by letter, and by telephone if requested, from the GSM promptly after receipt of the notification of sale or notification of any amendments to the contract as to whether or not the price is approved for financing.

When a price is disapproved, the supplier shall have 5 calendar days following the date of the notification of sale within which to submit a price which may be approved by the GSM. During such 5-day period, USDA will not recognize any new sale between the same supplier and foreign buyer in substitution of the original transaction. If an acceptable price is not submitted within such 5-day period, the original notification of sale, any subsequent notification of price adjustments and the related contract between supplier and the foreign buyer shall, for purposes of the price review program, be considered null and void. Any subsequent negotiations after expiration of such 5-day period which result in a contract between the supplier and the same foreign buyer shall be subject to the submission of a new notification of sale.

(2) Contract approval: Contracts between suppliers and importers made subject to the applicable purchase authorization shall be deemed to be conditioned on the approval by the EMS, USDA, of the supplier, the supplier's agent if any and the contract price.

(3) Quality: Quality description shall be as defined in Federal Specifications No. EE-S-321-b (Shortening Compound and Lard), as amended.

(4) Advice of contract specifications: The supplier must furnish contract specifications, regarding quality and packaging to the meat inspection office of the Meat and Poultry Inspection Program, APHIS, having supervision of his establishment.

(5) Wholesomeness, specifications, and weight: The Meat and Poultry Inspection Program, APHIS, shall make determination as to the wholesomeness of the lard. The Meat Grading Branch, Livestock Division, AMS, shall make determinations at the point of origin as to compliance with specifications and as to weight and shall also make determination at dockside as to quantity and condition of containers and that the product is the same as that examined at the point of origin.

(6) Markings: Labeling and marking of cans and shipping containers shall be in accordance with the regulations, as amended, of the Meat and Poultry Inspection Program, APHIS.

(M) Poultry (Frozen chickens and turkeys):

(1) Notification of sale by supplier: The supplier shall, immediately after the date of export sale, furnish a written or telegraphic notification of sale to the Export Marketing Service (EMS), USDA, Washington, D.C. 20250. Such notification should not be withheld for performance of contract provisions which make a contract conditional on the occurrence of certain events, for instance, on the receipt of acceptable letters of credit or delivery instructions. Similarly, notifications should not be delayed pending receipt from a sales agent of individual contract numbers or buyers names and addresses for sales negotiated by the sales agent with a group of

buyers under identical terms. Written notification of any contract amendments shall also be furnished to the GSM immediately after the date of the amendment. If the supplier fails to furnish the notification within 5 days after the date of export sale, or the date of an amendment to the contract if applicable, CCC shall have the right to refuse to finance the sale under the program. The following information shall be included in the written notification of the sale:

- Supplier's name and address.
- Purchase authorization number.
- Name of importer.
- Sales contract or order number, if any.
- Date of sale.

Complete commodity description (give full contract specifications including quality factors).

Details of package, label, and shipping container material specifications.

Quantity expressed in contract units and pounds. Indicate separately, by percentage, the loading tolerance provided for in the contract (not to exceed 10 percent, more or less). If the contract does not provide for a loading tolerance indicate "no loading tolerance." Also set forth separately contract options for additional quantities exercisable by the supplier or the foreign buyers. If there are no such options indicate "no options." Contract options for additional quantities exercisable by the supplier or foreign buyer shall not exceed 10 percent of the original contract quantity, exclusive of consideration of loading tolerance. Larger quantities must be contracted separately.

Price per contract unit and per pound.

Delivery terms (f.o.b., f.a.s., etc.) and coastal range of export (specify Pacific, Gulf, Atlantic, Great Lakes or St. Lawrence River ports and any option to be exercised by the exporter and/or foreign importer).

Contract delivery schedule.

Name and address of sales agent, if any.

The supplier will be notified by letter, and by telephone if requested, from the GSM promptly after receipt of the notification of sale or notification of any amendments to the contract as to whether or not the price is approved for financing.

When a price is disapproved, the supplier shall have 5 calendar days following the date of the notification of sale within which to submit a price which may be approved by the GSM. During such 5-day period, USDA will not recognize any new sale between the same supplier and foreign buyer in substitution of the original transaction. If an acceptable price is not submitted within such 5-day period, the original notification of sale, any subsequent notification of price adjustments and the related contract between supplier and the foreign buyer shall, for purposes of the price review program, be considered null and void. Any subsequent negotiations after expiration of such 5-day period which result in a contract between the supplier and the same foreign buyer shall

be subject to the submission of a new notification of sale.

(2) *Contract approval:* Contracts between suppliers and importers made subject to the applicable purchase authorization shall be deemed to be conditioned on the approval by EMS of the supplier, the supplier's agent if any, and the contract price.

(3) *Advice of contract specifications:* The supplier shall notify the Grading Branch, Poultry Division, AMS, USDA, Washington, D.C. 20250, sufficiently in advance to permit USDA inspectors to plan inspection of the poultry.

(4) *Slaughtering:* The slaughtering shall be performed according to contracts between suppliers and importers.

(5) *Packaging and markings:*

(a) *Whole birds* shall be individually packaged in a bag of shrinkable film or wrapped in shrinkable film. If bags are used they shall be vacuumed and sealed with a clip or any other suitable closure which will maintain the seal. If the whole birds are wrapped in sheets of shrinkable film, the film shall be heat sealed and shrunk.

(b) *Parts* shall be tray-packed in a shrinkable film or polyethylene wrap which can be heat-sealed. All bags and wraps shall bear the phrase "Product of U.S.A." Brand names may also be included.

(6) *Shipping containers:*

(a) *For chickens* the shipping containers shall comply with the requirements for Level A as set forth in section 5 of Federal Specifications PP-C-248e, as amended.

(b) *For turkeys* the shipping containers shall comply with the requirements for Level A as set forth in section 5 of Federal Specifications PP-T-791f, as amended.

(c) Each shipping container shall be marked with an official inspection and a grade mark issued by the Poultry Division, AMS.

(7) *Grading and weight certificates:* Each lot must be wholesome and meet the requirements of the special provisions of the applicable purchase authorization, if any, with respect to class, condition, packaging, weight and quality. Determination shall be made at shipside and at the inland inspection point in the United States, by the Poultry Division, AMS, evidencing wholesomeness, class, condition, packaging, weight, and quality.

(N) *Canned milk (sweetened condensed and/or evaporated):*

(1) *Notification of sale by supplier:* The supplier shall, immediately after the date of export sale, furnish a written or telegraphic notification of sale to the Export Marketing Service (EMS), USDA, Washington, D.C. 20250. Such notification should not be withheld for performance of contract provisions which make a contract conditional on the occurrence of certain events, for instance, on the receipt of acceptable letters of credit or delivery instructions. Similarly, notifications should not be delayed pending receipt from a sales agent of individual contract numbers or buyers names and addresses for sales ne-

gotiable by the sales agent with a group of buyers under identical terms. Written notifications of any contract amendments shall also be furnished to the GSM immediately after the date of the amendment. If the supplier fails to furnish the notification within 5 days after the date of export sale, or the date of an amendment to the contract if applicable, CCC shall have the right to refuse to finance the sale under the program. The following information shall be included in the written notification of the sale:

- Supplier's name and address.
- Purchase authorization number.
- Name of importer.
- Sales contract or order number, if any.
- Date of sale.

Complete commodity description (give full contract specifications including quality factors).

Details of package, label, and shipping container material specifications.

Quantity expressed in contract units and pounds.

Indicated separately, by percentage, the loading tolerance provided for in the contract (not to exceed 10 percent, more or less). If the contract does not provide for a loading tolerance indicate "no loading tolerance." Also set forth separately contract options for additional quantities exercisable by the supplier or the foreign buyers. If there are no such options indicate "no options." Contract options for additional quantities exercisable by the supplier or foreign buyer shall not exceed 10 percent of the original contract quantity, exclusive of consideration of loading tolerance. Larger quantities must be contracted separately.

Price per contract unit and per pound.

Delivery terms (f.o.b., f.a.s., etc.) and coastal range of export (specify Pacific, Gulf, Atlantic, Great Lakes, or St. Lawrence River ports and any option to be exercised by the exporter and/or foreign importer).

Contract delivery schedule.

The supplier will be notified by letter, and by telephone if requested, from the GSM promptly after receipt of the notification of sale or notification of any amendments to the contract as to whether or not the price is approved for financing.

When a price is disapproved, the supplier shall have 5 calendar days following the date of the notification of sale within which to submit a price which may be approved by the GSM. During such 5-day period, USDA will not recognize any new sale between the same supplier and foreign buyer in substitution of the original transaction. If an acceptable price is not submitted within such 5-day period, the original notification of sale, any subsequent notification of price adjustments, and the related contract between supplier and the foreign buyer shall, for purposes of the price review program, be considered null and void. Any subsequent negotiations after expiration of such 5-day period which result in a contract between the supplier and the same foreign buyer

shall be subject to the submission of a new notification of sale.

(2) *Contract approval:* Contracts between suppliers and importers made subject to the applicable purchase authorization shall be deemed to be conditioned on the approval by the EMS, of the supplier, the supplier's agent if any, and the contract price.

(3) *Quality:* Quality and packaging shall be as specified in the contract between the supplier and the importer.

(4) *Sweetened condensed milk:* Quality and composition for sweetened condensed milk shall comply with the following requirements:

(a) The product shall contain not less than 28-percent total milk solids, not less than 8.5-percent milk fat, and not less than 61.5 percent sugar (sucrose) in water ratio.

(b) The product shall possess a sweet, pleasing, desirable flavor of a milk and sugar mixture with not more than a definite cooked flavor.

(c) The color of the product shall be white to light cream and free from visible brown specks. The product shall be of uniform consistency and appearance free from fat separation, lumps, and may possess not more than very slight lactose precipitation. The product, at 75° F., shall be sufficiently viscous that upon being poured it piles up above the surface of the previously poured milk but does not retain a definite form.

(d) Determination shall be made by the Inspection and Grading Branch, Dairy Division, AMS, showing the quality, condition, and weight of the sweetened condensed milk; that the sweetened condensed milk was packaged in accordance with the requirements of the contract between the supplier and importer; and that the requirements of section 17.8(d) of these regulations were complied with.

(5) *Evaporated milk.*

(a) Quality and composition for the evaporated milk shall comply with sections 3.3 and 3.4 of Federal Specifications C-M-37b(1), as amended.

(b) Determination shall be made by the Inspection and Grading Branch, Dairy Division, AMS, showing the quality, condition, and weight of the evaporated milk; that the evaporated milk was packaged in accordance with the requirements of the contract between the supplier and the importer; and that the requirements of section 17.8(d) of these regulations were complied with.

(6) *Advice of contract specifications:* The supplier must furnish contract specifications, regarding quality, packaging, and the location of the milk and dates available for sampling to the Inspection and Grading Branch, Dairy Division, AMS, USDA, Washington, D.C. 20250.

(7) *Labels:* Canned milk exported with a brand label attached to the unit container shall conform to the following:

The label shall be printed or lithographed and shall contain a statement clearly establishing the commodity as being produced,

processed, and packaged in U.S.A. Stamped or stencilled label information will not be acceptable.

(O) *Nonfat dry milk:*

(1) *Notification of sale by supplier:* The supplier shall, immediately after the date of export sale, furnish a written or telegraphic notification of sale to the Export and Marketing Service (EMS), USDA, Washington, D.C. 20250. Such notification should not be withheld for performance of contract provisions which make a contract conditional on the occurrence of certain events, for instance, on the receipt of acceptable letters of credit or delivery instructions. Similarly, notifications should not be delayed pending receipt from a sales agent of individual contract numbers or buyers names and addresses for sales negotiated by the sales agent with a group of buyers under identical terms. Written notification of any contract amendments shall also be furnished to the GSM immediately after the date of the amendment. If the supplier fails to furnish the notification within 5 days after the date of export sale, or the date of an amendment to the contract if applicable, CCC shall have the right to refuse to finance the sale under the program. The following information shall be included in the written notification of the sale:

- Supplier's name and address.
- Purchase authorization number.
- Name of importer.
- Sales contract or order number, if any.
- Date of sale.

Complete commodity description (give full contract specifications including quality factors).

Details of package, label, and shipping container material specifications.

Quantity expressed in contract units and pounds. Indicate separately, by percentage, the loading tolerance provided for in the contract (not to exceed 10 percent, more or less).

If the contract does not provide for a loading tolerance indicate "no loading tolerance." Also set forth separately contract options for additional quantities exercisable by the supplier or the foreign buyers. If there are no such options indicate "no options." Contract options for additional quantities exercisable by the supplier or foreign buyer shall not exceed 10 percent of the original contract quantity, exclusive of consideration of loading tolerance. Larger quantities must be contracted separately.

Price per contract unit and per pound.

Delivery terms (f.o.b., f.a.s., etc.) and coastal range of export (specify Pacific, Gulf, Atlantic, Great Lakes or St. Lawrence River ports and any option to be exercised by the exporter and/or foreign importer).

Contract delivery schedule.

Name and address of sales agent, if any.

The supplier will be notified by letter, and by telephone if requested, from the GSM promptly after receipt of the notification of sale or notification of any amendments to the

contract as to whether or not the price is approved for financing.

When a price is disapproved, the supplier shall have 5 calendar days following the date of the notification of sale within which to submit a price which may be approved by the GSM. During such 5-day period, USDA will not recognize any new sale between the same supplier and foreign buyer in substitution of the original transaction. If an acceptable price is not submitted within such 5-day period, the original notification of sale, any subsequent notification of price adjustments and the related contract between supplier and the foreign buyer shall for purposes of the price review program be considered null and void. Any subsequent negotiations after expiration of such 5-day period, which result in a contract between the supplier and the same foreign buyer shall be subject to the submission of a new notification of sale.

(2) *Contract approval:* Contracts between suppliers and importers made subject to the applicable purchase authorization shall be deemed to be conditioned on the approval by the EMS, of the supplier, the supplier's agent if any, and the contract price.

(3) *Quality:* Quality and packaging shall be as specified in the contract between the supplier and importer. Quality shall be in accordance with U.S. Standards for Grades of nonfat dry milk effective July 1, 1958, as amended.

(4) *Advice of contract specifications:* The supplier must furnish contract specifications, regarding quality and packaging, the location of the milk and dates available for sampling to the Inspection and Grading Branch, Dairy Division, C&MS, USDA, Washington, D.C. 20250.

(5) *Grade and weight:* Determinations shall be made by the Inspection and Grading Branch, Dairy Division, C&MS, showing the grade and weight of the nonfat dry milk, that the milk was packaged in accordance with the requirements of the contract between supplier and the importer, and that the requirements of section 17.8(d) of these regulations were complied with.

(6) *Labels:* Nonfat dry milk exported with a brand label attached to the unit container shall conform to the following:

The label shall be printed or lithographed and shall contain a statement clearly establishing the commodity as being produced, processed, and packaged in U.S.A. Stamped and stencilled label information will not be acceptable.

(P) *Dry whole milk:*

(1) *Notification of sale by supplier:* The supplier shall, immediately after the date of export sale, furnish a written or telegraphic notification of sale to the Export and Marketing Service (EMS), USDA, Washington, D.C. 20250. Such notification should not be withheld for performance of contract provisions which make a contract conditional on the occurrence of certain

events, for instance, on the receipt of acceptable letters of credit or delivery instructions. Similarly, notifications should not be delayed pending receipt from a sales agent of individual contract numbers or buyers names and addresses for sales negotiated by the sales agent with a group of buyers under identical terms. Written notification of any contract amendments shall also be furnished to the GSM, immediately after the date of the amendment. If the supplier fails to furnish the notification within 5 days after the date of export sale, or the date of an amendment to the contract if applicable, CCC shall have the right to refuse to finance the sale under the program. The following information shall be included in the written notification of the sale:

Supplier's name and address.

Purchase authorization number.

Name of importer.

Sales contract or order number, if any.

Date of sale.

Complete commodity description (give full contract specifications including quality factors).

Details of package, label, and shipping container material specifications.

Quantity expressed in contract units and pounds. Indicate separately, by percentage, the loading tolerance provided for in the contract (not to exceed 10 percent, more or less). If the contract does not provide for a loading tolerance indicate "no loading tolerance." Also set forth separately contract options for additional quantities exercisable by the supplier or the foreign buyers. If there are no such options indicate "no options." Contract options for additional quantities exercisable by the supplier or foreign buyer shall not exceed 10 percent of the original contract quantity, exclusive of consideration of loading tolerance. Larger quantities must be contracted separately.

Price per contract unit and per pound.

Delivery terms (f.o.b., f.a.s., etc.) and coastal range of export (specify Pacific, Gulf, Atlantic, Great Lakes or St. Lawrence River ports and any option to be exercised by the exporter and/or foreign importer).

Contract delivery schedule.

Name and address of sales agent, if any.

The supplier will be notified by letter, and by telephone if requested, from the GSM promptly after receipt of the notification of sale or notification of any amendments to the contract as to whether or not the price is approved for financing.

When a price is disapproved, the supplier shall have 5 calendar days following the date of the notification of sale within which to submit a price which may be approved by GSM. During such 5-day period, USDA will not recognize any new sale between the same supplier and foreign buyer in substitution of the original transactions. If an acceptable price is not submitted within such 5-day period, the original notification of sale, any subsequent notification of price adjustments and the related contract between supplier

and the foreign buyer shall for purposes of the price review program be considered null and void. Any subsequent negotiations after expiration of such 5-day period which result in a contract between the supplier and the same foreign buyer shall be subject to the submission of a new notification of sale.

(2) *Contract approval:* Contracts between suppliers and importers made subject to the applicable purchase authorization shall be deemed to be conditioned on the approval by FAS of the supplier, the supplier's agent if any and the contract price.

(3) *Quality:* Quality and packaging shall be as specified in the contract between the supplier and the importer. Quality shall be in accordance with U.S. Standards for Grades of Dry Whole Milk, as amended.

(4) *Advice of contract specifications:* The supplier must furnish contract specifications regarding quality and packaging and the location of the milk and dates available for sampling to the Inspection and Grading Branch, Dairy Division, AMS, USDA, Washington, D.C. 20250.

(5) *Grade and weights:* Determinations shall be made by the Inspection and Grading Branch, Dairy Division, AMS, showing the grade and weight of the dry whole milk; that the dry whole milk was packaged in accordance with the requirements of the contract between the supplier and the importer; and that the requirements of Section 17.8(d) of these regulations were complied with.

(6) *Labels:* Dry whole milk exported with a brand label attached to the unit container shall conform to the following:

The label shall be printed or lithographed and shall contain a statement clearly establishing the commodity as being produced, processed, and packaged in the U.S.A. Stamped or stenciled label information will not be acceptable.

(Q) *Butter:*

(1) *Notification of sale by supplier:* The supplier shall, immediately after the date of export sale, furnish a written or telegraphic notification of sale to the Export and Marketing Service (EMS), USDA, Washington, D.C. 20250. Such notification should not be withheld for performance of contract provisions which make a contract conditional on the occurrence of certain events, for instance, on the receipt of acceptable letters of credit or delivery instructions. Similarly, notifications should not be delayed pending receipt from a sales agent of individual contract numbers or buyers names and addresses for sales negotiated by the sales agent with a group of buyers under identical terms. Written notifications of any contract amendments shall also be furnished to the GSM immediately after the date of the amendment. If the supplier fails to furnish the notification within 5 days after the date of export sale, or the date of an amendment to the contract if applicable, CCC shall have the right to refuse to finance the sale under the program.

The following information shall be included in the written notification of the sale:

Supplier's name and address.

Purchase authorization number.

Name of importer.

Sales contract or order number, if any.

Date of sale.

Complete commodity description (give full contract specifications including quality factors).

Details of package, label, and shipping container material specifications.

Quantity expressed in contract units and pounds. Indicate separately, by percentage, the loading tolerance provided for in the contract (not to exceed 10 percent, more or less). If the contract does not provide for a loading tolerance indicate "no loading tolerance." Also set forth separately contract options for additional quantities exercisable by the supplier or the foreign buyers. If there are no such options indicate "no options." Contract options for additional quantities exercisable by the supplier or foreign buyer shall not exceed 10 percent of the original contract quantity, exclusive of consideration of loading tolerance. Larger quantities must be contracted separately.

Price per contract unit and per pound.

Delivery terms (f.o.b., f.a.s., etc.) and coastal range of export (specify Pacific, Gulf, Atlantic, Great Lakes or St. Lawrence River ports and any option to be exercised by the exporter and/or foreign importer).

Contract delivery schedule.

Name and address of sales agent, if any.

The supplier will be notified by letter, and by telephone if requested, from the GSM after receipt of the notification of sale or notification of any amendments to the contract as to whether or not the price is approved for financing.

When a price is disapproved, the supplier shall have 5 calendar days following the date of the notification of sale within which to submit a price which may be approved by the GSM. During such 5-day period, USDA will not recognize any new sale between the same supplier and foreign buyer in substitution of the original transactions. If an acceptable price is not submitted within such 5-day period, the original notification of sale, any subsequent notification of price adjustments and the related contract between supplier and the foreign buyer shall for purposes of the price review program be considered null and void. Any subsequent negotiations after expiration of such 5-day period which result in a contract between the supplier and the same foreign buyer shall be subject to the submission of a new notification of sale.

(2) *Contract approval:* Contracts between suppliers and importers made subject to the applicable purchase authorization shall be deemed to be conditioned on the approval by the EMS, of the supplier, the supplier's agent if any and the contract price.

(3) *Quality:* Quality and packaging shall be as specified in the contract between the supplier and the importer. Quality shall be in accordance with U.S. Standards for Grade of Butter, as amended. If the butter is unsalted the ph shall be less than 5 but not less than 4.6.

(4) *Advice of contract specifications:* The supplier must furnish contract specifications, regarding quality and packaging and the location of the butter and dates available for sampling to the Inspection and Grading Branch, Dairy Division, AMS, USDA, Washington, D.C. 20250.

(5) *Grade and weight:* Determination shall be made by the Inspection and Grading Branch, Dairy Division, AMS, showing the quality condition, and weight of the butter; that the butter was packaged in accordance with the requirements of the contract between the supplier and the importer; and that the requirements of section 17.8(d) of these regulations were complied with.

(6) *Labels:* Butter exported with a brand label attached to the unit container shall conform to the following:

The label shall be printed or lithographed and shall contain a statement clearly establishing the commodity as being produced, processed, and packaged in USA. Stamped or stenciled label information will not be acceptable.

(R) *Anhydrous milk fat or anhydrous butter fat or butteroil:*

(1) *Notification of sale by supplier:* The supplier shall, immediately after the date of export sale, furnish a written or telegraphic notification of sale to the Export and Marketing Service (EMS), USDA, Washington, D.C. 20250. Such notification should not be withheld for performance of contract provisions which make a contract conditional on the occurrence of certain events, for instance, on the receipt of acceptable letters of credit or delivery instructions. Similarly, notifications should not be delayed pending receipt from a sales agent of individual contract numbers or buyers names and addresses for sales negotiated by the sales agent with a group of buyers under identical terms. Written notification of any contract amendments shall also be furnished to the GSM immediately after the date of the amendment. If the supplier fails to furnish the notification within 5 days after the date of export sale, or the date of an amendment to the contract if applicable, CCC shall have the right to refuse to finance the sale under the program. The following information shall be included in the written notification of the sale:

Supplier's name and address.

Purchase authorization number.

Name of importer.

Sale contract or order number, if any.

Date of sale.

Complete commodity description (give full contract specifications including quality factors).

Details of package, label, and shipping container material specifications.

Quantity expressed in contract units and pounds. Indicate separately, by percentage, the loading tolerance provided for in the contract (not to exceed 10 percent, more or less). If the contract does not provide for a loading tolerance indicate "no loading tolerance." Also set forth separately contract options for additional quantities exercisable by the supplier or the foreign buyers. If there are such options indicate "no options." Contract options for additional quantities exercisable by the supplier or foreign buyer shall not exceed 10 percent of the original contract quantity exclusive of consideration of loading tolerance. Larger quantities must be contracted separately.

Price per contract unit and per pound.

Delivery terms (f.o.b., f.a.s., etc.) and coastal range of export (specify Pacific, Gulf, Atlantic, Great Lakes or St. Lawrence River ports and any option to be exercised by the exporter and/or foreign importer).

Contract delivery schedule.

Name and address of sales agent, if any.

The supplier will be notified by letter, and by telephone if requested from the GSM promptly after receipt of the notification of sale or notification of any amendments to the contract as to whether or not the price is approved for financing.

When a price is disapproved, the supplier shall have 5 calendar days following the date of the notification of sale within which to submit a price which may be approved by the GSM. During such 5-day period, USDA will not recognize any new sale between the same supplier and foreign buyer in substitution of the original transaction. If an acceptable price is not submitted within such 5-day period, the original notification of sale, any subsequent notification of price adjustments and related contract between supplier and the foreign buyer shall for purposes of the price review program be considered null and void. Any subsequent negotiations after expiration of such 5-day period which result in a contract between the supplier and the same foreign buyer shall be subject to the submission of a new notification of sale.

(2) *Contract approval:* Contracts between suppliers and importers made subject to the applicable purchase authorization shall be deemed to be conditioned on the approval by the EMS, of the supplier, the supplier's agent if any, and the contract price.

(3) *Anhydrous milk fat or anhydrous butter fat:*

(a) The anhydrous milk fat must have been unmanufactured from fresh sweet cream produced in the continental United States from which Grade A or better butter could be manufactured. The anhydrous butter fat must have been manufactured U.S. Grade A or better unsalted butter not over 30 days old.

(b) The finished product shall be free from lumps and large crystals such as produced by slow cooling. The color shall be uniform and of a normal yellow better color. The flavor and odor of the product shall be sweet and clean; free from rancid, tallowy, fishy, cheesy, soapy, scorched, storage or other objectionable flavors and colors.

(c) The product shall meet the following analytical requirements:

Milk fat.....	Not less than 99.8 percent.
Moisture	Not more than 0.1 percent.
Copper	Not more than 0.10 p.p.m. ¹
Peroxide value....	Not more than 0.5 mill equivalent per kilogram of fat.
Free fatty acid....	Not more than 0.3 percent.

¹ If all equipment and utensils coming into direct contact with the product during processing do not show exposed copper and are made of non-copper-bearing metals or alloys and testing of product indicated compliance with requirements, subsequent testing for copper shall be on a reduced basis. Testing one lot from each contract or spot testing on a 3-month basis, may be considered adequate provided no exposed surfaces of copper are observed and testing shows compliance, otherwise each production lot shall be tested.

(4) *Butteroil:*

(a) The color shall be uniform, normal yellow butter. The flavor and odor shall be bland, and free from rancid, tallowy, cheesy, soapy, scorched, storage or other objectionable flavors and odors.

(b) Butteroil shall meet the following analytical requirements:

Milk fat.....	Not less than 99.6 percent.
Moisture	Not more than 0.3 percent.

Other butter constituents not more than 0.1 percent of which salt shall be not more than 0.05 percent.

Copper	Not more than 0.1 p.p.m. ¹
Peroxide value....	Not more than 0.5 mill equivalent per kilogram of fat.
Free fatty acid....	Not more than 0.5 percent.

¹ If all equipment and utensils coming in direct contact with the product during processing do not show exposed copper and are made of non-copper-bearing metals or alloys and testing of product indicated compliance with requirements, subsequent testing for copper shall be on a reduced basis. Testing one lot from each contract may be considered adequate provided no exposed surfaces of copper are observed and testing

show compliance, otherwise each production lot will be tested.

(5) *Processing supervision:* The processing of the anhydrous milk fat, anhydrous butter fat and butteroil shall be under the supervision of the Inspection and Grading Branch, Dairy Division, AMS.

(6) *Advice of contract specifications:* The supplier must furnish contract specification regarding quality and packaging and the location of the commodities and dates available for sampling to the Inspection and Grading Branch, Dairy Division, AMS, USDA, Washington, D.C. 20250.

(7) *Grade and weight:* Determinations shall be made by the Inspection and Grading Branch, Dairy Division, AMS, showing the quality, condition, and weight of the product, that the product was packaged in accordance with the requirements of the contract between the supplier and the importer; and that the requirements of section 17.8(d) of these regulations were complied with.

(8) *Labels:* Products exported with a brand label attached to the unit container shall conform to the following:

The label shall be printed or lithographed and shall contain a statement clearly establishing the commodity as being produced, processed, and packaged in U.S.A. Stamped or stenciled label information will not be acceptable.

(S) *Cheese (cheddar and/or process):*

(1) *Notification of sale by supplier:* The supplier shall, immediately after the date of export sale, furnish a written or telegraphic notification of sale to the Export and Marketing Service (EMS), USDA, Washington, D.C. 20250. Such notification should not be withheld for performance of contract provisions which make a contract conditional on the occurrence of certain events, for instance, on the receipt of acceptable letters of credit or delivery instructions. Similarly, notifications should not be delayed pending receipt from a sales agent of individual contract numbers or buyers names and addresses for sales negotiated by the sales agent with a group of buyers under identical terms. Written notifications of any contract amendments shall also be furnished to the GSM immediately after the date of the amendment. If the supplier fails to furnish the notification within 5 days after the date of export sale, or the date of an amendment to the contract if applicable, CCC shall have the right to refuse to finance the sale under the program. The following information shall be included in the written notification of the sale.

- Supplier's name and address.
- Purchase authorization number.
- Name of importer.
- Sales contract or order number, if any.
- Date of sale.

Complete commodity description (give full contract specifications including quality factors).

Details of package, label, and shipping container material specifications.

Quantity expressed in contract units and pounds. Indicate separately, by percentage, the loading tolerance provided for in the contract (not to exceed 10 percent, more or less).

If the contract does not provide for a loading tolerance indicate "no loading tolerance." Also set forth separately contract options for additional quantities exercisable by the supplier or the foreign buyers. If there are no such options indicate "no options." Contract options for additional quantities exercisable by the supplier or foreign buyer shall not exceed 10 percent of the original contract quantity, exclusive of consideration of loading tolerance. Larger quantities must be contracted separately.

Price per contract unit and per pound.
Delivery terms (f.o.b., f.a.s., etc.) and coastal range of export (specify Pacific, Gulf, Atlantic, Great Lakes, or St. Lawrence River ports and any option to be exercised by the exporter and/or foreign importer).

Contract delivery schedule.

Name and address of sales agent, if any.

The supplier will be notified by letter, and by telephone if requested, from the GSM promptly after receipt of the notification of sale or notification of any amendments to the contract as to whether or not the price is approved for financing.

When a price is disapproved, the supplier shall have 5 calendar days following the date of the notification of sale within which to submit a price which may be approved by the GSM. During such 5-day period, USDA will not recognize any new sale between the same supplier and foreign buyer in substitution of the original transaction. If an acceptable price is not submitted within such 5-day period, the original notification of sale, any subsequent notification of price adjustments and the related contract between supplier and the foreign buyer shall for purposes of the price review program be considered null and void. Any subsequent negotiations after expiration of such 5-day period which result in a contract between the supplier and the same foreign buyer shall be subject to the submission of a new notification of sale.

(2) *Contract approval:* Contracts between the supplier and the importer made subject to the applicable purchase authorization shall be deemed to be conditioned on the approval by the EMS, of the supplier, the supplier's agent if any, and the contract price.

(3) *Quality:* Quality and packaging shall be as specified in the contract between the supplier and the importer.

(a) Quality for cheddar cheese shall be in accordance with U.S. Standards for Grades of Cheddar Cheese, as amended.

(b) The quality for pasteurized process cheese shall meet the requirements of Fed-

eral Specification C-C 291a, Cheese, Process Pasteurized, as amended, for Type I (Process American) or Type III (Process Cheddar). In addition, for process cheese packaged in cans the pH shall be in the range of 5.5 to 5.7.

(4) *Grade and weight*: Determinations shall be made by the Inspection and Grading Branch, Dairy Division, AMS, showing the quality, condition and weight of the cheese; that the cheese was packaged in accordance with the requirements of the contract between the supplier and the importer; and that the requirements of section 17.8(d) of these regulations were complied with.

(5) *Advice of contract specifications*: The supplier must furnish contract specifications, regarding quality and packaging, the location of the products, and dates available for sampling, to the Inspection and Grading Branch, Dairy Division, AMS, USDA, Washington, D.C. 20250.

(6) *Labels*: Cheese exported with a brand label attached to the unit container shall conform to the following:

The label shall be printed or lithographed and shall contain a statement clearly establishing the commodity as being produced, processed, and packaged in U.S.A. Stamped or stenciled label information will not be acceptable.

(T) *Ghee*:

(1) *Notification of sale by supplier*: The supplier shall, immediately after the date of export sale, furnish a written or telegraphic notification of sale to the Export Marketing Service (EMS), USDA, Washington, D.C. 20250. Such notification should not be withheld for performance of contract provisions which make a contract conditional on the occurrence of certain events, for instance, on the receipt of acceptable letters of credit or delivery instructions. Similarly, notifications should not be delayed pending receipt from a sales agent of individual contract numbers or buyers names and addresses for sales negotiated by the sales agent with a group of buyers under identical terms. Written notification of any contract amendments shall also be furnished to the GSM, immediately after the date of the amendment. If the supplier fails to furnish the notification within 5 days after the date of export sale, or the date of an amendment to the contract, if applicable, CCC shall have the right to refuse to finance the sale under the program. The following information shall be included in the written notification of the sale:

Supplier's name and address.

Purchase authorization number.

Name of importer.

Sales contract or order number, if any.

Date of sale.

Complete commodity description (give full contract specifications including quality factors).

Details of package, label, and shipping container material specifications.

Quantity expressed in contract units and pounds. Indicate separately, by percentage, the loading tolerance provided for in the contract (not to exceed 10 percent, more or less). If the contract does not provide for a loading tolerance indicate "no loading tolerance." Also set forth separately contract options for additional quantities exercisable by the supplier or the foreign buyers. If there are no such options indicate "no options." Contract options for additional quantities exercisable by the supplier or foreign buyer shall not exceed 10 percent of the original contract quantity, exclusive of consideration of loading tolerance. Larger quantities must be contracted separately.

Price per contract unit and per pound.

Delivery terms (f.o.b., f.a.s., etc.) and coastal range of export (specify Pacific, Gulf, Atlantic, Great Lakes, or St. Lawrence River ports and any option to be exercised by the exporter and/or foreign importer).

Contract delivery schedule.

Name and address of sales agent, if any.

The supplier will be notified by letter, and by telephone if requested, from the GSM promptly after receipt of the notification of sale or notification of any amendments to the contract as to whether or not the price is approved for financing.

When a price is disapproved, the supplier shall have 5 calendar days following the date of the notification of sale within which to submit a price which may be approved by the GSM. During such 5-day period, USDA will not recognize any new sale between the same supplier and foreign buyer in substitution of the original transaction. If an acceptable price is not submitted within such 5-day period, the original notification of sale, any subsequent notification of price adjustments and the related contract between supplier and the foreign buyer shall, for purposes of the price review program, be considered null and void. Any subsequent negotiations after expiration of such 5-day period which result in a contract between the supplier and the same foreign buyer shall be subject to the submission of a new notification of sale.

(2) *Contract approval*: Contracts between suppliers and importers made subject to the applicable purchase authorization shall be deemed to be conditioned on the approval by EMS, of the supplier, the supplier's agent if any, and the contract price.

(3) *Quality*: Quality and packaging shall be as specified in the contract between the supplier and the importer.

(4) *Specifications*: The ghee shall have a pleasant flavor and odor. It may have a slightly cooked or caramelized flavor. The product shall have a uniform, typical grainy texture characteristic of ghee. When melted it shall be transparent, clear and practically free from curd.

The product shall meet the following analytical requirements:

Milk fat-----	Not less than 99.6 percent.
Copper-----	Not more than 0.1 p.p.m. ¹
Peroxide value---	Not more than 0.5 mill equivalent per kilogram of fat.
Free fatty acid---	Not more than 0.5 percent.

¹ If all equipment and utensils coming in direct contact with the product during processing do not show exposed copper and are made of non-copper-bearing metals or alloys and testing of product indicated compliance with requirements, subsequent testing for copper shall be on a reduced basis. Testing one lot from each contract may be considered adequate provided no exposed surfaces of copper are observed and testing shows compliance, otherwise each production lot will be tested.

The processing of ghee shall be under the supervision of the Inspection and Grading Branch, Dairy Division, AMS.

(5) *Advice of contract specifications:* The supplier must furnish contract specifications, regarding quality and packaging and the location of the ghee and dates available for sampling to the Inspection and Grading Branch, Dairy Division, AMS, USDA, Washington, D.C. 20250.

(6) *Grade and weight:* Determinations shall be made by the Inspection and Grading Branch, Dairy Division, AMS, showing the quality, condition, and weight of the ghee, that the ghee was packaged in accordance with the requirements of the contract between the supplier and the importer and the requirements of section 17.8(d) of these regulations were complied with.

(7) *Label:* Ghee exported hereunder with a brand label attached to the unit container shall conform to the following:

The label shall be printed or lithographed and shall contain a statement clearly establishing the commodity as being produced, processed, and packaged in the U.S.A. Stamped or stenciled label information will not be acceptable.

(U) *Stabilized dried whole eggs:*

(1) *Notification of sale by supplier:* The supplier shall, immediately after the date of export sale, furnish a written or telegraphic notification of sale to the Export and Marketing Service (EMS), USDA, Washington, D.C. 20250. Such Notification should not be withheld for performance of contract provisions which make a contract conditional on the occurrence of certain events, for instance, on the receipt of acceptable letters of credit or delivery instructions. Similarly, notifications should not be delayed pending receipt from a sales agent of individual contract numbers or buyers names and addresses for sales negotiated by the sales agent with a group of buyers under identical terms. Written notifications of any contract amendments shall also be furnished to the GSM immediately after

the date of the amendment. If the supplier fails to furnish the notification within 5 days after the date of export sale, or the date of an amendment to the contract if applicable, CCC shall have the right to refuse to finance the sale under the program. The following information shall be included in the written notification of the sale:

- Supplier's name and address.
- Purchase authorization number.
- Name of importer.
- Sales contract or order number, if any.
- Date of sale.

Complete commodity description including; type of process (give full contract specifications including quality factors).

Details of package, whether gas packed, label and shipping container material specifications.

Quantity expressed in contract units and pounds. Indicate separately, by percentage, the loading tolerance provided for in the contract (not to exceed 10 percent, more or less). If the contract does not provide for a loading tolerance indicate "no loading tolerance." Also set forth separately contract options for additional quantities exercisable by the supplier or the foreign buyers. If there are no such options indicate "no options." Contract options for additional quantities exercisable by the supplier or foreign buyer shall not exceed 10 percent of the original contract quantity, exclusive of consideration of loading tolerance. Larger quantities must be contracted separately.

Price per contract unit and per pound.

Delivery terms (f.o.b., f.a.s., etc.) and coastal range of export (specify Pacific, Gulf, Atlantic, Great Lakes or St. Lawrence River ports and any option to be exercised by the exporter and/or the foreign importer).

Contract delivery schedule.

Name and address of sales agent, if any.

The supplier will be notified by letter, and by telephone if requested, from the GSM after receipt of the notification of sale or notification of any amendments to the contract as to whether or not the price is approved for financing.

When a price is disapproved, the supplier shall have 5 calendar days following the date of the notification of sale within which to submit a price which may be approved by the GSM. During such 5-day period, USDA will not recognize any new sale between the same supplier and foreign buyer in substitution of the original transaction. If an acceptable price is not submitted within such 5-day period, the original notification of sale, any subsequent notification of price adjustments and the related contract between supplier and the foreign buyer shall, for purposes of the price review program, be considered null and void. Any subsequent negotiations after expiration of such 5-day period which result in a contract between the supplier and the same foreign buyer shall be subject to the submission of a new notification of sale.

(2) *Contract approval:* Contract between the supplier and the importer made subject to the applicable purchase authorization shall be deemed to be conditioned on the approval by EMS, of the supplier, the supplier's agent, if any, and the contract price.

(3) *USDA approved processors:* The stabilized dried whole eggs purchased under the applicable purchase authorization must be produced only by processors who are USDA approved establishments under the supervision of the Grading Branch, Poultry Division, AMS, and shall be inspected in accordance with the regulations contained in the Code of Federal Regulations, "Grading and Inspection of Egg Products", as amended.

(4) *Quality: Quality and packaging* shall be as specified in the contract between the supplier and the importer. Quality shall be in accordance with Schedule SS Revised, Dried Whole Egg Solids (Stabilized) Specifications as amended.

(5) *Advice of contract specifications:* The supplier must furnish contract specifications regarding quality and packaging and the locations of the eggs and dates available for sampling to the Grading Branch, Poultry Division, AMS, USDA, Washington, D.C. 20250.

(6) *Grade and weights:* Determinations shall be made by the Grading Branch, Poultry Division, AMS, at the processing plant showing the quality, condition, and weight of the dried eggs; that the eggs were packaged in accordance with the requirements of the contract between the supplier and the importer, and that the requirements of section 17.8(d) of these regulations were complied with. Determinations shall also be made at shipside, prior to export, by the Grading Branch, Poultry Division, C&MS, that the lot(s) meet the requirement(s) of the contract and that the product is the same as that previously examined at the processing plant.

(7) *Markings:* Each shipping container shall be marked with the Official Inspection Mark (shield) as approved by the Poultry Division, AMS.

(8) *Labels:* Stabilized dried whole eggs exported with a brand label attached to the unit container shall comply with the Code of Federal Regulations, "Grading and Inspection of Egg Products", as amended. The label shall be printed or lithographed and shall contain a statement clearly establishing the commodity as being produced, processed, and packaged in U.S.A. Stamped or stenciled label information will not be acceptable.

(V) *Upland cotton:*

(1) *Notification of sale by the supplier:* The supplier shall, within 5 days from the date of export sale, furnish the Director, ASCS Commodity Office, Wirth Building, 120 Marais Street, New Orleans, La. 70112, with a copy of his sales confirmation, and if the supplier fails to do so, CCC shall have the right to refuse to finance the sale under the

program. The supplier must furnish the name and address of the sales agent, if any.

(2) *Price confirmation:* The ASCS Commodity Office will undertake, on behalf of CCC, to check the sales confirmation as to price and to inform the supplier, within 3 business days from receipt of the sales confirmation whether such price is in conformance with section 17.7 of these regulations.

(a) If the ASCS Commodity Office determines that the sales price is in conformance with § 17.7 of the regulations, the supplier will be informed by telegram of the registration number assigned to the sale by CCC. The Commodity Office will mail to the supplier the original and one copy of Form NOCO-467, which will show the unit price approval and, for each invoice, the percentage of financing which CCC will provide pursuant to the provisions of the purchase authorization.

(b) Failure by the ASCS Commodity Office to so notify the supplier by telegram within 5 business days after receipt of the copy of the sales confirmation will indicate that the sale price is not acceptable, and the sale will not be financed under the program unless the supplier satisfies CCC that the sale price is in conformance with section 17.7(a) of the regulations.

(3) *Financing:* The participant is responsible for opening letters of credit in favor of U.S. suppliers for amounts to be financed by CCC, and for opening letters of credit or making other acceptable arrangements for prompt payment of amounts not being financed by CCC. Such arrangements must assure prompt payment of the full contracted price. If prompt payment of such amount is not made to a U.S. supplier in dollars the entire transaction may be determined by USDA to be ineligible for CCC financing, and the participant shall, upon demand, make U.S. dollar refund to CCC of the amount financed by CCC. On receipt of such remittance, under foreign currency sales CCC will refund equivalent local currency to the importing country and for long-term credit sales CCC will credit the participant's account.

(a) *Contracts basis Form A Sample Classification Memorandum (USDA Form CN-354) and Form M Classification Memorandum—Mechanically Drawn Samples (USDA Form CN-355) (Such forms are hereinafter referred to respectively as Form A or Form M Certificates):*

If USDA Form A or Form M Certificates are required the terms of the contract CCC will finance:

(1) *For Long-Term Credit Sales.*

(a) 100 percent of c.i.f. or cost and freight invoice value if registered as a c.i.f. or cost and freight sale and ocean freight is authorized on Form CCC 106-3.

(b) 100 percent of the c.i.f. or cost and freight invoice value—less ocean freight—if registered as c.i.f. or cost and freight sale and ocean freight is not authorized on Form CCC 106-3.

(c) 100 percent of the invoice value (basis f.a.s.) if registered as a f.a.s. sale (CCC does not finance ocean freight on f.a.s. sales except under a separate Purchase Authorization for the Procurement of Ocean Transportation).

(1) *For Foreign Currency Sales.*

(a) 100 percent of the c.i.f. or cost and freight invoice value—less freight—if registered as a c.i.f. or cost and freight sale.

(b) 100 percent of the f.a.s. invoice value if registered as a f.a.s. sale.

(b) *Contracts basis foreign arbitration:* For all contracts other than those which require USDA Form A or Form M Certificates CCC will finance:

(1) *For Long-Term Credit Sales.*

(a) 98 percent of the invoice value of cotton and insurance plus 100 percent of freight for c.i.f. sales if registered as c.i.f. and ocean freight is authorized on Form CCC 106-3.

(b) 98 percent of the invoice value of cotton plus 100 percent of freight for cost and freight sales if registered as cost and freight and ocean freight financing is authorized on Form CCC 106-3.

(c) 98 percent of (invoice value less freight) for c.i.f. and cost and freight sale if registered as such and ocean freight financing is not authorized on Form CCC 106-3.

(d) 98 percent of invoice value (basis f.a.s.) for all sales registered as f.a.s.

(1) *For Foreign Currency Sales.*

(a) 98 percent of the (invoice value—less freight) for c.i.f. or cost and freight sales if registered as such.

(b) 98 percent of the f.a.s. invoice value— if registered as a f.a.s. sale.

(c) *Reimbursement for ocean freight differential:* For sales registered as cost and freight, c.i.f., or f.a.s., when the Form CCC-106-3 authorizes financing ocean freight differential the supplier may obtain reimbursement for ocean freight differential not included in payment under the letter of credit by application to the New Orleans ASCS Commodity Office.

(d) *Refunds:* The provisions of section 17.12(a) which require remittance of refunds to CCC do not apply to refunds arising out of cotton sales financed under these regulations unless otherwise provided in the purchase authorization or letter of commitment. Such refunds shall be remitted by the supplier for the account of the importer through the U.S. bank which financed the original transaction. The remittance shall be identified with the date and amount of the original payment, the commercial letter of credit number, and the purchase authorization number. (For transactions where the supplier is billed by CCC for refund of amounts over-financed, the supplier shall remit directly to the billing office.) The participant may retain all dollar exchange received in connection with the adjustment refunds under a purchase authorization which is subject to the regulations. In the

case of ineligible cotton, the supplier shall remit directly to CCC. CCC will make appropriate local currency refunds to importers for dollar recoveries by CCC direct from suppliers, or will advise the participant of credit to its account as appropriate.

(e) *Insurance:* The provisions of section 17.12(b) of the regulations with regard to insurance claims which require that claims be paid to the Controller do not apply to cotton sales for which c.i.f. financing is authorized. The participant may retain all dollar exchange received in connection with insurance claims under such c.i.f. financed cotton sales.

(4) *U.S. net weight:* Net weight shall be determined in the United States and certified by a U.S. warehouseman, or it shall be determined at the U.S. port of export and certified by an authorized weigher (sales basis landed weight, ex-dock and ex-warehouse—consigned stocks—are not eligible for financing).

(5) *Quality:* Although seller's offers may be on the basis of private types, in all invitations for bids the quality shall be described in terms of the Official Cotton Standards of the United States. Quality shall be specified in contracts between importers and suppliers. A contract shall cover only one quality. Quality descriptions in contracts shall be in terms of the Official Cotton Standards of the United States, except where sales are made on the basis of private types. In the case of private-type sales, the supplier must make such private types available for classification by AMS no later than the date the sale confirmation is furnished the New Orleans ASCS Commodity Office.

(6) *Arbitration:* Cotton shall be subject to arbitration for quality (unless the contract provides for Form A or Form M Certificates) and for other terms under rules of an established cotton exchange or association agreed upon by the importer and supplier, such established cotton exchange or association to be identified in the contract. An importer of cotton shall, if requested by CCC, obtain foreign quality arbitration under the specified cotton exchange or association rules. If the contract provides for Form A or Form M Certificate, CCC will not request such arbitration. The arbitration award may be appealed by the supplier or the importer and shall be appealed by the importer, upon request by CCC, under the applicable rules specified in the contract. If the costs paid by the importer for an arbitration or appeal requested by CCC are in excess of the award, CCC will reimburse the importer, or other party designated by the importer, in an amount equal to such excess, upon submission to the Director, ASCS Commodity Office, New Orleans, La. 70112, of documentation showing the amount of costs incurred by the importer and the amount of the award. These provisions shall not alter the rights of the importer and the supplier to effect adjustment by arbitration or otherwise in accordance with the provisions of the contract

or customs of the trade for other than quality deficiencies, or for quality deficiencies if CCC does not request arbitration.

(7) *Certification as to quality and classification*: The supplier's invoice (CCC copy only) or a signed attachment thereto shall contain the following certification: "The undersigned hereby represents that he believes the quality and classification of the cotton shipped under this contract are substantially as stated in the contract. The supplier does not guarantee the quality or classification, and agrees to adjust the price for any difference in quality or classification determined by arbitration as provided in the regulations or the purchase authorization".

(8) *Delayed letter of credit*: Interest or carrying charges incurred as a result of delays in establishing letters of credit are not eligible for financing.

(9) *Sampling, classification, and adjustment of contract price*: (This provision is applicable to all sales hereunder unless the contract provides for Form A or Form M Certificate.)

(a) *Tag lists and sampling*: The supplier shall furnish to any permanent AMS classing office, of the supplier's choice, a tag list of the cotton included in a single export shipment showing the supplier's name and address; the CCC registration number; purchase authorization number; the supplier's sale number, if any; the name, address and CCC code number of the warehouse in which the cotton is stored; and the warehouse bale numbers of the cotton to be exported listed in numerical sequence. A separate tag list must be submitted for the cotton to be shipped from each warehouse. Samples will be required from a minimum of 10 percent of the bales of cotton (larger percentages will be used on small lots). The bales to be sampled will be selected by the chosen AMS classing office and entered on a Record Sheet. If the supplier desires a larger percentage of samples to be drawn than the minimum required, he should indicate such percentage on the tag list. At the time the copy of the tag list is furnished the warehouseman by the supplier, he shall instruct him to sample the bales of cotton listed on the Record Sheet and to handle such samples in accordance with instructions issued by the New Orleans ASCS Commodity Office. The supplier shall also instruct the warehouseman that the cotton must not be shipped until after it has been sampled in accordance with instructions issued by the New Orleans ASCS Commodity Office. All costs relating to the samples and sampling will be for the account of the supplier.

(b) *Submitting private-type for classification*: If the sale is made on the basis of private-type and if the particular type has not been classed under the revised standards effective June 15, 1963, the supplier shall submit the private-type for classing directly to the Appeal Board of Review Examiners, Cotton Division, AMS, USDA, 4841 Summer

Avenue, Memphis, Tenn. 38117, along with a completed Request for Classification (Form CN-357). The type shall be identified by the supplier's name and address and private-type name or designation.

If the sale is made on the basis of private-type classed under the revised standards effective June 15, 1963, the supplier shall so advise the New Orleans ASCS Commodity Office and identify such private-type by furnishing the supplier's name and address, the number of the AMS classification memorandum, the date of such classification memorandum, and the supplier's private-type name or designation.

The private-type submitted for classification hereunder shall be identical in quality with the private-type on which the sale is based and the private-type supplied to the arbitration board in connection with the contract covering the sale.

(c) *Adjustment of contract price*: In addition to the other requirements for quality arbitration, the following will also apply:

(1) When the classification of the cotton is determined by an appeal board in connection with an appeal from an arbitration award, the contract price shall be reduced by the larger of the following two amounts: The award assigned or the amount by which the contract price exceeds the prevailing range of export prices at the time of sale as determined by CCC on the basis of the classification assigned by the appeal board in connection with such appeal.

(11) When the classification of the cotton is not determined by an appeal board in connection with an appeal from an arbitration award, the contract price shall be reduced by the amount of the award assigned.

(10) *Extra copy of invoice*: Supplier shall forward, immediately after shipment of the cotton, a legible copy of his invoice to the Director, ASCS Commodity Office, Wirth Building, 120 Marais Street, New Orleans, La. 70112, Attention: CO-8-JPD. Such copy is in addition to the copy for CCC to be submitted with other required documents to the banking institution.

(W) *Extra Long Staple Cotton*:

(1) *Notification of Sale by the Supplier*: The supplier shall, within 5 days from the date of export sale, furnish the Director, ASCS Commodity Office, Wirth Building, 120 Marais Street, New Orleans, La. 70112, with a copy of his sales confirmation, and if the supplier fails to do so, CCC shall have the right to refuse to finance the sale under the program. The supplier must furnish the name and address of the sales agent, if any.

(2) *Price confirmation*: The ASCS Commodity Office will undertake, on behalf of CCC, to check the sales confirmation as to price and to inform the supplier, within 8 business days from receipt of the sales confirmation, whether such price is in conformance with section 17.7(a) of these regulations.

(a) If the ASCS Commodity Office determines that the sale price is in conformance

with § 17.7 of the regulations, the supplier will be informed by telegram of the registration number assigned to the sale by CCC. The Commodity Office will mail to the supplier the original and one copy of Form NOCO-467, which will show the unit price approval and, for each invoice, the percentage of financing which CCC will provide pursuant to the provisions of the purchase authorization.

(b) Failure by the ASCS Commodity Office to so notify the supplier by telegram within 5 business days after receipt of the copy of the sales confirmation will indicate that the sale price is not acceptable, and the sale will not be financed under the program unless the supplier satisfies CCC that the sale price is in conformance with section 17.7(a) of these regulations.

(3) *Financing:* The participant is responsible for opening letters of credit in favor of U.S. suppliers for amounts to be financed by CCC, and for opening letters of credit or making other acceptable arrangements for prompt payment of amounts not being financed by CCC. Such arrangements must assure prompt payment of the full contracted price. If prompt payment of such amount is not made to a U.S. supplier in dollars the entire transaction may be determined by USDA to be ineligible for CCC financing, and the participant shall, upon demand, make U.S. dollar refund to CCC of the amount financed by CCC. On receipt of such remittance, under foreign currency sales CCC will refund equivalent local currency to the importing country and for long-term credit sales CCC will credit the participant's account.

(a) *Contracts basis Form A Sample Classification Memorandum (USDA Form CN-354) and Form M Classification Memorandum—Mechanically Drawn Samples (USDA Form CN-355) (Such forms are hereinafter referred to respectively as Form A or Form M Certificates).* If USDA Form A or Form M Certificates are required under the terms of the contract CCC will finance:

(1) *For Long-Term Credit Sales:*

(a) 100 percent of c.i.f. or cost and freight invoice value if registered as a c.i.f. or cost and freight sale and ocean freight is authorized on Form CCC 106-3.

(b) 100 percent of the c.i.f. or cost and freight invoice value—less ocean freight—if registered as c.i.f. or cost and freight sale and ocean freight is not authorized on Form CCC 106-3.

(c) 100 percent of the invoice value (basis f.a.s.) if registered as a f.a.s. sale (CCC does not finance ocean freight on f.a.s. sales except under a separate purchase authorization for the Procurement of Ocean Transportation).

(11) *For Foreign Currency Sales:*

(a) 100 percent of the c.i.f. or cost and freight invoice value—less freight—if registered as a c.i.f. or cost and freight sale.

(b) 100 percent of the f.a.s. invoice value if registered as a f.a.s. sale.

(b) *Contracts basis foreign arbitration:* For all contracts other than those which require USDA Form A or Form M Certificates CCC will finance:

(1) *For Long-Term Credit Sales:*

(a) 98 percent of the invoice value of cotton and insurance plus 100 percent of freight for c.i.f. sales if registered as c.i.f. and ocean freight is authorized on Form CCC 106-3.

(b) 98 percent of the invoice value of cotton plus 100 percent of freight for cost and freight sales if registered as cost and freight and ocean freight financing is authorized on Form CCC 106-3.

(c) 98 percent of (invoice value less freight) for c.i.f. and cost and freight sale if registered as such and ocean freight financing is not authorized on Form CCC 106-3.

(d) 98 percent of invoice value (basis f.a.s.) for all sales registered as f.a.s.

(11) *For Foreign Currency Sales:*

(a) 98 percent of the (invoice value—less freight) for c.i.f. or cost and freight sales if registered as such.

(b) 98 percent of the f.a.s. invoice value—if registered as an f.a.s. sale.

(c) *Reimbursement for Ocean Freight Differential:* For sales registered as cost and freight, c.i.f. or f.a.s., when the Form CCC-106-3 authorizes financing ocean freight differential the supplier may obtain reimbursement for ocean freight differential not included in payment under the letter of credit by application to the New Orleans ASCS Commodity Office.

(d) *Refunds:* The provisions of section 17.12(a) which require remittance of refunds to CCC do not apply to refunds arising out of cotton sales financed under these regulations unless otherwise provided in the purchase authorization or letter of commitment. Such refunds shall be remitted by the supplier for the account of the importer through the U.S. bank which financed the original transaction. The remittance shall be identified with the date and amount of the original payment, the commercial letter of credit number, and the purchase authorization number. (For transactions where the supplier is billed by CCC for refund of amounts overfinanced, the supplier shall remit directly to the billing office.) The participant may retain all dollar exchange received in connection with adjustment refunds under a purchase authorization which is subject to these regulations. In the case of ineligible cotton, the supplier shall remit directly to CCC. CCC will make appropriate local currency refunds to importers for dollar recoveries by CCC direct from suppliers, or will advise the participant of credit to its account as appropriate.

(e) *Insurance:* The provision of section 17.12(b) of these regulations with regard to insurance claims which require that claims be paid to the Controller do not apply to cotton sales for which c.i.f. financing is authorized. The participant may retain all dollar exchange received in connection with insur-

ance claims under such c.i.f. financed cotton sales.

(4) *U.S. net weight*: Net weight shall be determined in the United States and certified by a U.S. warehouseman, or it shall be determined at the U.S. port of export and certified by other authorized weigher (sales basis landed weight, ex-dock and ex-warehouse-consigned stocks are not eligible for financing).

(5) *Quality*: Although sellers' offers may be on the basis of private types, in all invitations for bids the quality shall be described in terms of the Official Cotton Standards of the United States. Quality shall be specified in contracts between importers and suppliers. A contract shall cover only one quality. Quality descriptions in contracts shall be in terms of the Official Cotton Standards of the United States, except where sales are made on the basis of private types. In the case of private-type sales, the supplier must make such private types available for classification by AMS no later than the date the sales confirmation is furnished the New Orleans ASCS Commodity Office.

(6) *Arbitration*: Cotton shall be subject to arbitration for quality (unless the contract provides for Form A or Form M Certificates) and for other terms under rules of an established cotton exchange or association agreed upon by the importer and supplier, such association or established cotton exchange to be identified in the contract. An importer of cotton shall, if requested by CCC, obtain foreign quality arbitration under the specified cotton exchange or association rules. If the contract provides for USDA Form A or Form M Certificates, CCC will not request such arbitration. The arbitration award may be appealed by the supplier or the importer and shall be appealed by the importer upon request by CCC, under the applicable rules specified in the contract. If the costs paid by the importer for an arbitration or appeal requested by CCC are in excess of the award, CCC will reimburse the importer, or other party designated by the importer, in an amount equal to such excess, upon submission to the Director, ASCS Commodity Office, New Orleans, La., of documentation showing the amount of costs incurred by the importer and the amount of the award. These provisions shall not alter the rights of the importer and the supplier to effect adjustments by arbitration or otherwise in accordance with the provisions of the contract or customs of the trade for other than quality deficiencies, or for quality deficiencies if CCC does not request arbitration.

(7) *Certification as to quality and classification*: The supplier's invoice (CCC copy only) or a signed attachment thereto shall contain the following certification: "The undersigned hereby represents that he believes the quality and classification of the cotton shipped under this contract are substantially as stated in the contract. The supplier does not guarantee the quality or classification, and agrees to adjust the price

for any difference in quality or classification determined by arbitration as provided in the regulations or the purchase authorization."

(8) *Delayed letter of credit*: Interest or carrying charges incurred as a result of delays in establishing letters of credit are not eligible for financing hereunder.

(9) *Sampling, classification and adjustment of contract price* (This provision is applicable to all sales hereunder unless the contract provides for Form A or Form M Certificates):

(a) *Tag lists and sampling*: The supplier shall furnish to any permanent AMS classing office of the supplier's choice a tag list of the cotton included in a single export shipment showing the supplier's name and address; the CCC registration number; the purchase authorization number; the supplier's sale number, if any; the name, address and CCC code number of the warehouse in which the cotton is stored; and the warehouse bale number of the cotton to be exported listed in numerical sequence. A separate tag list must be submitted for the cotton to be shipped from each warehouse. Samples will be required from a minimum of 10 percent of the bales of cotton (larger percentages will be used on small lots). The bales to be sampled will be selected by the chosen AMS classing office and entered on a Record Sheet. If the supplier desires a larger percentage of samples to be drawn than the minimum required he should indicate such percentage on the tag list. At the time the copy of the tag list is furnished the warehouseman by the supplier, he shall instruct him to sample the bales of cotton listed on the Record Sheet and to handle such samples in accordance with instructions issued by the New Orleans ASCS Commodity Office. The supplier shall also instruct the warehouseman that the cotton must not be shipped until after it has been sampled in accordance with instructions issued by the New Orleans ASCS Commodity Office. All costs relating to the samples and sampling will be for the account of the supplier.

(b) *Submitting private-type for classification*: If the sale is made on the basis of private-type and if the particular type has not been submitted on or after August 1, 1962, for classification, the supplier shall submit the private-type for classing directly to the Appeal Board for Review Examiners, Cotton Division, AMS, Department of Agriculture, 4841 Summer Avenue, Memphis, Tenn., 38117. The type shall be identified by the supplier's name and address and private-type name or designation. The classification of any type submitted prior to August 1, 1962, will not be acceptable.

If the sale is made on the basis of a private-type previously submitted on or after August 1, 1962, for classification, the supplier shall so advise the New Orleans ASCS Commodity Office and identify such private-type by furnishing the supplier's name and address, the number of AMS classification memorandum, the date of such classification

memorandum, and the supplier's private-type name or designation.

The private-type submitted for classification hereunder shall be identical in quality with the private-type on which the sale is based and the private-type supplied to the arbitration board in connection with the contract covering the sale.

(c) *Adjustment of contract price:* In addition to the other requirements for quality arbitration, the following will also apply:

(1) When the classification of the cotton is determined by an appeal board in connection with an appeal from an arbitration award, the contract price shall be reduced by the larger of the following two amounts: The award assigned or the amount by which the contract price exceeds the prevailing range of export prices at the time of sale as determined by CCC on the basis of the classification assigned by the appeal board in connection with such appeal.

(ii) When the classification of the cotton is not determined by an appeal board in connection with an appeal from an arbitration award, the contract price shall be reduced by the amount of the award assigned.

(10) *Extra copy of invoice:* The supplier shall forward, immediately after shipment of the cotton, a legible copy of his invoice to the Director, ASCS Commodity Office, New Orleans, Wirth Building, 120 Marais Street, New Orleans, La. 70112, Attention: CO-8-JPD. Such copy is in addition to the copy for CCC to be submitted with other required documents to the banking institution.

[31 F.R. 16818, Dec. 31, 1966; 32 F.R. 921, Jan. 26, 1967, as amended at 32 F.R. 5978, Apr. 14, 1967; 33 F.R. 5138, Mar. 29, 1968]

Appendix B—Documentary Requirements

- (A) Wheat:
 - (1) Wheat in bulk.
 - (2) Wheat in bags.
- (B) Wheat flour.
- (C) Feed grains:
 - (1) Feed grains in bulk.
 - (2) Feed grains in bags.
- (D) Corn meal (edible).
- (E) Cracked corn or corn meal.
- (F) Soybean oil and cottonseed oil:
 - (1) Soybean oil and cottonseed oil in drums, barrels, or bags.
 - (2) Soybean oil and cottonseed oil in bulk.
- (G) Unmanufactured and tobacco products:
 - (1) Unmanufactured tobacco.
 - (2) Tobacco products: Cigarettes and/or packaged and cut tobacco.
 - (3) Tobacco products: Cased strips and shredded tobacco.
- (H) Rice (milled and brown):
 - (1) Rice in bags.
 - (2) Rice in bulk.
- (I) Dry edible beans.
- (J) Dry edible peas.
- (K) Tallow (inedible):
 - (1) Tallow in drums.

- (2) Tallow in bulk.
- (L) Lard.
- (M) Poultry (frozen chickens and turkeys).
- (N) Canned milk (sweetened condensed and evaporated).
- (O) Nonfat dry milk.
- (P) Dry whole milk.
- (Q) Butter.
- (R) Anhydrous milk fat and anhydrous butter fat and butteroil.
- (S) Cheese (cheddar and process).
- (T) Ghee.
- (U) Stabilized dried whole eggs.
- (V) Upland cotton.
- (W) Extra long staple cotton.

The documentation required for specific commodities is set forth in this Appendix B pursuant to the provisions of the regulations in Part 17, Subpart A. Any additions, deletions or other changes will be stated in the purchase authorization or letter of commitment.

- (A) *Wheat:*
 - (1) *Wheat in bulk:*
 - (a) Two copies of the supplier's invoice.
 - (b) Signed original of Form CCC-329, Supplier's Certificate:
 - (i) From the supplier of the commodity, and
 - (ii) If any part of ocean freight is financed on cost and freight or c.i.f. sales, also from the supplier of ocean freight.
 - (c) Four copies of the ocean bill of lading.
 - (d) Signed original of Form CCC-106-1, Advice of Vessel Approval.
 - (e) One nonnegotiable copy of insurance policy or certificate, if c.i.f.
 - (f) [Reserved]
 - (g) One copy of Form CCC-359, Declaration of Sale, signed for the General Sales Manager, by which the supplier will have been notified that the price is approved for financing.
 - (h) One copy of a grain inspection certificate issued by an inspector holding a license under the U.S. Grain Standards Act, covering inspection at point of loading to vessel in the United States, or a copy of a Commodity Inspection Certificate (Form GR-292) for grain issued by an inspector holding a license under the Agricultural Marketing Act, covering inspection at point of loading to vessel in Canada.
 - (1) One copy of a weight certificate issued at point of loading to vessel.
 - (2) *Wheat in bags:*
 - (a) Two copies of the supplier's invoice which shall show the size and type of bags and whether they are new or used.
 - (b) Signed original of Form CCC-329, Supplier's Certificate:
 - (i) From the supplier of the commodity, and
 - (ii) If any part of ocean freight is financed on cost and freight or c.i.f. sales, also from the supplier of ocean freight.
 - (c) Four copies of an ocean bill of lading, which shall show the net weight of the wheat or the number of bags, and the gross weight

of the wheat loaded aboard the vessel: *Provided*, That the weight of the bags is either shown on the bill of lading or is evidenced by the following certification furnished by the supplier:

"The undersigned hereby certifies that the weight of the bags is ----- pounds."

(d) Signed original of Form CCC-106-1, Advice of Vessel Approval.

(e) A nonnegotiable copy of insurance policy or certificate, if c.i.f.

(f) [Reserved]

(g) One copy of Form CCC-350, Declaration of Sale, signed for the General Sales Manager, by which the supplier will have been notified that the price is approved for financing.

(h) One copy of a grain inspection certificate issued by an inspector holding a license under the U.S. Grain Standards Act, covering inspection at port of loading to vessel in the United States, or a copy of a Commodity Inspection Certificate (Form GR-292) for grain issued by an inspector holding a license under the Agricultural Marketing Act, covering inspection at port of loading to vessel in Canada.

(1) One copy of a Commodity Examination Report (Form GR-116) issued by or under the supervision of the Grain Division, AMS, which shows that the bagged wheat was checkloaded.

(B) *Wheat flour*:

(1) Two copies of the supplier's invoice, which shall show the gross weight of the flour in bags, the weight of the bags, and the net weight of the flour invoiced. The invoice shall also show the size and type of bags.

(2) Signed original of Form CCC-329, Supplier's Certificate:

(a) From the supplier of the commodity, and

(b) If any part of ocean freight is financed on cost and freight or c.i.f. sales, from the supplier of ocean freight.

(3) Four copies of an ocean bill of lading, which shall show thereon or in a separate listing attached thereto, the identifying lot number(s) which appear on the Commodity Inspection Certificate or laboratory report (the lot number may be the warehouse number, the railcar number, truck license number, or any other number that will accurately identify the lot), and shall show the net weight of the flour loaded aboard the vessel or shall show the number of bags and gross weight of the flour loaded aboard the vessel, provided that the weight of the bags is either shown on the bill of lading or is evidenced by the following certification furnished by the suppliers:

"The undersigned hereby certifies that the weight of the bags is ----- pounds."

(4) Signed original of Form CCC-106-1, Advice of Vessel Approval.

(5) A nonnegotiable copy of an insurance policy or certificate, if c.i.f.

(6) [Reserved]

(7) One copy of Form CCC-362, Declaration of Sale, signed for the General Sales

Manager, by which the supplier will have been notified that the price is approved for financing.

(8) One copy of a Commodity Inspection Certificate (Form GR-133) issued by the Grain Division, AMS, or

One copy of a laboratory report issued by a commercial laboratory which shall bear the following certification:

"The undersigned hereby certifies that the Laboratory Report was issued as a result of the analysis of samples received from (name and address of independent surveyor) and that the samples were drawn in accordance with the requirements of the purchase authorization."

NOTE: In lieu of the above certification, a certification will be accepted from the laboratory with which is included a certification by the independent surveyor, as follows:

(From the independent surveyor:) "The undersigned hereby certifies that samples furnished to (name and address of laboratory) were drawn in accordance with the provisions of the purchase authorization."

(From the laboratory:) "The undersigned hereby certifies that the laboratory report was issued as a result of samples received from (name and address of independent surveyor)."

The Commodity Inspection Certificate (Form GR-133) issued by the Grain Division, AMS, or the laboratory report issued by a commercial laboratory shall show the exact moisture, protein, and ash content of the flour delivered under the authorization.

(9) If the Commodity Inspection Certificate (GR-133) or the laboratory report is dated more than fifteen (15) days prior to the on-board date shown on the ocean bill of lading, the following additional documentation is required:

(a) One copy of a Commodity Examination Report (GR-116) issued by or under the supervision of the Grain Division, AMS, dated not more than 15 days prior to the "on-board" date and showing that the flour was free from infestation, or

(b) One copy of an independent surveyor's report dated not more than 15 days prior to the "on-board" date and showing that the flour was free from infestation.

(10) One copy of a Commodity Examination Report (GR-116) issued by or under the supervision of the Grain Division, AMS, which shows the bagged flour was checkloaded, or

One copy of a weight certificate issued by an independent weighmaster or an independent surveyor.

(11) One copy of an independent surveyor's report stating that the bag markings and brand names or labels meet the requirements of these regulations (sec. 17.8(d)) and section (B) (6) (h) of Appendix A, and the bags are suitable for export.

(C) *Feed grains*:

(1) *Feed grains in bulk*:

(a) Two copies of the supplier's invoice.

(b) Signed original of Form CCC-329, Supplier's Certificate:

(1) From the supplier of commodity, and
 (11) If any part of ocean freight is financed on cost and freight or c.i.f. sales, also from the supplier of ocean freight.

(c) Four copies of an ocean bill of lading.

(d) Signed original of Form CCC-106-1, Advice of Vessel Approval.

(e) A nonnegotiable copy of an insurance policy or certificate, if c.i.f.

(f) [Reserved]

(g) A letter signed for the General Sales Manager by which the supplier will have been notified that the price is approved for financing.

(h) One copy of a weight certificate issued at point of loading to vessel.

(i) One copy of a grain inspection certificate issued by an inspector holding a license under the U.S. Grain Standards Act, covering inspection at point of loading to vessel in the United States, or

One Commodity Inspection Certificate (Form GR-292) for grain issued by an inspector holding a license under the Agricultural Marketing Act, issued at point of loading to vessel in Canada.

(2) Feed grains in bags:

(a) Two copies of the supplier's invoice, which shall show the size and type of bags and whether they are new or used.

(b) Signed original of Form CCC-329, Supplier's Certificate:

(1) From the supplier of the commodity, and

(11) If any part of ocean freight is financed on cost and freight or c.i.f. sales, also from the supplier of ocean freight.

(c) Four copies of the ocean bill of lading, which shall show the net weight of the feed grain loaded aboard the vessel, or shall show the number of bags and the gross weight of the feed grain loaded aboard the vessel provided that the weight of the bags is either shown on the bill of lading or is evidenced by the following certification furnished by the supplier:

"The undersigned hereby certifies that the weight of the bags is ----- pounds."

(d) Signed original of Form CCC-106-1, Advice of Vessel Approval.

(e) A nonnegotiable copy of the insurance policy or certificate, if c.i.f.

(f) [Reserved]

(g) A letter signed for the General Sales Manager by which the supplier will have been notified that the price is approved for financing.

(h) One copy of a grain inspection certificate issued by an inspector holding a license under the U.S. Grain Standards Act, covering inspection at port of loading to vessel in the United States, or

One copy of a Commodity Inspection Certificate (Form GR-292) for grain issued by an inspector holding a license under the Agricultural Marketing Act covering inspection at port of loading to vessel in Canada.

(1) One copy of Commodity Examination Report (Form GR-116) issued by or under the supervision of the Grain Division, AMS, which shows that the bagged feed grain was checkloaded.

(D) Corn meal (edible):

(1) Two copies of the supplier's invoice, which shall show the size and type of bags and whether they are new or used.

(2) Signed original of Form CCC-329, Supplier's Certificate:

(a) From the supplier of the commodity, and

(b) If any part of ocean freight is financed on cost and freight or c.i.f. sales, also from the supplier of ocean freight.

(3) Four copies of the ocean bill of lading, which shall show the net weight of the corn meal loaded aboard the vessel or shall show the number of bags and the gross weight of the corn meal loaded aboard the vessel, provided that the weight of the bags is either shown on the bill of lading or is evidenced by the following certification furnished by the supplier:

"The undersigned hereby certifies that the weight of the bags is ----- pounds." The bill of lading shall also show thereon or in a listing attached thereto the identifying lot number(s) which appear on the Commodity Inspection Certificate. The lot number may be the warehouse number, the railcar number, truck license number, or any other number that will accurately identify the lot.

(4) Signed original of Form CCC-106-1, Advice of Vessel Approval.

(5) A nonnegotiable copy of the insurance policy or certificate, if c.i.f.

(6) [Reserved]

(7) A letter signed for the General Sales Manager by which the supplier will have been notified that the price is approved for financing.

(8) One copy of a Commodity Inspection Certificate (Form GR-133) issued by the Grain Division, AMS, covering inspection at port of loading to vessel.

(9) One copy of a Commodity Examination Report (Form GR-116) issued by or under the supervision of the Grain Division, AMS, which shows that the cornmeal was checkloaded.

(10) One copy of an independent surveyor's report stating that the bags, bag markings, and brand names or labels meet the requirements of section 17.8(d) of these regulations and that the bags are suitable for the export of cornmeal.

(E) Cracked corn and/or corn meal:

(1) Two copies of the supplier's invoice, which shall show the kind and size of bags and whether they are new or used.

(2) Signed original of Form CCC-329, Supplier's Certificate.

(a) From the supplier of the commodity, and

(b) If any part of ocean freight is financed on cost and freight or c.i.f. sales, also from the supplier of ocean freight.

(3) Four copies of an ocean bill of lading, which shall show the net weight of the cracked corn and/or corn meal loaded aboard the vessel or shall show the number of bags and the gross weight of the cracked corn and/or corn meal loaded aboard the vessel, provided that the weight of the bags is either shown on the bill of lading or is evidenced by the following certification furnished by the supplier:

"The undersigned hereby certifies that the weight of the bags is ----- pounds."

(4) Signed original of Form CCC-106-1, Advice of Vessel Approval.

(5) A nonnegotiable copy of an insurance policy or certificate, if c.i.f.

(6) [Reserved]

(7) A letter signed for the General Sales Manager by which the supplier will have been notified that the price is approved for financing.

(8) One copy of a grain inspection certificate issued by an inspector holding a license under the U.S. Grain Standards Act.

(9) One copy of a Commodity Examination Report (Form GR-116) issued by or under the supervision of the Grain Division, AMS, which shows that the processed commodity (cracked corn and/or corn meal) was checkloaded.

(F) *Soybean oil and/or cottonseed oil:*

(1) *Soybean oil and/or cottonseed oil, in drums, barrels, or bags:*

(a) Two copies of the supplier's invoice.

(b) Signed original of Form CCC-329, Supplier's Certificate:

(i) From the supplier of the commodity, and

(ii) If any part of ocean freight is financed on cost and freight or c.i.f. sales, also from the supplier of ocean freight.

(c) Four copies of the ocean bill of lading.

(d) Signed original of Form CCC-106-1, Advice of Vessel Approval.

(e) A nonnegotiable copy of the insurance policy or certificate, if c.i.f.

(f) [Reserved]

(g) A letter signed for the General Sales Manager by which the supplier will have been notified that the price is approved for financing.

(h) One copy of a Commodity Inspection Certificate (Form GR-133) issued by the Inspection Branch of the Grain Division, AMS, or

One copy of a chemical analysis certificate issued by a commercial laboratory which shall bear the following certification:

"The undersigned hereby certifies that the chemical analysis certificate was issued as a result of the analysis of samples taken by independent surveyor(s), and that such chemical analysis was performed in accordance with the procedure prescribed in the Trading Rules of the National Soybean Processors Association, or in the Trading Rules of the National Cottonseed Products Association."

The Commodity Inspection Certificate (GR-133) or the Chemical Analysis Certifi-

cate shall state that the oil met the analytical requirements of the specifications as provided in the applicable purchase authorization, and that markings are in conformance with the applicable purchase authorization and shall also show other markings appearing thereon.

(i) One copy of weight certificate.

(j) One copy of an independent surveyor's certificate stating that the barrels were new or the drums were new or reconditioned, or the bags were new or used and that the drums, barrels, or bags are suitable for export and that the drums, barrels, or bags comply with contract specifications.

(2) *Soybean oil and/or cottonseed oil in bulk:*

(a) Two copies of the supplier's invoice.

(b) Signed original of Form CCC-329, Supplier's Certificate:

(i) From the supplier of the commodity, and

(ii) If any part of ocean freight is financed on cost and freight or c.i.f. sales, also from the supplier of ocean freight.

(c) Four copies of the ocean bill of lading.

(d) Signed original of Form CCC-106-1, Advice of Vessel Approval.

(e) A nonnegotiable copy of the insurance policy or certificate, if c.i.f.

(f) [Reserved]

(g) A letter signed for the General Sales Manager by which the supplier will have been notified that the price is approved for financing.

(h) One copy of a Commodity Inspection Certificate (Form GR-133) issued by the Inspection Branch, Grain Division, AMS, USDA, or

One copy of a chemical analysis certificate issued by a commercial laboratory which shall bear the following certification:

"The undersigned hereby certifies that the chemical analysis certificate was issued as a result of the analysis of samples taken by independent surveyor(s), and that such chemical analysis was performed in accordance with the procedure prescribed in the Trading Rules of the National Soybean Processors Association, or in the Trading Rules of the National Cottonseed Products Association."

The Commodity Inspection Certificate (GR-133) or the Chemical Analysis Certificate shall state that the oil met the analytical requirements of the specifications as provided in the applicable purchase authorization.

(1) One copy of a weight certificate or survey report issued by an independent weighmaster or by an independent surveyor.

The weight certificate or survey report shall state that the ship's tank was examined and found suitable for receipt of the oil.

(j) If the chemical analysis on bulk oil is performed by a commercial laboratory, one copy of a certificate of the sampler or inspector stating that the samples were drawn in accordance with American Oil Chemists Society Official Method C 1-47.

(G) Unmanufactured and/or tobacco products:

(1) Unmanufactured tobacco:

(a) Two copies of the supplier's invoice.

The invoice shall contain the following certification signed by the supplier:

"The undersigned hereby certifies that the unmanufactured tobacco represented on this invoice does not contain cigar cuttings, scrap, siftings, stems (except the stem of the leaf sold), trimmings, or homogenized leaf." For the purpose of this certification, cigar types or tobacco processed into "short filler" lengths shall not be considered scrap. The supplier's invoice shall identify the tobacco by U.S. type and recapitulate the quantity of the tobacco by type. This information is required on only one copy of the invoice and such copy shall be included with the documents submitted to CCC. The supplier's invoice shall also contain a certification that the tobacco covered by the invoice was produced in the continental United States or Puerto Rico, and that the weight of the unmanufactured tobacco as invoiced was determined in accordance with the Tobacco Export Program Regulations.

(b) Signed original of Form CCC-329, Supplier's Certificate:

(1) From the supplier of the commodity, and

(ii) If any part of the ocean freight is financed on cost and freight or c.i.f. sales, also from the supplier of ocean freight.

(c) Four copies of the ocean bill of lading.

(d) Signed original of Form CCC-106-1, Advice of Vessel Approval.

(e) A nonnegotiable copy of the insurance policy or certificate, if c.i.f.

(f) [Reserved]

(g) The signed original of Tobacco Examination Report, EMS Form 480-C.

(h) The signed original of EMS Form 480-D, Certification by Port Official with Respect to Loading Certain Tobacco, or

The signed original of EMS Form 480-E, Certification of Warehouse Official with Respect to Consignment of Certain Tobacco and FAS Form 480-F, Certification of Port Official with Respect to Receiving and Loading Certain Tobacco.

(2) Tobacco products: Cigarettes, and/or packaged and cut tobacco:

(a) Two copies of the supplier's invoice:

The supplier's invoice shall show the name of the tobacco products, the quantity, the brand name, and in case of cigarettes, whether standard or "economy" brand and whether filter, nonfilter or all-tobacco tip.

The CCC copies of each invoice must also include the statement: "The net weight of the unmanufactured U.S. leaf tobacco used in the manufacture of these tobacco products is ----- pounds."

(b) Signed original of Form CCC-329, Supplier's Certificate.

(1) From the supplier of the commodity, and

(ii) If any part of ocean freight is financed on cost and freight or c.i.f. sales, also from the supplier of ocean freight.

(c) Four copies of the ocean bill of lading.

(d) Signed original of Form CCC-106-1, Advice of Vessel Approval.

(e) A nonnegotiable copy of the insurance policy or certificate, if c.i.f.

(f) [Reserved]

(3) Tobacco products: cased and shredded tobacco:

(a) Two copies of the supplier's invoice.

The invoice (1) shall contain the following certification signed by the supplier:

"The undersigned hereby certifies that the manufactured tobacco represented on this invoice does not contain cigar cuttings, scrap, siftings, stems (except the stem of the leaf sold), trimmings, or homogenized leaf." For the purpose of this certification, cigar types of tobacco processed into "short filler" lengths shall not be considered scrap, and

(ii) shall identify the tobacco by U.S. type and recapitulate the quantity by type. This information is required on only one copy of the invoice and such copy shall be included with the documents submitted to CCC

The supplier's invoice shall also contain a certification that the tobacco covered by the invoice was produced in the continental United States or Puerto Rico.

ALLOCATION OF NET INVOICE PRICE

Invoice total for -----	
pounds tobacco product	\$-----
Less amount to be financed by importer:	
(1) Cost of casing and flavoring material (including all costs incurred in application -----	\$-----
(2) Cost tobacco not covered by EMS Form 480-C-----	-----
Amount to be financed by CCC -----	-----

The CCC copies of each invoice must also include the statement: "The net weight of the unmanufactured U.S. leaf tobacco used in the manufacture of these tobacco products is ----- pounds and the weight of the unmanufactured tobacco as invoiced was determined before and after processing in accordance with the Tobacco Export Program Regulations."

(b) Signed original of Form CCC-329, Supplier's Certificate.

(1) From the supplier of the commodity, and

(ii) If any part of ocean freight is financed on cost and freight or c.i.f. sales, also from the supplier of ocean freight.

(c) Four copies of the ocean bill of lading.

(d) Signed original of Form CCC-106-1, Advice of Vessel Approval.

(e) A non-negotiable copy of the insurance policy or certificate, if c.i.f.

(f) [Reserved]

(g) The signed original of Tobacco Examination Report, EMS Form 480-C.

(h) The signed original of FAS Form 480-D, Certification by Port Official with Respect to Loading Certain Tobacco, or

The signed originals of EMS Form 480-E, Certification of Warehouse Official with Respect to Consignment of Certain Tobacco and FAS Form 480-F, Certification of Port Official with Respect to Receiving and Loading Certain Tobacco.

(H) *Rice (Milled and/or brown):*

(1) *Rice in bags:*

(a) Two copies of the supplier's invoice which shall show the kind and size of bags and whether they are new or used.

(b) Signed original of Form CCC-329, Supplier's Certificate:

(i) From the supplier of the commodity, and

(ii) If any part of ocean freight is financed on cost and freight or c.i.f. sales, also from the supplier of ocean freight.

(c) Four copies of the ocean bill of lading, which shall show the net weight of the rice loaded aboard the vessel, or shall show the number of bags and the gross weight of the rice loaded aboard the vessel, provided that the weight of the bags is either shown on the bill of lading or is evidenced by the following certification furnished by the supplier:

"The undersigned hereby certifies that the weight of the bags is ----- pounds."

(d) Signed original of Form CCC-106-1, Advice of Vessel Approval.

(e) A nonnegotiable copy of the insurance policy or certificate, if c.i.f.

(f) [Reserved]

(g) One copy of Form CCC-421, Declaration of Sale signed for the Administrator, by which the supplier will have been advised that the price is approved for financing.

(h) One copy of a Rice Inspection Certificate (lot inspection) issued by or under the supervision of the Grain Division, AMS, covering inspection at port of loading to vessel.

(i) One copy of Commodity Examination Report (Form GR-116) issued by or under the supervision of the Grain Division, AMS, which shows that the rice was checkloaded.

(2) *Rice in bulk:*

(a) Two copies of the supplier's invoice.

(b) Signed original of Form CCC-329, Supplier's Certificate:

(i) From the supplier of the commodity, and

(ii) If any part of ocean freight is financed on cost and freight or c.i.f. sales, also from the supplier of ocean freight.

(c) Four copies of the ocean bill of lading.

(d) Signed original of Form CCC-106-1, Advice of Vessel Approval.

(e) A nonnegotiable copy of the insurance policy or certificate, if c.i.f.

(f) [Reserved]

(g) One copy of Form CCC-421, Declaration of Sale, signed for the Administrator, by which the supplier will have been advised that the price is approved for financing.

(h) One copy of a Rice Inspection Certificate (lot inspection) issued by or under the supervision of the Grain Division, AMS, covering inspection at point of loading to ocean vessel.

(i) One copy of a weight certificate issued at point of loading, or

One copy of a letter signed by the Director, Program Operations Division, EMS, USDA, approving the supplier's request to furnish weights taken at a point other than at point of loading to ocean vessel, and

One copy of a weight certificate, and

One copy of a Commodity Examination Report (Form GR-116) issued by or under the supervision of the Grain Division, AMS, which shows that the rice was transferred from the carrier to ocean vessel in the manner specified in the letter of approval from the Director, Program Operations Division, EMS, USDA, and contains a notification regarding any rice not so transferred.¹

(1) *Dry edible beans:*

(1) Two copies of the supplier's invoice, which shall show the kind and size of bags, and whether they are new or used.

(2) Signed original of Form CCC-329, Supplier's Certificate:

(a) From the supplier of commodity, and

(b) If any part of ocean freight is financed on cost and freight or c.i.f. sales, also from the supplier of ocean freight.

(3) Four copies of the ocean bill of lading, which shall show the net weight of the beans loaded aboard the vessel, or shall show the number of bags and the gross weight of the beans loaded aboard the vessel: *Provided*, That the weight of the bags is either shown on the bill of lading, or is evidenced by the following certification furnished by the supplier:

"The undersigned hereby certifies that the weight of the bags is ----- pounds."

(4) Signed original of Form CCC-106-1, Advice of Vessel Approval.

(5) A nonnegotiable copy of the insurance policy or certificate, if c.i.f.

(6) [Reserved]

(7) A letter signed for the General Sales Manager by which the supplier will have been notified that the price is approved for financing.

(8) One copy of a Bean Inspection Certificate (lot inspection) issued by or under the supervision of the Grain Division, AMS, covering inspection at port of loading to vessel.

(9) One copy of Commodity Examination Report (Form GR-116) issued by or under the supervision of the Grain Division, AMS, which shows that the beans were checkloaded.

¹The supplier's invoice must show the quantity represented by the weight certificate, a reduction identified as 0.5 percent (one-half of 1 percent) and the reduced weight. The invoice shall show that the value was computed by using the reduced weight times contracted price.

(J) *Dry edible peas:*

(1) Two copies of the supplier's invoice, which shall show the kind and size of bags and whether they are new or used.

(2) Signed original of Form CCC-329, Supplier's Certificate:

(a) From the supplier of commodity, and

(b) If any part of ocean freight is financed on cost and freight or c.i.f. sales, also from the supplier of ocean freight.

(3) Four copies of the ocean bill of lading, which shall show the net weight of the peas loaded aboard the vessel, or shall show the number of bags and the gross weight of the peas loaded aboard the vessel: *Provided*, That the weight of the bags is either shown on the bill of lading or is evidenced by the following certification furnished by the supplier: "The undersigned hereby certifies that the weight of the bags is ----- pounds."

(4) Signed original of Form CCC-106-1, Advice of Vessel Approval.

(5) A nonnegotiable copy of the insurance policy or certificate, if c.i.f.

(6) [Reserved]

(7) A letter signed for the General Sales Manager by which the supplier will have been notified that the price is approved for financing.

(8) One copy of a Pea Inspection Certificate (lot inspection) issued by or under the supervision of the Grain Division, AMS, covering inspection at port of loading to vessel.

(9) One copy of a Commodity Examination Report (Form GR-116) issued by or under the supervision of the Grain Division, AMS, which shows the peas were checkloaded.

(K) *Tallow (inedible):*

(1) *Tallow in drums.*

(a) Two copies of the supplier's invoice.

(b) Signed original of Form CCC-329, Supplier's Certificate:

(i) From the supplier of commodity, and

(ii) If any part of ocean freight is financed on cost and freight or c.i.f. sales, also from the supplier of ocean freight.

(c) Four copies of the ocean bill of lading.

(d) Signed original of Form CCC-106-1, Advice of Vessel Approval.

(e) A nonnegotiable copy of the insurance policy or certificate, if c.i.f.

(f) [Reserved]

(g) A letter signed for the General Sales Manager by which the supplier will have been notified that the price is approved for financing.

(h) One copy of a weight certificate or survey report, issued by an independent surveyor or an independent weighmaster, or a copy of an Agricultural Products Certificate (Form LS-5) issued by the Meat Grading Branch, Livestock Division, AMS.

(i) One copy of an Agricultural Products Certificate (Form LS-5) issued by the Meat Grading Branch, Livestock Division, AMS, or one copy of a laboratory report issued by a commercial laboratory. The Agricultural Products Certificate or the laboratory report,

shall state that the tallow met contract specifications as approved by USDA.

(j) One copy of an independent surveyor's certificate or one copy of an Agricultural Products Certificate (Form LS-5) issued by the Meat Grading Branch, Livestock Division, AMS, stating that the drums were either new or reconditioned and that the drums were in conformance with contract specifications, the provisions of section (K) (7) (b) of Appendix A were complied with and that the drum markings are in accordance with the contract specifications.

(2) *Tallow in bulk:*

(a) Two copies of the supplier's invoice.

(b) Signed original of Form CCC-329, Supplier's Certificate:

(i) From the supplier of commodity, and

(ii) If any part of ocean freight is financed on cost and freight or c.i.f. sales, also from the supplier of ocean freight.

(c) Four copies of the ocean bill of lading.

(d) Signed original of Form CCC-106-1, Advice of Vessel Approval.

(e) A nonnegotiable copy of the insurance policy or certificate, if c.i.f.

(f) [Reserved]

(g) A letter signed for the General Sales Manager by which the supplier will have been notified that the price is approved for financing.

(h) One copy of a weight certificate or survey report, issued by an independent surveyor or an independent weighmaster or a copy of an Agricultural Products Certificate (Form LS-5) issued by the Meat Grading Branch, Livestock Division, AMS.

(i) One copy of an Agricultural Products Certificate (Form LS-5) issued by the Meat Grading Branch, Livestock Division, AMS, or one copy of a laboratory report issued by a commercial laboratory. The Agricultural Products Certificate or the laboratory report, shall state that the tallow met contract specifications as approved by USDA.

(j) One copy of a Survey Report issued by an independent surveyor or an Agricultural Products Certificate (Form LS-5) issued by the Meat Grading Branch, Livestock Division, AMS, stating that the ship's tank was examined and found suitable for receipt of the tallow.

(L) *Lard:*

(1) Two copies of the supplier's invoice.

(2) Signed original of Form CCC-329, Supplier's Certificate:

(a) From the supplier of commodity, and

(b) If any part of ocean freight is financed on cost and freight or c.i.f. sales, also from the supplier of ocean freight.

(3) Four copies of the ocean bill of lading.

(4) Signed original of Form CCC-106-1, Advice of Vessel Approval.

(5) A nonnegotiable copy of the insurance policy or certificate, if c.i.f.

(6) [Reserved]

(7) A letter signed for the General Sales Manager by which the supplier will have been notified that the price is approved for financing.

(8) A copy of a certificate (MI Form 412-3) issued by the Processed Meat Inspection Division, AMS, containing a determination as to wholesomeness. This certificate shall bear a serial number and shall show the export stamp numbers applied on the containers.

(9) A copy of Agricultural Products Certificate (Form LS-5) issued by the Meat Grading Branch, Livestock Division, AMS, at the point of origin showing the name of the product, the number of containers in the unit shipment, gross, tare, and net weights, identity and seal numbers of car or truck, and compliance with specifications.

(10) A copy of Agricultural Products Certificate (Form LS-5) issued by the Meat Grading Branch, Livestock Division, AMS, at dockside, showing the quantity and condition of containers and that the product is the same as that examined at the point of origin.

(M) *Poultry (frozen chickens and turkeys)*:

(1) Two copies of the supplier's invoice.

(2) Signed original of Form CCC-329, Supplier's Certificate:

(a) From the supplier of commodity, and

(b) If any part of ocean freight is financed on cost and freight or c.i.f. sales, also from the supplier of ocean freight.

(3) Four copies of the ocean bill of lading.

(4) Signed original of Form CCC-106-1, Advice of Vessel Approval.

(5) A nonnegotiable copy of the insurance policy or certificate, if c.i.f.

(6) [Reserved]

(7) A copy of the letter signed for the General Sales Manager by which the supplier will have been notified that the price is approved for financing.

(8) One copy of Poultry Grading Certificate (Form PY-224), issued by the Poultry Division, AMS, at the inland inspection point showing wholesomeness, class, condition, packaging, weight and quality.

(9) One copy of Poultry Products Grading Certificate (Form PY-225) issued by the Poultry Division, AMS, at shipside stating that the lot met the requirement of the contract, and the provisions of section (M) of Appendix A with respect to wholesomeness, class, condition, packaging, weight and quality.

(N) *Canned Milk (sweetened, condensed and/or evaporated)*:

(1) Two copies of the supplier's invoice.

(2) Signed original of Form CCC-329, Supplier's Certificate:

(a) From the supplier of commodity, and

(b) If any part of the ocean freight is financed on cost and freight or c.i.f. sales, also from the supplier of ocean freight.

(3) Four copies of the ocean bill of lading.

(4) Signed original of Form CCC-106-1, Advice of Vessel Approval.

(5) A nonnegotiable copy of the insurance policy of certificate, if c.i.f.

(6) [Reserved]

(7) A letter signed for the General Sales Manager by which the supplier will have been

notified that the price is approved for financing.

(8) *For sweetened condensed milk.*

(a) *Inspection certificate.*

One copy of Inspection, Grading and Weight Certificate (Form DA-214 or DA-214-A) issued by the Inspection and Grading Branch, Dairy Division, AMS, showing the quality and weight of the sweetened condensed milk and a statement that the product meets the specifications of the contract and section (N)(4) of Appendix A and was packaged in accordance with the requirements of the contract, section 17.8(d) of these regulations and section (N)(7) of Appendix A.

(b) *Inspection certificate.*

One copy of Inspection, Grading and Weight Certificate (Form DA-214 or DA-214-A) covering inspection of the commodity at dockside showing quantity and condition of containers and verification that the product is same as that reported on the Inspection, Grading and Weight Certificate obtained under subparagraph (a) above.

(9) *For evaporated milk.*

(a) *Inspection certificate.*

One copy of Evaporated Milk Grading Certificate (Form DA-142 or DA-142-A) issued by the Inspection and Grading Branch, Dairy Division, C&MS, showing the quality and weight of the product and a statement that the product meets the specifications of the contract, and section (N)(5) of Appendix A, and was packaged in accordance with the requirements of the contract, section 17.8(d) of these regulations and section (N)(7) of Appendix A.

(b) *Inspection certificate.*

One copy of Evaporated Milk Grading Certificate (Form DA-142 or DA-142-A) covering inspection of commodity at dockside showing quantity and condition of containers and verification that the product is same as that reported on the Evaporated Milk Grading Certificate obtained under subparagraph (9) (a) above.

(O) *Nonfat dry milk:*

(1) Two copies of the supplier's invoice, which shall show the following typed or stamped certification executed by the supplier:

"The undersigned hereby certifies that any quantity of the nonfat dry milk covered by this invoice, which is being exported in satisfaction of an export obligation arising out of a purchase of nonfat dry milk from CCC, is of the same grade as, or a better grade than, such nonfat dry milk purchased from CCC."

(2) Signed original of Form CCC-329, Supplier's Certificate:

(a) From the supplier of commodity, and

(b) If any part of ocean freight is financed on cost and freight or c.i.f. sales, also from supplier of ocean freight.

(3) Four copies of the ocean bill of lading.

(4) Signed original of Form CCC-106-1, Advice of Vessel Approval.

Subtitle A—Office of the Secretary of Agri.

(5) A nonnegotiable copy of the insurance policy or certificate, if c.i.f.

(6) [Reserved]

(7) A letter signed for the General Sales Manager, by which the supplier will have been notified that the price is approved for financing.

(8) Grading certificate, (*inspection at processing plant*).

One copy of Dry Milk Grading Certificate (Form DA-136, DA-136-1, or DA-136A) issued by the Inspection and Grading Branch, Dairy Division, AMS, showing the quality and weight of the product and a statement that the product met the specifications of the contract, and section (O) (3) of Appendix A, and was packaged in accordance with the requirements of the contract, section 17.8(d) of these regulations and section (O) (6) of Appendix A, or

In the event the nonfat dry milk was obtained from CCC pursuant to CCC Announcement MP-10, and is being exported in the same package as received from CCC stocks, the following shall apply:

In lieu of the copy of the Dry Milk Grading Certificate (Form DA-136, DA-136-1, or DA-136A) required above, a copy of the Dry Milk Grading Certificate covering the nonfat dry milk at the time of delivery by CCC to the supplier shall be required. The Dry Milk Grading Certificate shall be accompanied by the supplier's statement:

"The nonfat dry milk is being exported in the same packages as received from CCC, and such packaging is in accordance with the requirements of the contract."

(9) Grading certificate (*dockside*).

One copy of Dry Milk Grading Certificate (Form DA-136, DA-136-1, or DA-136A) covering inspection of commodity at dockside showing quantity and condition of containers and verification that the product is same as that reported on the Dry Milk Grading Certificates obtained under paragraph (8) above. In the case of nonfat dry milk exported in the same packages as received from CCC, any labels or brand names applied must be noted on the certificate. If labels or brand names are used they must comply with the requirements of Section 17.8(d) of these regulations.

(P) *Dry whole milk*:

(1) Two copies of the supplier's invoice.

(2) Signed original of Form CCC-329, Supplier's Certificate:

(a) From the supplier of commodity, and

(b) If any of the ocean freight is financed on cost and freight or c.i.f. sales, also from supplier of ocean freight.

(3) Four copies of the ocean bill of lading.

(4) Signed original of Form CCC-106-1, Advice of Vessel Approval.

(5) A nonnegotiable copy of the insurance policy or certificate, if c.i.f.

(6) [Reserved]

(7) A letter signed for the General Sales Manager by which the supplier will have been

notified that the price is approved for financing.

(8) Grading certificate (*inspection at processing plant*).

One copy of Dry Milk Grading Certificate (Form DA-136, DA 136-1, or DA-136A) issued by the Inspection and Grading Branch, Dairy Division, C&MS, showing the quality and weight of the product and a statement that the product met the specifications of the contract and section (P) (3) of Appendix A, and was packaged in accordance with the requirements of the contract, of section 17.8(d) of these regulations and section (P) (6) of Appendix A.

(9) Grading certificate (*dockside*).

One copy of Dry Milk Grading Certificate (Form DA-136, DA-136-1, or DA-136A) covering inspection of commodity at dockside showing quantity and condition of containers and verification that the product is the same as that reported on the Dry Milk Grading Certificate obtained under paragraph (8) above.

(Q) *Butter*:

(1) Two copies of the supplier's invoice, which shall show the following typed or stamped certification executed by the supplier:

"The undersigned hereby certifies that any quantity of the butter covered by this invoice, which is being exported in satisfaction of an export obligation arising out of a purchase of butter from CCC, is of the same grade as, or a better grade than, such butter purchased from CCC."

(2) Signed original of Form CCC-329, Supplier's Certificate:

(a) From the supplier of the commodity, and

(b) If any part of the ocean freight is financed on cost and freight or c.i.f. sales, also from supplier of ocean freight.

(3) Four copies of the ocean bill of lading.

(4) Signed original of Form CCC-106-1, Advice of Vessel Approval.

(5) A nonnegotiable copy of the insurance policy or certificate, if c.i.f.

(6) [Reserved]

(7) A letter signed for the General Sales Manager by which the supplier will have been notified that the price is approved for financing.

(8) One copy of Butter Grading Certificate (Form DA-126, or DA-126a) issued by the Inspection and Grading Branch, Dairy Division, AMS, showing the quality and weight of the product and a statement that the product met the specifications of the contract and of section (Q) (3) of Appendix A and was packaged in accordance with the requirements of the contract(s) and of section 17.8(d) of these regulations and section (Q) (6) of Appendix A, or

In the event the butter was obtained from CCC pursuant to CCC Announcement MP-10, and it is being exported in the same packages as received from CCC stocks, the following shall apply:

In lieu of the copy of the Butter Grading Certificate (Form DA-126 or DA-126a) required above, a copy of the Butter Grading Certificate covering the butter at the time of delivery by CCC to the supplier shall be required. The Butter Grading Certificate(s) shall be accompanied by the supplier's statement:

"The butter is being exported in the same packages as received from CCC, and such packaging is in accordance with the requirements of the contract."

(9) One copy of Butter Grading Certificate (Form DA-126 or DA-126a) covering inspection of commodity at docksides showing quantity and condition of containers and verification that the product is the same as that reported on Butter Grading Certificates obtained under paragraph (8) above. In the case of butter exported in the same packages received from CCC, any labels or brand names applied must be noted on the certificate. (If labels or brand names are used they must comply with the requirements of section 17.8 (d) of these regulations.)

(R) *Anhydrous milk fat and/or anhydrous butter fat and/or butter oil:*

(1) Two copies of the supplier's invoice, which shall show the following typed or stamped certification executed by the supplier:

"The undersigned hereby certifies that any quantity of the product covered by this invoice, which is being exported in satisfaction of an export obligation arising out of a purchase of butter from CCC, was processed from butter of the same grade as, or a better grade than, the butter purchased from CCC."

(2) Signed original of Form CCC-329, Supplier's Certificate:

(a) From the supplier of the commodity, and

(b) If any part of the ocean freight is financed on cost and freight or c.i.f. sales, also from the supplier of ocean freight.

(3) Four copies of the ocean bill of lading.

(4) Signed original of Form CCC-106-1, Advice of Vessel Approval.

(5) A nonnegotiable copy of the insurance policy or certificate, if c.i.f.

(6) [Reserved]

(7) A letter signed for the General Sales Manager by which the supplier will have been notified that the price is approved for financing.

(8) One copy of Inspection, Grading and Weight Certificate (Form DA-214 or DA-214-A) issued by the Inspection and Grading Branch, Dairy Division, AMS, showing the quality and weight of the product and a statement that the product met the specifications of the contract and of section (R) (3) or (4) of Appendix A and was packaged in accordance with the requirements of the contract, section 17.8(d) of these regulations and section (R) (8) of Appendix A.

(9) One copy of Inspection, Grading, and Weight Certificate (Form DA-214 or DA-214-A) covering inspection of commodity at dock-

side showing quantity and condition of containers and verification that product is the same as that reported on the Inspection, Grading, and Weight Certificate obtained under paragraph (8) above.

(S) *Cheese (cheddar and/or process):*

(1) Two copies of the supplier's invoice, which shall show the following typed or stamped certification executed by the supplier:

"The undersigned hereby certifies that any quantity of the cheese covered by this invoice, which is being exported in satisfaction of an export obligation arising out of a purchase of cheese from CCC, is of the same grade as, or a better grade than, such cheese purchased from CCC."

(2) Signed original of Form CCC-329, Supplier's Certificate:

(a) From the supplier of the commodity, and

(b) If any part of the ocean freight is financed on cost and freight or c.i.f. sales, also from the supplier of ocean freight.

(3) Four copies of the ocean bill of lading.

(4) Signed original of Form CCC-106-1, Advice of Vessel Approval.

(5) A nonnegotiable copy of the insurance policy or certificate, if c.i.f.

(6) [Reserved]

(7) A letter signed for the General Sales Manager by which the supplier will have been notified that the price is approved for financing.

(8) One copy of Cheese Grading Certificate (Form DA-131 or DA-131a) issued by the Inspection and Grading Branch, Dairy Division, AMS, showing the quality and weight of the product and a statement that the product met the specifications of the contract and of section (S) (3) of Appendix A and was packaged in accordance with the requirements of the contract and of section 17.8(d) of these regulations and section (S) (6) of Appendix A, or

In the event the cheese was obtained from CCC pursuant to CCC Announcement MP-10, and it is being exported in the same packages as received from CCC stocks, the following shall apply:

In lieu of the copy of the Cheese Grading Certificate (Form DA-131 or DA-131a) required above, a copy of the Cheese Grading Certificate covering the cheese at the time of delivery by CCC to the supplier shall be required. The Cheese Grading Certificate shall be accompanied by the supplier's statement:

"The cheese is being exported in the same packages as received from CCC, and such packaging is in accordance with the requirements of the contract."

(9) One copy of Cheese Grading Certificate (Form DA-131 or DA-131a) covering inspection of commodity at docksides showing quantity and condition of containers and verification that the product is the same as that reported on the Cheese Grading

Certificate obtained under paragraph (8) above. In the case of cheese exported in the same packages as received from CCC any labels or brand names applied must be noted on the certificate. (If labels or brand names are used they must comply with the requirements of section 17.8(d) of these regulations.)

(T) *Ghee:*

(1) Two copies of the supplier's invoice, which shall show the following typed or stamped certification executed by the supplier:

"The undersigned hereby certifies that any quantity of the ghee covered by this invoice, which is being exported in satisfaction of an export obligation arising out of a purchase of butter from CCC was processed from butter of the same or better grade as such butter purchased from CCC."

(2) Signed original of Form CCC-329, Supplier's Certificate:

(a) From the supplier of the commodity, and

(b) If any part of the ocean freight is financed on cost and freight or c.i.f. sales, also from supplier of ocean freight.

(3) Four copies of the ocean bill of lading.

(4) Signed original of Form CCC-106-1, Advice of Vessel Approval.

(5) A nonnegotiable copy of the insurance policy or certificate, if c.i.f.

(6) [Reserved]

(7) A letter signed for the General Sales Manager by which the supplier will have been notified that the price is approved for financing.

(8) One copy of Inspection, Grading, and Weight Certificate (Form DA-214-A) issued by the Inspection and Grading Branch, Dairy Division, AMS, showing the quality and weight of the product and a statement that the product met the specifications of the contract and of section (T) (4) of Appendix A, and was packaged in accordance with the requirements of the contract and of section 17.8(d) of these regulations and section (T) (7) of Appendix A.

(9) One copy of Inspection, Grading, and Weight Certificate (Form DA-214 or DA-214-A) covering inspection of ghee at dockside showing quantity and condition of containers and verification that the ghee is same as that reported on the Inspection, Grading, and Weight Certificate obtained under paragraph (8) above.

(U) *Stabilized dry whole eggs:*

(1) Two copies of the supplier's invoice.

(2) Signed original of Form CCC-329, Supplier's Certificate:

(a) From the supplier of the commodity, and

(b) If any part of the ocean freight is financed on cost and freight or c.i.f. sales, also from the supplier of ocean freight.

(3) Four copies of the ocean bill of lading.

(4) Signed original of Form CCC-106-1, Advice of Vessel Approval.

(5) A nonnegotiable copy of the insurance policy or certificate, if c.i.f.

(6) [Reserved]

(7) A letter signed for the General Sales Manager by which the supplier will have been notified that the price is approved for financing.

(8) One copy of Egg Products Inspection Certificate (Form PY-200) issued by the Grading Branch, Poultry Division, AMS, showing the quality and weight of the product and a statement that the product met the specifications of the contract and of section (U) (4) of Appendix A and was packaged in accordance with the requirements of the contract and of section 17.8(d) of these regulations and section (U) (8) of Appendix A.

(9) One copy of Poultry Products Grading Certificate (Form PY-225) issued by the Poultry Division, AMS, at dockside showing quantity and condition of containers and a verification that the product is the same as that reported on Egg Products Inspection Certificate (Form PY-200).

(V) *Upland cotton:*

(1) Two copies of the supplier's invoice, which shall show the contracted quality described in terms of the Official Cotton Standards of the United States, unless the sale is made against private types. If the sale is against private type, show private-type name.

(2) Signed original of Form CCC-329, Supplier's Certificate:

(a) From the supplier of the commodity, and

(b) If any part of the ocean freight is financed on cost and freight or c.i.f. sales, also from supplier of ocean freight.

(3) (a) Four copies of the ocean bill of lading, or

(b) In lieu of the four copies of the bill of lading required by paragraph (3) (a) above there may be substituted four nonnegotiable copies (or photostats) of a port or custody bill of lading dated within the delivery period specified in the purchase authorization, with on-board endorsement dated not later than 20 days after the final delivery date specified in the purchase authorization.

(4) Signed original of Form CCC-106-3, Advice of Vessel Approval.

(5) A nonnegotiable copy of the insurance policy or certificate, if c.i.f.

(6) [Reserved]

(7) Signed original of Form NOCO-467, showing the approved unit price and the percentage of financing which CCC will provide.

(8) One copy (or photostat) of the weight and tare sheets certified by a U.S. warehouseman or one copy (or photostat) of a weight certificate and tare sheets issued at U.S. port of export by an authorized weigher. The certification of the U.S. warehouseman or authorized weigher must show markings, supplier's name, CCC Registration Number, Purchase Authorization Number, gross weight, type of bagging, number of ties, and

weight of patches, if any, for each bale and the tare. The gross weight minus tare shall constitute net weight. The certification must also state that cotton in the shipment was weighed after the last sampling and not more than 30 days prior to the date of certification.

(9) All documents shall be identified with the CCC Registration Number.

(W) *Extra long staple cotton:*

(1) Two copies of the supplier's invoice, which shall show the contracted quality described in terms of the Official Cotton Standards of the United States, unless the sale is made against private types. If the sale is against private type, show private type name.

(2) Signed original of Form CCC-329, Supplier's Certificate:

(a) From the supplier of the commodity, and

(b) If any part of the ocean freight is financed on cost and freight or c.i.f. sales, also from supplier of ocean freight.

(3) (a) Four copies of the ocean bill of lading, or

(b) In lieu of the four copies of the bill of lading required in paragraph (3) (a) above, there may be substituted four nonnegotiable copies (or photostats) of a port or custody bill of lading dated within the delivery period specified in the purchase authorization, with on-board endorsement dated not later than 20 days after the final delivery date specified in the purchase authorization.

(4) Signed original of Form CCC-106-3, Advice of Vessel Approval.

(5) A nonnegotiable copy of the insurance policy or certificate, if c.i.f.

(6) [Reserved]

(7) Signed original of Form NOCO-467, showing the approved unit price and the percentage of financing which CCC will provide.

The reporting and record keeping requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(8) One copy (or photostat) of the weight and tare sheets certified by a U.S. warehouseman or one copy (or photostat) of a weight certificate and tare sheets issued at U.S. port of export by an authorized weigher. The certifications of the U.S. warehouseman or authorized weigher must show markings, supplier's name, CCC Registration Number, Purchase Authorization Number, gross weight, type of bagging, number of ties, and weight of patches, if any, for each bale and the tare. The gross weight minus tare shall constitute net weight. The certification must also state that cotton in the shipment was weighed after the last sampling and not more than 30 days prior to the date of certification.

(9) All documents shall be identified with the CCC Registration Number.

[31 F.R. 16818, Dec. 31, 1966; 32 F.R. 3935, Mar. 10, 1967, as amended at 33 F.R. 5139, Mar. 29, 1968; 35 F.R. 592, Jan. 16, 1970]

PART 18—EQUAL EMPLOYMENT OPPORTUNITY IN THE STATE COOPERATIVE EXTENSION SERVICES

Sec.

- 18.1 Definitions.
- 18.2 Purpose, applicability, and coverage.
- 18.3 Development and adoption of equal employment opportunity programs.
- 18.4 Elements of program.
- 18.5 Formal complaint procedure.
- 18.6 Review and decision.
- 18.7 Reports.
- 18.8 Noncompliance.
- 18.9 Sanctions.

AUTHORITY. The provisions of this Part 18 issued under 5 U.S.C. 301, and secs. 1-10, 38 Stat. 372, as amended; 7 U.S.C. 341-349.

SOURCE: The provisions of this Part 18 appear at 33 F.R. 12173, Aug. 29, 1968, unless otherwise noted.

§ 18.1 Definitions.

For the purpose of this part:

(a) "Secretary" means the Secretary of Agriculture of the United States or his designee.

(b) "Cooperative Extension Service" means the Cooperative Extension Service of each Land-Grant University.

(c) "President" means the President or chief executive of each Land-Grant University or his designee.

(d) "Discrimination" includes discrimination on the basis of race, color, national origin, sex, or religion.

(e) "Employment" includes hiring, assignment, transfer, promotion, compensation, discipline, and discharge and all other conditions, terms and privileges of employment.

(f) "Program" means a comprehensive Equal Employment Opportunity plan submitted by a President in satisfaction of the requirements of § 18.3.

§ 18.2 Purpose, applicability and coverage.

(a) *Purpose.* This part provides a cooperative procedure involving the President and Secretary to assure that the Cooperative Extension Service provides equal opportunity in employment to each individual without regard to race, color, national origin, sex, or religion.

(b) *Applicability.* The regulations in this part apply to every Land-Grant University operating a Cooperative Extension Service.

(c) *Coverage.* This part applies to all positions in all units of the Cooperative Extension Service, and to employees pro-

vided by county and other political subdivisions in support of Cooperative Extension Service programs.

§ 18.3 Development and adoption of equal employment opportunity programs.

(a) *Submission.* Within 90 days after the effective date of this part, the President shall furnish to the Secretary a positive continuing program to assure that employment is provided without discrimination.

(b) *Development.* The President and the Secretary may consult with each other at any time regarding the development and evaluation of the program in order to better effectuate the purpose of this part. The program may be a part of a general program establishing employment procedures for employees of the university and may cover other rights and privileges of employees.

(c) *Concurrence.* The Secretary may concur with the program proposed by the President. If the Secretary does not concur with the proposed program, he shall inform the President and make suggestions for improvement. The President will have 30 days thereafter to furnish a satisfactory proposal.

(d) *Amendment.* After concurrence has been obtained on the program, the President may make recommendations to amend the program to improve its effectiveness and furnish them to the Secretary for concurrence. If the Secretary, at any time finds that a program, as implemented, does not achieve the purposes described in § 18.2, he shall confer with the President concerning needed improvements and changes. The President will furnish a satisfactory amendment to the Secretary within 30 days for concurrence.

(e) *Effective date.* The program or amendments to it shall be made effective by the President not later than 30 days from the date of concurrence.

§ 18.4 Elements of program.

A satisfactory program shall include:

(a) A statement of policy prohibiting discrimination in employment;

(b) An administrative procedure enforcing that policy;

(c) A positive affirmative action plan designed to assure equal opportunity in employment;

(d) A procedure for identifying and eliminating employment practices tend-

ing to create or continue discrimination in employment;

(e) A procedure for evaluating the success of the program;

(f) Adequate provision for publicizing the program including dissemination of information to all those covered by these regulations;

(g) A procedure for prompt processing of complaints assuring no less than minimum rights prescribed in § 18.5;

(h) Adequate provisions for the protection of complainants, employees, witnesses, and representatives from interference, harassment, intimidation and reprisal;

(i) A procedure for the informal resolution of complaints; and,

(j) A procedure for recording receipt and disposition of all complaints. A report of the receipt and a report of the disposition of all formal complaints will be sent promptly to the Secretary.

§ 18.5 Formal complaint procedure.

A procedure shall be provided for the filing of a formal written complaint if a complainant is not satisfied with the result of informal procedure or if the complainant does not desire to follow the informal procedure. A complaint procedure shall contain the following minimum provisions for the processing of formal complaints.

(a) *Elements of the formal complaint.* The formal complaint shall be in writing and state the name and address of the complainant; the basis of the claim; and indicate whether the alleged discrimination was based on race, color, national origin, sex, or religion.

(b) *Time limits for processing.* The procedure will include time limits for the orderly processing of complaints.

(c) *Who may file.* A complaint may be filed by an employee, a former employee, or an applicant for employment who believes that discrimination in employment has been practiced against him or that an employment practice in the Cooperative Extension Service has or will result in discrimination in employment against him. An employee, a former employee, or an applicant for employment, or an organization may file a complaint of general discriminatory practices: *Provided, however,* That upon request of the President, the complainant shall furnish to him names of individuals who are adversely affected by those practices.

(d) *Right of representation.* A complainant may designate in writing, an

individual or an organization to represent him in the processing of his complaint, and is entitled to the advice of counsel at his expense at all stages of the proceeding. If the representative designated by the complainant is an employee of the U.S. Department of Agriculture, or of a Cooperative Extension Service, such employee, as well as an employee-complainant, shall have a reasonable amount of official time with pay, if he is in a pay status, for the purpose of appearing at any hearing on the complaint or conciliation effort. The rights and privileges set forth in this paragraph shall also be available to any person whose alleged conduct is the cause of the complaint.

(e) *Where filed.* The procedure shall clearly state the persons, and their locations, with whom complaints may be filed. It shall also state that complaints may be filed with the Secretary. Complaints filed with the Secretary shall be promptly forwarded to the President or his designee for processing.

(f) *When filed.* A complaint shall be submitted within 90 days of the conduct giving rise to the complaint. The President or the Secretary may extend the prescribed time limit for good cause shown by the complainant.

(g) *Hearing.* A complainant or the President may request a hearing which shall be transcribed or recorded. The hearing shall be conducted promptly during regular working hours in the county where the alleged discrimination occurred or at a time and place agreed to by the President and the complainant. The President, the complainant and any person whose alleged conduct is the cause of the complaint shall have the right to call and cross-examine witnesses under oath. The hearing shall be provided by the President, and shall be conducted by an impartial board or hearing officer who shall promptly submit a proposed decision including findings of fact, conclusions, and recommendations for action to the President.

(h) *Decision by the President.* The President shall review the entire file on the complaint, including the record of the hearing if a hearing was held, and shall promptly:

- (1) Remand to the hearing board or officer for further action; or
- (2) Make a decision on the complaint; or
- (3) Otherwise dispose of the complaint.

The President shall notify the complainant of his decision or disposition and of his right to request in writing a review by the Secretary and the time limit in which such request for review must be made.

§ 18.6 Review and decision.

(a) *Review.* The complainant may request a review of his complaint by the Secretary:

(1) Within 30 days of notification of disposition of his complaint by the President;

(2) Within 30 days of notification of refusal by the President to accept his complaint; or

(3) Upon failure of the President to act on the complaint in accordance with the program.

The Secretary may extend the prescribed time limit for good cause.

Any request shall be in writing. The President upon request by the Secretary, shall furnish to the Secretary the complete file, including the transcript of any hearing together with whatever other information the Secretary requests. The Secretary may request supplemental information from the President, order further investigation by the Office of the Inspector General, U.S. Department of Agriculture, remand the complaint to the President for further action, and if circumstances warrant, hold a hearing under such procedure and on such issues as he determines appropriate to obtain information which would assist him in making a decision as provided under § 18.6(b).

(b) *Decision.* After the Secretary completes his review of the President's disposition of the complaint, he shall make a decision as to whether the President's decision or disposition of the complaint is proper. The decision of the Secretary shall be in writing and shall be sent to the President for appropriate action. A copy of the decision shall also be furnished to the complainant.

§ 18.7 Reports.

Within 6 months of the program going into effect and thereafter at least annually, the President shall submit a summary report to the Secretary on implementation and operation of the program. The Secretary may request additional reports as he deems advisable.

§ 18.8 Noncompliance.

A university conducting a Cooperative Extension Service will be in violation of this part:

(a) If the President fails to file a program in which the Secretary concurs under § 18.3, or fails to file an appropriate amendment in accordance with § 18.3 (d);

(b) If after concurrence in the President's program the Secretary finds that a university has failed to administer such program according to its terms;

(c) If the university or the President does not take appropriate action on the decision under § 18.6(b) which is satisfactory to the Secretary; or

(d) If the Secretary finds that any officer of the university has intimidated, coerced, or improperly pressured a complainant, employee, representative, or witness exercising the rights given him by this part or any program adopted pursuant thereto, and that corrective action has not been taken.

§ 18.9 Sanctions.

(a) When the Secretary finds that any noncompliance with this part has occurred, he may initiate action to refuse to authorize payment of funds for the Cooperative Extension Service, or take other appropriate action provided by law.

(b) The remedies available to the Secretary under this part, and remedies made available to any person under a program adopted pursuant to this part do not exclude any others which may be available under law.

PART 19—LICENSING DEPARTMENT INVENTIONS

Sec.	Definitions.
19.1	Purpose and policy.
19.2	Types of licenses.
19.3	Nonexclusive licenses.
19.4	Exclusive licenses.
19.5	Applications for licenses.
19.6	Advertising and marking
19.7	Revocation of licenses.
19.8	Reissuance.
19.9	Disputes.
19.10	Decisions on refusal to issue or re-issue licenses and revocations.
19.11	Appeals.
19.12	Mailing address.
19.13	

AUTHORITY: The provisions of this Part 19 issued under 5 U.S.C. 301; President's Memorandum of Oct. 10, 1963 (Government Patent Policy) and Statement of Government Patent Policy, 28 F.R. 10943.

SOURCE: The provisions of this Part 19 appear at 35 F.R. 7493, May 14, 1970, unless otherwise noted.

§ 19.1 Definitions.

As used in this part:

(a) "Department invention" means an invention covered by a patent or patent application assigned to the Government as represented by the Secretary of Agriculture or in the custody of the Secretary for administrative purposes.

(b) "To the point of practical application" means to manufacture in the case of a composition or product, to practice in the case of a process, or to operate in the case of a machine and under such conditions as to establish that the invention is being worked and that its benefits are reasonably accessible to the public.

(c) "To practice an invention" means to make, use, or sell any embodiment of the invention, or to use the process where the invention is a process.

(d) "Secretary" means the Secretary of Agriculture or his designee.

(e) "Administrator" means the Administrator of the Agricultural Research Service or his designee.

(f) "Government" means the Government of the United States of America.

(g) "Appeals Board" means a board appointed by the Secretary to hear an appeal made pursuant to this part.

(h) "Licensee" means the person, firm, or entity granted a license under a Department invention.

§ 19.2 Purpose and policy.

This part sets forth the procedures for licensing Department inventions. Department inventions serve the interests of the Government by being developed to the point of practical application. It is the policy of the Department of Agriculture to encourage this by all suitable means, including the granting of licenses. Any Department invention will normally be made available to responsible applicants. Licenses will be granted on terms and conditions considered to be the most favorable to the public interest. The public interest will in most instances be best served by the granting of non-exclusive royalty-free licenses, but in other instances the incentive offered by an exclusive license may be needed for speedy development and commercial adoption of the Department invention. In selecting licensees and types of licenses,

due consideration will be given to the impact on general policies of the Government and the Department of Agriculture (e.g., rural area development, environmental quality, export market development).

§ 19.3 Types of licenses.

Either nonexclusive or exclusive licenses under Department inventions may be issued by the Administrator. The Administrator, in the case of each Department invention made available for licensing, shall determine in accordance with this part which type shall be granted. The Administrator shall have published, in the FEDERAL REGISTER and the Official Gazette of the U.S. Patent Office, lists of Department inventions available for each type of license, including abstracts and technical information where appropriate, and shall keep such lists current. The listing of a Department invention as available for an exclusive license shall not preclude consideration of an application for a nonexclusive license for such invention if an exclusive license is not yet in effect.

§ 19.4 Nonexclusive licenses.

(a) A Department invention shall be made available for nonexclusive licenses if the Administrator determines (1) that the invention has already been developed to, or substantially to, the point of practical application, and (2) that the incentive of an exclusive license is unnecessary to complete the development of the invention.

(b) The period of a nonexclusive license shall be the life of the patent, unless revoked as provided in this part.

(c) The license shall extend to subsidiaries and affiliates of the licensee, but shall be nontransferable except to the successor of that part of the licensee's business to which the invention pertains.

(d) The license shall reserve to the Administrator the right to require the licensee to submit reports not more often than annually on his efforts to practice the invention. The reports shall contain information within his knowledge, or which he may acquire under normal business practices, pertaining to the commercial use being made of the invention, and such other information relating to the license and invention as the Administrator determines pertinent.

(e) No royalties shall be charged on nonexclusive licenses.

§ 19.5 Exclusive licenses.

(a) *Basic requirements.* A Department invention shall be made available for an exclusive license only if—

(1) The Administrator determines that:

(i) The invention has not already been developed to, or substantially to, the point of practical application,

(ii) The invention is not likely to be developed to such point by the Government or by means of nonexclusive licenses under the invention, and

(iii) The granting of an exclusive license will substantially accelerate its development to the point of practical application; or

(2) The Administrator determines that an invention made available for non-exclusive licenses at least 1 year previously, on the basis that it had been developed substantially to the point of practical application, has not been brought to the point of practical application, and that the granting of an exclusive license is necessary to completion of the development of the invention.

(3) With respect to both subparagraphs (1) and (2) of this paragraph, the following must also be complied with before the Administrator issues an exclusive license:

(i) At least 60 days notice by publication in the FEDERAL REGISTER and the Official Gazette of the Patent Office must have been given of the availability of the Department invention for an exclusive license;

(ii) At least 30 days notice by publication in the FEDERAL REGISTER and the Official Gazette of the Patent Office must have been given of the initial selection of the licensee, and final decision must have been rendered with respect to any application or protest filed pursuant to this part as a result thereof.

(b) *Matter for consideration in selecting licensee.* The Administrator, in selecting an exclusive licensee, shall take into consideration any factors deemed pertinent by him, including:

(1) Capability of applicants;

(2) Terms proposed by applicants;

(3) Whether applicants' businesses are located in a low-income rural area, labor-surplus area, or in an area designated by the Government as economically depressed;

(4) Whether the applicants have previously demonstrated interest in the

invention by obtaining a nonexclusive license on it; and

(5) Whether applicants are U.S. citizens, or, in the case of a corporation, whether at least 51 percent of the stock is owned by U.S. citizens, and whether it is controlled by such citizens.

(c) *Terms and conditions.* The following shall be applicable with respect to exclusive licenses:

(1) The license may be granted to practice an invention in a limited or unlimited field of use either throughout the United States of America, its territories and possessions, or in only a part thereof.

(2) The period for the license will be negotiated; however, it will not extend for more than 5 years, except in unusual cases as determined by the Administrator. The period of the license shall not include the terminal portion of the patent, as determined by the Administrator.

(3) The license shall require the licensee to develop the invention, and thereafter to offer its benefits for the remaining period of the license to the public in accordance with a plan approved by the Administrator. Such plan may include fixing by the Administrator of the maximum price of sale.

(4) The license may require the payment of royalties when determined by the Administrator to be in the public interest.

(5) The license shall be subject to an irrevocable, nontransferable, royalty-free right of the Government to practice the invention by or on behalf of the Government, or any foreign government, international organization, or group of nations, pursuant to any treaty or agreement.

(6) The license shall reserve to the Government the right to require the granting of a sublicense on terms that are reasonable in the circumstances, including royalty-free, as determined by the Administrator to the extent that the invention is required for public use by Government regulations or as may be necessary to fulfill health needs, or for other public purposes stipulated in the license.

(7) The license shall be subject to any rights of third parties established or derived directly or indirectly from a nonexclusive license previously granted under the invention.

(8) The license shall be nontransferable except to the successor of that part

of the licensee's business to which the invention pertains.

(9) The licensee, subject to approval of the Administrator, may grant sublicenses, subject to the conditions of the license. Each sublicense shall refer to the rights retained by the Government under the license and a copy of each sublicense shall be furnished to the Administrator.

(10) The license shall require the licensee to submit reports not more often than annually on his efforts to practice the invention. The reports shall contain information within his knowledge, or which he may acquire under normal business practices, pertaining to the commercial use being made of the invention, and such other information relating to the license and invention as the Administrator determines pertinent.

(d) After initial selection of an exclusive licensee, notice thereof shall be published in the *FEDERAL REGISTER* and the *Official Gazette* of the U.S. Patent Office. Such notice shall include identification of the Department invention, identification of the contemplated licensee, the period of the contemplated license, a summary statement of the terms and conditions of the contemplated license, and a statement that the license will be granted unless:

(1) A nonexclusive licensee of the invention files a protest with the Administrator within 30 days after such publication, stating that he has already brought or is likely to bring the invention to the point of practical application without an exclusive license, and submitting documentation in support thereof; or

(2) An application for nonexclusive license on such invention is filed with the Administrator within 30 days after such publication and such application states that the applicant is likely to bring the invention to the point of practical application without an exclusive license, and contains documentation in support thereof; or

(3) A protest is filed by any person with the Administrator within 30 days after such publication, setting forth reasons why it would not be in the public interest to grant the proposed exclusive license.

The Administrator shall make a decision with respect to any such application or protest under subparagraphs (1), (2), and (3) of this paragraph, which decision shall be final and conclusive unless appealed as provided in this part.

(e) *Exception to exclusivity.* Unless the exclusive license specifically limits the authority of the Administrator to do so, the Administrator may issue a non-exclusive license under a Department invention which is the subject of an exclusive license if he determines it in the public interest in connection with:

(1) Settlement of an interference with respect to such invention; or

(2) Obtaining the release of a claim of infringement with respect to such invention; or

(3) An exchange for a license to the Government under adversely held patents, including improvement patents and inventions, relating to such invention.

(f) *Litigation.* An exclusive licensee shall, during the period of the license, have the right to sue at his own expense infringers of the licensed patent. The licensee may join the Government, upon its consent, as a party complainant in such a suit, but without expense to the Government, and the licensee shall pay all costs, and any final judgment or decree that may be rendered against itself or the Government as a result of such suit. If, as a result of any litigation, the licensed patent is declared invalid, the licensee shall be relieved from any further obligation under the license.

§ 19.6 Application for licenses.

(a) *Nonexclusive licenses.* An application for a nonexclusive license under a Department invention shall be addressed to the Administrator, and shall include:

(1) The name and address of the applicant;

(2) The identity of the invention;

(3) A request for a nonexclusive license on such invention; and

(4) The purpose for which the license is desired.

(b) *Exclusive licenses.* An application for an exclusive license under a Department invention shall be addressed to the Administrator, and shall include:

(1) The name and address of the applicant, the type of business engaged in, and information as to the nationality of the applicant, or, in the case of corporation, whether at least 51 percent of the stock is owned by citizens of the United States, and whether it is controlled by such citizens;

(2) The identity of the invention;

(3) A request for an exclusive license on such invention;

(4) The purpose for which the license is desired;

(5) A description of applicant's capabilities to undertake the industrial and market development required to develop the invention to the point of practical application;

(6) The time and expenditure which the applicant estimates is required to develop the invention to the point of practical application, and a statement of the applicant's intention to invest that sum of money in development of the invention if the license is granted;

(7) The amount which the applicant considers to be a fair return on his expenditure under the license;

(8) The period of exclusive license which the applicant believes to be the minimum necessary to give a reasonable expectation of said fair return;

(9) Whether the applicant would be willing to accept an exclusive license to practice the invention in a limited field of use and for a geographical area less than the entire United States of America, its territories and possessions. If so, define the geographic portion and/or limited field of use; and

(10) Any other facts which the applicant believes would show it to be in the interests of the Government to grant an exclusive license to the applicant.

(c) *Fees.* Each application for an exclusive license must be accompanied by a certified or cashier's check, or bank or other recognized money order, in the amount of One Hundred Dollars (\$100.00). Such fee is for the purpose of partially covering administrative expenses of issuing the license. The fee will be refunded in full if the applicant is not granted the license.

§ 19.7 Advertising and marking.

(a) No advertising shall refer to the license, the Department of Agriculture, or the Government.

(b) An exclusive license shall require the licensee to mark the article made under the license by fixing thereon the word "patent" or the abbreviation "pat.", together with the number or numbers of such patent or patents as may be applicable. Likewise, where applicable, the words "patent applied for" or the abbreviation "pat. appl." together with the number or numbers of such applications shall be marked on the article. When, from the character of the article, this cannot be done, the article shall have fixed to it or to the

package wherein one or more of them are contained, a label containing a like notice.

§ 19.8 Revocation of licenses.

(a) Licenses and sublicenses thereunder may be revoked at any time by the Administrator if the Administrator determines that:

(1) The licensee or a sublicensee has made any false report or committed a breach of any covenant, agreement, or requirement contained in the license or in this part; or

(2) Satisfactory progress has not been made in developing the invention to the point of practical application; or

(3) There has been nonuse of the license.

§ 19.9 Reissuance.

A license, including a revoked or expired license, may be reissued upon the licensee showing to the satisfaction of the Administrator that he has developed the invention, or is likely to develop the invention, to the point of practical application within a reasonable period. Requests must be made to the Administrator prior to or within 30 days after the expiration or revocation of the license, or such longer period as the Administrator may fix for good cause shown in writing. The Administrator may require, as a condition of the reissuance, that the licensee develop the invention to the point of practical application within a specified period.

§ 19.10 Disputes.

Any dispute arising under a license which is not disposed of by mutual agreement shall be decided by the Administrator who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the licensee. His decision shall be final and conclusive, unless within 30 days after receipt thereof, or such longer period as the Secretary may determine, the licensee mails or otherwise furnishes to the Administrator a written appeal addressed to the Secretary of Agriculture.

§ 19.11 Decisions on refusal to issue or reissue licenses and revocations.

Any decision by the Administrator pursuant to § 19.5(d) in connection with issuance of an exclusive license, any revocation by the Administrator of a license or a sublicense pursuant to § 19.8, and any decision by the Administrator

refusing a request pursuant to § 19.9 for reissuance of a license, shall be reduced to writing. The Administrator shall mail or otherwise furnish a copy of his decision to the applicant, licensee, sublicensee, or protestant. His decision shall be final and conclusive, unless within 30 days after receipt thereof, or such longer period as the Secretary may determine, the applicant, licensee, sublicensee, or protestant mails or otherwise furnishes to the Administrator a written appeal addressed to the Secretary of Agriculture.

§ 19.12 Appeals.

Any person filing an appeal pursuant to § 19.10 or § 19.11 shall be afforded an opportunity to be heard before an Appeals Board, and to offer evidence in support of his appeal. The procedures to be followed in any such matter shall be determined by the Secretary of Agriculture. The Appeals Board shall make findings of fact and recommendations with respect to disposition of the appeal. The decision on the appeal shall be made by the Secretary of Agriculture, and such decision shall be final and conclusive.

§ 19.13 Mailing address.

All applications, requests for information, appeals, and any other matter relating to this part, should be mailed to the Administrator, Agricultural Research Service, U.S. Department of Agriculture, Washington, D.C. 20250.

PART 20—[Reserved]

PART 21—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

Subpart—Policies

- | | |
|--------|--|
| Sec. | |
| 21.101 | Purpose. |
| 21.102 | Effective date. |
| 21.103 | Displacement notice—Application for relocation assistance. |
| 21.104 | Appeal rights. |
| 21.105 | Leasing to former owner or tenant. |
| 21.106 | Assurance of replacement dwelling prior to displacement. |
| 21.107 | Adjustments. |
| 21.108 | Waiver. |
| 21.109 | Criteria for new construction and loans. |

Subpart—Definitions

- | | |
|--------|-------------------------------------|
| 21.201 | Agency head. |
| 21.202 | Business. |
| 21.203 | Decent, safe and sanitary dwelling. |

Sec.

- 21.204 Department.
- 21.205 Displacing agency.
- 21.206 Displaced person.
- 21.207 Dwelling.
- 21.208 Economic rent.
- 21.209 Family.
- 21.210 Farm operation.
- 21.211 Federal financially assisted program or project.
- 21.212 Federal program or project.
- 21.213 Initiation of negotiations.
- 21.214 Mortgage.
- 21.215 Owner.
- 21.216 Person.
- 21.217 Rental rate.
- 21.218 Replacement dwelling.
- 21.219 State.
- 21.220 State agency.
- 21.221 Tenant.

Subpart—Moving and Related Expenses

- 21.301 Recipient eligibility.
- 21.302 Extent of eligibility.
- 21.303 Actual expenses payment.
- 21.304 Fixed payment.
- 21.305 Actual reasonable expense in moving.
- 21.306 Actual direct losses, business or farm operations.
- 21.307 Actual reasonable expenses in searching, business and farm operation.
- 21.308 Determination of average annual net income.

Subpart—Replacement Housing Payments for Homeowners (Over 180 Days)

- 21.401 Eligibility.
- 21.402 Certification of eligibility.
- 21.403 Selecting a method for determining purchase price for a replacement dwelling.
- 21.404 Coordination among displacing agencies.
- 21.405 Costs eligible for payment by displacing agency.
- 21.406 General.

Subpart—Replacement Housing for Tenants and Certain Others

- 21.501 Eligibility.
- 21.502 Maximum payment.
- 21.503 Selecting a method for determining rental rate for a replacement dwelling.
- 21.504 Coordination among displacing agencies.
- 21.505 Computing rental payments for displaced tenants renting replacement housing.
- 21.506 Computing rental payments for displaced owner-occupants renting replacement housing.
- 21.507 Making payment to a displaced person who rents replacement housing.
- 21.508 Purchase of a replacement dwelling.
- 21.509 Mobile home site.

Subpart—Relocation Assistance Advisory Services

Sec.

- 21.601 Policy.
- 21.602 Cooperation with other Federal and State agencies.
- 21.603 Advisory services.

Subpart—Federal Financially Assisted Projects

- 21.701 Assurances by State agency.
- 21.702 Execution and amendment of agreements.
- 21.703 Project cost.
- 21.704 Payment by Department.
- 21.705 Exception.
- 21.706 Advances by Department.
- 21.707 Housing standards.
- 21.708 Organization and facilities.
- 21.709 Compliance.
- 21.710 Records.
- 21.711 Performance by contract.
- 21.712 Furnishing real property.
- 21.713 State agency acting as agent for Federal project.

Subpart—Real Property Acquisition

- 21.801 Acquisition by agreement.
- 21.802 Appraisal.
- 21.803 Establishing just compensation.
- 21.804 Initiation of negotiations.
- 21.805 Condemnation.
- 21.806 Expenses incidental to transfer of title.
- 21.807 Improvements owned by tenants.
- 21.808 Lease to former owner or occupant.
- 21.809 Requirement to move.

Subpart—Report

- 21.901 Annual report.

AUTHORITY: The provisions of this Part 21 issued under 84 Stat. 1894; 42 U.S.C. 4601, 4601 nt.

SOURCE: The provisions of this Part 21 appear at 36 F.R. 8433, May 6, 1971, as amended at 36 F.R. 19007, Sept. 25, 1971.

Subpart—Policies**§ 21.101 Purpose.**

The regulations in this part prescribe policies and procedures for the U.S. Department of Agriculture in implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646 (84 Stat. 1894) herein called the Act. The Act provides for uniform and equitable treatment of persons displaced from their homes, businesses, or farms by Federal and Federal financially assisted programs and establishes uniform and equitable land acquisition policies for Federal and Federal financially assisted programs.

§ 21.102 Effective date.

The regulations in this part shall be effective on and after January 2, 1971.

§ 21.103 Displacement notice—Application for relocation assistance.

Written notice of displacement served personally or by first-class mail will be given to each person, family, business, or farm. A displaced person, business, or farm operation must make proper application to the displacing agency for relocation assistance payments. A displaced person, business, or farm operation who makes proper application will be paid promptly after a move. If the agency head determines that delaying payment until after the move will create a hardship, he will authorize a payment to be advanced.

§ 21.104 Appeal rights.

Any person aggrieved by a determination as to eligibility for relocation payment, or the amount of a payment, in a Federal project may have his application reviewed by the Secretary of Agriculture or his designee, or in the case of a project receiving Federal financial assistance, by the head of the State agency.

§ 21.105 Leasing to former owner or tenant.

The agency head in the case of a Federal project or the head of the State agency in the case of a Federal financially assisted project may permit use of or lease realty back to former owners or tenants for a period of not more than 1 year, and may also extend or renew such permits or leases for successive periods of not more than 1 year.

§ 21.106 Assurance of replacement dwelling prior to displacement.

No phase of any project will be initiated or continued if that phase will cause the displacement of any person until the agency has determined on the basis of a current survey and analysis of available replacement housing that prior to displacement there will be available for each displaced person a replacement dwelling.

§ 21.107 Adjustments.

The agency head may make adjustments in the requirements for decent, safe, and sanitary dwellings only in cases of unusual circumstances.

§ 21.108 Waiver.

In emergencies or other extraordinary situations where immediate possession of real property is crucial, the agency head may waive the requirements of § 21.106. Each such waiver must be reported through administrative channels to the

Director, Office of Management and Budget.

§ 21.109 Criteria for new construction and loans.

The Department and State agencies will be guided by criteria and procedures issued by the Secretary of Housing and Urban Development relating to (a) determination of necessity to construct replacement housing for displaced persons, and (b) loans for planning and other preliminary expenses for additional housing for displaced persons.

Subpart—Definitions

§ 21.201 Agency head.

The head of the agency of the Department responsible for the project which requires land acquisition or displacement, or any individual authorized to act for him in implementing these regulations.

§ 21.202 Business.

(a) Any lawful activity, excepting a farm operation, conducted primarily:

(1) For the purchase, sale, lease, and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;

(2) For the sale of services to the public;

(3) By a nonprofit organization; or

(4) Outdoor advertising signs erected and maintained for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services whether or not located on the premises of the foregoing businesses.

(b) Part-time family occupations which do not contribute materially to the income of the displaced person, such as newspaper routes and part-time typing, do not come within the definition of business.

(c) A warehouse or other facility acquired, which is operated in conjunction with a business not acquired, is not a business.

§ 21.203 Decent, safe, and sanitary dwelling.

A dwelling which is in good repair and in sound and weather-tight condition, which meets local housing codes, if any, and also meets the following requirements:

(a) *Housekeeping unit.* A housekeeping unit must include a kitchen with fully usable sink; a stove, or connections

for same; a separate complete bathroom; hot and cold running water in both the bath and the kitchen; an adequate and safe wiring system for lighting and other electrical services; and heating as required by climatic conditions and local codes.

(b) *Nonhousekeeping unit.* A non-housekeeping unit is one which meets local code standards for boarding houses, hotels or other congregate living.

§ 21.204 Department.

The U.S. Department of Agriculture.

§ 21.205 Displacing agency.

The agency in the Department for Federal projects, and the State agency for Federal financially assisted project, which acquires real property.

§ 21.206 Displaced person.

Any person who, on or after January 2, 1971, moves from real property, or moves his personal property from real property, as a result of the actual acquisition of such real property, in whole or in part, or as a result of a written order of the acquiring agency to vacate real property for a program or project undertaken by the Department or with Federal financial assistance provided by the Department. If a person moves as the result of such a notice, it makes no difference whether or not the real property actually is acquired.

§ 21.207 Dwelling.

The place of permanent or customary and usual abode of a person. It includes a single family building; a one-family unit in a multifamily building; a unit of a condominium, or cooperative housing project; any other residential unit, including a mobile home which is either considered to be real property under State law, or cannot be moved without substantial damage or unreasonable cost, or is not a decent, safe and sanitary dwelling. It does not include seasonal or part-time dwelling units, such as beach houses, mountain or other vacation cabins.

§ 21.208 Economic rent.

Economic rent is the amount of rent the displaced person would have had to pay for a similar dwelling unit located in an area not generally less desirable than the location of the dwelling to be acquired.

§ 21.209 Family.

Two or more individuals living together in the same dwelling as a single family unit and who are related to each other by blood, marriage, adoption, or legal guardianship.

§ 21.210 Farm operation.

Any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

§ 21.211 Federal financially assisted program or project.

Any program or project administered by the Department or by a State agency in which a grant, loan, or contribution is provided to the State agency by the Department. Federal contracts of guaranty or insurance are excluded.

§ 21.212 Federal program or project.

Any program or project administered by the Department in which real property interest is acquired by, remains in, or is transferred to Federal ownership or control.

§ 21.213 Initiation of negotiations.

The date the acquiring agency makes the first contact with the owner or his representative and discusses a price for the real property to be acquired.

§ 21.214 Mortgage.

Such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of real property, under the laws of the State in which the real property is located, together with the credit instruments, if any, secured thereby.

§ 21.215 Owner.

A person who holds fee title, a life estate, a 99-year lease, or a lease with not less than 50 years to run from the date of acquisition of the property or has an interest in a cooperative housing project which includes a proprietary right of occupancy of a dwelling unit, excluding lease, or is the contract purchaser of any such estates or interests.

§ 21.216 Person.

Any individual, partnership, corporation, or association.

§ 21.217 Rental rate.

The amount paid or determined to be appropriate for the bare premises exclusive of such items as utilities and other services.

§ 21.218 Replacement dwelling.

A dwelling which is comparable to the acquired dwelling and is:

- (a) Decent, safe, and sanitary.
- (b) Functionally equivalent and substantially the same as the acquired dwelling with respect to number of rooms; areas of living space; age; and state of repair.
- (c) Open to all persons regardless of race, color, religion, sex, or national origin and consistent with the requirements of Title VIII of the Civil Rights Act of 1968.
- (d) In areas not generally less desirable than the dwelling to be acquired in regard to public utilities and public, commercial, and community facilities.
- (e) Reasonably accessible to the displaced person's place of employment.
- (f) Adequate to accommodate the displaced person.
- (g) Available on the market to the displaced person at rents or prices within the financial means of the displaced person.

§ 21.219 State.

Any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, the Trust Territory of the Pacific Islands, and any political subdivision thereof.

§ 21.220 State agency.

Any department, agency, or instrumentality of a State or of a political subdivision of a State, or any department, agency, or instrumentality of two or more States or of two or more political subdivisions of a State or States.

§ 21.221 Tenant.

A person who leases, rents, lawfully occupies or temporarily possesses real or personal property of another by any kind of right.

Subpart—Moving and Related Expenses

§ 21.301 Recipient eligibility.

A displaced person, business, or farm operation who submits a proper application to the displacing agency is eligible to receive payments for moving and re-

lated expenses. Moving and related expenses are payable as actual reasonable expenses described in § 21.303 or a fixed relocation payment described in § 21.304.

§ 21.302 Extent of eligibility.

(a) Each owner-occupant, tenant-occupant, or family, who is displaced from a dwelling may elect to receive either the payment described in § 21.303 (a) or the fixed payment described in § 21.304(a) except:

(1) Two or more persons, not a family, living together in a single family dwelling who are displaced from the dwelling will be regarded as one displaced person insofar as their eligibility for receiving the fixed payment for moving expenses described in § 21.304(a). Each individual in such group is eligible to receive actual moving and related expenses described in § 21.303(a) if the group does not elect to receive the fixed payment.

(2) No member of a displaced person's family living in the same dwelling unit is eligible for separate payment for moving expenses.

(3) Any person other than a member of the family who is renting a room within the dwelling unit is eligible for moving expenses under § 21.303(a), but is not eligible to elect to receive the fixed payment in § 21.304(a).

(b) Any displaced business or farm operation may elect to receive either the payment described in § 21.303 or the payment described in § 21.304.

(c) Any displaced owner-occupant of a multifamily dwelling who earns income from such dwelling is eligible for payments for actual moving and related expenses for both dwelling and business described in § 21.303 or may elect to receive the fixed payments for both dwelling and business described in § 21.304, or he may elect to receive payment for the dwelling under one alternate and payment for the business under the other alternate.

(d) A person who lives on his business or farm property and is displaced from both his dwelling and business or farm property may elect to receive either the payment described in § 21.303 or the fixed payment described in § 21.304 for the dwelling and business or farm operation; or he may elect to receive payment for the dwelling under one alternate and payment for the business or farm operation under the other alternate.

(e) A person who is displaced from a business or farm operation which results in such person moving from a nearby dwelling may elect to receive for moving from the dwelling either the payment described in § 21.303(a) or the fixed payment described in § 21.304(a).

§ 21.303 Actual expenses payment.

(a) Actual reasonable expenses specified in § 21.305 in moving himself, his family, business, farm operation, or other personal property;

(b) Actual direct losses specified in § 21.306 of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the displacing agency; and

(c) Actual reasonable expense specified in § 21.307 in searching for a replacement business or farm.

§ 21.304 Fixed payment.

(a) A displaced person who must vacate a dwelling may elect to receive, in lieu of reimbursement for actual expenses described in § 21.303(a), a moving expense allowance not in excess of \$300 based on schedules maintained by State highway departments, plus a dislocation payment of \$200.

(b) A displaced person who is displaced from his place of business, whether he discontinues or reestablishes operations, may elect to receive, in lieu of reimbursement for actual expense, specified in § 21.303, a fixed relocation payment equal to the average annual net earnings of the business as determined in accordance with § 21.308 provided:

(1) The business cannot be relocated without a substantial loss of its existing patronage. The displacing agency will consider all pertinent circumstances in determining whether the business meets this requirement, including the type of business, the nature of the clientele, and the relative importance of the present and proposed locations to the displaced business.

(2) The business is not a part of a commercial enterprise having at least one other establishment that is not being acquired which is engaged in the same or similar business.

(c) A displaced person who is displaced from his farm operation, whether he discontinues or reestablishes operations,

may elect to receive, in lieu of reimbursement for actual expenses, specified in § 21.303, a fixed relocation payment equal to the average annual net earnings of the farm operation.

(d) The payment provided in paragraphs (b) and (c) of this section shall be not less than \$2,500 nor more than \$10,000.

§ 21.305 Actual reasonable expenses in moving.

(a) *Items to be included in determining reasonable expenses.* (1) Transportation of individuals, families, and property from acquired site to the replacement site, not to exceed an airline distance of 50 miles, except where the displacing agency determines that relocation cannot be accomplished within the prescribed area.

(2) Packing and crating of personal property.

(3) Advertising for packing, crating, and transportation when the displacing agency determines that it is desirable.

(4) Storage of personal property for a period determined by the displacing agency to be necessary.

(5) Insurance premiums covering loss and damage of personal property while in storage or transit.

(6) Removal, reinstallation, and reestablishment of machinery, equipment, appliances, and other items of personal property not acquired, including reconnection of utilities, which do not constitute an improvement to the replacement site. Prior to payment for any expenses for removal and reinstallation of such property, the displaced person shall be required to agree in writing that the property is personalty and the displacing agency is released from any payment for the property.

(7) Property lost, stolen, or damaged (not caused by the fault or negligence of the displaced person, his agents, or employees) in the process of moving, where insurance to cover such loss or damage is not available.

(8) Such other reasonable expenses determined to be eligible by the agency head.

(b) *Items to be excluded in determining reasonable expenses.* (1) Additional expenses incurred because of living in a new location.

(2) Cost of moving structures, improvements or other real property in which the displaced person reserved ownership.

(3) Improvements to the replacement site.

(4) Interest on loans to cover moving expenses.

(5) Loss of goodwill.

(6) Loss of profits.

(7) Loss of trained employees.

(8) Personal injury.

(9) Cost of preparing the application for moving and related expenses.

(10) Modification of personal property to adapt it to the replacement site.

(11) Such other items as the agency head determines should be excluded.

(c) *Limitations.* (1) If the displaced person moves himself, his family, business, farm operation, or other personal property by other than commercial means, the reimbursement allowance will not exceed the estimated cost of moving commercially based on the prevailing local rates for moving.

(2) If an item of personal property used in connection with a business or farm operation is not moved, but sold and promptly replaced at the new location with a comparable item, reimbursement will not exceed the replacement cost minus the proceeds from the sale, or the estimated cost of moving, whichever is less.

(3) If personal property used in connection with a business or farm operation to be moved is of low value and high bulk, and the cost of removing, moving, reinstallation and reestablishment would be disproportionate in relation to the value, in the judgment of the displacing agency, the allowable reimbursement for the expense of moving the personal property will not exceed the difference between the amount that would have been received for such item on liquidation and the cost of replacing the same with a comparable item available on the market.

§ 21.306 Actual direct losses, business, or farm operations.

Payments for actual direct losses of tangible personal property are allowed where a person who is displaced from his place of business or farm operation is entitled to relocate his property, but does not do so. Typical items of property that may cause such direct losses include equipment, machinery, or fixtures which are no longer required, where the business or farm operation is to be discontinued or the property is not suitable for use at the new location.

(a) If the displaced person does not move the personal property he shall make a bona fide effort to sell it.

(b) If personal property is sold and not replaced and the business or farm operation is reestablished, the displaced person is entitled to the difference between the estimated replacement value of the personal property and the sale proceeds, but not to exceed the estimated cost of moving.

(c) If the business or farm operation is discontinued, the displaced person is entitled to the difference between the estimated replacement value of the personal property and the sale proceeds, but not to exceed the estimated cost of moving.

(d) If personal property is abandoned, the displaced person is entitled to the difference between the estimated replacement value and the estimated amount that would have been received for the sale of the property, but not to exceed the estimated cost of moving.

(e) If the business or farm operation is discontinued, the distance to be used in estimating the moving cost shall be 25 miles.

§ 21.307 Actual reasonable expenses in searching, business, and farm operation.

A displaced person whose business or farm is acquired may be reimbursed for his actual reasonable expenses of searching for a replacement business or farm location. The maximum amount allowable for searching expenses is \$500 for each displaced business or farm unless the agency head determines that a greater amount is justified based on the circumstances involved. Payment for these expenses are further limited to:

(a) *Travel.* (1) Actual cost of common carrier.

(2) Ten cents per mile for use of privately owned vehicle.

(b) *Meals and lodging.* (1) Three dollars per meal but not to exceed \$9 per day per individual.

(2) Actual cost of lodging, but not to exceed \$20 per day per individual.

(c) *Time.* Time spent in searching at a flat rate of \$3 per hour, or at the rate of the displaced person's salary or earnings, but not to exceed \$10 per hour. The maximum time allowed shall not exceed 8 hours each day.

(d) *Realtor assistance.* Broker or realtor fees to locate a replacement business or farm operation only when the

agency head determines in advance that it is necessary.

§ 21.308 Determination of average annual net income.

The average annual net income will be one-half of any net earnings of the business or farm operation, before Federal, State, and local income taxes for the 2 taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependent during such period. Another period may be approved by the agency head if the business or farm operation was not in operation for the full 2-year period or if an unusually long time lag between public announcement of a project and the displacement results in a material reduction in the earnings of the business for such 2-year period, or under other conditions clearly warranting a different period. The business or farm operation will be required to furnish pertinent returns filed with the Internal Revenue Service for the applicable period, or other acceptable evidence of earnings if not required to file returns.

Subpart—Replacement Housing Payments for Homeowners (Over 180 days)

§ 21.401 Eligibility.

A displaced owner-occupant of an acquired dwelling is eligible for a replacement housing payment under this subpart of not to exceed \$15,000 if he:

(a) Actually owned and occupied the acquired dwelling for not less than 180 days immediately prior to initiation of negotiations for the property; and

(b) Purchases and occupies a replacement dwelling not later than the end of the 1-year period beginning on the date on which he receives from the displacing agency final payment of the purchase price or condemnation award for the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date. Purchase of a replacement dwelling shall mean (1) acquisition of an existing dwelling, (2) acquisition and rehabilitation of a substandard dwelling, (3) relocation, or relocation and rehabilitation of an existing dwelling, (4) construction of a new dwelling, (5) contract to purchase a

dwelling to be constructed on a site provided by a builder or developer, or (6) contract for the construction of a dwelling on a site which he owns or acquires for this purpose. If construction or rehabilitation is required in the instances cited herein and completion of the construction or rehabilitation is delayed beyond the end of the 1-year period, the displacing agency may establish the date of occupancy as the date that the displaced person enters into a contract for the construction, rehabilitation, or purchase provided the displacing agency determines that the delay was for reasons not within the reasonable control of the displaced person, and the displaced person occupies the replacement dwelling when the construction or rehabilitation is completed. Payment by the displacing agency will not be made until the displaced person has occupied the replacement dwelling.

§ 21.402 Certification of eligibility.

Whenever a displaced person is eligible for a payment under this subpart except that he has not yet purchased a replacement dwelling, the displacing agency shall, at the request of the displaced person, provide a written statement to any interested person, financial institution or lending agency as to:

(a) The eligibility of the displaced person for a payment.

(b) The requirements that must be satisfied before such payment can be made.

(c) The amount of the payment to be made by the displacing agency, provided the proposed replacement dwelling has been selected, or plans and specifications for the construction or rehabilitation of a proposed replacement dwelling are available, and the displacing agency has inspected and approved the selected dwelling or has reviewed and approved the plans and specifications for construction or rehabilitation.

§ 21.403 Selecting a method for determining purchase price for a replacement dwelling.

The displacing agency may determine the amount necessary to purchase a replacement dwelling by: (a) A schedule method in which the displacing agency establishes a schedule of reasonable acquisition cost for replacement dwellings that are available on the private market in the various types of dwellings to be ac-

quired. This schedule should be based on current analysis of the market; or by: (b) The comparative method in which the displacing agency determines the price of a replacement dwelling by selecting one or more dwellings that are most representative of the dwelling unit acquired, and are available to the displaced person. A single dwelling shall only be used when additional comparable dwellings are not available. Asking prices are to be adjusted to reflect market sale experience.

§ 21.404 Coordination among displacing agencies.

When more than one agency, department or otherwise, is causing the displacement in a community or an area, the head of the displacing agency shall seek the cooperation of the other agency or agencies on the method for computing the replacement housing payment and on the use of uniform schedules of sale housing in the community or area.

§ 21.405 Costs eligible for payment by displacing agency.

Costs eligible for payment by the displacing agency under this subpart are:

(a) The amount, if any, which when added to the acquisition cost of the dwelling acquired by the displacing agency, equals the reasonable cost of a replacement dwelling. If the displaced person on his own voluntarily purchases and occupies a decent, safe, and sanitary dwelling at a price less than the reasonable cost determined by the displacing agency for a replacement dwelling, the displacing agency shall pay not more under this item than the difference between the acquisition price of the acquired dwelling and the actual purchase price of the replacement dwelling. If the displaced person on his own voluntarily purchases and occupies a decent, safe, and sanitary dwelling at a price less than the acquisition price of the acquired dwelling, no payment is allowable under this paragraph (a).

(b) The amount, if any, which will compensate the displaced person for any increased interest cost and points which such person is required to pay for financing the acquisition of the replacement dwelling, provided that the acquired dwelling was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than 180 days prior to the initiation of negotiations for the acquisition of such dwelling. This amount

shall be computed on the basis of and limited to:

(1) The amount of the unpaid debt at the time of acquisition of the real property;

(2) The length of the remaining term of the mortgage at the time of acquisition;

(3) The prevailing interest rate and points currently charged by mortgage lending institutions in the vicinity; and

(4) The present worth of the future payments of increased interest, computed at the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located.

(c) Reasonable expenses, as determined by the agency head, incurred by the displaced person for the following purposes except that no fee, cost, charge, or expense is reimbursable which is determined to be a part of the finance charge under the Truth in Lending Act, Title I, Public Law 90-321, and Regulation Z issued pursuant thereto by the Board of Governors of the Federal Reserve System, or which is determined to be prepaid expenses:

(1) Legal, closing, and related costs including title search, preparing conveyance contracts, notary fees, surveys, preparing drawings of plats, and charges incident to recordation.

(2) Lenders, FHA or VA appraisal fee.

(3) FHA application fee.

(4) Certification of structural soundness when required by lender, FHA or VA.

(5) Credit report.

(6) Title policy, certificate of title, or abstract of title.

(7) Escrow agent's fee.

(8) State revenue stamps, or sale or transfer taxes.

§ 21.406 General.

(a) Payment under this subpart to a displaced owner-occupant who moves from a one-family unit of a multifamily building owned by such person, will be based on the cost of a comparable one-family unit in a multifamily building or a single-family structure, without regard to the number of units in the acquired multifamily building.

(b) Payment under this subpart will not affect the eligibility of the displaced owner-occupant to receive a payment for business earnings attributable to rental units or other legitimate business activities conducted in portions of the building.

(c) Two or more individuals, living together in a single family dwelling will be regarded as one owner-occupant for the purpose of this subpart.

Subpart—Replacement Housing for Tenants and Certain Others

§ 21.501 Eligibility.

(a) This subpart is applicable to a displaced person who:

- (1) Is a tenant.
- (2) Is an owner-occupant who elects to lease or rent rather than purchase a replacement dwelling, or elects to purchase a replacement dwelling but has occupied the acquired dwelling for less than the 180 days required by §§ 21.401 to 21.406.

(3) Leases and occupies a site for a mobile home when such site is acquired, but only to the extent specified in § 21.509.

(b) A displaced person is eligible for a replacement housing payment under this subpart if he:

(1) Actually and lawfully occupied the acquired dwellings, or site in the case of a mobile home, for not less than 90 days immediately prior to the initiation of negotiations for acquisition of the property.

(2) Rents or purchases and occupies a replacement dwelling not later than the end of the 1-year period, except as specified in § 21.508(a), beginning on the date on which he:

- (i) If a tenant, moves from the acquired dwelling.
- (ii) If a mobile home occupant, moves from the acquired site.
- (iii) If an owner-occupant, receives from the displacing agency final payment of the purchase price or condemnation award for the acquired dwelling, or the date on which he moves from the acquired dwelling, whichever is the later date.

(c) Payment under this subpart to a displaced owner-occupant who moves from a one-family unit of a multifamily building owned by such person, will be based on the cost of a comparable one-family unit in a multifamily building or a single-family structure, without regard to the number of units in the acquired multifamily building.

(d) Payment under this subpart will not affect the eligibility of the displaced person to receive a payment for business earnings attributable to rental units or

other legitimate business activities conducted in portions of the building.

(e) Two or more individuals living together in a single family dwelling displaced from the dwelling will be regarded as one displaced person.

§ 21.502 Maximum payment.

The maximum payment which may be made under this subpart is \$4,000, except that when the payment is made in connection with the purchase of a replacement dwelling, any amount in excess of \$2,000 for the down payment and expenses specified in § 21.508(c) must be matched by the displaced person.

§ 21.503 Selecting a method for determining rental rate for a replacement dwelling.

The displacing agency may determine the amount necessary to rent a replacement dwelling for a displaced tenant by:

(a) A schedule method in which the displacing agency establishes a rental schedule for renting replacement dwellings of the various types of dwellings needed that are available on the private market. This schedule should be based on current analysis of the market; or by

(b) The comparative method in which the displacing agency establishes an average monthly rental rate for a replacement dwelling by selecting one or more dwellings that are available on the private market, available to the displaced person, and are most representative of the dwelling unit acquired.

§ 21.504 Coordination among displacing agencies.

When more than one agency, departmental or otherwise, is causing the displacement in a community or an area, the head of the displacing agency shall seek the cooperation of the other agency or agencies on the method for computing the replacement housing payment and on the use of uniform schedules of rental housing in the community or area.

§ 21.505 Computing rental payments for displaced tenants renting replacement housing.

(a) The displacing agency shall compute the amount of the payment to the tenant as follows:

(1) Multiply the monthly rental rate of the replacement dwelling by 48.

(2) Determine the average monthly rental rate paid by the displaced tenant for the acquired dwelling in the last 3

months prior to initiation of negotiations, provided such rent was reasonable. If such average rent paid was not reasonable, the displacing agency may use an economic rent amount for the acquired dwelling. If the displacing agency deems it advisable, more than 3 months may be used as a base for determining the average rental rate.

(3) Multiply the average monthly rental rate for the acquired dwelling as determined in subparagraph (2) of this paragraph, by 48.

(4) Subtract from the amount for the replacement dwelling as determined in subparagraph (1) of this paragraph, the amount for the acquired dwelling as determined in subparagraph (3) of this paragraph.

(b) If the displaced tenant is paying rent for the acquired dwelling to the displacing agency, economic rent shall be used in making the determination required by paragraph (a)(2) of this section.

§ 21.506 Computing rental payments for displaced owner-occupants renting replacement housing.

The displacing agency shall compute the amount of the payment to the displaced owner-occupant in the same manner as prescribed in § 21.505, except that economic rent shall be used in making the determination required by § 21.505(a)(2), however, the amount paid shall not exceed that which would have been paid to the displaced owner-occupant had he been eligible for and elected to purchase a replacement dwelling under the provisions of §§ 21.401 to 21.406.

§ 21.507 Making payment to a displaced person who rents replacement housing.

(a) If the total rental payment to be made to the displaced person is in excess of \$500, payment will be made in four equal annual installments at the beginning of each annual period, provided that the displacing agency determines that the tenant is continuing to occupy decent, safe and sanitary housing at the beginning of each annual period.

(b) If the total rental payment to be made to the displaced person is \$500 or less, the payment shall be made in one lump sum at the beginning of occupancy of the replacement dwelling. The displacing agency need not thereafter determine whether occupancy of decent, safe and sanitary housing is continued.

§ 21.508 Purchase of a replacement dwelling.

(a) If a displaced person eligible under this subpart elects to purchase rather than rent a replacement dwelling, purchase of a replacement dwelling shall mean: (1) Acquisition of an existing dwelling, (2) acquisition and rehabilitation of a substandard dwelling, (3) relocation, or relocation and rehabilitation of an existing dwelling, (4) construction of a new dwelling, (5) contract to purchase a dwelling to be constructed on a site provided by a builder or developer, or (6) contract for the construction of a dwelling on a site which he owns or acquires for this purpose. If construction or rehabilitation is required in the instances cited herein and completion of the construction or rehabilitation is delayed beyond the end of the 1-year period, the displacing agency may establish the date of occupancy as the date that the displaced person enters into a contract for the construction, rehabilitation, or purchase provided the displacing agency determines that the delay was for reasons not within the reasonable control of the displaced person, and the displaced person occupied the replacement dwelling when the construction or rehabilitation is completed. Payment by the displacing agency will not be made until the displaced person has occupied the replacement dwelling.

(b) Whenever a displaced person is eligible for a payment under this section except that he has not yet purchased a replacement dwelling, the displacing agency shall, at the request of the displaced person, provide a written statement to any interested person, financial institution or lending agency as to:

(1) The eligibility of the displaced person for a payment.

(2) The requirements that must be satisfied before such payment can be made.

(3) The amount of the payment to be made by the displacing agency, provided the proposed replacement dwelling has been selected, or plans and specifications for the construction or rehabilitation of a proposed replacement dwelling are available; and the displacing agency has inspected and approved the selected dwelling or has reviewed and approved the plans and specifications for construction or rehabilitation.

(c) The amount of the payment shall be computed by determining the amount

necessary to enable the displaced person to make a down payment and to cover expenses on the purchase of the replacement housing.

(1) The amount necessary for the down payment shall be based on the amount required for a conventional loan.

(2) Reasonable expenses, as determined by the displacing agency incurred by the displaced person for the following purposes except that no fee, cost, charge, or expense is reimbursable which is determined to be a part of the finance charge under the Truth in Lending Act, title I, Public Law 90-321, and Regulation Z issued pursuant thereto by the Board of Governors of the Federal Reserve System, or which is determined to be prepaid expenses;

(i) Legal, closing, and related costs including title search, preparing conveyance contracts, notary fees, surveys, preparing drawings of plats, and charges incident to recordation.

(ii) Lenders, FHA or VA appraisal fee.

(iii) FHA application fee.

(iv) Certification of structural soundness when required by lender, FHA or VA.

(v) Credit report.

(vi) Title policy, certificate of title, or abstract of title.

(vii) Escrow agent's fee.

(viii) State revenue stamps, or sale or transfer taxes.

(d) The full amount of the payment must be applied as follows:

(1) The amount allowed for the down payment must be applied to the purchase price.

(2) The amount allowed for incidental costs must be applied to the incidental costs.

(3) The down payment and incidental costs must be shown separately on the closing statement.

§ 21.509 Mobile home site.

If real property is acquired on which a displaced person leases and occupies a site for a mobile home, the following reasonable costs as determined by the displacing agency are allowable and payable in a lump sum:

(a) Moving the mobile home to a replacement site located not more than 50 airline miles from the acquired site.

(b) Detaching and reattaching fixtures and appurtenances, where applicable.

Subpart—Relocation Assistance Advisory Services

§ 21.601 Policy.

Whenever the acquisition of real property for a Federal or Federal financially assisted program or project will result in the displacement of any person, the displacing agency shall provide a relocation assistance advisory program for displaced persons. If such agency determines that any person occupying property immediately adjacent to the real property acquired is caused substantial economic injury because of the acquisition, that agency shall offer such person relocation advisory services.

§ 21.602 Cooperation with other Federal and State agencies.

When more than one agency, Departmental or otherwise, is administering a relocation assistance advisory program which may be of assistance in the community or area to persons displaced under other programs, the head of that agency shall offer to cooperate to the maximum extent feasible with the other Federal or State agency causing displacements to assure that all displaced persons receive the maximum assistance available to them. The displacing agency may, by contract or otherwise, secure relocation assistance advisory services from any Federal, State, or local governmental agency or from any person or organization.

§ 21.603 Advisory services.

Each relocation assistance advisory program shall include such measures, facilities or services as may be necessary or appropriate in order to:

(a) Determine the need, if any, of displaced persons for relocation assistance.

(b) Provide current and continuing information on the availability, prices, and rentals of comparable decent, safe and sanitary sale and rental housing, and of comparable commercial properties and locations for displaced businesses and farm operations.

(c) Assure that, within a reasonable period of time prior to displacement, replacement dwellings will be available,

(d) Assist a displaced person displaced from his business or farm operation in obtaining and becoming established in a suitable replacement location,

(e) Supply information concerning housing programs, disaster loan pro-

grams, and other Federal or State programs offering assistance to displaced persons,

(f) Provide other advisory services to displaced persons in order to minimize hardships to such persons in adjusting to relocation,

(g) Advise displaced persons that they should notify the displacing agency before they move, and

(h) Prior to initiation of acquisition, provide persons from whom it is planned to acquire land a brochure or pamphlet outlining the benefits to which they may be entitled.

Subpart—Federal Financially Assisted Projects

§ 21.701 Assurances by State agency.

(a) The agency head shall not approve a grant to or contract or agreement with a State agency unless he receives satisfactory assurances from such State agency that

(1) relocation payments, relocation assistance, and relocation assistance services will be provided and replacement dwellings will be available as provided in these regulations; and (2) in acquiring real property it will be guided to the greatest extent practicable under state law by the land acquisition policies provided in §§ 21.801 to 21.809.

(b) Prior to July 1, 1972, if a State agency maintains that it is legally unable to provide all or any part of the required assurances, its statement to the effect shall be supported by an opinion of the chief legal officer of the State, containing a full discussion of the facts and law involved. The agency head may accept this statement or the assurances so qualified as constituting compliance with this section.

(c) A grant to or contract or agreement with a State agency shall contain provisions requiring the State agency to comply with these regulations to the extent determined under this section.

§ 21.702 Execution and amendment of agreements.

Any grant to, or contract or agreement with a State agency under which Federal financial assistance is made available to pay all or part of the cost of any program or project which will result in the displacement of any person on or after January 2, 1971, shall include or be amended to include the cost of providing payments and services set forth in these

regulations except as provided in §§ 21.704 and 21.707.

§ 21.703 Project cost.

The cost to a State agency of providing payments and assistance pursuant to these regulations shall be included as part of the cost of a program or project for which the Department furnishes financial assistance. The State agency will be eligible for Federal financial assistance with respect to such payments and assistance in the same manner and to the same extent as other program or project costs. Project as used in this section shall be the works of improvement causing the displacement.

§ 21.704 Payment by Department.

When the Federal financial assistance is by grant or contribution, or when an existing grant to, or contract or agreement with a State agency, is amended as specified in § 21.702, the Department will pay the full amount of the first \$25,000 of the cost to a State agency of providing payments and assistance for a displaced person, business, or farm operation on account of any individual acquisition or displacement occurring prior to July 1, 1972. When the Federal financial assistance is by loan, the Federal agency will loan the State agency the full amount of the first \$25,000 of such cost.

§ 21.705 Exception.

No payment or assistance under these regulations will be required of a State agency, or included as a program or project cost if the displaced person receives a payment required by the State law of eminent domain which is determined by the agency head to have substantially the same purpose and effect as the payment and assistance required by these regulations.

§ 21.706 Advances by Department.

After amendment as provided in § 21.702 or for a grant, contract or agreement made on or after January 2, 1971, if the agency head determines that it is necessary for the expeditious completion of a project, he may advance to the State agency, the Federal share of the cost of any payments or assistance required by these regulations.

§ 21.707 Housing standards.

The State agency will determine whether the replacement dwelling meets the standards prescribed under these regulations.

§ 21.708 Organization and facilities.

It will be the responsibility of the agency head to determine that the State agency provides adequate personnel and facilities to enable it to provide the payments and services required by these regulations.

§ 21.709 Compliance.

The Department will provide for the making of periodic inspections to ascertain whether payments and services are being accomplished and whether there is compliance otherwise with the assurances furnished.

§ 21.710 Records.

The grant to, or contract or agreement with the State agency shall provide that it will maintain such records as may be specified by the agency head for a period of 3 years and make them available to the agency head for inspection and audit at reasonable times.

§ 21.711 Performance by contract.

(a) When authorized by the agency head a State agency may contract for the services specified for §§ 21.301 through 21.603 with any person or organization if it finds that such contract will prevent unnecessary expense, avoid duplication of functions, and promote uniform administration of relocation assistance programs.

(b) The solicitation of proposals, contract provisions, and administration shall be in accordance with State laws and procedures prescribed by the agency head, but shall as a minimum include provisions:

(1) Required by Federal regulations implementing title VI of the Civil Rights Act of 1964 (Public Law 88-352), and

(2) Requiring records relating to the contract to be maintained for a period of not less than 3 years and be available for inspection by representatives of the State agency and the agency head.

(c) In furnishing housing to the extent authorized under criteria and procedures set forth in § 21.109, the State agency shall, whenever practicable, utilize the services of State or local housing agencies, or other agencies having experience in the administration and conduct of similar housing assistance activities.

§ 21.712 Furnishing real property.

Whenever real property is acquired by a State agency and furnished as a re-

quired contribution to a Federal project, the agency head may not accept such property unless such State agency has made all payments and provided all assistance and assurances as are required of a State agency by these regulations. The cost of such requirements will be paid by the State agency, except the agency head will pay the full amount of the first \$25,000 of the cost of providing such payments and assistance in connection with each acquisition or displacement occurring prior to July 1, 1972.

§ 21.713 State agency acting as agent for Federal project.

Whenever real property is acquired by a State agency at the request of the agency head, for a Federal project such acquisition shall be deemed for the purposes of these regulations as an acquisition by the agency head.

Subpart—Real Property Acquisition

§ 21.801 Acquisition by agreement.

(a) The provisions of this subpart do not apply to donations of land or land exchanges.

(b) Every reasonable effort will be made to (1) acquire real property by agreements with owners based on negotiations, (2) assure consistent treatment for owners, and (3) accomplish negotiations expeditiously. In no event shall negotiations be deferred nor any other action coercive in nature taken in order to compel an agreement.

§ 21.802 Appraisal.

(a) Prior to initiation of negotiations, an appraisal of the fair market value of the real property interest to be acquired will be made by a qualified land appraiser.

(b) The owner or his designated representative will be given a reasonable opportunity to accompany the appraiser during his inspection of the property.

(c) Any decrease or increase in the fair market value of the property prior to the date of the appraisal which is caused by the public improvement for which the property is acquired or by the likelihood that the property would be acquired for such improvement, other than due to physical deterioration within the reasonable control of the owner, will be disregarded in appraising the property.

(d) Where appropriate the estimate of the fair market value of the property to

be acquired and the estimate of damages or offsetting benefits to the remaining property will be separately stated.

§ 21.803 Establishing just compensation.

(a) Prior to negotiations the displacing agency shall establish an amount it believes to be just compensation which in no event shall be less than the amount in the approved appraisal.

(b) If the acquisition of only part of a property would leave its owner with an uneconomic remnant, the displacing agency shall offer to acquire the entire property.

§ 21.804 Initiation of negotiations.

(a) When the just compensation has been established, a prompt offer will be made to acquire the real property for the full amount of the just compensation so established.

(b) When the offer is made, the owner of the real property will be provided with a written statement of (1) identification of the real property and the estate or interest therein to be acquired including the buildings, structures, and other improvements considered to be a part of the real property, (2) the amount of the estimated just compensation as determined by the acquiring agency and a summary statement of the basis therefor, and (3) if only a portion of the property is to be acquired, a separate statement of the estimated just compensation for the real property interest to be acquired and, where appropriate, damages and benefits to the remaining real property.

(c) The offer of just compensation does not preclude further negotiations with respect to the purchase price.

(d) Tenants occupying the property shall be advised when negotiations for the property are initiated with the owner thereof.

(e) Contracts or options to purchase real property shall not include any payments for relocation costs or any reference to such payments.

§ 21.805 Condemnation.

(a) The time of condemnation will neither be advanced, nor negotiations, condemnation and the deposit of funds in court be deferred, nor any other action coercive in nature taken in order to compel an agreement on price.

(b) If real property is to be acquired by condemnation, proceedings will be instituted promptly. No action will be taken

intentionally which will make it necessary for an owner to institute legal proceedings to prove the taking of his real property.

(c) If the final judgment of the court in a condemnation case is that the acquiring agency cannot acquire the real property by condemnation, or if the proceeding in condemnation is abandoned by the acquiring agency, the acquiring agency must pay the owner of the property such sum as will reimburse the owner for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal and engineering fees actually incurred because of the condemnation proceedings. If this cost is not covered by a court order, nevertheless the acquiring agency shall pay to the owner such costs.

§ 21.806 Expenses incidental to transfer of title.

As soon as practicable after the date of payment of the purchase price or the date of deposit in court of funds to satisfy the award in a condemnation proceeding to acquire real property, the owner will be reimbursed to the extent the head of the displacing agency determines fair and reasonable, for expenses the owner necessarily incurred for:

(a) Recording fees, transfer taxes, and similar expenses incident to conveying the real property to the acquiring agency,

(b) Penalty costs for prepayment of any preexisting recorded mortgage entered into in good faith encumbering such real property, and

(c) The pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title in the acquiring agency, or the effective date of possession of such real property by the acquiring agency, whichever is earlier.

§ 21.807 Improvements owned by tenants.

(a) Whenever any interest in real property is acquired, the acquiring agency will acquire at least an equal interest in all buildings, structures, or other improvements located upon the real property which such acquiring agency requires to be removed from the real property, or which the acquiring agency determines will be adversely affected by the use to which such real property will be put.

(b) The following will apply in determining the just compensation for any such buildings, structures, or other improvements: (1) They will be deemed to be part of the real property to be acquired, notwithstanding the right or obligation of the tenant as against the owner of any other interest in the real property to remove them at the expiration of his term, and (2) the fair market value which such structures, buildings, or other improvements contribute to the fair market value of the real property to be acquired, or the fair market value of such buildings, structures, or other improvements for removal from the real property, whichever is greater, will be paid the tenant therefor, provided the tenant shall assign, transfer and release to the acquiring agency all his rights, title and interest in and to such improvements.

(c) Payments under this § 21.807 will not be made: (1) Which result in duplication of any payments otherwise authorized by law, (2) unless the owner of the land involved disclaims all interest in such buildings, structures or other improvements of the tenant.

(d) The tenant may reject payment under this § 21.807 and obtain payment for the buildings, structures, or other improvements in accordance with any other applicable law.

§ 21.808 Lease to former owner or occupant.

If an owner or tenant is permitted to occupy the real property acquired on a rental basis for a short term, or for a period subject to termination by the acquiring agency on short notice, the amount of rent required will not exceed the fair rental value of the property to a short term occupier.

§ 21.809 Requirement to move.

(a) The construction or development of a project will be so scheduled that to the greatest extent practicable, no person lawfully occupying real property will be required to move from a dwelling (assuming a replacement dwelling will be available), or to move his business or

farm operation, without at least 90 days written notice prior to the date on which such move is required. A notice of less than 90 days may be given only in an emergency or other extraordinary situations. When it is proposed to give an advance notice of less than 90 days, the prior approval of the agency head will be obtained.

(b) No owner will be required to surrender possession of real property before he has been paid the agreed purchase price, or a deposit has been made with the court for the benefit of the owner in an amount not less than the approved appraisal of the real property being acquired.

Subpart—Report

§ 21.901 Annual report.

Each agency head shall prepare and submit an annual report, on a fiscal year basis, to the Secretary of Agriculture. The first report will cover the period January 2, 1971, through June 30, 1971, with the final report covering the period July 1, 1973, through June 30, 1974.

(a) Each such report will include narrative comments regarding:

(1) The effectiveness of the provisions of the Act assuring the availability of comparable replacement housing for displaced persons;

(2) Actions taken to achieve the objectives of the policies of Congress to provide uniform and equal treatment, to the greatest extent practicable, for all persons displaced by or having real property taken for, Federal or Federal financially assisted programs;

(3) Views on the progress made to achieve the objectives stated in subparagraph (2) of this paragraph;

(4) Any indicated effects of such programs and policies on the public; and

(5) Recommendations for further improvements in relocation assistance and land acquisition programs, policies, and implementing laws, and regulations.

(b) Each such report will also include statistical data as prescribed by the Department.

(c) Summary statement on the waiver of assurances.

Subtitle B—Regulations of the
Department of Agriculture

CHAPTER I—AGRICULTURAL MARKETING SERVICE

(Standards, Inspections, Marketing Practices)

DEPARTMENT OF AGRICULTURE

Note: The title of Chapter I was changed as set forth above at 37 F.R. 8059, April 25, 1972. For individual documentation of the nomenclature changes in this chapter, see the "List of CFR Sections Affected."

SUBCHAPTER A—COMMODITY STANDARDS AND STANDARD CONTAINER REGULATIONS

Part

- 26 Grain standards.
- 27 Cotton classification under cotton futures legislation.
- 28 Cotton classing, testing, and standards.
- 29 Tobacco inspection.
- 30 Tobacco stocks and standards.
- 31 Wool standards.
- 32 Mohair standards.
- 33 Export apples and pears.
- 34 Tobacco Seed and Plant Exportation Act.
- 35 Export grapes and plums.
- 41 [Reserved]
- 42 Standards for condition of food containers.
- 43 Standards for sampling plans.
- 44 [Reserved]
- 45 [Reserved]

SUBCHAPTER A—COMMODITY STANDARDS AND STANDARD CONTAINER REGULATIONS

PART 26—GRAIN STANDARDS

Subpart A—Regulations DEFINITIONS

- | | |
|------|--|
| Sec. | |
| 26.1 | Meaning of words. |
| | ADMINISTRATION |
| 26.3 | Administrator. |
| | GENERAL PROVISIONS FOR ORIGINAL INSPECTIONS, REINSPECTIONS, AND APPEAL INSPECTIONS |
| 26.5 | Inspection services. |

- | | |
|-------|---|
| Sec. | |
| 26.6 | Kinds (scope) of official inspection services. |
| 26.7 | Inspections under other criteria. |
| 26.8 | Sampling provisions and requirements. |
| 26.9 | Where and when inspection services may be obtained. |
| 26.10 | When a request for inspection services may be withdrawn or dismissed. |

- | | |
|---|--|
| <p>Sec.
26.11 Conditional withholding of inspection service.
26.12 Method and order of inspection service.
26.13 Inspection of grain in railway cars, trucks, and barges for grade.
26.14 Inspection of grain in ships.
26.15 Inspection and certification of grain in combined lots.
26.16 Inspection after appeal.
26.17 When identity of grain shall be deemed lost.
26.18 Place of inspection.
26.19 Disposition of inspection samples.</p> <p style="text-align: center;">ORIGINAL INSPECTIONS</p> <p>26.25 Who may request an original inspection.
26.26 Where and when to request an original inspection and information required.
26.27 When a request for an original inspection may be withdrawn or dismissed.
26.28 Who shall handle original inspection, and method and order of performance.
26.29 Issuance and distribution of original inspection certificates.
26.30 Succeeding original inspections.
26.31 Original inspections on "set backs" means of conveyance.</p> <p style="text-align: center;">REINSPECTIONS</p> <p>26.35 Who may request a reinspection.
26.36 Where and when to request a reinspection and information required.
26.37 When a request for a reinspection may be withdrawn or dismissed.
26.38 Who shall handle reinspections, and method and order of performance.
26.39 Issuance and distribution of reinspection certificate.</p> <p style="text-align: center;">APPEAL INSPECTIONS</p> <p>26.45 Who may request an appeal inspection.
26.46 Where and when to request an appeal inspection and information required.
26.47 When a request for an appeal inspection may be withdrawn or dismissed.
26.48 Who shall handle appeal inspections, and method and order of performance.
26.49 Issuance and distribution of appeal inspection certificates.
26.50 Appeal inspection by Board of Appeals and Review.</p> <p style="text-align: center;">RECORDS</p> <p>26.55 Maintenance and availability of records.
26.56 Detailed work records.
26.57 File samples.
26.58 Official certificates (issuance and distribution).</p> | <p>Sec.
26.59 Official certificates (general requirements).
26.60 Grade inspection certificates.
26.61 Divided-original inspection certificates.
26.62 Duplicate-original inspection certificates.
26.63 Correcting errors in inspection certificates.
26.64 Additional information which may be included on certificates or letter-head statements.</p> <p style="text-align: center;">FEES AND CHARGES</p> <p>26.70 Inspections conducted by official inspection agencies.
26.71 Federal inspection services in Canadian ports.
26.72 Appeal inspection services in the United States.
26.73 Fees and charges; general provisions.</p> <p style="text-align: center;">LICENSES, AUTHORIZATIONS, AND CONTRACTS</p> <p>26.75 When license or authorization is required.
26.76 Who may be licensed or authorized.
26.77 Applications for licensing actions.
26.78 Examinations and reexaminations.
26.79 Issuance and possession of licenses.
26.80 Automatic termination of licenses.
26.81 Voluntary suspension or cancellation of licenses.
26.82 Automatic suspension of license by change in employment.
26.83 Cancellation by Administrator.
26.84 Surrender of license.
26.85 Duties of official inspection personnel.
26.86 Standards of conduct for official inspection personnel.
26.87 Conflicts of interest.
26.88 Other prohibited actions by official inspection personnel.
26.89 Corrective actions for violations by official inspection personnel.
26.90 Contracts for the performance of specified functions.</p> <p style="text-align: center;">OFFICIAL INSPECTION AGENCIES</p> <p>26.95 Designations—general.
26.96 Requirements for designation.
26.97 Application for designation.
26.98 Approval or denial of designation.
26.99 Designated points and areas.
26.100 Duties of official inspection agencies.
26.101 Cancellation, amendment, transfer, supervision, and revocation of designation.
26.102 Filing of complaints.</p> <p style="text-align: center;">PROVISIONS GOVERNING GRAIN MERCHANDISING</p> <p>26.110 Mandatory inspection—export grain.
26.111 Other inspection requirements.
26.112 Permissive inspection.
26.113 Mandatory grades.
26.114 Use of official grade designations, official inspection marks and other descriptions of or representations concerning grain.</p> |
|---|--|

- Sec.
 26.115 Limitations on the validity of inspection certificates.
 26.116 Deceptive loading, handling, sampling.
 26.117 Inspection not to be denied.
 26.118 Procedure for withholding or refusal of official inspection service.

GENERAL PROVISIONS

- 26.125 Procedure for establishing standards.
 26.126 Supervision and enforcement procedures.
 26.127 Informal complaints.
 26.128 Demonstrations and standard line samples.
 26.129 Publications.

Subpart B—Standards

OFFICIAL GRAIN STANDARDS OF THE UNITED STATES FOR BARLEY

- 26.201 Terms defined.
 26.202 Principles governing the application of the standards.
 26.203 Grades, grade requirements, and grade designations.

OFFICIAL GRAIN STANDARDS OF THE UNITED STATES FOR OATS

- 26.251 Terms defined.
 26.252 Principles governing application of standards.
 26.253 Grades, grade requirements, and grade designations.

OFFICIAL GRAIN STANDARDS OF THE UNITED STATES FOR WHEAT

- 26.301 Terms defined.
 26.302 Wheat.
 26.303 Dockage.
 26.304 Foreign material.
 26.305 Other grains.
 26.306 Damaged kernels.
 26.307 Heat-damaged kernels.
 26.308 Contrasting classes.
 26.309 Shrunken and broken kernels.
 26.310 0.064x $\frac{3}{8}$ oblong hole sieve.
 26.311 Stones.
 26.312 Defects.
 26.313 Principles governing application of standards.
 26.314 Basis of determination.
 26.315 Percentages.
 26.316 Moisture.
 26.317 Test weight per bushel.
 26.318 Classes.
 26.319 Hard Red Spring Wheat.
 26.320 Durum Wheat.
 26.321 Red Durum Wheat.
 26.322 Hard Red Winter Wheat.
 26.323 Soft Red Winter Wheat.
 26.324 White Wheat.
 26.325 Mixed Wheat.
 26.326 Grades.
 26.327 Grades and grade requirements.
 26.328 Special grades, special grade requirements and special grade designations.
 26.329 Grade designations for wheat.

OFFICIAL GRAIN STANDARDS OF THE UNITED STATES FOR CORN

- Sec.
 26.351 Terms defined.
 26.352 Principles governing the application of the standards.
 26.353 Grades, grade requirements, and grade designations.

OFFICIAL GRAIN STANDARDS OF THE UNITED STATES FOR RYE

- 26.401 Terms defined.
 26.402 Grades, grade requirements, and grade designations.
 26.403 Dockage.
 26.403a Special grade; Plump rye.
 26.404 Special grade; Tough rye.
 26.405 Special grade; Smutty rye.
 26.406 Special grade; Garlicky rye.
 26.407 Special grade; Weevily rye.
 26.408 Special grade; Ergoty rye.
 26.409 Grade factors; definitions.

OFFICIAL GRAIN STANDARDS OF THE UNITED STATES FOR MIXED GRAIN

- 26.451 Terms defined.
 26.452 Principles governing application of standards.
 26.453 Grades, grade requirements, and grade designations.

OFFICIAL GRAIN STANDARDS OF THE UNITED STATES FOR FLAXSEED

- 26.501 Terms defined.
 26.502 Flaxseed.
 26.503 Dockage.
 26.504 Damaged flaxseed.
 26.505 Heat-damaged flaxseed.
 26.506 Stones.
 26.507 Principles governing application of standards.
 26.508 Basis of determinations.
 26.509 Percentages.
 26.510 Moisture.
 26.511 Test weight per bushel.
 26.512 Grades.
 26.513 Grades and grade requirements for flaxseed.
 26.514 Grade designations for flaxseed.

OFFICIAL GRAIN STANDARDS OF THE UNITED STATES FOR GRAIN SORGHUM

- 26.551 Terms defined.
 26.552 Principles governing application of standards.
 26.553 Grades, grade requirements, and grade designations.

OFFICIAL GRAIN STANDARDS OF THE UNITED STATES FOR SOYBEANS

- 26.601 Terms defined.
 26.602 Principles governing application of standards.
 26.603 Grades, grade requirements, and grade designations.

INTERPRETATIONS

- 26.901 Interpretation with respect to the term "distinctly low quality".

- Sec.**
 26.902 Interpretation with respect to the term "purple mottled or stained."
 26.903 Interpretation with respect to the term "bicolored soybeans."
 26.904 Interpretation with respect to the term "yellow kernels of corn with slight tinge of red."
 26.905 Interpretation with respect to the term "white kernels of corn with a slight tinge of light straw or pink color."

Subpart A—Regulations

AUTHORITY: The provisions of this subpart A issued under sec. 8, 39 Stat. 485, sec. 16, 82 Stat. 768, 7 U.S.C. 84, 87e; 27 F.R. 16210, as amended; 33 F.R. 10750.

SOURCE: The provisions of this Subpart A appear at 34 F.R. 1860, Feb. 8, 1969, as amended at 35 F.R. 9243, June 13, 1970, unless otherwise noted.

DEFINITIONS

§ 26.1 Meaning of words.

(a) *Construction of words.* Words used in the singular form in this subpart shall be deemed to import the plural, and vice versa, as the case may be.

(b) *Definitions.* For the purposes of this subpart, unless the context otherwise requires, the following terms shall be construed, respectively, to have the meanings given for them below; and other terms defined in the Act shall be deemed to have the same meanings when used in this subpart.

(1) *The Act.* The U.S. Grain Standards Act, as amended August 15, 1968 (Public Law 90-487, 82 Stat. 761, 7 U.S.C. 71, 74-79.84-87, 87a-87h).

(2) *Administrator.* The Administrator of the Agricultural Marketing Service or any other officer or employee of the Department of Agriculture to whom authority is lawfully delegated to act in his stead.

(3) *Appeal inspection.* Review inspection service performed by official inspection personnel employed by the Department of Agriculture, or licensed under a contract with the Department of Agriculture. This term includes a Board appeal inspection as appropriate. An appeal inspection shall not be considered an original inspection or a reinspection.

(4) *Applicant.* An interested person who requests an official inspection, and is assessed the fees and charges, if any, for the inspection.

(5) *Board of Appeals and Review.* A board of grain inspection supervisors

duly qualified and designated as such under the regulations.

(6) *Business day.* For the purpose of the regulations, the term "business day" shall not be deemed to include Saturdays, Sundays, or national or locally recognized holidays.

(7) *Cargo shipment.* The term "cargo shipment" shall mean grain shipped via waterborne carrier and shall include, but not be limited to, grain loaded aboard oceangoing ships, barges, and tankers; lake vessels, river barges, bay boats; and other waterborne carriers. It shall not include grain loaded aboard railroad cars, trucks, trailers, and similar land carriers for shipment aboard a waterborne carrier.

(8) *Circuit.* A geographical portion of the United States assigned to a field office. (A circuit includes one or more designated inspection areas.)

(9) *Container.* A railroad car, barge, truck, or other means of conveyance of grain in bulk, or a bin, other storage space, bag, box, or other receptacle for grain.

(10) *Agricultural Marketing Service.* The Agricultural Marketing Service of the Department of Agriculture.

(11) *Date of inspection.* The term "date of the inspection" shall be deemed to mean the day on which an inspection determination is completed as shown in the detailed work records in accordance with § 26.56. Each day shall be deemed to end at midnight, local time, unless otherwise approved in specific cases by the Administrator.

(12) *Designated inspection area.* A geographical portion of the United States assigned under the regulations to an official inspection agency for the conduct of official inspections. (A designated inspection area contains one or more designated inspection points.)

(13) *Designated inspection point.* A city, town, or other location assigned under the regulations to an official inspection agency for the conduct of official inspections, and within which the official inspection agency or one or more of its licensed inspectors is located.

(14) *Region.* A geographical portion of the United States assigned to a regional office. (A region includes two or more circuits.)

(15) *Regional office.* A field office of the Grain Division designated by the Administrator as the headquarters of a region. (When required by the context: The regional office in the region in which

the field office, or the official inspection agency, or the official inspection personnel, or the grain is located, or in which the grain was inspected.)

(16) *Federal Register*. The official U.S. Government publication issued under the Act of July 26, 1935, as amended (44 U.S.C. 301 et seq.).

(17) *Field office*. A field office of the Grain Division designated by the Administrator as the headquarters of a circuit. (When required by the context: The field office in the circuit in which the official inspection agency, or the official inspection personnel, or the grain is located or in which the grain was inspected.)

(18) *Grain Division*. The Grain Division of the Agricultural Marketing Service.

(19) *Instructions*. The Grain Inspection Manual and other instructions issued by the Administrator to official inspection personnel. (Copies of such instructions are available upon request to the Administrator, AMS, U.S. Department of Agriculture, Washington, D.C. 20250.)

(20) *Materially in error*. A difference in inspection results which is greater than would be expected on the basis of statistically sound principles.

(21) *Offgrade*. In lot inspections, a grade different than the grade of the grain in the major portion of the lot.

(22) *Official certificate*. Any form of official certification prescribed or approved by the Administrator under the regulations to show the results of an official inspection.

(23) *Official factors*. Grade factors specified in the official grain standards.

(24) *Official grade*. The grade of grain as determined by official inspection personnel under the official grain standards.

(25) *Official grain inspector*. Any person employed by an official inspection agency and licensed under the Act and regulations to perform official inspections within the United States, or any person employed by the Department of Agriculture and authorized under the Act and the regulations to perform official inspections within the United States or official inspections of U.S. grain in Canadian ports, and to certify to any interested person the official grade and other determinations of an official inspection.

(26) *Official grain sampler*. Any person licensed under the Act and regulations, or any employee of the Depart-

ment of Agriculture who is authorized under the Act and regulations, to perform specified official sampling functions including but not limited to sampling, examining grain for condition, and checkweighing or checkloading sacks of grain, and to perform laboratory duties and related services, as specified in the license or authorization.

(27) *Official grain standards*. The U.S. standards for grain prescribed under the Act and set forth in Subpart B of this chapter.

(28) *Official grain technician*. Any person licensed under the Act and regulations, or any employee of the Department of Agriculture who is authorized under the Act and regulations, to perform specified official laboratory functions including but not limited to chemical analyses, mechanical tests or physical separations, and to perform sampling duties and related services, as specified in the license or authorization.

(29) *Official inspection certificate*. Any form of official certificate prescribed in the regulations to show the results of any official sample inspection under the regulations.

(30) *Official inspection function*. The term "official inspection function" means sampling, inspecting, examining, testing, grading, or any other procedure required in making any determination of the kind, class, grade, quality, or condition of grain under the official grain standards, or making any determination of the quantity of sacks of grain, or other facts relating to grain under other criteria approved by the Administrator, or certifying the results of such actions. It does not include activities described in § 26.75(b).

(31) *Original inspection*. Initial inspection service performed in the United States by official inspection personnel employed by official inspection agencies and licensed by the Department of Agriculture, or licensed under a contract with the Department of Agriculture; and initial inspection service performed in Canadian ports by official inspection personnel employed by the Department of Agriculture or licensed under a contract with the Department of Agriculture. An original inspection shall not be considered a reinspection or an appeal inspection.

(32) *Other criteria*. Any description of grain by kind, class, quality, condition, or other factors, or tests, approved by the Administrator under the Act, other than

factors or tests identified in the official grain standards, and available for use by the grain industry.

(33) *Quantity of sacks of grain.* The amount of grain in one or more sacks.

(34) *Regulations.* The regulations under the Act in this part.

(35) *Reinspection.* Review inspection service performed in the United States by official inspection personnel employed by official inspection agencies and licensed by the Department of Agriculture, or licensed under a contract with the Department of Agriculture; and review inspection service performed in Canadian ports by official inspection personnel employed by the Department of Agriculture, or licensed under a contract with the Department of Agriculture. A reinspection shall not be considered an original inspection or an appeal inspection.

(36) *Respondent.* An interested person other than the applicant.

(37) *Sampling.* The act of obtaining samples of grain from a lot or lots of grain.

(38) *Statistical tolerance.* An allowance in inspection results which is based on statistically sound principles.

(39) *U.S. Grain.* Grain shipped from the United States and located in a Canadian port.

ADMINISTRATION

§ 26.3 Administrator.

The administrator is responsible for the general direction and supervision of the program under the Act and is authorized to take any action required by law or deemed by him to be necessary and proper to the discharge of the functions vested in the Secretary of Agriculture under the Act; including authority to delegate his authority to appropriate officers and employees; excluding specified functions reserved to other officials in the Department. The Administrator may in specific classes of cases waive for limited periods any provision of the regulations in order to permit appropriate and necessary action in the event of a national emergency or to permit experimentation so that new procedures, equipment, and handling techniques may be tested to facilitate definite improvements: *Provided*, That such waivers of the provisions of the regulations are not in conflict with the purposes or provisions of the Act. Provision for such waivers will be published in the regulations. The functions of the Administrator as

described in the regulations will be performed in such manner as to effectuate the purposes of the Act by him or his delegate.

GENERAL PROVISIONS FOR ORIGINAL INSPECTIONS, REINSPECTIONS, AND APPEAL INSPECTIONS

§ 26.5 Inspection services.

(a) *General.* The regulations in this part provide for a national inspection system for grain. The purpose of the system is to promote the uniform and accurate application of the official grain standards and to provide such inspection services as may be required by the Act or desired by the grain industry, with the objective that grain in the United States may be marketed in an orderly manner and that trading in grain may be facilitated. The types and kinds of inspection services described in §§ 26.6, 26.25–26.31, 26.35–26.39, and 26.45–26.50 shall, insofar as practicable, be available under the Act and the regulations at all designated inspection points in the United States, and on U.S. grain in Canadian ports.

(b) *Unauthorized inspections.* The following inspection services, except as noted, are not authorized and cannot be performed under the Act: (1) The inspection of processed grain products and any agricultural commodity not covered by the official grain standards; (2) the inspection of grain on the basis of unofficial standards or other criteria not approved by the Administrator; or (3) the testing of grain screenings: *Provided*, That if a sample of screenings appears to consist of at least 50 percent of grain for which standards have been established, and not more than 50 percent of other material, the sample may be examined to determine whether the grain does, in fact, conform to the requirements established in the official standards for the grain, and for each such screenings inspection, an official certificate shall be issued: *Provided*, That if the grain does not conform to the requirements in the official standards, the certificate shall show the statement "Not Standardized Grain" and the reason or reasons the grain does not conform to the standards.

(c) *Inspections under other authorities.* The inspection services described in paragraph (b) of this section may, upon request, be performed by official inspection personnel if authorized to perform

them under other laws: *Provided*, That the performance of these services does not result in conflicts of interests on the part of the official inspection personnel, or preclude the official inspection personnel from performing inspection services requested by applicants under the Act and the regulations, or discredit the official inspection service.

§ 26.6 Kinds (scope) of official inspection services.

(a) *General*. The kinds of official inspection services available under the Act and the basis for performing each service are those shown in paragraphs (b) through (k) of this section.

(b) *Official sample—lot inspection*.

(1) This inspection shall consist of (i) the official sampling of an identified lot of grain by official inspection personnel (other than a licensed employee of a grain elevator or warehouse); (ii) the inspection of the grain in the sample by official inspection personnel for official grade, or official factors, or under other criteria, or any combination thereof, in accordance with the regulations and the request for inspection; and (iii) issuance by official inspection personnel of an official inspection certificate in accordance with §§ 26.58 and 26.59.

(2) If the grain is inspected for official grade or official factors, the inspection shall be made in accordance with the official grain standards. If the grain is inspected under other criteria, the inspection shall be made in accordance with the methods or procedures prescribed in the instructions or approved in specific cases by the Administrator.

(c) *Type sample—lot inspection*. (1) This inspection shall consist of (i) the submitting of a clearly identified type sample of grain by or for an applicant to the official inspection agency or to the field office; (ii) the forwarding, by the official inspection agency or the field office, of a representative portion of the type sample to a person identified by the applicant as a prospective buyer; (iii) the official sampling, upon request of the applicant, of an identified lot of grain by official inspection personnel (other than a licensed employee of a grain elevator or warehouse); (iv) the comparison of the type sample with the official sample; and (v) the issuance by official inspection personnel of an official inspection certificate in accordance with §§ 26.58 and 26.59 and subparagraph (3) of this paragraph (c).

(2) If the grain is inspected for official grade or official factors, or a combination thereof, the inspection shall be made in accordance with the official grain standards. If the grain is inspected under other criteria, including appearance criteria, the inspection shall be made in accordance with methods or procedures prescribed in the instructions or approved in specific cases by the Administrator.

(3) If the inspection request is for an inspection for general appearance, official grade, and official factors, with or without other criteria, the certificate shall show in addition to the official grade and other results of the inspections, the following information: "The appearance of the grain in the above-identified lot is considered (better than) (equal to) (inferior to) the appearance of the grain in the type sample identified as ----- . The results of the inspection of the grain in the lot, as shown above, are considered within the expected variation of the results of the inspection of the grain in the type sample, except as follows: Lot results which are better: ----- Lot results which are inferior: -----"

(4) If the inspection request is for a less comprehensive kind (scope) of inspection, the statement shall be modified accordingly. The certificate shall show such other statements of fact as may be prescribed in the instructions or approved in specific cases by the Administrator.

(d) *Warehouseman's sample—lot inspection*. (1) This inspection shall consist of (i) the official sampling of an identified lot of grain by a licensed employee of a grain elevator or warehouse; (ii) the submitting of the sample and a completed sampling report on a form approved by the Administrator, by or for the applicant to any official inspection agency; (iii) the inspection of the grain in the sample by official inspection personnel for official grade or official factors, or under other criteria, or any combination thereof, in accordance with the regulations and the request for inspection; and (iv) issuance by official inspection personnel of an official inspection certificate in accordance with §§ 26.58 and 26.59 and subparagraph (3) of this paragraph.

(2) If the grain is inspected for official grade or official factors, the inspection shall be made in accordance with the official grain standards. If the grain is inspected under other criteria, the inspection shall be made in accordance with the methods and procedures pre-

scribed in the instructions or approved in specific cases by the Administrator.

(3) Each certificate for a warehouseman's sample lot inspection shall show the name of the licensed employee and the number of the contract entered into by the licensed employee under § 26.90.

(e) *Submitted sample inspection.* (1) This inspection shall consist of (i) the submitting of a clearly identified sample of grain by or for an applicant to any official inspection agency; (ii) the inspection of the grain in the sample by official inspection personnel for official grade, or official factors, or under other criteria, or any combination thereof, in accordance with the regulations and the request for inspection; and (iii) issuance by official inspection personnel of an official certificate in accordance with §§ 26.58 and 26.59 and subparagraph (5) of this paragraph.

(2) Each submitted sample may be accompanied or supported by a completed application for inspection. (Instructions and application forms for use in obtaining submitted sample inspections may be obtained from official inspection agencies.)

(3) Each submitted sample should be of sufficient size to enable performance of the service requested. If the sample is not of sufficient size as determined by the official inspection personnel who are to perform the inspection, such personnel may (i) perform a partial inspection and issue a partial inspection certificate, or (ii) dismiss the request in accordance with the provisions of § 26.10.

(4) If the grain is inspected for official grade or official factors, the inspection shall be made in accordance with the official grain standards. If the grain is inspected under other criteria, the inspection shall be made in accordance with the methods or procedures prescribed in the instructions or approved in specific cases by the Administrator.

(5) Each certificate for a submitted sample inspection shall show, in the space provided for remarks, the following statement: "The above results are assigned only to the grain in the submitted sample herein described, and 'not' to the grain from which the sample may have been taken."

(f) *Quality information inspection (ship loading or unloading only).* (1) This inspection shall consist of the following operations by official inspection personnel: (i) making frequent and periodic examinations of grain being loaded

aboard or discharged from a ship, for official grade or official factors, or under other criteria, or any combination thereof, in accordance with the regulations and the request for inspection; (ii) promptly notifying the applicant, either orally or by official inspection memoranda, of the results of the examinations; (iii) issuing to the applicant, upon the completion of the inspection, a copy of a ship loading log showing the results of the examinations; and (iv) issuing an official certificate in accordance with §§ 26.58 and 26.59.

(2) If the grain is inspected for official grade or official factors, the inspection shall be made in accordance with the official grain standards. If the grain is inspected under other criteria, the inspection shall be made in accordance with the methods or procedures prescribed in the instructions or approved in specific cases by the Administrator.

(3) A quality information inspection may be made as a separate kind of inspection, or it may be made in conjunction with one or more other kinds of inspections.

(4) For the definition for "ship," see § 26.14 (b).

(g) *Checkweighing or checkloading sacked grain.* (1) An inspection for checkweighing shall consist of the following operations by official inspection personnel: (i) Weighing a representative number of sacks of grain selected from a lot on a proportionate or random basis in accordance with instructions; (ii) determining the estimated total gross, tare, and net weights, or the estimated average gross or net weight per filled sack, or the estimated range in gross or net weights per filled sack, in accordance with the regulations and the request for inspection; and (iii) issuing an official certificate in accordance with §§ 26.58 and 26.59 and subparagraph (3) of this paragraph.

(2) An inspection for checkloading shall consist of the following operations by official inspection personnel: Making a stowage examination in accordance with paragraph (1) of this section; making a checkweighing determination in accordance with subparagraph (1) of this paragraph; making a continuous count or an estimate of the number of filled sacks of grain as they are loaded aboard an identified means of conveyance; if practicable, affixing seals to the railroad car or other means of conveyance; and issuing an official certificate

in accordance with §§ 26.58 and 26.59 and subparagraph (3) of this paragraph. In no case shall the results of the check-loading be based, in whole or in part, on a shipper's "load and count."

(3) A certificate for checkweighing or for checkloading shall show the information determined pursuant to the request for inspection, and may contain a statement describing the sacks, the condition of the sacks, and the markings, if any, on the sacks.

(4) A checkweighing or checkloading inspection may be made as a separate kind of inspection, or it may be made in conjunction with one or more other kinds of inspection.

(h) *Sampling.* (1) The sampling service shall consist of the following operations by official inspection personnel: (i) Obtaining a representative sample from an identified lot of grain; (ii) as requested, dividing the sample into representative portions and sealing the portions in a manner prescribed in the instructions; (iii) forwarding the sample or the portions in accordance with the request for inspection; and (iv) issuing an official certificate in accordance with §§ 26.58, 26.59, and subparagraph (2) of this paragraph (h).

(2) Each certificate shall show the statement "Official Sample", and the date(s) of sampling, the method of sampling, the name of the sampler, and the quantity of grain in the sample in terms of volume or weight. The certificate may also show related information, including but not limited to, the kind and condition of the sacks, and the markings, if any, on the sacks.

(3) A copy of each certificate shall be enclosed with each portion of the sample.

(i) *Stowage examination (for grain).*

(1) This inspection shall consist of the following operations by official inspection personnel: (i) Visually examining an identified stowage space or other container for the presence of insects or other vermin; moisture; foreign material; residue from previous cargoes; loose rust, scale, whitewash, or cement; commercially objectionable odor; and the presence of other conditions which could contaminate the grain, or otherwise lower the quality of the grain to be loaded; and (ii) issuing an official certificate in accordance with §§ 26.58, 26.59 and subparagraph (3) of this paragraph.

(2) A stowage examination may be made as a separate kind of inspection, or

it may be made in conjunction with one or more other kinds of inspection. However, a stowage examination is required in the case of export grain and other lots of grain which are inspected at the time of loading into a means of conveyance on the basis of official samples obtained by official inspection personnel under paragraphs (b) and (c) of this section.

(3) Each certificate for stowage examination shall show the following or substantially equivalent statements: "Stowage space examined and found to be substantially clean and dry, and ready to receive grain on the above date." or "Stowage space examined and found not ready to receive grain on the above date because of _____." The certificate may also show closely related information which is (i) known to be true to the person issuing the certificate; (ii) of use in the merchandising of U.S. grain; (iii) not inconsistent with the Act or the regulations; and (iv) is approved by the Administrator under § 26.64.

(j) *Other closely related services.* Grain may be inspected for any other determination which is authorized by the Act and regulations and is approved by the Administrator under § 26.7. The inspection shall consist of making such determinations as are necessary to enable the official inspection personnel to perform the official inspection functions requested by the applicant, and the issuance of an official certificate in accordance with §§ 26.58 and 26.59.

(k) *A combination of inspection services.* A combination of inspection services may be provided for grain, in which case the inspection and certification shall be in accordance with the methods and procedures prescribed in the instructions or approved in specific cases by the Administrator for each component service. Only one official certificate shall be issued for a combination of inspection services performed concurrently, except as otherwise provided in § 26.58(a).

§ 26.7 Inspections under other criteria.

(a) *General.* Upon request by an applicant, grain may be officially inspected under criteria, other than the official grain standards, approved by the Administrator. In approving such other criteria, consideration will be given to a showing of need for the service, whether there is a practicable and an approved method for making the needed determinations, whether inspection service

under the criteria can be made readily available in the more active designated inspection areas and elsewhere where it is desired, and whether the determinations required by the criteria can be made with a satisfactory degree of accuracy. A list of such other criteria which have been approved by the Administrator may be obtained from the Grain Division or any official inspection agency, field office, regional office, or the Administrator.

(b) *Scope of inspection.* The scope of inspection service under other criteria shall be in accordance with the provisions of § 26.6. Chemical tests and laboratory analyses required for determinations under such criteria may be performed only by official inspection personnel who are licensed or authorized under the Act to perform the tests or analyses. Such personnel may be employed by an official inspection agency, or be employed by the Department of Agriculture, or perform the services under a contract with the Department of Agriculture.

§ 26.8 Sampling provisions and requirements.

(a) *Obtaining official samples.* Subject to limitations in § 26.110(d), official samples of grain may be obtained by licensed employees of official inspection agencies, authorized employees of the Department of Agriculture, licensed employees of grain elevators or warehouses, and other individuals who are licensed to sample grain under a contract with the Department of Agriculture.

(b) *Representative sample.* No official sample shall be deemed representative of a lot of grain unless the sample (1) has been obtained by official inspection personnel licensed or authorized to sample grain; (2) is of the size prescribed in the instructions; and (3) has been obtained, handled, and submitted in accordance with methods and procedures prescribed in the instructions or approved in specific cases by the Administrator. A sample which falls to meet the requirements of this paragraph may, upon request of the applicant, be inspected as a submitted sample in accordance with § 26.6(e).

(c) *Submitted samples.* Submitted samples may be obtained by or for any interested person. (Instructions for sampling grain may be obtained upon request to the Administrator.)

(d) *Original inspections.* Each original lot inspection for kind, class, grade, quality, or condition shall be made on the

basis of an official sample obtained from the grain at the time and place it is offered for inspection. A lot inspection for an "in" movement of grain in domestic commerce may, upon request of the applicant and subject to the grain being made accessible for sampling, be based on official samples obtained while the grain is at rest in the container, or during unloading, or after unloading and immediately after the initial elevation, in accordance with methods and procedures prescribed in the instructions or otherwise approved by the Administrator. Requirements for sampling export grain are prescribed in § 26.110(d).

(e) *Reinspections, appeal inspections.* Each lot reinspection or appeal inspection for kind, class, grade, quality, or condition shall be made on the basis of the most representative official sample(s) available or that can be obtained at the time of the reinspection or appeal inspection. The determination as to which sample(s) is most representative shall be made by the official inspection personnel performing the reinspection or appeal inspection.

(f) *Use of file samples.* (1) File samples which are retained by official inspection personnel, in accordance with the regulations and pursuant to the methods and procedures prescribed in the instructions or approved in specific cases by the Administrator, may be deemed representative for reinspections and appeal inspections: *Provided*, That (i) the samples have remained in the custody of the official inspection personnel who certificated the inspection in question or in the custody of the official inspection agency by which they were employed; and (ii) the official inspection personnel, who performed the inspections in question and the official inspection personnel who are to perform the reinspections or the appeal inspections, believe the samples were representative of the grain at the time of the inspection in question and that the quality or condition of the grain in the samples and in the lots has not changed since the time of the inspection in question.

(2) When a reinspection or an appeal inspection is based on a file sample, the certificate for the reinspection or the appeal inspection shall show the statement "Results based on official file sample."

(3) Upon request of the applicant, and if practicable, a new sample shall be ob-

tained and examined as a part of a re-inspection or appeal inspection.

(g) *Protecting samples.* Official inspection personnel shall protect official samples from manipulation, substitution, and improper or careless handling, which would deprive the samples of their representative character from the time of collection until the inspections are completed and the file samples have been discarded. Official inspection personnel shall give the same protection to submitted samples from the time of receipt by the official inspection personnel until the inspections are completed and the file samples have been discarded.

§ 26.9 Where and when inspection services may be obtained.

(a) *General.* Inspection services may be obtained to the extent that official inspection personnel are available to perform the services, as follows: (1) Original inspections may be obtained under §§ 26.25 through 26.29; (2) succeeding original inspections under § 26.30; (3) reinspections under §§ 26.35 through 26.39; (4) appeal inspections under §§ 26.45 through 26.49; and (5) appeal inspections by the Board of Appeals and Review under § 26.50.

(b) *Requests deemed under Act.* Each request submitted by an interested person to an official inspection agency, or to a field office, for inspection services for grain shall be deemed to be a request under the Act and the regulations, unless the request clearly states otherwise or the requested service is not authorized by the Act and the regulations.

(c) *Proof of agency.* If a request for an inspection service is filed by an agent of the applicant, the official inspection agency or the field office handling the inspection request may, if it deems necessary, require proof of the authority of the agent to file the request.

(d) *List of offices.* A list of the places where official inspection agencies, field offices, and regional offices are located; and a list of the designated inspection areas and the circuits and regions in which they are located may be obtained by any interested person by calling or writing any official inspection agency, any field office, or any regional office, or the Grain Division, Agricultural Marketing Service, Federal Center Building, Hyattsville, Md. 20782.

§ 26.10 When a request for inspection services may be withdrawn or dismissed.

(a) *Withdrawal.* A request for inspection may be withdrawn by an applicant at any time, subject to the provisions of paragraph (b) of this section.

(b) *Limitation.* No request for an inspection service may be withdrawn or dismissed after the results of the inspection have been released or have otherwise become known to the applicant or the respondents, or after the issuance of the official certificate for the inspection.

(c) *Grounds for dismissal.* A request for inspection services may be dismissed by the official inspection personnel (1) upon request of the applicant; or (2) if the request is for the inspection of grain for which standards have not been established under the Act, or if the official inspection agency, or in the case of U.S. grain in Canadian ports and appeal inspections, the field office, otherwise lacks jurisdiction under the Act or the regulations to handle the request; (3) if the request is not in compliance with the regulations; (4) if sufficient evidence is not available upon which to make an accurate and true determination; (5) if it is clearly not practicable to perform the requested inspection services; or (6) for reasons specified in §§ 26.11, 26.27, 26.30, 26.37, or 26.47 of the regulations or in section 10 of the Act.

(d) *Procedure for dismissal.* When an official inspection agency or field office proposes to dismiss a request for official inspection service, it shall inform the applicant of the proposed action and the reasons therefor and afford him an opportunity to demonstrate or achieve compliance with the regulations prescribing conditions for the availability of the service. Thereafter the agency or office shall determine whether the request should be dismissed: *Provided*, That a request for inspection may be dismissed for reasons specified in section 10 of the Act only in accordance with the rules of practice provided in Subpart C of this part;¹ *And provided further*, That a request for inspection for grain required to be inspected under section 5 of the Act may be dismissed only with the consent of the Administrator. When a request for inspection service is dismissed, notice of the dismissal shall be given in accordance with §§ 26.27, 26.30, 26.37, and

¹ Such rules will be issued later.

26.47 of the regulations or the rules of practice in Subpart C of this part.¹

(e) *Expenses by agency.* Expenses, if any, incurred by an official inspection agency in connection with a request for inspection which has been withdrawn by the applicant, or dismissed or conditionally withheld by the official inspection agency, shall be payable by the applicant in accordance with the schedule of fees and charges published by the agency. For good cause shown, the requirement of this paragraph may be waived by the chief inspector of the official inspection agency.

(f) *Expenses by field office.* Expenses, if any, incurred by a field office in connection with a request for inspection which has been withdrawn by the applicant, or dismissed or conditionally withheld by the field office, shall be payable by the applicant in accordance with the rates shown for "checkloading, and other special services, and standby time," in §§ 26.71 and 26.72. For good cause shown, the requirement of this paragraph may be waived by the Administrator.

§ 26.11 Conditional withholding of inspection service.

(a) *Mandatory withholding.* (1) Official inspection shall be conditionally withheld by official inspection personnel for any grain which is to be loaded into a container if it appears to the official inspection personnel that the grain is not accessible for inspection, except as provided in § 26.12(b), or that the loading conditions are such as would contaminate the grain or otherwise lower the grade, quality or condition of the grain. Standards for loading conditions shall be established by the Administrator after consultation with the grain trade.

(2) For the purpose of this paragraph, grain shall be deemed to be not "accessible for inspection" if it is offered for sampling or inspection under conditions which (i) are unduly hazardous to the health or safety of official inspection personnel, or (ii) do not permit an adequate and correct sampling, examination, or other determination for the requested inspection service. For example, grain will be deemed to be not accessible for inspection if it is in barges or similar waterborne carriers, and the barges and carriers are closed at the time the grain is offered for inspection and they can-

not be readily opened by official inspection personnel.

(3) For the purpose of this paragraph, the term "loading conditions" shall be deemed to include, but not be limited to, conditions in (i) the loading elevator or warehouse; (ii) the shipping belt or conveyor and gallery; (iii) the loading spout; (iv) the pier area; (v) the deck or stowage area in the ship or other carrier; and (vi) the method and equipment used in loading the carrier.

(b) *Permissive withholding.* At the discretion of the official inspection personnel, an official inspection may be conditionally withheld if the applicant has failed to pay bills for prior inspection services; or the grain is offered for inspection outside of customary business hours, unless timely arrangements for overtime inspection have been made by the applicant with the official inspection personnel.

(c) *Procedure for withholding.* When an official inspection agency or field office proposes to conditionally withhold official inspection service under paragraph (a) or (b) of this section, notice of the proposed action and the reasons therefor shall be given to the applicant in accordance with §§ 26.27, 26.30, 26.37, and 26.47 and the applicant shall be afforded an opportunity to demonstrate or achieve compliance with the regulations prescribing conditions for the availability of the service. Thereafter, the official inspection agency or field office shall determine whether the inspection shall be conditionally withheld: *Provided*, That an inspection for grain required to be inspected under section 5 of the Act may be withheld only with the consent of the Administrator, in cases in which the agency or office has concluded that the applicant has not met the conditions involved.

(d) *Expenses.* Expenses, if any, incurred with respect to a conditional withholding of an inspection shall be paid by the applicant in accordance with paragraphs (e) and (f) of § 26.10.

§ 26.12 Method and order of inspection service.

(a) *General.* (1) All sampling, testing, grading, and related inspection services shall be performed by official inspection personnel pursuant to the regulations, and under such conditions and in accordance with that it is possible to insert the dures as may be prescribed in the in-

¹ Such rules will be issued later.

structions or approved in specific cases by the Administrator.

(2) Each inspection shall be based on the following items, and the items shall be considered in the order listed: (i) A careful inspection of the grain or a representative sample of the grain or a combination thereof; (ii) such tests or examinations as may be prescribed in the instructions or approved in specific cases by the Administrator; (iii) a review of the available results of previous inspection, if any; and (iv) such other pertinent information as may be available. In no case shall the results of a previous inspection be considered by official inspection personnel in making and recording initial findings for an inspection, but such results shall be given careful consideration by the personnel in making and recording their final determinations.

(b) *Partial inspections.* (1) Determinations which are based on a sampling and examination of the grain in a lot shall be based on a proportionate or random sampling and examination of the grain in the entire lot except as provided in § 26.13 (f) or (g).

(2) Determinations which are based on an examination, testing, or analysis of the grain in a submitted sample, shall be based on a careful and accurate examination, testing, or analysis. If a careful and accurate examination, testing, or analysis cannot be made because of inadequate sample size or similar conditions, the inspection request shall be dismissed, or a partial inspection certificate shall be issued as prescribed in § 26.13.

(c) *Showing source of sample.* If a sample obtained by or for another official inspection agency or another field office is used, the source of the sample shall be shown on the official inspection memorandum and the official grain inspection certificate for the inspection.

(d) *Recording receipt of documents.* A record showing the date of receipt of each document submitted by or for an applicant shall be made promptly at the time of receipt of the document by the official inspection agency or the field office conducting the inspection.

(e) *Order of service.* Inspection shall be performed, insofar as consistent with good management, in the order in which the requests for inspection are received. Precedence shall be given when necessary, to inspections required by section 5 of the Act. Precedence may be given to

other kinds of services with the consent of the Administrator.

(f) *Conflict of interest.* No official inspection personnel shall perform, or participate in performing, an inspection on grain in which they are directly or indirectly financially interested: *Provided*, That a licensed elevator or warehouse employee may, upon request of the applicant, perform official sampling functions.

§ 26.13 Inspection of grain in railway cars, trucks, and barges for grade.

(a) *General.* The inspection for grade of bulk or sacked grain loaded aboard, or being loaded aboard, or discharged from a railway car, truck, trailer, river barge, bay boat, bin, warehouse, or other container (except those within § 26.14) shall be conducted in accordance with the provisions in this section, and such methods and procedures as may be prescribed in the instructions or approved in specific cases by the Administrator.

(b) *Multiple grade procedure.* (1) If the grain in a container is offered for inspection as one lot, and the grain is found to be uniform in condition, the grain shall be sampled, inspected, graded, and certificated as one lot. For the purposes of this section, the condition of grain shall be evaluated only on the factors heating, musty, and sour.

(2) If the grain in a container is offered for inspection as one lot, and the grain is found to be not uniform in condition by reason of the presence therein of a portion or portions of grain which is heating, musty, or sour, the grain in each portion shall be sampled, inspected, and graded as a separate lot. (If any portion of the lot is found to grade "weevily," the entire lot shall be graded "weevily.")

(c) *One certificate per railway car, truck or barge.* An official inspection certificate shall, except as provided in § 26.15 and paragraph (d) of this section, be issued for each railway car, truck, or barge. If the grain is not uniform in condition, the certificate shall show the approximate quantity in each portion, the location of each portion in the railway car, truck or barge, and the grade of the grain in each portion, in accordance with procedures prescribed in the instructions or approved in specific cases by the Administrator.

(d) *Bulkhead lots.* If the grain in a container is offered for inspection as two or more lots, and the lots are separated

by a bulkhead or other partition, the grain in each lot shall be sampled, inspected, and graded as a separate lot in accordance with paragraphs (a) and (b) of this section. An official certificate shall be issued for each lot inspected. Each certificate shall show the term "Bulkhead Lot", the approximate quantity of grain in the lot, the location of the lot in the container, and the grade or grades of the lot, in accordance with instructions or procedures prescribed or approved in specific cases by the Administrator.

(e) *Special multiple grade procedure.* In addition to the multiple grade procedure provided by paragraph (b) of this section, upon request by an applicant, a lot may be multiple graded by reason of the presence therein of a material portion or portions of grain which are distinctly different in kind, class, quality, or specified factors. In such case, the sampling, inspection, grading, and certification of the grain shall be performed in accordance with the applicable provisions of paragraphs (a) through (d) of this section and in accordance with methods and procedures prescribed in the instructions or approved in specific cases by the Administrator. For the purpose of this paragraph only, a portion which represents 10 percent or more of the lot shall be considered a material portion, and a difference in quality of two or more grades, or an equivalent difference, shall be considered to be a distinct difference.

(f) *Bottom not sampled.* If bulk grain is offered for inspection as it is at rest in a container, and the grain is fully accessible for sampling in an approved manner, except that the grain is in such a condition or of such depth that the bottom of the container is not reached throughout the sampling of the grain, the grain shall be sampled as thoroughly as possible with an approved probe, and shall be inspected, graded, and certificated in accordance with the provisions of paragraphs (b) through (e) of this section, except that the official certificate shall be qualified to show the estimated average depth of the grain sampled and the statement "Bottom Not Sampled", as follows: "Top ----- feet sampled. Bottom Not Sampled." For the purpose of the regulations, such an inspection shall not be deemed to meet the inspection requirement of section 5 of the Act for export grain.

(g) *Partial inspection—heavily loaded.*

(1) If bulk or sacked grain is offered for inspection as it is at rest in a container, and it is loaded in such a manner that it is possible to secure only a door probe, shallow probe, door sack probe, or surface sack probe sample or samples of the lot or the grain is not trimmed, or otherwise does not have a reasonably level surface, the container shall be considered to be "heavily loaded," and the request for inspection may be dismissed or a partial inspection may be made: *Provided*, That if the request is for the inspection of an "out" movement, the request shall be dismissed on the ground that the grain is not accessible for a correct "out" inspection.

(2) If a partial inspection is made, the grain shall be sampled as thoroughly as possible with an approved probe, and shall be inspected, graded, and certificated in accordance with the provisions of paragraphs (a) through (d) of this section, except that a partial inspection certificate shall be issued. The certificate shall show the statement "Partial Inspection—Heavily Loaded" and the statement "See reverse side", in the space provided for remarks; and on the reverse side of the certificate the type of sample or samples obtained shall be described as door probe, shallow probe, door sack probe, or surface sack probe samples; and in the case of sacked grain, the approximate number of sacks accessible for sampling shall be stated.

(3) A request for a reinspection or for an appeal inspection from an inspection of grain in a "heavily loaded" container shall be dismissed unless the grain is found to be accessible for sampling, or is made fully accessible for sampling, for the reinspection or the appeal inspection.

(4) (i) For the purposes of this paragraph door-probe sample means a sample taken with an approved bulk grain probe from a lot of bulk grain which is loaded so close to the top of the container that it is possible to insert the probe only in the grain in the vicinity of the door or hatch of the railway car, the tailgate or hatch of the truck or trailer, or the hatch of the barge, or in a similarly restricted opening or area in the container in which the grain is located.

(ii) Shallow-probe sample means a sample taken with an approved bulk grain probe from a lot of bulk grain which is loaded so close to the top of the container that it is possible to insert the

probe in the grain at the prescribed locations, but only at an angle greater or more obtuse from the vertical than the angle prescribed in the instructions.

(iii) Door-sack probe sample means a sample taken with an approved sack grain probe from a lot of sacked grain which is loaded so close to the top of the container that it is possible to insert the probe only in the grain in the sacks in the vicinity of the door or hatch of the railway car, the tailgate or hatch of the truck or trailer, or the hatch of the barge, or in a similarly restricted opening or area in the container in which the sacks are located.

(iv) Surface-sack probe sample means a sample taken with an approved sack grain probe from a lot of sacked grain which is so loaded or placed that it is possible to insert the probe only in the grain in the sacks in the upper portion, sides, or ends of the lot.

(5) No "partial inspection—heavily loaded" inspection certificate shall be issued for any inspection other than the inspection described in this paragraph (g), and § 26.14(j).

(h) *Part lots.* (1) If a portion of the grain in a container is removed, the grain which is removed and the grain remaining in the container shall, for the purpose of the regulations, be considered separate lots. If an inspection is desired on either portion, the grain shall be sampled, inspected, graded, and certificated in accordance with paragraphs (a) through (e) of this section, except that a "part-lot" inspection certificate shall be issued. The certificate for the grain remaining in the container shall show the statements "Partly unloaded; results based on portion remaining in -----"; the term "Part Lot" following the quantity information; the identification of the container; and the identification of the part lot substantially as follows: "Est. ¼ Car, Brake End."

(2) The certificate for the grain removed from the container shall show the statement "Part Lot. Results based on portion removed from -----"; the term "Part Lot"; and if the grain is sampled as it is being unloaded from the container, the identification of the former container substantially as follows: "Ex-Car -----" or "Ex-Barge -----", as applicable. If the grain removed from the container was not sampled as it was unloaded from the container, the certificate may show the statement "Applicant states grain is

ex-car -----" or "Applicant states grain is ex-barge -----", as applicable.

(i) *Identification for compartmented cars.* The identification for a part of a compartmented car shall, in the absence of readily visible markings on the car, be stated in terms of the location of the grain in a compartment or bay, with the first bay at the brake end of the car being identified as B-1, and the remaining compartments or bays being numbered consecutively towards the no-brake end of the car.

§ 26.14 Inspection of grain in ships.

(a) *General.* The inspection for grade of bulk or sacked grain loaded aboard, or being loaded aboard, or discharged from a ship shall be in accordance with the provisions in this section, and such methods and instructions as may be prescribed in the instructions or otherwise approved by the Administrator.

(b) *Definitions.* For purposes of this section the term "ship" means all oceangoing ships, barges, and tankers; lake vessels; and ships of similar or larger capacity.

(1) The term "reasonably continuous operation" shall be construed to include inactive intervals of not more than 88 consecutive hours: *Provided*, That the ship does not leave the designated inspection point or port in which the inspection is being performed. Upon request of the applicant, the statement "Loaded under continuous official inspection" may be shown on the official inspection certificate when the conditions of this section are met.

(2) The term "material portion" means a portion which is considered significant under a sampling plan prescribed in the instructions on the basis of approved statistical principles after consultation with the grain trade: *Provided*, That if the applicant has been informed by official inspection personnel or otherwise knows the quality of the grain prior to loading the grain on a ship, any portion of "off-grade" grain which is of an inferior grade in comparison with the grade of the grain in the balance of the lot shall be deemed to be a material portion.

(c) *Grain uniform in grade.* The grain in each lot offered for inspection shall be examined thoroughly for uniformity of grade. If the grain is found to be uniform in grade, and is loaded aboard or discharged from the ship in a

reasonably continuous operation, the grain shall be sampled, inspected, graded, and certificated as one lot. (The requirements of this paragraph and paragraph (d) of this section with respect to reasonably continuous loading or discharge shall not apply to grain which is at rest in a ship when the grain is offered for an inspection.)

(d) *Grain not uniform in grade.* If the grain in a lot is found to be not uniform in grade because of the presence therein of a material portion or portions of grain of different grades, or if the grain is not loaded aboard or discharged from the ship in a reasonably continuous operation, the grain in each portion, and the grain which is loaded aboard or discharged from the ship at different times shall, except as provided in paragraph (f) of this section, be sampled, inspected, graded, and certificated as a separate lot.

(e) *Certification of grain not uniform in grade.* If the grain in a lot is found to be not uniform in grade under paragraph (d) of this section, the cargo inspection certificate for each lot shall show (1) the grade of the lot; (2) a statement that the grain has been loaded on board with other grain; (3) the grade, location, and approximate quantity of the other grain; and (4) such other information as may be required by the regulations and the instructions or approved in specific cases by the Administrator. (The requirements of subparagraph (2) of this paragraph shall not apply to grain which is inspected as it is being discharged from a ship.)

(f) *Grain not uniform because of better grade.* (1) If the grain in a lot is found to be not uniform in grade, because of the presence therein of a material portion or portions of grain of the same kind but of a better or superior grade in comparison with the grade of the grain in the balance of the lot, the requirements of paragraph (d) of this section with respect to a material portion or portions of a different grade may, upon request of the applicant for inspection, be waived by the official inspection personnel performing the inspection.

(2) Each waiver shall be subject to the following requirements: The material portion or portions may not constitute more than 40 percent of the lot. If the grade of the material portion or portions is more than one grade, or more than the equivalent of one grade, better

than the grade of the grain in the balance of the lot, or if the material portion or portions constitute more than 20 percent, but not more than 40 percent of the lot, the official certificate for the lot shall show (i) the average grade for the lot; (ii) that the lot covered by the certificate includes grain of another grade without separation; (iii) the grade, location, and approximate quantity of the grain of better or superior grade; and (iv) such other information as may be required in the instructions or approved in specific cases by the Administrator.

(g) *"Weevily" grain.* If the grain in a lot is offered for inspection as it is being loaded aboard a ship, and the grain, or a portion of the grain, is found to grade "weevily" because of insect infestation, the applicant shall be promptly notified and shall have the option of (1) continuing loading or (2) treating the grain which graded "weevily" for the purpose of destroying the insects, subject to subsequent examination by official inspection personnel, after a time interval prescribed in the instructions by the Administrator. If the applicant elects to continue loading, the grain which graded "weevily" shall be considered a material portion and shall be sampled, inspected, graded, and certificated as a separate lot. If the applicant elects to treat the grain which graded "weevily," and the subsequent examination indicates that the grain, after the prescribed time interval, does not grade "weevily," the sampling, inspection, and grading of the lot shall continue in the same manner as though the "weevily" condition had not been found: *Provided*, That the information regarding the grading of the grain as "weevily" and treatment shall be fully recorded on the ship loading log.

(h) *Common stowage.* (1) If the grain is offered for inspection as it is being loaded aboard a ship, and is loaded in a common stowage with other grain or another commodity, the official certificate for each lot of grain in the common stowage shall show the relative location of the lot. If a separation or separations are laid between the lots, the certificates shall show the kind of material used in the separation or separations and the location of the separation or separations in relation to each lot.

(2) If separations are not laid between the lots, the official certificate for each lot shall show that the lot was loaded on board with other grain or another commodity without separation, and shall

show the kind, the grade, if known, and the location of the other grain, or the kind and the location of the other commodity in the adjacent lots.

(3) The requirements of this paragraph shall not be applicable to the first lot in the stowage, unless the second lot has been loaded, in whole or in part, prior to the issuance of the official certificate for the first lot.

(4) Upon a showing of good cause, the requirement in subparagraph (2) of this paragraph may be waived in the instructions by the Administrator for a class of shipments.

(i) *Grain from or to two elevators.* If the grain in a lot is offered for inspection as one lot, and is loaded into a ship from, or is unloaded from a ship into, two or more elevators, within one designated inspection area, the official inspection personnel performing the inspection may, upon the request of the applicant and subject to the provisions of paragraphs (b) and (c) of this section, sample, inspect, grade, and certificate the grain as one lot, or as two lots, in accordance with methods and procedures prescribed in the instructions or approved in specific cases by the Administrator.

(j) *Grain at rest.* If bulk grain is at rest in a ship when it is offered for inspection, it shall be sampled, inspected, graded, and certificated in accordance with the provisions of this section. If the grain which is offered for inspection is not fully accessible for sampling in a manner prescribed in the instructions, a "partial inspection—heavily loaded" certificate shall be issued.

(k) *Weighted averages.* Official certificates issued under this section shall be identified as cargo inspection certificates. The inspection and grading results shown on the certificates shall, subject to the provisions of paragraphs (c) through (g) of this section, be based, on weighted averages of the analyses of the sublots of grain in the certificated lots, and shall be determined in accordance with methods and procedures prescribed in the instructions or approved in specific cases by the Administrator: *Provided*, That if during the loading or unloading, the grain is found to be uniform for a specific grade on the basis of the subplot samples, and the weighted average analyses of the subplot samples show a different grade, the grade prevailing during the loading or unloading shall be deemed to be the grade for the lot.

(l) *Official mark.* If an export lot is inspected for grade as the grain is being loaded aboard the ship, upon request by the applicant, the following mark shall be shown on the export inspection certificate: "Loaded Under Continuous Official Inspection". Such mark shall constitute an official inspection mark for purposes of the Act.

(m) *Other certification requirements.* For additional provisions governing the certification of grain in ships, see §§ 26.59 and 26.60. For provisions for the issuance of divided-original inspection certificates, see also § 26.61.

§ 26.15 Inspection and certification of grain in combined lots.

(a) *Inspection during loading.* Upon request by an applicant, the grain in two or more containers may be sampled, inspected and certificated as a combined lot if:

(1) The request is filed in advance of the loading of any of the grain;

(2) The request shows the quantity of grain which is to be certificated as a combined lot;

(3) Each container is specifically identified in the request;

(4) The grain in each container is accessible for sampling and is sampled in one designated inspection area, within a 24-hour period;

(5) A representative sample or samples are obtained from the grain in each container; and

(6) The grain in each container is inspected and graded in accordance with the provisions of §§ 26.12 and 26.13 as applicable, and the grain in each sample is found to be of the same grade, and not offgrade grain.

(b) *Inspection after certification.* Upon request by an applicant, the grain in two or more containers which has been sampled, inspected and certificated as separate lots may be certificated as a combined lot if:

(1) The request is filed within a reasonable time, not to exceed 2 business days after the date of the latest inspection;

(2) The grain in each container was accessible for sampling and was sampled in one designated inspection area, within a 24-hour period;

(3) The grain in each container was found to be the same grade and not offgrade grain;

(4) The originals of the official certificates issued for the component lots

are surrendered to the official inspection agency or the field office;

(5) Representative file samples of the grain are available;

(6) The official inspection personnel who issued the certificates for the component lots and the official inspection personnel who will issue the combined lot certificate believe that the samples which were used as the basis for the component inspections were representative of the grain at the time of the inspections, and that the quality or condition of the grain in the samples, and the quality or condition of the grain in the combined lot has not changed since the time of the component inspections.

(c) *Certification.* For each combined lot inspection, an official certificate shall be issued. Each such certificate shall show the statement "Combined Lot Inspection", and the identification of each container. The inspection results shown on the certificate shall be the weighted average results of the analyses of the samples from the component lots: *Provided*, That if the grain in the component lots is found to be uniform for any grade, and the weighted averages show a different grade, the grade found for the component lots shall prevail. Upon request, information as to specified factors for each component lot shall be shown on the combined lot inspection certificate.

(d) *Combined lot superseding certificate requirements.* (1) If the request was filed after the grain in the component lots was inspected and certified, the combined lot inspection certificate shall also show: (i) The date the component lots were inspected as the date of inspection of the grain in the combined lot. However, if the lots were inspected on different dates, the latest of the dates shall be shown; (ii) a new serial number, other than the serial numbers of the certificates which are to be superseded; (iii) a statement showing the name(s) of the elevator(s) or warehouse(s) from which the grain in the combined lot was loaded; (iv) a statement showing the approximate quantity of grain in the combined lot; (v) a statement showing the identification of any superseded certificates as follows: "This Combined Lot certificate supersedes certificates Nos. -----, dated -----" (The numbers shown in the statement shall in all cases include the lettered prefix.); and (vi) if the superseded certificates are in the custody of the Grain Division or an official inspection agency,

the superseded certificates shall be marked "Void" in a clear and conspicuous manner. If, at the time of issuing the combined lot inspection certificate, the superseded certificates are not in the custody of the Grain Division, or an official inspection agency, the statement "The superseded certificates identified herein have not been surrendered" shall be clearly shown, in the space provided for remarks, on the combined lot inspection certificate beneath the statement identifying the superseded certificates. Official inspection personnel shall exercise such other precautions as may be found necessary to prevent the fraudulent or unauthorized use of the superseded certificates.

(e) *Quantity.* No combined lot inspection certificate shall be issued which shows a quantity of grain in excess of the quantity shown on the superseded certificates.

(f) *Further combining.* After a combined lot certificate has been issued in accordance with this section, there shall be no dividing or further combining of the certificate at a later date.

(g) *Limitation.* No combined lot inspection certificate shall be issued for any inspection other than as described in this section.

(h) *"Off-grade lots."* A separate inspection certificate shall be issued for each "off-grade" lot.

(i) *Reinspection and appeal inspection on combined or off-grade lots.* A reinspection or an appeal inspection may be obtained on a combined lot or on each "off-grade" lot in accordance with the regulations.

§ 26.16 Inspection after appeal.

(a) *General.* If an appeal inspection has been requested or made on an identified lot or sample of grain in any designated inspection area, no inspection may be made by official inspection personnel on the same identified grain in the same area without securing in advance, the approval of the Administrator.

(b) *Certification.* A certificate for an "after appeal" inspection shall show, in the space provided for remarks, the following completed statement: "This grain has been inspected on appeal; see appeal certificate No. -----, dated -----" (The number shown in the statement shall, in all cases, include the lettered prefix.)

§ 26.17 When identity of grain shall be deemed lost.

(a) *Lots.* The identity of a lot of grain shall be deemed lost (1) if a portion of the grain in the lot is unloaded, transferred, or otherwise removed from the container in which it had been identified; (2) a portion of grain or other material is added to the lot; or (3) the identification of the container(s) in which the grain had been identified is changed. The identity of a lot in a closed means of conveyance may be deemed lost, at the option of the official inspection personnel performing the inspection, if the means of conveyance is not sealed, or if the seal record is incomplete.

(b) *Submitted samples.* The identity of a sample of grain shall be deemed lost (1) if a portion of grain or other material is added to or removed from the sample; or (2) when the identifying number, mark, or symbol for the sample is lost or destroyed; or (3) when the sample has not been retained by official inspection personnel in the manner prescribed in the instructions.

§ 26.18 Place of inspection.

For the purpose of handling reinspections and appeal inspections, the designated inspection area where the grain was located when the inspection in question was made shall be deemed to be the designated inspection area (a) where the grain was sampled or examined for the inspection in question, or (b) where the sample was inspected and the certificate in question was issued, or (c) where a combination of operations described in paragraphs (a) and (b) of this section occurred, at the option of the applicant, subject to the requirements of the regulations.

§ 26.19 Disposition of inspection samples.

(a) *Return of excess grain.* If the scope of the requested inspection requires that grain be sampled by official inspection personnel, any grain which is obtained in excess of the quantity specified in the instructions or approved in specific cases by the Administrator for the requested inspection, and for related activities including the necessary file samples, shall be returned to the lot which is sampled or to the owner of the grain or his designated agent.

(b) *Disposition of inspection samples.* On request of the applicant, inspection samples shall, after they have served

their intended purpose, be returned to him or to his order, at his expense, otherwise they shall be disposed of as follows:

(1) Samples which contain toxic substances or materials should be kept out of food and feed channels.

(2) Samples obtained by, for, or submitted to official inspection agencies may be sold, donated, destroyed, or otherwise disposed of by such agencies: *Provided*, That a complete and accurate record of the disposition shall be maintained by each agency for review by the Department of Agriculture for possible conflicts of interest.

(3) Samples obtained by, for, or submitted to the Grain Division may, without regard to the provisions of the Federal Property and Administrative Services Act of 1949, as amended, be sold, donated, destroyed, or otherwise disposed of, in accordance with procedures prescribed in the instructions.

[34 F.R. 1860, Feb. 8, 1969; 34 F.R. 5589, Mar. 25, 1969]

ORIGINAL INSPECTIONS

§ 26.25 Who may request an original inspection.

(a) *General.* An original inspection may be requested by any person who desires an official inspection of grain.

(b) *Blanket requests.* A request for an original inspection may cover one or more identified lots or submitted samples; or a blanket request may be made for an original inspection of a number of lots or submitted samples to be shipped from or to a specified location during a particular period; or a blanket request may be made for an original inspection of all grain shipped from or to a specified location, or from or to a specified firm.

(c) *Guaranteed stations.* If desired, an applicant may enter into an agreement with an official inspection agency whereby the applicant agrees to pay a specified amount and the official inspection agency agrees to make official inspection personnel available to perform original inspection services for the applicant.

§ 26.26 Where and when to request an original inspection and information required.

(a) *Where to file.* A request for an original inspection shall, except as provided in § 26.6 (d) and (e) be filed with the official inspection agency or its designated agent, or for grain in Canadian ports, with the field office, for the designated inspection area in which the grain

is located. If the request is made orally or by telegraph, it shall, upon request by the official inspection agency or the field office, be confirmed in writing. (For locations where official inspection services are available, see § 26.9(d).)

(b) *Written confirmation.* If a written confirmation is requested, it shall be signed by the applicant or his agent; and shall show, or be accompanied by, the following information: (1) The identification, quantity, and the specific location of the grain (if known); (2) the name and mailing address of the applicant; (3) the kind (scope) of inspection desired; and (4) such other pertinent information as may be required in specific cases by the official inspection agency, or for grain in Canadian ports, by the field office, conducting the original inspection. (Copies of an approved application form will be furnished by an official inspection agency, or for inspection of grain in Canadian ports, by the field office, upon request.)

(c) *Delayed documents.* If the information or documents required by paragraph (b) of this section are not available at the time of filing the request, the applicant shall submit the information or documents, or cause them to be submitted, as soon as they are available. At the discretion of the official inspection agency, or the field office, conducting the original inspection, action on the inspection may be withheld pending the receipt of the required information or documents.

(d) *When to file.* For lots which are to be inspected during loading, or unloading, or during handling, a request for an original inspection shall be filed sufficiently in advance of the loading or unloading, or handling of any of the grain to enable the official inspection personnel to be present. When an extended grain movement is planned, a request for an original inspection should be filed as far in advance of the shipping date as possible to permit the official inspection agency, or in Canadian ports, the field office, to anticipate its staffing needs. For other lots and for submitted samples, a request for an original inspection may be filed at any time prior to the time the inspection service is to be furnished.

(e) *Recording date of filing.* A request for an original inspection shall be deemed filed when it is received by the official inspection agency, or the field office, conducting the original inspection, and

when the grain is offered for inspection. A record showing the date of filing shall be maintained by the official inspection agency or the field office: *Provided*, That a copy of a railroad manifest for grain cars shall be deemed to meet the requirements of this paragraph for inbound grain.

§ 26.27 When a request for an original inspection may be withdrawn or dismissed.

(a) *Withdrawal.* For withdrawal of request, see § 26.10.

(b) *Grounds for dismissal.* A request for an original inspection for grain in the United States may be dismissed by an official inspection agency, or for U.S. grain in Canadian ports, a field office in accordance with § 26.10, (1) for any of the reasons specified in § 26.10; or (2) if the original inspection cannot be completed within 2 business days after the grain is offered for inspection.

(c) *Notification.* When a request for an original inspection is dismissed, the official inspection agency, or in case of U.S. grain in Canadian ports, the field office, shall promptly notify the applicant orally or in writing of the reasons for the dismissal; and, in the case of such action by an official inspection agency, the agency shall promptly forward a copy of the notice of dismissal to the field office or otherwise notify such office of its action.

§ 26.28 Who shall handle original inspection, and method and order of performance.

(a) *United States.* An original inspection on grain located in the United States shall be conducted by official inspection personnel licensed by the Department of Agriculture and employed by an official inspection agency.

(b) *Canada.* An original inspection on U.S. grain in Canadian ports shall be conducted by official inspection personnel employed and authorized by or licensed under a contract with the Department of Agriculture, with certification by a field office.

(c) *Method and order.* The method and order of service shall be in accordance with the provisions of § 26.12.

(d) *Tolerances.* No administrative, statistical, or other tolerances shall as provided in § 26.88(e), be applied by any official inspection personnel in performing an original inspection or in showing the results of an original inspection on

an inspection certificate, except as provided in § 26.30(d).

§ 26.29 Issuance and distribution of original inspection certificates.

(a) For each original inspection, an official certificate shall be issued in accordance with § 26.58. The certification for the first original inspection on a specific lot or submitted sample in any designated inspection area shall show the term "Original Inspection".

(b) The original and a minimum of one copy of each official certificate for an original inspection shall be issued to the applicant of record or to his order; one copy shall be forwarded to the field office; and one copy shall be filed with the official inspection agency.

§ 26.30 Succeeding original inspections.

(a) *General provisions.* In cases where an original inspection has been obtained in any designated inspection area on a specific lot or submitted sample of grain, and a later or more current inspection of the same kind (scope) is desired in the same area on the same lot or sample of grain, one or more succeeding original inspections may be obtained in accordance with paragraphs (b) through (i) of this section.

(b) *Requests.* A request for a succeeding original inspection shall be made in accordance with the provisions for original inspections in §§ 26.25 and 26.26. Each request shall show the identity of the preceding original inspection certificate(s). If a request is not for the same kind (scope) of inspection, it will be deemed to be a request for an original inspection.

(c) *Grounds for dismissal.* A request for a succeeding original inspection may be withdrawn or dismissed in accordance with the provisions of §§ 26.10 and 26.27, or when a reinspection or an appeal inspection can be obtained from the preceding original inspection and will better fit the needs of the applicant.

(d) *Scope, order, and method of inspection.* (1) The scope of each succeeding original inspection shall be in accordance with the request for the original inspection. The method and order of performing a succeeding original inspection shall be in accordance with the provisions of § 26.12.

(2) For the purpose of this section, statistical tolerances for expected variations between inspections shall be applied to the results of the succeeding original

inspection in determining whether the results of the preceding original inspection(s) were or were not materially in error. The statistical tolerances shall, in all cases, be those set forth in the instructions.

NOTE: The effectiveness of paragraph (d)(2) was stayed indefinitely at 34 F.R. 13729, Aug. 28, 1969.

(e) *Certification.* For each succeeding original inspection, an official certificate shall be issued in accordance with § 26.29, subject to the following provisions: (1) In performing a succeeding original inspection, the official inspection personnel shall determine whether the results of the preceding inspection(s) are materially in error. If the results are not materially in error, the results of the preceding original inspection(s) and the results of the succeeding original inspection shall be averaged, and the resulting averages shall be shown on the official certificate for the succeeding original inspection. If the results of the preceding original inspection(s) are materially in error, only the results of the succeeding original inspection shall be shown on the official certificate for the succeeding original inspection.

(2) The certificate for a second original inspection shall show the statement "Second Original Inspection". Certificates for succeeding original inspections in the same designated inspection area shall similarly identify the succeeding original inspections in numerical order.

(3) An official certificate for a succeeding original inspection shall supersede the last preceding official certificate for the same kind (scope) of inspection. In such case, the succeeding certificate shall clearly show, in the space provided for remarks, the following statement in completed form: "This certificate supersedes certificate No. ----- dated -----" (The number shown in the statement shall, in all cases, include the lettered prefix.) The superseded certificate shall be considered null and void as of the date of the issuance of the succeeding certificate and shall not thereafter be used to represent the grain described therein.

If the superseded certificate is in the custody of the official inspection agency or the Grain Division, the superseded certificate shall be marked "Void" in a clear and conspicuous manner. If, at the time of issuing the succeeding official certificate, the superseded certificate is

not in the custody of the official inspection agency or the Grain Division, the statement "The superseded certificate identified herein has not been surrendered" shall be clearly shown in the space provided for remarks on the succeeding official certificate. Official inspection personnel shall exercise such other precautions as may be found necessary to prevent the fraudulent or unauthorized use of the superseded certificate.

(f) *Reinspections.* A reinspection or appeal inspection may be obtained from any succeeding original inspection in accordance with the provisions of §§ 26.35 through 26.39 and §§ 26.45 through 26.50.

(g) *Applicable to all movements.* The provisions of this section shall be applicable to any type of movement or any combination of movements (in, out, local) within a designated inspection area.

(h) *Loss of identity.* If the identity of a lot or submitted sample of grain is lost as provided in § 26.17, an original inspection may be obtained on the grain without reference to any previous inspection.

(i) *Inspection in other area.* If grain has been inspected in one designated inspection area and has moved to another area, any applicant may obtain an original inspection in the other designated inspection area. Such inspection in the other area shall be considered an original inspection and not a succeeding original inspection.

§ 26.31 Original inspections on "set back" means of conveyance.

If an original "out" inspection is performed on any day on grain loaded into a means of conveyance and the means of conveyance is returned (set back) to the loading grain elevator or warehouse, and the grain is unloaded and reloaded, and an original "out" inspection is performed the same day on the grain in the reloaded means of conveyance the official inspection personnel performing the later "out" inspection shall void or otherwise supersede the official certificate for the earlier "out" inspection in accordance with the provisions of § 26.30 (e) (3).

REINSPECTIONS

§ 26.35 Who may request a reinspection.

(a) *General.* A reinspection from an original inspection (or succeeding original inspection) may be requested by any interested person who desires the service.

(b) *Limitations.* One or more interested persons may request a reinspection but only one reinspection may be obtained from any original inspection (or succeeding original inspection). No reinspection may be obtained from an inspection resulting in issuance of a certificate that has been superseded, or from a reinspection.

§ 26.36 Where and when to request a reinspection and information required.

(a) *Where to file.* A request for a reinspection shall be filed with the official inspection agency, or in the case of U.S. grain in Canadian ports, with the field office, in the designated inspection area in which the original (or succeeding original) inspection in question was made, or with the official inspection agency, or in the case of U.S. grain in Canadian ports, the field office, in the designated inspection area in which the grain is located. If the request is made orally or by telegraph, it shall, at the request of the official inspection agency, or field office, be confirmed in writing in accordance with paragraph (b) of this section. (For locations where inspection services are available, see § 26.9(d).)

(b) *Written confirmation.* If a written confirmation is requested, it shall be signed by the applicant or his agent; and shall, except as provided in paragraph (c) of this section, show, or be accompanied by, the following information or documents: (1) The identification, quantity, and the specific location of the grain, if known; (2) the reason for requesting the reinspection, stated in terms of the factor or factors in question (not applicable to requests filed in advance); (3) the name and mailing address of the applicant; (4) the original official certificate for the inspection in question; (5) a statement showing whether a request for a reinspection, or a request for an appeal inspection, on the grain in question has been filed with any other official inspection agency, or with the Grain Division, and the place of filing, if any; and (6) such other pertinent information as may be required in specific cases by the official inspection agency or field office conducting the reinspection. (Copies of an approved application form will be furnished by an official inspection agency or field office upon request.)

(c) *Delayed documents.* (1) If the information or documents required by paragraph (b) of this section are not

available at the time of filing the request, the applicant shall submit the information or documents, or cause them to be submitted, as soon as they are available. At the discretion of the official inspection agency, or in the case of U.S. grain in Canadian ports, the field office conducting the reinspection, action on the reinspection may be withheld pending the receipt of the information or documents required by paragraph (b) of this section.

(2) In no case shall a reinspection certificate be issued unless the information and documents required by paragraph (b) of this section are filed with the official inspection agency, or in the case of U.S. grain in Canadian ports, the field office, or it is found by the official inspection agency, or the field office, that some of the information or documents are not available but sufficient information is available to enable performance of the reinspection. If it is found that any of the required information or documents is not available, a record of the finding shall be included in the record of the reinspection.

(d) *When to file.* (1) A request for a reinspection must be filed (i) before the grain has left the designated inspection area where the grain was located when the inspection in question was made; (ii) before the identity of the grain has been lost, as provided in § 26.17 and (iii) as promptly as possible, but not later than the close of business on the second business day following the date of the inspection in question.

(2) If a representative file sample, as prescribed in § 26.8(f), is available, the official inspection agency, or in the case of U.S. grain in Canadian ports, the field office, conducting the reinspection may, upon written request by the applicant and the respondents, if any, waive the requirements of subparagraph (1) of this paragraph. The requirement in subparagraph (1) (iii) of this paragraph, may also be waived by the official inspection agency, or the field office, upon a satisfactory showing by any interested person of the existence of fraud, or that on account of distance or other good cause the time allowed for filing was not sufficient.

(3) A record of each waiver action must be included by the official inspection agency, or the field office, in the record of the reinspection.

(e) *Advanced notice.* If desired by the applicant, requests for reinspection may

be filed in advance of the original (or succeeding original) inspection which is in question.

(f) *Multiple request.* A request for a reinspection may cover one or more identified lots or samples.

(g) *Recording date of filing.* A request for a reinspection shall be deemed filed when it is received by the official inspection agency, or in the case of U.S. grain in Canadian ports, the field office, conducting the reinspection and when the grain is offered for inspection. A record showing the date of filing shall be made promptly by the official inspection agency, or field office.

§ 26.37 When a request for a reinspection may be withdrawn or dismissed.

(a) *Withdrawal.* For withdrawal of request, see § 26.10 of the regulations in this part.

(b) *Grounds for dismissal.* A request for a reinspection may be dismissed by an official inspection agency, or in the case of U.S. grain in Canadian ports, the field office, in accordance with § 26.10, (1) for any of the reasons specified in § 26.10; or (2) if the inspection in question is being referred to another official inspection agency for a reinspection, or to the Grain Division for an appeal inspection; or (3) if the condition of the grain has undergone a material change since the inspection in question; or (4) if the reinspection cannot be completed within 2 business days of the date of the inspection in question.

(c) *Notification.* When a request for a reinspection is dismissed, the official inspection agency, or field office, shall promptly notify the applicant orally or in writing of the reason for the dismissal; return or release to the applicant, or his agent, any official certificate which was filed with the request; and in the case of such action by an official inspection agency, the agency shall promptly forward a copy of the notice of dismissal to the field office or otherwise notify such office of its action.

§ 26.38 Who shall handle reinspections, and method and order of performance.

(a) *United States.* A reinspection on grain located in the United States shall be conducted by official inspection personnel licensed by the Department of Agriculture and employed by an official inspection agency.

(b) *Canada.* A reinspection on U.S. grain in Canadian ports shall be conducted by official inspection personnel employed and authorized by or licensed under a contract with the Department of Agriculture, under the direction of a field office of the Grain Division.

(c) *Scope.* The scope of a reinspection shall be confined to the scope of the inspection in question: *Provided*, That a reinspection for grade shall include a review of all factors which may determine the accurate and true grade at the time and place of the reinspection.

(d) *Method and order.* The method and order of service shall be in accordance with the provisions of § 26.12. For the purpose of this section, statistical tolerances for expected variations between inspections shall be applied to the results of the reinspection in determining whether the results of the inspection in question were or were not materially in error. The statistical tolerances shall, in all cases, be those set forth in the instructions.

NOTE: The effectiveness of paragraph (d) was stayed indefinitely at 34 F.R. 13729, Aug. 28, 1969.

(e) *New sample.* Upon request of the applicant, and if practicable, a new sample shall be obtained and examined as a part of a reinspection.

(f) *Conflict of interest.* No official inspection personnel shall perform, or participate in performing, or issue official certificates for reinspections involving the correctness of inspections performed or certificated by them: *Provided*, That this requirement is waived if there is only one duly qualified person available at the time and place of a reinspection.

§ 26.39 Issuance and distribution of reinspection certificate.

(a) *General.* For each reinspection, a reinspection certificate shall be issued in accordance with § 26.58. The original and a minimum of one copy of each reinspection certificate shall be issued to the applicant of record or to his order; one copy shall be forwarded to the field office; and one copy shall be filed with the official inspection agency. If the official inspection personnel who certificated the results of the inspection in question are employed by another official inspection agency, one copy shall be forwarded to the other agency.

(b) *Showing results.* (1) If the results of the reinspection indicate that none of

the results of the inspection in question were materially in error, only the results of the inspection in question shall be shown as the results of the reinspection.

(2) If the results of the reinspection indicate that all of the results of the inspection in question were materially in error, only the results of the reinspection shall be shown on the reinspection certificate.

(3) If the results of the reinspection indicate that some of the results of the inspection in question were not materially in error, and that some were, the results which were not materially in error shall be shown in accordance with subparagraph (1) of this paragraph, and the results which were materially in error shall be shown in accordance with subparagraph (2) of this paragraph.

(c) *Required statements.* (1) Each reinspection certificate shall clearly show, in the space provided for remarks, the following statement in completed form: "This certificate supersedes certificate No. ----- dated -----" (The number shown in the statement shall, in all cases, include the lettered prefix.) The superseded certificate shall be considered null and void as of the date of the issuance of the reinspection certificate and shall not thereafter be used to represent the grain described therein.

(2) If the superseded certificate is in the custody of the official inspection agency or the Grain Division, the superseded certificate shall be marked "Void" in a clear and conspicuous manner. If, at the time of issuing the reinspection certificate, the superseded certificate is not in the custody of the official inspection agency or the Grain Division, the statement "The superseded certificate identified herein has not been surrendered." shall be clearly shown, in the space provided for remarks, on the reinspection certificate beneath the statement identifying the superseded certificate. Official inspection personnel shall exercise such other precautions as may be found necessary to prevent the fraudulent or unauthorized use of the superseded certificate.

APPEAL INSPECTIONS

§ 26.45 Who may request an appeal inspection.

(a) *General.* An appeal inspection from an original inspection (or succeeding original inspection) or a reinspection may be requested by any interested

person who desires the service. (See also § 26.50 concerning a Board appeal inspection.)

(b) *Limitations.* One or more interested persons may request an appeal inspection but only one appeal inspection may be obtained from any original inspection (or succeeding original inspection), or from any reinspection. (A Board appeal inspection may be obtained only from an appeal inspection conducted by a field office.) No appeal inspection may be obtained from any inspection resulting in the issuance of a certificate that has been superseded by another certificate.

§ 26.46 Where and when to request an appeal inspection and information required.

(a) *Where to file.* A request for an appeal inspection shall be filed with the field office in the circuit in which the original inspection or reinspection in question was made, or with the field office in the circuit in which the grain is located. If the request is made orally, it shall be confirmed in writing in accordance with paragraph (b) of this section. (For locations where inspection services are available, see § 26.9(d).)

(b) *Written confirmation.* Each request for an appeal inspection shall be in writing; shall be signed by the applicant or his agent; and except as provided in paragraph (c) (2) of this section, shall show, or be accompanied by, the following information or documents: (1) The identification, quantity, and specific location of the grain, if known; (2) the reason for requesting the appeal inspection, stated in terms of the factor or factors in question (not applicable to requests filed in advance); (3) the names and mailing addresses of the applicant and the respondents, if any; (4) the original official certificate for the inspection in question; (5) a statement showing whether a request for an appeal inspection on the grain in question has been filed with any other field office, and the other place of filing, if any; and (6) such other pertinent information as may be required by the field office in specific cases. (Copies of an approved application form will be furnished by field offices upon request.)

(c) *Delayed documents.* (1) If the information or documents required by paragraph (b) of this section are not available at the time of filing the request, the applicant shall submit the information

or documents, or cause them to be submitted, as soon as they are available. At the discretion of the field office conducting the appeal inspection, action on the appeal inspection may be withheld pending the receipt of the information or documents required by paragraph (b) of this section.

(2) In no case shall an appeal inspection certificate be issued unless the information and documents required by paragraph (b) of this section are filed in the field office, or it is found by the field office that some of the information or documents are not available but sufficient information is available to enable performance of the appeal inspection. If it is found that any of the required information or documents is not available, a record of the finding shall be included in the record of the appeal inspection.

(d) *When to file.* (1) For lots which are to be inspected during loading, unloading, or handling, a request for an appeal inspection shall be filed in advance of the inspection in question.

(2) For lots other than the lots identified in subparagraph (1) of this paragraph and for submitted samples, a request for an appeal inspection must be filed (i) before the grain has left the designated inspection area where the grain was located when the inspection in question was made; (ii) before the identity of the grain has been lost, as provided in § 26.17; and (iii) as promptly as possible, but not later than the close of business on the second business day following the date of the inspection in question.

(3) If a representative file sample, as prescribed in § 26.8(f), is available, the field office conducting the appeal inspection may, upon written request by the applicant, and the respondents (if any), waive the requirements of subparagraph (1) or (2) of this paragraph. The requirement in subparagraph (2)(iii) of this paragraph may be waived by the field office upon a satisfactory showing by any interested party of the existence of fraud, or that on account of distance or other good cause, the time allowed for filing was not sufficient. A record of each waiver action must be included by the field office in the record of the appeal inspection.

(e) *Advanced notice.* If desired by the applicant, a request for an appeal inspection may be filed in advance of an original inspection or reinspection of any grain.

(f) *Recording date of filing.* A request for an appeal inspection shall be deemed filed when it is received by the field office conducting the appeal inspection and when the grain is offered for inspection. A record showing the date of filing shall be made promptly by the field office.

(g) *Multiple request.* A request for an appeal inspection may cover one or more identified lots or samples: *Provided*, That upon request of the field office, a separate request shall be filed for each appeal inspection.

§ 26.47 When a request for an appeal inspection may be withdrawn or dismissed.

(a) *Withdrawal.* For withdrawal of request, see § 26.10.

(b) *Grounds for dismissal.* A request for an appeal inspection may be dismissed by a field office in accordance with § 26.10(1) for any of the reasons specified in § 26.10; or (2) if the inspection in question is being appealed to another field office; or (3) if the condition of the grain has undergone a material change since the inspection in question; or (4) if the appeal inspection cannot be completed within 5 business days of the date of the inspection in question.

(c) *Notification.* When a request for an appeal inspection is dismissed, the field office shall promptly (1) notify the applicant orally or in writing of the reason for the dismissal; (2) return or release to the applicant, or his agent, any official certificate which was filed with the request; and (3) forward a copy of each notice of dismissal to the regional office or otherwise notify such office of its action.

§ 26.48 Who shall handle appeal inspections, and method and order of performance.

(a) *United States.* An appeal inspection on grain located in the United States shall be conducted by a field office.

(b) *Canada.* An appeal inspection on U.S. grain in Canadian ports shall be conducted by the Board of Appeals and Review.

(c) *Scope.* The scope of an appeal inspection shall be confined to the scope of the inspection in question: *Provided*, That an appeal inspection for grade shall include a review of all factors which may determine the accurate and true grade at the time and place of the appeal inspection.

(d) *Method and order.* The method and order of service shall be in accordance with the provisions of § 26.12. For the purpose of this section, statistical tolerances for expected variations between inspections shall be applied to the results of the appeal inspection in determining whether the results of the inspection in question were or were not materially in error. The statistical tolerances shall, in all cases, be those set forth in the instructions.

NOTE: The effectiveness of the provisions in paragraph (d) was stayed indefinitely at 34 F.R. 18729, Aug. 28, 1969.

(e) *New sample.* Upon request of the applicant, and if practicable, a new sample shall be obtained and examined as a part of an appeal inspection.

(f) *Conflict of interest.* No grain inspection supervisor shall perform, or participate in performing, or issue an official certificate for an appeal inspection involving the correctness of inspections performed or certificated by him: *Provided*, That this requirement is waived if there is only one duly qualified person available at the time and place of the appeal inspection.

§ 26.49 Issuance and distribution of appeal inspection certificates.

(a) *General.* For each appeal inspection, an appeal inspection certificate shall be issued in accordance with § 26.58. The original and one copy of each appeal inspection certificate shall be issued to the applicant of record or to his order; one copy shall be issued to each respondent of record, if any, or to his order; one copy shall be issued to the official inspection agency which conducted the inspection in question; and one copy shall be filed in the field office.

(b) *Showing results.* (1) If the results of the appeal inspection indicate that none of the results of the inspection in question were materially in error, the results of the inspection in question shall be shown as the results of the appeal inspection.

(2) If the results of the appeal inspection indicate that all of the results of the inspection in question were materially in error, the results of the appeal inspection only shall be shown on the appeal inspection certificate.

(3) If the results of the appeal inspection indicate that some of the results of the inspection in question were materially in error, and that some were not, the results which were not materially

in error shall be shown in accordance with subparagraph (1) of this paragraph, and the results which were materially in error shall be shown in accordance with subparagraph (2) of this paragraph.

(c) *Required statements.* (1) Each appeal inspection certificate shall clearly show, in the space provided for remarks, the following statement: "This certificate supersedes certificate No. -----, dated -----." (The number shown in the statement shall, in all cases, include the lettered prefix.) The superseded certificate shall be considered null and void as of the date of the issuance of the appeal inspection certificate and shall not thereafter be used to represent the grain described therein.

(2) If the superseded certificate is in the custody of the Grain Division or an official inspection agency, the superseded certificate shall be marked "Void" in a clear and conspicuous manner. If, at the time of issuing the appeal inspection certificate, the superseded certificate is not in the custody of the Grain Division, or an official inspection agency, the statement "The superseded certificate identified herein has not been surrendered" shall be clearly shown in the space provided for remarks on the appeal inspection certificate beneath the statement identifying the superseded certificate. Official inspection personnel shall exercise such other precautions as may be found necessary to prevent the fraudulent or unauthorized use of the superseded certificate.

§ 26.50 Appeal Inspection by Board of Appeals and Review.

(a) *Formation of Board.* The Board of Appeals and Review in the Grain Division is responsible for the supervision of the official inspection of grain to maintain uniformity and accuracy of inspection, and to perform appeal inspections in accordance with the Act and regulations. For the purpose of this section the Board of Appeals and Review shall be considered a field office with the entire United States and Canada as its circuit.

(b) *Who may request.* An appeal inspection by the Board of Appeals and Review may be requested by an applicant from an inspection conducted by a field office.

(c) *Filing requirements.* (1) A request for an appeal inspection by the Board of Appeals and Review shall be filed with the field office which conducted the inspection in question, or with the field

office in the circuit in which the grain is located, or with the Board of Appeals and Review.

(2) Except as otherwise provided in this paragraph, each request shall be filed in accordance with the provisions of §§ 26.45 and 26.46, and the request may be withdrawn or dismissed in accordance with the provisions of § 26.47. Each request shall show pertinent information specified in the form or as may be required in specific cases by the Board of Appeals and Review, and shall be filed not later than the close of business on the next business day after the date of the inspection in question. The Board of Appeals and Review may, for good cause shown, extend the time for filing the request. (Copies of an approved application form will be furnished by field offices upon request.)

(d) *Performance and issuance.* The appeal inspection shall be performed in accordance with the provisions of § 26.48; and an appeal inspection certificate shall be issued in accordance with the provisions of § 26.49. An appeal inspection certificate issued by the Board of Appeals and Review shall be the final appeal inspection certificate.

(e) *Action by field office.* The field office which conducted the inspection in question shall act in a liaison capacity between the applicant requesting the appeal inspection and the Board of Appeals and Review, and shall promptly forward to the Board of Appeals and Review all available samples, documents, and other evidence pertaining to the inspection in question.

RECORDS

§ 26.55 Maintenance and availability of records.

(a) *General.* (1) A complete record of the activities performed under the Act by official inspection personnel shall be kept by each official inspection agency and each field office for a period of 2 years after the inspection or transaction, which is the subject of the record, occurred: *Provided*, That official file samples shall be kept for the periods specified in § 26.57. In specific cases such records (other than file samples) may be required by the Administrator, to be kept for a longer period. Notice of any requirement for such longer retention of records in specific cases will be given to the official inspection agency or field office concerned. (2) The complete record shall show (1) each inspection activity per-

formed during the course of an inspection and (ii) other matters as provided in this section.

(b) *Records on inspection activities.* The complete record shall include (1) detailed work records, (2) official file samples, and (3) official certificates, as prescribed in §§ 26.56, 26.57, and 26.58. The record for each inspection shall be kept in such manner as to permit comparison with the record for other inspections on the same identified grain.

NOTE: The effectiveness of the provisions in paragraph (b) (2) was stayed indefinitely at 34 F.R. 13729, Aug. 28, 1969.

(c) *Other records.* The complete record shall include the following information:

(1) A record of the disposition of the grain samples obtained under the Act and the regulations shall be kept by each official inspection agency and each field office in accordance with the instructions.

(2) A record of the organization and staffing of each official inspection agency shall be kept by the agency. The record shall show (i) whether it is a government, trade, or private organization, or is sponsored by a government, trade, or private organization; (ii) the name of each member of the sampling, inspection, and clerical staff, and his capacity on the staff; (iii) the scope of the license, if any, held by each employee under the Act and the regulations; and (iv) the authorizations to affix signatures, if any, held by each employee. If the agency is a trade organization or sponsored by a trade organization, the record shall show the nature of the organization; a list of the member firms; the managerial and technical controls that the trade organization exercises over the inspection activities or the inspection personnel; and the operating procedures for exercising the controls; e.g. management by a grain committee that employs and directs the chief inspector. If the organization exercises managerial or technical controls over the inspection activities or the inspection personnel, the record shall show the name, address, and the employing firm(s) for each person who exercises such controls. The information in the record required by this subparagraph shall be kept current at all times. Upon request, a copy of the record shall be submitted to the field office.

(3) A copy of the currently effective schedule of fees and charges required to be filed under § 26.70(b).

(4) A copy of any report required to be filed under § 26.100 and section 16 of the Act.

(d) *Availability of records and information therein.* (1) All records of the Grain Division or other units of the Agricultural Marketing Service are available for inspection and copying in accordance with the administrative regulations of the Department and regulations of the Agricultural Marketing Service (7 CFR 1.1 et seq. and 900.500 et seq.) subject to restrictions stated in such regulations; and

(2) The organization and staff records required by § 26.55(c) (2) and the records of the schedule of inspection fees and charges required by § 26.55(c) (3) to be kept by each official inspection agency shall be considered public information and made available by such agency for inspection by any person upon request. The work records required by § 26.56, the official file samples required by § 26.57 and the original and copies of official inspection certificates required by § 26.58 to be kept by each official inspection agency shall be made available by such agency during customary business hours for inspection upon request by any representative of the Department of Agriculture, or other official inspection personnel to the extent required for the performance of their official duties, or by the applicant or any respondent interested in the inspection involved. The volume-of-inspection reports required by § 26.100 to be filed by each official inspection agency, may be made available for inspection or copies may be furnished to local trade groups or other persons by the official inspection agency. Otherwise, records of official inspection agencies required by the regulations to be kept and information from such records shall not be made available to any person except representatives of the Department of Agriculture or official inspection personnel to the extent necessary for the performance of their official duties or as authorized by the Administrator in specific cases.

§ 26.56 Detailed work records.

(a) *General.* A detailed work record shall be kept for each activity performed during the course of an official inspection: *Provided,* That only one set of records need be kept per inspection.

(b) *Forms.* (1) The work records shall be on standard forms prescribed in the instructions or approved in specific cases

by the Administrator and furnished by the official inspection agency or, as appropriate, by the Grain Division; be written or printed in English; be complete, accurate, and clearly legible; and show the name or initials of the individual(s) who made each of the determinations shown on the record. The record shall consist of (i) a Form A sampling and inspection memorandum; (ii) a Form B ship loading log; and (iii) supporting documents and records.

(2) The work record shall be a concise record of each activity involved in the inspection; and shall contain (i) a record of each determination which is shown on the corresponding inspection certificate; (ii) information needed by the chief inspector or the Grain Division in performing supervision activities and in handling trade and other complaints or inquiries; and (iii) such other information as may be required by the instructions or in specific cases by the Administrator.

(c) *Use of record.* The work record shall be used by official inspection personnel as a basis for issuing official certificates. In accordance with paragraphs (d) and (e) of this section, the record may also be used for reporting the results of official inspections in writing, in advance of or in addition to, the issuance of the official certificate.

(d) *Form A (pan tickets).* (1) Each sampling, inspection, checkweighing, checkloading, ship stowage examination, or other inspection activity performed under the Act and the regulations shall, except as provided in paragraph (e) of this section, be recorded on a Form A sampling and inspection memorandum. (A sample Form A memorandum may be obtained from the offices designated in § 26.9(d) but copies must be supplied by the official inspection agency for inspection purposes.) Activities which, during the course of an inspection, are performed in a series, such as sampling and grading, may be recorded on one memorandum, or may be recorded on separate memoranda.

(2) Upon completion of an inspection, one or more copies of the completed Form A memorandum shall, upon request by the applicant, be issued to the applicant or to his order in advance of or in addition to, the official certificate: *Provided*, That if the request for inspection has been withdrawn or dismissed, no Form A memorandum shall be issued or released to the applicant. The orig-

inal Form A memorandum shall be retained by the official inspection agency or, as appropriate, by the field office which conducted the inspection.

(e) *Form B (ship loading log).* (1) Each cargo grain inspection that is performed while the grain is being loaded or unloaded from a ship, and each quality information inspection on cargo grain shall be recorded by official inspection personnel on a Form B, ship loading log. (Copies of Form B shall be obtained from the Grain Division.) A Form A sampling and inspection memorandum may also be kept for such inspections: *Provided*, That a modified Form A sampling and inspection memorandum may be prescribed in the instructions with respect to sampling and other specified activities performed during the course of such inspections.

(2) (i) Upon completion of a quality information inspection, one or more copies of the completed Form B shall, upon request by the applicant, be issued to the applicant or to his order: *Provided*, That if the request for the quality information inspection has been withdrawn or dismissed, no copies of the log shall be issued or released to the applicant.

(ii) The original Form B shall be retained by the official inspection agency or, as appropriate, by the field office which conducted the inspection. If the inspection is conducted by an official grain inspection agency, two copies of the log shall be promptly sent to the field office.

(f) *Other form.* Each detailed test, including but not limited to, moisture determinations and chemical determinations, which cannot be completely recorded on a Form A or modified Form A memorandum, shall be recorded in a complete, accurate, and concise manner on such other form as is prescribed in the instructions or in specific cases by the Administrator.

(g) *Abbreviations.* If the space on the Form A or Form B memorandum does not permit showing the full names for factors, abbreviations may be used. (A list of approved abbreviations may be obtained upon request, from any office designated in § 26.9(d).)

§ 26.57 File samples.

(a) *General.* For each official inspection, an official file sample shall be maintained in accordance with paragraphs (b) through (h) in this section: *Provided*, That no file sample need be maintained for checkweighing and other

types of inspections which are not based on an examination of the grain in a sample.

(b) *Who shall maintain samples.* File samples shall be maintained by the official inspection personnel who performed the inspection or by the official inspection agency that conducted the inspection: *Provided*, That no file sample need be maintained by a licensed employee of a grain elevator or warehouse: *And provided further*, That if a file sample maintained by an official inspection agency is used for an appeal or review inspection, the field office which conducted the appeal or review inspection shall thereafter have the responsibility for maintaining the sample.

(c) *Size of sample.* Each file sample shall consist of a worked portion and an unworked portion: *Provided*, That if the inspection does not require the use or examination of the grain in both portions, and if the applicant will not desire a portion of the sample during the prescribed retention period, only one portion is required to be maintained. Each file sample shall be of such size as will permit a reinspection, an appeal inspection, or a review inspection for the kind (scope) of inspection for which the sample was obtained. (In the case of a submitted sample inspection, if an undersized sample is received, the entire sample shall be retained.)

(d) *Containers.* Each sample shall be retained in such container and in such manner as will retain the representativeness of the sample from the time it is obtained or received by the official inspection personnel until it is discarded. High moisture samples, infested samples, and other problem samples shall be retained in accordance with the instructions.

(e) *File system.* To facilitate the full use of file samples, each official inspection agency and each field office shall establish and maintain, in accordance with the instructions, a uniform file sample system which has been approved by the Administrator. The instructions may prescribe the kind and size of the file sample containers, the method of identification, and methods for retaining the representativeness of the samples.

(f) *Retention periods.* (1) Each file sample shall be retained for the following applicable period of time which is necessary for the handling of a reinspection, an appeal inspection, or a trade complaint:

Type of carrier (or container)	Retention period (calendar days)		
Rail cars:			
In (other than en route) ¹ -----		5-7	
Out -----		15	
Trucks:			
In (other than en route) ¹ -----		2-4	
Out -----		7	
Barges:			
In (other than en route) ¹ -----		10	
Out -----		30	
Bins and tanks-----		2-4	
Submitted samples-----		2-4	
		<i>Composite samples</i>	<i>Sublot samples</i>
Ships:			
In -----		5	7
Out (domestic)-----		5	15
Out (export)-----		90	30

¹The retention period for an "IN" (en route) movement shall be the same as for an "OUT" movement in the identified carrier.

²5 calendar days if applicant, or his agent, receives notice of inspection results on the date of inspection, otherwise 7 calendar days.

³2 calendar days if applicant, or his agent, receives notice of inspection results on the date of inspection, otherwise 4 calendar days.

⁴If the identification of an unofficial sample is the same as the identification of a carrier, the retention period for the sample shall be the same as for an "OUT" movement in the identified carrier.

⁵The retention of composite samples for "IN" and for "OUT (Domestic)" ship lots shall be optional with the official inspection personnel and the official inspection agency.

Samples may be kept for longer periods of time as desired at the option of the persons or agency maintaining the samples.

(2) For good cause shown, and upon request by the official inspection personnel or the official inspection agency, and with the approval of the Administrator, specified samples or classes of samples may be retained for agreed shorter periods of time.

(3) In determining the retention period, the time period shall begin on the date of the inspection involved.

(g) *Furnishing file samples to field offices.* (1) Upon request by a field office, a file sample retained by official inspection personnel or by an official inspection agency shall be furnished to the field office for an appeal inspection or a review inspection.

(2) If a sample is furnished to a field office, no portion of the sample need be retained by the official inspection personnel or the official inspection agency.

(3) Official inspection agencies furnishing file samples to a field office for appeal inspections may, upon request,

be reimbursed at the rate prescribed in § 26.72, by the Grain Division for the cost of locating and sending the samples.

(h) After official file samples have been retained the prescribed period of time, they may be disposed of in accordance with the provisions of § 26.19.

NOTE: The effectiveness of § 26.57 was stayed indefinitely at 34 F.R. 13729, Aug. 28, 1969.

§ 26.58 Official certificates (issuance and distribution).

(a) *Issuance (general)*. For each official inspection, an official certificate shall be issued, except as provided in paragraph (j) of this section. All of the determinations requested by the applicant shall, if practicable, be shown on the certificate: *Provided*, That upon request of the applicant and for good cause shown, determinations made at different times during the course of the inspection may be shown on separate certificates. If more than one certificate is issued for an inspection, each of the certificates, shall, insofar as practicable, be clearly cross-referenced to the other certificates issued for the inspection.

(b) *Distribution (general)*. (1) The original and a minimum of one copy of each certificate shall be delivered or mailed to the applicant of record or to his order; and one copy shall be retained by the official inspection agency, or the field office, which conducted the inspection. One copy of each appeal inspection certificate shall also be delivered or mailed to each respondent of record, or to his order.

(2) At the option of the official inspection agency, additional copies may be furnished to the applicant without extra charge, if the request for the extra copies is made prior to the issuance of the certificate. If the request for the extra copies is received after the certificate is issued, the copies may be furnished without extra charge or may be furnished at an established fee.

(3) One copy of each certificate issued by a licensed employee of an official inspection agency shall be delivered or mailed to the field office.

(c) *Prompt issuance*. The original of each official certificate, the copies for the respondents, if any, and the copy for the field office shall be issued on the date of inspection: *Provided*, That if the results of the inspection have been reported or released to the applicant on that date, the certificate and the copies may be issued not later than the close of business

on the next business day following that date. (For meaning of "business day" and "date of inspection", see § 26.1(b) (6) and (11).) No official certificate shall be predated or postdated except as may be provided in the instructions.

(d) *Reproducing certificates*. Holders of official certificates may make photocopies or similarly reproduced copies of the certificates: *Provided*, That no reproduced copy of an original certificate shall be made or issued unless the reproduced copy is clearly marked Reproduced Copy. A violation of this section may be deemed a violation of the provisions of paragraph (a) (1) of section 13 of the Act.

(e) *Who may issue certificates*. (1) Certificates for inspection conducted by an official inspection agency, may be issued by any grain sampler, grain technician, or grain inspector who is employed by the inspection agency and is licensed to perform and to certify the inspection covered by the certificate: *Provided*, That only a licensed inspector may issue a certificate which shows an official grade determination, with or without additional factor information.

(2) Certificates for inspections conducted by the Grain Division may be issued by any sampler, technician, inspector, or supervisor who is employed and authorized by the Department of Agriculture to perform the inspection covered by the certificate.

(3) In no case may a person issue a certificate unless he is licensed or otherwise authorized to issue the certificate.

(f) *Who shall issue certificates*. The person who is in the best position to know whether an inspection has been performed in an approved manner and whether the final determinations are accurate and true shall issue the certificate for the inspection. If an inspection is performed, in whole or in large part, by one person, the certificate should be issued by that person. If an inspection is performed by two or more persons, the certificate should be issued by the person who made the majority of the more significant determinations: *Provided*, That nothing in the foregoing shall preclude a supervisory inspector or chief inspector from issuing an official certificate if he is licensed to perform the inspection covered by the certificate.

(g) *Name requirement*. The name, or the signature, or both, of the person who issued the inspection certificate shall be shown on the certificate: *Provided*, That

the name and the signature shall be shown on each original export certificate and, upon request of an applicant, shall be shown on other original certificates. If an original certificate is signed, either the signature or a stamped facsimile shall be shown on each copy.

(h) *Authorizations to affix names.*

(1) The names or the signatures of official inspection personnel may be affixed to official certificates by persons other than the official inspection personnel: *Provided*, That (i) the persons are employed by an official inspection agency or by the Grain Division; (ii) the persons have been designated as authorized agents for this purpose by a field office; (iii) a power of attorney authorizing the affixing of the names or signatures has been issued to each such person by each of the official inspection personnel; (iv) if the person is employed by an official inspection agency, the original or a true copy of the designation and of the power of attorney are on file in the office of the agency, and a copy of each document is on file in the field office and in the case of Grain Division personnel, the original or a true copy of the designation and of the power of attorney are on file in the field office and a copy of each document is on file in the regional office; and (v) the certificate is prepared from an official work record which has been personally signed by the person whose name or signature is shown on the certificate.

(2) When a name or signature of any official inspection personnel issuing a certificate is affixed to an official certificate by an authorized agent, the initials of the given names and surname of the authorized agent shall be shown on the certificate immediately below or following the name or signature of such official inspection personnel.

(1) *Advanced information.* Upon request of an applicant, all or any part of the contents of a certificate may be telegraphed or telephoned to him, or to his order, at his expense.

(j) *Information on dismissed inspection.* No official certificate shall be issued or information thereon released after the request for inspection has been withdrawn or dismissed.

(k) *Voiding certificates.* Each official certificate which is rendered useless through clerical error or by being superseded by another certificate, shall be marked "Void". If a certificate is rendered useless through clerical error, the original or a true copy of the certificate

shall be retained by the official inspection agency or field office. If a certificate is superseded, the original of the superseded certificate shall be filed if surrendered, with the copy of the superseding certificate. A true copy of each superseded certificate shall be retained in accordance with paragraph (1) of this section.

(1) *Certificate control system.* (1)

Each official inspection agency and each field office shall establish a certificate control system for official certificates which they receive, issue, and void or otherwise render useless. Such system shall be subject to approval by the Administrator. The system shall consist of (i) maintaining a record of the numbers of the official certificates received from any source; (ii) storing the unused certificates in a manner and location that will adequately safeguard the certificates from fraudulent or unauthorized use; (iii) maintaining a file copy of each certificate issued, or voided or otherwise rendered useless; and (iv) maintaining a record showing the name or initials of the person who verified the truth and accuracy of each certificate issued. File copies shall be retained by certificate number, by date, or by carrier identification number for ready reference.

(2) In the case of an original (or succeeding original) inspection, the file copy shall consist of a true copy of the official certificate. In the case of a reinspection, appeal inspection, divided original, or corrected original certificate, the file copy shall consist of a true copy of the reinspection, appeal inspection, divided original, or corrected original certificate and, if surrendered, the original of the certificate which is superseded.

§ 26.59 Official certificates (general requirements).

(a) *General.* Official certificates shall

(1) be on standard forms prescribed in the instructions or approved in specific cases by the Administrator, after consultation with the grain trade; (2) be furnished by the official inspection agencies or, as appropriate, by the Administrator; (3) be typewritten, or written in ink, be in English, and be clearly legible; (4) show the results of official inspections in a uniform, accurate, and concise manner; (5) contain or show the information required by the regulations and such other statements or information as may be prescribed in the instructions; and (6) contain or show only such other

statements of fact not inconsistent with the Act or the regulations as may be approved in specific cases by the Administrator.

(b) *Required statements.* Each original and each copy of an official certificate shall, except as provided otherwise in the regulations or in the instructions or approved in specific cases by the Administrator, contain or show the following statements or information:

(1) (i) The caption "Official Grain Inspection Certificate" for certificates which show the results of official sample inspection; (ii) The caption "Official Certificate" for certificates which show only the results of other inspections;

(2) The name of the official inspection agency which conducted the inspection (In the case of U.S. grain in Canadian ports, and appeal inspections, the name "Grain Division" shall be shown);

(3) Information showing whether the certificate is an original, divided-original, duplicate-original, corrected-original, or copy;

(4) Information showing whether the certificate represents an Original Inspection, Second Original Inspection (or successively numbered original inspection), Reinspection, Appeal Inspection, or Board Appeal Inspection;

(5) The consecutive number of the certificate together with a lettered prefix assigned to the official inspection agency or field office by the Administrator (The prefix and the number shall, except on divided-original certificates, be pre-printed on the certificate.);

(6) The name of the city, town, or other location, and the State where the certificate is prepared and issued;

(7) The date of the inspection as specified in § 26.1(b)(11);

(8) Information showing whether the certificate represents an In, Out, Export, or Local movement.¹ (An In movement shall be deemed to be a movement of grain into an elevator or warehouse, or into or through a city, town, port, or other location without loss of identity. An Out movement shall be deemed to be movement of grain out of an elevator or warehouse, or out of a city, town, port, or other location. An Export movement

shall be deemed to be an Out movement in which the grain is moving out of the United States. A Local movement shall be deemed to be a bin run or similar in-house movement. Grain in store in bins, tanks, or other stationary containers shall be considered as grain in a local movement.)

(9) Information showing whether the inspection is an Official Sample-Lot Inspection, a Type Sample-Lot Inspection, Warehouseman's Sample-Lot Inspection, Submitted Sample Inspection, Checkweighing, Checkloading, Sampling, Stowage Examination, or other identified kind of inspection;

(10) A statement showing that the certificate is issued under the authority of the U.S. Grain Standards Act, as follows: (i) For certificates which show the results of an official lot inspection:

I hereby certify that I am licensed or authorized under the U.S. Grain Standards Act to inspect the kind of grain covered by this certificate, and that on the above date the following-identified grain was inspected under the Act, with the following results:

(ii) For certificates which show the results of other inspections:

I hereby certify that I am licensed or authorized under the U.S. Grain Standards Act to perform the inspection service covered by this certificate, and that on the above date the following-identified service was performed under the Act, with the following results:

(11) The location of the grain at the time it was sampled, in terms of (i) the railroad yard, pier, elevator, or other specific place; and (ii) the name of the city and the State: *Provided*, That the name of the city and the State need not be shown if they are the same as the city and State shown in accordance with subparagraph (6) of this paragraph;¹

(12) The date or dates the grain was sampled and the method of sampling the grain.¹ (This subparagraph is not applicable to export certificates for cargo shipments.)

(13) Upon request of the applicant, the identification of the seals, if any, applied by the applicant or by official inspection personnel to the container identified on the certificate, or the statement "No seals applied," as applicable (The provisions of this subparagraph are not applicable to certificates which represent checkweighing inspections, stowage examinations, or inspections which involve grain in a container which is not designed to be closed and sealed.);

¹ This requirement is not applicable to certificates which represent unofficial submitted sample inspections, checkweighing or checkloading inspections, stowage examinations, or other inspections which do not involve the sampling of grain by official inspection personnel.

(14) The identification of the grain in terms of (i) car initials and number; (ii) State or municipality license number of truck or trailer, and when necessary to identify an individual truck or trailer, the approximate time of sampling or the scale ticket number; (iii) name or other designation of a ship, barge, or other means of conveyance and the number of the hold or other place of stowage; (iv) name or other designation of an elevator or warehouse and the bin or compartment; (v) the applicant's mark, number, or other identification for a submitted sample; or (vi) other identification as the official inspection personnel who issue the certificate may deem necessary² (An applicant's mark, number, or identification which is known by official inspection personnel to be false or misleading shall not be shown as the identification of a submitted sample. If such a mark, number, or identification is shown by the applicant, the official inspection personnel shall assign, or may request the applicant to assign a new mark, number, or identification: *Provided*, That nothing in this subparagraph (14) shall preclude the true showing by an applicant of the identification of the means of conveyance transporting the grain.);

(15) (i) For lot inspection certificates: The approximate quantity of grain in the lot, stated in terms of carload, truckload, trailerload, part-carload, part-truckload, or part-trailerload, or in bushels, or by weight: *Provided*, That if the quantity is stated in terms of bushels or by weight, the statement "This Is Not A Weight Certificate" be shown on the certificate with the information showing the quantity.

(ii) For "Submitted Sample" inspection certificates: The approximate quantity of grain in the sample, stated in terms of volume or weight.

(16) The grade and kind of the grain covered by the certificate: *Provided*, That if an official grade is not shown on the certificate, the word "grade" shall not be shown on the certificate. (The requirement of this subparagraph is not applicable to certificates which represent stowage examinations.)

(17) Information showing the results of the inspection, in accordance with the kind of inspection requested by the applicant (See § 26.6 for kind (scope) of official inspection services.);

²For the identification of part-lots, see § 26.13(h).

(18) The word Remarks, together with space for such information;

(19) The name and/or signature of the duly qualified person who issued the certificate, stated in accordance with the provisions of § 26.58;

(20) The title of the person who issued the certificate, in terms of Official Grain Sampler, Official Grain Technician, Official Grain Inspector, Grain Inspection Supervisor, or Chairman, Board of Appeals and Review;

(21) A statement showing (i) the authority for the issuance of the certificate, (ii) a validity clause, (iii) a receivability clause, and (iv) a disclaimer clause, as follows: "This certificate is issued under the authority of the U.S. Grain Standards Act, as amended (7 U.S.C. 71 et seq.), and the regulations thereunder (7 CFR 26.1 et seq.). It is issued to show the kind, class, grade, quality, condition, quantity of sacks of grain, or other facts relating to grain as specified herein, at the time and place of inspection. If it is not canceled by a superseding certificate, it is receivable by all officers and all courts of the United States as prima facie evidence of the truth of the facts stated herein. This certificate does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or other Federal Law.";

(22) For "Warehouseman's Sample—Lot Inspection", and "Submitted Sample" inspection certificates, a statement, as follows: "This certification does not meet the requirements of section 5 of the U.S. Grain Standards Act.";

(23) A warning statement, as follows: "Warning: Any person who shall knowingly falsely make, issue, alter, forge, or counterfeit this certificate, or participate in any of such actions, is subject to a fine of not more than \$5,000 or imprisonment for not more than 1 year, or both.";

(24) A reference statement, as follows: "Please refer to this certificate by the lettered prefix, number, and date.";

(25) Any other statements required by §§ 26.5, 26.6, 26.8, 26.13–26.16, 26.30, 26.39, 26.49, 26.61–26.63 and any other statements prescribed in the instructions or approved in specific cases by the Administrator.

(c) *Statements to be shown on face of certificate.* All statements and information required or permitted to be shown on official certificates shall, except where the regulations prescribe otherwise, be shown on the face of the certificates.

(d) *Other languages.* Upon request by

an applicant, and approval by the Administrator the statements and information shown on an export certificate may be shown, in whole or in part, in another language in addition to being shown in English.

(e) *Other requirements for certificates.* The requirements for the certificate forms to be used by official inspection personnel shall be prescribed in the instructions. They may include, but are not limited to, requirements concerning the following:

(1) Uniform kind, weight, and color specifications for the original certificates and for copies of the certificates; (2) uniform sizes and shapes; (3) uniform formats including, but not limited to (i) a form on pink paper, covering submitted sample inspections; (ii) a form on yellow paper, covering warehouseman's sample-lot inspections; (iii) a form on white paper, covering export inspections; and (iv) a combination form or forms on white paper, covering other kinds of official inspections.

(f) *Factor identification.* Whenever practicable, factor identifications shall be printed on inspection certificates in block form. When space on the certificates does not permit showing the full identification for a factor, an abbreviation may be used: *Provided*, That (1) the abbreviation is shown in accordance with the provisions of § 26.56(g); (2) the abbreviations and the meaning of the abbreviations are shown on the back of the certificate; and (3) the statement "See reverse side for abbreviations," is shown in the space provided for remarks, on the face of the certificate.

[34 F.R. 1860, Feb. 8, 1969, as amended at 34 F.R. 5589, Mar. 25, 1969; 35 F.R. 219, Jan. 1, 1970; 35 F.R. 12322, Aug. 1, 1970]

§ 26.60 Grade inspection certificates.

(a) *General.* Each official certificate which shows an official grade determination (with or without specified factors) shall show the grade in accordance with the official grain standards, and shall show the following factor information:

- (1) The test weight per bushel.
- (2) The moisture content of the grain, whenever the moisture content is equal to or exceeds the following limits:

Percent	Percent
Wheat -----12.5	Grain sorghum _12.0
Corn -----13.0	Flaxseed ----- 8.5
Barley -----12.5	Soybeans -----12.0
Oats -----13.0	Mixed grain ___13.0
Rye -----13.0	

Provided, That each certificate which represents a cargo shipment shall show the moisture content of the grain.

(3) The information for any factor for which a specific determination is made during the course of inspection.

(4) Each certificate which represents a cargo shipment shall show the information for each of the following factors in addition to the information required by subparagraphs (1) through (3) of this paragraph.

WHEAT (HARD RED SPRING, HARD RED WINTER, SOFT RED WINTER, AND WHITE)

- Heat-damaged kernels.
- Damaged kernels (total).
- Foreign material.
- Shrunken and broken kernels.
- Defects (total).
- Contrasting classes.
- Wheat of other classes (total).

WHEAT (DURUM)

- Heat-damaged kernels.
- Damaged kernels (total).
- Foreign material.
- Shrunken and broken kernels.
- Defects (total).
- Contrasting classes.

NOTE: Wheat of other classes (total) shall not be shown.

WHEAT (RED DURUM)

- Heat-damaged kernels.
- Damaged kernels (total).
- Foreign material.
- Shrunken and broken kernels.
- Defects (total).
- Wheat of other classes (total).

WHEAT (MIXED)

- Heat-damaged kernels.
- Damaged kernels (total).
- Foreign material.
- Shrunken and broken kernels.
- Defects (total).

CORN

- Broken corn and foreign material.
- Damaged kernels.
- Heat-damaged kernels.

BARLEY (OTHER THAN MALTING, BLUE MALTING, AND WESTERN)

- Sound barley.
- Damaged kernels.
- Heat-damaged kernels.
- Foreign material.
- Broken kernels.
- Thin barley.
- Black barley.

BARLEY (MALTING AND BLUE MALTING)

- Sound barley.
- Damaged kernels.
- Foreign material.
- Skinned and broken kernels.
- Thin barley.

Black barley.
Other grains.

BARLEY (WESTERN)

Sound barley.
Heat-damaged kernels.
Wild oats.
Foreign material.
Broken kernels.
Black barley.

OATS

Sound cultivated oats.
Heat-damaged kernels.
Foreign material.
Wild oats.

RYE

Damaged kernels.
Heat-damaged kernels.
Foreign material.
Foreign matter other than wheat.

GRAIN SORGHUM

Damaged kernels.
Heat-damaged kernels.
Broken kernels, foreign material, and other grains.

FLAXSEED

Heat-damaged flaxseed.
Damaged flaxseed (total).

SOYBEANS

Splits.
Damaged kernels.
Heat-damaged kernels.
Brown, black, and/or bicolored soybeans in yellow or green soybeans.
Foreign material.

MIXED GRAINS

Foreign material.
Damaged kernels.
Heat-damaged kernels.

(5) In case the grain in a cargo shipment is graded a grade other than No. 1 and the grade is determined by a factor or factors other than those listed in subparagraphs (1) through (4) of this paragraph, the certificate shall show the information for each of the factors that determined the grade.

(6) Each certificate which represents an inspection other than a cargo shipment shall show the information for each of the factors which determined the grade, if the grain is graded other than No. 1, and the factor information for heating, musty, or sour, if the grain is graded heating, musty, or sour. (See also subparagraphs (1) through (3) of this paragraph.)

(7) Subject to requirements in subparagraphs (1) through (6) of this paragraph, all official grade factor information requested by the applicant, in addition to that required by this paragraph.

(8) A certificate may contain any or all other official factor information which the person issuing the certificate deems necessary to correctly describe the grain.

(b) *Meaning of term "factor"*. For the purposes of this section, each factor which is defined in the official grain standards, such as test weight per bushel, moisture, and damaged kernels, and each other factor such as musty, heating, and stained shall be considered a separate and distinct factor.

§ 26.61 Divided-original inspection certificates.

(a) *General requirements*. If an export cargo shipment is offered for inspection as one lot, and is found to be uniform in grade and is certificated as one lot, or does not contain more than 40 percent of grain of a better grade than the balance of the lot, the applicant may exchange the original certificate for two or more divided-original certificates subject to the requirements in paragraphs (b) through (g) in this section.

(b) *Application*. The request for the divided-original certificates must be filed (1) in writing; (2) by the applicant who filed the request for the export cargo shipment inspection; (3) with the official inspection agency, or the field office which conducted the export cargo shipment inspection; (4) at the time of the export cargo shipment inspection, or within 5 business days after the date of the inspection; and (5) before the identity of the grain has been lost: *Provided*, That upon a showing of good cause, the Administrator may waive subparagraph (4) of this paragraph.

(c) *Required information*. The request for the divided-original certificates must (1) be accompanied by written evidence which shows that the grain, in fact, is being exported from the United States; and (2) specify the quantity of grain to be shown on each divided-original certificate.

(d) *Surrender of certificate*. The original export cargo shipment inspection certificate must be in the custody and control of the official inspection agency or the Grain Division; must be marked: *Void-Surrendered for Divided-Original Inspection Certificates*; and must show the identity of the divided-original inspection certificates.

(e) *Change in condition*. The official inspection personnel who performed the original inspection must have no reason

to believe that the condition of the grain has changed since the date of the inspection.

(f) *Certification requirements.* The same identical information and statements shall be shown on the divided-original certificates as shown, or required to be shown, on the original certificate except (1) the original and all copies shall show, in the space provided for remarks, the completed statement "This grain is part of an undivided lot of ----- (bushels) (pounds)."; (2) the original shall show the term Divided-Original instead of Original and the copies shall show the term Divided-Original (Copy) instead of the word Copy; (3) the serial number shown on the divided-original certificates shall be the same as the serial number shown on the original certificate except the serial number on the divided-original certificates shall include a serially numbered suffix; (4) the quantity of grain shown on the divided-original certificates shall be in accordance with the request for the certificates: *Provided*, That no divided-original certificates shall be issued which show, individually or in the aggregate, a quantity of grain in excess of the quantity shown on the original certificate.

(g) *Limitations.* (1) No divided-original inspection certificates shall be issued for any inspection other than an export cargo shipment inspection for grade, with or without additional factors, or in any manner other than as prescribed in this section. (2) After divided-original certificates have been issued in accordance with the provisions of paragraphs (b) through (h) of this section, there shall be no combining or further dividing of the divided-original certificates at a later date except as may be approved in specific cases by the Administrator.

(h) *Other certification requirements.* For the general provisions governing the inspection and certification of grain in ships, see §§ 26.14, 26.59, and 26.60.

§ 26.62 Duplicate-original inspection certificates.

If the original of an official certificate has been lost or destroyed, and has not been superseded, a duplicate-original certificate may be obtained in accordance with the following requirements:

(a) *Application.* The request for the duplicate-original certificate must be made in writing by the applicant for inspection, and must be accompanied by

satisfactory evidence that the original certificate has been lost or destroyed and, if lost, that diligent effort has been made to find it without success.

(b) *Certification requirements.* The duplicate-original certificate shall show the identical information and statements as shown on the lost or destroyed certificate except (1) the original of the duplicate-original certificate shall show the term Duplicate-Original instead of the word Original; (2) the copies of the duplicate-original shall show the term Duplicate-Original (Copy) instead of the word Copy; and (3) the original and all copies shall show, in the space provided for remarks, the following completed statement: "This Duplicate-Original certificate is issued in lieu of a (lost) (destroyed) certificate."

(c) *Issuance.* The duplicate-original certificate shall be issued as promptly as possible to the applicant. In the case of appeal inspections, copies of the duplicate-original certificate shall be issued to the same interested parties as received copies of the certificate which was lost or destroyed.

(d) *Limitations.* No duplicate-original certificate shall be issued for a certificate that has been superseded, or be issued in any manner other than as prescribed in this section.

(e) *Scope.* The provisions of this section shall be applicable to all levels of certificates, from official certificates for original inspections through official certificates for Board appeal inspection.

§ 26.63 Correcting errors in inspection certificates.

(a) *General.* Official certificates issued and not superseded under the Act and the regulations in this part are receivable by all officers and all courts of the United States as prima facie evidence of the truth of the facts stated therein. The truth and accuracy of official certificates shall be verified by official inspection personnel prior to the issuance of the certificates. If errors are found during the verification process, or at a later date, corrections shall be made in accordance with the provisions of this section. For the purpose of this section, the term "errors" shall be deemed to include errors of commission and errors of omission.

(b) *Limitations.* (1) No correction, erasure, addition, or other change, shall be made on any official certificate by any person other than official inspection per-

sonnel licensed or authorized to issue such certificates, or their authorized agents. (2) No correction, erasure, addition, or other change, shall be made or shown on an export inspection certificate except with the consent of the applicant and the Administrator. In the absence of such consent, if errors are found in such a certificate before issuance, it shall be marked "Void" and shall not be issued.

(c) *Prior to issuance.* If errors are found prior to the issuance of a certificate, the errors may, subject to the provisions in paragraph (b) of this section, be corrected by (1) issuing a new certificate; or (2) making corrections on the incorrect certificate subject to the following requirements: (i) The corrections shall be made in a neat and legible manner; (ii) the corrections shall be initialed by the person correcting the certificate; and (iii) the corrections and the initials shall be shown on the original and all copies of the certificate.

(d) *After issuance.* If errors are found after the issuance of a certificate, the errors may, subject to the provisions in paragraph (b) of this section, be corrected by obtaining the original and all copies of the incorrect certificate and issuing a new certificate to the same applicant and respondents who received the incorrect certificate. If the original and all copies cannot be obtained, a corrected-original inspection certificate may be issued in lieu of the incorrect certificate subject to the following requirements:

(1) Written or oral notice of the error shall be issued to the applicant, the respondents, and the field office (i) before the grain has left the designated inspection area where the grain was located when the inspection in question was made; and (ii) as promptly as possible, but not later than the close of business on the first business day following the date of inspection. Upon written or oral approval of the applicant, the respondents, and the Administrator, any or all of the requirements of this subparagraph may be waived. A record of each waiver action must be included by the official inspection agency in the record of the inspection.

(2) The original of the incorrect certificate shall, if possible, be obtained from the applicant by, or be in the custody or control of, the official inspection agency or the Grain Division.

(3) The original and the copies of the corrected-original certificate shall be issued to the same applicant and respondents who received the certificate which was found incorrect.

(4) The corrected-original inspection certificate shall show the identical information and statements as shown on the incorrect certificate except (i) the correct statement or information shall be shown instead of the incorrect or omitted statement or information; (ii) a new serial number shall be shown; (iii) the original of the corrected-original certificate shall show the term Corrected-Original instead of the word Original; (iv) the copies of the corrected-original certificate shall show the term Corrected-Original (Copy) instead of the word Copy; (v) the original and the copies shall show, in the space provided for remarks, the following completed statement: "This certificate is corrected as to ----- and supersedes certificate No. -----, dated -----." (The number shown in the statement shall, in all cases, include the lettered prefix); and (vi) if the superseded certificate is in the custody of the official inspection agency or the Grain Division, the superseded certificate shall be marked Void in a clear and conspicuous manner. If the superseded certificate is not in the custody of the official inspection agency or the Grain Division at the time of issuing the corrected-original certificate, the statement "The superseded certificate identified herein has not been surrendered" shall be clearly shown in the space provided for remarks on the corrected-original certificate. Official inspection personnel shall exercise such other precautions as may be found necessary to prevent the fraudulent and unauthorized use of the superseded certificate.

(5) No corrected-original certificates shall be issued (i) for a certificate which has been superseded; or (ii) in any manner other than as prescribed in this section.

(e) *Scope.* The provisions of this section shall be applicable to all levels of certificates, from official certificates for original inspections through official certificates for Board appeal inspection.

§ 26.64 Additional information which may be included on certificates or letterhead statements.

(a) *General.* In addition to the information and statements required to be

shown, official certificates may contain or show only such other statements of fact not inconsistent with the Act or the regulations as may be prescribed in the instructions or approved in specific cases by the Administrator.

(b) *List of approved statements.* A list of statements which have been approved by the Administrator and which may, upon request by an applicant, be shown on inspection certificates, may be obtained from any official inspection agency, field office, or regional office.

(c) *Letterhead statements.* In showing other additional statements, letterhead reports may be issued by official inspection personnel when (1) such reports are more suitable than official certificates, and (2) the wording and issuance of the reports have been prescribed in the instructions or approved in specific cases by the Administrator. Such reports shall be official forms within the meaning of the Act.

FEEs AND CHARGES

§ 26.70 Inspections conducted by official inspection agencies.

(a) *Assessment and use of fees.* Fees and charges assessed by an official inspection agency shall be nondiscriminatory and reasonable and shall not be used to pay costs of conducting any operation of the inspection agency which is not related to official inspection functions.

(b) *Schedule of fees and charges.* A schedule of the fees and charges for inspection services conducted under the Act by an official inspection agency shall be established, and published or otherwise made available, by the agency to users or prospective users of the services.

§ 26.71 Federal inspection services in Canadian ports.

(a) *General.* The fees and charges for inspection services performed by official inspection personnel on U.S. grain in Canadian ports shall be as follows:

<i>Service</i>	<i>Fee or charge</i>
(1) For original inspections:	
(1) Lot inspection: For sampling and inspection for grade, factor analysis, or other criteria, whether performed singly or concurrently (per man-hour)-----	\$22.00
(11) Checkloading and other special services ¹ prescribed in § 26.6 (g), (h), (i), and (j), and standby time (per man-hour)-----	22.00

<i>Service</i>	<i>Fee or charge</i>
(111) Minimum fee-----	\$22.00
(1v) Submitted sample inspection (per sample)-----	22.00
(2) For reinspections and appeal inspections: ²	
(1) Lot inspections:	
Basis original sample (per sublot)-----	22.00
Basis new sample (per sublot)---	22.00
(11) Submitted sample inspection (per sample)-----	22.00
(3) For extra copies of certificates (per copy)-----	1.00

¹ Only one fee will be charged for these services whether performed singly or concurrently. (But see minimum fee requirement.)

² If it is found that there was a material error in the inspection from which a reinspection or an appeal is taken, no reinspection or appeal inspection fee shall be assessed.

³ Plus applicable sampling charge.

(b) *Hourly rates.* (1) Hourly rates shall be applicable at any time during any day and include (i) the cost of travel and transportation to perform the service requested, and (ii) the cost of an original and four copies of an official certificate.

(2) Hourly rates shall begin when the Grain Division representatives arrive at the point of service and end when they depart from the point of service, computed to the nearest quarter hour (less meal time, if any).

(c) *Standby time.* Standby time shall be computed whenever the Grain Division representative (1) has been requested by an applicant to perform a service at a specified time and location, (2) is on duty and is ready and willing to perform the service requested, and (3) is unable to perform the service requested because of a delay by the applicant for any reason. Standby time shall be computed to the nearest quarter hour (less meal time, if any).

(d) *Authorization.* The Grain Division representative may be a salaried employee of the Department of Agriculture or a person licensed by the Administrator to perform the services requested under a contract with the Department.

(e) *Miscellaneous fees and charges.* Fees and charges for Federal inspection services for U.S. grain in Canadian ports not specified in paragraph (a) of this section will be fixed by the Administrator and published in the regulations.

[34 F.R. 1860, Feb. 8, 1969, as amended at 35 F.R. 9995, June 18, 1970]

§ 26.72 Appeal inspection services in the United States.

(a) *General.* The fees and charges for appeal inspection services performed by official inspection personnel of the Grain Division (other than Board appeals) on grain in the United States shall be as follows: ^{1 4}

³ Fees shown in subparagraphs (1) through (5) of paragraph (a) shall include inspections for grade, or for factor analysis, whether performed singly or concurrently; or inspections for one or more other criteria, whether performed singly or concurrently.

⁴ If it is found that there was a material error in the inspection from which an appeal is taken, no appeal inspection fee shall be assessed, but see § 26.73 (a).

Service	Fee or charge	
	Inspections for grade or factor analysis; or inspections for one or more other criteria	Inspections for grade or factor analysis; and inspections for one or more other criteria
(1) For bulk or sacked grain in carlots: (i) Covered hopper cars and other cars with a marked capacity of 130,000 or more pounds (per carlot or part-carlot)..... or Basis official file sample.....	\$15. 00	\$20. 50
(ii) All other cars (per carlot or part-carlot)..... or Basis official file sample.....	1 6. 00 10. 00	1 11. 50 15. 50
(2) For bulk or sacked grain in truck and trailer lots (per truck or trailer lot or part-truck or part-trailer lot)..... or Basis official file sample.....	1 6. 00 9. 00	1 11. 50 14. 50
(3) For bulk or sacked grain in shiplots (barge, or other waterborne carrier) (per thousand bushels or fraction thereof)..... or Basis official file sample per sublot..... Minimum fee per lot (except basis official file sample).....	1 6. 00 2. 25 1 6. 00 9. 00	1 11. 50 3. 00 1 11. 50 14. 50
(4) For submitted sample, or package of grain (per sample or package).....	1 6. 00	1 11. 50
(5) For all lots of grain other than those referred to in subparagraphs (1), (2), (3), and (4) of this paragraph (a) (per thousand bushels or fraction thereof)..... or Basis official file sample..... Minimum fee per lot (except basis official file sample).....	2. 25 1 6. 00 9. 00	3. 00 1 11. 50 14. 50
(6) Checkloading and other special services ² prescribed in § 26.6 (g), (h), (i), and (j), and standby time (per man-hour): (i) Regular time (normal office hours)..... (ii) Holiday, ⁴ night, or overtime..... Minimum fee per inspection.....	8. 80 12. 00 9. 00	
(7) Quality information inspection (available only in connection with an appeal inspection on a shiplot) (per lot).....	1 9. 00	
(8) For extra copies of an appeal inspection certificate (per copy)..... (The original and one copy of each appeal inspection certificate or divided-original certificate shall be issued to the applicant of record or to his order, and one copy shall be issued to each respondent of record or to his order. Additional copies furnished to the applicant and to each respondent or to their order shall be considered extra copies.)	1. 00	
(9) Charges for holiday, ⁴ night, or overtime work performed by employees of the Department of Agriculture on account of an appeal, and for travel time on account of an appeal for which employees received overtime compensation, shall be determined at the rate of \$12 per man-hour per employee and shall include the following: (i) A minimum charge of 2 hours shall be made for any unscheduled overtime work performed by an employee in any of the following circumstances: (a) On a day when no work was scheduled for him; or (b) which is performed by an employee on his regular work day beginning either at least 1 hour before his regular tour of duty or which has necessitated his recall to perform work after he has completed his regular tour of duty and has left his place of employment; or (c) when the employee is ordered, before he leaves his place of employment, to perform such unscheduled overtime work and at least 2 hours elapse between the end of his duty tour, whether regular or overtime, and his return to duty to perform the overtime work. (ii) The charges for holiday, night, or overtime work and for travel time for which employees receive overtime compensation shall be in addition to the fees described in subparagraphs (1) to (6), (7), and (8) of this paragraph (a) in all cases, whether there was or was not a material error in the inspection from which the appeal was taken.		

¹ The fee for an appeal inspection on the basis of an official file sample retained by an official inspection agency, includes a surcharge of \$0.50 which is forwarded to the official inspection agency as reimbursement for locating and furnishing the samples.

² Only one fee will be charged for these services, whether performed singly or concurrently.

³ Fee shall be in addition to the applicable fee shown in subparagraph (3) of this paragraph (a) of this section.

⁴ Holiday shall mean the legal public holidays specified in paragraph (a) of section 6103, title 5, of the United States Code (5 U. S. C. 6103(a)): *Provided*, That, if the specified legal public holiday falls on a Saturday, the preceding Friday shall be deemed to be the holiday, or if the specified legal public holiday falls on a Sunday, the following Monday shall be deemed to be the holiday.

(b) *Board appeals.* The fees and charges for appeal inspection services performed by the Board of Appeals and Review on grain in the United States shall be as follows:

(1) For services identified in subparagraphs (1) through (5) of paragraph (a) of this section, a fee of \$12 per lot, subplot, or sample: *Provided*, That if it is found that there was a material error in the inspection from which an appeal is taken by the Board of Appeals and Review, no fee shall be assessed.

(2) For extra copies of an appeal inspection certificate, \$1 per copy.

(c) *Costs included in fees.* The fees and charges specified in this section shall, except as provided in paragraph (a) (9) of this section, include the cost of travel and transportation to perform the service requested, and the original and one or more copies of an appeal inspection certificate as specified in paragraph (a) (8) of this section.

[35 F.R. 9995, June 18, 1970, as amended at 37 F.R. 15911, Aug. 8, 1972]

§ 26.73 Fees and charges; general provisions.

The fees and charges prescribed in §§ 26.71 and 26.72 shall be determined, assessed, paid, and deposited as follows:

(a) *Material error.* If it is found that there was a material error in the inspection from which a reinspection or an appeal inspection is taken, no fees or charges shall be assessed, except as provided in § 26.72(a) (9). For the purpose of the regulations, a change in grade, or any comparable change, as prescribed in the instructions, shall be deemed evidence of a material error.

(b) *To whom fees assessed.* Fees and charges for official inspection services shall be assessed to and paid by the applicant.

(c) *Advanced payment.* If required by a field office, fees and charges shall be paid in advance. Any fees and charges remitted in excess of the amount due shall be refunded.

(d) *Form and time of payment.* Payment for fees and charges for inspection services shall be made by check, draft, or money order payable to the Agricultural Marketing Service. Payment shall be remitted promptly upon receipt of a bill for the services.

(e) *Revolving fund.* Receipts for inspection services shall be deposited by the Agricultural Marketing Service in a fund which shall be available without

fiscal year limitation for the expenses of the Department of Agriculture incident to providing official inspection services.

(f) *Charges for demonstrations and standard samples.* Charges may be made for demonstration of performance of inspection functions or standard line samples demonstrating determinations when such demonstrations or samples are furnished to persons other than official inspection personnel upon request. The charges for the demonstrations and preparing the samples shall be based on an hourly rate established by the Administrator and shall as nearly as practicable cover the cost to the Agricultural Marketing Service incident to the services.

(g) *Information.* Information concerning the fees and charges for any particular inspection service may be obtained from the Administrator or from any field or regional office.

LICENSES, AUTHORIZATIONS, AND CONTRACTS

§ 26.75 When license or authorization is required.

(a) *General.* Any person who performs, or represents that he is licensed or authorized to perform, in whole or in part, any official inspection function under the Act and the regulations, must be duly licensed, or duly authorized under the Act and the regulations: *Provided*, That a prospective applicant for a sampler's or a technician's license may, for a limited period of time not to exceed 2 weeks, help perform official sampling or testing functions under the direct supervision of an individual who is licensed to perform such functions: *Provided, further*, That such supervising licensee shall be fully responsible for the official inspection functions performed by the prospective applicant and shall initial any work forms prepared by the prospective applicant. A person shall be deemed to be licensed or authorized to perform an official inspection function only if he holds a license or an authorization for each official inspection function which he performs, or represents that he is licensed or authorized to perform.

(b) *When license not required.* A license or authorization under the Act and the regulations is not required for (1) the opening or closing of a means of conveyance or the transporting or filing of official samples or similar laboring functions; or (2) the typing or filing of inspection records or similar clerical func-

tions; or (3) the performance of private (not official) inspection functions.

§ 26.76 Who may be licensed or authorized.

(a) *Prohibitions.* No person may be licensed or authorized to perform official inspection functions under the Act and the regulations who (1) is financially interested (directly or otherwise) in any business entity owning or operating any grain elevator or warehouse or engaged in the merchandising of grain, other than as a grower; (2) is in the employment of any such entity; or (3) is engaged in any of the activities specified in § 26.87 as involving a conflict of interest: *Provided*, That qualified employees of any grain elevator or warehouse may be licensed to perform specified sampling functions in accordance with the provisions of § 26.79 (c) (2).

(b) *General qualifications.* Any individual may be licensed to perform official inspection functions if he is employed by an official inspection agency to perform such functions, or enters into a contract with the Department of Agriculture to perform such functions, and if he is found competent in accordance with this section and § 26.78. To be deemed competent, the individual must (1) have graduated from grade school and had one or more year's qualifying experience, or have graduated from high school, or have an equivalent amount of education and experience; (2) have been found in accordance with § 26.78 to possess the proper qualifications and to have available to him and subject to his direction the necessary equipment and facilities for performing the official functions: *Provided*, That upon a showing of good cause, the grade school education requirement may be waived by the Administrator.

(c) *Qualifying experience.* For the purpose of paragraph (b) of this section, qualifying experience for a grain sampler's license shall consist of, but not be limited to, sampling, producing, or handling grain; for a grain technician's license, sampling, testing, or analyzing grain; and for a grain inspector's license, sampling, testing, analyzing or grading grain.

(d) *Competency determinations.* (1) For the purpose of paragraph (b) of this section, the competency of a grain sampler or grain technician employed by an official inspection agency, shall be deter-

mined by the chief inspector and the Administrator; and the competency of all inspectors employed by an official inspection agency and of samplers and technicians employed under the terms of a contract with the Department of Agriculture shall be determined by the Administrator. Such determinations shall include an evaluation of the results of examinations or reexaminations under § 26.78.

(2) Upon request by an official inspection agency, employees of the agency may assist, at the option of the Administrator, a field office, on a fee basis, in determining the competency of grain samplers employed by grain elevators or warehouses within the designated inspection area assigned to the agency.

(e) *Meaning of "employed".* For the purposes of paragraph (b) of this section, an individual shall be deemed to be "employed" if he is actually employed or his employment is being withheld pending the receipt by the individual of the required license under the Act and the regulations.

§ 26.77 Applications for licensing actions.

(a) *General.* Applications for licensing actions under the Act and the regulations shall be made to the field office on a form prescribed for the purpose and furnished by the Administrator. (For location of field offices, see § 26.9(d).) Each application shall (1) be in English; (2) be typewritten or written in ink; (3) include all information prescribed in the application form; and (4) be signed by the applicant in his own handwriting.

(b) *Additional information.* An applicant shall at any time furnish such additional information as the Administrator may request as necessary for the consideration of the application.

(c) *Withdrawal and dismissal.* An application for a licensing action may be withdrawn by an applicant at any time. An application may be dismissed by the Administrator (1) if the applicant is found not to meet the requirements of § 26.76; or (2) the application is found not to meet the requirements of this section (26.77): *Provided*, That an application for a renewal of a license, or for the return of a license which has been suspended, may be dismissed only after the licensee has been afforded an opportunity for a hearing in accordance with

rules of practice in Subpart C of this part.* When an application is dismissed, the Administrator shall promptly inform the applicant of the reason for the dismissal.

(d) *Review of applications for determination of conflicting interests.* (1) The Grain Division office having jurisdiction to issue a license shall promptly review each application for such a license for the purpose of determining whether there is any conflict of interest on the part of the applicant for the license.

(2) In any case in which the review raises a question as to whether a conflict exists, the matter will be resolved promptly at the field office level if possible. The applicant (or licensee) shall be provided an opportunity to explain or end the alleged conflict of interest. When the issue of the conflict of interest is not resolved, the case shall be referred to the Administrator for a ruling. (See also §§ 26.76 and 26.87 for conflicts of interest provisions.)

§ 26.78 Examinations and reexaminations.

(a) *General.* Applicants for a license, licensees, and employees in field offices shall, whenever deemed warranted by the Administrator (after consultation with the chief inspector in the case of an employee of an official inspection agency) submit to examinations or reexaminations to determine their competency to perform any or all of the official inspection functions for which they desire to be or are licensed or authorized.

(b) *Time and place of examinations.* Examinations or reexaminations under this section shall be conducted by such licensed or authorized personnel as may be designated by the Administrator and at such time and place, and otherwise in such manner as may be prescribed in the instructions.

(c) *Scope of examinations.* Examinations or reexaminations may include, but are not limited to, color vision tests, on-the-spot performance tests, or written tests; and may be based, in whole or in part, on the provisions of the Act, the regulations, the official grain standards, and the instructions.

(d) *Standards of performance.* For the purpose of the regulations a person may be deemed incompetent to perform all

or specified parts of an official inspection function if he (1) has a serious color vision deficiency; (2) cannot meet the physical requirements of his duties; (3) cannot readily distinguish between the different kinds of grain, or the different conditions in grain including heating, musty, sour, insect infestation, smut, or other conditions which have a pronounced effect on the merchantability or storability of grain; (4) does not have a thorough knowledge of approved sampling, testing, inspection, or grading procedures prescribed in the instructions; (5) does not have a working knowledge of the Act, the regulations, the official grain standards, or applicable provisions of the instructions; or (6) cannot prepare legible records in the English language.

§ 26.79 Issuance and possession of licenses.

(a) *Form of license.* Licenses issued under the Act and the regulations shall be on forms prescribed for the purpose and furnished by the Administrator.

(b) *Kinds of licenses.* Licenses will be issued on the basis of the licensee's principal duty. A sampler will receive a sampler's license, a laboratory technician will receive a technician's license, and an inspector will receive an inspector's license. Licensees will ordinarily be eligible to receive only one license; however, in unusual instances, multiple licenses may be issued to one licensee upon showing of good cause.

(c) *Scope of licenses.* Subject to the provisions of § 26.76, samplers, technicians, and inspectors may be licensed to perform the following duties:

(1) *Grain samplers and grain technicians.* Grain samplers and grain technicians employed by an official inspection agency may be licensed to perform sampling, testing, and similar functions, and upon request of the agency, to issue official certificates for the functions performed by them;

(2) *Warehouse samplers.* Employees of grain elevators or warehouses may be licensed to sample grain: *Provided*, That no grain elevator or warehouse employee will be licensed to (i) sample export grain which is required to be officially sampled under section 5 of the Act; (ii) test grain, (iii) grade grain, or (iv) certify the results of any official inspection function.

* Such rules will be issued later.

(3) *Grain inspectors.* Grain inspectors employed by an official inspection agency may be licensed to perform sampling, testing, grading and related functions and to issue official certificates for the functions performed by them. No person other than a grain inspector will be licensed or authorized to issue an official certificate which shows an official grade, with or without additional factor information.

(4) *Contract licensees.* Persons may be licensed under a contract with the Department of Agriculture for the performance of specified sampling or testing functions. Such persons will not be licensed to issue official certificates.

(d) *Issuing officers.* Official grain sampler's licenses shall be issued by field offices. Official grain technician's licenses and official grain inspector's licenses shall be issued by the Administrator.

(e) *Condition for issuance.* (1) Each license is issued on the condition that the licensee will, during the term of the license, comply with all of the provisions of the Act, the regulations, and instructions issued by the Administrator.

(2) Each license shall be the property of the Department of Agriculture, but each licensee shall have the right of possession of his license, subject to the provisions of §§ 26.78 (a) and 26.87 (c).

(f) *Duplicate license.* Upon satisfactory proof of the loss or destruction of a license, a duplicate license will, at the discretion of the Grain Division office which issued the lost license, be issued to the licensee.

(g) *Card-form license in custody of licensee.* All licensees shall have in their custody the card-form license and upon request, while on duty, present it as a means of identification.

§ 26.80 Automatic termination of licenses.

(a) *Term of license.* The term for a license shall be in accordance with the alphabetical termination schedule in paragraph (b) of this section (unless the licenses are terminated, canceled, or revoked at an earlier date): *Provided*, That upon request of a licensee, and a showing of good cause, the termination date may be advanced or delayed by the Administrator for a period not to exceed 60 days.

(b) *Termination schedule.* The termination schedule shall be as follows:

For licensees whose surnames begin with	Termination date (last day of month shown)		
	Licenses issued prior to February 11, 1969		Licenses issued after February 11, 1969
	Month	Year	Month*
A.....	January.....	1973	January.
B.....	January.....	1973	February.
C, D.....	March.....	1972	March.
E, F, G.....	April.....	1972	April.
H, I, J.....	May.....	1972	May.
K, L.....	June.....	1972	June.
M.....	July.....	1972	July.
N, O, P, Q.....	August.....	1972	August.
R.....	September.....	1972	September.
S.....	October.....	1972	October.
T, U, V.....	November.....	1972	November.
W.....	December.....	1972	December.
X, Y, Z.....	December.....	1972	December.

*Licenses shall terminate 3 years after issuance date on the last day of the month shown except that no licenses will terminate less than 3 years after issuance date, except as provided in paragraph (a) of this section.

(c) *Termination notices.* Notices of termination shall be issued to the licensees by the Administrator at least 60 days in advance of the termination date. The notices shall (1) provide detailed instructions for requesting renewal of licenses; (2) state whether or not an examination will be required and (3) if an examination will be required, show the nature and scope of the examination. Failure to receive a notice from the Administrator will not relieve the licensee of the responsibility to have his license renewed on or before the expiration date prescribed in this section.

(d) *Renewal of licenses.* Licenses which are renewed shall show the licensee's permanent license number, the date of renewal, and the word "Renewed."

§ 26.81 Voluntary suspension or cancellation of licenses.

(a) *General.* Licenses issued under the regulations may, upon the request of the licensee, be suspended or canceled in accordance with paragraphs (b), (c), and (d) of this section.

(b) *When license may be canceled or suspended.* Upon request by a licensee and a showing of good cause, a license may be canceled or may be suspended for a specified period of time, not to exceed 1 year. (A request for a cancellation, or a suspension, or for the re-

turn of a suspended license, shall be submitted in accordance with § 26.77.)

(c) *Handling suspensions.* Actions pertaining to the suspension of a license shall be handled by the Grain Division office which issued the license.

(d) *Cancellation after suspension.* A suspension of a license shall not affect the expiration date of the license. If a license has been suspended for 1 year and no request has been received for the return of the license, or a request for return of the license has been dismissed in accordance with the provisions of § 26.77 the license shall be summarily canceled by the Administrator at the expiration of said year, in accordance with the provisions of § 26.83.

§ 26.82 Automatic suspension of license by change in employment.

A license issued to an employee of an official inspection agency shall be suspended automatically when the licensee ceases to be employed by the agency. If the licensee is employed by the same agency or by another official inspection agency within 1 year of the suspension date, and the license has not expired or been canceled in the interim, upon request of the licensee, the license will be reinstated subject to the provisions of § 26.78. (This provision shall be applied in a similar manner to a license issued to a person who operates under a contract with the Department of Agriculture for the conduct of specified inspection functions.)

§ 26.83 Cancellation by Administrator.

Licenses may be summarily canceled by the Administrator upon a finding that (1) a licensee is imprisoned for a period in excess of 1 year; or (2) has died; or (3) no official inspection functions have been performed under a license for a period of 1 year: *Provided*, That before a license is canceled for nonuse, written notice of a proposed cancellation shall be given to the licensee, if living, at least 30 days in advance of the proposed date of cancellation. Thereafter, if official inspection functions are performed and notice thereof is given to the Administrator prior to the proposed date of cancellation, the cancellation shall not be made effective, but if official functions are not performed prior to the proposed date, the license shall be summarily canceled.

§ 26.84 Surrender of license.

(a) *General.* Each license which is terminated, suspended, or canceled under the provisions of §§ 26.80 through 26.84, or suspended or revoked for cause under the provisions of § 26.89 shall be promptly surrendered by the licensee, or in the case of death of the licensee, by his heirs or executor, to the field office. Any license not surrendered in accordance with the provisions of this section may, upon notice to the licensee, be summarily canceled by the Administrator: *Provided*, That no notice is required if the licensee has died. Licenses which are surrendered for voluntary suspension shall be returned to the licensee only upon request, in accordance with the provisions of § 26.77.

(b) *Marking canceled licenses.* Each terminated, canceled, or revoked license surrendered shall be marked "Canceled" upon receipt in the Grain Division office.

§ 26.85 Duties of official inspection personnel.

(a) *General.* Official inspection personnel shall be responsible for performing the duties specified in the Act, the applicable regulations, and paragraphs (b) through (i) of this section.

(b) *Inspection services.* Official inspection personnel shall perform requested inspection services (1) without discrimination, except as authorized in § 26.12; (2) as soon as practicable; and (3) upon reasonable terms.

(c) *Scope of operations.* Each licensee shall, except as provided in this paragraph, (1) operate within the scope of functions specified on his license; (2) operate within his designated inspection area; and (3) operate at his designated inspection point. A licensee may perform official inspection services at a different location within his designated inspection area with the consent of the field office, and may perform such services outside his designated inspection area with the consent of the Administrator.

(d) *Working materials.* Official inspection personnel shall have available for their use and shall familiarize themselves with the provisions of the Act, the official grain standards, the regulations, and the instructions. Such personnel shall also have a working knowledge of the mandatory and the permissive inspection services which are available under the

Act and shall help interested persons determine which type and kind (scope) of service is needed or desired.

(e) *Reporting changes.* Each licensee shall promptly inform the field office of any change in the scope or sphere of his duties, or of his employment, or any suspension of his official inspection activities for such length of time as would impair the inspection services at any location within his designated inspection area.

(f) *Reporting violations.* Official inspection personnel shall immediately report to their immediate supervisor (1) evidence coming to their knowledge which shows or tends to show a violation of or a noncompliance with any of the provisions of the Act, the regulations, or the instructions issued by the Administrator, and (2) evidence of any instructions which have been issued to them by any other official inspection personnel which are contrary to or inconsistent with the Act, the regulations, or the instructions.

(g) *Related duties.* Official inspection personnel should assist in training official inspection agency employees who desire to become licensees. Upon request of the Administrator, such personnel may assist in examining applicants for competency.

(h) *Warehouse samplers.* Each elevator or warehouse employee who is licensed to obtain warehouseman's samples shall maintain such records and submit such reports pertaining to his sampling functions as may be prescribed in the instructions.

(i) *Instructions by Administrator.* Official inspection personnel shall execute diligently all instructions issued to them by the Administrator either in writing or orally and, upon request, shall inform the Administrator in full detail of any facts regarding inspection equipment used by them, inspection services performed by them, and compensation received for such services: *Provided,* That instructions issued by the Administrator to employees of official inspection agencies shall insofar as practicable, be issued after consultation with the official inspection agencies.

(j) *Joint responsibilities.* In the administration and enforcement of the Act, each official inspection agency and official inspection personnel employed by

such agency shall be deemed to be jointly and severally liable for the duties which are assigned to the inspection personnel. The failure of a grain inspection agency shall not be deemed to diminish the responsibility of a licensee employed by such agency to comply with all applicable provisions of the Act, the regulations, and the instructions.

§ 26.86 Standards of conduct for official inspection personnel.

(a) *General.* High standards of honesty, integrity, impartiality, and other aspects of conduct must be met by official inspection personnel to assure proper performance of their duties and responsibilities and to maintain the confidence of the grain industry and the public in the official grain inspection service. The confidence in the service depends not only on the manner in which the personnel perform their duties and responsibilities, but also on the way the personnel conduct themselves in the eyes of the public.

(b) *Authorized employees.* Authorized employees of the Department of Agriculture are subject to the standards of conduct prescribed by (1) paragraphs (d) through (f) of this section, and (2) Part 0 of this Title 7 covering employee responsibilities and conduct.

(c) *Licensees.* Licensees shall be subject to the standards of conduct prescribed by paragraphs (d) through (f) of this section.

(d) *Prohibited conduct—general.* Subject to the guarantees of the Constitution of the United States, and except as provided in subparagraphs (4) and (6) of this paragraph, licensees are specifically prohibited from:

(1) Engaging in criminal, dishonest, or notoriously disgraceful conduct, or other conduct prejudicial to the Department of Agriculture.

(2) Making unwarranted criticisms or accusations against other licensees or employees of the Department of Agriculture.

(3) Refusing to give testimony or respond to questions made in connection with official inquiries or investigations.

(4) Soliciting contributions from other licensees, or making a donation, for a gift to an employee of the Department of Agriculture. (The restrictions in this paragraph shall not be deemed to prohibit activities incident to the voluntary

giving or acceptance of gifts of nominal value made on special occasions such as retirement.)

(5) Reporting for duty in an intoxicated condition or consuming intoxicating beverages while on duty.

(6) Taking any action, whether or not specifically prohibited by this paragraph, which might result in, or create the appearance of (i) losing complete independence or impartiality; or (ii) affecting adversely the confidence of the public in the integrity of the official grain inspection service. (The restrictions in this subparagraph shall not be deemed violated by licensed employees of grain elevators or warehouses merely because of their employment.)

(e) *Outside (nonofficial) activities.* No licensee other than a licensed employee of a grain elevator or warehouse shall perform or be engaged in any outside (nonofficial) work or activity:

(1) If the efficiency of the licensee may be impaired by the performance of the outside duties; that is where the outside duties are of such onerous or fatiguing nature as to injure his health or to prevent him from doing his best work during his official hours;

(2) If the outside work or activity may be construed by the public to be the official acts of the licensee (Forms or reports, if any, used in the performance of duties other than official inspection duties shall not contain or show any of the following information or statements:

(i) The words "Official Grain Inspection Certificate"; (ii) any grade shown in the official grain standards; (iii) the terms U.S. Grain Standards or official grain standards; (iv) any information or statements which would conflict with information and statements shown on an official certificate; or (v) the titles, Official Grain Sampler, Official Grain Technician, or Official Grain Inspector.);

(3) If the business connections to be established or property interests to be acquired may result in a conflict between the private interest of the licensee and his official duty; or

(4) If such employment or activity may tend to bring criticism on or cause embarrassment to the Department of Agriculture.

(f) *Activities with farm organizations.*

(1) No licensee shall participate ac-

tively in meetings or in other activities concerned with the establishment of general or specialized farm organizations, or with recruiting members for existing organizations such as the national, regional, State, and local organizations of the National Grange, the American Farm Bureau Federation, the Farmers' Union, the National Farmers Organization, the National Association of Soil Conservation Districts, the National Rural Electric Cooperative Association, the National Council of Farmer Cooperatives and Breed and Commodity Organizations. This is a necessary corollary of the equally long-established policy of the Department of Agriculture that it shall deal fairly with all organizations and deal with each upon the same basis. As a continuation of this policy, it should be understood by licensees that it is not permissible for any of them to:

(i) Participate in establishing any general or specialized farm organization;

(ii) Act as organizer for any such organization, or hold any other office therein;

(iii) Act as financial or business agent for any such organization;

(iv) Participate in any way in any membership campaign or other activity designed to recruit members for any such organization;

(v) Accept the use of free office space or contributions for salary or traveling expense from any such organization;

(vi) Advocate that any particular general or specialized organization of farmers is better adapted for carrying out the work of the Department of Agriculture than any individual citizen, group of citizens or organizations;

(vii) Advocate that the responsibilities of any agency of the Department of Agriculture or any other Federal agency should be carried out through any particular general or specialized organization of farmers; or

(viii) Advocate or recommend that any State or local agency should carry out its responsibilities through any particular general or specialized organization of farmers.

(2) The restrictions set forth in this section do not:

(i) Apply to specialized organizations of farmers such as cow testing associations and similar groups; or

(ii) Prohibit licensees from participating in the organization of groups that are needed in carrying out Federally authorized programs, for example, an REA cooperative, and similar groups determined by the Administrator to be essential in effectuating Federally authorized programs.

§ 26.87 Conflicts of interest.

(a) *General.* Section 11 of the Act prohibits official inspection personnel from (1) being financially interested (directly or otherwise) in any business entity owning or operating any grain elevator or warehouse or engaged in the merchandising of grain, or (2) being in the employment of, or accept gratuities from, any such entity, or (3) being engaged in any other kind of activity specified by regulation of the Secretary as involving a conflict of interest: *Provided, however,* That the Secretary may license qualified employees of any grain elevator or warehouse to perform official sampling functions, under such conditions as the Secretary may by regulations prescribe, and the Secretary may by regulation provide such other exceptions to the restrictions of section 11 of the Act as he determines are consistent with the purposes of this Act.

(b) *Interpretations.* (1) A person will be deemed to be financially interested in a business entity owning or operating a grain elevator or warehouse or engaged in the merchandising of grain if he (i) holds any appointive or elective office or position in any national, regional, State, or local grain industry group, organization, or association: *Provided,* That a grain inspection group, organization or association shall not be deemed to be a grain industry group, organization, or association; or (ii) is employed by or otherwise works for any association, corporation, or other business entity owned or composed, in whole or in part, by persons who are financially interested in a grain elevator or warehouse or who are engaged in the merchandising of grain: *Provided,* That this restriction will not apply if neither such business entity, nor any of its officers or members, give any technical advice or technical direction to the official inspection personnel, or otherwise exercise any control, direct or indirect, over any of the technical aspects of the official inspection functions: *Pro-*

vided further, That the physical presence of any officer or member of such a business entity in the inspection or testing quarters assigned to the official inspection personnel may, in the absence of a specific invitation by the personnel, be deemed to be a control, direct or indirect, over the technical aspects of the official inspection functions performed by such personnel.

(2) A person will be deemed to be engaged in the merchandising of grain if he is engaged in the business of buying, selling, transporting, cleaning, elevating, storing, binning, mixing, blending, drying, treating, fumigating, or other preparation of grain (other than as a grower of grain, or the disposition of inspection samples); or in the business of cleaning, treating, or fitting of carriers or containers for transporting or storing grain; the merchandising for non-farm use of equipment for cleaning, drying, treating, fumigating, or otherwise processing, handling, or storing grain; or the merchandising of grain inspection equipment (other than buying or selling by official inspection personnel of such equipment for use in performance of their official inspection functions): *Provided,* That licensed employees of grain elevators or warehouses may obtain warehouseman's samples, as provided in § 26.6(d).

(3) A "gratuity" will be deemed to include any fee or charge in excess of the published fee or charge or any favor, gift, loan, unusual discount, service, entertainment, or other thing of monetary value furnished to official inspection personnel in circumstances in which acceptance could result, or create the appearance of resulting in (i) the use of their office for undue private gain; (ii) an undertaking to give undue preferential treatment to any person; or (iii) any other loss of complete independence or impartiality in performance of official inspection functions.

(c) *Other conflicts.* The kinds of activities specified in subparagraphs (1) and (2) of this paragraph shall also be deemed to involve a conflict of interest if engaged in by official inspection personnel.

(1) No official inspection personnel shall participate (directly or otherwise) in any transaction concerning the purchase or sale of corporate stocks or

bonds, commodities, or other property for speculative purposes if such action might tend to interfere with the proper and impartial performance of his duties or bring discredit upon the Department of Agriculture. Licensees and employees are not prohibited by this paragraph from making bona fide investments.

(2) No official inspection personnel shall coerce or give the appearance of coercing any person to provide special or undue benefits to themselves as licensees or authorized employees.

(d) *Reports of interests.* Official inspection personnel shall report such information regarding their employment or other business interests as may be required at any time by the Administrator. (The filing of such reports, or the filing of an application for a license as provided in § 26.77, does not permit a licensee or authorized employee to have a conflict of interest prohibited by the Act or the regulations.)

(e) *Avoiding conflicts of interest.* Each licensee and each authorized employee shall at all times avoid acquiring any financial interest or engaging in any activity that would result in a violation of this section or § 26.86 or other violation of section 11 of the Act and shall not permit his spouse, minor children, or any blood relative who reside in his immediate household to acquire any such interest or engage in any such activity. For the purpose of this section, the interest of a spouse, minor child, or blood relative who is a resident of a licensee's or an authorized employee's immediate household shall be considered to be an interest of the licensee or employee.

(f) *Disposition of conflicting interests.* (1) Upon being advised that certain employment or other interest is in conflict with his official duties and that remedial action is required, the applicant, licensee, or authorized employee shall take immediate action to end the conflict of interest and advise the responsible officials of action taken in this respect.

(2) An applicant, licensee, or authorized employee who believes that remedial action will cause undue hardship may request a review and modification by forwarding to the Administrator either directly or through the field office, a written statement setting forth all the facts and circumstances with the reasons for the request or modification.

(3) If a final determination is made that a conflict of interest does, in fact, exist, failure to take immediate action to end the conflict of interest shall subject an applicant to the dismissal of his application; a licensee to administrative action against his license and criminal prosecution; and an authorized employee to disciplinary action and criminal prosecution.

§ 26.88 Other prohibited actions by official inspection personnel.

(a) *General.* In addition to the prohibitions or restrictions prescribed in the Act, and the applicable regulations, official inspection personnel shall also be subject to the prohibitions in paragraphs (b) through (f) of this section.

(b) *Instructions by supervising licensees.* No chief inspector or supervisory licensee shall issue to licensees under his supervision any instructions inconsistent with the Act, the regulations or the instructions.

(c) *Crop year, variety, and origin statements.* No official inspection personnel shall certify or otherwise state in writing (1) the year of production of any grain for which standards have been established, e.g., by use of "new crop" or "old crop", (2) the place or geographical area where the grain was grown, or (3) except as may be provided in the instructions, the name of the variety of the grain.

(d) *Issuing superseded certificates.* No official inspection personnel shall issue, or permit to be issued over his signature or name, any official certificate, or copy thereof, which has been superseded by another certificate, without the consent of the Administrator.

(e) *Application of tolerances.* No official inspection personnel shall apply any administrative, statistical, or other tolerances to his official determinations other than as prescribed in the instructions.

(f) *Right of inspection.* (1) No official inspection personnel shall, directly or indirectly, deter or prevent, or attempt to deter or prevent, any interested person from exercising his right to request any inspection service: *Provided*, That the dismissal of a request for inspection or a discussion of the grounds for dismissal or conditional withholding of an official inspection, with an interested person, shall not be deemed to be in violation of this section.

§ 26.89 Corrective actions for violations by official inspection personnel.

(a) *Criminal prosecution.* Official inspection personnel who commit any offense prohibited by section 13 of the Act are subject to criminal prosecution in accordance with section 14 of the Act.

(b) *Administrative action.* In addition to the action described in paragraph (a) of this section, official inspection personnel are subject to administrative actions, in accordance with this paragraph, for any of the causes shown in section 9 of the Act: (1) Less serious cases may be disposed of by written cautionary notices or letters of warning; (2) in the more serious cases, administrative actions may be instituted for temporary suspension of a license pending final determination, suspension of a license for a prescribed period of time, or revocation of a license, as provided in the rules of practice in Subpart C of this part.⁵ Administrative actions for authorized Department employees may include, but are not limited to, changes in assigned duties or disciplinary action in accordance with law.

§ 26.90 Contracts for the performance of specified functions.

(a) *When contract is required.* Each person who desires to perform official inspection functions, and is not an official inspection agency, or an employee of an official inspection agency or an employee of the Department of Agriculture, is required to enter into a contract with the Department of Agriculture for the performance of the functions.

(b) *Who may enter into a contract.* Any person who meets the requirements of section 9 of the Act and § 26.76 may enter into a contract with the Department of Agriculture for performance of official sampling services or official testing services: *Provided*, That an employee of a grain elevator or warehouse may enter into a contract for official sampling only if (1) the operator of the elevator or warehouse also enters into the contract, and (2) the employee has available for his use an approved mechanical sampler, or approved sampling equipment that gives equivalent results.

(c) *Applications for contracts.* Applications for contracts may be made to the field office in the circuit in which the

applicant is located. (For location of field offices, see § 26.9(d).) The contracts will be on a form prescribed for the purpose and furnished by the Administrator. Each contract shall be signed by the applicant in his own handwriting.

(d) *Issuance of contracts.* Contracts will be entered into by the Department of Agriculture only (1) upon a showing of good cause, and (2) a finding that the applicant has a currently effective license issued in accordance with § 26.79.

(e) *Termination of contracts.* Contracts entered into under this section shall terminate and be renewable annually, and may be canceled by either party upon 30 days notice in writing prior to the cancellation, unless otherwise provided in the contract.

(f) *Charges for examinations and review visits.* Contracts entered into under this section shall provide for reimbursement to the Department of Agriculture for the costs, if any, of examining the applicant for a license to perform specified official inspection functions, and the costs, if any, of making periodic and other visits to the applicant to review the performance of his official duties.

OFFICIAL INSPECTION AGENCIES

§ 26.95 Designations—general.

(a) *Designation required.* Before any agency or person may operate an official inspection agency for the conduct of official inspection services, including the issuance of official inspection certificates, such agency or person must be designated by the Administrator in accordance with § 26.98.

(b) *Limit on designations.* Not more than one official inspection agency shall be operative at one time for any one designated inspection point: *Provided*, That this limitation shall not prevent any inspection agency from operating in any area in which it was designated to operate on August 15, 1968.

§ 26.96 Requirements for designation.

(a) *General requirements.* An applicant who desires to operate as an official inspection agency is required to (1) file an application for designation, in accordance with the provisions of § 26.97, and (2) meet or otherwise comply with the prerequisites shown in paragraphs (b) through (f) of this section.

⁵ Such rules will be issued later.

(b) *Trade need.* An official inspection agency should meet a trade need. If an applicant cannot demonstrate such a need, the application may be dismissed.

(c) *Citizenship.* If an applicant is a government organization, and is not an agency of a State, county, or other political subdivision of the United States; or is a business organization, and does not have its principal office in the United States; or is an individual, and is not a resident of the United States; or is otherwise not fully subject to the jurisdiction of the courts identified in paragraph (h) of section 17 of the Act, the application will be dismissed.

(d) *Conflict of interest.* An official inspection agency cannot own or operate a grain elevator or warehouse, or be engaged in the merchandising of grain, or be engaged in any other activity, directly or indirectly, which would create a conflict of interest situation for its employees. If an applicant is found to have a conflict of interest, he must divest himself of the interest which causes the conflict, or the application will be dismissed.

(e) *Personnel.* An official inspection agency, or the inspection department of an official inspection agency, must be staffed with duly qualified official inspection personnel. If it is found by the Administrator that an applicant will not have the necessary qualified personnel or otherwise will not be able to provide official inspection services adequate to effectuate the purposes of the Act, the application will be dismissed.

(f) *Equipment and facilities.* An official inspection agency must own, or have control of, the equipment and facilities needed to perform the official inspection services which the agency is designated to perform. If an applicant does not own, or have control of, or cannot demonstrate the ability to acquire the necessary equipment and facilities, as determined by the Administrator, the application may be dismissed.

[34 F.R. 1860, Feb. 8, 1969; 34 F.R. 5589, Mar. 25, 1969]

§ 26.97 Application for designation.

(a) *General requirements.* An application for designation to operate an official inspection agency shall be type-written or written in ink, and contain or show, or be accompanied by, documents

which contain or show, the following information:

(1) Whether the applicant is a government, trade, or private organization or individual or is sponsored by a government, trade, or private organization; (i) if it is a government organization, its identification as an agency of a State, county, or other political subdivision of the United States; if it is a business organization, the location of its principal office; if it is an individual, his place of residence; (ii) if it is a trade organization or sponsored by a trade organization, the nature and function of the organization, a list of the member firms, the managerial and technical controls that the trade organization exercises over the inspection activities, and the operating procedure for exercising the controls; e.g., management by a grain committee that employs and directs the inspection personnel;

(2) Whether the applicant is now providing official inspection services at designated inspection points and, if so, where;

(3) Whether the applicant can provide Statewide grain inspection services at places where such services are desired by the trade, but are not now available;

(4) The name(s) of the place(s) in which the applicant desires to station licensed inspection personnel;

(5) The kind (scope) of inspection service which the applicant desires to perform at each point, in terms specified in § 26.6;

(6) The number and the type (sampler, technician, or inspector) of licensed inspection personnel who would be located at each place specified under subparagraph (4) of this paragraph, and the names of the licensees, if known;

(7) A summary showing the inspection equipment and facilities that the applicant would have at each such place;

(8) Additional services, if any, such as weighing, which the applicant would provide at each such place;

(9) The schedule of the inspection fees and charges that the applicant proposes to assess at each such place, and a statement whether it would be necessary for members of the grain trade to agree to pay a yearly aggregate minimum amount at each such place;

(10) Whether the fees and charges would be in accordance with the provisions of § 26.70;

(11) Whether the applicant would be willing to keep separate and complete accounts of all receipts for inspection service and all disbursements from such receipts for purpose of audit by the Department of Agriculture;

(12) The regular hours of business when service would be available at each place specified under subparagraph (4) of this paragraph if designated as an inspection point, and whether the applicant would be able to provide "24 hour per day" service if requested by the trade;

(13) The expected annual volume of carlot, trucklot, bargelot, and shiplot and other inspections which the applicant estimates would be handled at each place specified in subparagraph (4) if designated as an inspection point;

(14) The names and addresses of the firms, located at or near each place specified in subparagraph (4) of this paragraph, which are believed to desire inspection of grain from or to such place; and

(15) Whether the applicant is willing to comply with the provisions of the Act, the regulations, and the instructions.

(b) *Where applications may be filed.* An application for designation may be submitted to the field office in the circuit in which the applicant desires to operate, or to the regional office, or to the Administrator. (For location of the field and regional offices, see § 26.9(d).)

(c) *Review of application.* If, upon review, it is found that the applicant and the application are in compliance with the regulations, the application will be processed in accordance with the provisions of § 26.98. If it is determined that the applicant or the application are not in compliance, action on the application may be withheld pending compliance by the applicant, or the application may be dismissed, but before such a determination is made, the applicant shall be notified of the reasons for the proposed action and given an opportunity to present his views.

§ 26.98 Approval or denial of designation.

If it appears that the applicant qualifies for designation under § 26.96, notice of the application will be published in the FEDERAL REGISTER, and interested persons will be given opportunity to submit comments in writing. On the basis

of the comments which are received, and other information available to the Department of Agriculture, a decision to approve or deny the application will be made by the Administrator. The decision will be published in the FEDERAL REGISTER and the applicant will be informed in writing of the decision.

§ 26.99 Designated points and areas.

(a) *General.* (1) Each official inspection agency shall be assigned a designated inspection area, identified by geographical boundaries, and one or more designated inspection points within the area, for the performance of official inspection services.

(2) With the approval of the field office, the agency may operate at any location within its designated inspection area; and with the approval of the regional office, the agency may perform specified inspection services at specified locations outside its area.

(b) *Establishing, amending, or revoking assignments.* The assigning, reassigning, amending, and revoking of assignments of areas and inspection points to official inspection agencies shall be done by the Administrator in accordance with the provisions of paragraph (f) of section 7 of the Act, and after consultation with interested State departments of agriculture, official inspection agencies, members of the grain trade, and other interested persons, and after taking into account the needs and circumstances of local markets. Notice of proposed assignment actions will be published in the FEDERAL REGISTER and interested persons will be given opportunity to submit comments in writing.

§ 26.100 Duties of official inspection agencies.

(a) *General.* For the purposes of the regulations, each official inspection agency shall, as provided in § 26.85(j), be deemed responsible for the performance of each of the duties assigned to its licensed personnel. In addition, each official inspection agency shall be deemed responsible for the performance of the duties shown in paragraphs (b) through (h) of this section.

(b) *Staffing.* Each official inspection agency shall maintain an adequate staff of qualified official inspection personnel, and adequate equipment and facilities to perform official inspection services

within its designated inspection area.

(c) *Providing service.* Each official inspection agency shall promptly provide, within its designated inspection area, requested inspection services, including the prompt issuance of official inspection certificates, and, upon request, help interested persons determine what kind (scope) of services they need or desire.

(d) *Training and supplies.* Each official inspection agency shall provide its licensed personnel with training, as needed, and adequate supplies of forms approved by the Administrator, the instructions (including grain inspection manuals and inspection procedures for "other criteria"), official grain standards, and other materials necessary for the conduct of official inspection functions.

(e) *Obtaining licenses.* Each official inspection agency shall assist its personnel in obtaining needed licenses for official inspection activities, and needed authorizations for affixing signatures.

(f) *Supervision.* Each official inspection agency shall provide supervision, as needed, to its licensed and clerical personnel to assure the proper performance of their duties, the maintenance of standards of conduct, the avoidance of conflicts of interest, and the avoidance of other prohibited actions in accordance with §§ 26.86 through 26.88.

(g) *Changes in service.* Each official inspection agency shall promptly notify the field office of any change in the scope of the inspection services which the agency performs or any suspension of official inspection activities for such length of time as would impair the inspection services at any location.

(h) *Fees and charges.* Each official inspection agency shall establish and collect fees and charges that are in accordance with the provisions of § 26.70.

(i) *Report of inspection volume.* Each official inspection agency shall periodically submit a report showing the kind and volume of inspections conducted under the Act in accordance with the instructions and on a form furnished by the Administrator: *Provided*, That upon a showing of good cause, the requirement of this paragraph may be waived in specific cases by the Administrator for limited periods. The original report shall be submitted to the field office. A summary

of the reports shall be submitted by the field offices to the regional office.

NOTE: The effectiveness of paragraph (1) was stayed indefinitely at 34 F.R. 13729, Aug. 28, 1969.

§ 26.101 Cancellation, amendment, transfer, supervision, and revocation of designation.

(a) *Voluntary cancellation, amendment, transfer, or suspension.* Upon request by an official inspection agency, and a showing of good cause, a designation to operate as an official inspection agency may be canceled, amended, transferred to another agency or person, or suspended for a definite or indefinite period of time: *Provided*, That proposed action on such requests shall be published in the FEDERAL REGISTER and interested persons shall be given opportunity to present their views. Reasonable notice of the final action shall be published in the FEDERAL REGISTER in advance of the effective date. In the case of a transfer, the transferee must qualify under the requirements in § 26.96.

(b) *Suspension or revocation for cause.* Proceedings for a temporary suspension, or for a suspension for a prescribed period of time, or for a revocation of a designation, for failure to comply with the requirements of § 26.96 or § 26.100 shall be conducted in accordance with rules of practice in Subpart C of this part.⁵

(c) *Replacement agency.* If a designation for an official inspection agency is suspended or revoked, arrangements for a replacement agency shall be made by the Administrator, insofar as practicable, in advance of the suspension or revocation, and after consultation with interested State departments of agriculture, official inspection agencies, grain trade groups, and other interested persons.

§ 26.102 Filing of complaints.

Agencies or persons who are aggrieved by an application action under § 26.98 or an assignment action under § 26.99, may file a complaint in accordance with the rules of practice in Subpart C of this part.⁵

⁵ Such rules will be issued later.

PROVISIONS GOVERNING GRAIN MERCHANTISING

§ 26.110 Mandatory inspection—export grain.

(a) *General requirements.* Whenever standards are effective under the Act for any grain, an official inspection for grade must, except as provided in paragraph (g) of this section, be obtained for each lot of such grain which is to be shipped from the United States to any place outside thereof and is sold, offered for sale, or consigned for sale by grade. Inspection is also required as prescribed in § 26.111 for export and other grain if it is in a container which shows an official grade designation or an official inspection mark; or the grain is represented to have been officially inspected.

(b) *Who must obtain inspection.* The official inspection for official grade, of export grain must be obtained by or for the exporter of record, unless a certificate sufficient for purposes of section 5 of the Act has previously been obtained. The conditions under which the grain is offered for inspection must meet the requirements of § 26.11. If the grain is inspected at the time of loading, the carrier or stowage space(s) for the grain must be examined by official inspection personnel and found to be clean, dry, and free of insects, other vermin, commercially objectionable foreign odors, and other factors which could contaminate the grain or lower the grade of the grain.

(c) *Scope and basis of inspection.* The inspection for official grade and official factors shall be in accordance with the official grain standards.

(d) *Sampling requirements.* (1) The inspection for official grade and official factor information must be based on official samples obtained from the grain as it is being loaded aboard, or while it is in, the final carrier in which it is to be transported from the United States.

(2) The samples must be obtained by official inspection personnel (other than licensed employees of a grain elevator or warehouse).

(3) If the grain is sampled as it is being loaded aboard the carrier, the sample must be obtained after the final vertical elevation, at such place or places and in such manner as will obtain the most representative sample, and otherwise in accordance with the instructions.

(e) *Where to obtain inspection.* A request for an original inspection on export grain shall be filed in accordance with § 26.26; for reinspection in accordance with § 26.36; and for appeal inspection in accordance with § 26.46. Exceptions to the requirements of this paragraph may, upon request of the applicant, be made by the Administrator. (For locations where official inspection services are available, see § 26.9(d).)

(f) *Certification requirements.* Subject to paragraph (g) of this section, only an unsuperseded and unqualified official grain inspection certificate for official grade shall be deemed to meet the requirements of section 5 of the Act. The original of the unsuperseded inspection certificate must be forwarded by the shipper or his agent, to the consignee or to his order with the bill of lading or other shipping documents covering the shipment.

(g) *Exemptions.* (1) The mandatory inspection and certification provisions of paragraphs (a) through (f) of this section are waived with respect to export grain which (i) is not shipped from or through a designated inspection area; or (ii) is in lots of 500 bushels or less, and is located 50 or more miles from the nearest designated inspection point (For locations where official inspection services are available, see § 26.9(d).); or (iii) is shipped from or through a designated inspection area where official inspection is ordinarily obtainable but the applicant for service is notified by the official inspection agency or field office where the application was filed that official inspection personnel are temporarily not available to perform the required inspection as determined in each specific case by the Administrator: *Provided*, That no exemption under this subparagraph shall be applicable to export grain which is in a container which shows an official grade designation or an official inspection mark, or to grain which is represented to have been officially inspected and is required to be inspected under § 26.111.

(2) The invoice covering each lot which is shipped under any exemption prescribed in subparagraph (1) of this paragraph shall clearly show the statement, "This lot not officially inspected for grade."

§ 26.111 Other inspection requirements.

Official inspection is also required for any grain whenever necessary to avoid a violation of paragraph (a) (5) or (6) of section 13 of the Act, as provided in section 26.114.

§ 26.112 Permissive inspection.

Whenever standards have been established under the Act for any grain, any interested person who desires an official inspection on any lot or any submitted sample of such grain may, upon request, obtain an inspection at any designated inspection point or any point conveniently reached by official inspection personnel.

§ 26.113 Mandatory grades.

(a) *Use of official grades—when required.* Under paragraph (a) of section 6 of the Act, no grain, for which standards are effective under the Act, which is sold, offered for sale, or consigned for sale, for shipment in interstate or foreign commerce, shall be described in any advertising, price quotation, other negotiation of sale, contract of sale, invoice, bill of lading, or other document, or any description on bags or other containers of the grain, as being of any grade, other than by an official grade designation, with or without additional information as to specified factors.

(b) *When grain is described by grade.*

(1) For the purposes of this section, a description for grain which denotes a relative level of quality shall be deemed to be a description of the grain by grade, except as provided in subparagraphs (2) and (3) of this paragraph.

(2) A proprietary brand name or trademark that does not resemble an official grade designation will not be deemed to be a description of grain by grade (but see paragraph (c) of this section).

(3) With respect only to grain shipped in interstate commerce, the use of one or more grade factor designations set forth in the official grain standards or other factor information will not be deemed in itself to be a description of grain by grade.

(c) *When a brand name or trademark resembles an official grade designation.* A proprietary brand name or trademark

that denotes a level of quality will be deemed to resemble an official grade designation if it includes any of the following: The letters "U.S."; a numeral or the term "Sample Grade"; or the name of a kind, class, subclass, or special grade of grain specified in the official grain standards.

§ 26.114 Use of official grade designations, official inspection marks and other descriptions of or representations concerning grain.

(a) *Grade designations and marks.* Paragraph (a) (5) of section 13 of the Act prohibits any person from knowingly using any official grade designation or official inspection mark on any container of grain by means of a tag, label, or otherwise, unless the grain in such container was officially inspected on the basis of an official sample taken while the grain was being loaded into or was in such container and the grain was found to qualify for such designation or marks. The official grade designations are those specified in the official grain standards for the various grades of grain, e.g. No. 1 Hard Winter Wheat. The official inspection mark is the statement "Loaded Under Continuous Official Inspection", authorized for use in accordance with § 26.14(1).

(b) *False representations.* Paragraph (a) (6) of section 13 of the Act prohibits any person from knowingly making any false representation that any grain has been officially inspected, or officially inspected and found to be of a particular kind, class, quality, condition, or quantity, or that particular facts have been established with respect to grain by official inspection under the Act. This paragraph applies to such representations on containers, or in invoices, bills of lading, or other shipping documents, or elsewhere. The showing in any advertising, price quotation, other negotiation of sale, contract of sale, invoice, bill of lading, or similar merchandising documents of an official grade designation, with or without factor information, or the showing of the term "official grain standards" shall not, of itself, be a representation that grain has been officially inspected. However, the showing, as applying to any grain, of terms such as, but not limited to, the following, shall be deemed to be a representation that

the grain has been officially inspected: "Official inspection," "Officially inspected," "U.S. inspected," and "Official certificate." The use of an official grade designation on a container of grain is subject to the restrictions in paragraph (a) (5) of section 13 of the Act.

(c) *Other descriptions.* Paragraph (b) of section 6 of the Act provides that no person shall, in any sale, offer for sale, or consignment for sale, of any grain which involves the shipment of such grain from the United States to any place outside thereof, knowingly describe such grain by any official grade designation, or other description, which is false or misleading.

§ 26.115 Limitations on the validity of inspection certificates.

Only official inspection certificates issued in accordance with the provisions of § 26.110 shall be deemed to meet the inspection requirements of section 5 of the Act. No "Partial-Inspection—Heavily Loaded", or "Bottom Not Sampled", or "Warehouseman's Sample—Lot Inspection", or "Submitted Sample", certificate shall be deemed to meet the inspection requirements of section 5 of the Act.

§ 26.116 Deceptive loading, handling, sampling.

(a) *General.* For the purposes of paragraph (a) of section 3 and paragraph (a) (3) of section 13 of the Act, the acts and practices specified in paragraphs (b) through (d) of this section shall, in the absence of adequate notice to the involved official inspection personnel, be deemed deceptive.

(b) *Loading.* (1) It is deemed deceptive to load economically superior grain in a container with economically inferior grain on the floor of the container; in the lower portion of the load; next to the end or side walls of the container; in other locations not in the prescribed sampling patterns or otherwise in such a manner that a true average sample would not be obtained during the normal course of sampling the grain in the container in the manner prescribed in the instructions.

(2) It is deemed deceptive to load grain in a container that contains residue from previous cargoes or is other-

wise in such condition at the time of loading as to contaminate the grain or lower the grade or other quality of the grain.

(c) *Handling.* (1) It is deemed deceptive to handle inbound, outbound, or bin-run grain by layering economically inferior grain on a belt or conveyor with economically superior grain or otherwise in such a manner that a true average sample would not be obtained during the normal course of sampling the grain in the manner prescribed in the instructions; or offering part of a lot for sampling and representing that it is the entire lot.

(2) It is deemed deceptive to add any material to grain, prior to sampling, for the purpose or with the effect of masking the true odor, class, grade or other quality or condition of the grain.

(d) *Sampling.* It is deemed deceptive to:

(1) Alter an official sample in such a manner that it loses its representativeness, including, but not limited to (i) adding any material to or removing any material from the grain in the sample; or (ii) drying, cleaning, or otherwise processing the grain in the sample; or (iii) treating the grain in the sample to mask the true odor, class, grade or other quality or condition of the grain.

(2) It is deemed deceptive to substitute any unofficial sample for an official sample, including, but not limited to, (i) substituting, in whole or in part, the grain in an official sample with grain from an unofficial sample; or (ii) representing that a submitted sample is an official sample.

(e) *Adequate notice.* (1) For the purpose of this section, notice of deceptive loading, handling, or sampling will not be deemed adequate unless it is given to the involved official inspection agency or field office, either orally or in writing, prior to any official sampling in the case of deceptive loading and deceptive handling, and prior to any official inspection in the case of deceptive sampling, and if oral is subsequently confirmed in writing. The notice shall explain the nature and extent of the deceptive loading, handling, or sampling, and specifically identify the means of conveyance or other container involved.

(2) In the case of a deceptive loading of grain in a railroad car, truck, river barge, or other means of conveyance, additional notice may also be given by the shipper to the involved official inspection personnel by posting, in a clear and conspicuous place on the means of conveyance, a statement showing the nature and extent of the deceptive loading.

§ 26.117 Inspection not to be denied.

Whenever an inspection, including, but not limited to, an original inspection, re-inspection, or appeal inspection, is required or desired under the Act and the regulations, no person entitled to such inspection shall be denied or deprived of his right thereto by reason of any rule, regulation, bylaw, or custom of any market, board of trade, chamber of commerce, exchange, inspection department, or similar organization, or by any contract, agreement, or other understanding.

§ 26.118 Procedure for withholding or refusal of official inspection service.

(a) *Conditional withholding.* A dismissal of a request for inspection or the temporary withholding of inspection for a correctible cause, such as failure to pay bills shall be in accordance with the provisions of §§ 26.10 and 26.11 of the rules of practice in Subpart C of this part.⁵

(b) *Refusal of official inspection.* (1) Official inspection may also be refused for any grain in accordance with section 10 of the Act and the rules of practice in Subpart C of this part.⁵ In proceedings under section 10 of the Act, if it is determined that there is a basis for refusal of inspection service with respect to any person, the order refusing inspection may be made applicable to all operations of such person, or it may be restricted to a particular location or to a particular type of inspection, in accordance with the provisions of section 10 of the Act.

GENERAL PROVISIONS

§ 26.125 Procedure for establishing standards.

Proposals to establish, amend, or revoke any standard under the Act will be

⁵ Such rules will be issued later.

published in the FEDERAL REGISTER as proposed rule making. Interested persons will be given opportunity to submit data, views, and arguments in writing and, upon request, will be given an opportunity to present data, views, and arguments orally in an informal manner. After a review of the available data, the final standard, amendment, notice of revocation, or such other notice as is warranted, will be published in the FEDERAL REGISTER. If the proposal is adopted, in whole or in part, an effective date of not less than 1 calendar year will be shown, unless for good cause, the Administrator determines in accordance with section 4 of the Act that the document shall become effective sooner.

§ 26.126 Supervision and enforcement procedures.

(a) *Supervision procedure (general).* All sampling, testing, inspection, certification, and related activities and functions performed under the Act by official inspection personnel or their agents shall be subject to supervision at all times by the Administrator and his duly authorized representatives. Whenever it is found that any official inspection personnel have performed any official function in an improper manner or have otherwise violated the Act, the regulations or the instructions issued to them by the Administrator, remedial action shall be promptly initiated in accordance with § 26.89.

(b) *Supervision tests.* Tests made in determining whether inspection results, and other representations, designations, or descriptions are false, incorrect, or misleading, shall be performed in accordance with the instructions. In reviewing the results of the tests, statistical tolerances established and published by the Administrator for expected variations between inspections shall be applied.

§ 26.127 Informal complaints.

Any person desiring to complain of any alleged violation of any provision of the Act, or of any regulation or instruction issued pursuant thereto, or of any allegedly arbitrary, capricious, or unwarranted action by official inspection personnel, may file with the Administrator

an informal complaint as provided in the rules of practice in Subpart C of this part.*

§ 26.128 Demonstrations and standard line samples.

(a) *Availability.* Demonstrations of prescribed inspection procedures and interpretations of the official grain standards will, upon request, and insofar as practicable, be made by employees of the Grain Division. Limited numbers of samples illustrating the official grain standards and standard line samples representing official factor and other criteria determinations, will, upon request, and insofar as practicable, be made available by the Grain Division on a first-come, first-served basis. When the Administrator determines that furnishing such services or samples would be of benefit to any program of the Department, no charge shall be made. Otherwise, charges for the services and samples will be in accordance with the provisions of § 26.73(f).

(b) *Loaning samples.* Limited numbers of samples illustrating the official grains standards, or specifically prepared exhibits illustrating any part of such standards, may, at the discretion of the Administrator be loaned by the Grain Division without charge to Governmental agencies for official purposes or to educational institutions of higher learning and to trade organizations for demonstration purposes.

§ 26.129 Publications.

Publication under the Act and the regulations shall be made in the FEDERAL REGISTER and such other media as the Administrator may approve for the purpose.

Subpart B—Standards

AUTHORITY: The provisions of this Subpart B issued under sec. 8, 39 Stat. 485; 7 U.S.C. 84. Interpret or apply sec. 2, 39 Stat. 482, as amended; 7 U.S.C. 74, except as otherwise noted.

NOTE: The specifications of the standards set forth in this Subpart B shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

* Such rules will be issued later.

OFFICIAL GRAIN STANDARDS OF THE UNITED STATES FOR BARLEY

§ 26.201 Terms defined.

For the purposes of the Official Grain Standards of the United States for Barley:

(a) *Barley.* Barley shall be any grain which, before the removal of dockage, consists of 50 percent or more of barley, and may contain not more than 25 percent of other grains for which standards have been established under the United States Grain Standards Act. The term "barley" as used in these standards shall not include hullless barley.

(b) *Classes.* Barley shall be divided into the following three classes: Barley, Western Barley, and Mixed Barley.

(c) *Barley.* The class Barley shall be any barley with white hulls which is grown east of the Rocky Mountains or in Alaska and may include not more than 10 percent of black barley or of barley of the class Western Barley, either singly or in any combination. This class shall be divided into the following three subclasses:

(1) *Malting Barley.* The subclass Malting Barley shall be six-rowed barley of the class Barley which has 90 percent or more of the kernels with white aleurone layers; which is not semisteely in mass; which after the removal of dockage, contains not more than 5 percent of the two-rowed and/or other types or varieties of barley unsuitable for malting (such as Trebi), 4 percent damaged kernels, 3 percent foreign material, 8 percent skinned and broken kernels, 15 percent thin barley, 2 percent black barley, and 5 percent other grains; which has a minimum test weight per bushel of 43 pounds; which contains a minimum of 90 percent sound barley; which does not contain barley injured by frost or heat; and which is not smutty, garlicky, weevily, ergoty, or bleached; and which otherwise meets the requirements of grades U.S. Nos. 1 to 3, inclusive, of the subclass Barley.

(2) *Blue Malting Barley.* The subclass Blue Malting Barley shall be six-rowed barley of the class Barley which has 90 percent or more of the kernels with blue aleurone layers, and which otherwise meets the requirements of the subclass Malting Barley.

(3) *Barley.* The subclass Barley shall be any barley of the class Barley which does not meet the requirements of the subclass Malting Barley, or Blue Malting Barley.

(d) *Western Barley.* The class Western Barley shall be any barley with white hulls which is grown west of the Great Plains area of the United States and may include not more than 10 percent of black barley or of barley of the class Barley, either singly or in any combination, except that barley grown in the State of Alaska shall not be classified as Western Barley. (See paragraph (c) of this section.)

(e) *Mixed Barley.* The class Mixed Barley shall be any mixture of barley which does not meet the requirements of the classes Barley or Western Barley. Black barley shall be classified as Mixed Barley.

(f) *Grades.* Grades shall be the U.S. numerical grades, U.S. Sample grade, and special grades provided for in § 26.203.

(g) *Dockage.* Dockage shall be weed seeds, weed stems, chaff, straw, grain other than barley, sand, dirt, and any material other than barley which can be removed readily from the barley by the use of appropriate sieves and cleaning devices; also underdeveloped, shriveled, and small pieces of barley kernels removed in properly separating the material other than barley and which cannot be recovered by properly rescreening or recleaning.

(h) *Sound barley.* Sound barley shall be kernels and pieces of kernels of barley remaining after the removal of dockage, which are not damaged or materially discolored by blight and/or mold, which are not heat damaged, sprouted, malted, frosted, badly ground damaged, badly weather damaged, or otherwise materially damaged.

(i) *Damaged kernels.* Damaged kernels shall be kernels and pieces of kernels of barley, other grains, and wild oats which are damaged or materially discolored by blight and/or mold, or which are heat damaged, sprouted, malted, frosted, badly ground damaged, badly weather damaged, or otherwise materially damaged.

(j) *Heat-damaged kernels.* Heat-damaged kernels shall be kernels and

pieces of kernels of barley, other grains, and wild oats, which have been materially discolored and damaged by heat.

(k) *Foreign material.* Foreign material shall be all matter other than barley, other grains, and wild oats, which is not separated from the barley in the proper determination of dockage.

(l) *Other grains.* Other grains shall be wheat, rye, oats, corn, grain sorghums, hull-less barley, flaxseed, emmer, spelt, einkorn, Polish wheat, poulard wheat, cultivated buckwheat, and soybeans.

(m) *Wild oats.* Wild oats shall be seeds of *Avena fatua* and *A. sterilis*.

(n) *Wild brome grasses.* Wild brome grasses shall be the seeds of brome grasses such as *Bromus rigidus* which have harsh awns and which are injurious when fed to livestock.

(o) *Broken kernels.* Broken kernels shall be pieces of barley kernels.

(p) *Skinned kernels.* Skinned kernels shall be any barley kernels from which one-third or more of the hull has been removed, or which has the hull loosened or removed over the germ.

(q) *Black barley.* Black barley shall be barley with black hulls.

(r) *Thin barley.* (1) Thin barley in the class Barley shall be barley and other matter that will pass readily through a $5/64 \times 3/4$ sieve.

(2) Thin barley in the class Western Barley shall be barley and other matter that will pass readily through a $5\frac{1}{2}/64 \times 3/4$ sieve.

(s) *Stones.* Stones shall be concreted earthy or mineral matter and other substances of similar hardness that do not disintegrate readily in water.

(t) *5/64 by 3/4 sieve.* A $5/64$ by $3/4$ sieve shall be a metal sieve 0.032 inch thick perforated with slotted perforations 0.0781 ($5/64$) by 0.750 ($3/4$) inch with approximately 865 perforations per square foot.

(u) *5 1/2/64 by 3/4 sieve.* A $5\frac{1}{2}/64 \times 3/4$ sieve shall be a metal sieve 0.032 inch thick perforated with slotted perforations 0.0858 ($5\frac{1}{2}/64$) inch by 0.750 ($3/4$) inch with approximately 856 perforations per square foot.

[21 F.R. 1887, Mar. 28, 1956, as amended at 27 F.R. 2551, Mar. 17, 1962; 34 F.R. 3591, Feb. 28, 1969]

§ 26.202 Principles covering the application of the standards.

The following principles shall apply in the determination of the classes and grades of barley:

(a) *Basis of determination.* Each determination of dockage, temperature, odor, garlic, live weevils or other insects injurious to stored grain, and distinctly low quality shall be upon the basis of the grain as a whole. Each determination of heat-damaged kernels and of white aleurone layers in Malting Barley and blue aleurone layers in Blue Malting Barley shall be upon the basis of the pearled dockage-free grain. All other determinations shall be upon the basis of the grain when free from dockage.

(b) *Percentages.* All percentages shall be upon the basis of weight.

(c) *Moisture.* Moisture shall be ascertained by the air-oven method pre-

scribed by the United States Department of Agriculture, as described in Service and Regulatory Announcement No. 147, issued by the Agricultural Marketing Service, or ascertained by any method which gives equivalent results.

(d) *Test weight per bushel.* Test weight per bushel shall be the weight per Winchester bushel as determined by the method prescribed by the United States Department of Agriculture, as described in Circular 921 issued June 1953, or as determined by any method which gives equivalent results.

[21 F.R. 1887, Mar. 28, 1956]

§ 26.203 Grades, grade requirements, and grade designations.

The following grades, grade requirements, and grade designations are applicable under these standards:

(a) *Grades and grade requirements for the subclass Barley of the class Barley.* (See also paragraph (g) of this section.)

Grade	Minimum limits of—		Maximum limits of—						
	Test weight per bushel	Sound barley	Total damaged kernels	Heat-damaged kernels	Foreign material	Broken kernels	Thin barley	Black barley	
	<i>Pounds</i>	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>	
U.S. No. 1.....	47	97	2.0	0.2	1.0	5.0	10.0	0.5	
U.S. No. 2.....	45	94	4.0	.3	2.0	10.0	15.0	1.0	
U.S. No. 3.....	43	90	6.0	.5	3.0	15.0	25.0	2.0	
U.S. No. 4 ¹	40	80	8.0	1.0	4.0	20.0	35.0	5.0	
U.S. No. 5.....	36	70	10.0	3.0	6.0	30.0	75.0	10.0	
U.S. Sample grade.....	U.S. Sample grade shall include barley of the class Barley, which does not come within the grade requirements of any of the grades from U.S. No. 1 to U.S. No. 5, inclusive; or which contains more than 16.0 percent of moisture; or which contains stones; or which is musty, or sour, or heating; or which has any commercially objectionable foreign odor except of smut or garlic; or which contains a quantity of smut so great that any one or more of the grade requirements cannot be applied accurately; or which is otherwise of distinctly low quality.								

¹ Barley that is badly stained or materially weathered, shall not be graded higher than U.S. No. 4.

(b) *Grades and grade requirements for the subclasses Malting Barley and Blue Malting Barley of the class Barley.* (See also paragraph (g) of this section.)

Grade	Minimum limits of—		Maximum limits of—					
	Test weight per bushel	Sound barley	Damaged kernels	Foreign material	Skinned and broken kernels	Thin barley	Black barley	Other grains
	<i>Pounds</i>	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>
U.S. No. 1.....	47	97	2.0	1.0	4.0	7.0	0.5	2.0
U.S. No. 2.....	45	94	3.0	2.0	6.0	10.0	1.0	3.0
U.S. No. 3.....	43	90	4.0	3.0	8.0	15.0	2.0	5.0

NOTE: Barley of the class Barley which does not meet the requirements of any of the grades U.S. No. 1 to U.S. No. 3, inclusive, for the subclasses Malting Barley and Blue Malting Barley shall be classified and graded according to the grade requirements for the subclass Barley.

(c) *Grades and grade requirements for Western Barley.* (See also paragraph (g) of this section.)

Grade	Maximum limits of—					
	Minimum limits of sound barley	Heat-damaged kernels (barley, other grains, and wild oats)	Wild oats	Foreign material	Broken kernels	Black barley
	Percent	Percent	Percent	Percent	Percent	Percent
U.S. No. 1.....	98	0.1	1.0	0.5	3.0	0.5
U.S. No. 2.....	96	.2	2.0	1.0	6.0	1.0
U.S. No. 3.....	93	.3	3.0	2.0	10.0	2.0
U.S. No. 4.....	88	.5	5.0	3.0	15.0	5.0
U.S. No. 5.....	80	1.0	10.0	4.0	25.0	10.0
U.S. Sample grade.....						

U.S. Sample grade shall include barley of the class Western Barley which does not come within the grade requirements of any of the grades from U.S. No. 1 to U.S. No. 5, inclusive; or which contains more than 15 percent of moisture; or which contains stones; or which is musty, or sour, or heating; or which has any commercially objectionable foreign odor except of smut or garlic; or which contains a quantity of smut so great that any one or more of the grade requirements cannot be applied accurately; or which contains the seeds of wild brome grasses of a character and in a quantity sufficient to cause the grain to be of low quality for feeding purposes; or which is otherwise of distinctly low quality.

(d) *Grades and grade requirements for the class Mixed Barley.* The class Mixed Barley shall be graded according to the grade requirements of the class of Barley which predominates in the mixture. If black barley predominates the grade requirements for the subclass barley of the class Barley shall be used.

(e) *Grade designations for barley.* The grade designations for barley shall include the letters "U.S."; the number of the grade or the words "Sample grade," as the case may be; the name of the class or subclass; the name of each applicable special grade; and when applicable the word "dockage" together with the percentage thereof. In the case of the class Mixed Barley, the grade designation shall also include, following the name of the class, the approximate percentage of Barley, Western Barley, and black barley in the mixture.

(f) *Dockage.* The quantity of dockage shall be calculated in terms of percentage based on the total weight of the grain including the dockage. Dockage shall be stated in terms of whole percent and any fraction of a percent shall be disregarded.

(g) *Special grades, special grade requirements and special grade designations for barley.*—(1) *Test weight of Western Barley.* For barley of the class

Western Barley, the test weight per bushel in terms of whole pounds shall be added to, and made a part of, the grade designation, following the name of the class. A fraction of a pound shall be disregarded.

(2) *Tough barley.*—(1) *Requirements.* Tough barley shall be (a) barley of the class Barley which contains more than 14.5 percent but not more than 16 percent of moisture and (b) barley of the class Western Barley which contains more than 13.5 percent but not more than 15 percent of moisture.

(ii) *Grade designation.* Tough barley shall be graded and designated according to the grade requirements of the standards applicable to such barley if it were not tough, and there shall be added to, and made a part of, the grade designation, the word "Tough."

(3) *Two-rowed Barley.*—(1) *Requirements.* Two-rowed Barley shall consist of two-rowed barley of the class Barley, or of the class Western Barley, which does not meet the requirements for the special grades Choice Malting Two-rowed Barley and Malting Two-rowed Barley, and may contain not more than 10 percent of six-rowed barley.

(ii) *Grade designation.* Two-rowed Barley shall be graded and designated according to the grade requirements of the

standards applicable to such barley if it were not two-rowed, and there shall be added to, and made a part of, the grade cording to the grade requirements of the class, the word "Two-rowed".

(4) *Choice Malting Two-rowed Barley*—(i) *Requirements.* Choice Malting Two-rowed Barley shall be two-rowed barley of the class Barley which consists of the Betzes varietal type or two-rowed barley of the class Western Barley which consists of the Hannchen or Hanna varietal type; which does not contain more than 3 percent of varietal types of barley other than Betzes, Hannchen, or Hanna; which meets the requirements for grade U.S. No. 1 Western Barley except that the class requirements for Western Barley and the limitation on seeds of wild brome grasses shall be disregarded in determining the U.S. numerical grade; which has a test weight per bushel of 52 pounds or more; which contains 90 percent or more of mellow kernels; which is not semisteely in mass; which does not contain more than 5 percent of thin barley; which does not contain more than 5 percent of skinned and/or broken kernels; and which does not contain barley injured by frost, by heat, or by mold; and shall not include barley of the special grades stained, smutty, garlicky, weevily, ergoty, or bleached.

(ii) *Grade designation.* Choice Malting Two-rowed Barley shall meet the special grade requirements for Choice Malting Two-rowed Barley and shall be graded and designated according to the class and grade requirements of the standards applicable to such barley if it were not Choice Malting Two-rowed, and there shall be added to and made a part of the grade designation, preceding the name of the class, the words "Choice Malting Two-rowed".

(5) *Malting Two-rowed Barley*—(i) *Requirements.* Malting Two-rowed Barley shall be two-rowed barley of the class Barley which consists of the Betzes varietal type or two-rowed barley of the class Western Barley which consists of the Hannchen or Hanna varietal types; which does not contain more than 5 percent of varietal types of barley other than Betzes, Hannchen, or Hanna; which meets the requirements for any of the grades U.S. No. 1 to U.S. No. 3 Western Barley, inclusive, except that the class requirements for Western Barley and the limitation on seeds of wild brome grasses shall be disregarded in

determining the U.S. numerical grade; which does not meet the requirements for the special grade Choice Malting Two-rowed Barley; which has a test weight per bushel of 50 pounds or more; which contains 70 percent or more of mellow kernels; which is not semi-steely in mass; which does not contain more than 10 percent of thin barley; which does not contain more than 10 percent of skinned and/or broken kernels; and which does not contain barley injured by frost, by heat, or by mold; and shall not include barley of the special grades stained, blighted, smutty, garlicky, weevily, ergoty, or bleached: *Provided,* That Malting Two-rowed Barley of the grade U.S. No. 1 shall contain not less than 80 percent of mellow kernels; and may not contain more than 3 percent of varietal types of barley other than Betzes, Hannchen, or Hanna, or more than 7 percent of thin barley, or more than 7 percent of skinned and/or broken kernels.

(ii) *Grade designation.* Malting Two-rowed Barley shall be graded and designated according to the special grade requirements for malting two-rowed barley and to the class and grade requirements applicable to such barley if it were not Malting Two-rowed, and there shall be added to and made a part of the grade designation, preceding the name of the class, the words "Malting Two-rowed".

(6) *Bright Western Barley*—(i) *Requirements.* Bright Western Barley shall be barley of the class Western Barley, except Bleached Barley, that is of good natural color.

(ii) *Grade designation.* Bright Western Barley shall be graded and designated according to the grade requirements of the standards applicable to such barley if it were not bright, and there shall be added to, and made a part of, the grade designation, preceding the name of the class, the word "Bright."

(7) *Stained Western Barley*—(i) *Requirements.* Stained Western Barley shall be barley of the class Western Barley, except Bleached Barley, that is badly stained or weathered.

(ii) *Grade designation.* Stained Western Barley shall be graded and designated according to the grade requirements of the standards applicable to such barley if it were not stained, and there shall be added to, and made a part of, the grade designation, the word "Stained."

(8) *Blighted Barley*—(i) *Requirements.* Blighted Barley shall be barley

which contains more than 4 percent of barley damaged or materially discolored by blight and/or mold.

(ii) *Grade designation.* Blighted Barley shall be graded and designated according to the grade requirements of the standards applicable to such barley if it were not blighted, and there shall be added to, and made a part of, the grade designation, the word "Blighted."

(9) *Smutty Barley*—(i) *Requirements.* Smutty Barley shall be barley which has the kernels covered with smut spores, or which contains smut masses in excess of 0.2 percent.

(ii) *Grade designation.* Smutty Barley shall be graded and designated according to the grade requirements of the standards applicable to such barley if it were not smutty, and there shall be added to, and made a part of, the grade designation, the word "Smutty."

(10) *Garlicky Barley*—(i) *Requirements.* Garlicky Barley shall be barley which contains 3 or more green garlic bulblets, or an equivalent quantity of dry or partly dry bulblets, in 500 grams of barley.

(ii) *Grade designation.* Garlicky Barley shall be graded and designated according to the grade requirements of the standards applicable to such barley if it were not garlicky, and there shall be added to, and made a part of, the grade designation, the word "Garlicky."

(11) *Weevily Barley*—(i) *Requirements.* Weevily Barley shall be barley which is infested with live weevils or other insects injurious to stored grain.

(ii) *Grade designation.* Weevily Barley shall be graded and designated according to the grade requirements of the standards applicable to such barley if it were not weevily, and there shall be added to, and made a part of, the grade designation, the word "Weevily."

(12) *Ergoty Barley*—(i) *Requirements.* Ergoty Barley shall be barley which contains ergot in excess of 0.3 percent.

(ii) *Grade designation.* Ergoty Barley shall be graded and designated according to the grade requirements of the standards applicable to such barley if it were not ergoty, and there shall be added to, and made a part of, the grade designation, the word "Ergoty."

(13) *Bleached Barley*—(i) *Requirements.* Bleached Barley shall be barley which, in whole, or in part, has been treated by the use of sulphurous acid or any other bleaching agent.

(ii) *Grade designation.* Bleached Barley shall be graded and designated according to the grade requirements of the standards applicable to such barley if it were not bleached, and there shall be added to, and made a part of, the grade designation, the word "Bleached." [21 F.R. 1888, Mar. 28, 1956, as amended at 27 F.R. 2551, Mar. 17, 1962; 34 F.R. 3591, Feb. 28, 1969]

OFFICIAL GRAIN STANDARDS OF THE UNITED STATES FOR OATS

§ 26.251 Terms defined.

For the purposes of the Official Grain Standards of the United States for Oats:

(a) *Oats.* Oats shall be any grain which consists of 50 percent or more of cultivated oats (*Avena sativa* and/or *A byzantina*) and may contain not more than 25 percent of wild oats and other grains for which standards have been established under the United States Grain Standards Act, singly or in combination.

(b) *Classes.* Oats shall be divided into the following five classes: White oats, Red oats, Gray oats, Black oats, and Mixed oats.

(c) *White oats.* The class White oats shall be common oats with the color and other physical characteristics of the white and/or yellow oats types and may contain not more than 10.0 percent of oats of other types.

(d) *Red oats.* The class Red oats shall be oats with the color and other physical characteristics of the red oats type and may contain not more than 10.0 percent of oats of other types.

(e) *Gray oats.* The class Gray oats shall be oats with the color and other physical characteristics of the gray oats type and may contain not more than 10.0 percent of oats of other types.

(f) *Black oats.* The class Black oats shall be oats with the color and other physical characteristics of the black oats type and may contain not more than 10.0 percent of oats of other types.

(g) *Mixed oats.* The class Mixed oats shall include all mixtures of oats not provided for in the classes White oats, Red oats, Gray oats, and Black oats.

(h) *Grades.* Grades shall be the U.S. numerical grades, U.S. Sample grade, and special grades provided for in § 26.253.

(i) *Foreign material.* Foreign material shall be all matter except cultivated oats, other grains, and wild oats,

and shall include oat clippings and detached oat hulls.

(j) *Other grains.* Other grains shall be wheat, rye, corn, grain sorghums, barley, hull-less barley, flaxseed, emmer, spelt, einkorn, Polish wheat, poulard wheat, cultivated buckwheat, and soybeans.

(k) *Sound cultivated oats.* Sound cultivated oats shall be all cultivated oats which are not heat-damaged, sprouted, frosted, badly ground damaged, badly weather damaged, or otherwise materially damaged.

(l) *Heat-damaged kernels.* Heat-damaged kernels shall be kernels and pieces of kernels of cultivated oats, other grains, and wild oats which have been materially discolored and damaged by heat.

(m) *Fine seeds.* Fine seeds shall be all matter which will pass readily through a 5/64 triangular hole sieve.

(n) *Wild oats.* Wild oats shall be the seeds of *Avena fatua* and *A. sterilis*.

(o) *Stones.* Stones shall be concreted earthy or mineral matter and other substances of similar hardness that do not disintegrate readily in water.

(p) *5/64 triangular hole sieve.* A 5/64 triangular hole sieve shall be an aluminum sieve 0.0319 inch thick with equilateral triangular perforations the inscribed circles of which are 0.0781 (3/4) inch in diameter and which are 1/4 inch from center to center. The perforations of each row shall be staggered in relation to the adjacent row.

(q) *0.064 x 3/8 sieve.* A 0.064 x 3/8 sieve shall be an aluminum sieve 0.0319 inch thick perforated with oblong holes 0.064 inch by 0.375 (3/8) inch, which are 0.125 (1/2) inch from center to center

and which have 0.0525 inch end bridges. The perforations of each row shall be end staggered in relation to the adjacent row.

[24 F.R. 593, Jan. 28, 1959, as amended at 34 F.R. 3592, Feb. 28, 1969]

§ 26.252 Principles governing application of standards.

The following principles shall apply in the determination of the classes and grades of oats:

(a) *Basis of determination.* All determinations shall be on the basis of the grain as a whole.

(b) *Percentages.* All percentages shall be determined upon the basis of weight.

(c) *Moisture.* Moisture shall be ascertained by the air-oven method for oats prescribed by the United States Department of Agriculture, as described in Service and Regulatory Announcements No. 147, issued by the Agricultural Marketing Service, or ascertained by any method which gives equivalent results.

(d) *Test weight per bushel.* Test weight per bushel shall be the weight per Winchester bushel as determined by the method prescribed by the United States Department of Agriculture, as described in Circular No. 921 issued June 1953, or as determined by any method which gives equivalent results.

[24 F.R. 593, Jan. 28, 1959]

§ 26.253 Grades, grade requirements, and grade designations.

The following grades, grade requirements, and grade designations are applicable under these standards:

(a) *Grades and grade requirements for Oats.* (See also paragraph (c) of this section.)

Grade	Minimum limits of—		Maximum limits of—		
	Test weight per bushel	Sound cultivated oats	Heat-damaged kernels	Foreign material	Wild oats
	Pounds	Percent	Percent	Percent	Percent
U.S. No. 1 ¹	34	97	0.1	2.0	2.0
U.S. No. 2 ²	32	94	.3	3.0	3.0
U.S. No. 3 ³	30	90	1.0	4.0	5.0
U.S. No. 4 ⁴	27	80	3.0	5.0	10.0
U.S. Sample grade.....					

U.S. Sample grade shall be oats which do not meet the requirements for any of the grades U.S. No. 1 to U.S. No. 4, inclusive; or which contain more than 16.0 percent of moisture; or which contain stones; or which are musty, or sour, or heating; or which have any commercially objectionable foreign odor except of smut or garlic; or which are otherwise of distinctly low quality.

¹ The oats in grades U.S. No. 1 White Oats may contain not more than 5.0 percent of red oats, gray oats, and black oats, singly or in combination, of which not more than 2.0 percent may be black oats.

² The oats in grade U.S. No. 2 White Oats may contain not more than 3.0 percent of black oats.

³ Oats that are slightly weathered shall be graded not higher than U.S. No. 3.

⁴ Oats that are badly stained or materially weathered shall be graded not higher than U.S. No. 4.

(b) *Grade designations for oats.* The grade designations for oats shall include the letters "U.S."; the number of the grade or the words "Sample grade," as the case may be; the name of the applicable class; and the name of each applicable special grade.

(c) *Special grades, special grade requirements, and special grade designations for oats—(1) Bright oats—(1) Requirements.* Bright oats shall be oats, except Bleached oats, that are of good, natural color.

(i) *Grade designation.* Bright oats shall be graded and designated according to the grade requirements of the standards applicable to such oats if they were not bright, and there shall be added to and made a part of the grade designation, preceding the name of the class, the word "Bright."

(2) *Heavy oats—(1) Requirements.* Heavy oats shall be oats which have a test weight per bushel of 36 pounds or more but less than 38 pounds.

(i) *Grade designation.* Heavy oats shall be graded and designated according to the grade requirements of the standards applicable to such oats if they were not heavy, and there shall be added to and made a part of the grade designation, preceding the name of the class, the word "Heavy."

(3) *Extra heavy oats—(1) Requirements.* Extra heavy oats shall be oats which have a test weight per bushel of 38 pounds or more.

(i) *Grade designation.* Extra heavy oats shall be graded and designated according to the grade requirements of the standards applicable to such oats if they were not extra heavy, and there shall be added to and made a part of the grade designation, preceding the name of the class, the words "Extra Heavy."

(4) *Tough oats—(1) Requirements.* Tough oats shall be oats which contain more than 14.0 percent but not more than 16.0 percent of moisture.

(i) *Grade designation.* Tough oats shall be graded and designated according to the grade requirements of the standards applicable to such oats if they were not tough, and there shall be added to and made a part of the grade designation the word "Tough."

(5) *Thin oats—(1) Requirements.* Thin oats shall be oats which contain more than 20.0 percent of oats and/or other matter, except "fine seeds," that will pass readily through a 0.064 x $\frac{3}{8}$ sieve.

(ii) *Grade designation.* Thin oats shall be graded and designated according to the grade requirements of the standards applicable to such oats if they were not thin, and there shall be added to and made a part of the grade designation the word "Thin."

(6) *Weevily oats—(1) Requirements.* Weevily oats shall be oats which are infested with live weevils or other insects injurious to stored grain.

(i) *Grade designation.* Weevily oats shall be graded and designated according to the grade requirements of the standards applicable to such oats if they were not weevily, and there shall be added to and made a part of the grade designation the word "Weevily."

(7) *Smutty oats—(1) Requirements.* Smutty oats shall be oats which have the kernels covered with smut spores or which contain smut masses and/or smut balls in excess of 0.2 percent.

(i) *Grade designation.* Smutty oats shall be graded and designated according to the grade requirements of the standards applicable to such oats if they were not smutty, and there shall be added to and made a part of the grade designation the word "Smutty."

(8) *Ergoty oats—(1) Requirements.* Ergoty oats shall be oats which contain ergot in excess of 0.3 percent.

(i) *Grade designation.* Ergoty oats shall be graded and designated according to the grade requirements of the standards applicable to such oats if they were not ergoty, and there shall be added to and made a part of the grade designation the word "Ergoty."

(9) *Garlicky oats—(1) Requirements.* Garlicky oats shall be oats which contain 4 or more green garlic bulblets, or an equivalent quantity of dry or partly dry bulblets, in 500 grams of oats.

(i) *Grade designation.* Garlicky oats shall be graded and designated according to the grade requirements of the standards applicable to such oats if they were not garlicky, and there shall be added to and made a part of the grade designation the word "Garlicky."

(10) *Bleached oats—(1) Requirements.* Bleached oats shall be oats which in whole or in part, have been treated by the use of sulphurous acid or any other bleaching agent.

(i) *Grade designation.* Bleached oats shall be graded and designated according to the grade requirements of the standards applicable to such oats if they were not bleached, and there shall be added

to and made a part of the grade designation the word "Bleached."
[24 F.R. 593, Jan. 28, 1959, as amended at 34 F.R. 3592, Feb. 28, 1969]

OFFICIAL GRAIN STANDARDS OF THE UNITED STATES FOR WHEAT

Source: §§ 26.301 to 26.329 appear at 29 F.R. 1313, Jan. 25, 1964, unless otherwise noted. Redesignated at 34 F.R. 3592, Feb. 28, 1969.

§ 26.301 Terms defined.

For the purposes of the Official Grain Standards of the United States for Wheat, the terms specified in § 26.302 through § 26.312 shall have the meanings stated in said sections respectively.

§ 26.302 Wheat.

Wheat shall be the grain of common wheat, club wheat, and durum wheat which, before the removal of the dockage, consists of 50 percent or more of one or more of these wheats and not more than 10.0 percent of other grains for which standards have been established under the United States Grain Standards Act and which, after the removal of the dockage, contains 50 percent or more of whole kernels of one or more of these wheats.

§ 26.303 Dockage.

Dockage shall be weed seeds, weed stems, chaff, straw, grain other than wheat, sand, dirt, and any other material other than wheat, which can be removed readily from the wheat by the use of appropriate sieves and cleaning devices; also underdeveloped, shriveled, and small pieces of wheat kernels removed in properly separating the material other than wheat and which cannot be recovered by properly rescreening or recleaning. (See also §§ 26.315 and 26.329.)

§ 26.304 Foreign material.

Foreign material shall be all matter other than wheat which is not separated from the wheat in the proper determination of dockage.

§ 26.305 Other grains.

Other grains shall be rye, oats, corn, grain sorghum, barley, hull-less barley, flaxseed, ommer, spelt, einkorn, Polish wheat, poulard wheat, cultivated buckwheat, and soybeans.

§ 26.306 Damaged kernels.

Damaged kernels shall be kernels and pieces of kernels of wheat and other

grains which are heat damaged, sprouted, frosted, badly ground damaged, badly weather damaged, moldy, diseased, or otherwise materially damaged.

§ 26.307 Heat-damaged kernels.

Heat-damaged kernels shall be kernels and pieces of kernels of wheat and other grains which have been materially discolored and damaged by heat.

§ 26.308 Contrasting classes.

Contrasting classes shall be (a) Durum Wheat, Red Durum Wheat, and White Wheat in the classes Hard Red Spring Wheat and Hard Red Winter Wheat; (b) Hard Red Spring Wheat, Red Durum Wheat, Hard Red Winter Wheat, Soft Red Winter Wheat, and White Wheat in the class Durum Wheat; (c) Durum Wheat and Red Durum Wheat in the class Soft Red Winter Wheat; and (d) Durum Wheat, Red Durum Wheat, Hard Red Spring Wheat, and Hard Red Winter Wheat in the Class White Wheat.

§ 26.309 Shrunken and broken kernels.

Shrunken and broken kernels shall be all kernels and pieces of kernels of wheat and other matter that will pass readily through a 0.064 x $\frac{3}{8}$ oblong hole sieve.

§ 26.310 0.064 x $\frac{3}{8}$ oblong hole sieve.

A 0.064 x $\frac{3}{8}$ oblong hole sieve shall be a metal sieve 0.0319 inch thick perforated with oblong holes 0.064 inch wide by $\frac{3}{8}$ (0.375) inch long which are $\frac{1}{8}$ (0.1250) inch from center to center and with 0.0525 inch end bridges. The perforations shall be staggered in relation to the adjacent rows.

§ 26.311 Stones.

Stones shall be concreted earthy or mineral matter and other substances of similar hardness that do not disintegrate readily in water.

§ 26.312 Defects.

Defects shall include damaged kernels, foreign material, and shrunken and broken kernels.

§ 26.313 Principles governing application of standards.

The principles stated in § 26.314 through § 26.317 shall apply in the determination of the classes and grades of wheat.

§ 26.314 Basis of determination.

Each determination of dockage, moisture, temperature, odor, garlic, live wee-

vils or other insects injurious to stored grain, and distinctly low quality shall be upon the basis of the grain as a whole. All other determinations shall be upon the basis of the grain when free from dockage.

§ 26.315 Percentages.

All percentages shall be upon the basis of weight. Percentages except for dockage shall be expressed in whole and tenth percent to the nearest tenth of a percent. The percentage of dockage when equal to one-half percent or more shall be stated in terms of half percent, whole percent, or whole and half percent, as the case may be, with other fractions disregarded as shown in the following examples: Dockage ranging from 0.5 to 0.9 percent shall be expressed as 0.5 percent, from 1.0 to 1.4 percent as 1.0 percent, from 1.5 to 1.9 percent as 1.5 percent, etc.

§ 26.316 Moisture.

Moisture shall be ascertained by use of the equipment and procedure prescribed by the Consumer and Marketing Service, U.S. Department of Agriculture. (Information thereon may be obtained from said Service.)

§ 26.317 Test weight per bushel.

Test weight per bushel shall be the weight per Winchester bushel as determined by the method prescribed by the United States Department of Agriculture, as described in Circular No. 921 issued June 1953. Test weight per bushel shall be expressed to the nearest tenth of a pound.

§ 26.318 Classes.

Wheat shall be divided into the following seven classes: Hard Red Spring Wheat, Durum Wheat, Red Durum Wheat, Hard Red Winter Wheat, Soft Red Winter Wheat, White Wheat, and Mixed Wheat.

§ 26.319 Hard Red Spring Wheat.

The class Hard Red Spring Wheat shall include all varieties of hard red spring wheat. This class shall be divided into the following three subclasses:

(a) *Dark Northern Spring Wheat.* The subclass Dark Northern Spring Wheat shall be Hard Red Spring Wheat with 75 percent or more of dark, hard, and vitreous kernels.

(b) *Northern Spring Wheat.* The subclass Northern Spring Wheat shall be

Hard Red Spring Wheat with 25 percent or more but less than 75 percent of dark hard, and vitreous kernels.

(c) *Red Spring Wheat.* The subclass Red Spring Wheat shall be Hard Red Spring Wheat with less than 25 percent of dark, hard, and vitreous kernels.

§ 26.320 Durum Wheat.

The class Durum Wheat shall include all varieties of white (amber) Durum Wheat. This class shall be divided into the following three subclasses:

(a) *Hard Amber Durum Wheat.* The subclass Hard Amber Durum Wheat shall be Durum Wheat with 75 percent or more of hard and vitreous kernels of amber color.

(b) *Amber Durum Wheat.* The Subclass Amber Durum Wheat shall be Durum Wheat with 60 percent or more but less than 75 percent of hard and vitreous kernels of amber color.

(c) *Durum Wheat.* The subclass Durum Wheat shall be Durum Wheat with less than 60 percent of hard and vitreous kernels of amber color.

§ 26.321 Red Durum Wheat.

The class Red Durum Wheat shall include all varieties of red durum wheat. There are no subclasses in this class.

§ 26.322 Hard Red Winter Wheat.

The class Hard Red Winter Wheat shall include all varieties of hard red winter wheat. This class shall be divided into the following three subclasses:

(a) *Dark Hard Winter Wheat.* The subclass Dark Hard Winter Wheat shall be Hard Red Winter Wheat with 75 percent or more of dark, hard, and vitreous kernels.

(b) *Hard Winter Wheat.* The subclass Hard Winter Wheat shall be Hard Red Winter Wheat with 40 percent or more but less than 75 percent of dark, hard, and vitreous kernels.

(c) *Yellow Hard Winter Wheat.* The subclass Yellow Hard Winter Wheat shall be Hard Red Winter Wheat with less than 40 percent of dark, hard, and vitreous kernels.

§ 26.323 Soft Red Winter Wheat.

The class Soft Red Winter Wheat shall include all varieties of soft red winter wheat. There are no subclasses in this class.

§ 26.324 White Wheat.

The class White Wheat shall include all varieties of white wheat. This class shall be divided into the following four subclasses:

(a) *Hard White Wheat.* The subclass Hard White Wheat shall be White Wheat with 75 percent or more of hard kernels and may contain not more than 10.0 percent of wheat of the white club varieties.

(b) *Soft White Wheat.* The subclass Soft White Wheat shall be White Wheat with less than 75 percent of hard kernels and may contain not more than 10.0 percent of wheat of the white club varieties.

(c) *White Club Wheat.* The subclass White Club Wheat shall be White Wheat consisting of wheat of the white club varieties and may contain not more than 10.0 percent of other white wheat.

(d) *Western White Wheat.* The subclass Western White Wheat shall be White Wheat containing more than 10.0 percent of wheat of the white club varieties and more than 10.0 percent of other white wheat.

§ 26.325 Mixed Wheat.

The class Mixed Wheat shall be any mixture of wheat which consists of one of the following:

(a) Two or more classes each of which constitutes more than 10.0 percent of the mixture; or

(b) One class that constitutes more than 10.0 percent and two or more other classes in combination that exceed 10.0 percent of the mixture; or

(c) Several classes none of which constitutes 10.0 percent or more of the mixture but which combined meet the definition for wheat.

§ 26.326 Grades.

Grades shall be the U.S. numerical grades, U.S. Sample grade, and special grades provided for in §§ 26.327 and 26.328.

[34 F.R. 3592, Feb. 23, 1969]

§ 26.327 Grades and grade requirements.

(a) *Grades and grade requirements for all classes of wheat except Mixed Wheat.* (See also § 26.328.)

Maximum limits of—

Grade	Minimum test weight per bushel		Defects				Wheat of other classes ¹		
	Hard Red Spring Wheat or White Club Wheat	All other classes and sub-classes	Heat-damaged kernels	Damaged kernels (total)	Foreign material	Shrunken and broken kernels	Defects (total)	Contrasting classes	Wheat of other classes (total)
	Pounds	Pounds	Percent	Percent	Percent	Percent	Percent	Percent	Percent
U.S. No. 1.....	58.0	60.0	0.1	2.0	0.5	3.0	3.0	1.0	3.0
U.S. No. 2.....	57.0	58.0	.2	4.0	1.0	5.0	5.0	2.0	5.0
U.S. No. 3.....	55.0	56.0	.5	7.0	2.0	8.0	8.0	3.0	10.0
U.S. No. 4.....	53.0	54.0	1.0	10.0	3.0	12.0	12.0	10.0	10.0
U.S. No. 5.....	50.0	51.0	3.0	15.0	5.0	20.0	20.0	10.0	10.0
U.S. Sample grade....	U.S. Sample grade shall be wheat which does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 5, inclusive; or which contains more than two <i>Crotalaria</i> seeds (<i>Crotalaria</i> spp.) in 1,000 grams of grain, or contains castor beans (<i>Ricinus communis</i>), stones, broken glass, animal filth, an unknown foreign substance(s), or a commonly recognized harmful or toxic substance(s); or which is musty, sour, or heating; or which has any commercially objectionable foreign odor except of smut or garlic; or which contains a quantity of smut so great that any one or more of the grade requirements cannot be applied accurately; or which is otherwise of distinctly low quality.								

¹ Red Durum Wheat of any grade may contain not more than 10.0 percent of wheat of other classes.

(b) *Grades and grade requirements for Mixed Wheat.* (See also § 26.328.) Mixed Wheat shall be graded according to the U.S. numerical and U.S. Sample grade requirements of the class of wheat which predominates in the mixture, except that the factor "wheat of other classes" shall be disregarded.

[34 F.R. 3593, Feb. 28, 1969, as amended at 34 F.R. 7800, May 16, 1969]

§ 26.328 Special grades, special grade requirements, and special grade designations.

(a) *Tough wheat*—(1) *Requirements.* Tough wheat shall be wheat which contains more than 13.5 percent of moisture.

(2) *Grade designation.* Tough wheat shall be graded and designated according to the grade requirements of the standards applicable to such wheat if it

were not tough, and there shall be added to and made a part of the grade designation the word "Tough."

(b) *Smutty wheat*—(1) *Requirements.* Smutty wheat shall be wheat which has an unmistakable odor of smut or which contains balls, portions of balls, or spores, of smut in a quantity equivalent to more than 14 balls of average size in 250 grams of wheat.

(2) *Grade designation.* Smutty wheat shall be graded and designated according to the grade requirements of the standards applicable to such wheat if it were not smutty; and

(i) In the case of smutty wheat which has an unmistakable odor of smut, or which contains balls, portions of balls, or spores, of smut, in excess of a quantity equal to 14 balls but not in excess of a quantity equal to 30 balls of average size in 250 grams of wheat, there shall be added to and made a part of the grade designation the words "Light Smutty"; and

(ii) In the case of smutty wheat which contains balls, portions of balls, or spores, of smut, in excess of a quantity equal to 30 balls of average size in 250 grams of wheat, there shall be added to and made a part of the grade designation the word "Smutty."

(c) *Garlicky wheat* — (1) *Requirements.* Garlicky wheat shall be wheat which contains two or more green garlic bulblets, or an equivalent quantity of dry or partly dry bulblets, in 1,000 grams of wheat.

(2) *Grade designation.* Garlicky wheat shall be graded and designated according to the grade requirements of the standards applicable to such wheat if it were not garlicky; and

(i) In the case of garlicky wheat which contains two or more but not more than six green garlic bulblets, or an equivalent quantity of dry or partly dry bulblets, in 1,000 grams of wheat, there shall be added to and made a part of the grade designation the words "Light Garlicky"; and

(ii) In the case of garlicky wheat which contains more than six green garlic bulblets, or an equivalent quantity of dry or partly dry bulblets, in 1,000 grams of wheat, there shall be added to and made a part of the grade designation the word "Garlicky."

(d) *Weevily wheat* — (1) *Requirements.* Weevily wheat shall be wheat which is infested with live weevils or

other insects injurious to stored grain.

(2) *Grade designation.* Weevily wheat shall be graded and designated according to the grade requirements of the standards applicable to such wheat if it were not weevily, and there shall be added to and made a part of the grade designation the word "Weevily."

(e) *Ergoty wheat*—(1) *Requirements.* Ergoty wheat shall be wheat which contains more than 0.3 percent of ergot.

(2) *Grade designation.* Ergoty wheat shall be graded and designated according to the grade requirements of the standards applicable to such wheat if it were not ergoty, and there shall be added to and made a part of the grade designation the word "Ergoty."

(f) *Treated wheat*—(1) *Requirements.* Treated wheat shall be wheat which has been scoured, limed, washed, sulfured, or treated in such a manner that the true quality is not reflected by either the U.S. numerical grade or the U.S. Sample grade designation alone.

(2) *Grade designation.* Treated wheat shall be graded and designated according to the grade requirements of the standards applicable to such wheat if it were not treated, and there shall be added to and made a part of the grade designation a statement indicating the kind of treatment.

(g) *Heavy wheat*—(1) *Requirements.* Heavy wheat shall be (i) Hard Red Spring Wheat of grade U.S. No. 1, U.S. No. 2, or U.S. No. 3 which has a test weight per bushel of 60 pounds or more, or (ii) any other class of wheat of grade U.S. No. 1, U.S. No. 2, or U.S. No. 3 which has a test weight per bushel of 62 pounds or more.

(2) *Grade designation.* Heavy wheat shall be graded and designated according to the grade requirements of the standards applicable to such wheat if it were not heavy, and there shall be added to and made a part of the grade designation preceding the name of the class or subclass, as the case may be, the word "Heavy."

[29 F.R. 1314, Jan. 25, 1964, as amended at 34 F.R. 3593, Feb. 28, 1969]

§ 26.329 Grade designations for wheat.

(See also § 26.328.) The grade designations for wheat shall include the letters "U.S."; the number of the grade or the words "Sample grade", as the case may be; the name of the applicable subclass, or in the case of Red Durum Wheat, Soft Red Winter Wheat, and Mixed Wheat,

the name of the class; the name of each applicable special grade; and when applicable the word "dockage" together with the percentage thereof. In the case of Western White Wheat, the grade designation shall also include, following the name of the subclass, the name and percentage of white club wheat and other white wheat in the mixture. In the case of Mixed Wheat, the grade designation shall also include, following the name of the class, the name and percentage of Hard Red Spring, Durum, Red Durum, Hard Red Winter, Soft Red Winter, and White Wheat, if any, contained in the mixture.

[34 F.R. 3593, Feb. 28, 1969]

OFFICIAL GRAIN STANDARDS OF THE UNITED STATES FOR CORN

SOURCE: §§ 26.351 to 26.353 appear at 24 F.R. 467, Jan. 21, 1959, unless otherwise noted. Redesignated at 34 F.R. 3593, Feb. 28, 1969.

§ 26.351 Terms defined.

For the purposes of the Official Grain Standards of the United States for Corn (Maize):

(a) *Corn*. Corn shall be any grain which consists of 50 percent or more of whole kernels of shelled dent corn and/or shelled flint corn (*Zea mays*) and may contain not more than 10.0 percent of other grains for which standards have been established under the United States Grain Standards Act.

(b) *Classes*. Corn shall be divided into the following three classes: Yellow corn, white corn, and mixed corn.

(c) *Yellow corn*. The class yellow corn shall be yellow-kerneled corn and may contain not more than 5.0 percent of corn of other colors. Yellow kernels of corn with a slight tinge of red shall be considered as yellow corn.

(d) *White corn*. The class white corn shall be white-kerneled corn and may contain not more than 2.0 percent of corn of other colors. White kernels of corn with a slight tinge of light straw or pink color shall be considered as white corn.

(e) *Mixed corn*. The class mixed corn shall be corn which does not meet the color requirements for either of the classes yellow corn or white corn and shall include white-capped yellow corn.

(f) *Grades*. Grades shall be the U.S. numerical grades, U.S. Sample grade,

and special grades provided for in § 26.353.

(g) *Broken corn and foreign material*. Broken corn and foreign material shall be kernels and pieces of kernels of corn and all matter other than corn which will pass readily through a 12/64 sieve, and all matter other than corn which remains in the sieved sample.

(h) *Damaged kernels*. Damaged kernels shall be kernels and pieces of kernels of corn which are heat damaged, sprouted, frosted, badly ground damaged, badly weather damaged, moldy, diseased, or otherwise materially damaged.

(i) *Heat-damaged kernels*. Heat-damaged kernels shall be kernels and pieces of kernels of corn which have been materially discolored and damaged by heat.

(j) *12/64 sieve*. A 12/64 sieve shall be an aluminum sieve 0.0319 inch thick perforated with round holes 0.1875 ($1\frac{1}{16}$) inch in diameter which are $\frac{1}{4}$ inch from center to center. The perforations of each row shall be staggered in relation to the adjacent row.

(k) *Stones*. Stones shall be concreted earthy or mineral matter and other substances of similar hardness that do not disintegrate readily in water.

[24 F.R. 467, Jan. 21, 1959, as amended at 34 F.R. 3593, Feb. 28, 1969]

§ 26.352 Principles governing the application of the standards.

The following principles shall apply in the determination of the classes and grades of corn:

(a) *Basis of determination*. Each determination of class, damaged kernels, heat-damaged kernels, flint corn, and flint and dent corn shall be upon the basis of the grain after the removal of the broken corn and foreign material. All other determinations shall be upon the basis of the grain as a whole.

(b) *Percentages*. All percentages shall be determined upon the basis of weight.

(c) *Moisture*. Moisture shall be ascertained by the air-oven method for corn prescribed by the United States Department of Agriculture as described in Service and Regulatory Announcements No. 147 (1959 Revision) of the Agricultural Marketing Service, or ascertained by any method which gives equivalent results.

(d) *Test weight per bushel.* Test weight per bushel shall be the weight per Winchester bushel as determined by the method prescribed by the United States Department of Agriculture as described in Circular No. 921, issued June 1953, or as determined by any method which gives equivalent results.

§ 26.353 Grades, grade requirements and grade designations.

The following grades, grade requirements, and grade designations are applicable under these standards:

(a) *Grades and grade requirements for Corn.* (See also paragraph (c) of this section.)

Grade	Minimum test weight per bushel	Maximum limits of—				
		Moisture	Broken corn and foreign material	Damaged kernels		
				Total	Heat—damaged kernels	
		<i>Pounds</i>	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>
U.S. No. 1.....	56	14.0	2.0	3.0	0.1	
U.S. No. 2.....	54	15.5	3.0	5.0	.2	
U.S. No. 3.....	52	17.5	4.0	7.0	.5	
U.S. No. 4.....	49	20.0	5.0	10.0	1.0	
U.S. No. 5.....	46	23.0	7.0	15.0	3.0	
U.S. Sample grade.....						

U.S. Sample grade shall be corn which does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 5, inclusive; or which contains stones; or which is musty, or sour, or heating; or which has any commercially objectionable foreign odor; or which is otherwise of distinctly low quality.

(b) *Grade designations for corn.* The grade designations for corn shall include, in the order named, the letters "U.S."; the number of the grade or the words "Sample grade," as the case may be; the name of the applicable class; and the name of each applicable special grade.

(c) *Special grades, special grade requirements, and special grade designations for corn—(1) Flint corn—(1) Requirements.* Flint corn shall be corn of any class which consists of 95 percent or more of flint corn.

(i) *Grade designation.* Flint corn shall be graded and designated according to the grade requirements of the standards applicable to such corn if it were not flint, and there shall be added to and made a part of the grade designation, immediately following the class name, the word "flint."

(2) *Flint and dent corn—(1) Requirements.* Flint and dent corn shall be corn of any class which consists of a mixture of flint and dent corn containing more than 5.0 percent but less than 95 percent of flint corn.

(ii) *Grade designation.* Flint and dent corn shall be graded and designated according to the grade requirements of the standards applicable to such corn if

it were not flint and dent, and there shall be added to and made a part of the grade designation, immediately following the class name, the words "flint and dent" and the approximate percentage of flint corn.

(3) *Weevily corn—(1) Requirements.* Weevily corn shall be corn which is infested with live weevils or other insects injurious to stored grain.

(ii) *Grade designation.* Weevily corn shall be graded and designated according to the grade requirements of the standards applicable to such corn if it were not weevily, and there shall be added to and made a part of the grade designation the word "weevily."

[24 F.R. 467, Jan. 21, 1959, as amended at 34 F.R. 3593, Feb. 28, 1969]

OFFICIAL GRAIN STANDARDS OF THE UNITED STATES FOR RYE

SOURCE: §§ 26.401 to 26.409 contained in SRA, BAE 144, Mar. 31, 1934, unless otherwise noted.

§ 26.401 Terms defined.

For the purposes of the official grain standards of the United States for rye:

(a) *Rye.* Rye shall be any grain which, before the removal of dockage,

consists of 50 percent or more of rye and not more than 10 percent of other grains for which standards have been established under the provisions of the United States Grain Standards Act.

(b) *Grades.* Rye shall be graded and designated according to the respective grade requirements of the U.S. numerical grades and U.S. Sample grade of

these standards, and according to the special grades when applicable.

[SRA, BAE 144, Mar. 31, 1934, as amended at 34 F.R. 3593, Feb. 28, 1969]

§ 26.402 Grades, grade requirements, and grade designations.

(a) *Grades and grade requirements for Rye.* (See also §§ 26.403(a) through 26.408.)

Grade No.	Maximum limits of—				
	Minimum test weight per bushel	Damaged kernels (rye and other grains)		Foreign material	
		Total	Heat-damaged	Total	Foreign matter other than wheat
U.S. No. 1.....	Pounds 56	Percent 2	Percent 0.1	Percent 3	Percent 1
U.S. No. 2.....	54	4	.2	6	2
U.S. No. 3.....	52	7	.5	10	4
U.S. No. 4.....	49	15	3.0	10	6
U.S. Sample grade.....					

U.S. Sample grade shall include rye which does not come within the requirements of any of the grades from U.S. No. 1 to U.S. No. 4, inclusive; or which contains more than 16 percent of moisture; or which contains inseparable stones and/or cinders; or which is musty, or sour, or heating, or hot; or which has any commercially objectionable foreign odor except of smut or garlic; or which contains a quantity of smut so great that any one or more of the grade requirements cannot be applied accurately; or which is otherwise of distinctly low quality.

¹ The rye in grade U.S. No. 1 may contain not more than 10.0 percent, in grade U.S. No. 2 not more than 15.0 percent, and in grade U.S. No. 3 not more than 25.0 percent of "thin" rye, which "thin" rye shall consist of rye and other matter that will pass readily through a sieve 0.032 inch thick with perforations 0.064 by 0.375 inch.

(b) *Grade designations for rye.* The grade designations for rye shall include the letters "U.S."; the number of the grade or the words "Sample grade," as the case may be; the word "Rye"; the name of each applicable special grade; and when applicable the word "dockage" together with the percentage thereof.

[34 F.R. 3593, Feb. 28, 1969]

§ 26.403 Dockage.

Dockage includes weed seeds, weed stems, chaff, straw, grain other than rye, sand, dirt, and any other foreign material, which can be removed readily from the rye by the use of appropriate sieves and cleaning devices; also undeveloped, shriveled, and small pieces of rye kernels which are removed in properly separating the foreign material, and which cannot be recovered by properly rescreening or recleaning.

The quantity of dockage shall be calculated in terms of percentage based on the total weight of the grain including the dockage. The percentage of dockage so calculated, when equal to 1 percent or more, shall be stated in terms of

whole percent, and when less than 1 percent shall not be stated. A fraction of a percent shall be disregarded. The word "Dockage," together with the percentage thereof, shall be added to the grade designation.

§ 26.403a Special grade; Plump rye.

(a) *Definition.* Plump rye shall be rye which does not contain more than 5 percent of rye and other matter that will pass through a 20-gage metal sieve with rectangular perforations 0.064 inch wide by 3/8 inch long.

(b) *Grades.* Plump rye shall be graded and designated according to the grade requirements of the standards applicable to such rye if it were not plump, and there shall be added to, and made a part of, the grade designation, immediately preceding the word rye, the word "Plump."

[6 F. R. 417, Jan. 16, 1941]

§ 26.404 Special grade; Tough rye.

(a) *Definition.* Tough rye shall be rye which contains more than 14 percent,

but not more than 16 percent, of moisture.

(b) *Grades.* Tough rye shall be graded and designated according to the grade requirements of the standards applicable to such rye if it were not tough, and there shall be added to, and made a part of, the grade designation, the word "Tough."

§ 26.405 Special grade; Smutty rye.

(a) *Definition.* Smutty rye shall be rye which has an unmistakable odor of smut, or which contains balls, portions of balls or spores, of smut, in excess of a quantity equal to 14 balls of average size in 250 grams of rye.

(b) *Grades.* Smutty rye shall be graded and designated according to the grade requirements of the standards applicable to such rye if it were not smutty; and

(1) In the case of Smutty rye which has an unmistakable odor of smut, or which contains, balls, portions of balls, or spores, of smut, in excess of a quantity equal to 14 balls but not in excess of a quantity equal to 30 balls of average size in 250 grams of rye, there shall be added to, and made a part of, the grade designation, the words "Light Smutty"; and

(2) In the case of Smutty rye which contains balls, portions of balls, or spores, of smut, in excess of a quantity equal to 30 balls of average size in 250 grams of rye, there shall be added to, and made a part of, the grade designation, the word "Smutty."

[SRA, BAE 144, Mar. 31, 1934, as amended Apr. 26, 1934]

§ 26.406 Special grade; Garlicky rye.

(a) *Definition.* Garlicky rye shall be rye which contains two or more green garlic bulblets, or an equivalent quantity of dry or partly dry bulblets, in 1,000 grams of rye.

(b) *Grades.* Garlicky rye shall be graded and designated according to the grade requirements of the standards applicable to such rye if it were not garlicky; and

(1) In the case of Garlicky rye which contains two or more but not more than six green garlic bulblets, or an equivalent quantity of dry or partly dry bulblets, in 1,000 grams of rye, there shall be added to, and made a part of, the grade designation, the words "Light Garlicky"; and

(2) In the case of Garlicky rye which contains more than six green garlic bulblets, or an equivalent quantity of dry or

partly dry bulblets, in 1,000 grams of rye, there shall be added to, and made a part of, the grade designation, the word "Garlicky."

§ 26.407 Special grade; Weevily rye.

(a) *Definition.* Weevily rye shall be rye which is infested with live weevils or other insects injurious to stored grain.

(b) *Grades.* Weevily rye shall be graded and designated according to the grade requirements of the standards applicable to such rye if it were not weevily, and there shall be added to, and made a part of, the grade designation, the word "Weevily."

§ 26.408 Special grade; Ergoty rye.

(a) *Definition.* Ergoty rye shall be rye which contains ergot in excess of 0.3 percent.

(b) *Grades.* Ergoty rye shall be graded and designated according to the grade requirements of the standards applicable to such rye if it were not ergoty, and there shall be added to, and made a part of, the grade designation, the word "Ergoty."

§ 26.409 Grade factors; definitions.

(a) *Basis of grade determinations.* Each determination of dockage, temperature, odor, garlic, and live weevils or other insects injurious to stored grain, shall be upon the basis of the grain as a whole. All other determinations shall be upon the basis of the grain when free from dockage.

(b) *Percentages.* Percentages, except in the case of moisture, shall be percentages ascertained by weight.

(c) *Percentage of moisture.* Percentage of moisture shall be that ascertained by the air oven and the method of use thereof described in Service and Regulatory Announcements No. 147 of the Agricultural Marketing Service of the United States Department of Agriculture, or ascertained by any device and method which give equivalent results in the determination of moisture.

(d) *Test weight per bushel.* Test weight per bushel shall be the weight per Winchester bushel as determined by the testing apparatus and the method of use thereof described in Bulletin No. 1065, dated May 18, 1922, issued by the United States Department of Agriculture, or as determined by any device and method which give equivalent results in the determination of test weight per bushel.

(e) *Foreign material.* Foreign material shall include all matter other than rye, which is not separated from the rye in the proper determination of dockage, except that smut balls shall not be considered as foreign material.

(f) *Other grains.* Other grains shall include wheat, oats, corn, grain sorghums, barley, hull-less barley, flaxseed, emmer, spelt, einkorn, Polish wheat, poulard wheat, cultivated buckwheat, and soybeans.

(g) *Damaged kernels.* Damaged kernels shall be kernels and pieces of kernels of rye and other grains which are heat damaged, sprouted, frosted, badly ground damaged, badly weather damaged, or otherwise materially damaged.

(h) *Heat-damaged kernels.* Heat-damaged kernels shall be kernels and pieces of kernels of rye and other grains which have been materially discolored and damaged by external heat or as a result of heating caused by fermentation. [SRA, BAE 144, Mar. 31, 1934, as amended at 11 F.R. 8711, Aug. 13, 1946; 13 F.R. 8727, Dec. 30, 1948]

OFFICIAL GRAIN STANDARDS OF UNITED STATES FOR MIXED GRAIN

§ 26.451 Terms defined.

For the purposes of the Official Grain Standards of the United States for Mixed Grain:

(a) *Mixed grain.* Mixed grain shall be any mixture of grains for which standards have been established under the United States Grain Standards Act, or any mixture of such grains and wild oats, or wild oats, provided that such mixture does not come within the requirements of any of the standards for such grains, and that such mixture or wild oats does not contain more than 50 percent of foreign material.

(b) *Grades.* Grades shall be "U.S. Mixed Grain," "U.S. No. 1 Mixed Feed Oats," "U.S. No. 2 Mixed Feed Oats," "U.S. Sample grade Mixed Grain," and special grades provided for in § 26.453.

(c) *Wild oats.* Wild oats shall be the seeds of *Avena fatua* and *A. sterilis*.

(d) *Cultivated oats.* Cultivated oats shall be the seeds of *Avena sativa* and *A. byzantina*.

(e) *Mixed feed oats.* Mixed feed oats shall be any Mixed Grain which contains not less than 75 percent of wild oats, or not less than 75 percent of wild oats and cultivated oats in combination, which combination shall include more than 25

percent of wild oats; and which contains not more than 7.0 percent of foreign material, not more than 15.0 percent of damaged kernels, and not more than 3.0 percent of heat-damaged kernels; and which has a test weight per bushel of not less than 29 pounds.

(f) *Foreign material.* Foreign material shall be all matter except wild oats and grains for which standards have been established under the United States Grain Standards Act.

(g) *Damaged kernels.* Damaged kernels shall be all kernels and pieces of kernels of wild oats and grains for which standards have been established under the United State Grain Standards Act, which are heat damaged, sprouted, frosted, badly ground damaged, badly weather damaged, moldy, diseased, or otherwise materially damaged.

(h) *Heat-damaged kernels.* Heat-damaged kernels shall be kernels and pieces of kernels of wild oats and grains for which standards have been established under the United States Grain Standards Act, which have been materially discolored and damaged by heat.

(i) *Stones.* Stones shall be concreted earthy or mineral matter and other substances of similar hardness that do not disintegrate readily in water.

[25 F.R. 8282, Aug. 31, 1960, as amended at 34 F.R. 3594, Feb. 28, 1969]

§ 26.452 Principles governing application of standards.

The following principles shall apply in the determination of the grades for mixed grain:

(a) *Basis of determination.* All determinations shall be on the basis of the grain as a whole.

(b) *Percentages.* All percentages shall be determined upon the basis of weight. The percentage of each kind of grain, including wild oats, and foreign material shall be stated in terms of whole percents.

(c) *Moisture.* Moisture shall be determined by the air-oven method prescribed by the United States Department of Agriculture as described in Service and Regulatory Announcement No. 47 (1959 revision) issued by the Agricultural Marketing Service for the kind of grain which predominates in the mixture or determined by any method which gives equivalent results.

(d) *Test weight per bushel.* Test weight per bushel shall be the weight per Winchester bushel as determined by the

method prescribed by the United States Department of Agriculture as described in Circular No. 921, issued June 1953, or as determined by any method which gives equivalent results.

[25 F.R. 8282, Aug. 31, 1960]

§ 26.453 Grades, grade requirements, and grade designations.

The following grades, grade requirements, and grade designations are applicable under these standards:

(a) *Grades and grade requirements for U.S. Mixed Grain.* (See also paragraph (c) of this section.)

(1) *U.S. Mixed Grain (Grade).* The grade "U.S. Mixed Grain" shall be mixed grain with not more than 15 percent of damaged kernels, and not more than 3 percent of heat-damaged kernels, and which otherwise does not meet the requirements for mixed feed oats, or the requirements for the grade "U.S. Sample grade Mixed Grain."

(2) *U.S. No. 1 Mixed Feed Oats.* The grade U.S. No. 1 Mixed Feed Oats shall be mixed grain which meets the requirements for mixed feed oats; which contains not more than 5 percent of foreign material, not more than 10 percent of damaged kernels, and not more than 2 percent of heat-damaged kernels; which has a test weight per bushel of not less than 32 pounds; and which otherwise does not meet the requirements for the grades U.S. Mixed Grain, U.S. No. 2 Mixed Feed Oats, or U.S. Sample grade Mixed Grain.

(3) *U.S. No. 2 Mixed Feed Oats.* The grade U.S. No. 2 Mixed Feed Oats shall be mixed grain which meets the requirements for mixed feed oats; which contains not more than 7 percent of foreign material, not more than 15 percent of damaged kernels, and not more than 3 percent of heat-damaged kernels; which has a test weight per bushel of not less than 29 pounds; and which otherwise does not meet the requirements for the grades U.S. Mixed Grain, U.S. No. 1 Mixed Feed Oats, or U.S. Sample grade Mixed Grain.

(4) *U.S. Sample grade Mixed Grain.* The grade "U.S. Sample grade Mixed Grain" shall be mixed grain which does not meet the requirements for mixed feed oats, or the requirements for the grade U.S. Mixed Grain; or which contains more than 16 percent of moisture; or which contains stones; or which is musty, or sour, or heating; or which has

any commercially objectionable foreign odor, except of smut or garlic; or which is otherwise of distinctly low quality.

(b) *Grade designations for U.S. Mixed Grain.* The grade designation for mixed grain shall include the words "U.S. Mixed Grain," "U.S. No. 1 Mixed Feed Oats," "U.S. No. 2 Mixed Feed Oats," or "U.S. Sample grade Mixed Grain," as the case may be, and the name of each applicable special grade. In the case of the grades "U.S. Mixed Grain" and "U.S. Sample grade Mixed Grain" the grade designation shall also include the name and approximate percentage of each kind of grain, including wild oats, which constitutes 10 percent or more of the mixture, in the order of predominance and, when applicable, the words "other grains" followed by a statement of the percentage of the combined quantity of those kinds of grains, including wild oats, each of which is present in a quantity less than 10 percent; and the words "Foreign Material" together with a statement of the percentage thereof.

(c) *Special grades, special grade requirements and special grade designations for mixed grain—(1) Tough mixed grain—(i) Requirements.* Tough mixed grain shall be mixed grain which contains more than 14.0 percent but not more than 16.0 percent of moisture.

(ii) *Grade designation.* Tough mixed grain shall be graded according to the grade requirements of the standards applicable to such mixed grain if it were not tough, and there shall be added to and made a part of the grade designation the word "Tough."

(2) *Smutty mixed grain—(1) Requirements.* Smutty mixed grain shall be (a) mixed grain in which wheat or rye predominates, and which contains balls, portions of balls, or spores, of smut, in excess of a quantity equal to 14 balls of average size in 250 grams of mixed grain, or (b) any other mixed grain which has the kernels covered with smut spores, or which contains smut masses and/or smut balls in excess of 0.2 percent.

(ii) *Grade designation.* Smutty mixed grain shall be graded and designated according to the grade requirements of the standards applicable to such mixed grain if it were not smutty, and there shall be added to and made a part of the grade designation, the word "Smutty."

(3) *Ergoty mixed grain—(1) Requirements.* Ergoty mixed grain shall be

mixed grain which contains ergot in excess of 0.3 percent.

(i) *Grade designation.* Ergoty mixed grain shall be graded and designated according to the grade requirements of the standards applicable to such mixed grain if it were not ergoty, and there shall be added to and made a part of the grade designation, the word "Ergoty."

(4) *Garlicky mixed grain—(1) Requirements.* Garlicky mixed grain shall be (a) mixed grain in which wheat or rye predominates, and which contains 2 or more green garlic bulblets, or an equivalent quantity of dry or partly dry bulblets, in 1,000 grams of mixed grain; or (b) mixed grain in which grains other than wheat and rye predominate, and which contains 4 or more green garlic bulblets, or an equivalent quantity of dry or partly dry bulblets, in 500 grams of mixed grain.

(ii) *Grade designation.* Garlicky mixed grain shall be graded and designated according to the grade requirements of the standards applicable to such mixed grain if it were not garlicky, and there shall be added to and made a part of the grade designation, the word "Garlicky."

(5) *Weevily mixed grain—(1) Requirements.* Weevily mixed grain shall be mixed grain which is infested with live weevils or other insects injurious to stored grain.

(ii) *Grade designation.* Weevily mixed grain shall be graded and designated according to the grade requirements of the standards applicable to such mixed grain if it were not weevily, and there shall be added to and made a part of the grade designation, the word "Weevily."

(6) *Blighted mixed grain—(1) Requirements.* Blighted mixed grain shall be mixed grain in which barley predominates and which, as a whole, contains more than 4 percent of barley damaged or materially discolored by blight and/or mold.

(ii) *Grade designation.* Blighted mixed grain shall be graded and designated according to the grade requirements of the standards applicable to such mixed grain if it were not blighted, and there shall be added to and made a part of the grade designation, the word "Blighted."

(7) *Treated mixed grain—(1) Requirements.* Treated mixed grain shall be mixed grain which has been scoured,

limed, washed, sulfured, or treated in such a manner that its true quality is not reflected by the grade designation "U.S. Mixed Grain," "U.S. No. 1 Mixed Feed Oats," "U.S. No. 2 Mixed Feed Oats," or "U.S. Sample grade Mixed Grain."

(ii) *Grade designation.* Treated mixed grain shall be graded and designated according to the grade requirements of the standards applicable to such mixed grain if it were not treated, and there shall be added to and made a part of the grade designation, a statement indicating the kind of treatment.

[25 F.R. 8282, Aug. 31, 1960, as amended at 34 F.R. 3594, Feb. 28, 1969]

OFFICIAL GRAIN STANDARDS OF THE UNITED STATES FOR FLAXSEED

SOURCE: §§ 26.501 to 26.514 appear at 30 F.R. 4605, Apr. 9, 1965; 30 F.R. 5760, Apr. 23, 1965.

§ 26.501 Terms defined.

For the purposes of the Official Grain Standards of the United States for Flaxseed (*Linum usitatissimum*), the terms specified in §§ 26.502 through 26.506 shall have the meanings stated in said sections, respectively.

§ 26.502 Flaxseed.

Flaxseed shall be any grain which, before the removal of dockage, consists of 50 percent or more of flaxseed and not more than 20 percent of other grains for which standards have been established under the provisions of the United States Grain Standards Act.

§ 26.503 Dockage.

Dockage shall be all matter other than flaxseed, also underdeveloped and shriveled flaxseed and small pieces of flaxseed removed in properly separating the material other than flaxseed and which cannot be recovered by properly rescreening or recleaning. (See also §§ 26.509 and 26.514.)

§ 26.504 Damaged flaxseed.

Damaged flaxseed shall be flaxseed and pieces of flaxseed which are heat damaged, sprouted, frosted, badly ground damaged, badly weather damaged, moldy, diseased, or otherwise materially damaged.

§ 26.505 Heat-damaged flaxseed.

Heat-damaged flaxseed shall be flaxseed and pieces of flaxseed which are materially discolored and damaged by heat.

§ 26.506 Stones.

Stones shall be concreted earthy or mineral matter and other substances of similar hardness that do not disintegrate readily in water.

§ 26.507 Principles governing application of standards.

The principles stated in §§ 26.508 through 26.511 shall apply in the determination of the grades of flaxseed.

§ 26.508 Basis of determinations.

Each determination of moisture, test weight per bushel, heat-damaged flaxseed, and damaged flaxseed shall be upon the basis of the grain after the removal of that part of the dockage which can be removed readily by the use of appropriate sieves and cleaning devices. All other determinations shall be upon the basis of the grain as a whole.

§ 26.509 Percentages.

All percentages shall be upon the basis of weight. Percentages except for dockage shall be expressed in whole and tenth percent to the nearest tenth of a percent. The percentage of dockage when equal to 1 percent or more shall be stated in terms of whole percent and when less than 1 percent shall not be stated. A fraction of a percent of dockage shall be disregarded.

§ 26.510 Moisture.

Moisture shall be ascertained by use of the equipment and procedure prescribed by the Consumer and Marketing Service, U.S. Department of Agriculture. (Information thereon may be obtained from said Service.)

§ 26.511 Test weight per bushel.

Test weight per bushel shall be the weight per Winchester bushel as determined by the method prescribed by the U.S. Department of Agriculture as described in Circular No. 921, issued June 1953. Test weight per bushel shall be expressed in whole and half pounds. A fraction of a half pound shall be disregarded.

§ 26.512 Grades.

Grades shall be the U.S. numerical grades and U.S. Sample grade provided for in § 26.513.

[34 F.R. 3594, Feb. 28, 1969]

§ 26.513 Grades and grade requirements for flaxseed.

Grade	Minimum test weight per bushel	Maximum limits of—		
		Heat-damaged flaxseed	Damaged flaxseed (total)	
	Pounds	Percent	Percent	
U.S. No. 1.....	49	0.2	10.0	
U.S. No. 2.....	47	.5	15.0	
U.S. Sample grade..	U.S. Sample grade shall be flaxseed which does not meet the requirements for grade U.S. No. 1 or U.S. No. 2; or which contains more than 9.5 percent of moisture; or which contains castor beans (<i>Ricinus communis</i>), crotonaria seeds (<i>Crotalaria spp.</i>), stones, unknown foreign substances, or commonly recognized harmful or toxic substances; or which is musty, sour, or heating; or which has any commercially objectionable foreign odor; or which is otherwise of distinctly low quality.			

[34 F.R. 3594, Feb. 28, 1969]

§ 26.514 Grade designations for flaxseed.

The grade designation for flaxseed shall include in the order named, the letters "U.S."; the number of the grade or the words "Sample grade," as the case may be; the word "Flaxseed"; and, when applicable, the word "dockage" together with the percentage thereof.

[34 F.R. 3594, Feb. 28, 1969]

OFFICIAL GRAIN STANDARDS OF THE UNITED STATES FOR GRAIN SORGHUM

§ 26.551 Terms defined.

For the purposes of the official grain standards of the United States for grain sorghum (*Sorghum vulgare*):

(a) *Grain sorghum.* Grain sorghum shall be any grain which, before the removal of dockage, consists of 50 percent or more of whole kernels of grain sorghum, which contains not more than 10.0 percent of other grains for which standards have been established under the United States Grain Standards Act.

(b) *Classes.* Grain sorghum shall be divided into the following four classes: Yellow Grain Sorghum, White Grain Sorghum, Brown Grain Sorghum, and Mixed Grain Sorghum.

(1) *Yellow Grain Sorghum.* The class Yellow Grain Sorghum shall be grain sorghum with yellow, salmon-pink, or red seedcoats, which contains not more than 10.0 percent of grain sorghum of other colors.

(2) *White Grain Sorghum.* The class White Grain Sorghum shall be grain sorghum with white seedcoats, which contains not more than 10.0 percent of grain sorghum of other colors. Colored spots upon kernels of grain sorghum otherwise white shall not affect their classification as White Grain Sorghum. Grain sorghum with white seedcoats and brown subcoats shall not be classed as White Grain Sorghum. (See subparagraph (3) of this paragraph.)

(3) *Brown Grain Sorghum.* The class Brown Grain Sorghum shall be grain sorghum with brown seedcoats, which contains not more than 10.0 percent of grain sorghum of other colors. Grain sorghum with white seedcoats and brown subcoats shall be classed as Brown Grain Sorghum.

(4) *Mixed Grain Sorghum.* The class Mixed Grain Sorghum shall be grain sorghum which does not meet the requirements for the class Yellow Grain Sorghum, White Grain Sorghum, or Brown Grain Sorghum.

(c) *Grades.* Grades shall be the U.S. numerical grades, U.S. Sample grade, and special grades provided for in § 26.553.

(d) *Dockage.* Dockage shall be sand, dirt, finely broken kernels of grain sorghum, weed seeds, and any other material which will pass readily through a 2½/64 round hole sieve (see also paragraph (b) of § 26.552 and paragraph (b) of § 26.553).

(e) *Broken kernels, foreign material, and other grains.* Broken kernels, foreign material, and other grains shall be all matter including kernels and pieces of kernels of grain sorghum, except dockage, which will pass readily through a 5/64 triangular hole sieve and all matter other than grain sorghum, which remains on the sieve after sieving.

(f) *Other grains.* Other grains shall be barley, hull-less barley, corn, flaxseed, oats, rye, soybeans, wheat, cultivated buckwheat, einkorn, emmer, Polish wheat, popcorn, poulard wheat, rice, spelt, sweet corn, wild oats, and nongrain sorghum.

(g) *Nongrain sorghum.* Nongrain sorghum shall be the seeds of sweet sorghum (sorgo), sorghum-sudangrass hybrids, sorgrass, broomcorn, johnsongrass, and sudangrass.

(h) *Damaged kernels (total).* Damaged kernels (total) shall be kernels and pieces of kernels of grain sorghum and other grains which are heat-damaged,

sprouted, frosted, badly ground-damaged, badly weather-damaged, moldy, diseased, or otherwise materially damaged.

(i) *Heat-damaged kernels.* Heat-damaged kernels shall be kernels and pieces of kernels of grain sorghum and other grains which are materially discolored and damaged by heat.

(j) *Stones.* Stones shall be concreted earthy or mineral matter and other substances of similar hardness that do not disintegrate readily in water.

(k) *5/64 triangular hole sieve.* A 5/64 triangular hole sieve shall be an aluminum sieve 0.0319 inch thick with equilateral triangular perforations, the inscribed circles of which are 0.0781 (5/64) inch in diameter and which are ¼ inch from center to center. The perforations of each row shall be staggered in relation to the adjacent row.

(l) *2½/64 round hole sieve.* A 2½/64 round hole sieve shall be an aluminum sieve 0.0319 inch thick perforated with round holes 0.0391 (2½/64) inch in diameter which are 0.075 inch from center to center. The perforations of each row shall be staggered in relation to the adjacent row.

[27 F.R. 3108, Mar. 31, 1962, as amended at 34 F.R. 3594, Feb. 28, 1969]

§ 26.552 Principles governing application of standards.

The following principles shall apply in the determination of the classes and grades of grain sorghum:

(a) *Basis of determinations.* Each determination of "broken kernels, foreign material, and other grains" shall be upon the basis of the grain when free from dockage. Each determination of class, damaged kernels, heat-damaged kernels, and stones shall be upon the basis of the grain when free from dockage and that part of the broken kernels, foreign material, and other grains which can be removed readily by the use of a 5/64 triangular hole sieve. All other determinations shall be upon the basis of the grain as a whole.

(b) *Percentages.* Percentages shall be upon the basis of weight. The percentage of dockage when equal to 1 percent or more shall be stated in terms of whole percent and when less than 1 percent shall not be stated. A fraction of a percent shall be disregarded.

(c) *Moisture.* Moisture shall be ascertained by the air-oven method for

grain sorghum prescribed by the United States Department of Agriculture as described in Service and Regulatory Announcements No. 147 (1959 revision), issued by the Agricultural Marketing Service, or ascertained by any method which gives equivalent results.

(d) *Test weight per bushel.* Test weight per bushel shall be the weight per Winchester bushel, as determined by the method prescribed by the United States Department of Agriculture as described

in Circular 921, issued June 1953, or as determined by any method which gives equivalent results.

[27 F.R. 3108, Mar. 31, 1962]

§ 26.553 Grades, grade requirements and grade designations.

The following grades, grade requirements, and grade designations are applicable under these standards:

(a) *Grades and grade requirements for Grain Sorghum.* (See also paragraph (c) of this section.)

Grade	Minimum test weight per bushel	Maximum limits of—				
		Moisture	Damaged kernels		Broken kernels, foreign material, and other grains	
			Total	Heat-damaged kernels		
		<i>Pounds</i>	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>
U.S. No. 1.....	57	13.0	2.0	0.2	4.0	
U.S. No. 2.....	55	14.0	5.0	.5	8.0	
U.S. No. 3 ¹	53	15.0	10.0	1.0	12.0	
U.S. No. 4.....	51	18.0	15.0	3.0	15.0	
U.S. Sample grade.....						U.S. Sample grade shall be grain sorghum which does not meet the requirements of any of the grades from U.S. No. 1 to U.S. No. 4, inclusive; or which contains stones; or which is musty, or sour, or heating; or which is badly weathered; or which has any commercially objectionable foreign odor except of smut; or which is otherwise of distinctly low quality.

Grain sorghum which is distinctly discolored shall not be graded higher than U.S. No. 3.

(b) *Grade designations for grain sorghum.* The grade designations for grain sorghum shall include in the order named, the letters "U.S."; the number of the grade or the words "Sample grade", as the case may be; the name of the class; the name of each applicable special grade; and when applicable the word "dockage" together with the percentage thereof. In the case of the class Mixed Grain Sorghum, the grade designation shall also include, following the name of the class, the approximate percentages of yellow grain sorghum, white grain sorghum, and brown grain sorghum, if any, in the mixture.

(c) *Special grades, special grade requirements, and special grade designations for grain sorghum—*(1) *Smutty grain sorghum—*(i) *Requirements.* Smutty grain sorghum shall be grain sorghum the kernels of which are covered with smut spores, or which contains 20 or more smut masses in 100 grams of grain sorghum.

(ii) *Grade designation.* Smutty grain sorghum shall be graded and designated according to the grade requirements of the standards applicable to such grain

sorghum if it were not smutty, and there shall be added to and made a part of the grade designation the word "Smutty."

(2) *Weevily grain sorghum—*(i) *Requirements.* Weevily grain sorghum shall be grain sorghum which is infested with live weevils or other live insects injurious to stored grain.

(ii) *Grade designation.* Weevily grain sorghum shall be graded and designated according to the grade requirements of the standards applicable to such grain sorghum if it were not weevily, and there shall be added to and made a part of the grade designation the word "Weevily." [27 F.R. 3108, Mar. 31, 1962, as amended at 34 F.R. 3594, Feb. 28, 1969]

OFFICIAL GRAIN STANDARDS OF THE UNITED STATES FOR SOYBEANS

§ 26.601 Terms defined.

For the purposes of the official Grain Standards of the United States for soybeans:

(a) *Soybeans.* Soybeans shall be any grain which consists of 50 percent or more of whole or broken soybeans which will not pass readily through an 8/64 sieve and not more than 10 percent of

other grains for which standards have been established under the United States Grain Standards Act.

(b) *Classes.* Soybeans shall be divided into the following five classes: Yellow soybeans, green soybeans, brown soybeans, black soybeans, and mixed soybeans.

(c) *Yellow soybeans.* Yellow soybeans shall be any soybeans which have yellow or green seed coats, and which in cross section are yellow or have a yellow tinge, and may include not more than 10 percent of soybeans of other classes.

(d) *Green soybeans.* Green soybeans shall be any soybeans which have green seed coats, and which in cross section are green, and may include not more than 10 percent of soybeans of other classes.

(e) *Brown soybeans.* Brown soybeans shall be any soybeans with brown seed coats, and may include not more than 10 percent of soybeans of other classes.

(f) *Black soybeans.* Black soybeans shall be any soybeans with black seed coats, and may include not more than 10 percent of soybeans of other classes.

(g) *Mixed soybeans.* Mixed soybeans shall be any mixture of soybeans which does not meet the requirements of the classes yellow soybeans, green soybeans, brown soybeans, or black soybeans. Bicolored soybeans shall be classified as mixed soybeans.

(h) *Grades.* Grades shall be the U.S. numerical grades, U.S. Sample grade, and special grades provided for in § 26.603.

(i) *Bicolored soybeans.* Bicolored soybeans shall be any soybeans with seed coats of two colors, one of which is black or brown.

(j) *Splits* Splits shall be pieces of soybeans that are not damaged.

(k) *Damaged kernels.* Damaged kernels shall be soybeans and pieces of soybeans which are heat damaged, sprouted, frosted, badly ground damaged, badly weather damaged, moldy, diseased, stink-bug stung, or otherwise materially damaged. Stink-bug-stung kernels shall be considered damaged kernels at the rate of one-fourth of the actual percentage of the stung kernels.

(l) *Heat-damaged kernels.* Heat-damaged kernels shall be soybeans and pieces of soybeans which are materially discolored and damaged by heat.

(m) *Foreign material.* Foreign material shall be all matter, including soybeans and pieces of soybeans, which will

pass readily through an 8/64 sieve and all matter other than soybeans remaining on such sieve after sieving.

(n) *Stones.* Stones shall be concreted earthy or mineral matter and other substances of similar hardness that do not disintegrate readily in water.

(o) *8/64 sieve.* An 8/64 sieve shall be a metal sieve 0.032 inch thick perforated with round holes 0.125 ($\frac{1}{8}$) inch in diameter with approximately 4,736 perforations per square foot.

[20 F.R. 2447, Apr. 14, 1955, as amended at 34 F.R. 3595, Feb. 28, 1969; 34 F.R. 7282, May 3, 1969]

§ 26.602 Principles governing application of standards.

The following principles shall apply in the determination of the classes and grades of soybeans:

(a) *Basis of determination.* Each determination of class, splits, damaged kernels, and heat-damaged kernels, and of black, brown, and/or bicolored soybeans in Yellow or Green Soybeans, shall be upon the basis of the grain when free from foreign material. All other determinations shall be upon the basis of the grain as a whole.

(b) *Percentages.* All percentages shall be upon the basis of weight. The percentage of splits shall be expressed in terms of whole percents. All other percentages shall be expressed in terms of whole and tenths percents.

(c) *Moisture.* Moisture shall be ascertained by the air-oven method prescribed by the United States Department of Agriculture, as described in Service and Regulatory Announcement No. 147, issued by the Agricultural Marketing Service, or ascertained by any method which gives equivalent results.

(d) *Test weight per bushel.* Test weight per bushel shall be the weight per Winchester bushel as determined by the method prescribed by the United States Department of Agriculture, as described in Circular No. 921 issued June 1953, or as determined by any method which gives equivalent results.

[20 F.R. 2447, Apr. 14, 1955]

§ 26.603 Grades, grade requirements, and grade designations.

The following grades, grade requirements, and grade designations are applicable under these standards:

(a) *Grades and grade requirements for Soybeans.* (See also paragraph (c) of this section.)

Grade	Minimum test weight per bushel	Moisture	Splits	Maximum limits of—				Brown, black, and/or bicolored soybeans in yellow or green soybeans
				Damaged kernels			Foreign material	
				Total	Heat damaged			
	Pounds	Percent	Percent	Percent	Percent	Percent	Percent	
U.S. No. 1.....	56	13.0	10	2.0	0.2	1.0	1.0	
U.S. No. 2.....	54	14.0	20	3.0	0.5	2.0	2.0	
U.S. No. 3 ¹	52	16.0	30	5.0	1.0	3.0	5.0	
U.S. No. 4 ²	49	18.0	40	8.0	3.0	5.0	10.0	
U.S. Sample grade.....	U.S. Sample grade shall be soybeans which do not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 4, inclusive; or which are musty, sour, or heating; or which have any commercially objectionable foreign odor; or which contain stones; or which are otherwise of distinctly low quality.							

¹ Soybeans which are purple mottled or stained shall be graded not higher than U.S. No. 3.

² Soybeans which are materially weathered shall be graded not higher than U.S. No. 4.

(b) *Grade designations for soybeans.* The grade designations for soybeans shall include in the order named, the letters "U.S."; the number of the grade or the words "Sample grade," as the case may be; the name of the class; and the name of each applicable special grade. In the case of mixed soybeans, the grade designation shall also include, following the name of the class, the approximate percentages of yellow, green, brown, black, and bicolored soybeans in the mixture.

(c) *Special grades, special grade requirements and special grade designations for soybeans—*(1) *Garlicky soybeans—*(i) *Requirements.* Garlicky soybeans shall be soybeans which contain 5 or more garlic bulblets in 1,000 grams.

(ii) *Grade designation.* Garlicky soybeans shall be graded and designated according to the grade requirements of the standards applicable to such soybeans if they were not garlicky and there shall be added to and made a part of the grade designation the word "garlicky."

(2) *Weevily soybeans—*(1) *Requirements.* Weevily soybeans shall be soybeans which are infested with live weevils or other live insects injurious to stored grain.

(ii) *Grade designation.* Weevily soybeans shall be graded and designated according to the grade requirements of the standards applicable to such soybeans if they were not weevily, and there shall be added to and made a part of the grade designation the word "weevily."

[20 F.R. 2447, Apr. 14, 1955, as amended at 34 F.R. 3595, Feb. 28, 1969]

INTERPRETATIONS

§ 26.901 Interpretation with respect to the term "distinctly low quality".

The term "distinctly low quality", when used in the official grain standards of the United States, shall be construed to include grain which contains more than two *Crotalaria* seeds (*Crotalaria* spp.) in 1,000 grams of grain. [26 F.R. 121, Jan. 7, 1961]

§ 26.902 Interpretation with respect to the term "purple mottled or stained."

The term "purple mottled or stained" when used in the official grain standards of the United States for soybeans (see § 26.603(a)) shall be construed to include soybeans which are discolored by the growth of a fungus; or by dirt; or by a dirtlike substance including nontoxic inoculants; or by other nontoxic substances. [28 F.R. 11531, Oct. 30, 1963]

§ 26.903 Interpretation with respect to the term "bicolored soybeans."

The term "bicolored soybeans," when used in the Official Grain Standards of the United States for Soybeans (see § 26.601(1)), shall be construed to include any soybeans with seedcoats of two colors, one of which is black or brown, when the black and/or brown color covers 50 percent or more of the seedcoat. The hilum of a soybean shall not be considered a part of the seedcoat.

Effective date. The foregoing interpretation shall be applied in the inspection and grading of soybeans, under

the U.S. Grain Standards Act, on and after March 22, 1966.

On and after the effective date, upon request of an applicant for inspection, the percentage of soybeans with black and/or brown streaks or splotches contained in lots of yellow or green soybeans will be shown on inspection certificates for such lots of soybeans.

[31 F.R. 4949, Mar. 25, 1966]

§ 26.904 Interpretation with respect to the term "yellow kernels of corn with a slight tinge of red."

The term "yellow kernels of corn with a slight tinge of red" when used in the Official Grain Standards of the United States for Corn (see § 26.151(c)) shall be construed to include kernels which are yellow and/or light red in color, and kernels which are yellow and dark red in color provided the dark red color covers less than 50 percent of the kernel. Yellow and dark red kernels in which the dark red color covers 50 percent or more of the kernel shall be considered as "corn of other colors."

[31 F.R. 8113, June 9, 1966]

§ 26.905 Interpretation with respect to the term "white kernels of corn with a slight tinge of light straw or pink color."

The term "white kernels of corn with a slight tinge of light straw or pink color," when used in the Official Grain Standards of the United States for Corn (see § 26.151(d)) shall be construed to include kernels which are white and/or light straw or light pink in color, and kernels which are white and pink in color provided the pink color covers less than 50 percent of the kernel. White and pink kernels in which the pink color covers 50 percent or more of the kernel shall be considered as "corn of other colors."

[31 F.R. 8113, June 9, 1966]

PART 27—COTTON CLASSIFICATION UNDER COTTON FUTURES LEGISLATION

Subpart A—Regulations

DEFINITIONS

Sec.	
27.1	Meaning of words.
27.2	Terms defined.

GENERAL

Sec.	
27.3	Requirements of section 4863 of the act.
27.4	Obligations and rights under act; not affected by regulations.
27.5	Effect of amendments.
27.7	Effect of regulations.

ADMINISTRATION

27.8	Director.
27.9	Boards of cotton examiners; Appeal Board; Micronaire examiners.
27.10	Supervision of cotton inspection, weighing, sampling; and other duties.
27.11	Chairman, board of cotton examiners; responsibility.

CLASSIFICATION REQUESTS

27.12	Classification request for each lot of cotton.
27.13	Micronaire determination request incidental to classification request.
27.14	Filing of classification and Micronaire determination requests.
27.15	Withdrawal or rejection of classification or Micronaire determination requests.

INSPECTION AND SAMPLES

27.16	Inspection; weighing; samples; supervision.
27.18	Persons not to be employed for inspection or sampling.
27.20	Drawing and handling of samples of cotton; inspection of bales.
27.21	Preparation of samples of cotton.
27.22	Wrapping and marking of samples of cotton.
27.23	Duplicate sets of samples of cotton.
27.24	Delivery of samples of cotton.
27.25	Additional samples of cotton; drawing.
27.28	Disposition of samples.

CLASSIFICATION AND MICRONAIRE DETERMINATIONS

27.31	Classification of cotton and Micronaire determinations; by whom made.
27.32	Order of classification.
27.33	Exposing of samples for classification.
27.34	Classification procedure.
27.35	Lower class of two samples to prevail.
27.36	Classification and Micronaire determinations based on official standards.
27.37	Cotton reduced in grade.
27.38	Terms defined for purposes of classification.

COTTON CLASS CERTIFICATES

27.39	Issuance of certificates.
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- Sec.**
 27.40 New certificates; conditions of issuance.
 27.41 Lost certificate; duplicate.
 27.42 Surrender of certificate.
 27.43 Validity of cotton class certificates.
 27.44 Invalidity of cotton class certificates.
 27.45 No storage of cotton for classification at disapproved place.
 27.46 Cotton withdrawn from storage.
 27.47 Tender or delivery of cotton; conditions.

DELAYED CERTIFICATION

- 27.52 Delivery without certification.
 27.53 Notice for delayed certification; requirements.
 27.54 Inspection and sampling for delayed certification.
 27.55 Requirements in lieu of cotton class certificates on delivery day.
 27.56 Obligations of person making tender.

POSTPONED CLASSIFICATION

- 27.57 Request for postponement.
 27.58 Postponed classification; must be within 30 days.
 27.59 Postponed classification; interference.
 27.60 When original request deemed withdrawn.

CLASSIFICATION REVIEWS, AND MICRONAIRE DETERMINATIONS

- 27.61 One review of classification.
 27.62 Conditions for review of classification and for incidental Micronaire determination for original applicant.
 27.63 Conditions for review of classification and for Micronaire determination for receiver.
 27.64 Application for review of classification and for Micronaire determination; filing.
 27.65 Completion of review of classification.
 27.66 Dismissal of application for review.
 27.67 Use of new samples in reviews and Micronaire determinations.
 27.69 Classification review; notations on certificate.
 27.72 Withdrawal of application for review.

TRANSFERS OF COTTON

- 27.73 Supervision of transfers of cotton.

COSTS OF CLASSIFICATION AND MICRONAIRE

- 27.80 Fees; classification, Micronaire and supervision.
 27.81 Fees; certificates.
 27.83 No fees for certain certificates.
 27.85 Fees; withdrawn requests or applications.
 27.87 Fees; classification and Micronaire determination information.

- Sec.**
 27.89 Expenses; inspection; sampling.
 27.90 Bills for payment of fees and expenses.
 27.91 Advance deposit may be required.
 27.92 Method of payment; advance deposit.

SPOT MARKETS

- 27.93 Bona fide spot markets.
 27.94 Spot markets for contract settlement purposes.

PRICE QUOTATIONS AND DIFFERENCES

- 27.95 Spot markets to conform to act and regulations.
 27.96 Quotations in bona fide spot markets.
 27.97 Quotations committees: establishment; duties.
 27.98 Responsibilities and duties of the Cotton Division.
 27.99 Value of grade where no sale; determination.
 27.100 Values of grades.
 27.101 Values; expression.
 27.102 Administration.

AUTHORITY: The provisions of this Part 27 issued under secs. 4862, 4863, 68A Stat. 581, 582; 26 U.S.C. 4862, 4863, unless otherwise noted.

SOURCE: The provisions of this Part 27 appear at 22 F.R. 10923, Dec. 28, 1957; 30 F.R. 7239, May 29, 1965, unless otherwise noted.

CROSS REFERENCE: For regulations relating to cotton classing, testing, and standards, and cottonseed sold or offered for sale for crushing purposes, see Parts 28 and 61 of this chapter.

Subpart A—Regulations**DEFINITIONS****§ 27.1 Meaning of words.**

Words used in this subpart in the singular form shall be deemed to import the plural and vice versa, as the case may demand.

§ 27.2 Terms defined.

As used throughout this subpart, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

(a) *The act.* The provisions of the Internal Revenue Code of 1954 (68A Stat. 580-586; 26 U. S. C. 4851-4877) derived from the United States Cotton Futures Act (39 Stat. 476) as amended and the Internal Revenue Code of 1939 (53 Stat. 210; 26 U. S. C. 1920-1935).

(b) *Department.* The United States Department of Agriculture.

(c) *Service.* The Agricultural Marketing Service of the Department.

(d) *Administrator.* The Administrator of the Service, or any officer or employee of the Service, to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(e) *Cotton Division.* The Cotton Division of the Service.

(f) *Director.* The Director of the Cotton Division, or any officer or employee of the Division to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated to act in his stead.

(g) *Board of cotton examiners.* A board of cotton examiners established under the act at any point.

(h) *Appeal Board of Review Examiners.* The Appeal Board of Review Examiners at Memphis, Tennessee.

(i) *Exchange.* Exchange, board of trade, or similar institution or place of business, at, on, or in which a section 4863 contract may be made.

(j) *Exchange inspection agency.* The inspection agency of the New York Cotton Exchange, the New Orleans Cotton Exchange, the Board of Trade of the city of Chicago, or of any other exchange which may have an organized inspection agency recognized as such by the Director, as the case may be.

(k) *Section 4863 contract.* Contract of sale of cotton for future delivery mentioned in the act, made at, on, or in any exchange in compliance with section 4863 of the act.

(l) *Person.* Individual, association, partnership, or corporation.

(m) *Owner.* Person who owns, controls, or has the disposition of any cotton.

(n) *Classification.* The determination of the grade and staple length of cotton by a cotton examiner.

(o) *Micronaire determination.* The measure of the fiber fineness and maturity of cotton, in combination, in terms of Micronaire readings as determined by an authorized employee of the Department in accordance with the official cotton standards of the United States for fiber fineness and maturity.

[22 F.R. 10923, Dec. 28, 1957, as amended at 32 F.R. 4157, Mar. 17, 1967]

GENERAL

§ 27.3 Requirements of section 4863 of the act.

The inspection, sampling, classification, and Micronaire determination of

cotton pursuant to section 4863 of the act shall be performed as prescribed in this subpart. All tenders of cotton and settlements therefor under section 4863 contracts shall be made subject to the regulations in this subpart. No contract shall for the purposes of this subpart be deemed to comply with section 4863 of the act if it contain or incorporate therein, by reference or otherwise, any provision or any bylaw, rule, or custom of an exchange which is inconsistent or in conflict with any requirement of said section 4863, nor if the parties enter into any collateral or additional agreement or understanding, either verbal or written, respecting the subject matter of such contract which is inconsistent or in conflict with any requirement of said section 4863.

§ 27.4 Obligations and rights under act; not affected by regulations.

Nothing in this subpart shall be construed as relieving any party to a section 4863 contract of any obligation imposed upon him, or as depriving him of any right to which he might be entitled, under any provision of the contract or exchange rule made a part thereof which shall not be inconsistent with the act or the regulations made under the act.

§ 27.5 Effect of amendments.

Any amendment to this subpart, unless otherwise stated therein, shall apply to all tenders of cotton and settlements therefor made on and after the effective date of such amendment, under section 4863 contracts entered into prior, as well as subsequent, to such effective date.

§ 27.7 Effect of regulations.

As far as applicable, the regulations in this subpart shall have the same force and effect for the purposes of section 4864 as for the purposes of section 4863 of the act.

ADMINISTRATION

§ 27.8 Director.

The Director shall perform for and under the supervision of the Administrator, such duties as the Administrator may require in enforcing the provisions of the act and this subpart.

§ 27.9 Boards of cotton examiners; Appeal Board; Micronaire examiners.

Boards of cotton examiners shall be maintained at points designated for the purpose by the Administrator. The members of such boards and the chair-

man of each such board shall be designated by the Director. The Appeal Board of Review Examiners established at Memphis, Tennessee, and committees of such board authorized to serve at other points shall review the classification of any cotton in accordance with §§ 27.61 to 27.72. A Board of Supervising Cotton Examiners shall perform duties as assigned. Authorized employees of the Cotton Division shall make Micronaire determinations when such service is requested in accordance with this subpart.

§ 27.10 Supervision of cotton inspection, weighing, sampling; and other duties.

Authorized employees of the Cotton Division will act, when necessary, as supervisors of cotton inspection to supervise the inspection, weighing, and sampling of cotton to be classified and will perform such other duties as may be required of them for the purposes of this subpart.

[26 F.R. 1656, Feb. 25, 1961]

§ 27.11 Chairman, board of cotton examiners; responsibility.

Subject to this subpart and the instructions of the Director, the chairman of each board of cotton examiners shall be responsible for the proper performance of the duties imposed on such board and on the persons connected therewith.

CLASSIFICATION REQUESTS

§ 27.12 Classification request for each lot of cotton.

For each lot or mark of cotton of which the applicant desires separate classification and certification he shall make a separate written request in a form prescribed or supplied by the Cotton Division for that purpose.

§ 27.13 Micronaire determination request incidental to classification request.

The classification request may include a request for Micronaire determination.

§ 27.14 Filing of classification and Micronaire determination requests.

Requests for classification shall be filed with the board of cotton examiners serving the location at which the cotton is stored. Requests for classification shall be filed within 30 days after **sampling and before classification of the samples**. The applicant may file a request for a review of classification as

part of the request for classification. The applicant may file a request for Micronaire determination as part of the request for classification or may file a request for such determination, in a form prescribed by the Cotton Division within 7 business days following the date of the first certification of the cotton involved, provided this service has not been previously performed on such cotton, and the request is made prior to delivery of the cotton on a section 4863 contract. Requests for Micronaire determinations may also be filed as provided in §§ 27.62 and 27.63.

[22 F.R. 10424, Dec. 28, 1957, as amended at 26 F.R. 1656, Feb. 25, 1961]

§ 27.15 Withdrawal or rejection of classification or Micronaire determination requests.

Any request for classification or for Micronaire determination may be withdrawn by the applicant at any time before the classification or Micronaire determination of the cotton covered thereby, subject to the payment of such fees, if any, as may be prescribed under §§ 27.80 to 27.92. Any request for classification or for Micronaire determination may be rejected for noncompliance with the act or this subpart.

INSPECTION AND SAMPLES

§ 27.16 Inspection; weighing; samples; supervision.

The inspection, weighing, and sampling of cotton for which classification is desired and the preparation and delivery of samples to the board of cotton examiners shall be (a) under the supervision of a supervisor of cotton inspection, or (b) by or under the direction of an exchange inspection agency and subject to the supervision of a supervisor of cotton inspection.

[26 F.R. 1656, Feb. 25, 1961]

§ 27.18 Persons not to be employed for inspection or sampling.

No person shall, after notice to the interested parties, be employed in any way in connection with any phase of the inspection and sampling of cotton, or the preparation of the samples thereof, for the purposes of classification under this subpart, who for good cause is disapproved by the Director.

§ 27.20 Drawing and handling of samples of cotton; inspection of bales.

One sample shall be drawn from the top side of each bale and one from the

bottom side. Each such sample shall weigh not less than 5 ounces, the two samples from each bale to weigh together not less than 10 ounces. The bale shall be inspected and any condition not fully indicated by the samples shall be explained by the supervisor of cotton inspection or exchange inspection agency in a written memorandum, which shall accompany the samples to the board of cotton examiners. Samples shall not be dressed or trimmed and shall be carefully handled in such manner as not to cause loss of leaf, sand, or other material, or otherwise change their representative character. Any sample which does not meet the requirements of this section may be rejected by the supervisor of cotton inspection or the chairman of the board of cotton examiners.

[26 F.R. 1657, Feb. 25, 1961]

§ 27.21 Preparation of samples of cotton.

The samples from each bale shall be prepared as specified in this section. The sample from the top side and the sample from the bottom side shall each be broken into two parts. One part of the sample from the top side shall be placed with a part of the sample from the bottom side, making two sets of samples from each bale. One of such sets shall weigh as nearly as possible 6 ounces, equally divided between the two parts thereof representing the two sides of the bale. There shall be placed in each such set of samples between the two sides thereof a coupon showing the number of the tag attached to the bale from which such samples were drawn. The 6-ounce set of samples from each bale shall be called the original and the other set the duplicate.

§ 27.22 Wrapping and marking of samples of cotton.

The original sets of samples of the bales constituting a lot or mark to be classified separately shall be inclosed in one or more wrappers or containers, as the case may require. The wrappers or containers of original samples shall be so labeled or marked, or both, as to show that they contain original samples, together with the lot number, if any, the marks, and the number of bales, and such other information as may be necessary in accordance with the instructions of the chairman of the board to which the samples are to be delivered.

§ 27.23 Duplicate sets of samples of cotton.

The duplicate sets of samples shall be inclosed in wrappers or containers separate and apart from the original sets in the manner prescribed for original samples in the foregoing section, except that the wrappers or containers shall be labeled or marked, or both, so as to show that they contain duplicate samples and shall be delivered to the person requesting the classification of the cotton.

§ 27.24 Delivery of samples of cotton.

The original sample from each bale to be classified shall be delivered to the board of cotton examiners with which the classification request was filed, at its classification room. If there is no board of cotton examiners at the point where the cotton is sampled, the supervisor of cotton inspection or the exchange inspection agency shall forward the samples to the proper board. No samples covered by pending classification requests which are ready for delivery as provided for herein shall be withheld from such delivery except as authorized in writing by the chairman of the board of cotton examiners or the Director.

[22 F.R. 10925, Dec. 28, 1957, as amended at 26 F.R. 1657, Feb. 25, 1961]

§ 27.25 Additional samples of cotton; drawing.

In addition to the samples hereinbefore prescribed, separate samples, if desired, may be drawn and furnished to the owner of the cotton.

§ 27.28 Disposition of samples.

Samples submitted to a board of cotton examiners shall become the property of the Department and shall be disposed of in accordance with the property regulations of the Department when no longer needed for classification or Micronaire determination.

[26 F.R. 1657, Feb. 25, 1961]

CLASSIFICATION AND MICRONAIRE DETERMINATIONS

§ 27.31 Classification of cotton and Micronaire determinations; by whom made.

For the purposes of section 4863 of the act the classification of any cotton shall be determined only by cotton examiners designated as such by the Director. Official Micronaire determinations, when requested, shall be made only by authorized employees of the Cotton Division.

§ 27.32 Order of classification.

All cotton for which classifications requests shall be pending shall be classified as far as practicable in the order in which proper samples thereof, ready for such classification, shall have been delivered to the board of cotton examiners whose duties include the examination thereof, except as otherwise provided in this subpart or when the chairman of the board or the Director shall find that an emergency exists and shall order otherwise.

§ 27.33 Exposing of samples for classification.

Classification shall not proceed until the samples, after being delivered to the board, shall have been exposed for such length of time as in the judgment of the chairman shall be sufficient to put them in proper condition for the purpose.

§ 27.34 Classification procedure.

Classification shall proceed as rapidly as possible, but not when light or other conditions make uncertain the accuracy of the results to be obtained.

§ 27.35 Lower class of two samples to prevail.

In case a sample drawn from one portion of a bale is lower in class than one drawn from another portion of such bale, except as otherwise provided in this subpart, the classification of the bale shall be that of the sample showing the lower class.

§ 27.36 Classification and Micronaire determinations based on official standards.

All cotton shall be classified for grade and staple length on the basis of the official cotton standards of the United States for grade and staple length in effect at the time of such classification. Micronaire determinations for cotton, upon request under § 27.14, § 27.62, or § 27.63 shall be made according to the official cotton standards of the United States for fiber fineness and maturity in effect at the time of such determinations.

§ 27.37 Cotton reduced in grade.

If cotton be reduced in grade, by reason of the presence of extraneous matter or other irregularities or defects, below its grade according to the official

cotton standards of the United States, the grade from which it is so reduced, the grade to which it is so reduced, and the condition or reason which so reduces its grade shall be determined and stated. [25 F.R. 5872, June 25, 1960]

§ 27.38 Terms defined for purposes of classification.

For the purposes of classification the following terms shall be construed, respectively, to mean:

(a) *Cotton of perished staple.* Cotton that has the strength of fiber as ordinarily found in cotton destroyed or unduly reduced through exposure to the weather either before picking or after baling, or through heating by fire, or on account of water packing, or by other causes.

(b) [Reserved]

(c) *Gin cut cotton.* Cotton that shows damage in ginning, through cutting by the saws, to an extent that reduces its value more than two grades.

(d) *Reginned cotton.* Cotton that has passed through the ginning process more than once, and cotton that, after having been ginned, has been subjected to a cleaning process and then baled.

(e) *Repacked Cotton.* Cotton that is composed of factors', brokers', or other samples, or of loose or miscellaneous lots collected and rebaled, or cotton in a bale which is composed of cotton from two or more smaller bales or parts of bales that are combined after the cotton leaves the gin.

(f) *False packed cotton.* Cotton in a bale (1) containing substances entirely foreign to cotton, (2) containing damaged cotton in the interior with or without any indication of such damage upon the exterior, (3) composed of good cotton upon the exterior and decidedly inferior cotton in the interior, in such manner as not to be detected by customary examination, or (4) containing pickings or linters worked into the bale.

(g) *Mixed packed cotton.* Cotton in a bale which, in the sample taken therefrom, shows (1) a difference of three or more grades, or (2) a difference of three or more color groups, or (3) a difference in length of staple of one-eighth inch or more. For purposes of this paragraph, White Cotton (including the Plus grades), Light Gray Cotton, and Gray Cotton shall constitute one color group, and Light Spotted Cotton, Spotted Cot-

ton, Tinged Cotton, and Yellow Stained Cotton shall each constitute a color group.

(h) *Water packed cotton.* Cotton in a bale that has been penetrated by water during the baling process, causing damage to the fiber, or a bale that through exposure to the weather or by other means, while apparently dry on the exterior, has been damaged by water in the interior.

[22 F.R. 10926, Dec. 28, 1957, as amended at 26 F.R. 5945, July 1, 1961; 32 F.R. 7011, May 9, 1967; 35 F.R. 17935, Nov. 21, 1970]

COTTON CLASS CERTIFICATES

§ 27.39 Issuance of certificates.

Except as otherwise provided in this section as soon as practicable after the classification of cotton has been completed by a board of cotton examiners the board shall issue a cotton class certificate showing the results of such classification. Each certificate shall bear the date of its issuance and the name of the chairman of the board that classified the cotton. The certificate shall show the identification of the cotton according to the information in the possession of the board, the classification of the cotton according to its grade and length of staple and such other facts as the Director may require. As soon as practicable after the Micronaire determination of cotton has been completed by an authorized employee of the Cotton Division, upon request under this subpart, the results of such determination will be certified by the board of cotton examiners or by the Appeal Board of Review Examiners on the classification certificate for the cotton, with the date of issuance of the Micronaire determination, the name of the certifying officer, and such other facts as the Director may require. When a request is made for a review of classification and a Micronaire determination, at the same time as the request for initial classification, the board of cotton examiners shall notify the Appeal Board of Review Examiners of the results of the classification and the latter will review the classification and make the Micronaire determination, and notify the board of cotton examiners of the results. The latter will issue a cotton class certificate over the signature of the chairman of the Appeal Board of Review Examiners, showing the results of the review classification (but not the initial

classification), the Micronaire determination, the date of issuance of the certificate, and such other facts as the Director may require. The certificate of classification and Micronaire determination may be placed directly upon the warehouse receipt covering the cotton involved. The board of cotton examiners or the Appeal Board of Review Examiners may authorize an officer of the Service located at another point to certify the results of any classification or Micronaire determination upon the basis of information furnished by such board, notwithstanding any other provisions of this section.

§ 27.40 New certificates; conditions of issuance.

For the business convenience of a holder of a cotton class certificate issued under this subpart a new certificate may be issued at the request of the holder, to take the place of the former certificate without the reclassification of the cotton and without a new Micronaire determination for the cotton. In any case where a new certificate is issued in accordance with this section, the former certificate shall be surrendered for cancellation, and such new certificate shall bear a new number, the date of its issuance, and the date of original certification, and shall otherwise comply with this subpart.

§ 27.41 Lost certificate; duplicate.

Upon the written request of the last holder of a valid cotton class certificate and a showing to the satisfaction of the chairman of the board of cotton examiners which issued such certificate, that it has been lost or destroyed, and, if lost, that diligent effort has been made to find it without success, a new certificate shall be issued without the reclassification of the cotton and without a new Micronaire determination for the cotton. Such new certificate shall bear the same number and date of issuance as the lost or destroyed certificate, and shall include a statement to the effect that it is a duplicate issued in lieu of the lost or destroyed original, as the case may be.

§ 27.42 Surrender of certificate.

For good cause any certificate issued under this subpart shall be surrendered to a board of cotton examiners for correction or cancellation. If such certifi-

cate be not surrendered upon request it shall nevertheless be invalid under section 4863 of the act and this subpart.

§ 27.43 Validity of cotton class certificates.

Each cotton class certificate for cotton classified as tenderable shall be valid for use in the tender of such cotton on a section 4863 contract made in accordance with the act and this subpart and the rules of an exchange not inconsistent therewith.

§ 27.44 Invalidity of cotton class certificates.

Any cotton class certificate shall become invalid for use in the tender or delivery of the cotton covered thereby on a section 4863 contract whenever such cotton shall be removed from the place of storage specified therein, except when it is handled and re-stored or transferred to a different place of storage and re-stored under the supervision of an exchange inspection agency or a supervisor of cotton inspection.

[22 F.R. 10926, Dec. 28, 1957, as amended at 26 F.R. 1657, Feb. 25, 1961]

§ 27.45 No storage of cotton for classification at disapproved place.

No cotton submitted for classification under section 4863 of the act shall be located or stored at a place disapproved for the purpose by the chairman of board of cotton examiners or the Director on account of being unsuitable for the safekeeping or proper storage of such cotton, or on account of the failure or refusal of the custodian thereof to comply or to permit compliance with the requirements of this subpart so far as he may be involved therein. Notice of such disapproval shall be given in such manner as the Director may direct. Thereafter every cotton class certificate previously issued for cotton located or stored at such place shall be invalid for the delivery of such cotton on a section 4863 contract, unless the cotton shall be removed under the supervision of an exchange inspection agency, or a supervisor of cotton inspection, to a place which shall be suitable for the purpose. Upon such removal and the request of the holder of the cotton class certificate for such cotton a new certifi-

cate in lieu thereof, as provided elsewhere in this subpart, shall be issued to him. [22 F.R. 10926, Dec. 28, 1957, as amended at 26 F.R. 1657, Feb. 25, 1961]

§ 27.46 Cotton withdrawn from storage.

The exchange inspection agency under the supervision or control of which any cotton classified pursuant to this subpart shall be held or stored shall furnish to the board of cotton examiners which classified such cotton, on the first business day of each week, a written statement of all cotton withdrawn from storage, or the lot number or other identification of which has been changed, or which has otherwise been removed from the supervision or control of such exchange inspection agency during the next preceding week. Such statement shall show each lot number, and, if changed, the new lot number, and in case of the withdrawal or removal of a portion only of the lot, the tag numbers of the bales so withdrawn or removed. If such removal shall be to a different place of storage under the supervision or control of the exchange inspection agency, the statement shall show the new location.

§ 27.47 Tender or delivery of cotton; conditions.

Subject to the provisions of §§ 27.52–27.56, 27.65, no cotton shall be tendered or delivered on a section 4863 contract unless on or prior to the date fixed for delivery under such contract, and in advance of final settlement of the contract, the person making the tender shall furnish to the person receiving the same a valid outstanding cotton class certificate complying with the regulations in this subpart, showing such cotton to be tenderable on a section 4863 contract.

DELAYED CERTIFICATION

§ 27.52 Delivery without certification.

If upon the date fixed for delivery in accordance with section 4863 of the act cotton class certificates shall not have been issued by a board of cotton examiners for cotton to be delivered pursuant to such notice, samples of which cotton shall have been in the custody of the board for the time hereinafter prescribed, the delivery of such cotton may be made upon compliance with and subject to the conditions specified in §§ 27.52–27.56. Sections 27.52–27.56 shall not apply to cotton

upon which a board of cotton examiners has already issued cotton class certificates pursuant to this subpart.

§ 27.53 Notice for delayed certification; requirements.

On the date of giving the transferable notice of the delivery in accordance with section 4863 of the act the person issuing such notice or the person on whose behalf it was issued shall also give written notice to the board or officer with whom the classification request was required to be filed, specifying the date of delivery and the number of bales so to be delivered which have not been certified. In such notice, or later in writing before the delivery of the samples to the board, he shall specify the lot numbers of the cotton so to be delivered.

§ 27.54 Inspection and sampling for delayed certification.

Such cotton must have been duly inspected and sampled, and the original samples thereof properly prepared in accordance with this subpart must be delivered to the board not later than the date of the issuance of the transferable notice, except when the delivery day fixed by such transferable notice is the last delivery day in the month of delivery. In such case the cotton must have been duly inspected and sampled, and the original samples thereof properly prepared in accordance with this subpart must have been delivered to the board in accordance with all regulations applicable and in readiness for classification not later than 8 p. m. of the second business day preceding such last delivery day.

§ 27.55 Requirements in lieu of cotton class certificates on delivery day.

If on the morning of the delivery day specified in the transferable notice the cotton class certificates covering the cotton involved are not ready for delivery when called for, the tenderer of the cotton shall present to the chairman of the board of cotton examiners, or to his representative authorized for the purpose, a written notice stating to the best of his knowledge and belief the true grade of each individual bale to be delivered, properly identifying each bale with its grade. If the foregoing requirements of §§ 27.52-27.56 shall have been complied with, the chairman of the board, or his duly authorized representative, shall cause to be written or stamped on such notice a statement validating it for use in the ten-

der only on such delivery day of the cotton covered thereby pending the issuance of cotton class certificates in accordance with this subpart. The tenderer shall on such delivery day delivery such notice to the receiver of the cotton, together with the warehouse receipts and such other papers as may be necessary to the delivery of the cotton on such day.

§ 27.56 Obligations of person making tender.

The person making the tender shall deliver the cotton class certificates therefor to the receiver of the cotton before the close of business hours on the date of the issuance thereof, if delivered to such tenderer before 11 a. m. on that day. If the cotton class certificates be delivered to him after 11 a. m. on that day, the tenderer shall in turn deliver them to the receiver before 11 a. m. on the next following business day. There shall be no right of replacement of bales shown by such certificates to be untenderable.

POSTPONED CLASSIFICATION

§ 27.57 Request for postponement.

If the applicant desires the postponement of the classification of any cotton covered by a classification request filed pursuant to the regulations in this subpart until later notice, the original classification request must so state, or the applicant must so advise the board in writing before the classification has been entered upon. Such request must show cause and that it is not made merely for dilatory reasons.

§ 27.58 Postponed classification; must be within 30 days.

If thereafter the classification of the cotton be desired, notice thereof shall be filed not later than the expiration of 30 days after the date upon which the samples were drawn from the cotton, and the original samples must have remained continuously in the possession of the board or under its control.

§ 27.59 Postponed classification; interference.

Classification pursuant to such suspended request shall not be allowed to interfere with or delay the classification of other samples previously made ready for classification or which are otherwise entitled to priority.

§ 27.60 When original request deemed withdrawn.

If the period of 30 days specified in § 27.58 shall expire without the filing of the notice of desire for classification the applicant shall be deemed to have withdrawn the original request for the classification of such cotton.

CLASSIFICATION REVIEWS AND MICRONAIRE DETERMINATIONS

§ 27.61 One review of classification.

One review only of the classification of the cotton covered by any cotton class certificate may be obtained as provided in §§ 27.62 to 27.72, such review to be performed by the Appeal Board of Review Examiners. Micronaire determinations are not subject to review.

§ 27.62 Conditions for review of classification and for incidental Micronaire determination for original applicant.

The person for whom the classification of cotton has been or is to be performed under this subpart may have a review of such classification by filing a written application therefor before the delivery of such cotton on a section 4863 contract and not later than the expiration of the seventh business day following the date of the first certification of the cotton involved. Such written application may be made at the same time as the request for initial classification. The written application may also include a request for Micronaire determination of the cotton if this service has not been previously performed.

§ 27.63 Conditions for review of classification and for Micronaire determination for receiver.

Any receiver of cotton upon a section 4863 contract who has not redelivered such cotton on a section 4863 contract may have a review of the classification of any cotton of which the classification has not been previously reviewed, by filing a written application within 7 business days following the date of the delivery of cotton class certificates to him in accordance with this subpart. When more than 5,000 bales of cotton shall have been delivered to the same receiver on the same date of delivery, he may, upon proper showing of the facts, be allowed 5 additional business days for filing his application for the review of the classification of any such cotton, provided written request for such extension is filed within 7 business days fol-

lowing the date of such delivery. In the event of the reissue of certificates to replace any certificates delivered to him, the receiver may have a review of the classification of the cotton covered by such reissued certificates, provided such review is requested within the time herein prescribed, calculated from the date of delivery of such reissued certificates. Any such receiver may also have a Micronaire determination, with or without review of classification, under these same conditions on cotton on which this service has not been previously performed under this subpart.

§ 27.64 Application for review of classification and for Micronaire determination; filing.

(a) Every application for review of classification or for Micronaire determination under § 27.62 or § 27.63 shall be filed with the board of cotton examiners serving the location at which the cotton is stored. The application shall in each case be in the hands of such board within the time specified in § 27.62 or § 27.63 for applying for review: *Provided*, That any board of cotton examiners may designate any officer of the Cotton Division or a representative of an exchange inspection agency located at another point to receive applications, and in such cases the applications shall be in the hands of the persons so designated within the time specified. Any person making such application shall, upon call of the board or person with whom such application was filed under this section, surrender the cotton class certificates covering the cotton involved.

(b) Such applications shall be made on a form furnished or approved by the Cotton Division and shall contain (1) the name and address of the party, if any, from whom the cotton was received on a section 4863 contract; (2) the lot numbers of the cotton; and (3) the warehouse bale numbers.

[22 F.R. 10928, Dec. 28, 1957, as amended at 26 F.R. 1657, Feb. 25, 1961]

§ 27.65 Completion of review of classification.

In any case where an application for review of classification or an application for Micronaire determination has been filed with respect to cotton previously designated as tenderable, such review or determination may be completed notwithstanding the subsequent tender of such cotton on a section 4863 contract.

§ 27.66 Dismissal of application for review.

Any application for review may be dismissed whenever it shall be found by the chairman of the board or the Director that it was filed without good cause or for dilatory purposes.

§ 27.67 Use of new samples in reviews and Micronaire determinations.

Unless the use of new samples shall be necessary in the judgment of the chairman of the board of cotton examiners, a review classification pursuant to §§ 27.61 to 27.72, or a Micronaire determination pursuant to § 27.14, § 27.62 or § 27.63, shall be made by reference to the samples, if any, of the cotton involved in the possession of the board; but if the use of new samples is deemed necessary by the chairman of said board, or if there are no samples of the cotton in the possession of the board, or if the samples of the cotton have been in the possession of the board for more than one year, the person requesting the review classification or Micronaire determination shall cause new samples to be drawn for the purpose and submitted to the board in accordance with this subpart.

§ 27.69 Classification review; notations on certificate.

When a review of classification is made after the issuance of a cotton class certificate, the results of the review classification, the date of issuance of the review classification results, and the signature of the chairman of the Appeal Board of Review Examiners shall be entered on the cotton class certificate. Thereupon the certificate shall be returned to the person who requested the review.

§ 27.72 Withdrawal of application for review.

Any application for review may be withdrawn by the applicant at any time before the review classification of the cotton covered thereby has been completed, subject to the payment of such fees, if any, as may be assessed pursuant to §§ 27.80-27.92.

TRANSFERS OF COTTON

§ 27.73 Supervision of transfers of cotton.

Whenever the owner of any cotton inspected and sampled for classification pursuant to this subpart and for which

he holds valid cotton class certificates, desires to transfer such cotton to a different delivery point, or to a different warehouse at the same delivery point, for the purpose of having it made available for delivery upon a section 4863 contract, such transfer shall be effected under the supervision of an exchange inspection agency or a supervisor of cotton inspection.

[26 F.R. 1657, Feb. 25, 1961]

COST OF CLASSIFICATION AND MICRONAIRE

§ 27.80 Fees; classification, Micronaire, and supervision.

For services rendered by the Cotton Division pursuant to this subpart, whether the cotton involved is tenderable or not, the person requesting the services shall pay fees as follows:

(a) Initial classification and certification—45 cents per bale.

(b) Review classification and certification—60 cents per bale.

(c) Micronaire determination and certification—10 cents per bale.

(d) Combination service—90 cents per bale. (Initial classification, review classification, and Micronaire determination covered by the same request and only the review classification and Micronaire determination results certified on cotton class certificates.)

(e) Supervision, by a supervisor of cotton inspection, of the inspection, weighing, or sampling of cotton when any two or more of these operations are performed together—50 cents per bale.

(f) Supervision, by a supervisor of cotton inspection, of the inspection, weighing, or sampling of cotton when any one of these operations is performed individually—50 cents per bale.

(g) Supervision, by a supervisor of cotton inspection, of transfers of cotton to a different delivery point, including issuance of new cotton class certificates in substitution for prior certificates—\$1.25 per bale.

(h) Supervision, by a supervisor of cotton inspection, of transfers of cotton to a different warehouse at the same delivery point, including issuance of new cotton class certificates in substitution for prior certificates—75 cents per bale.

[35 F.R. 8531, June 3, 1970]

§ 27.81 Fees; certificates.

For each new certificate issued in substitution for a prior certificate at the request of the holder thereof, for his bus-

ness convenience, or when made necessary by the transfer of the cotton under the supervision of an exchange inspection agency as provided in § 27.73, the person making the request shall pay a fee of 20 cents for each certificate issued. [35 F.R. 8531, June 3, 1970]

§ 27.83 No fees for certain certificates.

No fee shall be collected for a new cotton class certificate issued in lieu of a prior certificate solely for the purpose of correcting clerical errors therein or for the purpose of substituting a new form applicable to outstanding certificates, or without an application therefor.

§ 27.85 Fees; withdrawn requests or applications.

When the request for classification, or the application for review or classification, of any cotton or the request for Micronaire determination for any cotton shall be withdrawn after the service requested has been started pursuant to such request or application, the person making such request or application shall pay the fee prescribed by § 27.80 as to any service completed prior to such withdrawal.

§ 27.87 Fees; classification and Micronaire determination information.

Whenever the person who requests the classification of, or Micronaire determination for, any cotton, or the person on whose behalf such request is made, also requests the transmission by telegraph or telephone of information concerning such classification or Micronaire determination, the person making the request for such classification or determination shall pay, in addition to the applicable costs prescribed in this subpart, the cost of tolls incurred in such transmission.

§ 27.89 Expenses: inspection; sampling.

The expense of inspection and sampling, the preparation of the samples, and the delivery of such samples in accordance with § 27.24, shall be borne by the party requesting the classification of the cotton involved. When a review of classification or a Micronaire determination is requested and samples of the cotton involved are not in possession of a board of cotton examiners, the expense of inspection, sampling, preparation of samples, and delivery of the samples to the board of cotton examiners shall be borne by the party requesting the service.

§ 27.90 Bills for payment of fees and expenses.

The Cotton Division shall deliver bills to all persons from whom payment for fees or expenses on account of services under this subpart shall be due. Such bills shall be rendered as soon as practicable after the last day of each month for the amounts due and unpaid on such day. When necessary, in the discretion of the chairman of the board or the Director, any bill may be rendered at an earlier date for any fees and expenses then due by the person to whom such bill shall be rendered. Payment of any such bill shall be made as soon as possible after the rendition thereof, but in any event not later than 2 weeks after such rendition.

§ 27.91 Advance deposit may be required.

If requested by the chairman of the board of cotton examiners with which the classification request is required to be filed or by the Director, the person from whom any payment under this subpart may become due shall make an advance deposit to cover such payment in such amount as may be necessary in the judgment of the official requesting the same.

§ 27.92 Method of payment; advance deposit.

Any payment or advance deposit under this subpart shall be by check, draft, or money order, payable to the order of "Agricultural Marketing Service, USDA," and may not be made in cash except in cases where the total payment or deposit does not exceed \$1.

SPOT MARKETS

§ 27.93 Bona fide spot markets.

The following markets have been determined, after investigation, and are hereby designated to be bona fide spot markets within the meaning of the act:

Atlanta, Ga.	Houston, Tex.
Augusta, Ga.	Little Rock, Ark.
Dallas, Tex.	Lubbock, Tex.
Fresno, Calif.	Memphis, Tenn.
Greenville, S.C.	Montgomery, Ala.
Greenwood, Miss.	Phoenix, Ariz.

[33 F.R. 3501, Feb. 29, 1968]

§ 27.94 Spot markets for contract settlement purposes.

The following are designated as spot markets for the purpose of determining

as provided in paragraph 4863(c) of the act, the differences above or below the contract price which the receiver shall pay for grades other than the basis grade tendered or delivered in settlement of a section 4863 contract:

(a) For cotton delivered in settlement of any No. 1 contract of the New York Cotton Exchange:

Dallas, Tex.	Memphis, Tenn.
Houston, Tex.	Montgomery, Ala.
Lubbock, Tex.	

(b) For cotton delivered in settlement of any No. 2 contract of the New York Cotton Exchange:

Dallas, Tex.	Memphis, Tenn.
Greenville, S.C.	Phoenix, Ariz.
Greenwood, Miss.	

[38 F.R. 9285, June 25, 1968]

PRICE QUOTATIONS AND DIFFERENCES

§ 27.95 Spot markets to conform to act and regulations.

Every bona fide spot market shall, as a condition of its designation and of the retention thereof for the purposes of the act, conform to section 4862 and paragraph 4863(c) of the act and the requirements of §§ 27.96-27.102.

§ 27.96 Quotations in bona fide spot markets.

The price or value of Middling 1 inch cotton and the differences between the price or value of Middling 1 inch cotton and of other grades and staple lengths of cotton quoted in each bona fide spot market shall be based solely upon the official cotton standards of the United States and shall be the actual commercial price or value and differences established by the sale of spot cotton in such bona fide spot market. Such price or value and differences shall be determined as provided in said sections of the act and §§ 27.96-27.102.

[26 F.R. 9333, Oct. 4, 1961]

§ 27.97 Quotations committees: establishment; duties.

There shall be established and maintained in each bona fide spot market a competent quotation committee. The organization of each committee and its personnel shall be subject to the approval of the Director. Any member of any committee who, or any committee which, for good cause is disapproved by the Director shall, after due notice, be

replaced by another member or another committee acceptable to the Director. The duties of the quotation committee in each market shall be as follows:

(a) The committee shall impartially and carefully ascertain on each business day the price or value of Middling 1 inch cotton and the differences between the price or value of Middling 1 inch cotton and of other grades and staple lengths of cotton as requested by the Cotton Division. The committee, or a person authorized to act for it, shall obtain information on prices and other terms of sales, including grades and staple lengths, in sufficient detail to enable the committee to perform its duties accurately. The committee shall also carefully consider information presented by representatives of the Cotton Division. The committee, or a person authorized to act for it, shall obtain complete information not later than the close of business on each business day as to the volume of all sales of spot cotton since the close of the preceding day. The committee shall cause its action and findings to be communicated daily to the Cotton Division. Failure by the committee to quote prices which represent actual commercial values of spot cotton in the market shall constitute good cause for disapproval of the committee, or any member of the committee, by the Director.

(b) The committee shall assemble in a scheduled meeting not less than once each week. The committee shall also meet upon request of a representative of the Cotton Division.

(c) The committee shall provide itself with, or have ready access to, a valid set of the practical forms of the official cotton standards of the United States for upland cotton.

(d) The committee shall make available to a representative of the Cotton Division, upon request, all records of information used by the committee in ascertaining the prices or values of cotton. The samples of the cotton involved in any transaction used by the committee in ascertaining prices shall also be available for examination by a representative of the Cotton Division, as long as such samples remain in the possession of any party to the transaction in the market.

[26 F.R. 9333, Oct. 4, 1961]

§ 27.98 Responsibilities and duties of the Cotton Division.

The Cotton Division is responsible for the accuracy of price quotations in each bona fide spot market. In carrying out this responsibility the Cotton Division will perform the following duties and functions:

(a) The Cotton Division will assign an employee in each market to collect, analyze, and present periodically to the quotation committee pertinent information on the prices and values of spot cotton in the market to supplement information collected and available to the committee. The employee will attend each scheduled meeting of the committee and present his findings and recommendations on quotations.

(b) The Cotton Division will publish daily the price quotations for each bona fide spot market.

(c) The Cotton Division will, in the absence of an approved quotations committee in a bona fide spot market, ascertain and publish the quotations for that market.

[26 F.R. 9333, Oct. 4, 1961]

§ 27.99 Value of grade where no sale; determination.

Whenever no sale of a particular grade of cotton shall have been made on a given day in a particular bona fide spot market, the value of such grade in that market on that day, which shall be used in calculating the commercial differences to be applied, pursuant to paragraph 4863(c) of the act, in the settlement of a section 4863 contract, shall be determined in accordance with § 27.100.

§ 27.100 Values of grades.

(a) If on such given day there shall have been in such market both a sale of any higher grade and a sale of any lower grade, the average of the declines, or advances, or decline and advance, as the case may be, of the next higher grade and the next lower grade so sold shall be deducted from, or added to, as the case may be, the value, on the last preceding business day, of the grade the value of which on such given day is sought to be ascertained.

(b) If on such given day there shall have been in such market a sale of either a higher or a lower grade, but not sales of both, the decline or advance of the next higher or the next lower grade so

sold shall be deducted from, or added to, as the case may be, the value on the last preceding business day of the grade the value of which on such given day is sought to be ascertained.

(c) If on such given day there shall have been in such market no sale of spot cotton of any grade, the value of each grade shall be deemed to be the same as its value therein on the last preceding business day, unless in the meantime there shall have been bona fide bids and offers, or sales of hedged cotton, or other sales of cotton, or changes in prices of futures contracts made subject to the act, which in the usual course of business would clearly establish a rise or fall in the value of spot cotton in such market, in which case such rise or fall may be calculated and added to or deducted from the value on the preceding business day of cotton of all grades affected thereby.

§ 27.101 Values; expression.

For the purpose of this subpart values shall be expressed in terms of cents and hundredths of a cent. A fraction of a hundredth, when equal to, or greater than, the half thereof, shall be treated as a hundredth, and when less than a half of a hundredth shall be disregarded.

§ 27.102 Administration.

The details of the method of carrying out the provisions of this subpart in each bona fide spot market shall be subject to the approval of the Director or shall be prescribed by him.

PART 28—COTTON CLASSING, TESTING, AND STANDARDS

Subpart A—Regulations Under the United States Cotton Standards Act

DEFINITIONS

Sec. 28.1	Meaning of words.
28.2	Terms defined.
ADMINISTRATIVE AND GENERAL	
28.3	Director.
28.4	Boards of cotton examiners.
28.5	Secretary, board of cotton examiners.
28.6	Acting secretary of board.
28.7	Chairman of board; responsibility.
28.8	Classification of cotton; determination.
28.9	Inspection; sampling; classification.

REQUESTS FOR CLASSIFICATION AND COMPARISON

28.15	Classification and comparison; requests.
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Sec.

- 28.16 Request for return of samples.
 28.17 Filing of requests for classification or comparison.
 28.18 One request only for classification.
 28.19 Withdrawal or rejection of classification request.

LICENSING OF WAREHOUSEMEN FOR SAMPLING

- 28.20 When license is required.
 28.21 Application.
 28.22 Authority granted by license.
 28.23 Suspension of license; revocation.
 28.24 Surrender of license certificate.

DRAWING, SUBMISSION AND DISPOSITION OF SAMPLES

- 28.25 Samples for Form A determination.
 28.26 Samples for Form C determination.
 28.27 Samples for Form D determination.
 28.28 Lost or damaged samples.
 28.29 Return of samples.
 28.30 Samples not returned are property of Department.

VIOLATIONS

- 28.31 Denial of service.
 28.32 Misrepresentation; deceptive or fraudulent acts or practices; violations.

CLASSIFICATION

- 28.35 Method of classification.
 28.36 Order of classification.
 28.37 Exposing of samples for classification.
 28.38 Lower grade (of two samples) to determine classification.
 28.39 Cotton reduced in grade.
 28.40 Terms defined; cotton classification.

SAMPLE OR TYPE COMPARISON

- 28.45 Scope of comparison; requests.
 28.46 Method of submitting samples and types.
 28.47 Statement of finding of board in comparisons.

CERTIFICATES AND MEMORANDA

- 28.55 Issuance of memoranda and certificates.
 28.56 Form A and Form D memoranda.
 28.57 Form C certificate.
 28.58 New memorandum or certificate; issuance.
 28.59 Lost memorandum or certificate may be replaced by duplicate.
 28.60 Surrender of memoranda or certificates.

REVIEWS

- 28.65 Provisions for reviews.
 28.66 Review procedure.
 28.68 Withdrawal of application for review.

PRACTICAL FORMS OF COTTON STANDARDS

- 28.105 Practical forms of cotton standards.
 28.106 Universal cotton standards.
 28.107 Original cotton standards and reserve sets.

FEES AND COSTS

Sec.

- 28.115 Fees and costs; payment.
 28.116 Amounts of fees for classification; exemption.
 28.117 Fee for new memorandum or certificate.
 28.118 When no fee collected for new certificate or memorandum.
 28.119 Fee when request for classification is withdrawn.
 28.120 Expenses to be borne by party requesting classification.
 28.121 Advance deposits.
 28.122 Fee for practical classing examination.
 28.123 Costs of practical forms of cotton standards.
 28.124 Payments; procedure.
 28.125 No voiding or modifying claims for payment.
 28.126 Loaning of forms and exhibits.

UNITED STATES COTTON LINTERS

- 28.136 Applicability of other sections of regulations.
 28.137 Boards of Cotton Linters Examiners.
 28.138 Classification and comparison; requests, memorandums and certificates.
 28.139 Filing of requests.
 28.140 Samples; weight; drawing.
 28.142 Submission of samples.
 28.143 Method of classification.
 28.144 Samples falling between grades or staples.
 28.145 Terms defined; linters classification.
 28.146 Reviews.
 28.148 Fees and costs; classifications; reviews; other.
 28.149 Fees and cost; Form C determinations.
 28.151 Cost of practical forms; period effective.

ADJUSTMENT OF CONTRACT DISPUTES

- 28.160 Cotton examiners on foreign exchanges.
 28.161 Disputes involving contracts for shipment of cotton from United States.
 28.162 Procedure.

PUBLICATIONS

- 28.165 Publication media.
 Subpart B—Classification for Foreign Growth Cotton and Cotton Linters
 28.175 Administrative and general.
 28.176 Designation of official certificates, memoranda, marks, other identifications, and devices for purpose of the Agricultural Marketing Act.
 28.177 Requests for classification and comparison of cotton.
 28.178 Submission of cotton samples.
 28.179 Methods of cotton classification and comparison.
 28.180 Issuance of cotton classification memoranda.

- Sec.
28.181 Review of cotton classification.
28.182 Surrender of memoranda.
28.183 Fees and costs; payment.
28.184 Cotton linters; general.

Subpart C—Standards

OFFICIAL COTTON LINTERS STANDARDS OF THE UNITED STATES FOR GRADE

- 28.201 Grade 1.
28.202 Grade 2.
28.203 Grade 3.
28.204 Grade 4.
28.205 Grade 5.
28.206 Grade 6.
28.207 Grade 7.
28.208 Chemical Grade.

OFFICIAL COTTON LINTERS STANDARDS OF UNITED STATES FOR STAPLE

- 28.215 Staple 1.
28.216 Staple 2.
28.217 Staple 3.
28.218 Staple 4.
28.219 Staple 5.
28.220 Staple 6.
28.221 Staple 7.
28.222 Below 7 staple.

OFFICIAL COTTON STANDARDS OF THE UNITED STATES FOR LENGTH OF STAPLE

- 28.301 Measurement: humidity; temperature.
28.302 Terms of designation.
28.303 Original representations of staple lengths.
28.304 Over $\frac{1}{16}$ inch staple.
28.305 Bale of different staple lengths.

OFFICIAL COTTON STANDARDS OF THE UNITED STATES FOR THE GRADE OF AMERICAN UPLAND COTTON

WHITE COTTON

- 28.401 Strict Good Middling.
28.402 Good Middling.
28.403 Strict Middling.
28.404 Middling Plus.
28.405 Middling.
28.406 Strict Low Middling Plus.
28.407 Strict Low Middling.
28.408 Low Middling Plus.
28.409 Low Middling.
28.410 Strict Good Ordinary Plus.
28.411 Strict Good Ordinary.
28.412 Good Ordinary Plus.
28.413 Good Ordinary.

LIGHT SPOTTED COTTON

- 28.420 Good Middling Light Spotted.
28.421 Strict Middling Light Spotted.
28.422 Middling Light Spotted.
28.423 Strict Low Middling Light Spotted.
28.424 Low Middling Light Spotted.

SPOTTED COTTON

- 28.430 Good Middling Spotted.
28.431 Strict Middling Spotted.
28.432 Middling Spotted.

- Sec.
28.433 Strict Low Middling Spotted.
28.434 Low Middling Spotted.

TINGED COTTON

- 28.440 Good Middling Tinged.
28.441 Strict Middling Tinged.
28.442 Middling Tinged.
28.443 Strict Low Middling Tinged.
28.444 Low Middling Tinged.

YELLOW STAINED COTTON

- 28.450 Good Middling Yellow Stained.
28.451 Strict Middling Yellow Stained.
28.452 Middling Yellow Stained.

LIGHT GRAY COTTON

- 28.460 Good Middling Light Gray.
28.461 Strict Middling Light Gray.
28.462 Middling Light Gray.
28.463 Strict Low Middling Light Gray.

GRAY COTTON

- 28.470 Good Middling Gray.
28.471 Strict Middling Gray.
28.472 Middling Gray.
28.473 Strict Low Middling Gray.

BELOW GRADE COTTON

- 28.475 Below Grade Cotton.

GENERAL

- 28.480 General.
28.481 Alternate title for standards.

OFFICIAL COTTON STANDARDS OF THE UNITED STATES FOR THE GRADE OF AMERICAN PIMA COTTON

- 28.501 Grade No. 1.
28.502 Grade No. 2.
28.503 Grade No. 3.
28.504 Grade No. 4.
28.505 Grade No. 5.
28.506 Grade No. 6.
28.507 Grade No. 7.
28.508 Grade No. 8.
28.509 Grade No. 9.
28.510 Grade No. 10.

SYMBOLS AND CODE NUMBERS USED IN RECORDING COTTON CLASSIFICATION

- 28.525 Symbols and code numbers.

OFFICIAL STANDARDS OF THE UNITED STATES FOR THE GRADES OF SEA ISLAND COTTON

- 28.551 Grade 1.
28.552 Grade 2.
28.553 Grade 3.
28.554 Grade 4.
28.555 Grade 5.
28.556 Grade 6.
28.557 Intermediate grades.
28.558 Below Grade 6.
28.559 Extraneous matter.
28.560 Permissive use.

TENTATIVE STANDARDS FOR THE PREPARATION OF LONG-STAPLE COTTON

- 28.591 Set of samples; Grade No. 4.
28.592 Set of samples; Grade No. 5.

Sec.

- 28.593 Set of samples; Grade No. 6.
- 28.594 Long-staple cotton; definition.

OFFICIAL COTTON STANDARDS OF THE UNITED STATES FOR FIBER FINENESS AND MATURITY

- 28.601 Official cotton standards for fiber fineness and maturity.
- 28.602 Terms of designations.
- 28.603 Procedures for air flow tests of micronaire reading.

Subpart D—Cotton Classification and Market News Services for Organized Groups of Producers

DEFINITIONS

- 28.901 Definitions.

ADMINISTRATION

- 28.902 Director.

CLASSIFICATION AND MARKET NEWS SERVICES

- 28.903 Classification of samples.
- 28.904 Market news.

ORGANIZED GROUPS

- 28.905 Organized groups.

SAMPLING

- 28.906 Approval and bonding of sampling agents.
- 28.907 Responsibilities of sampling agents.
- 28.908 Samples.
- 28.909 Costs.

CLASSIFICATION

- 28.910 Classification of samples and issuance of memorandums.
- 28.911 Review classification.

APPLICATIONS

- 28.912 Applications for service.
- 28.913 Time limitation.
- 28.914 Rejection.
- 28.915 Withdrawal.
- 28.916 Renewal.

LIMITATION OF SERVICES

- 28.917 Limitation of services.

Subpart E—Cotton Fiber and Processing Tests

DEFINITIONS

- 28.950 Terms defined.

ADMINISTRATION

- 28.951 Director.

FIBER AND PROCESSING TESTS

- 28.952 Testing of samples.
- 28.953 Requirements as to samples.
- 28.954 Costs of submitting samples.
- 28.955 Disposition of samples.
- 28.956 Prescribed fees.
- 28.957 Special tests and fees.
- 28.958 Fees and charges for inspection and checkloading services.
- 28.959 Payment of fees.
- 28.960 Limitation of testing services.

Sec.

- 28.961 Confidential information.
- 28.962 False and misleading information.

CROSS REFERENCE: For regulations relating to cotton classification under cotton futures legislation, and cottonseed sold or offered for sale for crushing purposes, see Parts 27 and 61 of this chapter.

SOURCE: The provisions of this Part 28 appear at 22 F.R. 10930, Dec. 28, 1957, unless otherwise noted.

Subpart A—Regulations Under the United States Cotton Standards Act

AUTHORITY: The provisions of this Subpart A issued under sec. 10, 42 Stat. 1519; 7 U.S.C. 61.

DEFINITIONS

§ 28.1 Meaning of words.

Words used in this part in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

§ 28.2 Terms defined.

As used throughout this subpart, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

(a) *The act.* The United States Cotton Standards Act, approved March 4, 1923 (42 Stat. 1517; 7 U. S. C. 51 et seq.) with such amendments as may be made from time to time.

(b) *Regulations.* Regulations mean the provisions in this subpart.

(c) *Department.* The United States Department of Agriculture.

(d) *Secretary.* 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.

(e) *Service.* The Agricultural Marketing Service of the U.S. Department of Agriculture.

(f) *Administrator.* The Administrator of the Agricultural Marketing Service, or any officer or employee of the Service, to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(g) *Division.* The Cotton Division of the Agricultural Marketing Service.

(h) *Director.* The Director of the Cotton Division, or any officer or employee of the Division to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(i) *Board*. Board of cotton examiners

(j) *Cotton examiner*. An officer of the Department so designated by the Director.

(k) *License*. A license issued under the Act by the Secretary to sample cotton.

(l) *Licensed warehouseman*. A cotton warehouseman licensed under the United States Cotton Standards Act to sample cotton.

(m) *Cotton*. The word "cotton" as used in the act means cotton of any variety produced within the continental United States, including linters. In this subpart, for administrative convenience the word "cotton" is used to signify vegetable hair removed from cottonseed in the usual process of ginning, and the word "linters" as defined in paragraph (n) of this section.

(n) *Linters*. Vegetable hair removed from cottonseed subsequent to the usual process of ginning.

(o) *Upland cotton*. All cotton grown anywhere within the continental United States including the growths sometimes referred to as Upland, Gulf, and Texas cotton, but excluding the Sea Island and American Pima growths.

(p) *Official cotton standards*. Official cotton standards of the United States for the grade of American upland cotton, American Pima cotton, and Sea Island cotton, for length of staple, and for fiber fineness and maturity, adopted by or establish pursuant to the act, or any change or replacement thereof.

(q) *Universal standards*. The official cotton standards of the United States for the grade of American upland cotton.

(r) *Person*. Individual, association, partnership, or corporation, or two or more individuals having a joint or common interest.

(s) *Owner*. Person who through financial interest, owns, controls, or has the disposition either of cotton or of samples.

(t) *Custodian*. Person who has possession or control of cotton or of samples, as agent, controller, broker, or factor, as the case may be.

(u) *State*. A State, Territory, or district of the United States.

[22 F.R. 10932, Dec. 28, 1957, as amended at 28 F.R. 10633, Oct. 3, 1963; 30 F.R. 6637, May 14, 1965; 31 F.R. 7734, June 1, 1966; 34 F.R. 9847, June 26, 1969]

ADMINISTRATIVE AND GENERAL

§ 28.3 Director.

The Director shall perform for and under the supervision of the Secretary and the Administrator, such duties as the Secretary or the Administrator may require in enforcing the provisions of the act and the regulations issued thereunder.

§ 28.4 Boards of cotton examiners.

Boards of cotton examiners shall be maintained at points designated for the purpose by the Administrator. A board of supervising cotton examiners shall be constituted for duty as assigned; and an Appeal Board of Review Examiners shall be constituted to which may be referred requests for the review of the classification and/or comparison of cotton performed by other boards appointed in accordance with this section. The Appeal Board of Review Examiners shall be located at Memphis, Tennessee, except when the Director shall require that committees of the board meet to perform its functions elsewhere. The members of all boards and the chairman of each shall be designated for the purpose by the Director.

§ 28.5 Secretary, board of cotton examiners.

The Director shall designate a secretary for each board. It shall be the duty of the secretary of the board to receive all correspondence relating to the classification of cotton under the act and to see that all samples are prepared for classification and/or comparison in such manner that the name of the owner and/or the custodian shall be unknown to the members of the board, who are detailed to classify or compare the cotton, until after the samples are classified.

§ 28.6 Acting secretary of board.

In the event of the absence or incapacity of the secretary of the board the chairman of the board shall designate temporarily an acting secretary of the board in his stead. Any person thus designated shall be thereby disqualified to act as a member of the board in the classification of cotton during the term of such temporary appointment.

§ 28.7 Chairman of board; responsibility.

Subject to this subpart and the instructions of the Director, the chairman of each board shall be responsible

for the proper performance of the duties imposed on such board and on the persons connected therewith.

§ 28.8 Classification of cotton; determination.

For the purposes of the act, the classification and comparison of any cotton, samples, or types submitted to the Department shall be determined or made only by cotton examiners properly qualified and designated as such by the Director, and the certificate of a board of cotton examiners with respect to any cotton shall be deemed to be the certificate of the Department.

§ 28.9 Inspection; sampling; classification.

The inspection, sampling, and classification of cotton and cotton linters 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 or cotton linters classed for special programs and other Government agencies, including the review of any classification performed pursuant to §§ 28.901 through 28.919.

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 board of cotton examiners direct from a licensed warehouseman, at the request of the owner of the cotton or his 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 classification 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 his 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 Form A, C, and D determinations upon request from the applicant and subject to the fees specified in § 28.116 of this Part 28.

[22 F.R. 10932, Dec. 28, 1957, as amended at 28 F.R. 10633, Oct. 3, 1963; 31 F.R. 7734, June 1, 1966]

§ 28.16 Request for return of samples.

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

§ 28.17 Filing of requests for classification or comparison.

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

§ 28.18 One request only for classification.

Not more than one request each 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 accompanied by redrawn samples and the chairman of the board may require that any Form A or Form D memoranda, Form C certificates, or other classification data previously issued by a board with respect to samples purporting to represent the same cotton shall be returned before such redrawn samples are classed.

§ 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 chairman of the board or the Director for noncompliance with the act or this subpart.

LICENSING OF WAREHOUSEMEN FOR SAMPLING

SOURCE: §§ 28.20 to 28.24 appear at 28 F.R. 10633, Oct. 3, 1963.

§ 28.20 When license is required.

Samples for Form A determination shall be accepted under this subpart from licensed warehousemen only. No license is required to sample cotton for Form C or Form D determination.

§ 28.21 Application.

Application for licenses to draw and submit samples for Form A determination shall be submitted by warehousemen on forms furnished by the Division.

§ 28.22 Authority granted by license.

Each license issued by the Division shall authorize the warehouseman to draw and submit samples for Form A determination from cotton stored in his warehouse.

§ 28.23 Suspension of license; revocation.

(a) After notice and opportunity for hearing has been afforded, the Deputy Administrator may suspend or revoke any such license whenever he is satisfied that such 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 his license, or allowed it to be used for any improper purpose. Pending final action, the Deputy Administrator may temporarily suspend any license without hearing whenever he deems such action necessary.

(b) During any period when the license of the warehouseman is suspended or revoked, the Division will not accept any samples from the warehouseman for Form A determination, or for classification pursuant to §§ 28.901–28.917 of this Part 28.

§ 28.24 Surrender of license certificate.

The warehouseman, in the event his license is suspended or revoked, shall promptly surrender to the Division his certificate of license.

DRAWING, SUBMISSION AND DISPOSITION OF SAMPLES

SOURCE: §§ 28.25 to 28.30 appear at 28 F.R. 10633, Oct. 3, 1963.

§ 28.25 Samples for Form A determination.

Samples for Form A determination shall be drawn, handled, identified, and shipped by a licensed warehouseman according to the methods and procedures specified in this section. Any samples or set of samples which does not meet these specified requirements may be rejected by the chairman of a board.

(a) Samples shall be freshly drawn.

(b) Each sample shall consist of two portions, one drawn from each side of the bale. Each portion shall be at least six (6) inches wide and approximately twelve (12) inches long and shall weigh at least three (3) ounces.

(c) Where it is necessary to draw two sets of samples, separate cuts in the bale should be made for each set of samples. Split samples may be accepted, provided the split is made across the layers without separating the layers.

(d) Dressing, trimming, or discarding part of the sample is prohibited. No part of the cotton or pieces of bagging, leaf, grass, dirt, sand, or any other material shall be removed from either side of the sample.

(e) A coupon showing the correct warehouse bale number and name and address of warehouse shall be placed between the two portions of each sample.

(f) Samples shall be identified and sacked immediately after they are cut without further handling prior to shipment to the board.

(g) Samples shall be addressed to and mailed, shipped, or delivered direct to the Board serving the territory in which the warehouse is located. Samples shall in no case be consigned or routed through the owner or custodian of the cotton. Samples mailed or shipped shall be prepaid.

(h) The chairman of the board may require that any licensed warehouseman shall provide the crop year, gin name and gin bale number for each sample submitted whenever he deems that such information is necessary in order to as-

sure that each sample is properly identified with the correct bale of cotton.

(i) The licensed warehouseman shall cooperate with employees of the Division making inspections of sampling procedures, and shall draw or permit the drawing of such additional samples, without charge as may be deemed necessary to appraise sampling procedures. [28 F.R. 10633, Oct. 3, 1963, as amended at 34 F.R. 7959, May 21, 1969]

§ 28.26 Samples for Form C determination.

Samples submitted for Form C determination shall be drawn under the supervision of a Division employee who shall retain custody or control of the samples until they are shipped prepaid or delivered at the applicant's expense to the board serving the territory in which the bales of cotton are located.

§ 28.27 Samples for Form D determination.

Samples for Form D determination shall be shipped or delivered at the owner's expense to the board serving the territory in which the samples are located. A tag or coupon showing the bale number of the bale from which the sample was drawn, or other identification, shall be placed between the two portions of each sample.

§ 28.28 Lost or damaged samples.

If any samples are lost, damaged, or mutilated, the secretary of the board shall inform the applicant.

§ 28.29 Return of samples.

When so stipulated in the classification request for Form A, C, or D determination, the samples submitted shall be returned to the applicant at his expense, at the time the memorandum is issued or when the request for classification is withdrawn or rejected.

§ 28.30 Samples not returned are property of Department.

Samples not returned in accordance with this subpart, and loose cotton separated from samples in the handling and classification thereof, shall become the property of the Department.

VIOLATIONS

§ 28.31 Denial of service.

The Deputy Administrator may for good cause, including the acts or practices set forth in § 28.32, debar any per-

son, including the agents, officers, subsidiaries, or affiliates of such person, from any or all benefits of the Act for a specified period, after notice and opportunity for hearing has been afforded. Pending final action, the Deputy Administrator may temporarily suspend services to such person without hearing if he determines that the continuation of services rendered under the Act would seriously jeopardize the integrity of such services.

[28 F.R. 10634, Oct. 3, 1963]

§ 28.32 Misrepresentation; deceptive or fraudulent acts or practices; violations.

Any of the following acts or practices may result in debarment from any or all benefits of the Act:

(a) Any knowing misrepresentation or deceptive or fraudulent act or practice made or committed, or attempted to be committed, by any person in connection with (1) any request for classification, (2) the drawing, handling, identifying, or submitting of any samples for classification, (3) the making, issuing, or using of any memorandum or certificate of classification issued by a board or (4) the changing of any warehouse bale tags or numbers after the cotton has been sampled for classification.

(b) Any knowing violation of the regulations in this subpart or of the Act.

[28 F.R. 10634, Oct. 3, 1963]

CLASSIFICATION

§ 28.35 Method of classification.

All cotton samples shall be classified on the basis of the official cotton standards of the United States in effect at the time of classification.

§ 28.36 Order of classification.

All samples for which classification requests are pending shall be classified, as far as practicable, in the order in which the samples are delivered for classification. When in the opinion of the chairman of the board an emergency exists, he shall designate which samples will be given priority in classification.

§ 28.37 Exposing of samples for classification.

Classification shall not proceed until the samples, after being delivered to the board, shall have been exposed for such length of time as in the judgment of the chairman shall be sufficient to put them in proper condition for the purpose.

§ 28.38 Lower grade (of two samples) to determine classification.

If a sample drawn from one portion of a bale is lower in grade or shorter in length than one drawn from another portion of such bale, except as otherwise provided in this subpart, the classification of the bale shall be that of the sample showing the lower grade or shorter length.

§ 28.39 Cotton reduced in grade.

If cotton be reduced in grade, by reason of the presence of extraneous matter or other irregularities or defects, below its grade according to the official cotton standards of the United States, the grade from which it is so reduced, the grade to which it is so reduced, and the condition or reason which so reduces its grade shall be determined and stated.

[25 F.R. 5872, June 25, 1960]

§ 28.40 Terms defined; cotton classification.

For the purposes of classification of any cotton or of its comparison with a type or other samples, the following terms shall be construed, respectively, to mean:

(a) *Cotton of perished staple.* Cotton that has had the strength of fiber, as ordinarily found in cotton, destroyed or unduly reduced through exposure to the weather either before picking or after baling, or through heating by fire, or on account of water packing, or by other causes.

(b) *Micronaire (mike) reading.* The measure of the fiber fineness and maturity, in combination, of cotton as determined by an airflow instrument. For any cotton that has a micronaire reading of 2.6 or lower, the board of cotton examiners will enter the micronaire reading on all classification memoranda issued for such cotton.

(c) *Gin-cut cotton.* Cotton that shows damage in ginning through cutting by the saws, to an extent that reduces its value more than two grades.

(d) *Reginned cotton.* Cotton that has passed through the ginning process more than once, and cotton that, after having been ginned, has been subjected to a cleaning process and then baled.

(e) *Repacked Cotton.* Cotton that is composed of factors', brokers', or other samples, or of loose or miscellaneous lots collected and rebaled, or cotton in a bale which is composed of cotton from two or

more smaller bales or parts of bales that are combined after the cotton leaves the gin.

(f) *False packed cotton.* Cotton in a bale (1) containing substances entirely foreign to cotton; (2) containing damaged cotton in the interior with or without any indication of such damage upon the exterior; (3) composed of good cotton upon the exterior and decidedly inferior cotton in the interior, in such manner as not to be detected by customary examination; or (4) containing pickings or linters worked into the bale.

(g) *Mixed packed cotton.* Cotton in a bale which, in the sample taken therefrom, shows (1) a difference of three or more grades, or (2) a difference of three or more color groups, or (3) a difference in length of staple of one-eighth inch or more. For purposes of this paragraph, White Cotton (including the Plus grades), Light Gray Cotton, and Gray Cotton shall constitute one color group, and Light Spotted Cotton, Spotted Cotton, Tinged Cotton, and Yellow Stained Cotton shall each constitute a color group.

(h) *Water-packed cotton.* Cotton in a bale that has been penetrated by water during the baling process, causing damage to the fiber, or a bale that through exposure to the weather or by other means, while apparently dry on the exterior, has been damaged by water in the interior.

[22 F.R. 10933, Dec. 28, 1957, as amended at 26 F.R. 5945, July 1, 1961; 31 F.R. 7734, June 1, 1966; 32 F.R. 7011, May 9, 1967]

SAMPLE OR TYPE COMPARISON

§ 28.45 Scope of comparison; requests.

A comparison of cotton samples with a type may be requested with respect to grade, or to staple, including any of the component qualities embodied in the grade, or to all these factors. The classification of the type and the samples in accordance with the official cotton standards of the United States may also be requested. The applicant must specify in his written request the scope of service he desires.

§ 28.46 Method of submitting samples and types.

The method of submitting samples and types for comparison shall be the same as that prescribed in this subpart for submitting samples for classification.

§ 28.47 Statement of finding of board in comparisons.

For each quality factor (grade, staple, etc.) of the samples that the applicant has requested to be compared to the type, the board shall state in its findings whether such quality factor for each sample is "better," "equal," or "deficient" in comparison with the type. When appropriate, the findings of the board may also show the amount of difference in grade and in length between the sample and the type as measured by the official cotton standards of the United States, and other explanatory notations as needed.

CERTIFICATES AND MEMORANDA

§ 28.55 Issuance of memoranda and certificates.

As soon as practicable after the classification of cotton has been completed by a board of cotton examiners, there shall be issued a cotton class memorandum or certificate of the appropriate kind showing the results of such classification. Upon request from an applicant, classification results may be issued in preliminary form on record sheets.

§ 28.56 Form A and Form D memoranda.

(a) When a classification and/or comparison has been made of any samples submitted to a board of cotton examiners direct from a public warehouse, the results of such classification and/or comparison may be stated in a Form A memorandum.

(b) When a classification and/or comparison has been made of any samples submitted by the owner of the cotton or his agent, the results of such classification and/or comparison may be stated in a Form D memorandum.

(c) Form A and Form D memoranda shall not be deemed to be final certificates within the meaning of section 4 of the act (42 Stat. 1517; 7 U.S.C. 54).

§ 28.57 Form C certificate.

When classification has been made of cotton inspected and sampled under supervision of a Division employee there shall be issued a cotton class certificate known as a Form C certificate. Each Form C certificate shall show the true classification of the cotton in the respects specified in the request. Such certificate, when it has been once reviewed in accordance with § 28.66, shall be deemed to

be a final certificate as to the classification shown, within the meaning of section 4 of the act (42 Stat. 1517; 7 U.S.C. 54), in all cases except when superseded by a certificate or award made as provided in § 28.161.

§ 28.58 New memorandum or certificate; issuance.

Upon the written request of a holder of a cotton class memorandum or certificate issued under this subpart, a new memorandum or certificate shall be issued, without the reclassification of the cotton, to take the place of the former memorandum or certificate for any cotton covered thereby, when necessary on account of the breaking or splitting of a lot or otherwise for the business convenience of such holder. In any case where a new memorandum or certificate is requested in accordance with this section the former memorandum or certificate shall be surrendered for cancellation, and such new memorandum or certificate shall bear a new number and the date of its issuance and the date of original classification and shall otherwise comply with this subpart.

§ 28.59 Lost memorandum or certificate may be replaced by duplicate.

Upon the written request of the last holder of a valid Form A or Form D memorandum, or Form Certificate and a showing to the satisfaction of the chairman of the board which issued such memorandum or certificate that it has been lost or destroyed and, if lost, that diligent effort has been made to find it without success, a new memorandum or certificate shall be issued without the reclassification of the cotton. Such new memorandum or certificate shall bear the same number and date of issuance as the lost or destroyed memorandum or certificate and shall include a statement to the effect that it is a duplicate issued in lieu of the lost or destroyed original, as the case may be.

§ 28.60 Surrender of memoranda or certificates.

For good cause any memorandum or certificate issued under this subpart shall be surrendered to the chairman of the board which issued it, upon his request or upon the request of the Director. A new memorandum or certificate complying with this subpart may be issued in substitution therefor. If

such memorandum or certificate be not surrendered upon such request, it shall nevertheless be invalid for the purposes of the act and this subpart.

REVIEWS

§ 28.65 Provisions for reviews.

Reviews of classifications or comparisons represented by Form A or D memoranda or Form C certificates shall be governed by § 28.66.

§ 28.66 Review procedure.

A review of any Form A, C, or D determination may be requested by the owner or custodian of the cotton from which the sample was drawn within 30 days after the issuance of the original memorandum. Such review shall cover all of the quality factors for which the original determination was made. Requests for reviews of Form A or D determinations may be filed with, and the review made by, the board which issued such memorandum or the Appeal Board of Review Examiners. Requests for reviews of Form C determinations shall be filed with, and the reviews made by, the Appeal Board of Review Examiners. Redrawn samples shall be required for reviews of Form A and Form C determinations except in cases where the original samples have remained, identity preserved, in the custody of the Division. When redrawn samples are necessary, they shall be drawn and submitted as prescribed in this subpart. As evidence of a review determination, a Form A or D memorandum or Form C certificate appropriately marked to indicate that it represents a review determination shall be issued to the applicant requesting the review. The applicant may be required by the board or Appeal Board issuing such review determination to surrender the original classification memorandum or certificate. In any event the review determination shall supersede and invalidate the original determination.

§ 28.68 Withdrawal of application for review.

Any application for review may be withdrawn by the applicant at any time before the review classification of the cotton covered thereby has been completed, subject to the payment of such fees, if any, as may be prescribed in this subpart.

PRACTICAL FORMS OF COTTON STANDARDS

§ 28.105 Practical forms of cotton standards.

(a) Practical forms of the cotton standards of the United States prepared in physical form, each certified under the seal of the U.S. Department of Agriculture and under the signature of the Secretary, thereto affixed by himself or by some other official or employee of the Department duly authorized by him, and in the case of the standards for grade accompanied by photographs representing the cotton in such practical forms on the date of certification, are available for sale to any person requesting the same, subject to the other conditions of this section.

(b) Each application for practical forms of the cotton standards shall be upon an application form furnished by the Division, shall be signed by the applicant, and shall incorporate the following conditions:

(1) That no practical form of any of the cotton standards for grade, or the 6-sample guide boxes for the grade of American upland cotton shall be considered or used as representing such standards after the date of its cancellation in accordance with this section or in any event after the expiration of 12 months following the date of its certification: *Provided*, That sets of practical forms stored, protected, and preserved in accordance with certain agreements for the adoption of universal standards may be used for such periods as may be prescribed in such agreements.

(2) That said practical forms and the photographs accompanying them shall be subject to inspection on any business day, between the hours of 9 a. m. and 4 p. m., by the Secretary or by an officer or agent of the Department authorized by him for the purpose.

(3) That the signature of the Secretary certifying to any practical form, or any photograph of said practical form accompanying the same, or both, may be cancelled if it be found, upon such inspection, either that any of said forms for any reason misrepresents the cotton standards or that any such photograph has been altered or mutilated.

§ 28.106 Universal cotton standards.

Whenever any of the official cotton standards shall have been adopted as universal standards by an association or exchange located in a country other than

the United States, the name of such association or exchange may be shown on the outside of the box or container.

§ 28.107 Original cotton standards and reserve sets.

(a) The containers of the original Universal Standards and other official cotton standards of the United States currently adopted, whenever such official standards are represented by practical forms, shall be marked as prescribed in the order or orders of their establishment, wrapped and sealed with wax seals. When so marked, wrapped, and sealed, they shall be deposited in a safe in the vault of the Division in Washington, D.C. The Director may authorize the temporary removal of such containers from the vault and the transporting of the containers to other locations for purposes of Universal Cotton Standards conferences and other cotton standards meetings conducted by the Division. Such containers shall remain in the control and custody of the Director until the original standards contained therein are superseded by new or revised standards.

(b) At each Universal Cotton Standards Conference held for approving key copies of the Universal Standards there shall be prepared two full sets of practical forms of copies of such standards, which shall be known as "Reserve Sets" and which, upon the certification and recommendation of qualified experts, shall be certified by such experts as true copies of the currently adopted standards as and when established. Such reserve sets shall be enclosed in metal-lined cases and sealed in the presence of a special committee duly authorized by the Director and composed of representatives from the associations attending the conference and the Department. The special committee shall deposit the set designated as the First Reserve Set in a vault in a bank in Memphis, Tenn. The Division shall store the set designated as the Second Reserve Set in the vault of the Division in Washington, D.C., in the control and custody of the Director. These reserve sets shall remain sealed and deposited until such time as they shall be required for examination and use as set forth in paragraph (c) of this section.

(c) At the beginning of the next Universal Cotton Standards Conference, a special committee duly authorized by the Director and composed of representatives from the associations attending the

conference and the Department shall deliver the First Reserve Set from its storage place to the site of the conference. This special committee shall witness the opening of the First Reserve Set for display at the conference. The Director shall arrange for removal of the Second Reserve Set from its storage place in Washington, D.C., and the transport of such set to the site of the conference. If upon examination of the First Reserve Set by representatives at the conference it should appear that such set has undergone any substantial change, the Second Reserve Set shall be opened and used in its stead.

(d) The First Reserve Set and the Second Reserve Set of each conference shall be retained by the Division until the currently adopted standards which they represent have been superseded by new or revised standards.

[30 F.R. 6637, May 14, 1965]

FEEES AND COSTS

§ 28.115 Fees and costs; payment.

All charges for practical forms of cotton standards and all fees and expenses for services of inspection of bales and supervision of sampling, classification, comparison, or review by a board of examiners shall be paid at the time of filing the request for the service desired, except that in the discretion of the Director bills may be delivered to persons from whom payment for charges or fees may become due. Such bills shall be rendered as soon as practicable after the last day of each month for amounts due and unpaid on such dates. When necessary, in the discretion of the chairman of the board, any bill may be rendered at an earlier date for any charges or fees then due from the person to whom such bill may be rendered. Payment of any such bill shall be made as soon as possible after the rendition thereof, but in any event not later than the expiration of 2 weeks thereafter.

§ 28.116 Amounts of fees for classification; exemption.

(a) For the classification of any cotton or samples, the person requesting the service shall pay a fee, as follows, subject to the minimum fee provided in paragraph (c) of this section:

(1) Grade, staple, and Micronaire reading—55 cents per sample.

(2) Grade and staple only—45 cents per sample.

(3) Grade only or staple only—30 cents per sample.

(4) Micronaire reading only—10 cents per sample.

(b) When a comparison is requested of any samples with a type or with other samples, the fees prescribed in paragraph (a) of this section shall apply to every sample involved, including each of the samples of which the type is composed.

(c) A minimum fee of \$3 shall be assessed for services described in paragraphs (a) and (b) of this section for each lot or mark of cotton reported or handled separately, unless the request for service is so worded that the samples become Government property immediately after classification.

(d) For any review of classification or comparison of any cotton, the fees prescribed in paragraph (a) of this section shall apply. The minimum fee prescribed in paragraph (c) of this section is not applicable to review of classification or comparison.

(e) The fees provided for in paragraphs (a) and (b) of this section may be waived in whole or in part, as to the classification and comparison and the review, if any, of any cotton (1) for any governmental agency; (2) to facilitate a cotton program of any governmental agency, and (3) for a charitable or philanthropic organization if such cotton will be used in accordance with an act of Congress or a congressional resolution for the relief of distress or will be exchanged for goods to be so used. The samples accumulated in the classification or certification of cotton for a governmental agency or to facilitate a cotton program of any governmental agency shall be disposed of as required by such agency.

[35 F.R. 8531, June 3, 1970; as amended at 37 F.R. 28271, Dec. 22, 1972]

§ 28.117 Fee for new memorandum or certificate.

For each new memorandum or certificate issued in substitution for a prior memorandum or certificate at the request of the holder, thereof, on account of the breaking or splitting of the lot of cotton covered thereby or otherwise for his business convenience, the person requesting such substitution shall pay a fee of \$1 per sheet.

[37 F.R. 28271, Dec. 22, 1971]

§ 28.118 When no fee collected for new certificate or memorandum.

No fee shall be collected for a new cotton class certificate or memorandum issued in lieu of a prior certificate or memorandum solely for the purpose of correcting clerical errors therein, or for the purpose of substituting a new form applicable to outstanding certificates or memorandums, or without an application therefor.

§ 28.119 Fee when request for classification is withdrawn.

When the request for the classification or comparison of any cotton or an application for review shall be withdrawn after the classification of such cotton has been started pursuant thereto, the person filing the same shall pay the prescribed fee as to any such cotton already classified.

§ 28.120 Expenses to be borne by party requesting classification.

For any samples submitted for Form A or Form D determinations, the expense of inspection and sampling, the preparation of the samples, and the delivery of such samples to the classification room of the board or other place specifically designated for the purpose by the Director or by the chairman of such board, shall be borne by the party requesting the classification. For samples submitted for Form C determination, the party requesting the classification shall pay the fees prescribed in this subpart and, in addition, a fee of \$9 per hour, or each portion thereof, plus the necessary traveling expenses and subsistence, or per diem in lieu of subsistence, incurred on account of such request, in accordance with the fiscal regulations of the Department applicable to the Division employee supervising the sampling.

[35 F.R. 8531, June 3, 1970]

§ 28.121 Advance deposits.

Upon request, the person from whom any payment under this subpart may become due shall make an advance deposit to cover such payment in such amount as may be necessary in the judgment of the official of the Division requesting the same.

§ 28.122 Fee for practical classing examination.

The fee for the practical classing examination for cotton or cotton linters shall be \$50. Any applicant who passes

the examination may be issued a certificate indicating this accomplishment.

[35 F.R. 8531, June 3, 1970]

§ 28.123 Costs of practical forms of cotton standards.

The cost of practical forms of the cotton standards of the United States shall be as follows:

	Domestic shipments f.o.b. Memphis, Tenn.	Shipments delivered outside the Con- tinental United States
<i>Grade standards</i>		
American Upland:		
12-sample official boxes (Universal Standards).....	15.00	17.00
6-sample guide boxes.....	9.00	11.00
American Pima:		
6-sample official boxes.....	15.00	17.00
<i>Tentative standards for preparation of American Upland long-staple cotton</i>		
6-sample boxes.....	10.00	12.00
<i>Standards for length of staple</i>		
American Upland (prepared in 1 pound rolls for each length).....	3.00	3.50
American Pima (prepared in 1 pound rolls for each length).....	3.00	3.50

[35 F.R. 8531, June 3, 1970]

§ 28.124 Payments; procedure.

Any payment or advance deposit under §§ 28.115 through 28.123 shall be by check, draft, or money order, payable to the order of the "Agricultural Marketing Service, USDA", and may not be made in cash except in cases where the total payment or deposit does not exceed \$1.

[22 F.R. 10937, Dec. 28, 1957, as amended at 30 F.R. 6637, May 14, 1965]

§ 28.125 No voiding or modifying claims for payment.

Nothing in this subpart shall be construed to void or modify any claim which a person or party requesting and paying for a service may have against any other person or party for the payment of part or all of such costs.

§ 28.126 Loaning of forms and exhibits.

In the discretion of the Director, limited numbers of copies of the practical forms of any of the official standards, or specially prepared exhibits illustrating any of such standards or cotton samples, may be loaned to governmental agencies

for official purposes or to educational and other institutions or organizations for demonstration purposes.

UNITED STATES COTTON LINTERS

§ 28.136 Applicability of other sections of regulations.

Insofar as applicable, and not inconsistent with §§ 28.136 through 28.151, the provisions of this subpart relating to cotton shall likewise apply to cotton linters.

§ 28.137 Boards of Cotton Linters Examiners.

A Board of Cotton Linters Examiners shall be located at Memphis, Tennessee. The Director may establish Boards of Cotton Linters Examiners at other locations when he considers such action necessary. The members of all such Boards and the chairman of each shall be designated by the Director.

[26 F.R. 8002, Aug. 26, 1961]

§ 28.138 Classification and comparison; requests, memorandums and certificates.

For each lot or mark of linters which the applicant desires classified or compared separately he shall make a separate written request specifying which of the following forms of service is desired. Only one request within a 30-day period shall be made by the same owner for the classification or comparison of the same linters, except a request for a review determination. If the applicant desires that the samples be returned to him, at his expense, he must indicate this in the request for classification or comparison. If the return of samples is not requested they shall become the property of the Government and shall be disposed of in accordance with law and applicable regulations.

(a) *Form C determination.* The classification of bales of linters sampled under the supervision of an employee of the Department. The classification in such cases shall be evidenced by a Form C certificate which shall be subject to review as provided in § 28.146. Such certificate when it has been reviewed in accordance with § 28.146 shall be deemed to be a final certificate as to the classification shown, within the meaning of section 4 of the act (42 Stat. 1517; 7 U.S.C. 54).

(b) *Form D determination.* The classification or comparison of samples

submitted for other than Form C determination. Such classification or comparison shall be evidenced by a Form D memorandum which shall be subject to review as provided in § 28.146.

[25 F.R. 4983, June 7, 1960]

§ 28.139 Filing of requests.

All requests for classification or comparison leading to Form D memoranda or Form C certificates shall be filed with the secretary of the Board of Cotton Linters Examiners unless otherwise directed by the Director.

[25 F.R. 4983, June 7, 1960, as amended at 26 F.R. 8002, Aug. 26, 1961]

§ 28.140 Samples; weight; drawing.

Each sample submitted to a Board of Cotton Linters Examiners shall weigh not less than 8 ounces; shall be wrapped separately; shall contain a coupon or tag showing the bale number or identity of bale from which drawn; and shall be drawn in the following manner:

(a) *Condenser system linters.* Separate portions shall be drawn from three different places in either head of the bale so as to provide as representative sample as possible, each portion to be approximately 6 by 8 inches in size. All portions of the bale sample shall be placed in a single paper sack or wrapper together with an identifying tag stub or other identification. The portions together shall constitute the sample representing one bale.

(b) *Flue and beater system linters.* A sample of not less than 8 ounces, consisting of equal portions drawn from two sides of a bale, or from two shoulders of a bale, shall be drawn.

§ 28.142 Submission of samples.

All samples submitted to a Board of Cotton Linters Examiners for classification or comparison under this subpart shall be delivered or sent to the secretary of the board with all transportation charges thereto prepaid.

[25 F.R. 4983, June 7, 1960]

§ 28.143 Method of classification.

The classification of all cotton linters samples shall be in accordance with the official cotton linters standards of the United States and §§ 28.143 through 28.145. The grade, staple, and character of each sample shall be determined and designated separately, together with any special conditions of the sample or bale.

§ 28.144 Samples falling between grades or staples.

In classification, a sample which is determined to be between two adjacent grades or between two adjacent staples shall be assigned the lower of the two grades or two staples.

§ 28.145 Terms defined; linters classification.

For the purposes of classification of any cotton linters or comparison with a type or other samples, the following terms shall be construed, respectively, to mean:

(a) *Grade.* The term grade means the color and trash in cotton linters.

(b) *Staple.* The staples of cotton linters as defined in the official cotton linters standards of the United States for staple, §§ 28.215 through 28.222.

(c) *Character.* The term character means the relative harshness of linters. In linters classification, character shall be described as follows: Soft (symbol S); Average (symbol A); Harsh (symbol H); or Extra Harsh (symbol EH).

(d) *Prime linters.* Prime linters are cotton linters which are equivalent in grade to the official grade standards and do not show evidence of excess trash, physical deterioration, the presence of objectionable odors, or other characteristics which prohibit its description in terms of the official grade standards.

(e) *Off grade linters.* Cotton linters which show evidence of physical deterioration, the presence of objectionable odors, or other characteristics which prohibit its description in terms of the official grade standards shall be designated as "Off Grade," and no specific grade assigned.

(f) *Excess trash.* Cotton linters that contain more trash than is represented in the grades described in §§ 28.201 through 28.208 shall be assigned that grade to which it is equal in color and further described by the term "Excess Trash." Such linters shall not be considered as prime linters.

(g) *Compound grades.* Cotton linters which in grade show a variation equal to that shown in any 2 or 3 adjacent grades of those described in §§ 28.201 through 28.208 shall be designated by the compound name of such grades.

(h) *Compound staples.* Cotton linters which in staple show a variation equal to that shown in any 2 or 3 adjacent staples of those listed in §§ 28.215

through 28.222 shall be designated by the compound name of such staples.

(i) *Mixed packed grades.* Cotton linters which in grade show a variation greater than that shown in any 3 adjacent grades of those described in §§ 28.201 through 28.208 shall be designated as "Mixed Packed" for grade on classification certificates and memoranda and the grades constituting the mixture shown.

(j) *Mixed packed staples.* Cotton linters which in staple show a variation greater than that shown in any 3 adjacent staples of those listed in §§ 28.215 through 28.222 shall be designated as "Mixed Packed" for staple on classification certificates and memoranda and the staples constituting the mixture shown.

(k) *Weak staple.* Cotton linters in which the strength of staple is below that normally found in linters of otherwise comparable staple shall be designated by the term "Weak" and no specific staple assigned.

(l) *False packed linters.* Linters in a bale (1) containing substances entirely foreign to linters; (2) containing damaged linters in the interior with or without any indication of such damage upon the exterior; (3) composed of good linters upon the exterior and decidedly inferior linters in the interior, in such manner as not to be detected by customary examination; or (4) containing motes, sweepings, or hull fiber worked into the bale.

(m) *Repacked linters.* Linters that are composed of factors', brokers', or other samples, or of loose or miscellaneous lots collected and rebaled, or linters in a bale which is composed of linters from two or more smaller bales or parts of bales.

(n) *Water-packed linters.* Linters in a bale that has been penetrated by water during the baling process, causing damage to the fiber, or a bale that through exposure to the weather or by other means, while apparently dry on the exterior, has been damaged by water in the interior.

§ 28.146 Reviews.

A review of any Form C or Form D determination may be requested by the owner of the linters from which the sample was drawn, or his agent, within 30 days after the issuance of the original certificate. Such request shall be filed with the secretary of the Board of Cot-

ton Linters Examiners and shall be accompanied by the original classification memorandum or certificate or a statement explaining why the original classification document cannot be submitted. Redrawn samples will be required for reviews except in cases where the original samples have remained in the custody of the Board of Cotton Linters Examiners. When redrawn samples are necessary, they shall be drawn and submitted in accordance with the applicable provisions of §§ 28.138, 28.140, and 28.142. A Form C certificate or Form D memorandum appropriately marked to indicate that it represents a review determination, shall be issued to the applicant requesting the review. The review classification document shall supersede the original classification document.

[25 F.R. 4983, June 7, 1960, as amended at 26 F.R. 8002, Aug. 26, 1961]

§ 28.148 Fees and costs; classifications; reviews; other.

The fee for the classification, comparison, or review of linters with respect to grade, staple, and character or any of these qualities shall be at the rate of 40 cents for each bale or sample involved. The provisions of §§ 28.115 through 28.126 relating to other fees and costs shall, so far as applicable, apply to services performed with respect to linters.

[35 F.R. 8532, June 3, 1970]

§ 28.149 Fees and costs; Form C determinations.

For samples submitted for Form C determination, the party requesting the classification shall pay the fees prescribed in this subpart and, in addition, a fee of \$9 per hour, or each portion thereof, plus the necessary traveling expenses and subsistence, or per diem in lieu of subsistence, incurred on account of such request, in accordance with the fiscal regulations of the Department applicable to the Division employee supervising the sampling.

[35 F.R. 8532, June 3, 1970]

§ 28.151 Cost of practical forms; period effective.

Practical forms of the official cotton linters standards of the United States will be furnished to any person subject to the applicable terms and conditions specified in § 28.105: *Provided*, That no practical form of any of the official cot-

ton linters standards of the United States for grade shall be considered as representing any of said standards after the date of its cancellation in accordance with this subpart, or, in any event, after the expiration of 12 months following the date of its certification. The cost of the official standards for grade shall be at the rate of \$10 each, f.o.b., Memphis, Tenn., for shipments within the continental United States, and \$12 each, delivered to destination, for shipments outside the United States. The cost of the official standards for staple shall be at the rate of \$2.50 each, f.o.b., Memphis, Tenn., for shipments within the continental United States, and \$3 each, delivered to destination, for shipments outside the continental United States.

[35 F.R. 8532, June 3, 1970]

ADJUSTMENT OF CONTRACT DISPUTES

§ 28.160 Cotton examiners on foreign exchanges.

Whenever any association or exchange in any country other than the United States shall adopt the universal standards and establish them as the basis of all transactions and contracts for American upland cotton, made and executed according to its rules, the Director may appoint certain members or officials of such exchanges as cotton examiners. Insofar as the administration of the act applies to cotton involved in contracts made in accordance with the rules of such exchange, the administration shall be as prescribed in §§ 28.161 through 28.162.

§ 28.161 Disputes involving contracts for shipment of cotton from United States.

When an association or exchange located in a country other than the United States shall adopt any of the official cotton standards of the United States and when the members of the committee of such association or exchange having final jurisdiction in the matter of appeals have been designated as cotton examiners by the Director, such committee may be constituted for the purposes of this act a Board of the Department and authorized to act as follows:

(a) Insofar as the exchange has adopted the universal standards the committee may pass upon the classification of cotton involved in a dispute between a party in the United States and

a party without the United States to a contract made under the rules of the association or exchange.

(b) The submission of samples of cotton involved in such a dispute to such association or exchange or such committee in accordance with the rules of the association or exchange shall be deemed to be a submission to the Department.

(c) Determinations of classification made by the boards so constituted shall be final. When so provided in the articles, rules, or bylaws of the association or exchange, such determinations may be evidenced by awards. If an award is made which does not state the classification, such board will, upon request of the owner or custodian of the cotton and the payment of a reasonable additional fee, issue a certificate showing in detail the true classification for grade and color of such cotton, based upon a comparison of the samples with the universal standards or with a type or other samples on which the cotton has been sold, as the case may be.

§ 28.162 Procedure.

The manner of procedure in submitting and handling samples, in classification and in instituting and conducting arbitrations and appeals shall be as prescribed in the articles, bylaws, and rules of the association or exchange.

PUBLICATIONS

§ 28.165 Publication media.

Publications under the act and this subpart may be made in service and regulatory announcements and by such other means as the Director shall from time to time designate for the purpose.

Subpart B—Classification for Foreign Growth Cotton and Cotton Linters

AUTHORITY: The provisions of this Subpart B issued under sec. 205, 60 Stat. 1090, as amended; 7 U.S.C. 1624.

§ 28.175 Administrative and general.

Insofar as applicable, and not inconsistent with this subpart, the provisions of Subpart A of this part shall likewise apply to the classification and comparison of cotton and cotton linters produced outside the continental United States.

§ 28.176 Designation of official certificates, memoranda, marks, other identifications, and devices for purpose of the Agricultural Marketing Act.

Subsection 203(h) of the Agricultural Marketing Act of 1946, as amended by Public Law 272, 84th Congress, provides criminal penalties for various specified offenses relating to official certificates, memoranda, marks or other identifications and devices for making such marks or identifications, issued or authorized under section 203 of said act, and certain misrepresentations concerning the inspection or grading of agricultural products under said section. For the purposes of said subsection and the provisions in this subpart, the terms listed below shall have the respective meanings specified:

(a) "Official certificate" means any form of certification, either written or printed, used under this subpart to certify with respect to the inspection, sampling, class, grade, quality, quantity, or conditions of products (including the compliance of products with applicable specifications).

(b) "Official memorandum" means any initial record of findings made by an authorized person in the process of grading, inspecting, or sampling, pursuant to this subpart, any processing or plant-operation report made by an authorized person in connection with grading, inspecting, or sampling under this subpart, and any report made by an authorized person of services performed pursuant to this subpart.

(c) "Official mark" means the grade mark, inspection mark, and any other mark, approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product, stating that the product was graded or inspected or both, or indicating the appropriate U. S. Grade or condition of the product, or for the purpose of maintaining the identity of products graded or inspected or both under this subpart.

(d) "Official identification" means any United States (U. S.) standard designation of class, grade, quality, quantity, or condition specified in this subpart or any symbol, stamp, label, or seal indicating that the product has been officially graded or inspected and/or indicating the class, grade, quality, quantity, or condition of the product,

approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product.

(e) "Official device" means a stamping appliance, branding device, stencil, printed label, or any other mechanically or manually operated tool that is approved by the Administrator for the purpose of applying any official mark or other identification to any product or the packaging material thereof.

§ 28.177 Requests for classification and comparison of cotton.

The applicant shall make a separate written request, on a form supplied by the Division, for each lot or mark of cotton which he desires classified or compared separately. The same applicant shall not file more than one request for the classification or comparison of the same cotton within any 30-day period except for a review classification or comparison as provided in § 28.181. All requests for classification or comparison in the United States shall be filed with the Board of Cotton Examiners which serves the territory in which the samples are located. If the cotton is stored outside the United States the request shall be filed with the board designated by the Director. The chairman of any board may refer any request and the samples submitted to another board or to the Appeal Board of Review Examiners for classification or comparison.

§ 28.178 Submission of cotton samples.

Samples of cotton submitted to a board of cotton examiners for classification and/or comparison shall be drawn from both sides of the bale and shall be delivered to the secretary of the board with which the request was filed, as soon as possible after the filing of such request. All such samples shall be inclosed in one or more wrappers, which shall be labeled or marked, or both, in such manner as to show the name and address of the owner, the lot number or marks, if any, the number of bales represented by the samples in each wrapper, and such other information as may be necessary in accordance with the instructions of the chairman of the board. All transportation charges incident to the submission of samples shall be prepaid by the party making the request or his agent.

§ 28.179 Methods of cotton classification and comparison.

The classification of samples from cotton produced outside the continental United States shall be on the basis of the official cotton standards of the United States in effect at the time of classification. When a comparison of such cotton samples with other actual samples or with a type is requested, the procedure and methods shall be as outlined in §§ 28.45 through 28.47.

§ 28.180 Issuance of cotton classification memoranda.

As soon as practicable after the classification or comparison of cotton has been completed by a board of cotton examiners, there shall be issued a cotton classification memorandum which shall embody within its written or printed terms:

(a) The results of the classification or comparison.

(b) The name of the country in which the cotton was produced.

(c) The source from which the samples were received for classification.

(d) A statement that any classification made has been on the basis of the official cotton standards of the United States in effect at the time of such classification.

(e) The signature of the chairman of the board, the location of the board, and the date of issuance of the memorandum.

§ 28.181 Review of cotton classification.

A review of any classification or comparison made pursuant to this subpart may be requested by the owner or custodian of the cotton from which the sample was drawn within 30 days after the issuance of the original memorandum. Such request, accompanied by the original memorandum, may be filed with either the board which issued the original memorandum or the Appeal Board of Review Examiners. Redrawn samples shall be required except in cases where the original samples have remained, identity preserved, in the custody of the board which issued the original memorandum. As evidence of any review determination, a classification memorandum marked to indicate that it represents a review determination shall be issued to the applicant requesting the review.

§ 28.182 Surrender of memoranda.

For good cause any memorandum issued under this subpart shall be surrendered to the chairman of the board which issued it, upon his request or upon the request of the Director, and a new memorandum complying with this subpart issued in substitution therefor. If the memorandum be not surrendered upon such request, it shall nevertheless be invalid for the purposes of this subpart.

§ 28.185 Fees and costs; payment.

The provisions of §§ 28.115 through 28.126 relating to fees, costs, and method of payment shall apply to services performed with respect to cotton produced outside the continental United States.

§ 28.184 Cotton linters; general.

Requests for the classification or comparison of cotton linters pursuant to this subpart and the samples involved shall be submitted to the Board of Cotton Linters Examiners. All samples classed shall be on the basis of the official cotton linters standards of the United States. The fee for classification or comparison and the issuance of a memorandum showing the results of such classification or comparison shall be 40 cents per sample.

[35 F.R. 8532, June 3, 1970]

Subpart C—Standards**OFFICIAL COTTON LINTERS STANDARDS OF THE UNITED STATES FOR GRADE**

AUTHORITY: §§ 28.201 to 28.208 issued under sec. 10, 42 Stat. 1519; 7 U. S. C. 61. Interpret or apply sec. 6, 42 Stat. 1518, as amended; 7 U. S. C. 56.

§ 28.201 Grade 1.

Grade 1 shall be U.S. cotton linters which in grade is within the range represented by a set of samples in the custody of the U.S. Department of Agriculture in a container marked "Original Official Cotton Linters Standard of the United States, Grade 1, effective July 1, 1956."

§ 28.202 Grade 2.

Grade 2 shall be U.S. cotton linters which in grade is within the range represented by a set of samples in the custody of the U.S. Department of Agriculture in a container marked "Original Official Cotton Linters Standard of the United States, Grade 2, effective July 1, 1956."

§ 28.203 Grade 3.

Grade 3 shall be U.S. cotton linters which in grade is within the range represented by a set of samples in the custody of the U.S. Department of Agriculture in a container marked "Original Official Cotton Linters Standard of the United States, Grade 3, effective July 1, 1956."

§ 28.204 Grade 4.

Grade 4 shall be U.S. cotton linters which in grade is within the range represented by a set of samples in the custody of the U.S. Department of Agriculture in a container marked "Original Official Cotton Linters Standard of the United States, Grade 4, effective July 1, 1956."

§ 28.205 Grade 5.

Grade 5 shall be U.S. cotton linters which in grade is within the range represented by a set of samples in the custody of the U.S. Department of Agriculture in a container marked "Original Official Cotton Linters Standard of the United States, Grade 5, effective July 1, 1956."

§ 28.206 Grade 6.

Grade 6 shall be U.S. cotton linters which in grade is within the range represented by a set of samples in the custody of the U.S. Department of Agriculture in a container marked "Original Official Cotton Linters Standard of the United States, Grade 6, effective July 1, 1956."

§ 28.207 Grade 7.

Grade 7 shall be U.S. cotton linters which in grade is within the range represented by a set of samples in the custody of the U.S. Department of Agriculture in a container marked "Original Official Cotton Linters Standard of the United States, Grade 7, effective July 1, 1956."

§ 28.208 Chemical Grade.

U.S. cotton linters which in grade are below Grade 7 shall be designated as "Chemical Grade."

OFFICIAL COTTON LINTERS STANDARDS OF UNITED STATES FOR STAPLE

AUTHORITY: §§ 28.215 to 28.222 issued under sec. 10, 42 Stat. 1519; 7 U. S. C. 61. Interpret or apply sec. 6, 42 Stat. 1518, as amended; 7 U. S. C. 66.

§ 28.215 Staple 1.

Staple 1 shall be U.S. cotton linters which in staple is within the range represented by a quantity of cotton linters in the custody of the U.S. Department of Agriculture marked "Original Official Cotton Linters Standard of the United States, Staple 1, effective July 1, 1957."

§ 28.216 Staple 2.

Staple 2 shall be U.S. cotton linters which in staple is within the range represented by a quantity of cotton linters in the custody of the U.S. Department of Agriculture marked "Original Official Cotton Linters Standard of the United States, Staple 2, effective July 1, 1957."

§ 28.217 Staple 3.

Staple 3 shall be U.S. cotton linters which in staple is within the range represented by a quantity of cotton linters in the custody of the U.S. Department of Agriculture marked "Original Official Cotton Linters Standard of the United States, Staple 3, effective July 1, 1957."

§ 28.218 Staple 4.

Staple 4 shall be U.S. cotton linters which in staple is within the range represented by a quantity of cotton linters in the custody of the U.S. Department of Agriculture marked "Original Official Cotton Linters Standard of the United States, Staple 4, effective July 1, 1957."

§ 28.219 Staple 5.

Staple 5 shall be U.S. cotton linters which in staple is within the range represented by a quantity of cotton linters in the custody of the U.S. Department of Agriculture marked "Original Official Cotton Linters Standard of the United States, Staple 5, effective July 1, 1957."

§ 28.220 Staple 6.

Staple 6 shall be U.S. cotton linters which in staple is within the range represented by a quantity of cotton linters in the custody of the U.S. Department of Agriculture marked "Original Official Cotton Linters Standard of the United States, Staple 6, effective July 1, 1957."

§ 28.221 Staple 7.

Staple 7 shall be U.S. cotton linters which in staple is within the range represented by a quantity of cotton linters in the custody of the U.S. Department of Agriculture marked "Original Official

Cotton Linters Standard of the United States, Staple 7, effective July 1, 1957.”

§ 28.222 Below 7 Staple.

Cotton linters which in staple is below staple 7 will be designated as “Below 7” staple.

OFFICIAL COTTON STANDARDS OF THE UNITED STATES FOR LENGTH OF STAPLE

AUTHORITY: §§ 28.301 to 28.305 issued under sec. 10, 42 Stat. 1519; 7 U. S. C. 61. Interpret or apply sec. 6, 42 Stat. 1518, as amended, sec. 4854, 68A Stat. 580; 7 U. S. C. 56, 26 U. S. C. 4854.

§ 28.301 Measurement; humidity; temperature.

The length of staple of any cotton shall be the normal length by measurement, without regard to quality or value, of a typical portion of its fibers under a relative humidity of the atmosphere of 65 percent and a temperature of 70° F.

§ 28.302 Terms of designation.

The length of staple of any cotton shall be designated by that one of the following terms which expresses its measurement in inches and fractions of an inch in accordance with § 28.301:

“Below $\frac{1}{16}$; $\frac{1}{8}$; $\frac{1}{4}$; $\frac{3}{8}$; $\frac{1}{2}$; $\frac{5}{8}$; $\frac{3}{4}$; $\frac{7}{8}$; 1 ; $1\frac{1}{8}$; $1\frac{1}{4}$; $1\frac{1}{2}$; $1\frac{3}{4}$; 2 ; $2\frac{1}{8}$; $2\frac{1}{4}$; $2\frac{1}{2}$; $2\frac{3}{4}$; 3 ; $3\frac{1}{8}$; $3\frac{1}{4}$; $3\frac{1}{2}$; $3\frac{3}{4}$; 4 ; $4\frac{1}{8}$; $4\frac{1}{4}$; $4\frac{1}{2}$; $4\frac{3}{4}$; 5 ; $5\frac{1}{8}$; $5\frac{1}{4}$; $5\frac{1}{2}$; $5\frac{3}{4}$; 6 ; $6\frac{1}{8}$; $6\frac{1}{4}$; $6\frac{1}{2}$; $6\frac{3}{4}$; 7 ; $7\frac{1}{8}$; $7\frac{1}{4}$; $7\frac{1}{2}$; $7\frac{3}{4}$; 8 ; $8\frac{1}{8}$; $8\frac{1}{4}$; $8\frac{1}{2}$; $8\frac{3}{4}$; 9 ; $9\frac{1}{8}$; $9\frac{1}{4}$; $9\frac{1}{2}$; $9\frac{3}{4}$; 10 ; $10\frac{1}{8}$; $10\frac{1}{4}$; $10\frac{1}{2}$; $10\frac{3}{4}$; 11 ; $11\frac{1}{8}$; $11\frac{1}{4}$; $11\frac{1}{2}$; $11\frac{3}{4}$; 12 ; $12\frac{1}{8}$; $12\frac{1}{4}$; $12\frac{1}{2}$; $12\frac{3}{4}$; 13 ; $13\frac{1}{8}$; $13\frac{1}{4}$; $13\frac{1}{2}$; $13\frac{3}{4}$; 14 ; $14\frac{1}{8}$; $14\frac{1}{4}$; $14\frac{1}{2}$; $14\frac{3}{4}$; 15 ; $15\frac{1}{8}$; $15\frac{1}{4}$; $15\frac{1}{2}$; $15\frac{3}{4}$; 16 ; $16\frac{1}{8}$; $16\frac{1}{4}$; $16\frac{1}{2}$; $16\frac{3}{4}$; 17 ; $17\frac{1}{8}$; $17\frac{1}{4}$; $17\frac{1}{2}$; $17\frac{3}{4}$; 18 ; $18\frac{1}{8}$; $18\frac{1}{4}$; $18\frac{1}{2}$; $18\frac{3}{4}$; 19 ; $19\frac{1}{8}$; $19\frac{1}{4}$; $19\frac{1}{2}$; $19\frac{3}{4}$; 20 ; $20\frac{1}{8}$; $20\frac{1}{4}$; $20\frac{1}{2}$; $20\frac{3}{4}$; 21 ; $21\frac{1}{8}$; $21\frac{1}{4}$; $21\frac{1}{2}$; $21\frac{3}{4}$; 22 ; $22\frac{1}{8}$; $22\frac{1}{4}$; $22\frac{1}{2}$; $22\frac{3}{4}$; 23 ; $23\frac{1}{8}$; $23\frac{1}{4}$; $23\frac{1}{2}$; $23\frac{3}{4}$; 24 ; $24\frac{1}{8}$; $24\frac{1}{4}$; $24\frac{1}{2}$; $24\frac{3}{4}$; 25 ; $25\frac{1}{8}$; $25\frac{1}{4}$; $25\frac{1}{2}$; $25\frac{3}{4}$; 26 ; $26\frac{1}{8}$; $26\frac{1}{4}$; $26\frac{1}{2}$; $26\frac{3}{4}$; 27 ; $27\frac{1}{8}$; $27\frac{1}{4}$; $27\frac{1}{2}$; $27\frac{3}{4}$; 28 ; $28\frac{1}{8}$; $28\frac{1}{4}$; $28\frac{1}{2}$; $28\frac{3}{4}$; 29 ; $29\frac{1}{8}$; $29\frac{1}{4}$; $29\frac{1}{2}$; $29\frac{3}{4}$; 30 ; $30\frac{1}{8}$; $30\frac{1}{4}$; $30\frac{1}{2}$; $30\frac{3}{4}$; 31 ; $31\frac{1}{8}$; $31\frac{1}{4}$; $31\frac{1}{2}$; $31\frac{3}{4}$; 32 ; $32\frac{1}{8}$; $32\frac{1}{4}$; $32\frac{1}{2}$; $32\frac{3}{4}$; 33 ; $33\frac{1}{8}$; $33\frac{1}{4}$; $33\frac{1}{2}$; $33\frac{3}{4}$; 34 ; $34\frac{1}{8}$; $34\frac{1}{4}$; $34\frac{1}{2}$; $34\frac{3}{4}$; 35 ; $35\frac{1}{8}$; $35\frac{1}{4}$; $35\frac{1}{2}$; $35\frac{3}{4}$; 36 ; $36\frac{1}{8}$; $36\frac{1}{4}$; $36\frac{1}{2}$; $36\frac{3}{4}$; 37 ; $37\frac{1}{8}$; $37\frac{1}{4}$; $37\frac{1}{2}$; $37\frac{3}{4}$; 38 ; $38\frac{1}{8}$; $38\frac{1}{4}$; $38\frac{1}{2}$; $38\frac{3}{4}$; 39 ; $39\frac{1}{8}$; $39\frac{1}{4}$; $39\frac{1}{2}$; $39\frac{3}{4}$; 40 ; $40\frac{1}{8}$; $40\frac{1}{4}$; $40\frac{1}{2}$; $40\frac{3}{4}$; 41 ; $41\frac{1}{8}$; 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$174\frac{1}{2}$; $174\frac{3}{4}$; 175 ; $175\frac{1}{8}$; $175\frac{1}{4}$; $175\frac{1}{2}$; $175\frac{3$

ture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Upland, Strict Middling, effective June 15, 1963."

[27 F.R. 5535, June 12, 1962]

§ 28.404 Middling Plus.

Middling Plus is American upland cotton which is Middling in leaf and preparation with Strict Middling color.

§ 28.405 Middling.

Middling is American upland cotton which in color, leaf, and preparation is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Upland, Middling, effective June 15, 1963."

[27 F.R. 5535, June 12, 1962]

§ 28.406 Strict Low Middling Plus.

Strict Low Middling Plus is American upland cotton which is Strict Low Middling in leaf and preparation with Middling color.

§ 28.407 Strict Low Middling.

Strict Low Middling is American upland cotton which in color, leaf, and preparation is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Upland, Strict Low Middling, effective June 15, 1963."

[27 F.R. 5535, June 12, 1962]

§ 28.408 Low Middling Plus.

Low Middling Plus is American upland cotton which is Low Middling in leaf and preparation with Strict Low Middling color.

§ 28.409 Low Middling.

Low Middling is American upland cotton which in color, leaf, and preparation is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Upland, Low Middling, effective June 15, 1963."

[27 F.R. 5535, June 12, 1962]

§ 28.410 Strict Good Ordinary Plus.

Strict Good Ordinary Plus is American upland cotton which is Strict Good Ordinary in leaf and preparation with Low Middling color.

§ 28.411 Strict Good Ordinary.

Strict Good Ordinary is American upland cotton which in color, leaf, and preparation is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Upland, Strict Good Ordinary, effective June 15, 1963."

[27 F.R. 5535, June 12, 1962]

§ 28.412 Good Ordinary Plus.

Good Ordinary Plus is American upland cotton which is Good Ordinary in leaf and preparation with Strict Good Ordinary color.

§ 28.413 Good Ordinary.

Good Ordinary is American upland cotton which in color, leaf, and preparation is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Upland, Good Ordinary, effective June 15, 1963."

[27 F.R. 5535, June 12, 1962]

LIGHT SPOTTED COTTON

§ 28.420 Good Middling Light Spotted.

Good Middling Light Spotted is American upland cotton which in leaf and preparation is Good Middling, but which in spot or color, or both, is between Good Middling and Good Middling Spotted.

§ 28.421 Strict Middling Light Spotted.

Strict Middling Light Spotted is American upland cotton which in leaf and preparation is Strict Middling, but which in spot or color, or both, is between Strict Middling and Strict Middling Spotted.

§ 28.422 Middling Light Spotted.

Middling Light Spotted is American upland cotton which in leaf and preparation is Middling, but which in spot or color, or both, is between Middling and Middling Spotted.

§ 28.423 Strict Low Middling Light Spotted.

Strict Low Middling Light Spotted is American upland cotton which in leaf and preparation is Strict Low Middling, but which in spot or color, or both, is between Strict Low Middling and Strict Low Middling Spotted.

§ 28.424 Low Middling Light Spotted.

Low Middling Light Spotted is American upland cotton which in leaf and preparation is Low Middling, but which in spot or color, or both, is between Low Middling and Low Middling Spotted.

SPOTTED COTTON**§ 28.430 Good Middling Spotted.**

Good Middling Spotted is American upland cotton which in color, leaf, and preparation is better than Strict Middling Spotted.

§ 28.431 Strict Middling Spotted.

Strict Middling Spotted is American upland cotton which in color, leaf, and preparation is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Upland, Strict Middling Spotted, effective June 15, 1963." [27 F.R. 5535, June 12, 1962]

§ 28.432 Middling Spotted.

Middling Spotted is American upland cotton which in color, leaf, and preparation is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Upland, Middling Spotted, effective June 15, 1963." [27 F.R. 5535, June 12, 1962]

§ 28.433 Strict Low Middling Spotted.

Strict Low Middling Spotted is American upland cotton which in color, leaf, and preparation is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Upland, Strict Low

Middling Spotted, effective June 15, 1963."

[27 F.R. 5535, June 12, 1962]

§ 28.434 Low Middling Spotted.

Low Middling Spotted is American upland cotton which in color, leaf, and preparation is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Upland, Low Middling Spotted, effective June 15, 1963."

[27 F.R. 5535, June 12, 1962]

TINGED COTTON**§ 28.440 Good Middling Tinged.**

Good Middling Tinged is American upland cotton which in color, leaf, and preparation is better than Strict Middling Tinged.

§ 28.441 Strict Middling Tinged.

Strict Middling Tinged is American upland cotton which in color, leaf, and preparation is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Upland, Strict Middling Tinged, effective June 15, 1963." [27 F.R. 5535, June 12, 1962]

§ 28.442 Middling Tinged.

Middling Tinged is American upland cotton which in color, leaf, and preparation is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Upland, Middling Tinged, effective June 15, 1963."

[27 F.R. 5536, June 12, 1962]

§ 28.443 Strict Low Middling Tinged.

Strict Low Middling Tinged is American upland cotton which in color, leaf, and preparation is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Upland, Strict Low Middling Tinged, effective June 15, 1963."

[27 F.R. 5536, June 12, 1962]

§ 28.444 Low Middling Tinged.

Low Middling Tinged is American upland cotton which in color, leaf, and preparation is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Upland, Low Middling Tinged, effective June 15, 1963."

[27 F.R. 5536, June 12, 1962]

YELLOW STAINED COTTON

§ 28.450 Good Middling Yellow Stained.

Good Middling Yellow Stained is American upland cotton which in leaf and preparation is Good Middling Tinged, but which in color is deeper than Good Middling Tinged.

§ 28.451 Strict Middling Yellow Stained.

Strict Middling Yellow Stained is American upland cotton which in leaf and preparation is Strict Middling Tinged, but which in color is deeper than Strict Middling Tinged.

§ 28.452 Middling Yellow Stained.

Middling Yellow Stained is American upland cotton which in leaf and preparation is Middling Tinged, but which in color is deeper than Middling Tinged.

LIGHT GRAY COTTON

§ 28.460 Good Middling Light Gray.

Good Middling Light Gray is American upland cotton which in color is Middling and which in leaf and preparation is Good Middling.

§ 28.461 Strict Middling Light Gray.

Strict Middling Light Gray is American upland cotton which in color is Strict Low Middling and which in leaf and preparation is Strict Middling.

§ 28.462 Middling Light Gray.

Middling Light Gray is American upland and preparation is Strict Low Middling and which in leaf and preparation is Middling.

§ 28.463 Strict Low Middling Light Gray.

Strict Low Middling Light Gray is American upland cotton which in color is Strict Good Ordinary and which in leaf and preparation is Strict Low Middling.

GRAY COTTON

§ 28.470 Good Middling Gray.

Good Middling Gray is American upland cotton which in color is Strict Middling and which in leaf and preparation is Good Middling or better.

§ 28.471 Strict Middling Gray.

Strict Middling Gray is American upland cotton which in color is Low Middling and which in leaf and preparation is Strict Middling or better.

§ 28.472 Middling Gray.

Middling Gray is American upland cotton which in color is Strict Good Ordinary and which in leaf and preparation is Middling or better.

§ 28.473 Strict Low Middling Gray.

Strict Low Middling Gray is American upland cotton which in color is Good Ordinary and which in leaf and preparation is Strict Low Middling or better.

BELOW GRADE COTTON

§ 28.475 Below Grade Cotton.

Below Grade cotton is American upland cotton which is lower in grade than Good Ordinary, or Low Middling Light Spotted, or Low Middling Spotted, or Low Middling Tinged, or Middling Yellow Stained, or Strict Low Middling Gray. In cotton classification, the official designation for such cotton is Below Grade. The term Below Good Ordinary, or Below Low Middling Light Spotted, or Below Low Middling Spotted, or Below Low Middling Tinged, or Below Middling Yellow Stained, or Below Strict Low Middling Gray and other additional explanatory terms considered necessary to describe adequately the condition of the cotton may be entered on classification memorandums or certificates.

[27 F.R. 5536, June 12, 1962]

GENERAL

§ 28.480 General.

American upland cotton which in color, leaf, and preparation is within the range of the standards established in this part, but which contains a combination of color, leaf, and preparation not within any one of the standards set out in this part, shall be designated according to the standard which is equivalent to, or if there be no exact equivalent is next below, the average of all the factors that determine the grade of the cotton: *Provided*, That in no event shall the grade

assigned to any cotton or sample be more than one grade higher than the grade classification of the color or leaf contained therein.

§ 28.481 Alternate title for standards.

Since these standards have been agreed upon and accepted by the leading European cotton associations and exchanges, they may also be termed and referred to as the "Universal Standards for American Cotton."

OFFICIAL COTTON STANDARDS OF THE UNITED STATES FOR THE GRADE OF AMERICAN PIMA COTTON

AUTHORITY: §§ 28.501 to 28.510 issued under sec. 10, 42 Stat. 1519; 7 U.S.C. 61. Interpret or apply sec. 6, 42 Stat. 1518, as amended; 7 U.S.C. 56.

SOURCE: §§ 28.501 to 28.510 appear at 34 F.R. 9847, June 26, 1969, unless otherwise noted.

§ 28.501 Grade No. 1:

Grade No. 1 shall be American Pima cotton which in grade is within the range represented by a set of samples in the custody of the U.S. Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Pima, Grade No. 1, effective July 1, 1970."

§ 28.502 Grade No. 2.

Grade No. 2 shall be American Pima cotton which in grade is within the range represented by a set of samples in the custody of the U.S. Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Pima, Grade No. 2, effective July 1, 1970."

§ 28.503 Grade No. 3.

Grade No. 3 shall be American Pima cotton which in grade is within the range represented by a set of samples in the custody of the U.S. Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Pima, Grade No. 3, effective July 1, 1970."

§ 28.504 Grade No. 4.

Grade No. 4 shall be American Pima cotton which in grade is within the range represented by a set of samples in the custody of the U.S. Department of Agriculture in the District of Columbia

in a container marked "Original Official Cotton Standards of the United States, American Pima, Grade No. 4, effective July 1, 1970."

§ 28.505 Grade No. 5.

Grade No. 5 shall be American Pima cotton which in grade is within the range represented by a set of samples in the custody of the U.S. Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Pima, Grade No. 5, effective July 1, 1970."

§ 28.506 Grade No. 6.

Grade No. 6 shall be American Pima cotton which in grade is within the range represented by a set of samples in the custody of the U.S. Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Pima, Grade No. 6, effective July 1, 1970."

§ 28.507 Grade No. 7.

Grade No. 7 shall be American Pima cotton which in grade is within the range represented by a set of samples in the custody of the U.S. Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Pima, Grade No. 7, effective July 1, 1970."

§ 28.508 Grade No. 8.

Grade No. 8 shall be American Pima cotton which in grade is within the range represented by a set of samples in the custody of the U.S. Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Pima, Grade No. 8, effective July 1, 1970."

§ 28.509 Grade No. 9.

Grade No. 9 shall be American Pima cotton which in grade is within the range represented by a set of samples in the custody of the U.S. Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Pima, Grade No. 9, effective July 1, 1970."

§ 28.510 Grade No. 10.

American Pima cotton which in grade is inferior to Grade No. 9 shall be designated as "Grade No. 10."

SYMBOLS AND CODE NUMBERS USED IN RECORDING COTTON CLASSIFICATION

§ 28.525 Symbols and code numbers.

For administrative convenience, the symbols and code numbers prescribed in this section may be used in lieu of cotton grade names and staple length designations in inches.

(a) Symbols and Code Numbers for Grades of American Upland Cotton.

Full grade name	Symbol	Code No.
Strict Good Middling.....	SGM	01
Good Middling.....	GM	11
Strict Middling.....	SM	21
Middling Plus.....	Mid Plus	30
Middling.....	Mid	31
Strict Low Middling Plus.....	SLM Plus	40
Strict Low Middling.....	SLM	41
Low Middling Plus.....	LM Plus	50
Low Middling.....	LM	51
Strict Good Ordinary Plus.....	SGO Plus	60
Strict Good Ordinary.....	SGO	61
Good Ordinary Plus.....	GO Plus	70
Good Ordinary.....	GO	71
Good Middling Light Spotted.....	GM Lt Sp	12
Strict Middling Light Spotted.....	SM Lt Sp	22
Middling Light Spotted.....	Mid Lt Sp	32
Strict Low Middling Light Spotted.....	SLM Lt Sp	42
Low Middling Light Spotted.....	LM Lt Sp	52
Good Middling Spotted.....	GM Sp	13
Strict Middling Spotted.....	SM Sp	23
Middling Spotted.....	Mid Sp	33
Strict Low Middling Spotted.....	SLM Sp	43
Low Middling Spotted.....	LM Sp	53
Good Middling Tinged.....	GM Tg	14
Strict Middling Tinged.....	SM Tg	24
Middling Tinged.....	Mid Tg	34
Strict Low Middling Tinged.....	SLM Tg	44
Low Middling Tinged.....	LM Tg	54
Good Middling Yellow Stained.....	GM YS	16
Strict Middling Yellow Stained.....	SM YS	25
Middling Yellow Stained.....	Mid YS	35
Good Middling Light Gray.....	GM Lt Gray	18
Strict Middling Light Gray.....	SM Lt Gray	28
Middling Light Gray.....	Mid Lt Gray	36
Strict Low Middling Light Gray.....	SLM Lt Gray	46
Good Middling Gray.....	GM Gray	17
Strict Middling Gray.....	SM Gray	27
Middling Gray.....	Mid Gray	37
Strict Low Middling Gray.....	SLM Gray	47
Below Grade..(Below Good Ordinary).....	BG	81
Below Grade..(Below Low Middling Lt Spotted).....	BG	82
Below Grade..(Below Low Middling Spotted).....	BG	83
Below Grade..(Below Low Middling Tinged).....	BG	84
Below Grade..(Below Middling Yellow Stained).....	BG	85
Below Grade..(Below Strict Low Middling Lt Gray).....	BG	86
Below Grade..(Below Strict Low Middling Gray).....	BG	87

(b) Symbols and Code Numbers for Grades of American Pima Cotton.

Full grade name	Symbol	Code No.
Grade No. 1.....	AP 1	10
Grade No. 2.....	AP 2	20
Grade No. 3.....	AP 3	30
Grade No. 4.....	AP 4	40
Grade No. 5.....	AP 5	50
Grade No. 6.....	AP 6	60
Grade No. 7.....	AP 7	70
Grade No. 8.....	AP 8	80
Grade No. 9.....	AP 9	90
Grade No. 10.....	AP 10	60

(c) Code numbers for Length of Staple Designations.

Length of staple—inches	Code No.
Below $\frac{1}{16}$	24
$\frac{1}{16}$	26
$\frac{1}{8}$	28
$\frac{3}{16}$	29
$\frac{1}{4}$	30
$\frac{5}{16}$	31
1.....	32
$\frac{1}{8}$	33
$\frac{1}{4}$	34
$\frac{3}{8}$	35
$\frac{1}{2}$	36
$\frac{5}{8}$	37
$\frac{3}{4}$	38
1.....	39
$\frac{1}{4}$	40
$\frac{3}{8}$	41
$\frac{1}{2}$	42
$\frac{5}{8}$	43
$\frac{3}{4}$	44
$\frac{7}{8}$	45
1.....	46
$\frac{1}{8}$	47
$\frac{1}{4}$	48
$\frac{3}{8}$	49
$\frac{1}{2}$	50
$\frac{5}{8}$	51
1.....	52
$\frac{1}{8}$	53
$\frac{1}{4}$	54
$\frac{3}{8}$	55
$\frac{1}{2}$	56

(Sec. 10, 42 Stat. 1519; 7 U.S.C. 61) [82 F.R. 8760, June 20, 1967, as amended at 34 F.R. 9847, June 26, 1969]

OFFICIAL STANDARDS OF THE UNITED STATES FOR THE GRADES OF SEA ISLAND COTTON

AUTHORITY: §§ 28.551 to 28.560 issued under sec. 10 42 Stat. 1519; 7 U. S. C. 61. Interpret or apply sec. 6, 42 Stat. 1518, as amended, sec. 4854, 68A Stat. 580; 7 U. S. C. 56, 20 U. S. C. 4854.

§ 28.551 Grade 1.

Grade No. 1 shall be Sea Island cotton which in grade is within the range represented by a set of samples in the

custody of the U.S. Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, Sea Island, Grade No. 1, effective August 10, 1939."

§ 28.552 Grade 2.

Grade No. 2 shall be Sea Island cotton which in grade is within the range represented by a set of samples in the custody of the U.S. Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, Sea Island, Grade No. 2, effective August 10, 1939."

§ 28.553 Grade 3.

Grade No. 3 shall be Sea Island cotton which in grade is within the range represented by a set of samples in the custody of the U.S. Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, Sea Island Grade No. 3, effective August 10, 1939."

§ 28.554 Grade 4.

Grade No. 4 shall be Sea Island cotton which in grade is within the range represented by a set of samples in the custody of the U.S. Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, Sea Island, Grade No. 4, effective August 10, 1939."

§ 28.555 Grade 5.

Grade No. 5 shall be Sea Island cotton which in grade is within the range represented by a set of samples in the custody of the U.S. Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, Sea Island, Grade No. 5, effective August 10, 1939."

§ 28.556 Grade 6.

Grade No. 6 shall be Sea Island cotton which in grade is within the range represented by a set of samples in the custody of the U.S. Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, Sea Island, Grade No. 6, effective August 10, 1939."

§ 28.557 Intermediate grades.

Sea Island cotton which in grade is between any two adjoining grades shall be designated by the word "Grade" and the grade number of the higher of such two grades, followed by the fraction "½."

§ 28.558 Below Grade 6.

Sea Island cotton which in grade is inferior to Grade No. 6 shall be designated "Below Grade No. 6."

§ 28.559 Extraneous matter.

The grade assigned to Sea Island cotton which contains appreciable quantities of seed, seed kernels, or sand shall be that which most nearly approximates its grade value in terms of the respective grades herein defined.

§ 28.560 Permissive use.

Until their effective date, August 10, 1939, the foregoing standards may be used as permissive standards in the purchase and sale of Sea Island cotton.

TENTATIVE STANDARDS FOR THE PREPARATION OF LONG-STAPLE COTTON

AUTHORITY: §§ 28.591 to 28.594 issued under sec. 10, 42 Stat. 1519; 7 U. S. C. 61. Interpret or apply sec. 6, 42 Stat. 1518, as amended, sec. 4854, 69A Stat. 580; 7 U. S. C. 56, 26 U. S. C. 4854.

§ 28.591 Set of samples; Grade No. 4.

The tentative standards for preparation of American upland long-staple cotton of the Grade No. 4 or Strict Middling shall be the preparation of a set of samples in the custody of the U.S. Department of Agriculture, in the city of Washington, in containers marked, respectively:

(a) Original Tentative Standards of the United States for A Preparation of Long-Staple American Upland cotton of the Grade No. 4 or Strict Middling (otherwise designated as Preparation Type A for Strict Middling) as announced May 20, 1929.

(b) Original Tentative Standard of the United States for B Preparation of Long-Staple American Upland cotton of the Grade No. 5 or Middling (otherwise designated as Preparation Type B for Middling) as announced May 20, 1929.

(c) Original Tentative Standard of the United States for C Preparation of Long-Staple American Upland cotton of the Grade No. 4 or Strict Middling

(otherwise designated as Preparation Type C for Strict Middling) as announced May 20, 1929.

§ 28.592 Set of samples; Grade No. 5.

The tentative standards for preparation of American upland long-staple cotton of the Grade No. 5 or Middling shall be the preparation of a set of samples in the custody of the U.S. Department of Agriculture, in the city of Washington, in containers marked, respectively:

(a) Original Tentative Standard of the United States for A Preparation of Long-Staple American Upland cotton of the Grade No. 5 or Middling (otherwise designated as Preparation Type A for Middling) as announced May 20, 1929.

(b) Original Tentative Standard of the United States for B Preparation of Long-Staple American Upland cotton of the Grade No. 5 or Middling (otherwise designated as Preparation Type B for Middling) as announced May 20, 1929.

(c) Original Tentative Standard of the United States for C Preparation of Long-Staple American Upland cotton of the Grade No. 5 or Middling (otherwise designated as Preparation Type C for Middling) as announced May 20, 1929.

§ 28.593 Set of samples; Grade No. 6.

The tentative standard for preparation of American upland long-staple cotton of the Grade No. 6 or Strict Low Middling shall be the preparation of a set of samples in the custody of the U.S. Department of Agriculture, in the city of Washington, in containers marked respectively:

(a) Original Tentative Standard of the United States for A Preparation of Long-Staple American Upland cotton of the Grade No. 6 or Strict Low Middling (otherwise designated as Preparation Type A for Strict Low Middling) as announced May 20, 1929.

(b) Original Tentative Standard of the United States for B Preparation of Long-Staple American Upland cotton of the Grade No. 6 or Strict Low Middling (otherwise designated as Preparation Type B for Strict Low Middling) as announced May 20, 1929.

(c) Original Tentative Standard of the United States for C Preparation of Long-Staple American Upland cotton of the Grade No. 6 or Strict Low Middling

(otherwise designated as Preparation Type C for Strict Low Middling) as announced May 20, 1929.

§ 28.594 Long-staple cotton; definition.

The term long-staple cotton, as used in this subpart, shall, until further notice, be construed to mean cotton which is $1\frac{1}{8}$ inches and above in length of staple.

OFFICIAL COTTON STANDARDS OF THE UNITED STATES FOR FIBER FINENESS AND MATURITY

AUTHORITY: §§ 28.601 to 28.603 issued under secs. 6, 10, 42 Stat. 1518, 1519, sec. 4854, 68A Stat. 580; 7 U.S.C. 56, 61, 26 U.S.C. 4854.

SOURCE: §§ 28.601 to 28.603 appear at 30 F.R. 7239, May 29, 1965, unless otherwise noted.

§ 28.601 Official cotton standards for fiber fineness and maturity.

The official cotton standards of the United States for fiber fineness and maturity shall be the measure of such qualities, in combination, provided by air flow instrument tests in terms of micronaire readings in accordance with the procedure specified in § 28.603.

§ 28.602 Terms of designations.

The fiber fineness and maturity of any cotton shall be designated by the micronaire reading obtained from an air flow instrument test for a specimen of the cotton as determined under § 28.603, e.g., 4.1, 4.2, 4.3, etc. To simplify recording, the decimal point may be omitted, and the micronaire reading recorded as 41, 42, 43, etc.

§ 28.603 Procedures for air flow tests of micronaire reading.

In determining in terms of micronaire readings, the fiber fineness and maturity, in combination, of cotton, the following procedures shall apply:

(a) Facilities and equipment shall include:

(1) Air flow instrument complete with accessories to measure the fineness and maturity, in combination, of cotton in terms of micronaire reading on the curvilinear scale adopted in September 1950 by the Department of Agriculture, or its equivalent.

(2) A suitable supply of compressed air filtered to remove moisture and other impurities.

(3) Balance or scales suitable for accurately weighing the specimens required for the particular instrument.

(4) International Calibration Cotton Standards with established micronaire reading values for calibration of the air flow instrument.

(b) The instrument shall be calibrated each day before routine testing begins, as follows:

(1) The air shall be allowed to flow through the instrument until the indicator stabilizes.

(2) Specimens from at least two of the calibration cottons shall be tested to insure proper calibration of the instrument. The instrument shall be considered in calibration if the values obtained on the test specimens agree with the established values of the calibration cottons within 0.1 micronaire reading.

(c) Testing of the cotton specimen shall be performed as follows:

(1) Approximately the same amount of cotton shall be taken from each side of the sample for a test specimen. The weight of the test specimen shall be that weight prescribed for the air flow instrument being used.

(2) The weighed specimen shall be tested in a properly calibrated instrument.

(3) The specimen shall be inserted into the specimen holder of the instrument so that the mass of fibers is well distributed within the specimen holder.

(4) The air shall then be allowed to flow through the specimen in accordance with the method of operation of the instrument.

(5) The position of the instrument indicator shall be determined to the nearest 0.1 micronaire reading when it becomes stable.

(d) The accuracy of the instrument shall be checked at least every 2 hours during operation by testing appropriate calibration cottons. If the value obtained on a specimen from the calibration cotton is outside the established limits of 0.1 micronaire reading, or when successive readings show the results to be within the established limits, but consistently high or low, the instrument and technique shall be thoroughly checked to remedy the discrepancies. Additional tests using calibration cottons shall be made until acceptable results are obtained before routine testing is resumed.

Subpart D—Cotton Classification and Market News Services for Organized Groups of Producers

AUTHORITY: The provision of this Subpart D issued under sec. 10, 42 Stat. 1519, sec. 3c, 50 stat. 62; 7 U.S.C. 61, 473c.

DEFINITIONS

§ 28.901 Definitions.

When used in the regulations in this subpart:

(a) "Act" means the applicable provisions of the act of Congress of March 3, 1927 (44 Stat. 1372), as amended by the act of Congress of April 13, 1937 (50 Stat. 62) (7 U. S. C. 471-476), and the United States Cotton Standards Act, as amended (42 Stat. 1517; 7 U. S. C. 51 et seq.).

(b) "Service" means the Agricultural Marketing Service of the United States Department of Agriculture.

(c) "Administrator" means the Administrator of the Agricultural Marketing Service, or any officer or employee of the Service, to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(d) "Division" means the Cotton Division of the Agricultural Marketing Service.

(e) "Director" means the Director of the Cotton Division, or any officer or employee of the Division to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

ADMINISTRATION

§ 28.902 Director.

The Director shall perform for and under the supervision of the Administrator, such duties as the Administrator may require in enforcing the regulations in this subpart.

CLASSIFICATION AND MARKET NEWS SERVICES

§ 28.903 Classification of samples.

The Director, or his authorized representatives, upon request in writing from any group of producers organized to promote the improvement of cotton who comply with the regulations in this subpart shall, as hereinafter provided, furnish to such producers without charge the classification in accordance with the

official cotton standards of the United States of samples representing the cotton produced by them.

[22 F.R. 10944, Dec. 28, 1957, as amended at 25 F.R. 3548, Apr. 23, 1960]

§ 28.904 Market news.

The Director shall cause to be distributed to groups of producers organized to promote the improvement of cotton who comply with the regulations in this subpart, and to others on request, for posting at gins, in post offices, or other public or conspicuous places in cotton growing communities, timely information on prices for various grades and staple lengths of cotton.

ORGANIZED GROUPS

§ 28.905 Organized groups.

Groups of producers organized to promote the improvement of cotton may be recognized as such within the meaning of the act if they meet the following requirements:

(a) The organized group is composed of bona fide cotton producers.

(b) The organized group has as its primary purpose the improvement of cotton. Each organized group is encouraged to work with federal and state agencies interested in the improvement of cotton, particularly the Extension Service.

(c) The organized group shall assume responsibility for obtaining, identifying, and shipping samples to be classified and for posting market information furnished to it in accordance with the regulations in this subpart; shall see that samples are drawn, handled, and shipped in accordance with instructions furnished from time to time by representatives of the Director; and shall designate a responsible representative and alternate representative to act for members of the group in matters pertaining to compliance with the regulations in this subpart. Such representative or alternate representative need not be a producer or a member of the group.

[25 F.R. 3548, Apr. 23, 1960]

SAMPLING

§ 28.906 Approval and bonding of sampling agents.

The cotton of members of organized groups shall be sampled at cotton gins or cotton warehouses. All sampling agents at these sampling locations are

subject to the approval of the Director or his authorized representatives.

(a) *Sampling at cotton gins.* At locations where sampling is done at cotton gins each sampling agent serving one or more cotton gins shall, as a condition for approval, execute and file with the Division a good and sufficient bond to the United States to secure the faithful performance of his duties as a sampler under the terms of the Act and this subpart. This bond shall be in such form and amount and shall have such surety or sureties as shall be approved by the Service: *Provided*, That said bond shall be in an amount not less than \$1,000 for each gin serviced less than five, and not less than \$5,000 for five or more gins serviced: *Provided further*, That such surety or sureties shall be subject to service of process in suits on the bond within the State, district, or territory in which such sampler shall perform services under the Act and this subpart.

(b) *Sampling at cotton warehouses.* At locations where the Director or his representatives authorize sampling to be done at cotton warehouses, it shall be a condition for approval of each warehouse sampling agent that the warehouseman hold a valid license to sample cotton issued pursuant to § 28.22.

(c) *Sampling by Department of Agriculture employees.* The Director, or his authorized representatives, may direct that sampling be performed by employees of the Department of Agriculture for the purpose of appraising the sampling procedures of sampling agents at cotton gins or warehouses, or for the purpose of providing service to organized groups in special cases where approved sampling agents are not available.

[28 F.R. 10634, Oct. 3, 1963]

§ 28.907 Responsibilities of sampling agents.

Each sampling agent shall be primarily responsible for drawing, identifying, handling, and shipping samples of cotton in accordance with this subpart and with instructions furnished by the Director or his representatives from time to time.

§ 28.908 Samples.

(a) *Only one sample to be submitted.* Only one sample from each bale of eligible cotton shall be submitted for classification under this subpart. This does not prohibit the submission of an additional

sample from a bale for review classification on a fee basis if the producer so desires.

(b) *Drawing of samples manually.* Each cut sample shall be drawn from the bale after it is tied out following the ginning process, and shall be approximately 6 ounces in weight, not less than 3 ounces of which are to be drawn from each side of the bale: *Provided*, That each sample from a bale of American Pima cotton shall be approximately 10 ounces in weight, not less than 5 ounces of which are to be drawn from each side of the bale.

(c) *Mechanical sampling.* Samples may be drawn in gins equipped with mechanical samplers approved by the Division and operated according to sampling instructions furnished by the Director or his representatives. Such samples shall be not less than 6 ounces in weight.

(d) *Samples must be representative.* Each sample must be representative of the bale from which drawn.

(e) *Handling samples.* Samples shall not be dressed or trimmed and shall be carefully handled in such manner as not to cause loss of leaf, sand, or other material, or otherwise change their representative character. Samples shall not be handled by any person other than the sampling agent prior to shipment or delivery to the cotton classing office of the Division.

(f) *Identifying and shipping samples.* Each sample shall be identified with a tag, supplied or approved by the Division, bearing the gin or warehouse number of the bale from which the sample was drawn and the name and address of the producer of the bale. The tag shall be placed between the two halves of the sample, the sample tightly rolled and enclosed in a package or bag for shipment. Each package or bag shall be labeled or marked with the name and address of the sampling agent for the organized group. The packages shall be shipped or delivered direct to the cotton classing office serving the territory in which the cotton is ginned.

[22 F.R. 10945, Dec. 28, 1957, as amended at 25 F.R. 3548, Apr. 23, 1960; 34 F.R. 9848, June 28, 1969]

§ 28.909 Costs.

Costs incident to sampling, tagging, and identification of samples and trans-

porting samples to points of shipment shall be without expense to the Government, but tags and containers for the shipment of samples may be furnished and shipping charges via U.S. Postal Service or duly authorized common carrier paid by the Service. After classification the samples shall become the property of the Government.

[25 F.R. 3548, Apr. 23, 1960]

CLASSIFICATION

§ 28.910 Classification of samples and issuance of memorandums.

(a) The samples submitted as provided in this subpart shall be classified by employees of the Division and a classification memorandum showing the grade, staple length, and micronaire reading of each sample according to the official cotton standards of the United States will be mailed or made available to the producer whose name appears on the tag accompanying the sample, or to a representative designated by the producer or the organized group to receive the classification memorandum.

(b) Upon the request of an owner of cotton for which classification memorandums have been issued under this subpart a new memorandum shall be issued for the business convenience of such owner without the reclassification of the cotton. Such rewritten memorandum shall bear the date of its issuance and the date or inclusive dates of the original classification. The fee for a new memorandum shall be \$1 per sheet.

[35 F.R. 10739, July 2, 1970, as amended at 37 F.R. 28271, Dec. 22, 1972]

§ 28.911 Review classification.

A producer may request one review classification for each bale of eligible cotton. The fee for review classification is 45 cents per sample. Samples for review classification may be drawn by samplers bonded pursuant to § 28.906, or by samplers at warehouses which issue negotiable warehouse receipts, or by employees of the U.S. Department of Agriculture. Each sample for review classification shall be taken, handled, and submitted according to § 28.908 and to supplemental instructions issued by the Director or his representatives. Costs incident to sampling, tagging, identification, containers, and shipment for sam-

ples for review classification shall be without expense to the Government. [35 F.R. 8532, June 3, 1970]

APPLICATIONS

Source: §§ 28.912 to 28.916 appear at 25 F.R. 3548, Apr. 23, 1960.

§ 28.912 Applications for service.

Applications for the classing and market news services from organized groups of producers shall be made on forms furnished by the Division. Each application shall include (a) the date; (b) the name and location of the organized group; (c) objectives of the cotton improvement program of the group; (d) the names and post office addresses of the president, representative, and alternate representative of the group; and (e) other information that may be required by the Director.

§ 28.913 Time limitation.

Application shall be filed with an authorized representative of the Division or mailed to such representative within a period of time to be announced by the Division for the receipt of applications for services during the year to which such application relates. To receive consideration, any such application submitted by mail shall have been post-marked before midnight of the last day of such announced period.

§ 28.914 Rejection.

Applications may be rejected for non-compliance with the act or the regulations in this subpart.

§ 28.915 Withdrawal.

An organized group may withdraw its application at any time.

§ 28.916 Renewal.

Applications shall be subject to renewal from year to year in accordance with a procedure to be prescribed by the Director or his authorized representatives.

LIMITATION OF SERVICES

§ 28.917 Limitation of services.

The Director, or his authorized representatives, may suspend, terminate, or withhold cotton classing and market news services to any organized group upon its request, or upon its failure to comply with the act or these regulations. [25 F.R. 3548, Apr. 23, 1960]

Subpart E—Cotton Fiber and Processing Tests

AUTHORITY: The provisions of this Subpart E issued under sec. 3c, 50 Stat. 62; 7 U.S.C. 473c. Interpret or apply sec. 3d, 55 Stat. 131; 7 U.S.C. 473d.

SOURCE: The provisions of this Subpart E appear at 35 F.R. 8532, June 3, 1970, unless otherwise noted.

DEFINITIONS

§ 28.950 Terms defined.

As used throughout this subpart, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

(a) *Regulations.* Regulations mean the provisions in this subpart.

(b) *Service.* The Agricultural Marketing Service of the U.S. Department of Agriculture.

(c) *Administrator.* The Administrator of the Agricultural Marketing Service, or any officer or employee of the Service, to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(d) *Division.* The Cotton Division of the Agricultural Marketing Service.

(e) *Director.* The Director of the Cotton Division, or any officer or employee of the Division to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(f) *Laboratories.* Laboratories of the Cotton Division that perform the fiber and processing tests described in this subpart.

ADMINISTRATION

§ 28.951 Director.

The Director shall perform, for and under the supervision of the Administrator, such duties as the Administrator may require in enforcing the regulations in this subpart.

FIBER AND PROCESSING TESTS

§ 28.952 Testing of samples.

The director or his authorized representatives, upon written requests, shall make fiber and processing tests of the properties of cotton samples and report the results thereof to the person from whom such requests are received, subject to compliance by such persons with the regulations in this subpart and to the payment by them of fees as prescribed herein.

§ 28.953 Requirements as to samples.

Each sample of ginned cotton lint submitted for fiber and processing tests shall weigh approximately as shown below unless otherwise specified in the particular test item as prescribed herein:

- 1 ounce or more for fiber tests.
- 6 pounds or more for carded yarn spinning tests.
- 8 pounds or more for combed yarn spinning tests.
- 10 pounds or more for carded and combed yarn spinning tests.

Each individual sample submitted for testing shall contain a tag or coupon bearing a number or other identification symbol. Individually labeled samples may be sent in one or more parcels, each of which shall bear on the outside thereof the name and address of the person submitting it. Persons who submit samples to laboratories for testing shall comply with any Federal or State quarantine requirements applicable to counties from which such samples are shipped.

§ 28.954 Costs of submitting samples.

The transportation of samples to a laboratory for testing shall be without expense to the Government.

§ 28.955 Disposition of samples.

The remnants of samples accumulated in the making of tests under the regulations in this subpart shall be the property of the Government unless the applicant requests that such remnants be returned to him at his expense.

§ 28.956 Prescribed fees.

Fees for fiber and processing tests shall be assessed as listed below:

Item Number, Kind of Test, and Fee per test

1. Furnishing U.S.D.A. calibration cotton in the short, medium, long, and extra long staple lengths, including standard values for length by both array and Fibrograph methods, strength by flat bundle method at 1/8-inch gauge, and maturity and fineness by the Causticaire methods:
 - a. By surface delivery, 1-pound sample ----- \$9.00
 - b. By air delivery within the United States, 1-pound sample----- 10.50
 - c. By air delivery outside the United States, 1-pound sample. 12.00
2. Furnishing international calibration cotton standard values for

Item Number, Kind of Test, and Fee per test

- Micronaire reading and Pressley fiber strength at zero gauge:
 - a. By surface delivery, 1/2-pound sample ----- \$6.00
 - b. By air delivery within United States, 1/2-pound sample----- 7.00
 - c. By air delivery outside United States, 1/2-pound sample----- 8.00
- 3. Fiber length array of cotton samples. Reporting the average percentage of fibers by weight in each 1/8-inch group, average length, and average length variability as based on three specimens from a blended sample:
 - a. Ginned cotton lint, per sample... 20.00
 - b. Cotton comber nolls, per sample... 30.00
 - c. Other cotton wastes, per sample... 40.00
- 3.1 Fiber length array of cotton samples. Reporting the average percentage of fibers by weight in each 1/8-inch group, average length, and average length variability as based on two specimens from a blended sample:
 - a. Ginned cotton lint, per sample... 15.00
 - b. Cotton comber nolls, per sample... 22.50
 - c. Other cotton wastes, per sample... 30.00
- 3.2 Fiber array of cotton samples, including purified or absorbent cotton. Reporting the average percentage of fibers one-half inch and longer by weight, the average of fibers shorter than one-fourth inch by weight, average length, and average length variability as based on three specimens from each sample, per sample----- 20.00
- 4. Fiber length of ginned cotton lint by Fibrograph method. Reporting the average length and average length uniformity as based on four specimens from a blended sample per sample----- 2.00
 - Minimum fee unless performed in connection with other tests requiring a blended specimen----- 4.00
- 4.1 Fiber length of ginned cotton lint by Fibrograph method. Reporting the length of each subsample and average length and average length uniformity for each group of replicate subsamples as based on two specimens from each of three or more replicate unblended subsamples, per subsample ----- 1.25
 - Minimum fee----- 3.75
- 5. Pressley strength of ginned cotton lint by flat bundle method for either zero or 1/8-inch gauge as specified by applicant. Reporting the average strength as based on six specimens from a blended sample, per sample----- 2.00
 - Minimum fee unless performed in connection with other tests requiring a blended sample----- 4.00

<i>Item Number, Kind of Test, and Fee per test</i>	<i>Item Number, Kind of Test, and Fee per test</i>
5.1 Pressley strength of ginned cotton lint by flat bundle method for either zero or 1/8-inch gauge as specified by applicant. Reporting the strength of each subsample and the average strength for each group of replicate subsamples as based on two specimens for each of three or more replicate unblended subsamples, per subsample.....	
	\$1.25
Minimum fee.....	3.75
5.2 Stelometer strength and elongation of ginned cotton lint by the flat bundle method for 1/8-inch gauge. Reporting the average strength and elongation as based on six specimens from a blended sample, per sample.....	3.00
Minimum fee unless performed in connection with other tests requiring blended sample.....	6.00
5.3 Stelometer strength and elongation of ginned cotton lint by the flat bundle method for 1/8-inch gauge. Reporting the strength and elongation of each subsample and the average of the group of replicate subsamples as based on two specimens from each of three or more unblended samples, per subsample.....	1.50
Minimum fee.....	4.50
6. Fiber maturity and fineness of ginned cotton lint by the Caustic method. Reporting the average maturity, fineness, and Micronaire reading as based on two specimens from a blended sample, per sample.....	3.00
Minimum fee.....	9.00
7. Micronaire readings on ginned cotton lint. Reporting the Micronaire reading as based on one specimen from each sample, per sample.....	.10
Minimum fee.....	1.00
8. Neps content of ginned cotton lint. Reporting the neps per 100 square inches as based on the web prepared from a 3-gram specimen by using accessory equipment with the mechanical fiber blender, per sample.....	3.75
Minimum fee unless performed in connection with other tests requiring a blended specimen.....	7.50
9. Blending samples of ginned cotton lint, including the blending of a 10-gram sample on the mechanical fiber blender and returning the blended sample to the applicant, per sample.....	1.50
10. Cotton carded yarn spinning test. Reporting data on waste extracted, yarn skein strength, yarn appearance, yarn imperfections, and classification and fiber length as specified in items 27	
and 4 as well as comments summarizing any unusual observations as based on the processing of 6 pounds of cotton in accordance with standard laboratory procedures at one of the standard rates of carding of 6 1/2, 9 1/2, or 12 1/2 pounds-per-hour into two of the standard carded yarn numbers of 8s, 14s, 22s, 36s, 44s, or 50s employing a standard twist multiplier unless otherwise specified, per sample.....	\$50.00
Minimum fee.....	100.00
11. Spinning potential test. Determining the finest yarn which can be spun with no ends down and reporting spinning potential yarn number. This test is made in connection with item 10 and requires an additional 4 pounds of cotton, per sample.....	50.00
Minimum fee.....	100.00
12. Cotton combed yarn spinning test. Reporting data on waste extracted, yarn skein strength, yarn appearance, yarn imperfections, and classification and fiber length as specified in items 27 and 4 as well as comments summarizing any unusual observations as based on the processing of 8 pounds of cotton in accordance with standard procedures at one of the standard rates of carding of 4 1/2, 6 1/2, or 9 1/2, pounds-per-hour into two of the standard combed yarn numbers of 22s, 36s, 44s, 50s, 60s, 80s, or 100s employing a standard twist multiplier unless otherwise specified, per sample.....	80.00
Minimum fee.....	120.00
13. Cotton carded and combed yarn spinning test. Reporting the results specified in item Nos. 10 and 12 in combination as based on the processing of 10 pounds of cotton into two of the standard carded and two of the standard combed yarn numbers employing the same carding rate and the same yarn numbers for both the carded and the combed yarns, per sample.....	75.00
Minimum fee.....	150.00
14. Cotton carded and combed yarn spinning test. Reporting the results specified in item Nos. 10 and 12 in combination as based on the processing of 9 pounds of cotton into two of the standard carded and two of the standard combed yarn numbers employing different carding rates and/or yarn numbers for the carded and combed yarns, per sample.....	90.00
Minimum fee.....	180.00

Item Number, Kind of Test, and Fee per test

15. Two-pound cotton carded yarn spinning test available to cotton breeders only. Reporting data on yarn skein strength, yarn appearance, yarn imperfections, and the classification and the fiber length of the cotton as specified in item Nos. 27 and 4 as well as comments on any unusual processing performance as based on the processing of 2 pounds of cotton in accordance with standard procedures into two standard carded yarn numbers employing a standard twist multiplier, per sample -----	\$80.00
Minimum fee -----	60.00
16. Processing and testing of additional yarn. Any carded or combed yarn number processed in connection with spinning tests as specified in item Nos. 10, 12, 13, and 14 including either additional yarn numbers or additional twist multipliers employed on the same yarn numbers, per additional lot of yarn.-----	7.50
16.1 Processing and furnishing of additional yarn. Any yarn number processed in connection with spinning tests as specified in items 10, 12, 13, and 14. Approximately 300 yards on each of 16 paper tubes for testing by the applicant, per additional lot of yarn -----	15.00
17. Twist in yarns by direct-counting method. Reporting direction of twist and average turns per inch of yarn:	
a. Single yarns based on 40 specimens per lot of yarn.-----	85.00
b. Plied or cabled yarns based on 10 specimens per lot of yarn.-----	8.50
18. Skein strength of yarn. Reporting data on the strength and the yarn numbers based on 25 skeins from yarn furnished by the applicant, per sample.-----	4.00
18.1 Appearance grade of yarn furnished on bobbins by applicant. Reporting the appearance grade in accordance with ASTM standards as based on yarn wound from one bobbin, per bobbin.-----	1.50
18.2 Furnishing yarn wound on boards in connection with yarn appearance tests as specified in item Nos. 10, 12, 13, 14, and 15, per yarn number.-----	1.50
19. Processing, weaving, and testing of fabric. Reporting data on the warp and the filling strength by the grab method:	
a. Processed in connection with spinning tests as specified in item Nos. 10, 12, 13, and 14, per lot of fabric.-----	110.00

Item Number, Kind of Test, and Fee per test

b. Processed from yarns furnished by the applicant, per lot of fabric -----	\$90.00
20. Strength of cotton fabric. Reporting the average warp and filling strength by the grab method as based on five breaks for both warp and filling of fabric furnished by the applicant. per sample -----	6.00
20.1 Cotton fabric analysis. Reporting data on the number of warp and filling threads per inch and the weight per yard of fabric as based on at least three (3) 6- x 6-inch specimens of fabric which was processed as specified in item No. 19, or furnished by the applicant, per sample.-----	11.00
Minimum fee.-----	22.00
21. Color of ginned cotton lint. Reporting data on the reflectance in terms of Rd values and the degree of yellowness in terms of b values as based on color tests employing the Nickerson-Hunter Colorimeter on samples which have a uniform surface measuring 5 x 6½ inches and weighing approximately 50 grams in order to provide specimens which are sufficiently thick to be opaque, per sample.-----	.25
Minimum fee.-----	2.00
22. Furnishing color standards, including a set of standard tiles and a master diagram for use in calibrating Nickerson-Hunter Cotton Colorimeters, per set.-----	50.00
22.1 Furnishing replacement calibration tiles for above sets, each tile -----	5.00
22.2 Furnishing a Colorimeter calibration sample box containing 6 cotton samples with color values Rd and +b plotted on a color diagram based on the Nickerson-Colorimeter, per box.-----	9.00
22.3 Furnishing new Colorimeter readings on samples in calibration boxes returned for check readings, per 6-sample box.-----	2.00
23. Furnishing copies of test data worksheets. Includes individual observations and calculations which are not routinely furnished to the applicant, per sheet.-----	1.00
24. Foreign matter content of cotton samples. Reporting data on the nonlint content as based on the Shirley Analyzer separation of lint and foreign matter:	
a. For samples of ginned lint or comber noils, per 100-gram specimen -----	2.50
Minimum fee.-----	5.00

<i>Item Number, Kind of Test, and Fee per test</i>	<i>Item Number, Kind of Test, and Fee per test</i>
<p>b. For samples of ginning and processing wastes other than comber noils, per 100-gram specimen-----</p> <p>Minimum fee-----</p>	<p>\$7.50</p> <p>15.00</p>
25. Furnishing identified cotton samples. Includes samples of ginned lint, stock at any stage of processing or testing, waste of any type, yarn or fabric selected and identified in connection with fiber and/or spinning tests, per identified sample-----	1.00
26. Furnishing additional copies of test reports. Includes extra copies in addition to the two copies routinely furnished in connection with each test item, per additional sheet-----	.50
26.1 Furnishing a certified relisting of test results. Includes samples or subsamples selected from any previous tests, per sheet-----	2.50
27. Classification of ginned cotton lint in connection with fiber tests. Classification includes grade, staple and mike reading which requires a 6-ounce sample, per sample-----	.55
28. Combination fiber tests:	
a. Test items 4, 5, and 6, per sample-----	6.00
b. Test items 4, 5.2, and 6, per sample-----	7.00
28.1 Combination fiber tests:	
a. Test items 4, 5, and 7, per sample-----	3.50
a. Test items 4, 5.2, and 7, per sample-----	4.50
28.2 Combination fiber tests:	
a. Test items 4.1, 5.1, and 7 on three or more replicate subsamples, per subsample-----	2.25
Minimum fee-----	6.75
b. Test items 4.1, 5.3 and 7 on three or more replicate subsamples, per subsample-----	2.50
Minimum fee-----	7.50
29. Mercerizing and testing of cotton yarn. Reporting data on the luster of two 120-yard skeins and strength of the yarn as based on twenty-five 120-yard skeins mercerized in accordance with standard laboratory procedures.	
a. Including the processing of the extra yarn in connection with spinning test item Nos. 10, 12, 13, and 14, per lot of yarn-----	15.00
Minimum fee-----	60.00
b. For yarn furnished by the applicant, 27 skeins of 120 yards each required, per lot of yarn-----	12.50
Minimum fee-----	50.00
30. Bleaching and testing of cotton yarn. Reporting data on the color of the yarn in terms of Rd reflectance values and plus b degree of yellowness values as based on	
the measurement of two 120-yard skeins either processed in connection with spinning test item Nos. 10, 12, 13, and 14 or furnished by the applicant and bleached in accordance with standard laboratory procedures, per lot of yarn-----	\$5.00
Minimum fee-----	50.00
31. Bleaching, dyeing, and testing of cotton yarn. Reporting data on the color of the dyed yarn in terms of Rd reflectance values and minus b degree of blueness values as based on the measurement of two 120-yard skeins either processed in connection with spinning test item Nos. 10, 12, 13, and 14 or furnished by the applicant and bleached then dyed in accordance with standard laboratory procedures, per lot of yarn-----	7.50
Minimum fee-----	75.00
32. Dyeing and testing of grey cotton yarn. Reporting data on the color of the dyed yarn in terms of Rd reflectance values and minus b degree of blueness values as based on the measurement of two 120-yard skeins either processed in connection with spinning test item Nos. 10, 12, 13, and 14 or furnished by the applicant and dyed in accordance with standard laboratory procedures, per lot of yarn-----	5.00
Minimum fee-----	50.00
33. Luster of cotton yarn. Reporting data on the percent luster of grey or mercerized yarn either processed in connection with spinning test item Nos. 10, 12, 13, and 14 or furnished by the applicant as based on the measurement of two 120-yard skeins, per lot of yarn-----	1.50
Minimum fee-----	4.50
34. Color of cotton yarn. Reporting data on the color of grey, bleached, dyed, or bleached and dyed yarn either processed in connection with spinning test items 10, 12, 13, and 14 or furnished by the applicant as based on the measurement of two 120-yard skeins, per lot of yarn-----	1.50
Minimum fee-----	4.50

§ 28.957 Special tests and fees.

Tests may be performed for cooperating agencies and organizations to the extent that available facilities will permit, subject to the payment of fees as determined by the Director. Special tests and services not listed in § 28.956 may be performed to the extent that avail-

able facilities will permit, subject to the payment of fees determined by the Director.

§ 28.958 Fees and charges for inspection and checkloading services.

(a) *Base rate.* Fees to be charged and collected for inspection and checkloading services furnished on a fee basis shall be based on the time required to render such service including but not limited to, the time required for the travel of the inspector or inspectors in connection therewith, at the rate of \$9 per hour for each inspector for the time actually required, except as provided in paragraph (b) of this section.

(b) *Overtime rate.* If an applicant requires that any inspection or checkloading service be performed on a holiday, Saturday, Sunday, or outside the inspector's regularly scheduled tour of duty on Monday through Friday, he shall be charged for such service at the rate of \$11 per hour.

(c) *Travel expenses and other charges.* Charges may be made to cover the cost of travel and other expenses incurred by the Service in connection with the performance of any inspection or checkloading service on a fee basis. Such charges shall include the costs of travel, per diem, and other expenses.

§ 28.959 Payment of fees.

As soon as practicable after the last day of each calendar month, bills shall be rendered by officers in charge of testing laboratories to all persons from whom payment of fees and costs under the regulations in this subpart shall become due, provided that when desirable any bill may be rendered at an earlier date. Payment shall be by check or by draft or post office or express money order, payable to the order of "Agricultural Marketing Service, USDA."

§ 28.960 Limitation of testing services.

If at any time funds available for services under the regulations in this subpart may be insufficient to provide for the testing of all samples that may be submitted for the purpose, the Director may place reasonable limitations upon the quantities of samples to be submitted by individuals during any one fiscal year or any one calendar month, and may direct that samples received from cotton breeders shall take precedence over those received from other persons.

§ 28.961 Confidential information.

No information concerning individual tests under the regulations in this subpart shall be published or communicated in such a way as to disclose to others the identity of the owners of cotton represented by samples submitted for testing, except with the written permission of such owners.

§ 28.962 False and misleading information.

The publication or communication by any person of false or misleading information concerning the results of tests as reported by laboratories under the regulations in this subpart shall be deemed sufficient cause for denial of testing services to such persons.

PART 29—TOBACCO INSPECTION

CROSS REFERENCE: For regulations with respect to tobacco warehouses, see Part 103 of this chapter.

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

Sec.	
29.1	Definitions.
29.2	Policy statement.
29.3	Procedures for filing, hearing and determination of applications.

**Subpart B—Regulations
DEFINITIONS**

29.12	Terms defined.
29.13	The act.
29.14	Secretary.
29.15	Department.
29.16	Division.
29.17	Director.
29.18	Person.
29.19	Inspector.
29.20	Sampler.
29.21	Weigher.
29.22	Appeal inspector.
29.23	Tobacco.
29.24	Official standards.
29.25	Tentative standards.
29.26	Office of inspection.
29.27	Certificate.
29.28	Interested party.
29.29	Regulations.
29.30	Package.
29.31	Lot.
29.32	Identification number.
29.33	Official sample.
29.34	Sample seal.
29.35	Lot seal.
29.36	Auction market.
29.37	Designated market.
29.38	Public notice.

- Sec.**
 29.39 Permissive inspection.
 29.40 Mandatory inspection.
- ADMINISTRATION**
- 29.51 Administration.
- PERMISSIVE INSPECTION**
- 29.56 Permissive inspection.
 29.57 Where inspection is offered.
 29.58 Who may obtain inspection.
 29.59 How to make application.
 29.60 Form of application.
 29.61 When application deemed filed.
 29.62 When application may be rejected.
 29.63 When application may be withdrawn.
 29.64 Authority of agent.
 29.65 Accessibility of tobacco.
 29.66 Certificates.
 29.67 Disposition of certificates.
 29.68 Advance information.
 29.69 Weighing apparatus.
- MANDATORY INSPECTION**
- 29.71 Mandatory inspection.
 29.72 Where mandatory inspection is required.
 29.73 Designation of markets.
 29.74 Growers' referendum.
 29.75 Accessibility of tobacco.
 29.75a Display of burley tobacco on auction warehouse floors in designated markets.
 29.76 Mandatory inspection ticket.
 29.77 Warehousemen to provide tickets.
 29.78 Changes or alterations.
 29.79 Disposition of ticket.
 29.80 Announcing grades.
 29.81 Interference with inspectors.
- APPEAL**
- 29.90 When appeal may be taken.
 29.91 How to obtain an appeal.
 29.92 Record of filing time.
 29.93 When appeal may be refused.
 29.94 When appeal may be withdrawn.
 29.95 Review or second inspection not an appeal.
 29.96 Order in which made.
 29.97 Who shall pass upon appeals.
 29.98 Appeal findings.
 29.99 Superseded certificate or sample.
- INSPECTORS, SAMPLES, AND WEIGHERS**
- 29.106 Who may be employed, licensed, or authorized.
 29.107 Order of providing service.
 29.108 Certificate issuance.
 29.109 Inspection determinations.
 29.110 Method of sampling.
 29.111 Weight determinations.
 29.112 Proper light.
 29.113 Suspension and termination.
- FEES AND CHARGES**
- 29.121 Fees for inspection service performed under an agreement.
 29.122 Fees and charges for inspection other than under an agreement.
- Sec.**
 29.123 Fees and charges.
 29.124 When application rejected or withdrawn.
 29.125 Charge for appeals.
 29.126 When appeal refused or withdrawn.
 29.127 For demonstrations.
 29.128 For certificates.
 29.129 Payment of, how made.
- MISCELLANEOUS**
- 29.131 Publications.
 29.132 Division investigations.
 29.133 Identification number.
- Subpart C—Standards**
- OFFICIAL STANDARD GRADES FOR FLUE-CURED TOBACCO (U.S. TYPES 11, 12, 13, AND 14)**
- DEFINITIONS**
- 29.1001 Definitions.
 29.1002 Body.
 29.1003 Botched.
 29.1004 Class.
 29.1005 Clean.
 29.1006 Color.
 29.1007 Color intensity.
 29.1008 Color symbols.
 29.1009 Combination symbol.
 29.1010 Condition.
 29.1011 Crude.
 29.1012 Cured.
 29.1013 Damage.
 29.1014 Dirty.
 29.1015 Elasticity.
 29.1016 Elements of Quality.
 29.1017 Finish.
 29.1018 Fire-killed.
 29.1019 Flue-cured.
 29.1020 Foreign matter.
 29.1021 Form.
 29.1022 Grade.
 29.1023 Grademark.
 29.1024 Green (G).
 29.1025 Greenish.
 29.1026 Group.
 29.1027 Injury.
 29.1028 Leaf scrap.
 29.1029 Leaf structure.
 29.1030 Lemon (L).
 29.1031 Length.
 29.1032 Lot.
 29.1033 Maturity.
 29.1034 Mixed color.
 29.1035 Nested.
 29.1036 No-G.
 29.1037 Oil.
 29.1038 Offtype.
 29.1039 Orange (F).
 29.1040 Orange Red (FR).
 29.1041 Order (case).
 29.1042 Package.
 29.1043 Packing.
 29.1044 Prematurity.
 29.1045 Quality.
 29.1046 Rank.
 29.1047 Raw.
 29.1048 Red (R).
 29.1049 Scorched.

Sec.	
29.1050	Semicured.
29.1051	Side.
29.1052	Slick (S).
29.1053	Smoked.
29.1054	Sound.
29.1055	Special factor.
29.1056	Steam-dried.
29.1057	Stem.
29.1058	Stemmed.
29.1059	Strips.
29.1060	Sweated.
29.1061	Sweating.
29.1062	Tobacco.
29.1063	Tobacco products.
29.1064	Type.
29.1065	Type 11.
29.1066	Type 12.
29.1067	Type 13.
29.1068	Type 14.
29.1069	Undried.
29.1070	Uniformity.
29.1071	Unsound (U).
29.1072	Unstemmed.
29.1073	Variegated (K).
29.1074	Walnut (D).
29.1075	Waste.
29.1076	Wet (W).
29.1077	Width.

ELEMENTS OF QUALITY

29.1101	Elements of quality and degrees of each element.
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RULES

29.1106	Rules.
29.1107	Rule 1.
29.1108	Rule 2.
29.1109	Rule 3.
29.1110	Rule 4.
29.1111	Rule 5.
29.1112	Rule 6.
29.1113	Rule 7.
29.1114	Rule 8.
29.1115	Rule 9.
29.1116	Rule 10.
29.1117	Rule 11.
29.1118	Rule 12.
29.1119	Rule 13.
29.1120	Rule 14.
29.1121	Rule 15.
29.1122	Rule 16.
29.1123	Rule 17.
29.1124	Rule 18.
29.1125	Rule 19.
29.1126	Rule 20.
29.1127	Rule 21.
29.1128	Rule 22.
29.1129	Rule 23.
29.1130	Rule 24.

GRADES

29.1161	Wrappers (A Group).
29.1162	Leaf (B Group).
29.1163	Smoking Leaf (H Group).
29.1164	Cutters (C Group).
29.1165	Lugs (X Group).
29.1166	Primings (P Group).
29.1167	Nondescript (N Group).
29.1168	Scrap (S Group).

SUMMARY OF STANDARD GRADES

Sec.	
29.1181	Summary of standard grades.

KEY TO STANDARD GRADEMARKS

29.1225	Key to standard grademarks.
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OFFICIAL STANDARD GRADES FOR VIRGINIA FIRE-CURED TOBACCO (U.S. TYPE 21)

DEFINITIONS

29.2251	Definitions.
29.2252	Air-dried.
29.2253	Body.
29.2254	Brown colors.
29.2255	Class.
29.2256	Clean.
29.2257	Color.
29.2258	Color intensity.
29.2259	Color symbols.
29.2260	Condition.
29.2261	Crude.
29.2262	Cured.
29.2263	Damage.
29.2264	Dirty.
29.2265	Elasticity.
29.2266	Elements of quality.
29.2267	Fiber.
29.2268	Finish.
29.2269	Fire-cured.
29.2270	Foreign matter.
29.2271	Form.
29.2272	Grade.
29.2273	Grademark.
29.2274	Green (G).
29.2275	Group.
29.2276	Injury.
29.2277	Leaf scrap.
29.2278	Leaf structure.
29.2279	Length.
29.2280	Lot.
29.2281	Maturity.
29.2282	Mixed color or variegated (M).
29.2283	Nested.
29.2284	No grade.
29.2285	Offtype.
29.2286	Oil.
29.2287	Order (case).
29.2288	Package.
29.2289	Packing.
29.2290	Premature primings.
29.2291	Quality.
29.2292	Resweated.
29.2293	Rework.
29.2294	Semicured.
29.2295	Side.
29.2296	Size.
29.2297	Sound.
29.2298	Special factor.
29.2299	Steam-dried.
29.2300	Stem.
29.2301	Stemmed.
29.2302	Strength.
29.2303	Strips.
29.2304	Subgrade.
29.2305	Sweated.
29.2306	Sweating.
29.2307	Tobacco.
29.2308	Tobacco products.

Sec.		Sec.	
29.2309	Type.	29.2510	Condition.
29.2310	Type 21.	29.2511	Crude.
29.2311	Undried.	29.2512	Cured.
29.2312	Uniformity.	29.2513	Damage.
29.2313	Unsound (U).	29.2514	Dirty.
29.2314	Unstemmed.	29.2515	Elasticity.
29.2315	Wet (W).	29.2516	Elements of quality.
29.2316	Width.	29.2517	Fiber.
	ELEMENTS OF QUALITY	29.2518	Finish.
29.2351	Elements of quality and degrees of each element.	29.2519	Fire-cured.
	SIZES	29.2520	Foreign matter.
29.2371	U.S. standard 4-inch sizes.	29.2521	Form.
	RULES	29.2522	Grade.
29.2391	Rules.	29.2523	Grademark.
29.2392	Rule 1.	29.2524	Green (G).
29.2393	Rule 2.	29.2525	Greenish.
29.2394	Rule 3.	29.2526	Group.
29.2395	Rule 4.	29.2527	Injury.
29.2396	Rule 5.	29.2528	Leaf scrap.
29.2397	Rule 6.	29.2529	Leaf structure.
29.2398	Rule 7.	29.2530	Length.
29.2399	Rule 8.	29.2531	Lot.
29.2400	Rule 9.	29.2532	Maturity.
29.2401	Rule 10.	29.2533	Mixed color or variegated (M).
29.2402	Rule 11.	29.2534	Nested.
29.2403	Rule 12.	29.2535	No grade.
29.2404	Rule 13.	29.2536	Offtype.
29.2405	Rule 14.	29.2537	Oil.
29.2406	Rule 15.	29.2538	Order (case).
29.2407	Rule 16.	29.2539	Package.
29.2408	Rule 17.	29.2540	Packing.
29.2409	Rule 18.	29.2541	Quality.
29.2410	Rule 19.	29.2542	Raw.
29.2411	Rule 20.	29.2543	Resweated.
29.2412	Rule 21.	29.2544	Rework.
29.2413	Rule 22.	29.2545	Semicured.
	GRADES	29.2546	Side.
29.2436	Wrappers (A Group).	29.2547	Size.
29.2437	Heavy Leaf (B Group).	29.2548	Sound.
29.2438	Thin Leaf (C Group).	29.2549	Special factor.
29.2439	Lugs (X Group).	29.2550	Steam-dried.
29.2440	Nondescript (N Group).	29.2551	Stem.
29.2441	Scrap (S Group).	29.2552	Stemmed.
	SUMMARY OF STANDARD GRADES	29.2553	Strength.
29.2461	Summary of standard grades.	29.2554	Strips.
	KEY TO STANDARD GRADEMARKS	29.2555	Subgrade.
29.2481	Key to standard grademarks.	29.2556	Sweated.
	OFFICIAL STANDARD GRADES FOR KENTUCKY AND TENNESSEE FIRE-CURED TOBACCO (U.S. TYPES 22 AND 23)	29.2557	Sweating.
	DEFINITIONS	29.2558	Tobacco.
29.2501	Definitions.	29.2559	Tobacco products.
29.2502	Air-dried.	29.2560	Type.
29.2503	Body.	29.2561	Type 22.
29.2504	Brown colors.	29.2562	Type 23.
29.2505	Class.	29.2563	Undried.
29.2506	Clean.	29.2564	Uniformity.
29.2507	Color.	29.2565	Unsound (U).
29.2508	Color intensity.	29.2566	Unstemmed.
29.2509	Color symbols.	29.2567	Wet (W).
		29.2568	Width.
			ELEMENTS OF QUALITY
		29.2601	Elements of quality and degrees of each element.
			SIZES
		29.2606	U.S. standard 4-inch sizes.

RULES

Sec.	
29.2616	Rules.
29.2617	Rule 1.
29.2618	Rule 2.
29.2619	Rule 3.
29.2620	Rule 4.
26.2921	Rule 5.
29.2622	Rule 6.
29.2623	Rule 7.
29.2624	Rule 8.
29.2625	Rule 9.
29.2626	Rule 10.
29.2627	Rule 11.
29.2628	Rule 12.
29.2629	Rule 13.
29.2630	Rule 14.
29.2631	Rule 15.
29.2632	Rule 16.
29.2633	Rule 17.
29.2634	Rule 18.
29.2635	Rule 19.
29.2636	Rule 20.
29.2637	Rule 21.
29.2638	Rule 22.

GRADES

29.2661	Wrappers (A Group).
29.2662	Heavy Leaf (B Group).
29.2663	Thin Leaf (C Group).
29.2664	Lugs (X Group).
29.2665	Nondescript (N Group).
29.2666	Scrap (S Group).

SUMMARY OF STANDARD GRADES

29.2686	Summary of standard grades.
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KEY TO STANDARD GRADEMARKS

29.2696	Key to standard grademarks.
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OFFICIAL STANDARD GRADES FOR BURLEY TOBACCO (U.S. TYPE 31)

DEFINITIONS

29.3001	Definitions.
29.3002	Air-cured.
29.3003	Air-dried.
29.3004	Body.
29.3005	Burley, Type 31.
29.3006	Buff color (L).
29.3007	Class.
29.3008	Clean.
29.3009	Color.
29.3010	Color intensity.
29.3011	Color symbols.
29.3012	Combination color symbols.
29.3013	Condition.
29.3014	Crude.
29.3015	Cured.
29.3016	Damage.
29.3017	Dark red color (D).
29.3018	Dirty.
29.3019	Elements of quality.
29.3020	Fiber.
29.3021	Finish.
29.3022	Foreign matter.
29.3023	Form.
29.3024	General color.
29.3025	General quality.

Sec.

29.3026	Grade.
29.3027	Grademark.
29.3028	Green (G).
29.3029	Greenish (V).
29.3030	Group.
29.3031	Injury.
29.3032	Leaf scrap.
29.3033	Leaf structure.
29.3034	Leaf surface.
29.3035	Length.
29.3036	Lot.
29.3037	Maturity.
29.3038	Mixed color (M).
29.3039	Nested.
29.3040	No grade.
29.3041	Offtype.
29.3043	Order (case).
29.3044	Package.
29.3045	Packing.
29.3046	Pink or pinkish.
29.3047	Quality.
29.3048	Raw.
29.3049	Red color (R).
29.3050	Rework.
29.3051	Semicured.
29.3052	Side.
29.3053	Sound.
29.3054	Special factor.
29.3055	Steam-dried.
29.3056	Stem.
29.3057	Stemmed.
29.3058	Strength (tenalle).
29.3059	Strips.
29.3060	Subgrade.
29.3061	Sweated.
29.3062	Sweating.
29.3063	Tan color.
29.3064	Tannish-red color (FR).
29.3065	Tobacco.
29.3066	Tobacco products.
29.3067	Type.
29.3068	Undried.
29.3069	Uniformity.
29.3070	Unsound (U).
29.3071	Unstemmed.
29.3072	Variegated (K).
29.3073	Wet (W).
29.3074	Width.

ELEMENTS OF QUALITY

29.3101	Elements of quality and degrees of each element.
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RULES

29.3103	Rules.
29.3104	Rule 1.
29.3105	Rule 2.
29.3106	Rule 3.
29.3107	Rule 4.
29.3108	Rule 5.
29.3109	Rule 6.
29.3110	Rule 7.
29.3111	Rule 8.
29.3112	Rule 9.
29.3113	Rule 10.
29.3114	Rule 11.
29.3115	Rule 12.
29.3116	Rule 13.

Sec.
 29.3117 Rule 14.
 29.3118 Rule 15.
 29.3119 Rule 16.
 29.3120 Rule 17.
 29.3121 Rule 18.
 29.3122 Rule 19.
 29.3123 Rule 20.
 29.3124 Rule 21.
 29.3125 Rule 22.
 29.3126 Rule 23.

GRADES

29.3151 Flyings (X Group).
 29.3152 Lugs or Cutters (C Group).
 29.3153 Leaf (B Group).
 29.3154 Tips (T Group).
 29.3155 Mixed (M Group).
 29.3156 Nondescript (N Group).
 29.3157 Scrap (S Group).

SUMMARY OF STANDARD GRADES

29.3181 Summary of standard grades.

KEY TO STANDARD GRADEMARKS

29.3182 Key to standard grademarks.

OFFICIAL STANDARD GRADES FOR MARYLAND
BROADLEAF TOBACCO (U.S. TYPE 32)

DEFINITIONS

29.3251 Definitions.
 29.3252 Air-cured.
 29.3253 Air-dried.
 29.3254 Body.
 29.3255 Class.
 29.3256 Clean.
 29.3257 Color.
 29.3258 Color symbols.
 29.3259 Condition.
 29.3260 Cured.
 29.3261 Damage.
 29.3262 Dirty.
 29.3263 Elements of quality.
 29.3264 Finish.
 29.3265 Foreign matter.
 29.3266 Form.
 29.3267 Grade.
 29.3268 Grademark.
 29.3269 Green (G).
 29.3270 Greenish or unripe (V).
 29.3271 Group.
 29.3272 Injury.
 29.3273 Leaf scrap.
 29.3274 Leaf structure.
 29.3275 Length.
 29.3276 Lot.
 29.3277 Maryland Broadleaf, Type 32.
 29.3278 Maturity.
 29.3279 Nested.
 29.3280 No-G.
 29.3281 Offtype.
 29.3282 Order (case).
 29.3283 Package.
 29.3284 Packing.
 29.3285 Quality.
 29.3286 Raw.
 29.3287 Rework.
 29.3288 Semicured.
 29.3289 Side.

Sec.
 29.3290 Sound.
 29.3291 Special factor.
 29.3292 Steam-dried.
 29.3293 Stem.
 29.3294 Stemmed.
 29.3295 Strips.
 29.3296 Sweated.
 29.3297 Sweating.
 29.3298 Tobacco.
 29.3299 Tobacco products.
 29.3300 Type.
 29.3301 Type 32.
 29.3302 Undried.
 29.3303 Uniformity.
 29.3304 Unsound (U).
 29.3305 Unstemmed.
 29.3306 Upper Country.
 29.3307 Variegated (K).
 29.3308 Wet (W).
 29.3309 Width.

RULES

29.3331 Rules.
 29.3332 Rule 1.
 29.3333 Rule 2.
 29.3334 Rule 3.
 29.3335 Rule 4.
 29.3336 Rule 5.
 29.3337 Rule 6.
 29.3338 Rule 7.
 29.3339 Rule 8.
 29.3340 Rule 9.
 29.3341 Rule 10.
 29.3342 Rule 11.
 29.3343 Rule 12.
 29.3344 Rule 13.
 29.3345 Rule 14.
 29.3346 Rule 15.
 29.3347 Rule 16.
 29.3348 Rule 17.
 29.3349 Rule 18.
 29.3350 Rule 19.
 29.3351 Rule 20.
 29.3352 Rule 21.
 29.3353 Rule 22.

ELEMENTS OF QUALITY

29.3371 Elements of quality and degree of each element.

GRADES

29.3385 Seconds (X Group).
 29.3386 Bright-crop or Thin-crop (C Group).
 29.3387 Dull-crop or Heavy-crop (B Group).
 29.3388 Tips (T Group).
 29.3389 Nondescript (N Group).
 29.3390 Scrap (S Group).

SUMMARY OF STANDARD GRADES

29.3395 Summary of standard grades.

KEY TO STANDARD GRADEMARKS

29.3401 Key to standard grademarks.

OFFICIAL STANDARD GRADES FOR DARK AIR-
CURED TOBACCO (U.S. TYPES 35, 36, AND 37)

DEFINITIONS

29.3501 Definitions.
 29.3502 Air-cured.

Sec.	
29.3503	Air-dried.
29.3504	Body.
29.3505	Brown colors.
29.3506	Class.
29.3507	Clean.
29.3508	Color.
29.3509	Color intensity.
29.3510	Color symbols.
29.3511	Condition.
29.3512	Crude.
29.3513	Cured.
29.3514	Damage.
29.3515	Dirty.
29.3516	Elasticity.
29.3517	Finish.
29.3518	Foreign matter.
29.3519	Form.
29.3520	Grade.
29.3521	Grademark.
29.3522	Green (G).
29.3523	Group.
29.3524	Injury.
29.3525	Leaf scrap.
29.3526	Leaf structure.
29.3527	Leaf surface.
29.3528	Length.
29.3529	Lot.
29.3530	Maturity.
29.3531	Mixed (M).
29.3532	Nested.
29.3533	No grade.
29.3534	Offtype.
29.3535	Order (case).
29.3536	Package.
29.3537	Packing.
29.3538	Quality.
29.3539	Raw.
29.3540	Resweated.
29.3541	Rework.
29.3542	Semicured.
29.3543	Side.
29.3544	Size.
29.3545	Sound.
29.3546	Special factor.
29.3547	Steam-dried.
29.3548	Stem.
29.3549	Stemmed.
29.3550	Strips.
29.3551	Subgrade.
29.3552	Sweated.
29.3553	Sweating.
29.3554	Tobacco.
29.3555	Tobacco products.
29.3556	Type.
29.3557	Type 35.
29.3558	Type 36.
29.3559	Type 37.
29.3560	Undried.
29.3561	Uniformity.
29.3562	Unsound (U).
29.3563	Unstemmed.
29.3564	Variegated.
29.3565	Wet (W).
29.3566	Width.
	ELEMENTS OF QUALITY
29.3586	Elements of quality and degrees of each element.

	SIZES
Sec.	
29.3591	U.S. Standard Tobacco 4-Inch Sizes.
	RULES
29.3601	Rules.
29.3602	Rule 1.
29.3603	Rule 2.
29.3604	Rule 3.
29.3605	Rule 4.
29.3606	Rule 5.
29.3607	Rule 6.
29.3608	Rule 7.
29.3609	Rule 8.
29.3610	Rule 9.
29.3611	Rule 10.
29.3612	Rule 11.
29.3613	Rule 12.
29.3614	Rule 13.
29.3615	Rule 14.
29.3616	Rule 15.
29.3617	Rule 16.
29.3618	Rule 17.
29.3619	Rule 18.
29.3620	Rule 19.
29.3621	Rule 20.
29.3622	Rule 21.
29.3623	Rule 22.
29.3624	Rule 23.
29.3625	Rule 24.
	GRADES
29.3646	Wrappers (A Group).
29.3647	Heavy Leaf (B Group).
29.3648	Thin Leaf (C Group).
29.3649	Tips (T Group).
29.3650	Lugs (X Group).
29.3651	Nondescript (N Group).
29.3652	Scrap (S Group).
	SUMMARY OF STANDARD GRADES
29.3676	Summary of Standard Grades.
	APPLICABLE U.S. STANDARD SIZES
29.3681	Applicable U.S. Standard Sizes.
	KEY TO STANDARD GRADEMARKS
29.3686	Key to Standard Grademarks.
	OFFICIAL STANDARD GRADES FOR PENNSYLVANIA SEEDLEAF TOBACCO (U.S. TYPE 41)
	DEFINITIONS
29.4251	Definitions.
29.4252	Air-cured.
29.4253	Body.
29.4254	Burn.
29.4255	Case (order).
29.4256	Class.
29.4257	Clean.
29.4258	Condition.
29.4259	Crude.
29.4260	Cured.
29.4261	Damage.
29.4262	Dirty.
29.4263	Elements of quality.
29.4264	Foreign matter.
29.4265	Form.
29.4266	General quality.
29.4267	Grade.
29.4268	Grademark.

- Sec.
- 29.4269 Group.
- 29.4270 Injury.
- 29.4271 Leaf scrap.
- 29.4272 Leaf structure.
- 29.4273 Length.
- 29.4274 Lot.
- 29.4275 Maturity.
- 29.4276 Nested.
- 29.4278 Oil (life).
- 29.4279 Offtype.
- 29.4280 Package.
- 29.4281 Packing.
- 29.4282 Quality.
- 29.4283 Raw.
- 29.4284 Semicured.
- 29.4285 Side.
- 29.4286 Sound.
- 29.4287 Stem.
- 29.4288 Stemmed.
- 29.4289 Stem rot.
- 29.4290 Strength (tensile).
- 29.4291 Strips.
- 29.4292 Sweated.
- 29.4293 Tobacco.
- 29.4294 Tobacco products.
- 29.4295 Type.
- 29.4296 Type 41.
- 29.4297 Undried.
- 29.4298 Uniformity.
- 29.4299 Unstemmed.
- 29.4300 Unsweated.
- 29.4301 Waste.
- 29.4302 Wet (high-case).
- 29.4303 Width.

ELEMENTS OF QUALITY

- 29.4326 Elements of quality and degrees of each element.

RULES

- 29.4331 Rules.
- 29.4332 Rule 1.
- 29.4333 Rule 2.
- 29.4334 Rule 3.
- 29.4336 Rule 5.
- 29.4337 Rule 6.
- 29.4338 Rule 7.
- 29.4339 Rule 8.
- 29.4340 Rule 9.
- 29.4341 Rule 10.
- 29.4342 Rule 11.
- 29.4343 Rule 12.
- 29.4344 Rule 13.
- 29.4345 Rule 14.
- 29.4346 Rule 15.
- 29.4347 Rule 16.
- 29.4348 Rule 17.

GRADES

- 29.4361 Stripper (C Group).
- 29.4362 Straight Stripped (X Group).
- 29.4363 Farm Filler (Y Group).
- 29.4364 Nondescript (N Group).

SUMMARY OF STANDARD GRADES

- 29.4386 Summary of standard grades.

KEY TO STANDARD GRADEMARKS

- 29.4391 Key to standard grademarks.

OFFICIAL STANDARD GRADES FOR OHIO CIGAR-LEAF TOBACCO (U.S. TYPES 42, 43, AND 44)

DEFINITIONS

- Sec.
- 29.4501 Definitions.
- 29.4502 Air-cured.
- 29.4503 Body.
- 29.4504 Case (order).
- 29.4505 Class.
- 29.4506 Clean.
- 29.4507 Condition.
- 29.4508 Crude.
- 29.4509 Cured.
- 29.4510 Damage.
- 29.4511 Dirty.
- 29.4512 Elements of Quality.
- 29.4513 Foreign matter.
- 29.4514 Form.
- 29.4515 General quality.
- 29.4516 Grade.
- 29.4517 Grademark.
- 29.4518 Group.
- 29.4519 Injury.
- 29.4520 Leaf scrap.
- 29.4521 Leaf structure.
- 29.4522 Length.
- 29.4523 Lot.
- 29.4524 Maturity.
- 29.4525 Nested.
- 29.4526 No-G.
- 29.4527 Oil (life).
- 29.4528 Offtype.
- 29.4529 Package.
- 29.4530 Packing.
- 29.4531 Quality.
- 29.4532 Raw.
- 29.4533 Semicured.
- 29.4534 Side.
- 29.4535 Sound.
- 29.4536 Stem.
- 29.4537 Stemmed.
- 29.4538 Stem rot.
- 29.4539 Strength (tensile).
- 29.4540 Strips.
- 29.4541 Sweated.
- 29.4542 Tobacco.
- 29.4543 Tobacco products.
- 29.4544 Type.
- 29.4545 Type 42.
- 29.4546 Type 43.
- 29.4547 Type 44.
- 29.4548 Undried.
- 29.4549 Uniformity.
- 29.4550 Unstemmed.
- 29.4551 Unsweated.
- 29.4552 Waste.
- 29.4553 Wet (high-case).
- 29.4554 Width.

ELEMENTS OF QUALITY

- 29.4581 Elements of quality and degrees of each element

RULES

- 29.4586 Rules.
- 29.4587 Rule 1.
- 29.4588 Rule 2.
- 29.4589 Rule 3.
- 29.4590 Rule 4.
- 29.4591 Rule 5.

Sec.	
29.4592	Rule 6.
29.4593	Rule 7.
29.4594	Rule 8.
29.4595	Rule 9.
29.4596	Rule 10.
29.4597	Rule 11.
29.4598	Rule 12.
29.4599	Rule 13.
29.4600	Rule 14.
29.4601	Rule 15.
29.4602	Rule 16.

GRADES

29.4626	Straight Stripped (X Group).
29.4627	Nondescript (N Group).

SUMMARY OF STANDARD GRADES

29.4651	Summary of standard grades.
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KEY TO STANDARD GRADEMARKS

29.4656	Key to standard grademarks.
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OFFICIAL STANDARD GRADES FOR PUERTO RICAN CIGAR-FILLER TOBACCO (U.S. TYPE 46)**DEFINITIONS**

29.5251	Definitions.
29.5252	Air-cured.
29.5253	Body.
29.5254	Class.
29.5255	Clean.
29.5256	Condition.
29.5257	Crude.
29.5258	Cured.
29.5259	Damage.
29.5260	Dirty.
29.5261	Foreign matter.
29.5262	Form.
29.5263	Grade.
29.5264	Grademark.
29.5265	Group.
29.5266	Injury.
29.5267	Leaf scrap.
29.5268	Length.
29.5269	Lot.
29.5270	Maturity.
29.5271	Nested.
29.5272	No grade.
29.5273	Offtype.
29.5274	Order (case).
29.5275	Package.
29.5276	Packing.
29.5277	Quality.
29.5278	Semicured.
29.5279	Side.
29.5280	Sound.
29.5281	Stained (S).
29.5282	Stem.
29.5283	Stemmed.
29.5284	Strips.
29.5285	Sweated.
29.5286	Sweating.
29.5287	Tobacco.
29.5288	Tobacco products.
29.5289	Type.
29.5290	Type 46.
29.5291	Undried.
29.5292	Uniformity.
29.5293	Unstemmed.

Sec.	
29.5294	Unsweated.
29.5295	Wet (high-case).

RULES

29.5321	Rules.
29.5322	Rule 1.
29.5323	Rule 2.
29.5324	Rule 3.
29.5325	Rule 4.
29.5326	Rule 5.
29.5327	Rule 6.
29.5328	Rule 7.
29.5329	Rule 8.
29.5330	Rule 9.
29.5331	Rule 10.
29.5332	Rule 11.
29.5333	Rule 12.
29.5334	Rule 13.
29.5335	Rule 14.
29.5336	Rule 15.

GRADES

29.5361	Strippers (C Group).
29.5362	Grinders (X Group).
29.5363	Nondescript (N Group).
29.5364	Scrap (S Group).

SUMMARY OF STANDARD GRADES

29.5381	Summary of standard grades.
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KEY TO STANDARD GRADEMARKS

29.5386	Key to standard grademarks.
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OFFICIAL STANDARD GRADES FOR CONNECTICUT VALLEY CIGAR-BINDER TOBACCO (U.S. TYPES 51 AND 52)**DEFINITIONS**

29.5501	Definitions.
29.5502	Air-cured.
29.5503	Body.
29.5504	Burn.
29.5505	Case (order).
29.5506	Class.
29.5507	Clean.
29.5508	Condition.
29.5509	Crude.
29.5510	Cured.
29.5511	Damage.
29.5512	Dirty.
29.5513	Elasticity.
29.5514	Elements of quality.
29.5515	Foreign matter.
29.5516	Form.
29.5517	General quality.
29.5518	Grade.
29.5519	Grademark.
29.5520	Group.
29.5521	Injury.
29.5522	Leaf scrap.
29.5523	Leaf structure.
29.5524	Length.
29.5525	Lot.
29.5526	Maturity.
29.5527	Nested.
29.5528	No Grade.
29.5529	Offtype.
29.5530	Package.
29.5531	Packing.
29.5532	Quality.

- Sec.
 29.6100 Rule 14.
 29.6101 Rule 15.
 29.6102 Rule 16.
 29.6103 Rule 17.
 29.6104 Rule 18.

GRADES

- 29.6126 Binder (B Group).
 29.6127 Stripper (C Group).
 29.6128 Straight Stripped (X Group).
 29.6129 Farm Filler (Y Group).
 29.6130 Nondescript (N Group).
 29.6131 Scrap (S Group).

SUMMARY OF STANDARD GRADES

- 29.6155 Summary of standard grades.

KEY TO STANDARD GRADEMARKS

- 29.6161 Key to standard grademarks.

OFFICIAL STANDARD GRADES FOR CONNECTICUT VALLEY SHADE-GROWN CIGAR-WRAPPER TOBACCO (U.S. TYPE 61)

DEFINITIONS

- 29.6251 Definitions.
 29.6252 Air-cured.
 29.6253 Body.
 29.6254 Brown colors.
 29.6255 Candela-cured.
 29.6256 Candela-cured green colors.
 29.6257 Class.
 29.6258 Color.
 29.6259 Color shade.
 29.6260 Color symbols.
 29.6261 Condition.
 29.6262 Crude.
 29.6263 Cured.
 29.6264 Damage.
 29.6265 Dirty.
 29.6266 Elasticity.
 29.6267 Elements of quality.
 29.6268 Fibers.
 29.6269 Fleck (FL).
 29.6270 Foreign matter.
 29.6271 Form.
 29.6272 Grade.
 29.6273 Grademark.
 29.6274 Green (G).
 29.6275 Greenish (V).
 29.6276 Group.
 29.6277 Injury.
 29.6278 Leaf scrap.
 29.6279 Leaf structure.
 29.6280 Length.
 29.6281 Lot.
 29.6282 Maturity.
 29.6283 Mixed color (M).
 29.6284 Nested.
 29.6285 Offtype.
 29.6286 Order (case).
 29.6287 Package.
 29.6288 Packing.
 29.6289 Quality.
 29.6290 Semicured.
 29.6291 Side.
 29.6292 Sound.
 29.6293 Special factor.

- Sec.
 29.6294 Stained.
 29.6295 Stem.
 29.6296 Stemmed.
 29.6297 Strips.
 29.6298 Subgrade.
 29.6299 Sweated.
 29.6300 Sweating.
 29.6301 Tobacco.
 29.6302 Tobacco products.
 29.6303 Type.
 29.6304 Type 61.
 29.6305 Undried.
 29.6306 Uniformity.
 29.6307 Unstemmed.
 29.6308 Variegated.
 29.6309 Wet.

RULES

- 29.6336 Rules.
 29.6337 Rule 1.
 29.6338 Rule 2.
 29.6339 Rule 3.
 29.6340 Rule 4.
 29.6341 Rule 5.
 29.6342 Rule 6.
 29.6343 Rule 7.
 29.6344 Rule 8.
 29.6345 Rule 9.
 29.6346 Rule 10.
 29.6347 Rule 11.
 29.6348 Rule 12.
 29.6349 Rule 13.
 29.6350 Rule 14.
 29.6351 Rule 15.
 29.6352 Rule 16.
 29.6353 Rule 17.
 29.6354 Rule 18.
 29.6355 Rule 19.
 29.6356 Rule 20.

ELEMENTS OF QUALITY

- 29.6371 Elements of quality and degrees of each element.

GRADES FOR NATURAL (AIR-CURED) TOBACCO

- 29.6386 Wrappers (A Group).
 29.6387 Stained (S Group).
 29.6388 Brokes (X Group).
 29.6389 Nondescript (N Group).

GRADES FOR CANDELA-CURED TOBACCO

- 29.6396 Wrappers (A Group).
 29.6397 Brokes (X Group).
 29.6398 Nondescript (N Group).

SUMMARY OF STANDARD GRADES

- 29.6406 Summary of standard grades.

KEY TO STANDARD GRADEMARKS

- 29.6411 Key to standard grademarks.

OFFICIAL STANDARD GRADES FOR GEORGIA AND FLORIDA SHADE-GROWN CIGAR-WRAPPER TOBACCO¹ (U.S. TYPE 62)

DEFINITIONS

- 29.6501 Definitions.

¹ These standards provide grades for both air-cured and candela-cured tobacco.

- Sec.
- 29.6502 Air-cured.
- 29.6503 Body.
- 29.6504 Candela-cured.
- 29.6505 Candela-cured green colors.
- 29.6506 Class.
- 29.6507 Color.
- 29.6508 Color shade.
- 29.6509 Color symbols.
- 29.6510 Condition.
- 29.6511 Crude.
- 29.6512 Cured.
- 29.6513 Damage.
- 29.6514 Dirty.
- 29.6515 Elasticity.
- 29.6516 Elements of quality.
- 29.6517 Fibers.
- 29.6518 Fleck (FL).
- 29.6519 Foreign matter.
- 29.6520 Form.
- 29.6521 Grade.
- 29.6522 Grademark.
- 29.6523 Green (G).
- 29.6524 Greenish.
- 29.6525 Group.
- 29.6526 Injury.
- 29.6527 Leaf scrap.
- 29.6528 Leaf structure.
- 29.6529 Length.
- 29.6530 Lot.
- 29.6531 Maturity.
- 29.6532 Mixed color (M).
- 29.6533 Nested.
- 29.6534 Offtype.
- 29.6535 Order (case).
- 29.6536 Package.
- 29.6537 Packing.
- 29.6538 Quality.
- 29.6539 Semicured.
- 29.6540 Side.
- 29.6541 Sound.
- 29.6542 Special factor.
- 29.6543 Stained.
- 29.6544 Stem.
- 29.6545 Stemmed.
- 29.6546 Strips.
- 29.6547 Subgrade.
- 29.6548 Sweated.
- 29.6549 Sweating.
- 29.6550 Tobacco.
- 29.6551 Tobacco products.
- 29.6552 Type.
- 29.6553 Type 62.
- 29.6554 Undried.
- 29.6555 Uniformity.
- 29.6556 Unstemmed.
- 29.6557 Variegated.
- 29.6558 Wet.

RULES

- 29.6581 Rules.
- 29.6582 Rule 1.
- 29.6583 Rule 2.
- 29.6584 Rule 3.
- 29.6585 Rule 4.
- 29.6586 Rule 5.
- 29.6587 Rule 6.
- 29.6588 Rule 7.
- 29.6589 Rule 8.

- Sec.
- 29.6590 Rule 9.
- 29.6591 Rule 10.
- 29.6592 Rule 11.
- 29.6593 Rule 12.
- 29.6594 Rule 13.
- 29.6595 Rule 14.
- 29.6596 Rule 15.
- 29.6597 Rule 16.
- 29.6598 Rule 17.
- 29.6599 Rule 18.
- 29.6600 Rule 19.

ELEMENTS OF QUALITY

- 29.6616 Elements of quality and degrees of each element.

GRADES FOR NATURAL (AIR-CURED) TOBACCO

- 29.6636 Wrappers (A Group).
- 29.6637 Stained (S Group).
- 29.6638 Brokes (X Group).
- 29.6639 Nondescript (N Group).

GRADES FOR CANDELA-CURED TOBACCO

- 29.6646 Wrappers (A Group).
- 29.6647 Brokes (X Group).
- 29.6648 Nondescript (N Group).

SUMMARY OF STANDARD GRADES

- 29.6656 Summary of standard grades.

KEY TO STANDARD GRADEMARKS

- 29.6661 Key to standard grademarks.

Subpart D—Orders of Designation of Tobacco Markets

- 29.8001 Designation of tobacco markets.

Subpart E—Forms

APPLICATION AND AGREEMENT FOR PERMISSIVE INSPECTION SERVICE

- 29.9001 Application and agreement for permissive tobacco inspection service.

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: The provisions of this Subpart A issued under 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.

SOURCE: The provisions of this Subpart A appear at 37 F.R. 7765, Apr. 20, 1972, unless otherwise noted.

§ 29.1 Definitions.

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

(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.

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

(g) "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.

(h) "Hearing Clerk" means the Hearing Clerk of the U.S. Department of Agriculture, Washington, D.C. 20250.

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

§ 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, 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 and additional sales only as hereinafter provided. Also, since these services shall be made available to new markets and additional sales only as herein provided, referenda incident to market designations shall not be conducted until auction markets seeking designation have qualified for inspection and price support services as herein provided.

(a) *Reasonable inspection and price support services.* The extension of tobacco inspection and price support services to new markets and additional sales will be conditioned upon the reasonableness of such services existing in the marketing area of the proposed new market or additional sale. Transactions in tobacco as conducted at auction markets customarily involve the sale of tobacco at a bona fide auction sale. Determination with respect to reasonableness, and consequently with respect to granting or denying additional services, will be based on evidence (1) that the proposed new market or additional sale will function as a bona fide auction sale, and (2) that additional services are justifiable in relation to other market data, including the volume of tobacco produced in the area surrounding the proposed new market or additional sale; the roads and road distances involved in moving tobacco to the proposed new market or additional sale in relation to other tobacco marketing centers; the relative availability or congestion of all facilities for redrying and packing tobacco handled or to be handled in the proposed new market or additional sale; the location of other auction markets on which tobacco produced in the marketing area of the proposed new market or additional sale may be marketed; the number of tobacco growers to be affected by the proposed new market or additional sale; the volume of tobacco likely to be sold in the pro-

posed new market or additional sale; the relationship of sales in the proposed new market or additional sale to sales in other auction markets in the producing area for that kind of tobacco; and other economic factors affecting the marketing of tobacco, by growers, in the marketing area of the proposed new market or additional sale and in the producing area for that kind of tobacco, including limitations on sales imposed by any marketing agreement and/or order, or by any other means.

(b) *Order of priority.* If the Secretary finds that there are insufficient qualified tobacco inspectors available to service adequately all applicants otherwise found to be qualified for additional inspection service pursuant to this subpart for a kind of tobacco, those applicants found to be eligible for additional services on auction markets designated for free and mandatory inspection shall be given priority over applicants for additional inspection service on a fee basis on other auction markets. If it becomes necessary to determine which of several qualified applicants having an equal order of priority under the preceding sentence shall receive additional inspection and price support services, those auction sales or auction markets where the greatest number of growers needing such service may be served with the qualified inspectors shall have priority. If an application for an additional sale on a designated market is denied for lack of qualified inspectors, the Secretary, on application from such market, may temporarily suspend the requirement of inspection and certification on such market pursuant to section 5 of the Tobacco Inspection Act.

(c) *Price support services to be through warehouses.* Price support services on any auction market will be offered through tobacco auction warehouses operating in such market, and, notwithstanding any provision of this subpart, the offering of price support services through any auction warehouse located on any auction market will be conditioned upon a qualified, responsible warehouseman entering into an approved auction warehouse contract under the provisions of the applicable tobacco price support program, published at Part 1464 of this title.

§ 29.3 Procedures for filing, hearing, and determination of applications.

(a) *Time and place of filing.* Applications for the extension of tobacco inspection and price support services to new markets and to additional sales on designated markets shall be filed, in triplicate, with the Hearing Clerk not later than March 15 in the case of Flue-cured tobacco, December 1 in the case of Maryland tobacco, and July 15 in the case of Burley and all other kinds of tobacco. Applications should be addressed to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250. Applications which are not received by the Hearing Clerk on or before the foregoing cutoff date for the kind of tobacco shall be rejected as untimely filed. After denial of an application for additional inspection and price support services for a marketing season, no application from the same auction market or proposed new market shall be considered for the next consecutive marketing season, unless the application contains a statement by the applicant setting forth new facts that constitute evidence of such a substantial change in conditions since the previous hearing as the review committee as specified in paragraph (h) of this section deems would warrant such further hearing.

(b) *Form and content of application.* The application shall be in writing, shall set forth the grounds for the application and shall be signed by the applicant or applicants. If an applicant is a corporation, the application shall be executed by a responsible officer of such corporation. The application shall include a statement of the name, address and form of business organization of each party to the application and the location of the proposed new market or additional sale.

(c) *Hearings on applications.* Following the closing date for filing applications 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 50 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) *Presiding officer.* The presiding officer at each such hearing shall be a Hearing Examiner of the Office of Hearing Examiners of the U.S. Department of Agriculture or such other employee of the Department of Agriculture as the Secretary may designate to act as presiding officer at such hearing. The presiding 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 presiding 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 presiding 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 presiding 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 review committee comprised of the Administrator, Agricultural Marketing Service, the Administrator, Commodity Stabilization 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.

Subpart B—Regulations

AUTHORITY: The provisions of this Subpart B issued under sec. 14, 49 Stat. 734, as amended; 7 U.S.C. 511m.

SOURCE: The provisions of this Subpart B appear at 13 F.R. 9474, Dec. 31, 1948; 19 F.R. 57, Jan. 6, 1954, unless otherwise noted.

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 warehouse-

man, 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 hoghead, 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.

§ 29.34 Sample seal.

A seal approved by the Director for sealing official samples.

§ 29.35 Lot seal.

A seal approved by the Director for sealing lots of tobacco certificated under the act.

§ 29.36 Auction market.

A place to which tobacco is delivered by the producers thereof, or their agents, for sale at auction through a warehouseman or commission merchant.

§ 29.37 Designated market.

An auction market designated by the Secretary, under section 5 of the act.

§ 29.38 Public notice.

A proclamation by the Secretary under the act (a) stating that an auction market is designated under the act; (b) giving notice of such fact; (c) specifying a date when the requirement of inspec-

tion and certification under the act shall become effective; and (d) released to the press, mailed to the tobacco board of trade or warehouse association of such market, and mailed to the postmaster at such market for posting.

§ 29.39 Permissive inspection.

Inspection authorized under section 6 of the act.

§ 29.40 Mandatory inspection.

Inspection authorized or required under section 5 of the act.

ADMINISTRATION

§ 29.51 Administration.

The Director is charged with the supervision of the Division and the performance of all duties assigned thereto in the administration of the act. Information concerning such administration may be obtained by addressing: The Director, Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C., 20250.

PERMISSIVE INSPECTION

§ 29.56 Permissive inspection.

Permissive inspection consists of inspection, including sampling and weighing, and certificating tobacco upon the request of an interested party. Upon such request, the Director may authorize and require an inspector, as a part of his duties, to supervise the preparation of tobacco to be inspected under the act, including the sorting, handling, conditioning, or packing of such tobacco.

§ 29.57 Where inspection is offered.

Tobacco may be inspected, sampled, or weighed for the purposes of the act, upon request of an interested party, at points indicated in paragraphs (a), (b), and (c) of this section whenever official inspectors, samplers, or weighers are available and the tobacco is offered under conditions that permit of its proper examination.

(a) Points at which tobacco enters, or is offered for, interstate or foreign shipment, including packing houses, prizeries, warehouses, and other places where tobacco is handled, packed, or stored.

(b) The stations or the headquarters of inspectors, samplers, or weighers. An official station may be any town, city, or place having a market, receiving station, or other facilities for handling, packing,

or storing tobacco and where there is a sufficient volume of work to justify the stationing of an inspector, sampler, or weigher.

(c) Points near an official station, to the extent permitted by the time of the inspector, sampler, or weigher at such official station.

§ 29.58 Who may obtain inspection.

Inspection, sampling, or weighing as described in § 29.56 may be requested by an interested party, or his authorized agent, by filing an application in accordance with §§ 29.59 and 29.60.

§ 29.59 How to make application.

Application for inspection, sampling, or weighing of tobacco shall be made to the Division, the office of inspection, or as the case may be, to an official inspector, sampler, or weigher. It may be made orally or in writing and delivered in person, by mail, by telegraph, or otherwise. If made orally, the Division or the official receiving it may require a written confirmation.

§ 29.60 Form of application.

Application for inspection, sampling, or weighing tobacco shall include the following information: (a) The date of the application; (b) the designation of the tobacco and the crop year of its production; (c) the name and post-office address of the applicant and of the person, if any, making the application as agent; (d) the financial interest of the applicant in the tobacco; (e) the exact nature of the service desired as (1) inspection, (2) inspection and sealing packages, (3) sampling, or (4) weighing; (f) a statement that the tobacco (1) is in commerce, as defined in the act, or (2) is to be inspected, sampled, or weighed in connection with its entering such commerce; (g) if the tobacco has been officially inspected, sampled, or weighed previously, the application must have the previous certificate attached, or show with respect to such previous service (1) by whom, (2) the date, (3) previous determinations as certificated; (h) the reason for requesting reinspection, resampling, or reweighing; and (i) such other necessary information as the Director may require.

§ 29.61 When application deemed filed.

An application shall be deemed filed when delivered to the Division, the

office of inspection, or according to the nature of the service requested, to an official inspector, sampler, or weigher. When an application is filed, the date and time of filing shall be recorded by the official receiving it.

§ 29.62 When application may be rejected.

An application may be rejected (a) for noncompliance with the act or the regulations in this subpart, or (b) when it is not practicable to provide the service. All expenses incurred in connection with an application rejected for noncompliance with the act or the regulations in this subpart shall be paid by the applicant as provided in § 29.124.

§ 29.63 When application may be withdrawn.

An application may be withdrawn at any time before the requested service is rendered upon payment of expenses incurred in connection therewith as provided in § 29.124.

§ 29.64 Authority of agent.

Proof of authority of any person making an application as agent may be required in the discretion of the official receiving the application.

§ 29.65 Accessibility of tobacco.

All tobacco to be inspected, sampled, or weighed upon application shall be made accessible by the applicant for proper examination, including any necessary display in proper light for determination of grade or other characteristics or for drawing of samples. In the case of tobacco in packages, the coverings shall be removed by the applicant in such manner as may be prescribed by the inspector, sampler, or weigher.

§ 29.66 Certificates.

(a) *Forms.* Each certificate issued under this regulation shall (1) show that it was issued under The Tobacco Inspection Act; (2) be in a form approved for the purpose by the Director and (3) embody within its written or printed terms, with respect to the particular kind of service, all applicable information required by paragraphs (b), (c), (d), (e), and (f) of this section. Each certificate may also contain any information, not inconsistent with the act and the regula-

tions in this subpart, as may be approved or required by the Director. The Director may, in his discretion, specify or limit the period in which a certificate shall be valid.

(b) *Inspection certificate.* Each inspection certificate shall show (1) the caption "Tobacco Inspection Certificate"; (2) whether it is an original, first, second, or other copy; (3) the number of the certificate; (4) the identification number and private identification marks on the lot; (5) the date and number of the official sample, if any; (6) the location of the tobacco at the time of inspection or sampling; (7) the date of inspection; (8) the type and grade of the tobacco; (9) the kind of lot or package; and (10) the signature of the official inspector; also such additional information as may be required by the Director. An inspection certificate covering a package of tobacco shall also show the form and condition of the tobacco.

(c) *Sample inspection certificate.* Each sample inspection certificate shall carry the caption "Tobacco Sample Inspection Certificate" and shall otherwise comply with the requirements of an inspection certificate, and in addition include a clearly worded statement that the type, grade, or other tobacco characteristics, shown therein, apply only to the tobacco contained in the sample inspected.

(d) *Weight certificate.* Each weight certificate shall show (1) the caption "Tobacco Weight Certificate"; (2) whether it is an original, first, second, or other copy; (3) the number of the certificate; (4) the identification number or private identification marks on the lot; (5) the location of the tobacco at the time of weighing; (6) the date of weighing; (7) the weight of each lot; (8) the kind of lot or package; and (9) the signature of the official weigher.

(e) *Official sample tag.* Each official sample drawn and prepared shall have attached thereto, a certificate or tag showing (1) the caption "Official Tobacco Sample"; (2) the date of sampling; (3) the location of the tobacco at the time of sampling; (4) the kind of lot or package; (5) the condition of the tobacco; (6) the identification number and private identification marks on the lot; and (7) when a lot is found to be dam-

aged, nested, or in doubtful keeping order, a statement of such fact.

(f) *Combination certificate.* A combination certificate of inspection and weight may be issued under the act, if such certificate carries the caption "Tobacco Inspection and Weight Certificate" and otherwise meets all of the requirements of paragraphs (b) and (d) of this section.

§ 29.67 Disposition of certificates.

When a certificate of inspection or weight is issued under the act upon the request of an interested party, the original certificate and one copy shall be delivered or mailed to the applicant or a person designated by him, and one copy shall be mailed or delivered to the Division or local office of inspection. Charges may be made for additional copies furnished the interested party upon request as provided in § 29.128.

§ 29.68 Advance information.

Upon the request of an applicant for whom tobacco has been inspected, sampled, or weighed and certificated under the act, all or any part of the contents of such certificate may be telegraphed or telephoned to him as his expense. Information relative to grade or other determinations contained or to be contained in a certificate shall not be divulged by an inspector, sampler, or weigher to any person other than an interested party or his agent without the approval of the Director, and such information shall not be furnished an interested party before the certificate is issued.

§ 29.69 Weighing apparatus.

A scale used for determination of weight to be certificated under the act shall be subject to examination for accuracy according to the regulations of the State or municipality in which located. No disapproved scale shall be used to determine weight of tobacco for the purposes of the act and the regulations in this subpart.

MANDATORY INSPECTION

§ 29.71 Mandatory inspection.

Mandatory inspection consists of inspecting and certifying tobacco under the act on designated markets before it is offered for sale at auction.

§ 29.72 Where mandatory inspection is required.

All tobacco offered for sale at auction on a market designated in accordance with the act and § 29.73 shall be inspected and certificated under the act upon the date specified by the Secretary in public notice of such designation, and thereafter, except when the requirement of such inspection and certification is temporarily suspended by the Director in accordance with the act and the regulations in this subpart.

§ 29.73 Designation of markets.

An auction market where tobacco bought or sold thereon at auction or the products customarily manufactured therefrom move in commerce may be designated under the act by the Secretary after the Director has advised the Secretary that two-thirds of the growers voting in the referendum held in accordance with § 29.74 favored the designation of such market. When a market is designated by the Secretary, he shall give public notice of the fact and in such public notice he shall specify the date on which the requirement of inspection and certification of tobacco sold at auction on such market shall become effective. The Director may temporarily suspend the requirement of inspection and certification on a designated market when it is found impracticable to provide such service because competent inspectors are not obtainable or because the quantity of tobacco available for inspection is insufficient to justify the cost of such service.

§ 29.74 Growers' referendum.

(a) *Method of conducting.* Any referendum held as provided in section 5 of the act shall be conducted by the Division in accordance with this section. The Director shall determine (1) the market or group of markets to be covered by a referendum; (2) when a referendum is to be held; and (3) the period during which growers, entitled to vote therein, may cast their ballots. When a referendum is held for a group of markets, the result of such referendum may be construed to apply either individually or collectively to such markets. Before holding a referendum, the Division shall establish from the records of the collectors of internal revenue for the preceding

marketing season, or in the absence of such records then from such other reliable sources of information as are available, a list showing the names of all growers who are entitled to vote in the referendum, and from the list so established the eligibility of growers to vote in a referendum shall be determined by the Division: *Provided*, That if a grower, whose name appears on such lists for two or more markets selling the same class of tobacco, votes in one referendum for a market selling such type, he shall not be eligible to vote in a referendum for any other market selling such type.

(b) *Form of ballot.* Ballots to be used for voting in a referendum held under the act shall be in a form approved for the purpose by the Director.

(c) *Distribution of ballots.* Ballots to be used by growers in a referendum under the act may be distributed by mail or otherwise as the Director may select. The Director may establish and publish a list of voting places for the purpose of any referendum and distribute ballots therefrom. When ballots are not mailed directly to growers who are entitled to vote, insofar as their addresses are known, the Director shall announce the voting places at which ballots can be secured, and copies of such announcement shall be given to the press and mailed, for posting and distribution, to the post offices of the market or group of markets covered by the referendum and to post offices in the vicinity of such markets or group of markets. Any explanatory statement with reference to a referendum, provisions of the act and these regulations, or the operation and benefits of the services authorized by the act may be attached to or supplied with ballots.

(d) *Filing and tabulation of votes.* Each ballot, when filled in and signed by a grower entitled to vote in a referendum, shall be mailed or delivered by him as specified in the ballot. Persons authorized by the Director to receive votes in any referendum shall promptly file all votes received or collected by them with the Division. All ballots filed in a referendum shall be examined to verify the eligibility of the voter and the Director shall have compiled the result of the referendum and furnish the Secretary a statement showing whether or not two-thirds of the growers voting favor of the designation of the market or group of

markets covered by the referendum. In verifying votes, ballots which do not show the desire of the voter, or ballots which are defective or illegible, or ballots on which the signature or other identification does not correspond with the established list shall not be counted. The choice of any individual voter shall not be divulged by any official of the Division, except to the Secretary when requested. Votes, ballots, and other documents pertaining to a referendum shall be preserved in the Division for a period of 2 years from the closing date of such referendum, and may be destroyed thereafter.

§ 29.75 Accessibility of tobacco.

(a) All tobacco subject to mandatory inspection on a designated market shall be made readily accessible for inspection.

(b) (1) Each warehouse operator shall block off in his warehouse adequate space for each basket of flue-cured tobacco offered for sale on the auction market, and shall prominently number each 10th basket space. The blocking and numbering arrangement shall follow the order of sale; that is, down one row and back on the adjacent row.

(2) Each warehouse shall display a plainly visible sign with the total number of baskets of flue-cured tobacco allotted to be sold each day. Each warehouse operator shall designate to the inspector the number of the starting space for each day's sale and grading will begin at this designated space. All spaces, whether empty or full, shall be counted. No tobacco will be graded beyond the numbered space corresponding with the number of baskets allotted for each day's sale. The grading shall proceed from the beginning point of the sale to the closing point of the sale in an orderly sequence. An inspector shall not go back and grade any basket of tobacco placed in a space which was empty when grading for the day's sales passed such sales space.

(c) Before starting inspection of the day's sale of flue-cured tobacco in each warehouse, the head grader or market supervisor grader shall determine if there is compliance with the requirements of paragraph (b) of this section. If he determines that the prescribed system has not been followed, the inspectors shall return to the next scheduled warehouse to return to the noncomplying

warehouse on the next sales day for such warehouse when the head grader or market supervisor grader shall again determine if the prescribed system has been followed before starting the inspection.

(d) A reduction in daily sales for any warehouse resulting from noncompliance with this section, including empty spaces, shall not prevent the maximum number of baskets allotted per day per set of buyers from being sold in the market.

[18 F.R. 9477, Dec. 31, 1948; 19 F.R. 57, Jan. 6, 1954, as amended at 28 F.R. 6211, June 18, 1963]

§ 29.75a Display of burley tobacco on auction warehouse floors in designated markets.

(a) (1) Each basket of burley tobacco displayed for sale on auction warehouse floors shall have a minimum space of 18 inches from butts to butts between the rows. Distances between baskets of tobacco within the row shall be such that butts of hands from immediately adjacent baskets will not touch. Each warehouse operator shall display a plainly visible sign showing the total number of baskets of burley tobacco allotted to be sold each day. Such sign shall be displayed at the point or basket where the day's sale will conclude, and no additional tobacco shall be graded beyond that point.

(2) Each warehouse operator shall arrange his entire day's sale in a continuous and orderly arrayed sequence of baskets and rows of tobacco. Any arrangement of tobacco in rows of progressively varying lengths, or any deviations from an orderly arrayed sequence of baskets and rows of tobacco, shall have prior approval of the head grader or market supervisor grader.

(3) Each warehouse operator shall designate to the head grader or market supervisor grader the starting point or basket for each day's sale, and counting and grading will begin at this designated point and proceed to the closing point of the sale in an orderly sequence. All basket spaces, containing or not containing a basket of tobacco, and all baskets of tobacco, covered or uncovered, shall be counted and included in the daily sales allotment. Baskets of tobacco shall not be removed, added, rearranged, or substituted between the

time they are counted for the day's sale and the time they are graded for the day's sale; provided, however, that with prior approval of the head grader or market supervisor grader compensating baskets of tobacco may be substituted for empty spaces and covered baskets included in a daily sales count.

(b) Before starting inspection of the day's sale of burley tobacco in each warehouse, the head grader or market supervisor grader shall determine if there is compliance with the requirements of paragraph (a) of this section. If he determines that the prescribed requirements have not been followed, the inspector shall proceed to the next sale or sales as originally scheduled for that day and grade the number of baskets of tobacco scheduled for such sale or sales, and shall return to the noncomplying warehouse on the next regularly scheduled sales day for such warehouse, at which time the head grader or market supervisor grader shall again determine if the prescribed system has been followed before starting the inspection. If noncompliance or failure to observe requirements of paragraph (a) of this section are discovered after inspection for the day's sale has started, the inspector shall discontinue inspection and proceed to the next sale or sales scheduled for that day and shall return to the non-companying warehouse on the next regularly scheduled sales day for such warehouse.

(c) The provisions of this section shall not preclude the application of other administrative remedies or the institution of criminal proceedings in appropriate cases as provided by the act.

[30 F.R. 12827, Oct. 2, 1965]

§ 29.76 Mandatory inspection ticket.

A mandatory inspection ticket shall consist of a Tobacco Inspection Certificate made and issued in combination with an auction warehouse ticket in a form approved by the Director.

§ 29.77 Warehousemen to provide tickets.

A mandatory inspection ticket, in the form required by § 29.76 shall be provided by each auction warehouseman on a designated market to cover each lot of tobacco offered for sale at auction by him on such market.

§ 29.78 Changes or alterations.

No change or alteration shall be made, in the weight or other identification of the lot, on a mandatory inspection ticket after the certification of type and grade by an official inspector, and any such change or alteration shall constitute and be construed as a change or alteration in the certificate issued or authorized under the act.

§ 29.79 Disposition of ticket.

One copy of the mandatory inspection ticket shall be attached to, or placed on, the tobacco certificated as a further identification of the lot and all copies of such ticket shall become null and void when such identifying copy is removed from the lot. When and as requested by the Director, one copy of such ticket, showing (a) the certification of type and grade; (b) the weight and other identification; and (c) the details of the sale at auction, shall be delivered by the warehouseman to the Division or the head inspector of the market.

§ 29.30 Announcing grades.

The grade of each lot of tobacco as certified by an official inspector on a designated market shall be clearly announced by the warehouseman or his representative at the time the lot is offered in the auction: *Provided*, That the Director may waive the requirement of announcing grades in the auction if he finds it impractical for the warehouseman to render this service.

§ 29.81 Interference with inspectors.

(a) No person, including the owner, producer, warehouseman, agent, or employee thereof shall (1) attempt, in any manner, to influence an inspector with respect to the grade designation of tobacco, or (2) impede, in any manner, an inspector while the inspector is in the process of grading tobacco on the warehouse auction floor, or (3) ask any question or discuss any matter pertaining to the grading of tobacco while the inspector is grading any tobacco on the warehouse auction floor. While inspectors are engaged in grading the day's sale, all requests for information concerning the grade designation on or requests to review the grade of any lot of tobacco shall be made only to the head

grader or to the market supervisor grader: *Provided, however*, That the producer of a lot of tobacco may discuss the grading of his tobacco with the inspector while he is performing his grading operations.

(b) In the event that the head grader or market supervisor grader determines that a person has violated any provision of this section, inspection ticket(s) if already issued on the lot(s) of unsold tobacco involved shall be null and void and no further inspection shall be performed on such lot(s) offered for sale by the warehouseman in whose premises the violation occurred until the next regularly-scheduled sale for such warehouse: *Provided*, That if violation consists of talking to the inspector while he is grading the tobacco, a warning shall be given on first offense and penalty provisions shall apply on any subsequent offense. A reduction in daily sales for any warehouse resulting from a violation of this section shall not prevent the maximum number of baskets or pounds allotted per day per set of buyers from being sold in a designated market.

(c) The provisions of this section shall not preclude the application of other administrative remedies or the institution of criminal proceedings in appropriate cases as provided by the act.

[30 F.R. 12627, Oct. 2, 1965]

APPEAL

§ 29.90 When appeal may be taken.

Whenever an interested party believes that a certificate issued or a sample prepared under the act is not correct he may file an appeal: *Provided*, That (a) the period for which such certificate was issued or sample was prepared, if any specified, has not expired; (b) all tobacco covered by such certificate or sample is accessible to an appeal inspector for making a proper reinspection, resampling, or reweighing, and can be definitely identified by him as the tobacco covered by such certificate or sample; and (c) the tobacco has not deteriorated or undergone any material change.

§ 29.91 How to obtain an appeal.

An appeal shall be made in writing and filed with the Division or the office of inspection for the type of tobacco involved. Such appeal shall show: (a) The date;

(b) the name and post office address of the appellant and of the person, if any, making the appeal in his behalf; (c) the financial interest of the appellant in the tobacco; (d) the reasons for making the appeal; and such other information as may be required by the Director. The appeal shall be accompanied by the certificate or sample from which the appeal is taken, unless such requirement is waived by the Division when it is impracticable for the appellant to furnish such certificate. The appeal inspector may require the appellant to furnish any other relevant and necessary information for the proper consideration of the appeal.

§ 29.92 Record of filing time.

When an appeal is filed, the date and time of filing shall be recorded by the officer receiving it.

§ 29.93 When appeal may be refused.

If it shall appear that the reasons stated in an appeal are frivolous or unsubstantial or that the act or this subpart have not been complied with, the appeal may be denied or dismissed. When an appeal is denied or dismissed, the appeal inspector shall (a) notify the appellant by telegraph or in writing giving the reason for such denial or dismissal; (b) mail a copy of such notification to the Division; and (c) return or release to the appellant, or other person designated by him, any certificate or sample which was filed with the appeal. All expenses incurred in connection with an appeal prior to its refusal or dismissal shall be paid by the appellant, as provided in § 29.126.

§ 29.94 When appeal may be withdrawn.

An appeal may be withdrawn by the appellant at any time before an appeal certificate is issued or an appeal sample is prepared, upon the payment of any expenses incurred in connection with the appeal as provided in § 29.126.

§ 29.95 Review or second inspection not an appeal.

A review or investigation made in accordance with § 29.132, or a second inspection, sampling, or weighing made upon the request of an interested party for the purpose of securing new or later information when the correctness of an old certificate or sample is not questioned, shall not be considered an appeal.

§ 29.96 Order in which made.

Appeals shall be heard and passed upon, so far as practicable, in the order in which they are filed.

§ 29.97 Who shall pass upon appeals.

Appeals shall be passed upon by an appeal inspector designated for the purpose by the Director. When authorized, by the Director, two or more appeal inspectors may jointly pass upon an appeal. The Division may authorize an inspector, supervising inspector, or other person to act as an appeal inspector, but no appeal inspector shall pass upon an appeal involving the correctness of a certificate issued or sample prepared by him.

§ 29.98 Appeal findings.

Immediately after an appeal has been heard and the tobacco involved therein has been reexamined, an appeal certificate shall be issued or an appeal sample prepared by the appeal inspector. Such certificate or sample shall show the finding of the appeal inspector and shall be labeled "Appeal Certificate" or "Appeal Sample", as the case may be, over the signature of the appeal inspector. An appeal certificate or sample shall supersede all other certificates or samples for the same lot of tobacco and shall refer specifically to the certificate or sample from which the appeal was made. In all other respects the provisions of this subpart relative to certificates or samples shall apply to an appeal certificate or sample. The findings of the appeal inspector as certificated shall be final, unless the Director shall direct a review of such findings.

§ 29.99 Superseded certificate or sample.

When superseded under this subpart by an appeal certificate or an appeal sample, such superseded certificate or sample shall become null and void and shall not thereafter be used to represent the tobacco described therein. If 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 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 sup-

ported by any evidence he may wish to offer in connection therewith.

FEEs AND CHARGES

§ 29.121 Fees for inspection service performed under an agreement.

The fees to be charged and collected for service performed under an agreement shall be those provided for by such agreement.

[21 F. R. 3669, May 30, 1956]

§ 29.122 Fees and charges for inspection other than under an agreement.

Fees or charges for inspection shall be fixed in accordance with § 29.123. Charges as computed in accordance with this part shall be increased by 8 percent to cover administrative expenses.

[21 F. R. 3669, May 30, 1956]

§ 29.123 Fees and charges.

The fees and charges for inspection other than under an agreement shall be as follows:

(a) Fees and charges for inspection at redrying plants and receiving points shall comprise the cost of travel expense, per diem allowance and salaries.

(b) The fees or charges for hogshead, bale or case inspection shall be the actual total cost including travel expense, per diem allowance and salaries.

(c) The fees or charges for sample inspection shall be the actual total cost including travel expense, per diem allowance and salaries.

[21 F. R. 3669, May 30, 1956, as amended at 25 F. R. 4949, June 4, 1960]

§ 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.

§ 29.125 Charge for appeals.

A charge of \$1 shall be made for each appeal filed under § 29.90 and the fee for an appeal inspection, sampling, or weighing shall equal the fee for the original inspection, sampling, or weighing from which the appeal is taken, plus any charges for travel or other expenses

incurred in hearing the appeal: *Provided*, That when a material error in the certificate or sample from which the appeal is taken is found by the appeal inspector, the charge and fee shall be waived.

§ 29.126 When appeal refused or withdrawn.

When an appeal is refused in accordance with § 29.93 or withdrawn in accordance with § 29.94, the appellant may be required to pay a reasonable charge for the time used by the appeal inspector and other expenses incurred in connection with such appeal prior to its denial, dismissal, or withdrawal.

§ 29.127 For demonstrations.

Charges, not in excess of the cost thereof, as may be approved by the Director, may be made for demonstrations or samples when such demonstrations or samples are furnished upon request.

§ 29.128 For certificates.

A charge may be made, in the discretion of the Director, for copies of certificates other than those required to be distributed in § 29.67, and for the issuance of a duplicate certificate in accordance with § 29.108.

§ 29.129 Payment of, how made.

Fees and charges fixed in accordance with this subpart shall be paid by the applicant or person obtaining the service in accordance with the 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 independently by the Division, shall be remitted by check or draft made payable to the Treasurer of the United States.

MISCELLANEOUS

§ 29.131 Publications.

Publications under the act and this subpart shall be made in such mediums as the Director may from time to time designate for the purpose.

§ 29.132 Division investigations.

An inspector, sampler, or weigher, when authorized by the Division, may of his own initiative, or upon the request of an interested party, review for the purpose of verification or confirmation any tobacco which he has certificated, and any supervising official may review the work of any inspector, sampler, or

weigher: *Provided*, That such review shall not be made if the ownership of the tobacco involved has changed since the date of certification, unless there is intimation or evidence of deterioration or of irregularities or fraud in connection with the certification or sampling. When such review discloses an error in the certification, the inspector, sampler, or weigher concerned, or supervising official shall immediately correct the error by making an appropriate change in the certificate or by canceling the certificate and issuing a new certificate in lieu thereof. Any correction made on a certificate shall be initiated by the issuing official or by the supervising official. When a new certificate is issued for a lot of tobacco, the old certificate and copies thereof shall become null and void and shall not thereafter be used to represent the tobacco described therein.

§ 29.133 Identification number.

The Director may require the use of official identification numbers in connection with tobacco certificated or sampled under the act. When identification numbers are required, they shall be specified by the Director, and shall be attached to, or stamped, printed, or stenciled on, the lots of tobacco certificated or sampled, in a manner specified by the Director.

Subpart C—Standards

OFFICIAL STANDARD GRADES FOR FLUE-CURED TOBACCO (U. S. TYPES 11, 12, 13, AND 14)

AUTHORITY: §§ 29.1001 to 29.1225 issued under sec. 14, 49 Stat. 734; 7 U.S.C. 511m.

SOURCE: §§ 29.1001 to 29.1225 appear at 28 F.R. 3638, Apr. 13, 1963; 28 F.R. 5411, June 1, 1963, unless otherwise noted.

DEFINITIONS

§ 29.1001 Definitions.

As used in these standards, the words and phrases hereinafter defined shall have the indicated meanings so assigned.

§ 29.1002 Body.

The thickness and density of a leaf or the weight per unit of surface. (See Elements of Quality Chart.)

§ 29.1003 Botched.

Any lot of tobacco which needs to be resorted or otherwise reworked to prepare it properly for market in the manner which is customary in the type area, including: (a) Tobacco which is so mixed

that it cannot be classified properly in any grade of the type, because the lot contains a substantial quantity of two or more distinctly different grades which should be separated by sorting; (b) tobacco which contains an abnormally large quantity of foreign matter or an unusual number of muddy or extremely dirty leaves which should be removed; and (c) tobacco not packed straight, not properly tied, or otherwise not properly prepared for market. (See rule 24.)

§ 29.1004 Class.

A major division of tobacco based on method of cure or principal usage.

§ 29.1005 Clean.

Tobacco is described as clean when it contains only a normal amount of sand or soil particles. Leaves grown on the lower position of the stalk normally contain more sand or dirt than those from higher stalk positions. (See rule 4.)

§ 29.1006 Color.

The third factor of a grade based on the relative hues, saturations or chromas, and color values common to the type.

§ 29.1007 Color intensity.

The varying degree of saturation or chroma. Color intensity as applied to tobacco describes the strength or weakness of a specific color or hue. (See Elements of Quality Chart.)

§ 29.1008 Color symbols.

As applied to Flue-cured tobacco, color symbols are L—lemon, F—orange, FR—orange red, R—red, K—variegated, KR—variegated scorched, G—green, LV—lemon greenish, FV—orange greenish, GL—green lemon, GF—green orange, GR—green red, GK—green variegated (scorched), GG—gray green, KL—variegated lemon, KF—variegated orange, KV—variegated greenish, and KM—variegated (scorched) mixed.

[28 F.R. 3638, Apr. 13, 1963, as amended at 33 F.R. 8721, June 14, 1968]

§ 29.1009 Combination symbol.

A color symbol combined with another symbol to form the third factor of a grade to denote a particular side or characteristic of the tobacco. As applied to Flue-cured tobacco the combination symbols are LS—lemon slick, FS—orange slick, RR—rank red, RG—rank green, and XL—lug side.

[28 F.R. 3638, Apr. 13, 1963, as amended at 29 F.R. 7709, June 17, 1964]

§ 29.1010 Condition.

The state of tobacco which results from the method of preparation or from the degree of fermentation. Words used to describe the condition of tobacco are: Undried, air-dried, steam-dried, sweating, sweated, and aged.

§ 29.1011 Crude.

A subdegree of maturity. Crude leaves are usually hard and slick as a result of extreme immaturity. A similar condition may result from firekill, sunburn, or sunscald. Any leaf which is crude to the extent of 20 percent or more of its surface may be described as crude. (See rule 21.)

§ 29.1012 Cured.

Tobacco dried of its sap by either natural or artificial processes.

§ 29.1013 Damage.

The effect of mold, must, rot, black rot, or other fungus or bacterial diseases which attack tobacco in its cured state. Tobacco having the odor of mold, must or rot is considered damaged. (See rule 22.)

§ 29.1014 Dirty.

The state of tobacco containing an abnormal amount of dirt or sand, or tobacco to which additional quantities of dirt or sand have been added. (See rule 24.)

§ 29.1015 Elasticity.

The flexible, springy nature of the tobacco leaf to recover approximately its original size and shape after it has been stretched.

§ 29.1016 Elements of Quality.

Elements of quality and the degrees used in the specifications of the official standard grades for Flue-cured, U.S. Types 11-14, are shown in chart form. Words have been selected to describe the degrees of each element.

§ 29.1017 Finish.

The reflectance factor in color perception. Finish indicates the sheen or shine of the surface of a tobacco leaf.

§ 29.1018 Fire-killed.

Any leaf of which 5 percent or more of its surface has a set green color caused by excessive heat in the curing process. Any lot containing 5 percent or more of such tobacco may be described as fire-killed. (See rule 24.)

§ 29.1019 Flue-cured.

Tobacco cured under artificial atmospheric conditions by a process of regulating the heat and ventilation without allowing smoke or fumes from the fuel to come in contact with the tobacco; or tobacco cured by some other process which accomplishes the same results.

§ 29.1020 Foreign matter.

Any extraneous substance or material such as stalks, suckers, straw, strings, rubber bands, and abnormal amounts of dirt or sand. (See rule 24.)

§ 29.1021 Form.

The stage of preparation of tobacco such as stemmed or unstemmed.

§ 29.1022 Grade.

A subdivision of a type according to group, quality, and color.

§ 29.1023 Grademark.

A grademark normally consists of three symbols which indicate group, quality, and color. A letter is used to indicate group, a number to indicate quality, and a letter or letters to indicate color. For example, B3F means Leaf, good quality, orange color.

§ 29.1024 Green (G).

A color term applied to immature or crude tobacco. Any leaf which has a green color affecting 20 percent or more of its surface may be described as green. (See rule 20.)

§ 29.1025 Greenish.

A color term applied to greenish-tinged tobacco. Any leaf which has a greenish tinge or a pale green color affecting 20 percent or more of its surface may be described as greenish. (See rule 19.)

§ 29.1026 Group.

A division of a type covering closely related grades based on certain characteristics which are related to stalk position, body, or the general quality of the tobacco. Groups in Flue-cured, U.S. Types 11-14, are: Wrappers (A), Leaf (B), Smoking Leaf (H), Cutters (C), Lugs (X), Primings (P), Nondescript (N), and Scrap (S).

§ 29.1027 Injury.

Hurt or impairment from any cause except the fungus or bacterial diseases which attack tobacco in its cured state, but which is not serious enough to be classified as waste. (See definitions of Damage and Waste; see also rule 14.)

§ 29.1028 Leaf scrap.

A byproduct of unstemmed tobacco. Leaf scrap results from handling unstemmed tobacco and consists of loose and tangled whole or broken leaves.

§ 29.1029 Leaf structure.

The cell development of a leaf as indicated by its porosity. (See Elements of Quality Chart.)

§ 29.1030 Lemon (L).

Yellow.

§ 29.1031 Length.

The linear measurement of cured tobacco leaves from the butt of the midrib to the extreme tip.

§ 29.1032 Lot.

A pile, basket, bulk, or more than one bale, case, hogshead, tierce, package, or other definite package unit.

§ 29.1033 Maturity.

The degree of ripeness. (See Elements of Quality Chart.)

§ 29.1034 Mixed color.

Distinctly different colors of the type mingled together. (See rule 16.)

§ 29.1035 Nested.

Any tobacco which has been loaded, packed, or arranged to conceal foreign matter or tobacco of inferior grade, quality, or condition. Nested includes: (a) Any lot of tobacco which contains foreign matter or damaged, injured, tangled, or other inferior tobacco, any of which cannot be readily detected upon inspection because of the way the lot is packed or arranged; (b) any lot of tied tobacco which contains foreign matter in the inner portions of the hands or which contains foreign matter in the heads under the tie leaves; (c) any lot of tied tobacco in which the leaves on the outside of the hands are placed or arranged to conceal inferior quality leaves on the inside of the hands or which contains wet tobacco or tobacco of lower quality in the heads under the tie leaves; and (d) any lot of tobacco which consists of distinctly different grades, qualities, or conditions and which is stacked or arranged in layers with the same kinds together so that the tobacco in the lower layer or layers is distinctly inferior in grade, quality, or condition from the

tobacco in the top or upper layers. (See rule 24.)

§ 29.1036 No-G.

A designation applied to a lot of tobacco classified as botched, nested, off-type, semicured, firekilled, or smoked; tobacco that is damaged 20 percent or more, abnormally dirty, extremely wet or watered; or tobacco that contains foreign matter or has an odor foreign to the type. (See rule 24.)

§ 29.1037 Oil.

A soft, semifluid constituent of tobacco. (See Elements of Quality Chart.)

§ 29.1038 Offtype.

Tobacco of distinctly different characteristics which cannot be classified as Flue-cured, U.S. Types 11-14. (See rule 24.)

§ 29.1039 Orange (F).

A reddish yellow.

§ 29.1040 Orange Red (FR).

A yellowish red.

§ 29.1041 Order (case).

The state of tobacco with respect to its moisture content.

§ 29.1042 Package.

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

§ 29.1043 Packing.

A lot of tobacco consisting of a number of packages submitted as one definite unit for sampling or inspecting. It is represented to contain the same kind of tobacco and has a common identification number or mark on each package.

§ 29.1044 Prematurity.

A condition of growth and development characteristic of the lower leaves of the tobacco plant. Premature leaves have some appearance of ripeness due to a process of starvation caused by translocation of plant food elements from these leaves to other leaves higher on the stalk.

§ 29.1045 Quality.

A division of a group or the second factor of a grade based on the relative degree of one or more elements of quality.

§ 29.1046 Rank.

Rough, wild, or oversized leaf tobacco. (See rule 18.)

§ 29.1047 Raw.

Tobacco as it appears between the time of harvesting and the beginning of the curing process.

§ 29.1048 Red (R).

A brownish red.

§ 29.1049 Scorched.

A red discoloration which results from excessive heat in the curing process. Any leaf of which 10 percent or more of its surface has been reddened in the curing process may be described as scorched. (See rule 16.)

§ 29.1050 Semicured.

Tobacco in the process of being cured or which is partially but not thoroughly cured. Semicured includes tobacco which contains fat stems, wet butts, swelled stems, frozen tobacco, and tobacco having frozen stems or stems that have not been thoroughly dried in the curing process. (See rule 24.)

§ 29.1051 Side.

A certain phase of quality, color, or length as contrasted with some other phase of quality, color, or length; or any peculiar characteristic of tobacco.

§ 29.1052 Slick (S).

A term used to denote tobacco having a close or tight leaf structure. Any leaf of lemon or orange color of which 20 percent or more of its surface is close or tight may be described as slick. (See rule 17.)

§ 29.1053 Smoked.

Any tobacco affected by smoke or fumes in the curing process. (See rule 24.)

§ 29.1054 Sound.

Free of damage.

§ 29.1055 Special factor.

A symbol or term authorized to be used with specified grades. Tobacco to which a special factor is applied may meet the general specifications but has a peculiar side or characteristic which tends to modify the grade. (See rules 10, 22, and 23.)

§ 29.1056 Steam-dried.

The condition of unfermented tobacco as customarily prepared for storage by means of a redrying machine or other steam-conditioning equipment.

§ 29.1057 Stem.

The midrib or large central vein of a tobacco leaf.

§ 29.1058 Stemmed.

A form of tobacco, including strips and strip scrap, from which the stems or midribs have been removed.

§ 29.1059 Strips.

The sides of a tobacco leaf from which the stem has been removed or a lot of tobacco composed of strips.

§ 29.1060 Sweated.

The condition of tobacco which has passed through one or more fermentations natural to tobacco packed with a normal percentage of moisture. This condition sometimes is described as aged.

§ 29.1061 Sweating.

The condition of tobacco in the process of fermentation.

§ 29.1062 Tobacco.

Tobacco as it appears between the time it is cured and stripped from the stalk, or primed and cured, and the time it enters into the different manufacturing processes. The acts of stemming, sweating, and conditioning are not regarded as manufacturing processes. Tobacco, as used in these standards, does not include manufactured or semimanufactured products, stems, cuttings, clippings, trimmings, siftings, or dust.

§ 29.1063 Tobacco products.

Manufactured tobacco, including cigarettes, cigars, smoking tobacco, chewing tobacco, and snuff, which is subject to Internal Revenue tax.

§ 29.1064 Type.

A division of a class of tobacco having certain common characteristics and closely related grades. Tobacco which has the same characteristics and corresponding qualities, colors, and lengths is classified as one type, regardless of any factors of historical or geographical nature which cannot be determined by an examination of the tobacco.

§ 29.1065 Type 11.

That type of flue-cured tobacco commonly known as Western Flue-cured or Old Belt and Middle Belt Flue-cured, produced principally in the Piedmont sections of Virginia and North Carolina and the district extending eastward to the coastal plains region. That portion of this type known as Old Belt Flue-cured, normally characterized by a heavier body and darker color shade and produced principally in the Piedmont sections of Virginia and North Carolina, may be classified as Type 11a; and that portion of the type known as Middle Belt Flue-cured, normally characterized by a thinner body and lighter color shade and produced principally in a section lying between the Piedmont and coastal plains regions of Virginia and North Carolina, may be classified as Type 11b.

§ 29.1066 Type 12.

That type of flue-cured tobacco commonly known as Eastern Flue-cured or Eastern Carolina Flue-cured, produced principally in the coastal plains section of North Carolina, north of the South River.

§ 29.1067 Type 13.

That type of flue-cured tobacco commonly known as Southeastern Flue-cured or South Carolina Flue-cured, produced principally in the coastal plains section of South Carolina and the southeastern counties of North Carolina, south of the South River.

§ 29.1068 Type 14.

That type of flue-cured tobacco commonly known as Southern Flue-cured, produced principally in the southern section of Georgia, in northern Florida, and to some extent in Alabama.

§ 29.1069 Undried.

The condition of unfermented tobacco which has not been air-dried or steam-dried.

§ 29.1070 Uniformity.

An element of quality which describes the consistency of a lot of tobacco as it is prepared for market. Uniformity is expressed as a percentage in grade specifications. (See rule 13.)

§ 29.1071 Unsound (U).

Damaged under 20 percent. (See rule 22.)

§ 29.1072 Unstemmed.

A form of tobacco, including whole leaf and leaf scrap, from which the stems or midribs have not been removed.

§ 29.1073 Variegated (K).

Any tobacco that does not blend with the normal colors of the type; any leaf of which 20 percent or more of its surface is grayish, mottled, bleached, doty-faced, scalded, or sunbaked; any leaf of which 10 percent or more of its surface has been scorched in the curing process. (See rule 15.)

§ 29.1074 Walnut (D).

A dark brown.

§ 29.1075 Waste.

The portion or portions of the web of tobacco leaves which have been lost or rendered unserviceable for use in tobacco products, including: (a) Portions which have decomposed or largely decomposed by field diseases, field-firing, pole-burning, bulk-burning; and (b) portions which are dead, lifeless, and do not have sufficient strength or stability to hold together in the normal manufacturing process due to excessive injury of any kind.

§ 29.1076 Wet (W).

Any sound tobacco containing excessive moisture to the extent that it is in unsafe or doubtful-keeping order. Wet applies to any tobacco which is not damaged but which is likely to damage if treated in the customary manner. (See rule 23.)

§ 29.1077 Width.

The relative breadth of a tobacco leaf expressed in relation to its length. (See Elements of Quality Chart.)

ELEMENTS OF QUALITY

§ 29.1101 Elements of quality and degrees of each element.

These standardized words or terms are used to describe tobacco quality and to assist in interpreting grade specifications. Tobacco attributes or characteristics which constitute quality are designated as elements of quality. The range within each element is expressed by the use of words or terms designated as degrees. These several degrees are arranged to show their relative value, but the actual value of each degree varies with group.

Elements	Degrees				
Maturity.....	Immature.....	Unripe.....	Mature.....	Ripe.....	Mellow.
Leaf structure.....	Tight.....	Close.....	Firm.....	Open.....	
Body.....	Heavy.....	Fleshy.....	Medium.....	Thin.....	Deep.
Oil.....	Lean.....	Oily.....	Rich.....	Strong.....	
Color intensity.....	Pale.....	Weak.....	Moderate.....	Spready.....	
Width.....	Stringy.....	Narrow.....	Normal.....	(1).....	
Length.....	(2).....	(2).....	(2).....	(2).....	
Uniformity.....	(3).....	(3).....	(3).....	(3).....	
Injury tolerance.....	(3).....	(3).....	(3).....	(3).....	
Waste tolerance.....	(3).....	(3).....	(3).....	(3).....	

¹ Expressed in inches.
² Expressed in percentage.

RULES

§ 29.1106 Rules.

The application of these official standard grades shall be in accordance with the following rules.

§ 29.1107 Rule 1.

Each grade shall be treated as a subdivision of a particular type. When the grade is stated in an inspection certificate, the type also shall be stated.

§ 29.1108 Rule 2.

The determination of a grade shall be based upon a thorough examination of a lot of tobacco or of an official sample of the lot.

§ 29.1109 Rule 3.

In drawing an official sample from a hogshead or other package of tobacco, three or more breaks shall be made at such points and in such manner as the inspector or sampler may find necessary to determine the kinds of tobacco and the percentage of each kind contained in the lot. All breaks shall be made so that the tobacco contained in the center of the package is visible to the sampler. Tobacco shall be drawn from at least three breaks from which a representative sample of not less than six hands shall be selected. The sample shall include tobacco of each different group, quality, color, length, and kind found in the lot in proportion to the quantities of each contained in the lot.

§ 29.1110 Rule 4.

All standard grades must be clean.

§ 29.1111 Rule 5.

The grade assigned to any lot of tobacco shall be a true representation of the tobacco at the time of inspection and certification. If, at any time, it is

found that a lot of tobacco does not comply with the specifications of the grade previously assigned, it shall not thereafter be represented as such grade.

§ 29.1112 Rule 6.

A lot of tobacco on the marginal line between two colors shall be placed in the color with which it best corresponds with respect to body or other associated elements of quality.

§ 29.1113 Rule 7.

Any lot of tobacco which meets the specifications of two grades shall be placed in the higher grade. Any lot of tobacco on the marginal line between two grades shall be placed in the lower grade.

§ 29.1114 Rule 8.

A lot of tobacco meets the specifications of a grade when it is not lower in any degree of any element of quality than the minimum specifications of such grade.

§ 29.1115 Rule 9.

The use of any grade may be restricted by the Director during any marketing season when it is found that the grade is not needed or appears in insufficient volume to justify its use.

§ 29.1116 Rule 10.

Any special factor approved by the Director of the Tobacco Division, Consumer and Marketing Service, may be used after a grademark to show a peculiar side or characteristic of the tobacco which tends to modify the grade.

§ 29.1117 Rule 11.

Interpretations, the use of specifications, and the meaning of terms shall be in accordance with determinations or clarifications made by the Chief of the Standards and Testing Branch and approved by the Director.

§ 29.1118 Rule 12.

In determining the grade of a lot of tobacco, the lot as a whole shall be considered. Minor irregularities which do not affect over 1 percent of the tobacco shall be overlooked.

§ 29.1119 Rule 13.

Degrees of uniformity shall be expressed in terms of percentages. The percentages shall govern the portion of a lot which must meet the specifications of the grade. (These percentages shall not affect limitations established by other rules.) The minor portion must be closely related, but may be of a different group, quality, and color from the major portion.

§ 29.1120 Rule 14.

The application of injury tolerance as an element of quality shall be expressed in terms of a percentage. The appraisal of injury shall be based upon the percentage of affected leaf surface or the degree of injury. In appraising injury, consideration shall be given to the normal characteristics of the group as related to injury.

§ 29.1121 Rule 15.

Any lot of tobacco containing over 20 percent of variegated tobacco other than scorched shall be described as variegated and designated by the color symbol "K," "KL," "KF," or "KV."

§ 29.1122 Rule 16.

Any lot of ripe tobacco which contains 20 percent or more of scorched tobacco shall be designated by the color symbol "KR". Any lot of unripe tobacco which is not greenish or green but which contains 20 percent or more of scorched tobacco or any lot of tobacco which contains 20 percent or more of a color distinctively different from the major color shall be classified as mixed and designated by the color symbol "KM".

[33 F.R. 8721, June 14, 1968]

§ 29.1123 Rule 17.

Any lot of lemon- or orange-colored tobacco containing over 20 percent of slick tobacco shall be designated by the combination symbol "LS" or "FS," respectively.

§ 29.1124 Rule 18.

Rank red and rank green tobacco shall be designated by the combination sym-

bols "RR" and "RG," respectively, in the fifth quality of the B group.

§ 29.1125 Rule 19.

Any lot of mature tobacco in lemon or orange color containing 20 percent or more of greenish tobacco, or any lot which is not green but which contains 20 percent of greenish and green tobacco combined shall be designated by the color symbol "LV" or "FV."

§ 29.1126 Rule 20.

Any lot of tobacco containing 20 percent or more of green tobacco, or any lot which is not crude but contains 20 percent or more of green and crude combined shall be designated by the color symbol "G" in the X and P groups and "GL," "GF," "GR," "GK," "RG," or "GG" in the B group.

§ 29.1127 Rule 21.

Crude tobacco shall not be included in any grade of any color except green, green lemon, green orange, green red, green variegated, gray green, or rank green.

§ 29.1128 Rule 22.

Tobacco damaged under 20 percent but which otherwise meets the specifications of a grade shall be treated as a special factor grade by placing the special factor "U" after the grademark. Tobacco damaged 20 percent or more shall be designated "No-G."

§ 29.1129 Rule 23.

Sound tobacco that is wet or in doubtful-keeping order but which otherwise meets the specifications of a grade shall be treated as a special factor grade by placing the special factor "W" after the grademark. This special factor does not apply to tobacco designated "No-G."

§ 29.1130 Rule 24.

Tobacco shall be designated by the grademark "No-G" when it is dirty, nested, offtype, semicured, firekilled, smoked, damaged 20 percent or more, extremely wet or watered, or when it is botched, contains foreign matter, or has an odor foreign to the type.

GRADES

§ 29.1161 Wrappers (A Group).

This group consists of leaves from the C and B groups. Wrappers are mature to ripe, elastic, have small and blending

fibers, and show a low percentage of injury affecting wrapper yield.

U.S. Grade names, minimum specifications, and tolerances

A1F Choice Quality Orange Wrappers.

Firm leaf structure, fleshy, spready, deep color intensity, rich in oil, 18 inches or over in length, 30 percent of leaves not lower than B3 or C3, 5 percent injury tolerance affecting wrapper yield.

A2F Fine Quality Orange Wrappers.

Firm leaf structure, fleshy, spready, deep color intensity, rich in oil, 18 inches or over in length, 50 percent of leaves not lower than B3 or C3, 10 percent injury tolerance affecting wrapper yield.

[28 F.R. 3638, Apr. 13, 1963, as amended at 33 F.R. 8721, June 14, 1968

§ 29.1162 Leaf (B Group).

This group consists of leaves normally grown at or above the midportion of the stalk. Leaves of the B group have a pointed tip, tend to fold, usually are heavier in body than the other groups, and show little or no ground injury.

U.S. Grade names, minimum specifications, and tolerances

B1L Choice Quality Lemon Leaf.

Ripe, firm leaf structure, medium body, rich in oil, deep color intensity, spready, over 20 inches in length. Uniformity, 90 percent; injury tolerance, 5 percent.

B2L Fine Quality Lemon Leaf.

Ripe, firm leaf structure, medium body, rich in oil, deep color intensity, normal width, over 18 inches in length. Uniformity, 85 percent; injury tolerance, 10 percent.

B3L Good Quality Lemon Leaf.

Ripe, firm leaf structure, medium body, oily, strong color intensity, normal width, over 16 inches in length. Uniformity, 80 percent; injury tolerance, 15 percent.

B4L Fair Quality Lemon Leaf.

Ripe, firm leaf structure, medium body, oily, moderate color intensity, normal width. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste or other badly injured tobacco.

B5L Low Quality Lemon Leaf.

Ripe, firm leaf structure, medium body, lean in oil, weak color intensity, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste or other badly injured tobacco.

U.S. Grade names, minimum specifications, and tolerances

B6L Poor Quality Lemon Leaf.

Ripe, firm leaf structure, medium body, lean in oil, weak color intensity, stringy. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste or other badly injured tobacco.

B1F Choice Quality Orange Leaf.

Ripe, firm leaf structure, fleshy, rich in oil, deep color intensity, spready, over 20 inches in length. Uniformity, 90 percent; injury tolerance, 5 percent.

B2F Fine Quality Orange Leaf.

Ripe, firm leaf structure, fleshy, rich in oil, deep color intensity, normal width, over 18 inches in length. Uniformity, 85 percent; injury tolerance, 10 percent.

B3F Good Quality Orange Leaf.

Ripe, firm leaf structure, fleshy, oily, strong color intensity, normal width, over 16 inches in length. Uniformity, 80 percent; injury tolerance, 15 percent.

B4F Fair Quality Orange Leaf.

Ripe, firm leaf structure, fleshy, oily, moderate color intensity, normal width. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste or other badly injured tobacco.

B5F Low Quality Orange Leaf.

Ripe, firm leaf structure, fleshy, lean in oil, weak color intensity, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste or other badly injured tobacco.

B6F Poor Quality Orange Leaf.

Ripe, firm leaf structure, fleshy, lean in oil, weak color intensity, stringy. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste or other badly injured tobacco.

B1FR Choice Quality Orange Red Leaf.

Ripe, firm leaf structure, fleshy, rich in oil, deep color intensity, spready, over 20 inches in length. Uniformity, 90 percent; injury tolerance, 5 percent.

B2FR Fine Quality Orange Red Leaf.

Ripe, firm leaf structure, fleshy, rich in oil, deep color intensity, normal width, over 18 inches in length. Uniformity, 85 percent; injury tolerance, 10 percent.

B3FR Good Quality Orange Red Leaf.

Ripe, firm leaf structure, fleshy, rich in oil, strong color intensity, normal width, over 16 inches in length. Uniformity, 80 percent; injury tolerance, 15 percent.

<i>U.S. grades</i>	<i>Grade names, minimum specifications, and tolerances</i>	<i>U.S. grades</i>	<i>Grade names, minimum specifications, and tolerances</i>
B4FR	Fair Quality Orange Red Leaf. Ripe, firm leaf structure, fleshy, oily, moderate color intensity, normal width. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste or other badly injured tobacco.	B6K	Poor Quality Variegated Leaf. Ripe, firm leaf structure, fleshy, lean in oil, stringy. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste or other badly injured tobacco.
B5FR	Low Quality Orange Red Leaf. Ripe, firm leaf structure, fleshy, lean in oil, weak color intensity, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste or other badly injured tobacco.	B3KR	Good Quality Variegated Scorched Leaf. Ripe, firm leaf structure, fleshy, oily, normal width, over 16 inches in length. Uniformity, 80 percent; injury tolerance, 15 percent.
B6FR	Poor Quality Orange Red Leaf. Ripe, firm leaf structure, fleshy, lean in oil, weak color intensity, stringy. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste or other badly injured tobacco.	B4KR	Fair Quality Variegated Scorched Leaf. Ripe, firm leaf structure, fleshy body, lean in oil, normal width. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste or other badly injured tobacco.
B3R	Good Quality Red Leaf. Ripe, firm leaf structure, heavy, rich in oil, strong color intensity, normal width, over 16 inches in length. Uniformity, 80 percent; injury tolerance, 15 percent.	B5KR	Low Quality Variegated Scorched Leaf. Ripe, firm leaf structure, fleshy body, lean in oil, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste or other badly injured tobacco.
B4R	Fair Quality Red Leaf. Ripe, firm leaf structure, heavy, oily, moderate color intensity, normal width. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste or other badly injured tobacco.	B3LV	Good Quality Lemon Greenish Leaf. Mature, firm leaf structure, medium body, oily, normal width, over 16 inches in length. Uniformity, 80 percent; injury tolerance, 15 percent.
B5R	Low Quality Red Leaf. Ripe, firm leaf structure, heavy, lean in oil, weak color intensity, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste or other badly injured tobacco.	B4LV	Fair Quality Lemon Greenish Leaf. Mature, firm leaf structure, medium body, oily, normal width. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste or other badly injured tobacco.
B6R	Poor Quality Red Leaf. Ripe, firm leaf structure, heavy, lean in oil, weak color intensity, stringy. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste or other badly injured tobacco.	B5LV	Low Quality Lemon Greenish Leaf. Mature, firm leaf structure, medium body, lean in oil, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste or other badly injured tobacco.
B3K	Good Quality Variegated Leaf: Ripe, firm leaf structure, fleshy, oily, normal width, over 16 inches in length. Uniformity 80 percent; injury tolerance, 15 percent.	B3FV	Good Quality Orange Greenish Leaf. Mature, firm leaf structure, fleshy, oily, normal width, over 16 inches in length. Uniformity, 80 percent; injury tolerance, 15 percent.
B4K	Fair Quality Variegated Leaf. Ripe, firm leaf structure, fleshy, lean in oil, normal width. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste or other badly injured tobacco.	B4FV	Fair Quality Orange Greenish Leaf. Mature, firm leaf structure, fleshy, oily, normal width. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste or other badly injured tobacco.
B5K	Low Quality Variegated Leaf. Ripe, firm leaf structure, fleshy, lean in oil, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste or other badly injured tobacco.	B5FV	Low Quality Orange Greenish Leaf. Mature, firm leaf structure, fleshy, lean in oil, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste or other badly injured tobacco.

<i>U.S. grades</i>	<i>Grade names, minimum specifications, and tolerances</i>	<i>U.S. grades</i>	<i>Grade names, minimum specifications, and tolerances</i>
B4GL	Fair Quality Green Lemon Leaf. Immature, close leaf structure, medium body, oily, normal width. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste or other badly injured tobacco.	B4GK	Fair Quality Green Variegated Leaf. Immature, close leaf structure, heavy, normal width. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste or other badly injured tobacco.
B5GL	Low Quality Green Lemon Leaf. Immature, tight leaf structure, medium body, lean in oil, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste or other badly injured tobacco.	B5GK	Low Quality Green Variegated Leaf. Immature, tight leaf structure, heavy, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste or other badly injured tobacco.
B6GL	Poor Quality Green Lemon Leaf. Immature, tight leaf structure, medium body, lean in oil, stringy. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste or other badly injured tobacco.	B6GK	Poor Quality Green Variegated Leaf. Immature, tight leaf structure, heavy, stringy. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste or other badly injured tobacco.
B4GF	Fair Quality Green Orange Leaf. Immature, close leaf structure, fleshy, oily, normal width. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste or other badly injured tobacco.	B3KL	Good Quality Variegated Lemon Leaf. Unripe, close leaf structure, heavy, normal width, over 16 inches in length. Uniformity, 80 percent; injury tolerance, 15 percent.
B5GF	Low Quality Green Orange Leaf. Immature, tight leaf structure, fleshy, lean in oil, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste or other badly injured tobacco.	B4KL	Fair Quality Variegated Lemon Leaf. Unripe, close leaf structure, heavy, normal width. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste or other badly injured tobacco.
B6GF	Poor Quality Green Orange Leaf. Immature, tight leaf structure, fleshy, lean in oil, stringy. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste or other badly injured tobacco.	B5KL	Low Quality Variegated Lemon Leaf. Unripe, tight leaf structure, heavy, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste or other badly injured tobacco.
B4GR	Fair Quality Green Red Leaf. Immature, close leaf structure, heavy, oily, normal width. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste or other badly injured tobacco.	B6KL	Poor Quality Variegated Lemon Leaf. Unripe, tight leaf structure, heavy, stringy. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste or other badly injured tobacco.
B5GR	Low Quality Green Red Leaf. Immature, tight leaf structure, heavy, lean in oil, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste or other badly injured tobacco.	B3KF	Good Quality Variegated Orange Leaf. Unripe, close leaf structure, heavy, normal width, over 16 inches in length. Uniformity, 80 percent; injury tolerance, 15 percent.
B6GR	Poor Quality Green Red Leaf. Immature, tight leaf structure, heavy, lean in oil, stringy. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste or other badly injured tobacco.	B4KF	Fair Quality Variegated Orange Leaf. Unripe, close leaf structure, heavy, normal width. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste or other badly injured tobacco.
		B5KF	Low Quality Variegated Orange Leaf. Unripe, tight leaf structure, heavy, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste or other badly injured tobacco.
		B6KF	Poor Quality Variegated Orange Leaf. Unripe, tight leaf structure, heavy, stringy. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste or other badly injured tobacco.

<i>U.S. grades</i>	<i>Grade names, minimum specifications, and tolerances</i>	<i>U.S. grades</i>	<i>Grade names, minimum specifications, and tolerances</i>
B3KM	Good Quality Variegated Mixed Leaf. Unripe, close leaf structure, heavy, normal width, over 16 inches in length. Uniformity, 80 percent; injury tolerance, 15 percent.	B4FS	Fair Quality Orange Slick Leaf. Unripe, close leaf structure, fleshy, normal width. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste or other badly injured tobacco.
B4KM	Fair Quality Variegated Mixed Leaf. Unripe, close leaf structure, heavy, normal width. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste or other badly injured tobacco.	B5FS	Low Quality Orange Slick Leaf. Unripe, tight leaf structure, fleshy, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste or other badly injured tobacco.
B5KM	Low Quality Variegated Mixed Leaf. Unripe, tight leaf structure, heavy, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste or other badly injured tobacco.	B6FS	Poor Quality Orange Slick Leaf. Unripe, tight leaf structure, fleshy, stringy. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste or other badly injured tobacco.
B6KM	Poor Quality Variegated Mixed Leaf. Unripe, tight leaf structure, heavy, stringy. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste or other badly injured tobacco.	B5RR	Low Quality Rank Red Leaf. Unripe, tight leaf structure, heavy, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste or other badly injured tobacco.
B4KV	Fair Quality Variegated Greenish Leaf. Unripe, firm leaf structure, medium body, normal width. Uniformity, 70 percent; tolerance, 25 percent waste.	B5RG	Low Quality Rank Green Leaf. Immature, tight leaf structure, heavy, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste or other badly injured tobacco.
B5KV	Low Quality Variegated Greenish Leaf. Unripe, firm leaf structure, medium body, narrow. Uniformity, 70 percent; tolerance, 30 percent waste.	B4GG	Fair Quality Gray Green Leaf. Immature, tight leaf structure, heavy, normal width. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste or other badly injured tobacco.
B6KV	Poor Quality Variegated Greenish Leaf. Unripe, firm leaf structure, medium body, stringy. Uniformity, 70 percent; tolerance, 40 percent waste.	B5GG	Low Quality Gray Green Leaf. Immature, tight leaf structure, heavy, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste or other badly injured tobacco.
B3LS	Good Quality Lemon Slick Leaf. Unripe, close leaf structure, medium body, normal width, over 16 inches in length. Uniformity, 80 percent; injury tolerance, 15 percent.		
B4LS	Fair Quality Lemon Slick Leaf. Unripe, close leaf structure, medium body, normal width. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste or other badly injured tobacco.		
B5LS	Low Quality Lemon Slick Leaf. Unripe, tight leaf structure, medium body, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste or other badly injured tobacco.		
B6LS	Poor Quality Lemon Slick Leaf. Unripe, tight leaf structure, medium body, stringy. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste or other badly injured tobacco.		
B3FS	Good Quality Orange Slick Leaf. Unripe, close leaf structure, fleshy, normal width, over 16 inches in length. Uniformity, 80 percent; injury tolerance, 15 percent.		

[28 F.R. 3642, Apr. 13, 1963; 28 F.R. 5411, June 1, 1963, as amended at 29 F.R. 7709, June 17, 1964; 30 F.R. 6573, May 13, 1965; 32 F.R. 5979, Apr. 14, 1967; 33 F.R. 8721, June 14, 1968]

§ 29.1163 Smoking Leaf (H Group).

This group consists of leaves normally grown at or above the midportion of the stalk. Leaves of the H group show a high degree of maturity, more open leaf structure in relation to the B Group, and a material amount of injury characteristic of very ripe leaf tobacco.

<i>U.S. grades</i>	<i>Grade names, minimum specifications, and tolerances</i>
H1L	Choice Quality Lemon Smoking Leaf. Mellow, open leaf structure, medium body, lean in oil, deep color intensity, spready, over 20 inches in length. Uniformity, 90 percent; injury tolerance, 5 percent.

<i>U.S. grades</i>	<i>Grade names, minimum specifications, and tolerances</i>	<i>U.S. grades</i>	<i>Grade names, minimum specifications, and tolerances</i>
H2L	Fine Quality Lemon Smoking Leaf. Mellow, open leaf structure, medium body, lean in oil, deep color intensity, normal width, over 18 inches in length. Uniformity, 85 percent; injury tolerance, 10 percent.	H6F	Poor Quality Orange Smoking Leaf. Mellow, open leaf structure, medium body, lean in oil, weak color intensity, stringy. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste or other badly injured tobacco.
H3L	Good Quality Lemon Smoking Leaf. Mellow, open leaf structure, medium body, lean in oil, strong color intensity, normal width, over 16 inches in length. Uniformity, 80 percent; injury tolerance, 15 percent.	H3FR	Good Quality Orange Red Smoking Leaf. Mellow, open leaf structure, medium body, lean in oil, strong color intensity, normal width, over 16 inches in length. Uniformity, 80 percent; injury tolerance, 15 percent.
H4L	Fair Quality Lemon Smoking Leaf. Mellow, open leaf structure, medium body, lean in oil, moderate color intensity, normal width. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste or other badly injured tobacco.	H4FR	Fair Quality Orange Red Smoking Leaf. Mellow, open leaf structure, medium body, lean in oil, moderate color intensity, normal width. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste or other badly injured tobacco.
H5L	Low Quality Lemon Smoking Leaf. Mellow, open leaf structure, medium body, lean in oil, weak color intensity, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste or other badly injured tobacco.	H5FR	Low Quality Orange Red Smoking Leaf. Mellow, open leaf structure, medium body, lean in oil, weak color intensity, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste or other badly injured tobacco.
H6L	Poor Quality Lemon Smoking Leaf. Mellow, open leaf structure, medium body, lean in oil, weak color intensity, stringy. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste or other badly injured tobacco.	H6FR	Poor Quality Orange Red Smoking Leaf. Mellow, open leaf structure, medium body, lean in oil, weak color intensity, stringy. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste or other badly injured tobacco.
H1F	Choice Quality Orange Smoking Leaf. Mellow, open leaf structure, medium body, lean in oil, deep color intensity, spready, over 20 inches in length. Uniformity, 90 percent; injury tolerance, 5 percent.	H4K	Fair Quality Variegated Smoking Leaf. Mellow, open leaf structure, medium body, lean in oil, moderate color intensity, normal width. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste or other badly injured tobacco.
H2F	Fine Quality Orange Smoking Leaf. Mellow, open leaf structure, medium body, lean in oil, deep color intensity, normal width, over 18 inches in length. Uniformity, 85 percent; injury tolerance, 10 percent.	H5K	Low Quality Variegated Smoking Leaf.. Mellow, open leaf structure, medium body, lean in oil, weak color intensity, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste or other badly injured tobacco.
H3F	Good Quality Orange Smoking Leaf. Mellow, open leaf structure, medium body, lean in oil, strong color intensity, normal width, over 16 inches in length. Uniformity, 80 percent; injury tolerance, 15 percent.	H6K	Poor Quality Variegated Smoking Leaf. Mellow, open leaf structure, medium body, lean in oil, weak color intensity, stringy. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste or other badly injured tobacco.
H4F	Fair Quality Orange Smoking Leaf. Mellow, open leaf structure, medium body, lean in oil, moderate color intensity, normal width. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste or other badly injured tobacco.		
H5F	Low Quality Orange Smoking Leaf. Mellow, open leaf structure, medium body, lean in oil, weak color intensity, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste or other badly injured tobacco.		

[28 F.R. 3644, Apr. 13, 1963, as amended at 30 F.R. 6573, May 13, 1965; 33 F.R. 8721, June 14, 1968]

§ 29.1164 Cutters (C Group).

This group consists of leaves normally grown at or just below the midportion of the stalk. Leaves of the C group have a tendency to roll concealing the stem or midrib. Cutters usually have a rounded tip, are thin to medium in body, and show some ground injury.

U.S. Grade names, minimum specifications, and tolerances

- C1L** Choice Quality Lemon Cutters.
Ripe, open leaf structure, thin, oily, deep color intensity, spready, over 20 inches in length. Uniformity, 90 percent; injury tolerance, 5 percent.
- C2L** Fine Quality Lemon Cutters.
Ripe, open leaf structure, thin, oily, deep color intensity, spready, over 20 inches in length. Uniformity, 85 percent; injury tolerance, 10 percent.
- C3L** Good Quality Lemon Cutters.
Ripe, open leaf structure, thin, oily, strong color intensity, spready, over 18 inches in length. Uniformity, 80 percent; injury tolerance, 15 percent.
- C4L** Fair Quality Lemon Cutters.
Ripe, open leaf structure, thin, lean in oil, moderate color intensity, normal width, over 16 inches in length. Uniformity, 70 percent; injury tolerance, 20 percent, of which not over 5 percent may be waste or other badly injured tobacco.
- C5L** Low Quality Lemon Cutters.
Ripe, open leaf structure, thin, lean in oil, weak color intensity, normal width, over 16 inches in length. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste or other badly injured tobacco.
- C1F** Choice Quality Orange Cutters.
Ripe, open leaf structure, medium body, oily, deep color intensity, spready, over 20 inches in length. Uniformity, 90 percent; injury tolerance, 5 percent.
- C2F** Fine Quality Orange Cutters.
Ripe, open leaf structure, medium body, oily, deep color intensity, spready, over 20 inches in length. Uniformity, 85 percent; injury tolerance, 10 percent.
- C3F** Good Quality Orange Cutters.
Ripe, open leaf structure, medium body, oily, strong color intensity, spready, over 18 inches in length. Uniformity, 80 percent; injury tolerance, 15 percent.

U.S. Grade names, minimum specifications, and tolerances

- C4F** Fair Quality Orange Cutters.
Ripe, open leaf structure, medium body, lean in oil, moderate color intensity, normal width, over 16 inches in length. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste or other badly injured tobacco.
- C5F** Low Quality Orange Cutters.
Ripe, open leaf structure, medium body, lean in oil, weak color intensity, normal width, over 16 inches in length. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste or other badly injured tobacco.
- C4K** Fair Quality Variegated Cutters.
Ripe, open leaf structure, medium body, lean in oil, moderate color intensity, normal width, over 16 inches in length. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste or other badly injured tobacco.
- C4KR** Fair Quality Variegated Scorched Cutters.
Ripe, open leaf structure, medium body, lean in oil, moderate color intensity, normal width, over 16 inches in length. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste or other badly injured tobacco.
- C4LV** Fair Quality Lemon Greenish Cutters.
Mature, open leaf structure, thin, lean in oil, normal width, over 16 inches in length. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste or other badly injured tobacco.
- C4FV** Fair Quality Orange Greenish Cutters.
Mature, open leaf structure, medium body, lean in oil, normal width, over 16 inches in length. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste or other badly injured tobacco.
- C4KL** Fair Quality Variegated Lemon Cutters.
Unripe, close leaf structure, medium body, normal width, over 16 inches in length. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste or other badly injured tobacco.
- C4KF** Fair Quality Variegated Orange Cutters.
Unripe, close leaf structure, medium body, normal width, over 16 inches in length. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste or other badly injured tobacco.

U.S. Grade names, minimum specifications, and tolerances

- O4KM** Fair Quality Variegated Mixed Cutters.
Unripe, close leaf structure, medium body, normal width, over 18 inches in length. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste or other badly injured tobacco.
- C4LS** Fair Quality Lemon Slick Cutters.
Unripe, close leaf structure, thin, normal width, over 18 inches in length. Uniformity, 70 percent; injury tolerance 20 percent; of which not over 5 percent may be waste or other badly injured tobacco.
- C5LS** Low Quality Lemon Slick Cutters.
Unripe, close leaf structure, thin, normal width, over 18 inches in length. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste or other badly injured tobacco.

[28 F.R. 3638, Apr. 13, 1963; 28 F.R. 5411, June 1, 1963, as amended at 33 F.R. 8721, June 14, 1968]

§ 29.1165 Lugs (X Group).

This group consists of leaves normally grown near the bottom of the stalk. Leaves of the X group usually have a blunt tip and open face; they show some ground injury characteristic of the group.

U.S. Grade names, minimum specifications, and tolerances

- X1L** Choice Quality Lemon Lugs.
Ripe, open leaf structure, thin, oily, strong color intensity. Uniformity, 80 percent; injury tolerance 20 percent, of which not over 5 percent may be waste or other badly injured tobacco.
- X2L** Fine Quality Lemon Lugs.
Ripe, open leaf structure, thin, oily, strong color intensity. Uniformity, 75 percent; injury tolerance 25 percent, of which not over 10 percent may be waste or other badly injured tobacco.
- X3L** Good Quality Lemon Lugs.
Ripe, open leaf structure, thin, lean in oil, moderate color intensity. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste or other badly injured tobacco.
- X4L** Fair Quality Lemon Lugs.
Ripe, open leaf structure, thin, lean in oil, weak color intensity. Uniformity, 70 percent; tolerance, 30 percent waste.

U.S. Grade names, minimum specifications, and tolerances

- X5L** Low Quality Lemon Lugs.
Ripe, open leaf structure, thin, lean in oil, pale color intensity. Uniformity, 70 percent; tolerance, 40 percent waste.
- X1F** Choice Quality Orange Lugs.
Ripe, open leaf structure, medium body, oily, strong color intensity. Uniformity, 80 percent; injury tolerance 20 percent, of which not over 5 percent may be waste or other badly injured tobacco.
- X2F** Fine Quality Orange Lugs.
Ripe, open leaf structure, medium body, oily, strong color intensity. Uniformity, 75 percent; injury tolerance 25 percent, of which not over 10 percent may be waste or other badly injured tobacco.
- X3F** Good Quality Orange Lugs.
Ripe, open leaf structure, medium body, lean in oil, moderate color intensity. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste or other badly injured tobacco.
- X4F** Fair Quality Orange Lugs.
Ripe, open leaf structure, medium body, lean in oil, weak color intensity. Uniformity, 70 percent; tolerance, 30 percent waste.
- X5F** Low Quality Orange Lugs.
Ripe, open leaf structure, medium body, lean in oil, pale color intensity. Uniformity, 70 percent; tolerance, 40 percent waste.
- X4KB** Fair Quality Variegated Scorched Lugs.
Ripe, open leaf structure, medium body, lean in oil, weak color intensity. Uniformity, 70 percent; tolerance, 30 percent waste.
- X3LV** Good Quality Lemon Greenish Lugs.
Mature, open leaf structure, thin, lean in oil. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste or other badly injured tobacco.
- X4LV** Fair Quality Lemon Greenish Lugs.
Mature, open leaf structure, thin, lean in oil. Uniformity, 70 percent; tolerance, 30 percent waste.
- X3FV** Good Quality Orange Greenish Lugs.
Mature, open leaf structure, medium body, lean in oil. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste or other badly injured tobacco.
- X4FV** Fair Quality Orange Greenish Lugs.
Mature, open leaf structure, medium body, lean in oil. Uniformity, 70 percent; tolerance, 30 percent waste.

U.S. grades *Grade names, minimum specifications, and tolerances*

- X4G** **Fair Quality Green Lugs.**
Immature, firm leaf structure, medium body, lean in oil. Uniformity, 70 percent; tolerance, 30 percent waste.
- X5G** **Low Quality Green Lugs.**
Immature, firm leaf structure, medium body, lean in oil. Uniformity, 70 percent; tolerance, 40 percent waste.
- X4KL** **Fair Quality Variegated Lemon Lugs.**
Unripe, close leaf structure, thin. Uniformity, 70 percent; tolerance, 30 percent waste.
- X4KF** **Fair Quality Variegated Orange Lugs.**
Unripe, close leaf structure, medium body. Uniformity, 70 percent; tolerance, 30 percent waste.
- X4KV** **Fair Quality Variegated Greenish Lugs.**
Unripe, firm leaf structure, medium body. Uniformity, 70 percent; tolerance, 30 percent waste.
- X3KM** **Good Quality Variegated Mixed Lugs.**
Unripe, close leaf structure, medium body. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste or other badly injured tobacco.
- X4KM** **Fair Quality Variegated Mixed Lugs.**
Unripe, close leaf structure, medium body. Uniformity, 70 percent; tolerance, 30 percent waste.
- X4GK** **Fair Quality Green Variegated Lugs.**
Immature, close leaf structure, medium body. Uniformity, 70 percent; tolerance, 30 percent waste.
- X3LS** **Good Quality Lemon Slick Lugs.**
Unripe, close leaf structure, thin. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste or other badly injured tobacco.
- X4LS** **Fair Quality Lemon Slick Lugs.**
Unripe, close leaf structure, thin. Uniformity, 70 percent; tolerance, 30 percent waste.
- X3FS** **Good Quality Orange Slick Lugs.**
Unripe, close leaf structure, medium body. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste or other badly injured tobacco.
- X4FS** **Fair Quality Orange Slick Lugs.**
Unripe, close leaf structure, medium body. Uniformity, 70 percent; tolerance, 30 percent waste.

[28 F.R. 3645, Apr. 13, 1963, as amended at 30 F.R. 6573, May 13, 1965; 33 F.R. 8721, June 14, 1968]

§ 29.1166 Primings (P Group).

This group consists of round-tipped leaves from the lowest portion of the stalk. Leaves of the P group ripen prematurely as a result of starvation and

show a material amount of injury characteristic of leaves grown close to the ground.

U.S. grades *Grade names, minimum specifications, and tolerances*

- P2L** **Fine Quality Lemon Primings.**
Prematurely ripe, open leaf structure, thin, oily, moderate color intensity. Uniformity, 75 percent; injury tolerance 25 percent, of which not over 10 percent may be waste or other badly injured tobacco.
- P3L** **Good Quality Lemon Primings.**
Prematurely ripe, open leaf structure, thin, lean in oil, weak color intensity. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste or other badly injured tobacco.
- P4L** **Fair Quality Lemon Primings.**
Prematurely ripe, open leaf structure, thin, lean in oil, pale color intensity. Uniformity, 70 percent; tolerance, 30 percent waste.
- P5L** **Low Quality Lemon Primings.**
Prematurely ripe, open leaf structure, thin, lean in oil, pale color intensity. Uniformity, 70 percent; tolerance, 40 percent waste.
- P2F** **Fine Quality Orange Primings.**
Prematurely ripe, open leaf structure, medium body, oily, moderate color intensity. Uniformity, 75 percent; injury tolerance 25 percent, of which not over 10 percent may be waste or other badly injured tobacco.
- P3F** **Good Quality Orange Primings.**
Prematurely ripe, open leaf structure, medium body, lean in oil, weak color intensity. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste or other badly injured tobacco.
- P4F** **Fair Quality Orange Primings.**
Prematurely ripe, open leaf structure, medium body, lean in oil, pale color intensity. Uniformity, 70 percent; tolerance, 30 percent waste.
- P5F** **Low Quality Orange Primings.**
Prematurely ripe, open leaf structure, medium body, lean in oil, pale color intensity. Uniformity, 70 percent; tolerance, 40 percent waste.
- P4G** **Fair Quality Green Primings.**
Immature, firm leaf structure, medium body, lean in oil, weak color intensity. Uniformity, 70 percent; tolerance, 30 percent waste.
- P5G** **Low Quality Green Primings.**
Immature, firm leaf structure, medium body, lean in oil, weak color intensity. Uniformity, 70 percent; tolerance, 40 percent waste.

§ 29.1167 Nondescript (N Group).

Extremely common tobacco which does not meet the minimum specifications or which exceeds the tolerance of the low-

est grade of any other group except Scrap.

U.S. Grade names, minimum specifications, and tolerances

N1L Best Nondescript from the P Group. Tolerance: 60 percent waste.

N1XL Best Nondescript from the X Group. Tolerance: 60 percent waste.

N1K Best Nondescript from the H Group. Tolerance: 60 percent injury or

N1F Best, Medium-bodied, Medium-colored Nondescript from the B Group. Tolerance: 60 percent injury or

waste.

N1R Best, Heavy, Dark-colored Nondescript from the B Group. Tolerance: 60 percent crude or

waste.

N1GL Best, Thin, Crude Green Nondescript from the P and X Groups. Tolerance: 60 percent injury or

waste.

N1GF Best, Medium-bodied, Medium-colored, Crude Green Nondescript from the B Group. Tolerance: 60 percent crude, injury, or

waste.

N1GR Best, Heavy, Dark-colored, Crude Green Nondescript from the B Group. Tolerance: 60 percent crude, injury, or

waste.

N1GG Best, Crude, Gray Green Nondescript from the B Group. Tolerance: 60 percent crude, injury, or

waste.

N2 Poorest Nondescript

Nondescript of any group or color; over 60 percent crude, injury, or waste.

[28 F.R. 3645, Apr. 13, 1963, as amended at 29 F.R. 7709, June 17, 1964; 30 F.R. 6573, May 13, 1965]

§ 29.1168 Scrap (S Group).

A byproduct of stemmed and unstemmed tobacco. Scrap accumulates from handling tobacco in farm buildings, warehouses, packing and conditioning plants, and stemmeries.

U.S. Grade names and specifications

S Scrap.

Loose, tangled, whole, or broken unstemmed leaves, or the web portions of tobacco leaves reduced to scrap by any process.

SUMMARY OF STANDARD GRADES

§ 29.1181 Summary of standard grades.

2 Grades of Wrappers

A1F **A2F**

26 Grades of Leaf

B1L	B2F	B3FR	B5R
B2L	B3F	B4FR	B6R
B3L	B4F	B5FR	B3K
B4L	B5F	B6FR	B4K
B5L	B6F	B3R	B5K
B6L	B1FR	B4R	B6K
B1F	B2FR		

19 Grades of Smoking Leaf

H1L	H6L	H5F	H6FR
H2L	H1F	H6F	H4K
H3L	H2F	H3FR	H5K
H4L	H3F	H4FR	H6K
H5L	H4F	H5FR	

11 Grades of Cutters

C1L	C4L	C2F	C5F
C2L	C5L	C3F	C4K
C3L	C1F	C4F	

10 Grades of Lugs

X1L	X4L	X2F	X4F
X2L	X5L	X3F	X5F
X3L	X1F		

8 Grades of Primings

P2L	P4L	P2F	P4F
P3L	P5L	P3F	P5F

12 Grades of Greenish

B3LV	B3FV	C4LV	X4LV
B4LV	B4FV	C4FV	X3FV
B5LV	B5FV	X3LV	X4FV

16 Grades of Variegated

B3KL	B3KF	B4KV	C4KF
B4KL	B4KF	B5KV	X4KL
B5KL	B5KF	B6KV	X4KF
B6KL	B6KF	C4KL	X4KV

14 Grades of Stick

B3LS	B3FS	C4LS	X4LS
B4LS	B4FS	C5LS	X3FS
B5LS	B5FS	X3LS	X4FS
B6LS	B6FS		

19 Grades of Green

B4GL	B6GF	B5GK	X5G
B5GL	B4GR	B6GK	X4GK
B6GL	B5GR	B4GG	P4G
B4GF	B6GR	B5GG	P5G
B5GF	B4GK	X4G	

7 Grades of Variegated Mixed

B3KM	B5KM	C4KM	X4KM
B4KM	B6KM	X3KM	

5 Grades of Variegated Scorched

B3KR	B5KR	C4KR	X4KR
B4KR			

2 Grades of Rank

B5RR **B5RG**

10 Grades of Nondescript

N1L	N1F	N1GF	N1GG
N1XL	N1R	N1GR	N2
N1K	N1GL		

1 Grade of Scrap

S

Special factors "U" (unsound) and "W" (doubtful-keeping order) may be applied to all grades. Tobacco not covered by the standard grades is designated "No-G."

[28 F.R. 3646, Apr. 13, 1963, as amended at 29 F.R. 7709, June 17, 1964; 30 F.R. 6573, May 13, 1965; 32 F.R. 5979, Apr. 14, 1967; 33 F.R. 8721, June 14, 1968]

KEY TO STANDARD GRADEMARKS

§ 29.1225 Key to standard grademarks.

Groups

- | | |
|-----------------|----------------|
| A—Wrappers. | X—Lugs. |
| B—Leaf. | P—Primings. |
| H—Smoking Leaf. | N—Nondescript. |
| C—Cutters. | S—Scrap. |

Qualities

- | | |
|-----------|---------|
| 1—Choice. | 4—Fair. |
| 2—Fine. | 5—Low. |
| 3—Good. | 6—Poor. |

Color Symbols

- | | |
|----------------------------|-------------------------|
| L—Lemon. | GF—Green orange. |
| F—Orange. | GR—Green red. |
| FR—Orange red. | GK—Green
variegated. |
| R—Red. | GG—Gray green. |
| K—Variegated. | KL—Variegated
lemon. |
| KR—Variegated
scorched. | |

Color Symbols—Continued

- | | |
|------------------------|----------------------------|
| G—Green. | KF—Variegated
orange. |
| LV—Lemon
greenish. | KV—Variegated
greenish. |
| FV—Orange
greenish. | KM—Variegated
mixed. |
| GL—Green lemon. | |

Combination Symbols

- | | |
|------------------|----------------|
| LS—Lemon slick. | RG—Rank green. |
| FS—Orange slick. | XL—Lug side. |
| RR—Rank red. | |

[28 F.R. 3646, Apr. 13, 1963, as amended at 29 F.R. 7709, June 17, 1964; 33 F.R. 8721, June 14, 1968]

OFFICIAL STANDARD GRADES FOR VIRGINIA FIRE-CURED TOBACCO (U.S. TYPE 21)

AUTHORITY: The provisions of §§ 29.2251 to 29.2481 issued under the Tobacco Inspection Act (49 Stat. 731; 7 U.S.C. 511 et seq.).

SOURCE: The provisions of §§ 29.2251 to 29.2481 appear at 37 F.R. 13521, July 11, 1972, unless otherwise noted.

DEFINITIONS

§ 29.2251 Definitions.

As used in these standards, the words and phrases hereinafter defined shall have the indicated meanings so assigned.

§ 29.2252 Air-dried.

The condition of unfermented tobacco as customarily prepared for storage under natural atmospheric conditions.

§ 29.2253 Body.

The thickness and density of a leaf or the weight per unit of surface. (See chart, § 29.2351.)

§ 29.2254 Brown colors.

A group of colors ranging from a reddish brown to yellowish brown. These colors vary from low to medium saturation and from very low to medium brilliance. As used in these standards, the range is expressed as light brown (L), medium brown (F), and dark brown (D).

§ 29.2255 Class.

A major division of tobacco based on method of cure or principal usage.

§ 29.2256 Clean.

Tobacco is described as clean when it contains only a normal amount of sand or soil particles. Leaves grown on the lower portion of the stalk normally contain more dirt or sand than those from higher stalk positions. (See rule 4, § 29.2395.)

§ 29.2257 Color.

The third factor of a grade based on the relative hues, saturation or chroma, and color values common to the type.

§ 29.2258 Color intensity.

The varying degree of saturation or chroma. Color intensity as applied to tobacco describes the strength or weakness of a specific color or hue. It is applicable to brown colors. (See chart, § 29.2351.)

§ 29.2259 Color symbols.

As applied to this type, color symbols are L—light brown, F—medium brown, D—dark brown, M—mixed or variegated, and G—green.

§ 29.2260 Condition.

The state of tobacco which results from the method of preparation or from the degree of fermentation. Words used to describe the condition of tobacco are undried, air-dried, steam-dried, sweating, sweated, and aged.

§ 29.2261 Crude.

A subdegree of maturity. Crude leaves are usually hard and slick as a result of extreme immaturity. A similar condition

may result from fire-kill, sunburn, or sunscald. Any leaf which is crude to the extent of 20 percent or more of its surface may be described as crude. (See rule 19, § 29.2410.)

§ 29.2262 Cured.

Tobacco dried of its sap by either natural or artificial processes.

§ 29.2263 Damage.

The effect of mold, must, rot, black rot, or other fungous or bacterial diseases which attack tobacco in its cured state. Tobacco having the odor of mold, must, or rot is considered damaged. (See rule 20, § 29.2411.)

§ 29.2264 Dirty.

The state of tobacco containing an abnormal amount of dirt or sand, or tobacco to which additional quantities of dirt or sand have been added. (See rule 22, § 29.2413.)

§ 29.2265 Elasticity.

The flexible, springy nature of the tobacco leaf to recover approximately its original size and shape after it has been stretched. (See chart, § 29.2351.)

§ 29.2266 Elements of quality.

Physical characteristics used to determine the quality of tobacco. Words selected to describe degrees within each element are shown in the chart in § 29.2351.

§ 29.2267 Fiber.

The term applied to the veins in a tobacco leaf. The large central vein is called the midrib or stem. The smaller lateral and cross veins are considered from the standpoint of size and color.

§ 29.2268 Finish.

The reflectance factor in color perception. Finish indicates the sheen or shine of the surface of a tobacco leaf. (See chart, § 29.2351.)

§ 29.2269 Fire-cured.

Tobacco cured under artificial atmospheric conditions by the use of open fires from which the smoke and fumes of burning wood are partly absorbed by the tobacco.

§ 29.2270 Foreign matter.

Any extraneous substance or material such as stalks, suckers, straw, strings,

rubber bands, and abnormal amounts of dirt or sand. (See rule 22, § 29.2413.)

§ 29.2271 Form.

The stage of preparation of tobacco such as unstemmed or stemmed.

§ 29.2272 Grade.

A subdivision of a type according to group, quality, and color.

§ 29.2273 Grademark.

A grademark normally consists of three symbols which indicate group, quality, and color. A letter is used to indicate group, a number to indicate quality, and a letter or letters to indicate color. For example, B3D means Heavy Leaf, good quality, and dark-brown color.

§ 29.2274 Green (G).

A term applied to green-colored tobacco. Any leaf which has a green color affecting 20 percent or more of its surface may be described as green. (See rule 18, § 29.2409.)

§ 29.2275 Group.

A division of a type covering closely related grades based on certain characteristics which are usually related to stalk position, body, or the general quality of the tobacco. Groups in this type are Wrappers (A), Heavy Leaf (B), Thin Leaf (C), Lugs (X), Nondescript (N), and Scrap (S).

§ 29.2276 Injury.

Hurt or impairment from any cause except the fungous or bacterial diseases which attack tobacco in its cured state. (See rule 16, § 29.2407.)

§ 29.2277 Leaf scrap.

A byproduct of unstemmed tobacco. Leaf scrap results from handling unstemmed tobacco and consists of tangled whole or broken leaves.

§ 29.2278 Leaf structure.

The cell development of a leaf as indicated by its porosity. (See chart, § 29.2351.)

§ 29.2279 Length.

The linear measurement of cured tobacco leaves from the butt of the midrib to the extreme tip.

§ 29.2280 Lot.

A pile, basket, bulk, or more than one bale, case, hogshead, tierce, package, or other definite package unit.

§ 29.2281 Maturity.

The degree of ripeness. (See chart, § 29.2351.)

§ 29.2282 Mixed color or variegated (M).

Distinctly different colors of the type mingled together, or any leaf of which 20 percent or more of its surface is off brown, grayish, mottled, or bleached and does not blend with the normal colors of the type or group. (See rule 17, § 29.2408.)

§ 29.2283 Nested.

Any tobacco which has been loaded, packed, or arranged to conceal foreign matter or tobacco of inferior grade, quality, or condition. (See rule 22, § 29.2413.)

§ 29.2284 No grade.

A designation applied to a lot of tobacco classified as nested, offtype, rework, semicured, or premature primings; tobacco that is damaged 20 percent or more, abnormally dirty, extremely wet or watered, contains foreign matter, or has an odor foreign to the type. (See rule 22, § 29.2413.)

§ 29.2285 Offtype.

Tobacco of distinctly different characteristics which cannot be classified as Fire-cured, U.S. Type 21. (See rule 22, § 29.2413.)

§ 29.2286 Oil.

A soft, semifluid constituent of tobacco. (See chart, § 29.2351.)

§ 29.2287 Order (case).

The state of tobacco with respect to its moisture content.

§ 29.2288 Package.

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

§ 29.2289 Packing.

A lot of tobacco consisting of a number of packages submitted as one definite unit for sampling or inspection. It is represented to contain the same kind of tobacco and has a common identification number or mark on each package.

§ 29.2290 Premature primings.

Ground leaves harvested before reaching complete growth and development. These leaves lack body and strength. (See rule 22, § 29.2413.)

§ 29.2291 Quality.

A division of a group or the second factor of a grade based on the relative degree of one or more elements of quality.

§ 29.2292 Resweated.

The condition of tobacco which has passed through a second fermentation under abnormally high temperatures or refermented with a relatively high percentage of moisture. Resweated includes tobacco which has been dipped or reconditioned after its first fermentation and put through a forced or artificial sweat.

§ 29.2293 Rework.

Any lot of tobacco which needs to be resorted or otherwise reworked to prepare it properly for market, including: (a) Tobacco which is so mixed that it cannot be classified properly in any grade of the type, because the lot contains a substantial quantity of two or more distinctly different grades which should be separated by sorting; (b) tobacco which contains an abnormally large quantity of foreign matter or an unusual number of muddy or extremely dirty leaves which should be removed; and (c) tobacco not packed straight or otherwise not properly prepared for market. (See rule 22, § 29.2413.)

§ 29.2294 Semicured.

Tobacco in the process of being cured or which is partially but not thoroughly cured. Semicured includes tobacco which contains fat stems, wet butts, swelled stems, or stems that have not been thoroughly dried in the curing process. (See rule 22, § 29.2413.)

§ 29.2295 Side.

A certain phase of quality, color, or length as contrasted with some other phase of quality, color, or length; or any peculiar characteristics of tobacco.

§ 29.2296 Size.

The length of tobacco leaves. (See chart, § 29.2371.)

§ 29.2297 Sound.

Free of damage.

§ 29.2298 Special factor.

A symbol or term authorized to be used with specified grades. Tobacco to which a special factor is applied may meet the general specifications but has a peculiar

side or characteristic which tends to modify the grade. (See rule 10, § 29.2401.)

§ 29.2299 Steam-dried.

The condition of unfermented tobacco as customarily prepared for storage by means of a redrying machine or other steam-conditioning equipment.

§ 29.2300 Stem.

The midrib or large central vein of a tobacco leaf.

§ 29.2301 Stemmed.

A form of tobacco, including strips and strip scrap, from which the stems or midribs have been removed.

§ 29.2302 Strength.

The stress a tobacco leaf can bear without tearing. (See chart, § 29.2351.)

§ 29.2303 Strips.

The sides of a tobacco leaf from which the stem has been removed or a lot of tobacco composed of strips.

§ 29.2304 Subgrade.

Any grade modified by a special factor symbol.

§ 29.2305 Sweated.

The condition of tobacco which has passed through one or more fermentations natural to tobacco packed with a normal percentage of moisture. This condition is sometimes described as aged.

§ 29.2306 Sweating.

The condition of tobacco in the process of fermentation.

§ 29.2307 Tobacco.

Tobacco as it appears between the time it is cured and stripped from the stalk, or primed and cured, and the time it enters into the different manufacturing processes. The acts of stemming, sweating, and conditioning are not regarded as manufacturing processes. Tobacco, as used in these standards, does not include manufactured or semimanufactured products, stems, cuttings, clippings, trimmings, siftings, or dust.

§ 29.2308 Tobacco products.

Manufactured tobacco, including cigarettes, cigars, smoking tobacco, chewing tobacco, and snuff.

§ 29.2309 Type.

A division of a class of tobacco having certain common characteristics and closely related grades. Tobacco which has the same characteristics and corresponding qualities, colors, and lengths is classified as one type, regardless of any factors of historical or geographical nature which cannot be determined by an examination of the tobacco.

§ 29.2310 Type 21.

That type of fire-cured tobacco, known as Virginia Fire-cured or Dark-fired, produced principally in the Piedmont and mountain sections of Virginia.

§ 29.2311 Undried.

The condition of unfermented tobacco which has not been air-dried or steam-dried.

§ 29.2312 Uniformity.

An element of quality which describes the consistency of a lot of tobacco as it is prepared for market. Uniformity is expressed as a percentage in grade specifications. (See rule 15, § 29.2406.)

§ 29.2313 Unsound (U).

Damaged under 20 percent. (See rule 20, § 29.2411.)

§ 29.2314 Unstemmed.

A form of tobacco, including whole leaf and leaf scrap, from which the stems or midribs have not been removed.

§ 29.2315 Wet (W).

Any sound tobacco containing excessive moisture to the extent that it is in unsafe or doubtful-keeping order. Wet applies to any tobacco which is not damaged but which is likely to damage if treated in the customary manner. (See rule 21, § 29.2412.) (For extremely wet or watered tobacco, see rule 22, § 29.2413.)

§ 29.2316 Width.

The relative breadth of a tobacco leaf expressed in relation to its length. (See chart, § 29.2351.)

ELEMENTS OF QUALITY

§ 29.2351 Elements of quality and degrees of each element.

Tobacco attributes or characteristics which constitute quality are designated as elements of quality. The range within

each element is expressed by words or terms designated as degrees. These degrees are arranged to show their relative value and are used in determining the quality of tobacco. The actual value of each degree varies with group.

Elements	Degrees		
Body.....	Thin.....	Medium....	Heavy.
Maturity.....	Immature...	Mature.....	Ripe.
Leaf structure..	Close.....	Firm.....	Open.
Oil.....	Lean.....	Oily.....	Rich.
Elasticity.....	Inelastic...	Semielastic.	Elastic.
Strength.....	Weak.....	Normal.....	Strong.
Finish.....	Dull.....	Clear.....	Bright.
Color intensity.	Pale.....	Moderate...	Deep.
Width.....	Narrow.....	Normal.....	Spready.
			Broad.
Uniformity.....	Expressed in percentages.		
Injury tolerance.	Expressed in percentages.		

SIZES

§ 29.2371 U.S. standard 4-inch sizes.¹

Inches	Size
12-16	43
16-20	44
20-24	45
24-28	46
Over 28.....	47

¹ The application of sizes is governed by the major portion of the lot or package.

RULES

§ 29.2391 Rules.

The application of these official standard grades shall be in accordance with the following rules.

§ 29.2392 Rule 1.

Each grade shall be treated as a subdivision of a particular type. When the grade is stated in an inspection certificate, the type also shall be stated.

§ 29.2393 Rule 2.

The determination of a grade shall be based upon a thorough examination of a lot of tobacco or of an official sample of the lot.

§ 29.2394 Rule 3.

In drawing an official sample from a hogshead or other package of tobacco, two or more breaks shall be made at such points and in such manner as the inspector or sampler may find necessary to determine the kinds of tobacco and the percentage of each kind contained in the lot. All breaks shall be made so that the tobacco contained in the center of the package is visible to the sampler. Tobacco shall be drawn from at least two

breaks from which a representative sample shall be selected.

§ 29.2395 Rule 4.

All standard grades must be clean.

§ 29.2396 Rule 5.

The grade assigned to any lot of tobacco shall be a true representation of the tobacco at the time of inspection and certification. If, at any time, it is found that a lot of tobacco does not comply with the specifications of the grade previously assigned it shall not thereafter be represented as such grade.

§ 29.2397 Rule 6.

A lot of tobacco on the marginal line between two colors shall be placed in the color with which it best corresponds with respect to body or other associated elements of quality.

§ 29.2398 Rule 7.

Any lot of tobacco which meets the specifications of two grades shall be placed in the higher grade. Any lot of tobacco on the marginal line between two grades shall be placed in the lower grade.

§ 29.2399 Rule 8.

A lot of tobacco meets the specifications of a grade when it is not lower in any degree of any element of quality than the minimum specifications of such grade.

§ 29.2400 Rule 9.

In determining the grade of a lot of tobacco, the lot as a whole shall be considered. Minor irregularities which do not affect over 1 percent of the tobacco shall be overlooked.

§ 29.2401 Rule 10.

Any special factor symbol approved by the Director of the Tobacco Division, Agricultural Marketing Service, may be used after a grademark to show a peculiar side or characteristic of the tobacco which tends to modify the grade.

§ 29.2402 Rule 11.

Interpretations, the use of specifications, and the meaning of terms shall be in accordance with determinations or clarifications made by the Chief of the Standards and Testing Branch and approved by the Director.

§ 29.2403 Rule 12.

The use of any grade may be restricted by the Director during any marketing

season, when it is found that the grade is not needed or appears in insufficient volume to justify its use.

§ 29.2404 Rule 13.

Length shall be stated in connection with each grade of the A, B, and C groups and may be stated in connection with the grades of other groups. The 4-inch series of U.S. standard tobacco sizes shall be used.

§ 29.2405 Rule 14.

U.S. standard tobacco size 45 shall be used to designate X group tobacco of M or G color when such tobacco is 20 inches or over in length.

§ 29.2406 Rule 15.

Uniformity shall be expressed in percentages. These percentages shall govern the portion of a lot which must meet each specification of the grade. The minor portion must be closely related but may be of a different group, quality, and color from the major portion. Specified percentages of uniformity shall not affect limitations established by other rules.

§ 29.2407 Rule 16.

Injury tolerance shall be expressed in percentages. The appraisal of injury shall be based upon the percentage of affected leaf surface or the degree of injury. In appraising injury, consideration shall be given to the normal characteristics of the group.

§ 29.2408 Rule 17.

Any lot of tobacco of the B, C, or X groups containing over 30 percent of mixed color or variegated leaves or over 30 percent of mixed color and variegated leaves combined shall be classified as "mixed" and designated by the color symbol "M."

§ 29.2409 Rule 18.

Any lot of tobacco containing 20 percent or more of green leaves or any lot which is not crude but contains 20 percent or more of green and crude combined shall be designated by the color symbol "G."

§ 29.2410 Rule 19.

Crude leaves shall not be included in any grade of any color except green. Any lot containing 20 percent or more of crude leaves shall be designated Non-descript.

§ 29.2411 Rule 20.

Tobacco damaged under 20 percent but which otherwise meets the specifications of a grade shall be treated as a sub-grade by placing the special factor "U" after the grademark. Tobacco damaged 20 percent or more shall be designated "No-G."

§ 29.2412 Rule 21.

Sound tobacco that is wet or in doubtful-keeping order but which otherwise meets the specifications of a grade shall be treated as a subgrade by placing the special factor "W" after the grademark. This special factor does not apply to tobacco designated "No-G."

§ 29.2413 Rule 22.

Tobacco shall be designated No Grade, using the grademark "No-G," when it is classified as dirty, nested, offtype, semi-cured, premature primings, damaged 20 percent or more, extremely wet or watered, or when it needs to be reworked, contains foreign matter, or has an odor foreign to type.

GRADES

§ 29.2436 Wrappers (A Group).

This group consists of leaves usually grown at or above the center portion of the stalk. Cured leaves of the A group show a low percentage of injury affecting wrapper yield. Wrappers are high in oil, very elastic, and have a smooth leaf surface.

U.S. grades *Grade names and specifications*

A1F	Choice Medium-brown Wrappers Medium body, ripe, firm, rich in oil, elastic, strong, bright finish, deep color intensity, broad, 95 percent uniform, and 5 percent injury tolerance.
A2F	Fine Medium-brown Wrappers Medium body, ripe, firm, rich in oil, elastic, strong, clear finish, deep color intensity, spready, 90 percent uniform, and 10 percent injury tolerance.
A1D	Choice Dark-brown Wrappers Heavy, ripe, firm, rich in oil, elastic, strong, bright finish, deep color intensity, broad, 95 percent uniform, and 5 percent injury tolerance.
A2D	Fine Dark-brown Wrappers Heavy, ripe, firm, rich in oil, elastic, strong, clear finish, deep color intensity, spready, 90 percent uniform, and 10 percent injury tolerance.

§ 29.2437 Heavy Leaf (B Group).

This group consists of leaves usually grown at or above the center portion of the stalk. These leaves have a pointed tip, tend to fold, are heavier in body than those of the X or C groups, and show no ground injury. Choice- and fine-quality leaves of this group have a distinctive, smooth leaf surface.

- U.S. grades*
- B1F** *Choice Medium-brown Heavy Leaf*
Medium body, ripe, firm, oily, semi-elastic, strong, bright finish, deep color intensity, broad, 95 percent uniform, and 5 percent injury tolerance.
- B2F** *Fine Medium-brown Heavy Leaf*
Medium body, ripe, firm, oily, semi-elastic, strong, clear finish, deep color intensity, spready, 90 percent uniform, and 10 percent injury tolerance.
- B3F** *Good Medium-brown Heavy Leaf*
Medium body, mature, firm, oily, semi-elastic, normal strength, clear finish, moderate color intensity, normal width, 80 percent uniform, and 20 percent injury tolerance.
- B4F** *Fair Medium-brown Heavy Leaf*
Medium body, mature, close, lean in oil, inelastic, weak, dull-finish, pale color intensity, narrow, 70 percent uniform, and 30 percent injury tolerance.
- B5F** *Low Medium-brown Heavy Leaf*
Medium body, mature, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 60 percent uniform, and 40 percent injury tolerance.
- B1D** *Choice Dark-brown Heavy Leaf*
Heavy, ripe, firm, oily, semi-elastic, strong, bright finish, deep color intensity, spready, 95 percent uniform, and 5 percent injury tolerance.
- B2D** *Fine Dark-brown Heavy Leaf*
Heavy, ripe, firm, oily, semi-elastic, strong, clear finish, deep color intensity, spready, 90 percent uniform, and 10 percent injury tolerance.
- B3D** *Good Dark-brown Heavy Leaf*
Heavy, mature, firm, oily, semi-elastic, normal strength, clear finish, moderate color intensity, normal width, 80 percent uniform, and 20 percent injury tolerance.
- B4D** *Fair Dark-brown Heavy Leaf*
Heavy, mature, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 70 percent uniform, and 30 percent injury tolerance.
- B5D** *Low Dark-brown Heavy Leaf*
Heavy, mature, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 60 percent uniform, and 40 percent injury tolerance.

- U.S. grades*
- B3M** *Good Mixed Color Heavy Leaf*
Medium to heavy body, mature, firm, oily, semi-elastic, normal strength and width, 80 percent uniform, and 20 percent injury tolerance.
- B4M** *Fair Mixed Color Heavy Leaf*
Medium to heavy body, mature, close, lean in oil, inelastic, weak, narrow, 70 percent uniform, and 30 percent injury tolerance.
- B5M** *Low Mixed Color Heavy Leaf*
Medium to heavy body, mature, close, lean in oil, inelastic, weak, narrow, 60 percent uniform, and 40 percent injury tolerance.
- B3G** *Good Green Heavy Leaf*
Medium to heavy body, mature, firm, oily, semi-elastic, normal strength, clear finish, normal width, 80 percent uniform, and 20 percent injury tolerance.
- B4G** *Fair Green Heavy Leaf*
Medium to heavy body, immature, close, lean in oil, inelastic, weak, dull finish, narrow, 70 percent uniform, and 30 percent injury tolerance.
- B5G** *Low Green Heavy Leaf*
Medium to heavy body, immature, close, lean in oil, inelastic, weak, dull finish, narrow, 60 percent uniform, and 40 percent injury tolerance.

§ 29.2438 Thin Leaf (C Group).

This group consists of leaves usually grown at the center portion of the stalk. These leaves normally have a rounded tip, are thinner in body than those of the B group, and show little or no ground injury. Choice- and fine-quality tobacco of this group has a distinctive, smooth leaf surface.

- U.S. grades*
- C1L** *Choice Light-brown Thin Leaf*
Thin to medium body, mature to ripe, firm, oily, semi-elastic, strong, bright finish, deep color intensity, broad, 95 percent uniform, and 5 percent injury tolerance.
- Fine Light-brown Thin Leaf*
Thin to medium body, mature to ripe, firm, oily, semi-elastic, strong, clear finish, deep color intensity, spready, 90 percent uniform, and 10 percent injury tolerance.
- Good Light-brown Thin Leaf*
Thin to medium body, mature to ripe, firm, oily, semi-elastic, normal strength, clear finish, moderate color intensity, normal width, 80 percent uniform, and 20 percent injury tolerance.

<i>U.S. grades</i>	<i>Grade names and specifications</i>
C4L	Fair Light-brown Thin Leaf Thin to medium body, mature to ripe, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 70 percent uniform, and 30 percent injury tolerance.
	Low Light-brown Thin Leaf Thin to medium body, mature to ripe, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 60 percent uniform, and 40 percent injury tolerance.
	Choice Medium-brown Thin Leaf Thin to medium body, mature to ripe, firm, oily, semielastic, strong, bright finish, deep color intensity, broad, 95 percent uniform, and 5 percent injury tolerance.
C2F	Fine Medium-brown Thin Leaf Thin to medium body, mature to ripe, firm, oily, semielastic, strong, clear finish, deep color intensity, spready, 90 percent uniform, and 10 percent injury tolerance.
C3F	Good Medium-brown Thin Leaf Thin to medium body, mature to ripe, firm, oily, semielastic, normal strength, clear finish, moderate color intensity, normal width, 80 percent uniform, and 20 percent injury tolerance.
C4F	Fair Medium-brown Thin Leaf Thin to medium body, mature to ripe, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 70 percent uniform, and 30 percent injury tolerance.
C5F	Low Medium-brown Thin Leaf Thin to medium body, mature to ripe, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 60 percent uniform, and 40 percent injury tolerance.
C2D	Fine Dark-brown Thin Leaf Thin to medium body, mature to ripe, firm, oily, semielastic, strong, clear finish, deep color intensity, spready, 90 percent uniform, and 10 percent injury tolerance.
C3D	Good Dark-brown Thin Leaf Thin to medium body, mature to ripe, firm, lean in oil, inelastic, normal strength, clear finish, moderate color intensity, normal width, 80 percent uniform, and 20 percent injury tolerance.
C4D	Fair Dark-brown Thin Leaf Thin to medium body, mature to ripe, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 70 percent uniform, and 30 percent injury tolerance.
C5D	Low Dark-brown Thin Leaf Thin to medium body, mature to ripe, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 60 percent uniform, and 40 percent injury tolerance.

<i>U.S. grades</i>	<i>Grade names and specifications</i>
C3M	Good Mixed Color Thin Leaf Thin to medium body, mature, firm, oily, semielastic, normal strength and width, 80 percent uniform, and 20 percent injury tolerance.
C4M	Fair Mixed Color Thin Leaf Thin to medium body, mature, close, lean in oil, inelastic, weak, narrow, 70 percent uniform, and 30 percent injury tolerance.
C5M	Low Mixed Color Thin Leaf Thin to medium body, immature, close, lean in oil, inelastic, weak, narrow, 60 percent uniform, and 40 percent injury tolerance.
C3G	Good Green Thin Leaf Thin to medium body, mature, firm, oily, semielastic, normal strength, clear finish, normal width, 80 percent uniform, and 20 percent injury tolerance.
C4G	Fair Green Thin Leaf Thin to medium body, immature, close, lean in oil, inelastic, weak, dull finish, narrow, 70 percent uniform, and 30 percent injury tolerance.
C5G	Low Green Thin Leaf Thin to medium body, immature, close, lean in oil, inelastic, weak, dull finish, narrow, 60 percent uniform, and 40 percent injury tolerance.

§ 29.2439 Lugs (X Group).

This group consists of leaves that normally grow near the bottom of the stalk. These leaves usually have a blunt tip, tend to roll, and show ground injury.

<i>U.S. grades</i>	<i>Grade names and specifications</i>
X1L	Choice Light-brown Lugs Thin to medium body, ripe, firm to open, oily, normal strength, clear finish, moderate color intensity, 95 percent uniform, and 5 percent injury tolerance.
X2L	Fine Light-brown Lugs Thin to medium body, ripe, firm to open, oily, normal strength, clear finish, moderate color intensity, 90 percent uniform, and 10 percent injury tolerance.
X3L	Good Light-brown Lugs Thin to medium body, ripe, open, lean in oil, normal strength, dull finish, pale color intensity, 80 percent uniform, and 20 percent injury tolerance.
X4L	Fair Light-brown Lugs Thin to medium body, mature, open, lean in oil, weak, dull finish, pale color intensity, 70 percent uniform, and 30 percent injury tolerance.

<i>U.S. Grades</i>	<i>Grade names and specifications</i>
X5L	Low Light-brown Lugs Thin to medium body, mature, open, lean in oil, weak, dull finish, pale color intensity, 60 percent uniform, and 40 percent injury tolerance.
X1F	Choice Medium-brown Lugs Medium body, ripe, firm to open, oily, normal strength, clear finish, moderate color intensity, 95 percent uniform, and 5 percent injury tolerance.
X2F	Fine Medium-brown Lugs Medium body, ripe, firm to open, oily, normal strength, clear finish, moderate color intensity, 90 percent uniform, and 10 percent injury tolerance.
X3F	Good Medium-brown Lugs Medium body, ripe, open, lean in oil, normal strength, dull finish, pale color intensity, 80 percent uniform, and 20 percent injury tolerance.
X4F	Fair Medium-brown Lugs Thin to medium body, mature, open, lean in oil, weak, dull finish, pale color intensity, 70 percent uniform, and 30 percent injury tolerance.
X5F	Low Medium-brown Lugs Thin to medium body, mature, open, lean in oil, weak, dull finish, pale color intensity, 60 percent uniform, and 40 percent injury tolerance.
X1D	Choice Dark-brown Lugs Medium to heavy body, ripe, firm to open, oily, normal strength, clear finish, moderate color intensity, 95 percent uniform, and 5 percent injury tolerance.
X2D	Fine Dark-brown Lugs Medium to heavy body, ripe, firm to open, oily, normal strength, clear finish, moderate color intensity, 90 percent uniform, and 10 percent injury tolerance.
X3D	Good Dark-brown Lugs Medium to heavy body, ripe, open, lean in oil, normal strength, dull finish, pale color intensity, 80 percent uniform, and 20 percent injury tolerance.
X4D	Fair Dark-brown Lugs Medium to heavy body, mature, open, lean in oil, weak, dull finish, pale color intensity, 70 percent uniform, and 30 percent injury tolerance.
X5D	Low Dark-brown Lugs Medium to heavy body, mature, open, lean in oil, weak, dull finish, pale color intensity, 60 percent uniform, and 40 percent injury tolerance.

<i>U.S. grades</i>	<i>Grade names and specifications</i>
X3M	Good Mixed Color Lugs Medium to heavy body, mature, open, lean in oil, normal strength, 80 percent uniform, and 20 percent injury tolerance.
X4M	Fair Mixed Color Lugs Thin to medium body, mature, open, lean in oil, weak, 70 percent uniform, and 30 percent injury tolerance.
X5M	Low Mixed Color Lugs Thin to medium body, mature, open, lean in oil, weak, 60 percent uniform, and 40 percent injury tolerance.
X3G	Good Green Lugs Medium to heavy body, mature, firm, lean in oil, normal strength, dull finish, 80 percent uniform, and 20 percent injury tolerance.
X4G	Fair Green Lugs Medium to heavy body, immature, close, lean in oil, weak, dull finish, 70 percent uniform, and 30 percent injury tolerance.
X5G	Low Green Lugs Thin to medium body, immature, close, lean in oil, weak, dull finish, 60 percent uniform, and 40 percent injury tolerance.

§ 29.2440 Nondescript (N Group).

Extremely common tobacco which does not meet the minimum specifications or which exceeds the tolerance of the lowest grade of any other group except Scrap.

<i>U.S. grades</i>	<i>Grade names and specifications</i>
N1L	First Quality Light Colored Nondescript Thin to medium body and 60 percent injury tolerance.
N1D	First Quality Dark Colored Nondescript Medium to heavy body and 60 percent injury tolerance.
N1G	First Quality Crude Green Nondescript 60 percent crude leaves or injury tolerance.
N2	Substandard Nondescript Nondescript of any group or color; over 60 percent crude leaves or injury tolerance.

§ 29.2441 Scrap (S Group).

A byproduct of unstemmed and stemmed tobacco. Scrap accumulates from handling tobacco in farm buildings, warehouses, packing and conditioning plants, and stemmeries.

<i>U.S. grade</i>	<i>Grade name and specifications</i>
S	Scrap Tangled, whole, or broken unstemmed leaves, or the web portions of tobacco leaves reduced to scrap by any process.

SUMMARY OF STANDARD GRADES

§ 29.2461 Summary of standard grades.

4 Grades of Wrappers

A1F	A2F	A1D	A2D
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16 Grades of Heavy Leaf

B1F	B5F	B4D	B5M
B2F	B1D	B5D	B8G
B3F	B2D	B3M	B4G
B4F	B3D	B4M	B5G

20 Grades of Thin Leaf

C1L	C2F	C4D	C4G
C2L	C3F	C5D	C5G
C3L	C4F	C3M	
C4L	C5F	C4M	
C5L	C2D	C5M	
C1F	C3D	C3G	

21 Grades of Lugs

X1L	X2F	X3D	X3G
X2L	X3F	X4D	X4G
X3L	X4F	X5D	X5G
X4L	X5F	X3M	
X5L	X1D	X4M	
X1F	X2D	X5M	

4 Grades of Nondescript

N1L	N1D	N2	N1G
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1 Grade of Scrap

S

Special factors "U" and "W" may be applied to all grades.

Tobacco not covered by the standard grades is designated "No-G."

U.S. Standard Sizes Applicable

A1, A2	45, 46, 47
B1	45, 46, 47
B2	44, 45, 46, 47
B3, B4, B5	43, 44, 45, 46, 47
C1	45, 46, 47
C2, C3, C4, C5	44, 45, 46, 47
X3, X4, X5, M and G ¹	45

¹No size is applied to these grades if tobacco is under size 45.

KEY TO STANDARD GRADEMARKS

§ 29.2481 Key to standard grademarks.

Groups

- A—Wrappers.
- B—Heavy Leaf.
- C—Thin Leaf.
- X—Lugs.
- N—Nondescript.
- S—Scrap.

Qualities

- 1—Choice.
- 2—Fine.
- 3—Good.
- 4—Fair.
- 5—Low.

Colors

- L—Light brown.
- F—Medium brown.
- D—Dark brown.
- M—Mixed or variegated.
- G—Green.

OFFICIAL STANDARD GRADES FOR KENTUCKY AND TENNESSEE FIRE-CURED TOBACCO (U.S. TYPES 22 AND 23)

AUTHORITY: The provisions of §§ 29.2501 to 29.2686 issued under the Tobacco Inspection Act (49 Stat. 731; 7 U.S.C. 511 et seq.).

SOURCE: The provisions of §§ 29.2501 to 29.2696 appear at 37 F.R. 13626, July 12, 1972, unless otherwise noted.

DEFINITIONS

§ 29.2501 Definitions.

As used in these standards, the words and phrases hereinafter defined shall have the indicated meanings so assigned.

§ 29.2502 Air-dried.

The condition of unfermented tobacco as customarily prepared for storage under natural atmospheric conditions.

§ 29.2503 Body.

The thickness and density of a leaf or the weight per unit of surface. (See chart, § 29.2601.)

§ 29.2504 Brown colors.

A group of colors ranging from a reddish brown to yellowish brown. These colors vary from low to medium saturation and from very low to medium brilliance. As used in these standards, the range is expressed as light brown (L), medium brown (F), and dark brown (D).

§ 29.2505 Class.

A major division of tobacco based on method of cure or principal usage.

§ 29.2506 Clean.

Tobacco is described as clean when it contains only a normal amount of sand or soil particles. Leaves grown on the lower portion of the stalk normally contain more dirt or sand than those from higher stalk positions. (See rule 4, § 29.2620.)

§ 29.2507 Color.

The third factor of a grade based on the relative hues, saturation or chroma, and color values common to the type.

§ 29.2508 Color intensity.

The varying degree of saturation or chroma. Color intensity as applied to tobacco describes the strength or weakness of a specific color or hue. It is applicable to brown colors. (See chart, § 29.2601.)

§ 29.2509 Color symbols.

As applied to these types, color symbols are L—light brown, F—medium brown, D—dark brown, M—mixed or variegated VF—greenish medium brown, and G—green.

§ 29.2510 Condition.

The state of tobacco which results from the method of preparation or from the degree of fermentation. Words used to describe the condition of tobacco are undried, air-dried, steam-dried, sweating, sweated, and aged.

§ 29.2511 Crude.

A subdegree of maturity. Crude leaves are usually hard and slick as a result of extreme immaturity. A similar condition may result from firekill, sunburn, or sunscald. Any leaf which is crude to the extent of 20 percent or more of its surface may be described as crude. (See rule 19, § 29.2635.)

§ 29.2512 Cured.

Tobacco dried of its sap by either natural or artificial processes.

§ 29.2513 Damage.

The effect of mold, must, rot, black rot, or other fungus or bacterial diseases which attack tobacco in its cured state. Tobacco having the odor of mold, must, or rot is considered damaged. (See rule 20, § 29.2636.)

§ 29.2514 Dirty.

The state of tobacco containing an abnormal amount of dirt or sand, or tobacco to which additional quantities of dirt or sand have been added. (See rule 22, § 29.2638.)

§ 29.2515 Elasticity.

The flexible, springy nature of the tobacco leaf to recover approximately its

original size and shape after it has been stretched. (See chart, § 29.2601.)

§ 29.2516 Elements of quality.

Physical characteristics used to determine the quality of tobacco. Words selected to describe degrees within each element are shown in the chart in § 29.2601.

§ 29.2517 Fiber.

The term applied to the veins in a tobacco leaf. The large central vein is called the midrib or stem. The smaller lateral and cross veins are considered from the standpoint of size and color.

§ 29.2518 Finish.

The reflectance factor in color perception. Finish indicates the sheen or shine of the surface of a tobacco leaf. (See chart, § 29.2601.)

§ 29.2519 Fire-cured.

Tobacco cured under artificial atmospheric conditions by the use of open fires from which the smoke and fumes of burning wood are partly absorbed by the tobacco.

§ 29.2520 Foreign matter.

Any extraneous substance or material such as stalks, suckers, straw, strings, rubber bands, and abnormal amounts of dirt or sand. (See rule 22, § 29.2638.)

§ 29.2521 Form.

The stage of preparation of tobacco such as unstemmed or stemmed.

§ 29.2522 Grade.

A subdivision of a type according to group, quality, and color.

§ 29.2523 Grademark.

A grademark normally consists of three symbols which indicate group, quality, and color. A letter is used to indicate group, a number to indicate quality, and a letter or letters to indicate color. For example, B3D means Heavy Leaf, good quality, and dark-brown color.

§ 29.2524 Green (G).

A term applied to green-colored tobacco. Any leaf which has a green color affecting 20 percent or more of its surface may be described as green. (See rule 18, § 29.2634.)

§ 29.2525 Greenish.

A term applied to greenish-tinged tobacco. Any leaf which has a greenish tinge or a pale green color affecting 20 percent or more of its surface may be described as greenish. (See rule 17, § 29.2633.)

§ 29.2526 Group.

A division of a type covering closely related grades based on certain characteristics which are usually related to stalk position, body, or the general quality of the tobacco. Groups in these types are Wrappers (A), Heavy Leaf (B), Thin Leaf (C), Lugs (X), Nondescript (N), and Scrap (S).

§ 29.2527 Injury.

Hurt or impairment from any cause except the fungous or bacterial diseases which attack tobacco in its cured state. (See rule 15, § 29.2631.)

§ 29.2528 Leaf scrap.

A byproduct of unstemmed tobacco. Leaf scrap results from handling unstemmed tobacco and consists of loose and tangled whole or broken leaves.

§ 29.2529 Leaf structure.

The cell development of a leaf as indicated by its porosity. (See chart, § 29.2601.)

§ 29.2530 Length.

The linear measurement of cured tobacco leaves from the butt of the midrib to the extreme tip.

§ 29.2531 Lot.

A pile, basket, bulk, or more than one bale, case, hogshead, tierce, package, or other definite package unit.

§ 29.2532 Maturity.

The degree of ripeness. (See chart, § 29.2601.)

§ 29.2533 Mixed color or variegated (M).

Distinctly different colors of the type mingled together, or any leaf of which 20 percent or more of its surface is off brown, grayish, mottled, or bleached and does not blend with the normal colors of the type or group. (See rule 16, § 29.2632.)

§ 29.2534 Nested.

Any tobacco which has been loaded, packed, or arranged to conceal foreign matter or tobacco of inferior grade, quality, or condition. (See rule 22, § 29.2638.)

§ 29.2535 No grade.

A designation applied to a lot of tobacco classified as nested, offtype, rework, or semicured; tobacco that is damaged 20 percent or more, abnormally dirty, extremely wet or watered, contains foreign matter, or has an odor foreign to the type. (See rule 22, § 29.2638.)

§ 29.2536 Offtype.

Tobacco of distinctly different characteristics which cannot be classified as Fire-cured, U.S. Type 22 or 23. (See rule 22, § 29.2638.)

§ 29.2537 Oil.

A soft, semifluid constituent of tobacco. (See chart, § 29.2601.)

§ 29.2538 Order (case).

The state of tobacco with respect to its moisture content.

§ 29.2539 Package.

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

§ 29.2540 Packing.

A lot of tobacco consisting of a number of packages submitted as one definite unit for sampling or inspection. It is represented to contain the same kind of tobacco and has a common identification number or mark on each package.

§ 29.2541 Quality.

A division of a group or the second factor of a grade based on the relative degree of one or more elements of quality.

§ 29.2542 Raw.

Freshly harvested tobacco or tobacco as it appears between the time of harvesting and the beginning of the curing process.

§ 29.2543 Reswasted.

The condition of tobacco which has passed through a second fermentation under abnormally high temperatures or

refermented with a relatively high percentage of moisture. Resweated includes tobacco which has been dipped or reconditioned after its first fermentation and put through a forced or artificial sweat.

§ 29.2544 Rework.

Any lot of tobacco which needs to be resorted or otherwise reworked to prepare it properly for market, including: (a) Tobacco which is so mixed that it cannot be classified properly in any grade of the type, because the lot contains a substantial quantity of two or more distinctly different grades which should be separated by sorting; (b) tobacco which contains an abnormally large quantity of foreign matter or an unusual number of muddy or extremely dirty leaves which should be removed; and (c) tobacco not packed straight or otherwise not properly prepared for market. (See rule 22, § 29.2638.)

§ 29.2545 Semicured.

Tobacco in the process of being cured or which is partially but not thoroughly cured. (See rule 22, § 29.2638.)

§ 29.2546 Side.

A certain phase of quality, color, or length as contrasted with some other phase of quality, color, or length; or any peculiar characteristic of tobacco.

§ 29.2547 Size.

The length of tobacco leaves. (See chart, § 29.2806.)

§ 29.2548 Sound.

Free of damage.

§ 29.2549 Special factor.

A symbol or term authorized to be used with specified grades. Tobacco to which a special factor is applied may meet the general specifications but has a peculiar side or characteristic which tends to modify the grade. (See rule 10, § 29.2626.)

§ 29.2550 Steam-dried.

The condition of unfermented tobacco as customarily prepared for storage by means of a redrying machine or other steam-conditioning equipment.

§ 29.2551 Stem.

The midrib or large central vein of a tobacco leaf.

§ 29.2552 Stemmed.

A form of tobacco, including strips and strip scrap, from which the stems or midribs have been removed.

§ 29.2553 Strength.

The stress a tobacco leaf can bear without tearing. (See chart, § 29.2601.)

§ 29.2554 Strips.

The sides of a tobacco leaf from which the stem has been removed or a lot of tobacco composed of strips.

§ 29.2555 Subgrade.

Any grade modified by a special factor symbol.

§ 29.2556 Sweated.

The condition of tobacco, which has passed through one or more fermentations natural to tobacco packed with a normal percentage of moisture. This condition is sometimes described as aged.

§ 29.2557 Sweating.

The condition of tobacco in the process of fermentation.

§ 29.2558 Tobacco.

Tobacco as it appears between the time it is cured and stripped from the stalk, or primed and cured, and the time it enters into the different manufacturing processes. The acts of stemming, sweating, and conditioning are not regarded as manufacturing processes. Tobacco, as used in these standards, does not include manufactured or semimanufactured products, stems, cutting, clippings, trimmings, siftings, or dust.

§ 29.2559 Tobacco products.

Manufactured tobacco, including cigarettes, cigars, smoking tobacco, chewing tobacco, and snuff.

§ 29.2560 Type.

A division of a class of tobacco having certain common characteristics and closely related grades. Tobacco which has the same characteristics and corresponding qualities, colors, and lengths is classified as one type, regardless of any factors of historical or geographical nature which cannot be determined by an examination of the tobacco.

§ 29.2561 Type 22.

That type of Fire-cured tobacco, known as Eastern District Fire-cured, produced principally in a section east of the Tennessee River in southern Kentucky and northern Tennessee.

§ 29.2562 Type 22.

That type of Fire-cured tobacco, known as Western District Fire-cured or Dark-fired, produced principally in a section west of the Tennessee River in Kentucky and extending into Tennessee.

§ 29.2563 Undried.

The condition of unfermented tobacco which has not been air-dried or steam-dried.

§ 29.2564 Uniformity.

An element of quality which describes the consistency of a lot of tobacco as it is prepared for market. Uniformity is expressed as a percentage in grade specifications. (See rule 14, § 29.2630.)

§ 29.2565 Unsound (U).

Damaged under 20 percent. (See rule 20, § 29.2636.)

§ 29.2566 Unstemmed.

A form of tobacco, including whole leaf and leaf scrap, from which the stems or midribs have not been removed.

§ 29.2567 Wet (W).

Any sound tobacco containing excessive moisture to the extent that it is in unsafe or doubtful-keeping order. Wet applies to any tobacco which is not damaged but which is likely to damage if treated in the customary manner. (See rule 21, § 29.2637.) (For extremely wet or watered tobacco, see rule 22, § 29.2638.)

§ 29.2568 Width.

The relative breadth of a tobacco leaf expressed in relation to its length. (See chart, § 29.2601.)

ELEMENTS OF QUALITY

§ 29.2601 Elements of quality and degrees of each element.

Tobacco attributes or characteristics which constitute quality are designated as elements of quality. The range within each element is expressed by words or

terms designated as degrees. These degrees are arranged to show their relative value and are used in determining the quality of tobacco. The actual value of each degree varies with group.

Elements		Degrees	
Body.....	Thin.....	Medium.....	Heavy.
Maturity.....	Immature.....	Mature.....	Ripe.
Leaf structure.....	Close.....	Firm.....	Open.
Oil.....	Lean.....	Oily.....	Rich.
Elasticity.....	Inelastic.....	Semielastic.....	Elastic.
Strength.....	Weak.....	Normal.....	Strong.
Finish.....	Dull.....	Clear.....	Bright.
Color intensity.....	Pale.....	Moderate.....	Deep.
Width.....	Narrow.....	Normal.....	Spready.
Uniformity.....	Expressed in percentages.		
Injury tolerance.....	Expressed in percentages.		

SIZES

§ 29.2606 U.S. standard 4-inch sizes.¹

Inches	Size
12-16	43
16-20	44
20-24	45
24-28	46
Over 28.....	47

¹The application of sizes is governed by the major portion of the lot or package.

RULES

§ 29.2616 Rules.

The application of these official standard grades shall be in accordance with §§ 29.2617-29.2638.

§ 29.2617 Rule 1.

Each grade shall be treated as a subdivision of a particular type. When the grade is stated in an inspection certificate, the type also shall be stated.

§ 29.2618 Rule 2.

The determination of a grade shall be based upon a thorough examination of a lot of tobacco or of an official sample of the lot.

§ 29.2619 Rule 3.

In drawing an official sample from a hoghead or other package of tobacco, two or more breaks shall be made at such points and in such manner as the inspector or sampler may find necessary to determine the kinds of tobacco and the percentage of each kind contained in the lot. All breaks shall be made so that the tobacco contained in the center of the

package is visible to the sampler. Tobacco shall be drawn from at least two breaks from which a representative sample shall be selected.

§ 29.2620 Rule 4.

All standard grades must be clean.

§ 29.2621 Rule 5.

The grade assigned to any lot of tobacco shall be a true representation of the tobacco at the time of inspection and certification. If, at any time, it is found that a lot of tobacco does not comply with the specifications of the grade previously assigned it shall not thereafter be represented as such grade.

§ 29.2622 Rule 6.

A lot of tobacco on the marginal line between two colors shall be placed in the color with which it best corresponds with respect to body or other associated elements of quality.

§ 29.2623 Rule 7.

Any lot of tobacco which meets the specifications of two grades shall be placed in the higher grade. Any lot of tobacco on the marginal line between two grades shall be placed in the lower grade.

§ 29.2624 Rule 8.

A lot of tobacco meets the specifications of a grade when it is not lower in any degree of any element of quality than the minimum specifications of such grade.

§ 29.2625 Rule 9.

In determining the grade of a lot of tobacco, the lot as a whole shall be considered. Minor irregularities which do not affect over one percent of the tobacco shall be overlooked.

§ 29.2626 Rule 10.

Any special factor approved by the Director of the Tobacco Division, Agricultural Marketing Service, may be used after a grademark to show a peculiar side or characteristic of the tobacco which tends to modify the grade.

§ 29.2627 Rule 11.

Interpretations, the use of specifications, and the meaning of terms shall be in accordance with determinations or

clarifications made by the Chief of the Standards and Testing Branch and approved by the Director.

§ 29.2628 Rule 12.

The use of any grade may be restricted by the Director during any marketing season, when it is found that the grade is not needed or appears in insufficient volume to justify its use.

§ 29.2629 Rule 13.

Length shall be stated in connection with each grade of the A, B, and C groups and may be stated in connection with the grades of other groups. The 4-inch series of U.S. standard tobacco sizes shall be used.

§ 29.2630 Rule 14.

Uniformity shall be expressed in percentages. These percentages shall govern the portion of a lot which must meet each specification of the grade. The minor portion must be closely related but may be of a different group, quality, and color from the major portion. Specified percentages of uniformity shall not affect limitations established by other rules.

§ 29.2631 Rule 15.

Injury tolerance shall be expressed in percentages. The appraisal of injury shall be based upon the percentage of affected leaf surface or the degree of injury. In appraising injury, consideration shall be given to the normal characteristics of the group.

§ 29.2632 Rule 16.

Any lot of tobacco of the B, C, or X groups containing over 30 percent of mixed color or variegated leaves or over 30 percent of mixed color and variegated leaves combined shall be classified as "mixed" and designated by the color symbol "M."

§ 29.2633 Rule 17.

Any lot of tobacco containing 20 percent or more of greenish leaves or any lot which contains 20 percent of greenish and green leaves combined shall be designated by the color symbol "VF."

§ 29.2634 Rule 18.

Any lot of tobacco containing 20 percent or more of green leaves or any lot

which is not crude but contains 20 percent or more of green and crude combined shall be designated by the color symbol "G."

§ 29.2635 Rule 19.

In the B, C, and X groups crude leaves shall be restricted to the fourth and fifth qualities of green grades. Any lot containing 20 percent or more of crude leaves shall be classified as Nondescript.

§ 29.2636 Rule 20.

Tobacco damaged under 20 percent but which otherwise meets the specifications of a grade shall be treated as a subgrade by placing the special factor "U" after the grademark. Tobacco damaged 20 percent or more shall be designated "No-G."

§ 29.2637 Rule 21.

Sound tobacco that is wet or in doubtful-keeping order but which otherwise meets the specifications of a grade shall be treated as a subgrade by placing the special factor "W" after the grademark. This special factor does not apply to tobacco designated "No-G."

§ 29.2638 Rule 22.

Tobacco shall be designated No Grade, using the grademark "No-G," when it is dirty, nested, offtype, semicured, damaged 20 percent or more, extremely wet or watered, or when it needs to be reworked, contains foreign matter, or has an odor foreign to type.

GRADES

§ 29.2661 Wrappers (A Group).

This group consists of leaves usually grown at or above the center portion of the stalk. Cured leaves of this group are elastic and show a low percentage of injury affecting wrapper yield.

U.S. grades *Grade names and specifications*

A1F	Choice Medium-brown Wrappers Thin to medium body, ripe, firm, rich in oil, elastic, strong, bright finish, deep color intensity, spready, 90 percent uniform, and 10 percent of leaves not lower than B1 or C1.
A2F	Fine Medium-brown Wrappers Thin to medium body, ripe, firm, rich in oil, elastic, strong, bright finish, deep color intensity, spready, 75 percent uniform, and 25 percent of leaves not lower than B2 or C2.

<i>U.S. grades</i>	<i>Grade names and specifications</i>
A3F	Good Medium-brown Wrappers Thin to medium body, ripe, firm, oily, elastic, strong, clear finish, moderate color intensity, spready, 60 percent uniform, and 40 percent of leaves not lower than B3 or C3.
A1D	Choice Dark-brown Wrappers Thin to heavy body, ripe, firm, rich in oil, elastic, strong, bright finish, deep color intensity, spready, 90 percent uniform, and 10 percent of leaves not lower than B1 or C1.
A2D	Fine Dark-brown Wrappers Thin to heavy body, ripe, firm, rich in oil, elastic, strong, bright finish, deep color intensity, spready, 75 percent uniform, and 25 percent of leaves not lower than B2 or C2.
A3D	Good Dark-brown Wrappers Thin to heavy body, ripe, firm, oily, elastic, strong, clear finish, moderate color intensity, spready, 60 percent uniform, and 40 percent of leaves not lower than B3 or C3.

§ 29.2662 Heavy Leaf (B Group).

This group consists of leaves which are medium to heavy in body.

<i>U.S. grades</i>	<i>Grade names and specifications</i>
B1F	Choice Medium-brown Heavy Leaf Medium body, ripe, firm, oily, elastic, strong, bright finish, deep color intensity, normal width, 95 percent uniform, and 5 percent injury tolerance.
B2F	Fine Medium-brown Heavy Leaf Medium body, ripe, firm, oily, elastic, strong, clear finish, deep color intensity, normal width, 90 percent uniform, and 10 percent injury tolerance.
B3F	Good Medium-brown Heavy Leaf Medium body, ripe, firm, oily, semi-elastic, normal strength, clear finish, moderate color intensity, normal width, 80 percent uniform, and 20 percent injury tolerance.
B4F	Fair Medium-brown Heavy Leaf Medium body, mature, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 70 percent uniform, and 30 percent injury tolerance.
B5F	Low Medium-brown Heavy Leaf Medium body, mature, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 60 percent uniform, and 30 percent injury tolerance.

<i>U.S. grades</i>	<i>Grade names and specifications</i>
B1D	Choice Dark-brown Heavy Leaf Heavy, ripe, firm, oily, elastic, strong, bright finish, deep color intensity, normal width, 95 percent uniform and 5 percent injury tolerance.
B2D	Fine Dark-brown Heavy Leaf Heavy, ripe, firm, oily, elastic, strong, clear finish, deep color intensity, normal width, 90 percent uniform, and 10 percent injury tolerance.
B3D	Good Dark-brown Heavy Leaf Heavy, ripe, firm, oily, semielastic, normal strength, clear finish, moderate color intensity, normal width, 80 percent uniform, and 20 percent injury tolerance.
B4D	Fair Dark-brown Heavy Leaf Heavy, mature, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 70 percent uniform, and 30 percent injury tolerance.
B5D	Low Dark-brown Heavy Leaf Heavy, mature, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 60 percent uniform, and 40 percent injury tolerance.
B3M	Good Mixed Color or Variegated Heavy Leaf Medium to heavy body, ripe, firm, oily, semielastic, normal strength, clear finish, normal width, 80 percent uniform, and 20 percent injury tolerance.
B4M	Fair Mixed Color or Variegated Heavy Leaf Medium to heavy body, mature, close, lean in oil, inelastic, weak, dull finish, narrow, 70 percent uniform, and 30 percent injury tolerance.
B5M	Low Mixed Color or Variegated Heavy Leaf Medium to heavy body, mature, close, lean in oil, inelastic, weak, dull finish, narrow, 60 percent uniform, and 40 percent injury tolerance.
B3VF	Good Greenish Medium-brown Heavy Leaf Medium body, mature, firm, oily, semielastic, normal strength, clear finish, normal width, 80 percent uniform, and 20 percent injury tolerance.
B4VF	Fair Greenish Medium-brown Heavy Leaf Medium body, mature, close, lean in oil, inelastic, weak, dull finish, narrow, 70 percent uniform, and 30 percent injury tolerance.
B5VF	Low Greenish Medium-brown Heavy Leaf Medium body, mature, close, lean in oil, inelastic, weak, dull finish, narrow, 60 percent uniform, and 40 percent injury tolerance.

<i>U.S. grades</i>	<i>Grade names and specifications</i>
B3G	Good Green Heavy Leaf Heavy, mature, firm, oily, semielastic, normal strength, clear finish, normal width, 80 percent uniform, and 20 percent injury tolerance.
B4G	Fair Green Heavy Leaf Heavy, mature, close, lean in oil, inelastic, weak, dull finish, narrow, 70 percent uniform, and 30 percent injury tolerance.
B5G	Low Green Heavy Leaf Heavy, immature, close, lean in oil, inelastic, weak, dull finish, narrow, 60 percent uniform, and 40 percent injury tolerance.

[37 F.R. 13626, July 12, 1972; 37 F.R. 15501, Aug. 3, 1972]

§ 29.2663 Thin Leaf (C Group).

This group consists of leaves that are thin in body.

<i>U.S. grades</i>	<i>Grade names and specifications</i>
C1L	Choice Light-brown Thin Leaf Thin, ripe, firm, oily, semielastic, normal strength, bright finish, deep color intensity, normal width, 95 percent uniform, and 5 percent injury tolerance.
C2L	Fine Light-brown Thin Leaf Thin, ripe, firm, oily, semielastic, normal strength, clear finish, deep color intensity, normal width, 90 percent uniform, and 10 percent injury tolerance.
C3L	Good Light-brown Thin Leaf Thin, ripe, firm, oily, inelastic, normal strength, clear finish, moderate color intensity, normal width, 80 percent uniform, and 20 percent injury tolerance.
C4L	Fair Light-brown Thin Leaf Thin, mature, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 70 percent uniform, and 30 percent injury tolerance.
C5L	Low Light-brown Thin Leaf Thin, mature, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 60 percent uniform, and 40 percent injury tolerance.
C1F	Choice Medium-brown Thin Leaf Thin, ripe, firm, oily, semielastic, normal strength, bright finish, deep color intensity, normal width, 95 percent uniform, and 5 percent injury tolerance.
C2F	Fine Medium-brown Thin Leaf Thin, ripe, firm, oily, semielastic, normal strength, clear finish, deep color intensity, normal width, 90 percent uniform, and 10 percent injury tolerance.

<i>U.S. grades</i>	<i>Grade names and specifications</i>
C3F	Good Medium-brown Thin Leaf Thin, ripe, firm, oily, inelastic, normal strength, clear finish, moderate color intensity, normal width, 80 percent uniform, and 20 percent injury tolerance.
C4F	Fair Medium-brown Thin Leaf Thin, mature, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 70 percent uniform, and 30 percent injury tolerance.
C5F	Low Medium-brown Thin Leaf Thin, mature, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 60 percent uniform, and 40 percent injury tolerance.
C1D	Choice Dark-brown Thin Leaf Thin, ripe, firm, oily, semielastic, normal strength, bright finish, deep color intensity, normal width, 95 percent uniform, and 5 percent injury tolerance.
C2D	Fine Dark-brown Thin Leaf Thin, ripe, firm, oily, semielastic, normal strength, clear finish, deep color intensity, normal width, 90 percent uniform, and 10 percent injury tolerance.
C3D	Good Dark-brown Thin Leaf Thin, ripe, firm, oily, inelastic, normal strength, clear finish, moderate color intensity, normal width, 80 percent uniform, and 20 percent injury tolerance.
C4D	Fair Dark-brown Thin Leaf Thin, mature, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 70 percent uniform, and 30 percent injury tolerance.
C5D	Low Dark-brown Thin Leaf Thin, mature, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 60 percent uniform, and 40 percent injury tolerance.
C3M	Good Mixed Color or Variegated Thin Leaf Thin, ripe, firm, oily, inelastic, normal strength, clear finish, normal, width, 80 percent uniform, and 20 percent injury tolerance.
C4M	Fair Mixed Color or Variegated Thin Leaf Thin, mature, close, lean in oil, inelastic, weak, dull finish, narrow, 70 percent uniform, and 30 percent injury tolerance.
C5M	Low Mixed Color or Variegated Thin Leaf Thin, mature, close, lean in oil, inelastic, weak, dull finish, narrow, 60 percent uniform, and 40 percent injury tolerance.

<i>U.S. grades</i>	<i>Grade names and specifications</i>
C3VF	Good Greenish Medium-brown Thin Leaf Thin, mature, firm, oily, inelastic, normal strength, clear finish, normal width, 80 percent uniform, and 20 percent injury tolerance.
C4VF	Fair Greenish Medium-brown Thin Leaf Thin, mature, close, lean in oil, inelastic, weak, dull finish, narrow, 70 percent uniform, and 30 percent injury tolerance.
C5VF	Low Greenish Medium-brown Thin Leaf Thin, mature, close, lean in oil, inelastic, weak, dull finish, narrow, 60 percent uniform, and 40 percent injury tolerance.
C3G	Good Green Thin Leaf Thin, mature, firm, oily, inelastic, normal strength, clear finish, normal width, 80 percent uniform, and 20 percent injury tolerance.
C4G	Fair Green Thin Leaf Thin, immature, close, lean in oil, inelastic, weak, dull finish, narrow, 70 percent uniform, and 30 percent injury tolerance.
C5G	Low Green Thin Leaf Thin, immature, close, lean in oil, inelastic, weak, dull finish, narrow, 60 percent uniform, and 40 percent injury tolerance.

§ 29.2664 Lugs (X Group).

This group consists of leaves that normally grow near the bottom of the stalk. Leaves of the X group usually have a high degree of maturity and show ground injury.

<i>U.S. grades</i>	<i>Grade names and specifications</i>
X1L	Choice Light-brown Lugs Thin, ripe, firm, oily, normal strength, clear finish, moderate color intensity, 95 percent uniform, and 5 percent injury tolerance.
X2L	Fine Light-brown Lugs Thin, ripe, firm, oily, normal strength, clear finish, moderate color intensity, 90 percent uniform, and 10 percent injury tolerance.
X3L	Good Light-brown Lugs Thin, ripe, firm, oily, normal dull finish, pale color intensity, 80 percent uniform, and 20 percent injury tolerance.
X4L	Fair Light-brown Lugs Thin, mature, open, lean in oil, weak, dull finish, pale color intensity, 70 percent uniform, and 30 percent injury tolerance.
X5L	Low Light-brown Lugs Thin, mature, open, lean in oil, weak, dull finish, pale color intensity, 60 percent uniform, and 40 percent injury tolerance.

<i>U.S. grades</i>	<i>Grade names and specifications</i>
X1F	Choice Medium-brown Lugs Medium body, ripe, firm, oily, normal strength, clear finish, moderate color intensity, 95 percent uniform, and 5 percent injury tolerance.
X2F	Fine Medium-brown Lugs Medium body, ripe, firm, oily, normal strength, clear finish, moderate color intensity, 90 percent uniform, and 10 percent injury tolerance.
X3F	Good Medium-brown Lugs Medium body, ripe, firm, lean in oil, weak, dull finish, pale color intensity, 80 percent uniform, and 20 percent injury tolerance.
X4F	Fair Medium-brown Lugs Thin to medium body, mature, open, lean in oil, weak, dull finish, pale color intensity, 70 percent uniform, and 30 percent injury tolerance.
X5F	Low Medium-brown Lugs Thin to medium body, mature, open, lean in oil, weak, dull finish, pale color intensity, 60 percent uniform, and 40 percent injury tolerance.
X1D	Choice Dark-brown Lugs Heavy, ripe, firm, oily, normal strength, clear finish, moderate color intensity, 95 percent uniform, and 5 percent injury tolerance.
X2D	Fine Dark-brown Lugs Heavy, ripe, firm, oily, normal strength, clear finish, moderate color intensity, 90 percent uniform, and 10 percent injury tolerance.
X3D	Good Dark-brown Lugs Heavy, ripe, firm, lean in oil, weak, dull finish, pale color intensity, 80 percent uniform, and 20 percent injury tolerance.
X4D	Fair Dark-brown Lugs Medium to heavy body, mature, open, lean in oil, weak, dull finish, pale color intensity, 70 percent uniform, and 30 percent injury tolerance.
X5D	Low Dark-brown Lugs Thin to heavy, mature, open, lean in oil, weak, dull finish, pale color intensity, 60 percent uniform, and 40 percent injury tolerance.
X3M	Good Mixed Color or Variegated Lugs Thin to heavy, ripe, firm, lean in oil, weak, dull finish, 80 percent uniform, and 20 percent injury tolerance.
X4M	Fair Mixed Color or Variegated Lugs Thin to heavy, mature, close, lean in oil, weak, dull finish, 70 percent uniform, and 30 percent injury tolerance.

<i>U.S. grades</i>	<i>Grade names and specifications</i>
X5M	Low Mixed Color or Variegated Lugs Thin to heavy, mature, close, lean in oil, weak, dull finish, 60 percent uniform, and 40 percent injury tolerance.
X3VF	Good Greenish Medium-brown Lugs Medium body, mature, firm, lean in oil, weak, dull finish, 80 percent uniform, and 20 percent injury tolerance.
X4VF	Fair Greenish Medium-brown Lugs Thin to medium body, mature, close, lean in oil, weak, dull finish, 70 percent uniform, and 30 percent injury tolerance.
X5VF	Low Greenish Medium-brown Lugs Thin to medium body, mature, close, lean in oil, weak, dull finish, 60 percent uniform, and 40 percent injury tolerance.
X3G	Good Green Lugs Heavy, mature, firm, weak, lean in oil, dull finish, 80 percent uniform, and 20 percent injury tolerance.
X4G	Fair Green Lugs Thin to medium body, immature, close, lean in oil, weak, dull finish, 70 percent uniform, and 30 percent injury tolerance.
X5G	Low Green Lugs Thin to medium body, immature, close, lean in oil, weak, dull finish, 60 percent uniform, and 40 percent injury tolerance.

§ 29.2665 Nondescript (N Group).

Extremely common tobacco which does not meet the minimum specifications or which exceeds the tolerance of the lowest grade of any other group except Scrap.

<i>U.S. grades</i>	<i>Grade names and specifications</i>
N1L	First Quality Light Colored Nondescript Thin to medium body and 60 percent injury tolerance.
N1D	First Quality Dark Colored Nondescript Medium to heavy body and 60 percent injury tolerance.
N1G	First Quality Crude Green Nondescript 60 percent crude leaves or injury tolerance.
N2	Substandard Nondescript Nondescript of any group or color; over 60 percent crude leaves or injury tolerance.

§ 29.2666 Scrap (S Group).

A byproduct of unstemmed and stemmed tobacco. Scrap accumulates from handling tobacco in farm buildings.

warehouses, packing and conditioning plants, and stemmeries.

U.S. *Grade names and specifications*
grades

Scrap
Tangled, whole, or broken unstemmed leaves, or the web portions of tobacco leaves reduced to scrap by any process.

SUMMARY OF STANDARD GRADES

§ 29.2686 Summary of standard grades.

6 Grades of Wrappers

A1F	A3F	A2D	A3D
A2F	A1D		

19 Grades of Heavy Leaf

B1F	B1D	B3M	B5VF
B2F	B2D	B4M	B3G
B3F	B3D	B5M	B4G
B4F	B4D	B3VF	B5G
B5F	B5D	B4VF	

24 Grades of Thin Leaf

C1L	C2F	C3D	C3VF
C2L	C3F	C4D	C4VF
C3L	C4F	C5D	C5VF
C4L	C5F	C3M	C3G
C5L	C1D	C4M	C4G
C1F	C2D	C5M	C5G

24 Grades of Lugs

X1L	X2F	X3D	X3VF
X2L	X3F	X4D	X4VF
X3L	X4F	X5D	X5VF
X4L	X5F	X3M	X3G
X5L	X1D	X4M	X4G
X1F	X2D	X5M	X5G

4 Grades of Nondescript

N1L	N1D	N1G	N2
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1 Grade of Scrap

S

Special factors "U" and "W" may be applied to all grades. Tobacco not covered by the standard grades is designated "No-G."

U.S. Standard Sizes Applicable

A1, A2, A3-----	45, 46, 47
B1, B2-----	44, 45, 46, 47
B3, B4, B5-----	43, 44, 45, 46, 47
C1, C2-----	44, 45, 46, 47
C3, C4, C5-----	43, 44, 45, 46, 47

KEY TO STANDARD GRADEMARKS

§ 29.2696 Key to standard grademarks.

Groups

- A—Wrappers.
- B—Heavy Leaf.
- C—Thin Leaf.
- X—Lugs.
- N—Nondescript.
- S—Scrap.

Qualities

- 1—Choice.
- 2—Fine.
- 3—Good.
- 4—Fair.
- 5—Low.

Colors

- L—Light brown.
- F—Medium brown.
- D—Dark brown.
- M—Mixed or variegated.
- VF—Greenish medium brown.
- G—Green.

OFFICIAL STANDARD GRADES FOR BURLEY TOBACCO (U.S. TYPE 31)

AUTHORITY: §§ 29.3001 to 29.3182 issued under sec. 14, 49 Stat. 734; 7 U.S.C. 511m.

SOURCE: §§ 29.3001 to 29.3182 appear at 24 F.R. 8771, Oct. 29, 1959; 24 F.R. 9121, Nov. 10, 1959, unless otherwise noted.

DEFINITIONS

§ 29.3001 Definitions.

As used in these standards, the words and phrases hereinafter defined shall have the indicated meanings so assigned.

§ 29.3002 Air-cured.

Tobacco cured under natural atmospheric conditions. Artificial heat is sometimes used to control excess humidity during the curing period to prevent house-burn and barn-burn in damp weather. Air-cured tobacco should not carry the odor of smoke or fumes resulting from the application of artificial heat.

§ 29.3003 Air-dried.

The condition of unfermented tobacco as customarily prepared for storage under natural atmospheric conditions.

§ 29.3004 Body.

The thickness and density of a leaf or the weight per unit of surface. (See Elements of quality.)

§ 29.3005 Burley, Type 31.

That type of air-cured tobacco, commonly known as Burley, produced principally in Kentucky, Tennessee, Virginia, North Carolina, Ohio, Indiana, West Virginia, and Missouri.

§ 29.3006 Buff color (L).

A light yellow slightly shaded toward red.

§ 29.3007 Class.

A major division of tobacco based on method of cure or principal usage.

§ 29.3008 Clean.

Tobacco is described as clean when it contains only a normal amount of sand or soil particles. Leaves grown on the lower portion of the stalk normally contain more dirt or sand than those from higher stalk positions. (See rule 20.)

§ 29.3009 Color.

The third factor of a grade, based on the relative hues, saturations or chroma, and color values common to the type.

§ 29.3010 Color intensity.

The varying degree of saturation or chroma. Color intensity as applied to tobacco describes the strength or weakness of a specific color or hue. It is applicable to all colors except variegated. Color intensity is reversed in its application to grades of greenish and green tobaccos and is omitted from these grade specifications. (See Elements of quality.)

§ 29.3011 Color symbols.

As applied to Burley, single color symbols are as follows: L—buff, F—tan, R—red, D—dark red, K—variegated, M—mixed color, V—greenish, and G—green.

[24 F.R. 8771, Oct. 29, 1959, as amended at 35 F.R. 10490, June 27, 1970]

§ 29.3012 Combination color symbols.

As applied to Burley, combination color symbols are as follows: FR—tannish red, VF—greenish tan, VR—greenish red, GF—green tan, and GR—green red. (See rules 17 and 18.)

§ 29.3013 Condition.

The state of tobacco which results from the method of preparation or from the degree of fermentation. Words used to describe the condition of tobacco are as follows: Undried, air-dried, steam-dried, sweating, sweated, and aged. Burley is air-dried or steam-dried for storage and aging.

§ 29.3014 Crude.

A subdegree of maturity. Crude leaves are usually hard and slick as a result of extreme immaturity. A similar condition may result from sunburn or sunscald. Any leaf which is crude to the extent of 20 percent of its leaf sur-

face may be described as crude. (See rule 19.)

§ 29.3015 Cured.

Tobacco dried of its sap by either natural or artificial processes.

§ 29.3016 Damage.

The effect of mold, must, rot, black rot, or other fungous or bacterial diseases which attack tobacco in its cured state. Tobacco having the odor of mold, must, or rot is considered damaged. (See rule 23.)

§ 29.3017 Dark red color (D).

A dark reddish brown.

§ 29.3018 Dirty.

The state of tobacco containing an abnormal amount of dirt or sand, or tobacco to which additional quantities of dirt or sand have been added. (See rule 23.)

§ 29.3019 Elements of quality.

Elements of quality and the degrees used in the specifications of the official standard grades of Burley, Type 31, are shown in § 29.3101. Words have been selected to describe the degrees of each element. Some of the words are almost synonymous in their meaning, yet, they are sufficiently different to represent steps within the range of the elements of quality to which they are applied.

§ 29.3020 Fiber.

The term applied to the veins in a tobacco leaf. The large central vein is called the midrib or stem. The smaller lateral and cross veins are considered from the standpoint of size and color and in some types are treated as elements of quality. In Burley, fiber size and color are not of great importance, except where a fine distinction must be made between several lots of high quality or between sides of the same lot.

§ 29.3021 Finish.

The reflectance factor in color perception. Finish indicates the sheen or shine of the surface of a tobacco leaf. Descriptive terms range from bright to dingy. (See Elements of quality.)

§ 29.3022 Foreign matter.

Any extraneous substance or material such as stalks, suckers, straw, strings, rubber bands, et cetera. Abnormal amounts of dirt or sand also are included. (See rule 23.)

§ 29.3023 Form.

The stage of preparation of tobacco such as unstemmed or stemmed.

§ 29.3024 General color.

The color of tobacco considered in relation to the type as a whole. General color is distinguished from the restricted use of the term "color" within a group. It is basically related to body and other overall characteristics of the type.

§ 29.3025 General quality.

The quality of tobacco considered in relation to the type as a whole. General quality is distinguished from the restricted use of the term "quality" within a group.

§ 29.3026 Grade.

A subdivision of a type according to group, quality, and color.

§ 29.3027 Grademark.

A grademark normally consists of three symbols which indicate group, quality, and color. A letter is used to indicate group, a number to indicate quality, and a letter or letters to indicate color. For example, C2F means Lugs, second quality, and tan color.

§ 29.3028 Green (G).

A color term applied to immature or crude tobacco. Any leaf which has a green color affecting 20 percent or more of its leaf surface may be described as green. (See rule 18.)

§ 29.3029 Greenish (V).

A color term applied to greenish-tinged tobacco. Any leaf which has a greenish tinge or a pale green color affecting 20 percent or more of its surface may be described as greenish. (See rule 17.)

§ 29.3030 Group.

A division of a type covering closely related grades based on certain characteristics which are related to stalk position or the general quality of the tobacco. Groups in Burley, Type 31, are as follows: Flyings (X), Lugs or Cutters (C), Leaf (B), Tips (T), Mixed (M), Nondescript (N), and Scrap (S).

§ 29.3031 Injury.

Hurt or impairment from any cause except the fungous or bacterial diseases which attack tobacco in its cured state.

(See definition of Damage.) Injury to tobacco may be caused by field diseases, insects, or weather conditions; insecticides, fungicides, or cell growth inhibitors; nutritional deficiencies or excesses; or improper fertilizing, harvesting, curing, or handling. Injured tobacco includes dead, burnt, half-cut, torn, broken, frostbitten, sunburned, sunscalded, scorched, fire-killed, bulk-burnt, steam-burnt, barn-burnt, house-burnt, bleached, bruised, discolored, or deformed leaves; or tobacco affected by wildfire, rust, frog-eye, mosaic, root rot, wilt, black shank, or other diseases. (See Elements of quality and rule 14.)

§ 29.3032 Leaf scrap.

A by-product of unstemmed tobacco. Leaf scrap results from handling unstemmed tobacco and consists of loose and tangled whole or broken leaves.

§ 29.3033 Leaf structure.

The cell development of a leaf as indicated by its porosity or solidity. (See Elements of quality.)

§ 29.3034 Leaf surface.

The smoothness or roughness of the web or lamina of a tobacco leaf. Leaf surface is affected to some extent by the size and shrinkage of the veins or fibers. (See Elements of quality.)

§ 29.3035 Length.

The linear measurement of cured tobacco leaves from the butt of the midrib to the extreme tip. (See Elements of quality.)

§ 29.3036 Lot.

A pile, basket, bulk, or more than one bale, case, hogshhead, tierce, package, or other definite package unit.

§ 29.3037 Maturity.

The degree of ripeness. Tobacco is mature when it reaches its prime state of development. The extremes are expressed as immature and mellow. (See Elements of quality.)

§ 29.3038 Mixed color (M).

Distinctly different colors of the type mingled together. (See rule 16.)

§ 29.3039 Nested.

Any tobacco which has been loaded, packed, or arranged to conceal foreign matter or tobacco of inferior grade, quality, or condition. Nested includes: (a)

Any lot of tobacco which contains foreign matter or damaged, injured, tangled, or other inferior tobacco, any of which cannot be readily detected upon inspection because of the way the lot is packed or arranged; (b) any lot of tied tobacco which contains foreign matter in the inner portions of the hands or which contains foreign matter in the heads under the tie leaves; (c) any lot of tied tobacco in which the leaves on the outside of the hands are placed or arranged to conceal inferior quality leaves on the inside of the hands or which contains wet tobacco or tobacco of lower quality in the heads under the tie leaves; and (d) any lot of tobacco which consists of distinctly different grades, qualities, or conditions and which is stacked or arranged in layers with the same kinds together so that the tobacco in the lower layer or layers is distinctly inferior in grade, quality, or condition from the tobacco in the top or upper layers. (See rule 23.)

§ 29.3040 No grade.

A designation applied to a lot of tobacco which is classified as nested, off-type, rework, semicured, tobacco damaged 20 percent or more, abnormally dirty tobacco, tobacco containing foreign matter, and tobacco having an odor foreign to the type. (See rule 23.)

§ 29.3041 Offtype.

Tobacco of distinctly different characteristics which cannot be classified as Burley, Type 31. (See rule 23.)

§ 29.3043 Order (case).

The state of tobacco with respect to its moisture content.

§ 29.3044 Package.

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

§ 29.3045 Packing.

A lot of tobacco consisting of a number of packages submitted as one definite unit for sampling or inspection. It is represented to contain the same kind of tobacco and has a common identification number or mark on each package.

§ 29.3046 Pink or pinkish.

A color term applied to pink or pinkish tobacco. Any leaf which has a pink or pinkish color affecting 20 percent or more of its leaf surface is considered as mixed color. (See rule 16.)

§ 29.3047 Quality.

A division of a group or the second factor of a grade, based on the relative degree of one or more elements of quality in tobacco.

§ 29.3048 Raw.

Freshly harvested tobacco or tobacco as it appears between the time of harvesting and the beginning of the curing process.

§ 29.3049 Red color (R).

A brownish red.

§ 29.3050 Rework.

Any lot of tobacco which needs to be resorted or otherwise reworked to prepare it properly for market in the manner which is customary in the type area, including: (a) Tobacco which is so mixed that it cannot be classified properly in any grade of the type, because the lot contains a substantial quantity of two or more distinctly different grades which should be separated by sorting; (b) tobacco which contains an abnormally large quantity of foreign matter or an unusual number of muddy or extremely dirty leaves which should be removed; and (c) tobacco not tied in hands, not packed straight, not properly tied, or otherwise not properly prepared for market. (See rule 23.)

§ 29.3051 Semicured.

Tobacco in the process of being cured or which is partially but not thoroughly cured. Semicured includes tobacco which contains fat stems, wet butts, swell stems, frozen tobacco, and tobacco having frozen stems or stems that have not been thoroughly dried in the curing process. (See rule 23.)

§ 29.3052 Side.

A certain phase of quality, color, or length as contrasted with some other phase of quality, color, or length; or any peculiar characteristic of tobacco.

§ 29.3053 Sound.

Free of damage.

§ 29.3054 Special factor.

A symbol or term authorized to be used with specified grades. Tobacco to which a special factor is applied may meet the general specifications but has a peculiar side or characteristic which tends to modify the grade. (See rule 9.)

§ 29.3055 Steam-dried.

The condition of unfermented tobacco as customarily prepared for storage by means of a redrying machine or other steam-conditioning equipment.

§ 29.3056 Stem.

The midrib or large central vein of a tobacco leaf.

§ 29.3057 Stemmed.

A form of tobacco, including strips and strip scrap, from which the stems or midribs have been removed.

§ 29.3058 Strength (tensile).

The stress a tobacco leaf can bear without tearing. Tensile strength is not an important element of quality in Burley tobacco.

§ 29.3059 Strips.

The sides of a tobacco leaf from which the stem has been removed; or a lot of tobacco composed of strips.

§ 29.3060 Subgrade.

Any grade modified by a special factor symbol.

§ 29.3061 Sweated.

The condition of tobacco which has passed through one or more fermentations natural to tobacco packed with a normal percentage of moisture. This condition is sometimes described as aged.

§ 29.3062 Sweating.

The condition of tobacco in the process of fermentation.

§ 29.3063 Tan color.

A light red-yellow.

§ 29.3064 Tannish-red color (FR).

A light red shaded toward tan.

§ 29.3065 Tobacco.

Tobacco as it appears between the time it is cured and stripped from the stalk, or primed and cured, and the time it enters into the different manufacturing processes. The acts of stemming, sweating, and conditioning are not regarded as manufacturing processes. Tobacco, as used in these standards, does not include manufactured or semimanufactured products, stems, cuttings, clippings, trimmings, siftings, or dust.

§ 29.3066 Tobacco products.

Manufactured tobacco, including cigarettes, cigars, smoking tobacco, chew-

ing tobacco, and snuff, which is subject to Internal Revenue tax.

§ 29.3067 Type.

A division of a class of tobacco having certain common characteristics and closely related grades. Tobacco which has the same characteristics and corresponding qualities, colors, and lengths is classified as one type, regardless of any factors of historical or geographical nature which cannot be determined by an examination of the tobacco.

§ 29.3068 Undried.

The condition of unfermented tobacco which has not been air-dried or steam-dried.

§ 29.3069 Uniformity.

An element of quality which describes the consistency of a lot of tobacco as it is prepared for market. Uniformity is expressed in grade specifications as a percentage. The percentage is applicable to group, quality, and color. (See rule 13.)

§ 29.3070 Unsound (U).

Damaged under 20 percent. (See rule 21.)

§ 29.3071 Unstemmed.

A form of tobacco, including whole leaf and leaf scrap, from which the stems or midribs have not been removed.

§ 29.3072 Variegated (K).

Any leaf of which 20 percent or more of its surface is yellow, grayish, mottled, or bleached, and does not blend with the normal colors of the type or group and is generally characterized by a lower degree of leaf structure and maturity than tobacco of the corresponding group and quality. (See rule 15.)

§ 29.3073 Wet (W).

Any sound tobacco containing excessive moisture to the extent that it is in an unsafe or doubtful-keeping order. Wet applies to any tobacco which is not damaged but which is likely to damage if treated in the customary manner. (See rule 22.)

§ 29.3074 Width.

The relative breadth of a tobacco leaf expressed in relation to its length. (See Elements of quality.)

ELEMENTS OF QUALITY

§ 29.3101 Elements of quality and degrees of each element.

These standardized words or terms are used to describe tobacco quality and to assist in interpreting grade specifications. Tobacco attributes or characteristics which constitute quality are designated as elements of quality. The range

within each element is expressed by the use of words or terms designated as degrees. These several degrees are arranged to show their relative value, but the actual value of each degree varies with type, group, and grade. In each case the first and last degrees represent the full range for the element, and the intermediate degrees show gradual steps between them.

Elements	Degrees				
1 Body.....	Tissuey.....	Thin.....	Medium.....	Fleshy.....	Heavy.....
2 Maturity.....	Mellow.....	Ripe.....	Mature.....	Undertripe.....	Immature.....
3 Leaf structure (porosity and solidity).....	Porous.....	Open.....	Firm.....	Close.....	Solid.....
4 Leaf surface (smoothness).....	Smooth.....	Even.....	Wavy.....	Wrinkly.....	Rough.....
5 Finish.....	Bright.....	Clear.....	Moderate.....	Dull.....	Dingy.....
6 Color intensity.....	Deep.....	Strong.....	do.....	Weak.....	Pale.....
7 Width.....	Broad.....	Spready.....	Normal.....	Narrow.....	Stringy.....
8 Length.....	(1)	(1)	(1)	(1)	(1)
9 Uniformity.....	(2)	(2)	(2)	(2)	(2)
10 Injury tolerance.....	(2)	(2)	(2)	(2)	(2)

¹ Expressed in inches.

² Expressed in percentage.

RULES

§ 29.3103 Rules.

The application of these official standard grades shall be in accordance with the following rules.

§ 29.3104 Rule 1.

Each grade shall be treated as a subdivision of a particular type. When the grade is stated in an inspection certificate, the type also shall be stated.

§ 29.3105 Rule 2.

The determination of a grade shall be based upon a thorough examination of a lot of tobacco or of an official sample of the lot.

§ 29.3106 Rule 3.

In drawing an official sample from a hogshead or other package of tobacco, three or more breaks shall be made at such points and in such manner as the inspector or sampler may find necessary to determine the kinds of tobacco and the percentage of each kind contained in the lot. One break shall be made not more than six inches from the top of the package and one not more than six inches from the bottom. All breaks shall be made so that the tobacco contained in the center of the package is visible to the sampler. Tobacco shall be drawn from at least three breaks from which a representative sample of not less than six hands shall be selected.

The sample shall include tobacco of each different group, quality, color, length, and kind found in the lot in proportion to the quantities of each contained in the lot.

§ 29.3107 Rule 4.

The grade assigned to any lot of tobacco shall be a true representation of the tobacco at the time of inspection and certification. If, at any time, it is found that a lot of tobacco does not comply with the specifications of the grade previously assigned, it shall not thereafter be represented as such grade.

§ 29.3108 Rule 5.

A lot of tobacco on the marginal line between two colors shall be placed in the color with which it best corresponds with respect to body or other associated elements of quality.

§ 29.3109 Rule 6.

Any lot of tobacco which meets the specifications of two grades shall be placed in the higher grade. Any lot of tobacco on the marginal line between two grades shall be placed in the lower grade.

§ 29.3110 Rule 7.

A lot of tobacco meets the specifications of a grade when it is not lower in any degree of any element of quality than the minimum specifications of such grade.

§ 29.3111 Rule 8.

In determining the grade of a lot of tobacco, the lot as a whole shall be considered. Minor irregularities which do not affect over one percent of the tobacco shall be overlooked.

§ 29.3112 Rule 9.

Any special factor symbol, approved by the Director of the Tobacco Division of the Consumer and Marketing Service, may be used after a grademark to show a peculiar side or characteristic of the tobacco which tends to modify the grade.

§ 29.3113 Rule 10.

Interpretations, the use of specifications, and the meaning of terms shall be in accordance with determinations or clarifications made by the Chief of the Standards Branch and approved by the Director.

§ 29.3114 Rule 11.

The use of any grade may be restricted by the Director during any marketing season, when it is found that the grade is not needed or appears in insufficient volume to justify its use.

§ 29.3115 Rule 12.

Any lot of leaf tobacco in which 20 percent or more of its leaves are under 16 inches in length shall be designated as Tips (T Group).

§ 29.3116 Rule 13.

Degrees of uniformity shall be expressed in terms of percentages. The percentages shall govern the portion of a lot which must meet the specifications of the grade. The minor portion must be closely related but may be of a different group, quality, and color from the major portion. These percentages shall not affect limitations established by other rules.

§ 29.3117 Rule 14.

The application of injury as an element of quality shall be expressed in terms of a percentage of tolerance. The appraisal of injury shall be based upon the percentage of affected leaf surface or the degree of injury. In appraising injury, consideration shall be given to the normal characteristics of the group as related to injury.

§ 29.3118 Rule 15.

Any lot of tobacco containing over 30 percent of variegated leaves shall be de-

scribed as "variegated" and designated by the color symbol "K." Variegated leaves may be included in any group to the following extent: In the third quality, 10 percent; in the fourth quality, 20 percent; and in the fifth quality, 30 percent.

§ 29.3119 Rule 16.

Any lot of tobacco of B, C, or X groups which contains 30 percent or more of pink or pinkish leaves or contains 30 percent or more of a color distinctly different from the major color shall be classified as "mixed" and designated by the color symbol "M."

§ 29.3120 Rule 17.

Any lot of tobacco containing 20 percent or more of greenish leaves, or any lot which contains 20 percent of greenish and green leaves combined, shall be designated by the color symbol "V" in the C group and the combination color symbols "VF" or "VR" in the B and T groups.

§ 29.3121 Rule 18.

Any lot of tobacco containing 20 percent or more of green leaves, or any lot which is not crude but contains 20 percent or more of green and crude combined, shall be designated by the color symbol "G" in the X and C groups and the combination color symbols "GF" or "GR" in the B and T groups.

§ 29.3122 Rule 19.

Crude leaves shall not be included in any grade of any color except green, green tan, and green red. Any lot containing 20 percent or more of crude leaves shall be designated as Non-descript.

§ 29.3123 Rule 20.

All standard grades must be clean.

§ 29.3124 Rule 21.

Tobacco damaged under 20 percent but which otherwise meets the specifications of a grade shall be treated as a subgrade by placing the special factor "U" after the grademark. Tobacco damaged 20 percent or more shall be designated as "No-G."

§ 29.3125 Rule 22.

Sound tobacco that is wet or is doubtful-keeping order but which otherwise meets the specifications of a grade shall be treated as a subgrade by placing the special factor "W" after the grademark.

This special factor does not apply to tobacco designated as "No-G."

§ 29.3126 Rule 23.

Tobacco shall be designated as No Grade, using the grademark "No-G," when it is dirty, nested, offtype, semi-cured, needs to be reworked, damaged 20 percent or more, contains foreign matter, or has an odor foreign to the type.

GRADES

§ 29.3151 Flyings (X Group).

This group consists of leaves normally grown at the bottom of the stalk. These leaves are flat and open-faced and have a blunt or oblate tip. Compared with other groups on the stalk, Flyings consist of relatively thin to tissuey leaves which show the highest degree of maturity and the most open leaf structure. Flyings show a material amount of injury characteristic of leaves grown near the ground. (See rule 14.)

U.S.

grades *Grade names and specifications*

- X1L Choice Buff Flyings
Tissuey, mellow, open to porous, even, clear finish, strong color intensity, 95 percent uniform, and 5 percent injury tolerance.
- X2L Fine Bluff Flyings
Tissuey, mellow, open to porous, even, moderate finish and color intensity, 90 percent uniform, and 10 percent injury tolerance.
- X3L Good Buff Flyings
Tissuey, ripe to mellow, open to porous, wavy, dull finish, weak color intensity, 80 percent uniform, and 20 percent injury tolerance.
- X4L Fair Buff Flyings
Tissuey, mature to ripe, open to porous, wrinkly to wavy, dingy finish, pale color intensity, 70 percent uniform, and 30 percent injury tolerance.
- X5L Low Buff Flyings
Tissuey, mature to ripe, open to porous, wrinkly, dingy finish, pale color intensity, 60 percent uniform, and 40 percent injury tolerance.
- X1F Choice Tan Flyings
Thin, mellow, open to porous, even, clear finish, strong color intensity, 95 percent uniform, and 5 percent injury tolerance.
- X2F Fine Tan Flyings
Thin, mellow, open to porous, even, moderate finish and color intensity, 90 percent uniform, and 10 percent injury tolerance.
- X3F Good Tan Flyings
Thin, ripe to mellow, open to porous, wavy, dull finish, weak color intensity, 80 percent uniform, and 20 percent injury tolerance.

U.S.

grades *Grade names and specifications*

- X4F Fair Tan Flyings
Thin, mature to ripe, open to porous, wrinkly to wavy, dingy finish, pale color intensity, 70 percent uniform, and 30 percent injury tolerance.
- X5F Low Tan Flyings
Thin, mature to ripe, open to porous, wrinkly, dingy finish, pale color intensity, 60 percent uniform, and 40 percent injury tolerance.
- X4M Fair Mixed Color Flyings
Medium to tissuey body, mature to ripe, firm to porous, wrinkly to wavy, dingy finish, pale color intensity, 70 percent uniform, and 30 percent injury tolerance.
- X5M Low Mixed Color Flyings
Medium to tissuey body, mature to ripe, firm to porous, wrinkly, dingy finish, pale color intensity, 60 percent uniform, and 40 percent injury tolerance.
- X4G Fair Green Flyings
Medium to tissuey body, immature, firm, wrinkly to wavy, dingy finish, 70 percent uniform, and 30 percent injury tolerance.
- X5G Low Green Flyings
Medium to tissuey body, immature, firm, wrinkly, dingy finish, 60 percent uniform, and 40 percent injury tolerance.

[24 F.R. 8771, Oct. 29, 1959, as amended at 35 F.R. 10490, June 27, 1970]

§ 29.3152 Lugs or Cutters (C Group).

This group consists of leaves normally grown at the midportion of the stalk. Cured leaves from this stalk position have a tendency to roll, concealing the stem or midrib. Lugs or Cutters have an oblate to rounded tip and are usually thin to medium in body. The leaves are spready in relation to their length and show little or no ground injury.

U.S.

grades *Grade names and specifications*

- C1L Choice Buff Lugs
Thin, ripe, open, smooth, bright finish, deep color intensity, broad, 20" or over in length, 95 percent uniform, and 5 percent injury tolerance.
- C2L Fine Buff Lugs
Thin, ripe, open, smooth, bright finish, strong color intensity, spready, 20" or over in length, 90 percent uniform, and 10 percent injury tolerance.
- C3L Good Buff Lugs
Thin, ripe, open, even, clear finish, moderate color intensity, normal width, 18" or over in length, 85 percent uniform, and 15 percent injury tolerance.

<i>U.S. grades</i>	<i>Grade names and specifications</i>
C4L	Fair Buff Lugs Thin, mature to ripe, firm to open, wavy to even, moderate finish, weak color intensity, narrow to normal width, 80 percent uniform, and 20 percent injury tolerance.
C5L	Low Buff Lugs Thin, mature, firm to open, wavy, dull finish, pale color intensity, narrow, 70 percent uniform, and 30 percent injury tolerance.
C1F	Choice Tan Lugs Medium to thin body, ripe, open, smooth, bright finish, deep color intensity, broad, 20'' or over in length, 95 percent uniform, and 5 percent injury tolerance.
C2F	Fine Tan Lugs Medium to thin body, ripe, open, smooth, bright finish, strong color intensity, spready, 20'' or over in length, 90 percent uniform, and 10 percent injury tolerance.
C3F	Good Tan Lugs Medium to thin body, ripe, open, even, clear finish, moderate color intensity, normal width, 18'' or over in length, 85 percent uniform, and 15 percent injury tolerance.
C4F	Fair Tan Lugs Medium to thin body, mature to ripe, firm to open, wavy to even, moderate finish, weak color intensity, narrow to normal width, 80 percent uniform, and 20 percent injury tolerance.
C5F	Low Tan Lugs Medium to thin body, mature, firm to open, wavy, dull finish, pale color intensity, narrow, 70 percent uniform, and 30 percent injury tolerance.
C3K	Good Variegated Lugs Medium body, ripe, open, even, normal width, 18'' or over in length, 85 percent uniform, and 15 percent injury tolerance.
C4K	Fair Variegated Lugs Medium body, mature to ripe, firm to open, wavy to even, narrow to normal width, 80 percent uniform, and 20 percent injury tolerance.
C5K	Low Variegated Lugs Medium body, mature, close to firm, wavy, narrow, 70 percent uniform, and 30 percent injury tolerance.
C3M	Good Mixed Color Lugs Medium to fleshy body, mature to ripe, firm to open, even, moderate finish and color intensity, normal width, 18'' or over in length, 85 percent uniform, and 15 percent injury tolerance.
C4M	Fair Mixed Color Lugs Medium to fleshy body, mature to ripe, firm to open, wavy to even, dull finish, weak color intensity, narrow to normal width, 80 percent uniform, and 20 percent injury tolerance.

<i>U.S. grades</i>	<i>Grade names and specifications</i>
C5M	Low Mixed Color Lugs Medium to fleshy body, mature to ripe, firm to open, wavy, dingy finish, pale color intensity, narrow, 70 percent uniform, and 30 percent injury tolerance.
C3V	Good Greenish Lugs Medium to thin body, underripe, open, even, clear finish, normal width, 18'' or over in length, 85 percent uniform, and 15 percent injury tolerance.
C4V	Fair Greenish Lugs Medium to thin body, underripe, firm to open, wavy to even, moderate finish, narrow to normal width, 80 percent uniform, and 20 percent injury tolerance.
C5V	Low Greenish Lugs Medium to thin body, underripe, firm to open, wavy, dull finish, narrow, 70 percent uniform, and 30 percent injury tolerance.
C4G	Fair Green Lugs Medium body, immature, close to firm, wavy to even, moderate finish, narrow to normal width, 80 percent uniform, and 20 percent injury tolerance.
C5G	Low Green Lugs Medium body, immature, close to firm, wavy, dull finish, narrow, 70 percent uniform, and 30 percent injury tolerance.

[24 F.R. 8771, Oct. 29, 1959, as amended at 35 F.R. 10490, June 27, 1970]

§ 29.3153 Leaf (B Group).

This group consists of leaves normally grown above the midpoint of the stalk. Cured leaves from the upper stalk position have a tendency to fold, concealing the face of the leaf and exposing the stem or midrib. These leaves have a pointed tip and generally are medium to heavy in body. They are narrower in relation to their length than corresponding qualities of the C Group.

<i>U.S. grades</i>	<i>Grade names and specifications</i>
B1F	Choice Tan Leaf Medium body, ripe, open, smooth, clear finish, deep color intensity, spready, 20'' or over in length, 95 percent uniform, and 5 percent injury tolerance.
B2F	Fine Tan Leaf Medium body, ripe, open, even, clear finish, strong color intensity, spready, 20'' or over in length, 90 percent uniform, and 10 percent injury tolerance.

<i>U.S. grades</i>	<i>Grade names and specifications</i>
B3F	Good Tan Leaf Medium body, mature to ripe, firm to open, wavy to even, moderate finish and color intensity, narrow to normal width, 18" or over in length, 85 percent uniform, and 15 percent injury tolerance.
B4F	Fair Tan Leaf Medium body, mature, firm, wavy, dull finish, weak color intensity, narrow, 16" or over in length, 80 percent uniform, and 20 percent injury tolerance.
B5F	Low Tan Leaf Medium body, mature, firm, wrinkly, dingy finish, pale color intensity, stringy, 16" or over in length, 70 percent uniform, and 30 percent injury tolerance.
B1FR	Choice Tannish-red Leaf Fleshy to medium body, ripe, open, smooth, clear finish, deep color intensity, spready, 20" or over in length, 95 percent uniform, and 5 percent injury tolerance.
B2FR	Fine Tannish-red Leaf Fleshy to medium body, ripe, open, even, clear finish, strong color intensity, spready, 20" or over in length, 90 percent uniform, and 10 percent injury tolerance.
B3FR	Good Tannish-red Leaf Fleshy to medium body, mature to ripe, firm to open, wavy to even, moderate finish and color intensity, narrow to normal width, 18" or over in length, 85 percent uniform, and 15 percent injury tolerance.
B4FR	Fair Tannish-red Leaf Fleshy to medium body, mature, firm, wavy, dull finish, weak color intensity, narrow, 16" or over in length, 80 percent uniform, and 20 percent injury tolerance.
B5FR	Low Tannish-red Leaf Fleshy to medium body, mature, firm, wrinkly, dingy finish, pale color intensity, stringy, 16" or over in length, 70 percent uniform, and 30 percent injury tolerance.
B1R	Choice Red Leaf Heavy to fleshy, ripe, firm to open, even, clear finish, deep color intensity, spready, 20" or over in length, 95 percent uniform, and 5 percent injury tolerance.
B2R	Fine Red Leaf Heavy to fleshy, ripe, firm to open, wavy, clear finish, strong color intensity, spready, 20" or over in length, 90 percent uniform, and 10 percent injury tolerance.

<i>U.S. grades</i>	<i>Grade names and specifications</i>
B3R	Good Red Leaf Heavy to fleshy, mature to ripe, firm, wrinkly to wavy, moderate finish and color intensity, narrow to normal width, 18" or over in length, 85 percent uniform, and 15 percent injury tolerance.
B4R	Fair Red Leaf Heavy to fleshy, mature, close to firm, wrinkly, dull finish, weak color intensity, narrow, 16" or over in length, 80 percent uniform, and 20 percent injury tolerance.
B5R	Low red Leaf Heavy to fleshy, mature, close, rough, dingy finish, pale color intensity, stringy, 16" or over in length, 70 percent uniform, and 30 percent injury tolerance.
B4D	Fair Dark-red Leaf Heavy to fleshy, mature, close, wrinkly, dull finish, weak color intensity, narrow, 16" or over in length, 80 percent uniform, and 20 percent injury tolerance.
B5D	Low Dark-red Leaf Heavy to fleshy, underripe to mature, solid, rough, dingy finish, pale color intensity, stringy, 16" or over in length, 70 percent uniform, and 30 percent injury tolerance.
B3K	Good Variegated Leaf Fleshy to medium body, mature to ripe, firm to open, wrinkly to wavy, narrow to normal width, 18" or over in length, 85 percent uniform, and 15 percent injury tolerance.
B4K	Fair Variegated Leaf Fleshy, mature, close to firm, wrinkly, narrow, 16" or over in length, 80 percent uniform, and 20 percent injury tolerance.
B5K	Low Variegated Leaf Heavy to fleshy, underripe to mature, solid to close, rough, stringy, 16" or over in length, 70 percent uniform, and 30 percent injury tolerance.
B3M	Good Mixed Color Leaf Fleshy to medium body, mature to ripe, firm to open, wavy to even, moderate finish and color intensity, narrow to normal width, 18" or over in length, 85 percent uniform, and 15 percent injury tolerance.
B4M	Fair Mixed Color Leaf Fleshy to medium body, mature to ripe, firm to open, wavy, dull finish, weak color intensity, narrow, 16" or over in length, 80 percent uniform, and 20 percent injury tolerance.

<i>U.S. grades</i>	<i>Grade names and specifications</i>
B5M	Low Mixed Color Leaf Fleshy to medium body, underripe to mature, firm to open, wrinkly, dingy finish, pale color intensity, stringy, 16'' or over in length, 70 percent uniform, and 30 percent injury tolerance.
B3VF	Good Greenish-tan Leaf Medium body, underripe, firm to open, wavy to even, moderate finish, narrow to normal width, 18'' or over in length, 85 percent uniform, and 15 percent injury tolerance.
B4VF	Fair Greenish-tan Leaf Medium body, underripe, close to firm, wavy, dull finish, narrow, 16'' or over in length, 80 percent uniform, and 20 percent injury tolerance.
B5VF	Low Greenish-tan Leaf Medium body, underripe, close, wrinkly, dingy finish, stringy, 16'' or over in length, 70 percent uniform, and 30 percent injury tolerance.
B3VR	Good Greenish-red Leaf Heavy to fleshy, underripe, firm, wrinkly to wavy, moderate finish, narrow to normal width, 18'' or over in length, 85 percent uniform, and 15 percent injury tolerance.
B4VR	Fair Greenish-red Leaf Heavy to fleshy, underripe, close to firm, wrinkly, dull finish, narrow, 16'' or over in length, 80 percent uniform, and 20 percent injury tolerance.
B5VR	Low Greenish-red Leaf Heavy to fleshy, underripe, close, rough, dingy finish, stringy, 16'' or over in length, 70 percent uniform, and 30 percent injury tolerance.
B3GF	Good Green-tan Leaf Fleshy to medium body, immature, firm to open, wrinkly to wavy, moderate finish, narrow to normal width, 18'' or over in length, 85 percent uniform, and 15 percent injury tolerance.
B4GF	Fair Green-tan Leaf Fleshy to medium body, immature, close to firm, wrinkly, dull finish, narrow, 16'' or over in length, 80 percent uniform, and 20 percent injury tolerance.
B5GF	Low Green-tan Leaf Fleshy to medium body, immature, close, rough, dingy finish, stringy, 16'' or over in length, 70 percent uniform, and 30 percent injury tolerance.
B3GR	Good Green-red Leaf Heavy to fleshy, immature, close to firm, wrinkly to wavy, moderate finish, narrow to normal width, 18'' or over in length, 85 percent uniform, and 15 percent injury tolerance.

<i>U.S. grades</i>	<i>Grade names and specifications</i>
B4GR	Fair Green-red Leaf Heavy to fleshy, immature, solid to close, wrinkly, dull finish, narrow width, 16'' or over in length, 80 percent uniform, and 20 percent injury tolerance.
B5GR	Low Green-red Leaf Heavy to fleshy, immature, solid, rough, dingy finish, stringy, 16'' or over in length, 70 percent uniform, and 30 percent injury tolerance.

§ 29.3154 Tips (T Group).

This group consists of leaves usually grown at the top of the stalk. These relatively narrow and sharp-pointed leaves have the general characteristics of B-Group tobacco. Tips have a slightly lower degree of maturity and leaf structure than other leaves on the stalk. (See rule 12.)

<i>U.S. grades</i>	<i>Grade names and specifications</i>
T3F	Good Tan Tips Medium body, mature to ripe, firm to open, wavy to even, moderate finish and color intensity, narrow to normal width, under 16'' in length, 85 percent uniform, and 15 percent injury tolerance.
T4F	Fair Tan Tips Medium body, mature, firm, wavy, dull finish, weak color intensity, narrow, under 16'' in length, 80 percent uniform, and 20 percent injury tolerance.
T5F	Low Tan Tips Medium body, mature, firm, wrinkly, dingy finish, pale color intensity, stringy, under 16'' in length, 70 percent uniform, and 30 percent injury tolerance.
T3FR	Good Tannish-red Tips Fleshy to medium body, mature to ripe, firm to open, wavy to even, moderate finish and color intensity, narrow to normal width, under 16'' in length, 85 percent uniform, and 15 percent injury tolerance.
T4FR	Fair Tannish-red Tips Fleshy to medium body, mature, firm, wavy, dull finish, weak color intensity, narrow, under 16'' in length, 80 percent uniform, and 20 percent injury tolerance.
T5FR	Low Tannish-red Tips Fleshy to medium body, mature, firm, wrinkly, dingy finish, pale color intensity, stringy, under 16'' in length, 70 percent uniform, and 30 percent injury tolerance.

<i>U.S. grades</i>	<i>Grade names and specifications</i>
T3R	Good Red Tips Heavy to fleshy, mature to ripe, firm, wrinkly to wavy, moderate finish and color intensity, narrow to normal width, under 16" in length, 85 percent uniform, and 15 percent injury tolerance.
T4R	Fair Red Tips Heavy to fleshy, mature, close to firm, wrinkly, dull finish, weak color intensity, narrow, under 16" in length, 80 percent uniform, and 20 percent injury tolerance.
T5R	Low Red Tips Heavy to fleshy, mature, close, rough, dingy finish, pale color intensity, stringy, under 16" in length, 70 percent uniform, and 30 percent injury tolerance.
T4D	Fair Dark-red Tips Heavy to fleshy, mature, close, wrinkly, dull finish, weak color intensity, narrow, under 16" in length, 80 percent uniform, and 20 percent injury tolerance.
T5D	Low Dark-red Tips Heavy to fleshy, underripe to mature, solid, rough, dingy finish, pale color intensity, stringy, under 16" in length, 70 percent uniform, and 30 percent injury tolerance.
T4K	Fair Variegated Tips Fleshy, mature, close to firm, wrinkly, narrow, under 16" in length, 80 percent uniform, and 20 percent injury tolerance.
T5K	Low Variegated Tips Heavy to fleshy, underripe to mature, solid to close, rough, stringy, under 16" in length, 70 percent uniform, and 30 percent injury tolerance.
T4VF	Fair Greenish-tan Tips Medium body, underripe, close to firm, wavy, dull finish, narrow, under 16" in length, 80 percent uniform, and 20 percent injury tolerance.
T5VF	Low Greenish-tan Tips Medium body, underripe, close, wrinkly, dingy finish, stringy, under 16" in length, 70 percent uniform, and 30 percent injury tolerance.
T4VR	Fair Greenish-red Tips Heavy to fleshy, underripe, close to firm, wrinkly, dull finish, narrow, under 16" in length, 80 percent uniform, and 20 percent injury tolerance.
T5VR	Low Greenish-red Tips Heavy to fleshy, underripe, close, rough, dingy finish, stringy, under 16" in length, 70 percent uniform, and 30 percent injury tolerance.
T4GF	Fair Green-tan Tips Fleshy to medium body, immature, close to firm, wrinkly, dull finish, narrow, under 16" in length, 80 percent uniform, and 20 percent injury tolerance.

<i>U.S. grades</i>	<i>Grade names and specifications</i>
T5GF	Low Green-tan Tips Fleshy to medium body, immature, close, rough, dingy finish, stringy, under 16" in length, 70 percent uniform, and 30 percent injury tolerance.
T4GR	Fair Green-red Tips Heavy to fleshy, immature, solid to close, wrinkly, dull finish, narrow, under 16" in length, 80 percent uniform, and 20 percent injury tolerance.
T5GR	Low Green-red Tips Heavy to fleshy, immature, solid, rough, dingy finish, stringy, under 16" in length, 70 percent uniform, and 30 percent injury tolerance.

§ 29.3155 Mixed (M Group).

This group consists of tobacco of distinctly different groups which are mixed together in various combinations.

<i>U.S. grades</i>	<i>Grade names and specifications</i>
M1F	Choice Light Mixed. General quality of X1, C1, and B1, medium to tissuey body, light general color, and 5 percent injury tolerance.
M2F	Fine Light Mixed. General quality of X2, C2, and B2, medium to tissuey body, light general color, and 10 percent injury tolerance.
M3F	Good Light Mixed. General quality of X3, C3, B3, T3, medium to tissuey body, light general color, under 20 percent greenish, and 15 percent injury tolerance.
M4F	Fair Light Mixed. General quality of X4, C4, B4, T4, medium to tissuey body, light general color under 20 percent greenish, and 20 percent injury tolerance.
M5F	Low Light Mixed. General quality of X5, C5, B5, T5, medium to tissuey body, light general color, under 20 percent greenish, and 30 percent injury tolerance.
M3FR	Good Dark Mixed. General quality of X3, C3, B3, T3, heavy to medium body, dark general color, under 20 percent greenish, and 15 percent injury tolerance.
M4FR	Fair Dark Mixed. General quality of X4, C4, B4, T4, heavy to medium body, dark general color, under 20 percent greenish, and 20 percent injury tolerance.
M5FR	Low Dark Mixed. General quality of X5, C5, B5, T5, heavy to medium body, dark general color, under 20 percent greenish, and 30 percent injury tolerance.

[35 F.R. 10490, June 27, 1970]

§ 29.3156 Nondescript (N Group).

Extremely common tobacco which does not meet the minimum specifications or which exceeds the tolerance of the lowest grade of any other group.

U.S. grades Grade names and specifications

N1L First Quality Light Colored Nondescript
Thin to tissuey body and 60 percent injury tolerance.

N1F First Quality Medium Colored Nondescript
Fleshy to medium body and 60 percent injury tolerance.

N1R First Quality Dark Colored Nondescript
Heavy to fleshy body and 60 percent injury tolerance.

N1G First Quality Crude Green Nondescript
60 percent crudes leaves or injury tolerance.

N2L Second Quality Light to Medium Colored Nondescript
Medium to tissuey body and over 60 percent injury tolerance.

N2R Second Quality Medium to Dark Colored Nondescript
Heavy to medium body and over 60 percent injury tolerance.

N2G Second Quality Crude Green Nondescript
Over 60 percent crude leaves or injury.

§ 29.3157 Scrap (S Group).

A by-product of unstemmed and stemmed tobacco. Scrap accumulates from handling tobacco in farm buildings, warehouses, packing and conditioning plants, and stemmeries.

U.S. grades Grade names and specifications

S Scrap
Loose, tangled, whole, or broken unstemmed leaves, or web portions of tobacco leaves reduced to scrap by any process.

SUMMARY OF STANDARD GRADES

§ 29.3181 Summary of standard grades.

14 Grades of Flying

X1L	X5L	X4F	X4G
X2L	X1F	X5F	X5G
X3L	X2F	X4M	
X4L	X3F	X5M	

21 Grades of Lugs or Cutters

C1L	C2F	C5K	C5V
C2L	C3F	C3M	C4G
C3L	C4F	C4M	C5G
C4L	C5F	C5M	
C5L	C3K	C3V	
C1F	C4K	C4V	

35 Grades of Leaf

B1F	B5FR	B4K	B4VR
B2F	B1R	B5K	B5VR
B3F	B2R	B3M	B3GF
B4F	B3R	B4M	B4GF
B5F	B4R	B5M	B5GF
B1FR	B5R	B3VF	B3GR
B2FR	B4D	B4VF	B4GR
B3FR	B5D	B5VF	B5GR
B4FR	B3K	B3VR	

21 Grades of Tips

T3F	T3R	T5K	T5GF
T4F	T4R	T4VF	T4GR
T5F	T5R	T5VF	T5GR
T3FR	T4D	T4VR	
T4FR	T5D	T5VR	
T5FR	T4K	T4GF	

8 Grades of Mixed Group

M1F	M3F	M5F	M4FR
M2F	M4F	F3FR	M5FR

7 Grades of Nondescript

N1L	N1F	N2R	N2G
N2L	N1R	N1G	

1 Grade of Scrap

S

Special factors "U" and "W" may be applied to all grades.

Tobacco not covered by the standard grades is designated by No.-G.

[24 F.R. 8771, Oct. 29, 1959, as amended at 35 F.R. 10490, June 27, 1970]

KEY TO STANDARD GRADEMARKS

§ 29.3182 Key to standard grademarks.

Groups

- X—Flyings.
- C—Lugs or Cutters.
- B—Leaf.
- T—Tips.
- M—Mixed.
- N—Nondescript.
- S—Scrap.

Qualities

- 1—Choice.
- 2—Fine.
- 3—Good.
- 4—Fair.
- 5—Low.

Colors

- L—Buff.
- F—Tan.
- FR—Tannish red.
- R—Red.
- D—Dark red.
- K—Variegated.
- M—Mixed.
- V—Greenish.
- VF—Greenish tan.
- VR—Greenish red.
- G—Green.
- GF—Green tan.
- GR—Green red.

OFFICIAL STANDARD GRADES FOR MARYLAND BROADLEAF TOBACCO (U.S. TYPE 32)

AUTHORITY: §§ 29.3251 to 29.3401 issued under sec. 14, 49 Stat. 734; 7 U.S.C. 511m.

SOURCE: §§ 29.3251 to 29.3401 appear at 34 F.R. 5590, Mar. 25, 1969, unless otherwise noted.

DEFINITIONS

§ 29.3251 Definitions.

As used in these standards, the words and phrases hereinafter defined shall have the indicated meanings so assigned.

§ 29.3252 Air-cured.

Tobacco cured under natural atmospheric conditions. Artificial heat is sometimes used to control excess humidity during the curing period to prevent house-burn and barn-burn in damp weather. Air-cured tobacco should not carry the odor of smoke or fumes resulting from the application of artificial heat.

§ 29.3253 Air-dried.

The condition of unfermented tobacco as customarily prepared for storage under natural atmospheric conditions.

§ 29.3254 Body.

The thickness and density of a leaf or the weight per unit of surface. (See chart, § 29.3371.)

§ 29.3255 Class.

A major division of tobacco based on characteristics caused by varieties, soils, or climatic conditions, or by the method of cultivation, harvesting, or curing.

§ 29.3256 Clean.

Tobacco is described as clean when it contains only a normal amount of sand or soil particles. Leaves grown on the lower portion of the stalk normally contain more sand or dirt than those from higher stalk positions. (See Rule 4, § 29.3335.)

§ 29.3257 Color.

The third factor of the grade based on relative hues, saturations or chromas, and color values common to the type. Basic colors of Maryland Broadleaf tobacco are red, yellow, and green. The saturation of each color determines its degree of difference in vividness of hue and is expressed as follows:

(a) *Tan*. A light reddish yellow in hue, of high saturation and medium brilliance.

(b) *Cherry red*. A yellowish red in hue; a light to medium brown color of very high saturation and medium brilliance.

(c) *Red*. A reddish red yellow in hue; a medium to dark reddish-brown color of medium saturation and low brilliance.

(d) *Brown*. A reddish red yellow in hue; a very dark shade of brown color of low saturation and low brilliance.

(e) *Greenish*. A greenish reddish yellow or a greenish yellowish red in hue. (See definition, § 29.3270, and Rule 17, § 29.3348.)

(f) *Green*. Of the color green, the hue of which is somewhat less than that of fresh-growing grass. (See definition, § 29.3269, and Rule 18, § 29.3349.)

(g) *Variegated*. Diversified in external appearance with different colors, or an off color. (See definition, § 29.3307, and Rule 16, § 29.3347.)

§ 29.3258 Color symbols.

As applied to Maryland Broadleaf tobacco color symbols are: L—Tan, F—Cherry red, R—Red, D—Brown, V—Greenish, G—Green, K—Variegated.

§ 29.3259 Condition.

The state of tobacco which results from the method of preparation or from the degree of fermentation. Words used to describe the condition of tobacco are: Undried, air-dried, steam-dried, sweating, sweated, and aged. Maryland Broadleaf is air-dried or steam-dried for storage and aging.

§ 29.3260 Cured.

Tobacco dried of its sap by either natural or artificial processes.

§ 29.3261 Damage.

The effect of mold, must, rot, black rot, or other fungus or bacterial diseases which attack tobacco in its cured state. Tobacco having the odor of mold, must, or rot is considered damaged. (See Rule 21, § 29.3352.)

§ 29.3262 Dirty.

The state of tobacco containing an abnormal amount of dirt or sand, or tobacco to which additional quantities of dirt or sand have been added. (See Rule 22, § 29.3353.)

§ 29.3263 Elements of quality.

Elements of quality and the degrees used in the specifications of the Official Standard Grades for Maryland Broadleaf, Type 32, are shown in § 29.3371. Words have been selected to describe the degrees of each element.

§ 29.3264 **Finish.**

The reflectance factor in color perception. As applied to tobacco colors, it is used to describe the clearness or brightness of a color or hue.

§ 29.3265 **Foreign matter.**

Any extraneous substance or material such as stalks, suckers, straw, strings, rubber bands, et cetera. Abnormal amounts of dirt or sand also are included. (See Rule 22, § 29.3353.)

§ 29.3266 **Form.**

The stage of preparation of tobacco such as stemmed or unstemmed.

§ 29.3267 **Grade.**

A subdivision of a type according to group, quality, and color.

§ 29.3268 **Grademark.**

A grademark normally consists of three symbols which indicate group, quality, and color. A letter is used to indicate group, a number to indicate quality, and a letter to indicate color. For example, C2L means Bright-crop, second quality, and tan color.

§ 29.3269 **Green (G).**

A color term applied to crude or immature tobacco. Any leaf which is crude to the extent of 20 percent or more or has a green color affecting 20 percent or more of its surface may be described as green. (See Rule 18, § 29.3349.)

§ 29.3270 **Greenish or unripe (V).**

A color term applied to relatively thin unripe tobacco. Any leaf which has a greenish tinge or a pale green color affecting 20 percent or more of its surface may be described as greenish. (See Rule 17, § 29.3348.)

§ 29.3271 **Group.**

A division of a type covering several closely related grades based on certain characteristics which are related to stalk position or the general quality of the tobacco. Groups in Maryland Broadleaf, Type 32, are: Seconds (X), Bright-crop or Thin-crop (C), Dull-crop or Heavy-crop (B), Tips (T), Nondescript (N), and Scrap (S).

§ 29.3272 **Injury.**

Hurt or impairment from any cause except the fungus or bacterial diseases which attack tobacco in its cured state. (See definition of Damage, § 29.3261; chart, § 29.3371; and Rule 15, § 29.3346.)

§ 29.3273 **Leaf scrap.**

A byproduct of unstemmed tobacco. Leaf scrap results from handling unstemmed tobacco and consists of loose and tangled whole or broken leaves.

§ 29.3274 **Leaf structure.**

The cell development of a leaf as indicated by its porosity or solidity. (See chart, § 29.3371.)

§ 29.3275 **Length.**

The linear measurement of cured tobacco leaves from the butt of the midrib to the extreme tip. (See chart, § 29.3371.)

§ 29.3276 **Lot.**

A pile, basket, bulk, hack, burden, or more than one bale, case, hogshead, tierce, package, or other definite package unit.

§ 29.3277 **Maryland Broadleaf, Type 32.**

That type of air-cured tobacco also known as Southern Maryland or Maryland Air-cured tobacco produced principally in southern Maryland.

§ 29.3278 **Maturity.**

The degree of ripeness. (See chart, § 29.3371.) The degrees of maturity are:

(a) *Mellow*. The highest degree of maturity in Type 32 tobacco. Tobacco of a soft, dry nature which is fluffy, fairly tender, and having a very open leaf structure resulting from extreme ripeness. It may contain a material amount of injury associated with overripeness.

(b) *Ripe*. The degree of maturity under mellow. Any leaf which has reached completeness or is thoroughly ripe, somewhat firmer in leaf structure than mellow tobacco but having an open to firm leaf structure, and may show injury characteristic of ripeness.

(c) *Mature*. The intermediate degree of maturity. Any leaf which has attained full development or completeness of growth. Tobacco which is just mature but lacking in quality characteristics associated with ripe tobacco. It may have a slight greenish color and firm to close leaf structure.

(d) *Unripe*. The degree of maturity used to describe any tobacco which has not reached full development or completeness of growth, or any unripe leaf which has a pale green color affecting 20 percent or more of its leaf surface may be described as greenish or unripe. Unripe tobacco is normally characterized by its slick surface and close or tight leaf structure.

(e) *Immature*. The lowest degree of maturity which is used to describe any tobacco that is green or undeveloped. Any leaf which has a green color affecting 20 percent or more of its leaf surface may be described as green or immature.

(f) *Crude*. A subdegree of maturity. Crude leaves are usually hard and compact and may be grayish or off colored as a result of extreme immaturity. A similar condition may result from sunburn or sunscald. Crude tobacco may or may not be green in color. Any leaf which is crude to the extent of 20 percent or more of its leaf surface may be described as crude.

§ 29.3279 **Nested.**

Any tobacco which has been loaded, packed, or arranged to conceal foreign matter or tobacco of inferior grade, quality, or condition. Nested includes: (a) Any lot of tobacco which contains foreign matter or damaged, injured, tangled, or other inferior tobacco, any of which cannot be readily detected upon inspection because of the way the lot is packed or arranged; (b) any lot of tied tobacco which contains foreign matter in the inner portions of the hands or which contains foreign matter in the heads under the tie leaves; (c) any lot of tied tobacco in which the leaves on the outside of the hands are placed or arranged to conceal inferior quality leaves on the inside of the hands or which contains wet tobacco or tobacco of lower quality in the heads under the tie leaves; (d) any lot of tobacco which consists of distinctly different grades, qualities, or conditions and which is stacked or arranged in layers with the same kinds together so that the tobacco in the lower layer or layers is distinctly inferior in grade, quality, or condition from the tobacco in the top or upper layers. (See Rule 22, § 29.3353.)

§ 29.3280 **No-G.**

A designation applied to a lot of tobacco classified as rework, nested, off-type, semicured; tobacco that is damaged 20 percent or more, abnormally dirty, or extremely wet or watered; or tobacco that contains foreign matter or has an odor foreign to the type. (See Rule 22, § 29.3353.)

§ 29.3281 **Offtype.**

Tobacco of distinctly different characteristics which cannot be classified as Maryland Broadleaf, Type 32. Upper

Country tobacco, Type 32b, is not considered offtype. (See definitions of No-G, § 29.3280; Upper Country, § 29.3306; and Rule 22, § 29.3353.)

§ 29.3282 **Order (case).**

The state of tobacco with respect to its moisture content.

§ 29.3283 **Package.**

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

§ 29.3284 **Packing.**

A lot of tobacco consisting of a number of packages submitted as one definite unit for sampling or inspection. It is represented to contain the same kind of tobacco and has a common identification number or mark on each package.

§ 29.3285 **Quality.**

A division of a group or the second factor of a grade, based upon the relative degree of one or more elements of quality in tobacco.

§ 29.3286 **Raw.**

Freshly harvested tobacco or tobacco as it appears between the time of harvesting and the beginning of the curing process.

§ 29.3287 **Rework.**

Any lot of tobacco which needs to be resorted or otherwise reworked to prepare it properly for market in the manner which is customary in the type area, including: (a) Tobacco which is so mixed that it cannot be classified properly in any grade of the type, because the lot contains a substantial quantity of two or more distinctly different grades which should be separated by sorting; (b) tobacco which contains an abnormally large quantity of foreign matter or an unusual number of muddy or extremely dirty leaves which should be removed; and (c) tobacco not tied in hands, not packed straight, not properly tied, or otherwise not properly prepared for market. (See definition of No-G, § 29.3280; and Rule 22, § 29.3353.)

§ 29.3288 **Semicured.**

Tobacco in the process of being cured or which is partially but not thoroughly cured. Semicured includes tobacco which contains fat stems, wet butts, swelled stems, frozen tobacco, and tobacco having frozen stems or stems that have not been thoroughly dried in the curing process. (See Rule 22, § 29.3353.)

§ 29.3289 Side.

A certain phase of quality, color, or length as contrasted with some other phase of quality, color, or length; or any peculiar characteristic of tobacco.

§ 29.3290 Sound.

Free of damage.

§ 29.3291 Special factor.

A symbol or term authorized to be used with specified grades. Tobacco to which a special factor is applied may meet the general specifications but has a peculiar side or characteristic which tends to modify the grade. (See Rules 10, § 29.3341; 20, § 29.3351; 21, § 29.3352.)

§ 29.3292 Steam-dried.

The condition of unfermented tobacco as customarily prepared for storage by means of a redrying machine or other steam-conditioning equipment.

§ 29.3293 Stem.

The midrib or large central vein of a tobacco leaf.

§ 29.3294 Stemmed.

A form of tobacco, including strips and strip scrap, from which the stems or midribs have been removed.

§ 29.3295 Strips.

The sides of a tobacco leaf from which the stem has been removed or a lot of tobacco composed of strips.

§ 29.3296 Sweated.

The condition of tobacco which has passed through one or more fermentations natural to tobacco packed with a normal percentage of moisture. This condition is sometimes described as aged.

§ 29.3297 Sweating.

The condition of tobacco in the process of fermentation.

§ 29.3298 Tobacco.

Tobacco as it appears between the time it is cured and stripped from the stalk, or primed and cured, and the time it enters into the different manufacturing processes. The acts of stemming, sweating, and conditioning are not regarded as manufacturing processes. Tobacco, as used in these standards, does not include manufactured or semimanufactured products, stems, cuttings, clippings, siftings, or dust.

§ 29.3299 Tobacco products.

Manufactured tobacco, including cigarettes, cigars, smoking tobacco, chewing tobacco, and snuff.

§ 29.3300 Type.

A division of a class of tobacco having certain common characteristics and closely related grades. Tobacco which has the same characteristics and corresponding qualities, colors, and lengths is classified as one type, regardless of any factors of historical or geographical nature which cannot be determined by an examination of the tobacco.

§ 29.3301 Type 32.

That type of air-cured tobacco commonly known as Southern Maryland tobacco or Maryland Air-cured and produced principally in southern Maryland.

§ 29.3302 Undried.

The condition of unfermented tobacco which has not been air-dried or steam-dried.

§ 29.3303 Uniformity.

An element of quality which describes the consistency of a lot of tobacco as it is prepared for market. Uniformity is expressed as percentages in the grade specifications. (See chart, § 29.3371; and Rule 14, § 29.3345.)

§ 29.3304 Unsound (U).

Damaged under 20 percent. (See Rule 21, § 29.3352.)

§ 29.3305 Unstemmed.

A form of tobacco, including whole leaf and leaf scrap, from which the stems or midribs have not been removed.

§ 29.3306 Upper Country.

Burley strains and tobacco known as "Upper Country," which do not have the characteristics of varieties commonly grown in southern Maryland, are classified as Type 32b.

§ 29.3307 Variegated (K).

Any leaf of which 20 percent or more of its surface is pale grayish yellow, gray, mottled, bleached, or stained and does not blend with the normal colors of the type or group and is characterized by a lower degree of leaf structure and maturity than tobacco of corresponding group and quality in the normal colors. (See Rule 16, § 29.3347.)

§ 29.3308 Wet (W).

Any sound tobacco containing excessive moisture to the extent that it is in unsafe or doubtful-keeping order. Wet applies to any tobacco which is not damaged but which is likely to damage if treated in the customary manner. (See Rule 20, § 29.3351.)

§ 29.3309 Width.

The relative breadth of a tobacco leaf expressed in relation to its length. (See chart, § 29.3371.)

RULES

§ 29.3331 Rules.

The application of these official standard grades shall be in accordance with the following rules.

§ 29.3332 Rule 1.

Each grade shall be treated as a subdivision of a particular type. When the grade is stated in an inspection certificate, the type also shall be stated.

§ 29.3333 Rule 2.

The determination of grade shall be based upon a thorough examination of a lot of tobacco or of an official sample of the lot.

§ 29.3334 Rule 3.

In drawing an official sample from a hogshead or other package of tobacco, three or more breaks shall be made at such points and in such manner as the inspector or sampler may find necessary to determine the kinds of tobacco and the percentage of each kind contained in the lot. One break shall be made not more than 12 inches from the top of the package and one not more than 12 inches from the bottom. All breaks shall be made so that the tobacco contained in the center of the package is visible to the sampler. Tobacco shall be drawn from at least three breaks from which a representative sample of not less than six hands shall be selected. The sample shall include tobacco of each different group, quality, color, length, and kind found in the lot in proportion to the quantities of each contained in the lot.

§ 29.3335 Rule 4.

All standard grades must be clean.

§ 29.3336 Rule 5.

The grade assigned to any lot of tobacco shall be a true representation of the tobacco at the time of inspection and

certification. If, at any time, it is found that a lot of tobacco does not comply with the specifications of the grade previously assigned, it shall not thereafter be represented as such grade.

§ 29.3337 Rule 6.

A lot of tobacco on the marginal line between two colors shall be placed in the color with which it best corresponds with respect to body or other associated elements of quality.

§ 29.3338 Rule 7.

Any lot of tobacco which meets the specifications of two grades shall be placed in the higher grade. Any lot of tobacco on the marginal line between two grades shall be placed in the lower grade.

§ 29.3339 Rule 8.

A lot of tobacco meets the specifications of a grade when it is not lower in any degree of any element of quality than the minimum specifications of such grade.

§ 29.3340 Rule 9.

In determining the grade of a lot of tobacco, the lot as a whole shall be considered. Minor irregularities which do not affect over 1 percent of the tobacco shall be overlooked.

§ 29.3341 Rule 10.

Any special factor symbol approved by the Director of the Tobacco Division, Consumer and Marketing Service, may be used after a grademark to show a peculiar side or characteristic of the tobacco which tends to modify the grade.

§ 29.3342 Rule 11.

Interpretations, the use of specifications, and the meaning of terms shall be in accordance with determinations or clarifications made by the Chief of the Standards and Testing Branch and approved by the Director.

§ 29.3343 Rule 12.

The use of any grade may be restricted by the Director during any marketing season, when it is found that the grade is not needed or appears in insufficient volume to justify its use.

§ 29.3344 Rule 13.

Any lot of Dull-crop or Heavy-crop tobacco or any lot of tobacco having the general characteristics of Dull-crop or

Heavy-crop in which 25 percent or more of its leaves are under 16 inches in length shall be designated as Tip group (T).

§ 29.3345 Rule 14.

Degrees of uniformity shall be expressed in terms of percentages. The percentages shall govern the portion of a lot which must meet the specifications of the grade. (These percentages shall not affect limitations established by other rules.) The minor portion must be of a closely related group, quality, and color.

§ 29.3346 Rule 15.

The application of injury tolerance as an element of quality shall be expressed in terms of percentages. The appraisal of injury shall be based upon the percentage of affected leaf surface or the percent a lot contains. In appraising injury only detrimental injury such as portions decomposed by field diseases, field-firing, pole-burning, barn-burning, or wasted portions shall be considered. Physical characteristics associated with normal ripeness shall not be construed as detrimental injury and shall be overlooked in quality determination.

§ 29.3347 Rule 16.

Variegated tobacco may be included in any group as follows: In the second quality, 10 percent; and in the third quality up to 20 percent. Any lot of tobacco containing 20 percent or more of variegated leaves that are lower in maturity and tighter in leaf structure than tobaccos of normal colors for the group shall be described as "variegated" and designated by the color symbol "K."

§ 29.3348 Rule 17.

Any lot of unripe tobacco, any lot of tobacco containing 20 percent or more of greenish leaves, or any lot which contains 20 percent of greenish and green leaves combined shall be designated by the color symbol "V."

§ 29.3349 Rule 18.

Any lot of tobacco containing 20 percent or more of immature or green

leaves, or any lot which is not crude but contains 20 percent or more of green and crude combined shall be designated by the color symbol "G."

§ 29.3350 Rule 19.

Crude leaves shall not be included in any grade of any color except green. Any lot containing 20 percent or more of crude leaves shall be designated Nondescript.

§ 29.3351 Rule 20.

Sound tobacco that is wet or in doubtful-keeping order but which otherwise meets the specifications of a grade shall be treated as a special factor grade by placing the special factor "W" after the grademark. This special factor does not apply to tobacco designated "No-G."

§ 29.3352 Rule 21.

Tobacco damaged under 20 percent but which otherwise meets the specifications of a grade shall be treated as a special factor grade by placing the special factor "U" after the grademark. Tobacco damaged 20 percent or more shall be designated "No-G."

§ 29.3353 Rule 22.

Tobacco shall be identified by the grademark "No-G" when it is dirty, nested, offtype, semicured, damaged 20 percent or more, extremely wet or watered, or needs to be reworked, contains foreign matter, or has an odor foreign to the type.

ELEMENTS OF QUALITY

§ 29.3371 Elements of quality and degrees of each element.

These standardized words or terms are used to describe tobacco quality and to assist in interpreting grade specifications. Tobacco attributes or characteristics which constitute quality are designated as elements of quality. The range within each element is expressed by the use of words or terms designated as degrees. These several degrees are arranged to show their relative value.

Elements	Degrees				
Body.....	Tissuey.....	Thin.....	Medium.....	Fleshy.....	Heavy.
Maturity.....	Mellow.....	Ripe.....	Mature.....	Unripe.....	Immature.
Leaf structure.....	Porous.....	Open.....	Firm.....	Close.....	Tight.
Width.....		Spready.....	Normal.....	Narrow.....	
Length.....	Expressed in inches when applicable.				
Uniformity.....	Expressed in percentages.				
Injury tolerance.....	Expressed in percentages.				

GRADES

§ 29.3385 Seconds (X Group).

This group consists of relatively thin leaves which show material injury characteristic of leaves grown near the ground or below the midpoint of the stalk. Cured Seconds normally have a flat, open face and are wider in relation to their length than leaves from a higher stalk position.

U.S.

grades Grade names and specifications

- X1L **Choice Quality Tan Seconds**
Tissuey, mellow, porous, 90 percent uniformity, and 10 percent injury tolerance.
- X2L **Good Quality Tan Seconds**
Thin, ripe, open, 75 percent uniformity, and 25 percent injury tolerance.
- X3L **Low Quality Tan Seconds**
Thin, mature, open, 60 percent uniformity, and 40 percent injury tolerance.
- X1F **Choice Quality Cherry-red Seconds**
Tissuey, mellow, porous, 90 percent uniformity, and 10 percent injury tolerance.
- X2F **Good Quality Cherry-red Seconds**
Thin, ripe, open, 75 percent uniformity, and 25 percent injury tolerance.
- X3F **Low Quality Cherry-red Seconds**
Thin, mature, open, 60 percent uniformity, and 40 percent injury tolerance.
- X2R **Good Quality Red Seconds**
Thin, ripe, open, 75 percent uniformity, and 25 percent injury tolerance.
- X3R **Low Quality Red Seconds**
Thin, mature, open, 60 percent uniformity, and 40 percent injury tolerance.
- X2V **Good Quality Greenish Seconds**
Thin, unripe, open, 75 percent uniformity, and 25 percent injury tolerance.
- X3V **Low Quality Greenish Seconds**
Thin, unripe, open, 60 percent uniformity, and 40 percent injury tolerance.
- X2K **Good Quality Variegated Seconds**
Medium body, unripe, firm, 75 percent uniformity, and 25 percent injury tolerance.
- X3K **Low Quality Variegated Seconds**
Medium body, unripe, close, 60 percent uniformity, and 40 percent injury tolerance.
- X2G **Good Quality Green Seconds**
Medium body, immature, firm, 75 percent uniformity, and 25 percent injury tolerance.
- X3G **Low Quality Green Seconds**
Medium body, immature, close, 60 percent uniformity, and 40 percent injury tolerance.

§ 29.3386 Bright-crop or Thin-crop (C Group).

This group consists of leaves usually grown at the midpoint of the stalk. Cured leaves from this stalk position roll or curl and tend to conceal the stem or midrib. These leaves are of relatively thin body compared with the average body of the type. They are spready in relation to their length and have an oblate tip. Little ground injury is found in leaves of this group. Bright-crop or Thin-crop may also be described as first-bright, first-crop, or crop.

U.S.

grades Grade names and specifications

- C1L **Choice Quality Tan Bright-crop**
Thin, ripe, open, spready, over 18 inches in length, 90 percent uniformity, and 10 percent injury tolerance.
- C2L **Good Quality Tan Bright-crop**
Thin, ripe, open, normal width, over 16 inches in length, 75 percent uniformity, and 25 percent injury tolerance.
- C3L **Low Quality Tan Bright-crop**
Thin, mature, firm, narrow, 60 percent uniformity, and 40 percent injury tolerance.
- C1F **Choice Quality Cherry-red Bright-crop**
Thin, ripe, open, spready, over 18 inches in length, 90 percent uniformity, and 10 percent injury tolerance.
- C2F **Good Quality Cherry-red Bright-crop**
Thin, ripe, open, normal width, over 16 inches in length, 75 percent uniformity, and 25 percent injury tolerance.
- C3F **Low Quality Cherry-red Bright-crop**
Thin, mature, firm, narrow, 60 percent uniformity, and 40 percent injury tolerance.
- C2R **Good Quality Red Bright-crop**
Thin, ripe, open, normal width, over 16 inches in length, 75 percent uniformity, and 25 percent injury tolerance.
- C3R **Low Quality Red Bright-crop**
Medium body, mature, firm, narrow, 60 percent uniformity, and 40 percent injury tolerance.
- C2D **Good Quality Brown-crop**
Thin, ripe, open, normal width, over 16 inches in length, 75 percent uniformity, and 25 percent injury tolerance.
- C3D **Low Quality Brown Bright-crop**
Medium body, mature, firm, narrow, 60 percent uniformity, and 40 percent injury tolerance.
- C2V **Good Quality Greenish Bright-crop**
Thin, unripe, open, normal width, over 16 inches in length, 75 percent uniformity, and 25 percent injury tolerance.

<i>U.S. grades</i>	<i>Grade names and specifications</i>
C3V	Low Quality Greenish Bright-crop Medium body, unripe, firm, narrow, 60 percent uniformity, and 40 percent injury tolerance.
C2K	Good Quality Variegated Bright-crop Medium body, unripe, firm, normal width, over 16 inches in length, 75 percent uniformity, and 25 percent injury tolerance.
C3K	Low Quality Variegated Bright-crop Medium body, unripe, close, narrow, 60 percent uniformity, and 40 percent injury tolerance.
C2G	Good Quality Green Bright-crop Medium body, immature, firm, normal width, over 16 inches in length, 75 percent uniformity, and 25 percent injury tolerance.
C3G	Low Quality Green Bright-crop Medium body, immature, close, narrow, 60 percent uniformity, and 40 percent injury tolerance.

§ 29.3387 Dull-crop or Heavy-crop (B Group).

This group consists of leaves usually grown above the midpoint of the stalk. Cured leaves from the upper stalk tend to fold face in and expose the stem or midrib. Upper stalk tobacco is of relatively heavy body compared with the average body of the type. Upper stalk leaves are narrow in relation to their length and have a pointed tip. Dull-crop or Heavy-crop may also be described as second-bright, dull, or semi-crop.

<i>U.S. grades</i>	<i>Grade names and specifications</i>
B1F	Choice Quality Cherry-red Dull-crop Medium body, ripe, open, normal width, over 18 inches in length, 90 percent uniformity, and 10 percent injury tolerance.
B2F	Good Quality Cherry-red Dull-crop Fleshy, mature, firm, normal width, over 16 inches in length, 75 percent uniformity, and 25 percent injury tolerance.
B3F	Low Quality Cherry-red Dull-crop Fleshy, mature, close, narrow, over 16 inches in length, 60 percent uniformity, and 40 percent injury tolerance.
B1R	Choice Quality Red Dull-crop Fleshy, ripe, firm, normal width, over 18 inches in length, 90 percent uniformity, and 10 percent injury tolerance.
B2R	Good Quality Red Dull-crop Heavy, mature, close, normal width, over 16 inches in length, 75 percent uniformity, and 25 percent injury tolerance.

<i>U.S. grades</i>	<i>Grade names and specifications</i>
B3R	Low Quality Red Dull-crop Heavy, mature, tight, narrow, over 16 inches in length, 60 percent uniformity, and 40 percent injury tolerance.
B2D	Good Quality Brown Dull-crop Heavy, mature, close, normal width, over 16 inches in length, 75 percent uniformity, and 25 percent injury tolerance.
B3D	Low Quality Brown Dull-crop Heavy, mature, tight, narrow, over 16 inches in length, 60 percent uniformity, and 40 percent injury tolerance.
B2V	Good Quality Greenish Dull-crop Medium body, unripe, firm, normal width, over 16 inches in length, 75 percent uniformity, and 25 percent injury tolerance.
B3V	Low Quality Greenish Dull-crop Fleshy, unripe, close, narrow, over 16 inches in length, 60 percent uniformity, and 40 percent injury tolerance.
B2K	Good Quality Variegated Dull-crop Fleshy, unripe, close, normal width, over 16 inches in length, 75 percent uniformity, and 25 percent injury tolerance.
B3K	Low Quality Variegated Dull-crop Heavy, unripe, tight, narrow, over 16 inches in length, 60 percent uniformity, and 40 percent injury tolerance.
B2G	Good Quality Green Dull-crop Fleshy, immature, close, normal width, over 16 inches in length, 75 percent uniformity, and 25 percent injury tolerance.
B3G	Low Quality Green Dull-crop Heavy, immature, tight, narrow, over 16 inches in length, 60 percent uniformity, and 40 percent injury tolerance.

§ 29.3388 Tips (T Group).

This group consists of leaves usually grown at the top of the stalk. These relatively narrow and sharp-pointed leaves have the general characteristics of Dull-crop or upper stalk tobacco. A slightly lower degree of maturity and leaf structure is usually associated with the normal state of underdevelopment in Tips. Slightly heavier body results from a combination of substance and lower porosity.

<i>U.S. grades</i>	<i>Grade names and specifications</i>
T1F	Choice Quality Cherry-red Tips Medium body, ripe, open, normal width, 25 percent or more 16 inches or under in length, 90 percent uniformity, and 10 percent injury tolerance.

- U.S. grades** *Grade names and specifications*
- T2F** Choice Quality Cherry-red Tips
Fleshy, mature, firm, normal width, 25 percent or more 16 inches or under in length, 75 percent uniformity, and 25 percent injury tolerance.
- T3F** Low Quality Cherry-red Tips
Fleshy, mature, firm, narrow, 25 percent or more 16 inches or under in length, 60 percent uniformity, and 40 percent injury tolerance.
- T1R** Choice Quality Red Tips
Fleshy, ripe, firm, normal width, 25 percent or more 16 inches or under in length, 90 percent uniformity, and 10 percent injury tolerance.
- T2R** Good Quality Red Tips
Heavy, mature, close, normal width, 25 percent or more 16 inches or under in length, 75 percent uniformity, and 25 percent injury tolerance.
- T3R** Low Quality Red Tips
Heavy, mature, tight, narrow, 25 percent or more 16 inches or under in length, 60 percent uniformity, and 40 percent injury tolerance.
- T2D** Good Quality Brown Tips
Heavy, mature, close, normal width, 25 percent or more 16 inches or under in length, 75 percent uniformity, and 25 percent injury tolerance.
- T3D** Low Quality Brown Tips
Heavy, mature, tight, narrow, 25 percent or more 16 inches or under in length, 60 percent uniformity, and 40 percent injury tolerance.
- T2V** Good Quality Greenish Tips
Fleshy, unripe, firm, normal width, 25 percent or more 16 inches or under in length, 75 percent uniformity, and 25 percent injury tolerance.
- T3V** Low Quality Greenish Tips
Fleshy, unripe, close, narrow, 25 percent or more 16 inches or under in length, 60 percent uniformity, and 40 percent injury tolerance.
- T2K** Good Quality Variegated Tips
Fleshy, unripe, close, normal width, 25 percent or more 16 inches or under in length, 75 percent uniformity, and 25 percent injury tolerance.
- T3K** Low Quality Variegated Tips
Heavy, unripe, tight, narrow, 25 percent or more 16 inches or under in length, 60 percent uniformity, and 40 percent injury tolerance.
- T2G** Good Quality Green Tips
Fleshy, immature, close, normal width, 25 percent or more 16 inches or under in length, 75 percent uniformity, and 25 percent injury tolerance.
- T3G** Low Quality Green Tips
Heavy, immature, tight, narrow, 25 percent or more 16 inches or under in length, 60 percent uniformity, and 40 percent injury tolerance.

§ 29.3389 Nondescript (N Group).

Extremely common tobacco which does not meet the minimum specifications or which exceeds the tolerance of the lowest grade of any other group except Scrap.

- U.S. grades** *Grade names and specifications*
- N1L** Best Thin-bodied Nondescript
From the X and C groups; 60 percent injury tolerance.
- N1F** Best Medium-bodied Nondescript
From the C, B, and T groups; 60 percent injury tolerance.
- N1R** Best Heavy-bodied Nondescript
From the B and T groups; 60 percent injury tolerance.
- N1G** Best Crude or Crude Green Nondescript
Tolerance, 60 percent crude leaves or injury.
- N2** Substandard Nondescript
Nondescript of any group, quality, or color; tolerance, over 60 percent crude leaves or injury.

§ 29.3390 Scrap (S Group).

A byproduct of unstemmed and stemmed tobacco. Scrap accumulates from handling tobacco in farm buildings, warehouses, packing and conditioning plants, and stemmeries.

U.S. grade *Grade name and specifications*

- S** Scrap
Loose, tangled, whole, or broken unstemmed leaves, or the web portions of tobacco leaves reduced to scrap by any process.

SUMMARY OF STANDARD GRADES

§ 29.3395 Summary of standard grades.

MATURE TO MELLOW GRADES

<i>Seconds</i>			
X1L	X3L	X2F	X2R
X2L	X1F	X3F	X3R
<i>Bright-crop or Thin-crop</i>			
C1L	C1F	C2R	C3D
C2L	C2F	C3R	
C3L	C3F	C2D	
<i>Dull-crop or Heavy-crop</i>			
B1F	B3F	B2R	B2D
B2F	B1R	B3R	B3D
<i>Tips</i>			
T1F	T3F	T2R	T2D
T2F	T1R	T3R	T3D

UNRIPE GRADES

<i>Seconds</i>			
X2V	X3V	X2K	X3K
<i>Bright-crop or Thin-crop</i>			
C2V	C3V	C2K	C3K

<i>Dull-crop or Heavy-crop</i>			
B2V	B3V	B2K	B3K
<i>Tips</i>			
T2V	T3V	T2K	T3K
IMMATURE GRADES			
<i>Seconds</i>			
X2G	X3G		
<i>Bright-crop or Thin-crop</i>			
C2G	C3G		
<i>Dull-crop or Heavy-crop</i>			
B2G	B3G		
<i>Tips</i>			
T2G	T3G		
<i>Nondescript</i>			
N1L	N1F	N1R	N1G
N2			
<i>Scrap</i>			

S Special factors "U" and "W" may be applied to all grades.

Tobacco not covered by the standard grades is designated No-G.

KEY TO STANDARD GRADEMARKS

§ 29.3401 Key to standard grademarks.

Groups

- X—Seconds.
- C—Bright-crop or Thin-crop.
- B—Dull-crop or Heavy-crop.
- T—Tips.
- N—Nondescript.
- S—Scrap.

Qualities

- 1—Choice.
- 2—Good.
- 3—Low.

Colors

- L—Tan.
- F—Cherry red.
- R—Red.
- D—Brown.
- V—Greenish.
- K—Variegated.
- G—Green.

OFFICIAL STANDARD GRADES FOR DARK AIR-CURED TOBACCO (U.S. TYPES 35, 36, AND 37)

AUTHORITY: §§ 29.3501 to 29.3686 issued under 49 Stat. 734; 7 U.S.C. 511m.

SOURCE: §§ 29.3501 to 29.3686 appear at 30 F.R. 9207, July 23, 1965, unless otherwise noted.

DEFINITIONS

§ 29.3501 Definitions.

As used in §§ 29.3501 to 29.3686, the words and phrases hereinafter defined shall have the indicated meanings so assigned.

§ 29.3502 Air-cured.

Tobacco cured under natural atmospheric conditions without the use of fire, except for the purpose of preventing pole-burn in damp weather.

§ 29.3503 Air-dried.

The condition of unfermented tobacco as customarily prepared for storage under natural atmospheric conditions.

§ 29.3504 Body.

The thickness and density of a leaf or the weight per unit of surface. (See Elements of Quality, § 29.3586.)

§ 29.3505 Brown colors.

A group of colors ranging from a light brown to a dark brown. These colors vary from medium to low saturation and from medium to very low brilliance. As used in these standards, the colors are expressed as light brown (L), medium brown (F), reddish brown (R), and dark brown (D).

§ 29.3506 Class.

A major division of tobacco based on method of cure or principal usage.

§ 29.3507 Clean.

Tobacco is described as clean when it contains only a normal amount of sand or soil particles. Leaves grown on the lower portion of the stalk normally contain more dirt or sand than those from higher stalk positions. (See rule 4, § 29.3605.)

§ 29.3508 Color.

The third factor of a grade based on the relative hues, saturations or chromas, and color values common to the type

§ 29.3509 Color intensity.

The varying degree of saturation or chroma. Color intensity as applied to tobacco describes the strength or weakness of a specific color or hue. It is applicable to all colors except green. (See Elements of Quality, § 29.3586.)

§ 29.3510 Color symbols.

As applied to Dark Air-cured tobacco, color symbols are L—light brown, F—medium brown, R—reddish brown, D—dark brown, M—mixed, and G—green.

§ 29.3511 Condition.

The state of tobacco which results from the method of preparation or from the degree of fermentation. Words used to

describe the condition of tobacco are: Undried, air-dried, steam-dried, sweating, sweated, and aged.

§ 29.3512 Crude.

A subdegree of maturity. Crude leaves are usually hard and slick as a result of extreme immaturity. A similar condition may result from firekill, sunburn, or sunscald. Any leaf which is crude to the extent of 20 percent or more of its leaf surface may be described as crude. (See rule 20, § 29.3621.)

§ 29.3513 Cured.

Tobacco dried of its sap by either natural or artificial processes.

§ 29.3514 Damage.

The effect of mold, must, rot, black rot, or other fungus or bacterial diseases which attack tobacco in its cured state. Tobacco having the odor of mold, must, or rot is considered damaged. (See rule 24, § 29.3625.)

§ 29.3515 Dirty.

The state of tobacco containing an abnormal amount of dirt or sand, or tobacco to which additional quantities of dirt or sand have been added. (See rule 24, § 29.3625.)

§ 29.3516 Elasticity.

The flexible, springy nature of the tobacco leaf to recover approximately its original size and shape after it has been stretched. (See Elements of Quality, § 29.3586.)

§ 29.3517 Finish.

The reflectance factor in color perception. Finish indicates the sheen or shine of the surface of a tobacco leaf. (See Elements of Quality, § 29.3586.)

§ 29.3518 Foreign matter.

Any extraneous substance or material such as stalks, suckers, straw, strings, and rubber bands. Abnormal amounts of dirt or sand are also included. (See rule 24, § 29.3625.)

§ 29.3519 Form.

The stage of preparation of tobacco such as unstemmed or stemmed.

§ 29.3520 Grade.

A subdivision of a type according to group, quality, and color.

§ 29.3521 Grademark.

A grademark normally consists of three symbols which indicate group,

quality, and color. A letter is used to indicate group, a number to indicate quality, and a letter or letters to indicate color. For example, B3D means Heavy Leaf, third quality, and dark-brown color.

§ 29.3522 Green (G).

A term applied to green-colored, immature, or crude tobacco. Any leaf which has a green color affecting 20 percent or more of its leaf surface may be described as green. (See rule 19, § 29.3620.)

§ 29.3523 Group.

A division of a type covering closely related grades based on certain characteristics which are related to stalk position, body, or the general quality of the tobacco. Groups in Dark Air-cured types are: Wrappers (A), Heavy Leaf (B), Thin Leaf (C), Tips (T), Lugs (X), Non-descript (N), and Scrap (S).

§ 29.3524 Injury.

Hurt or impairment from any cause except the fungus or bacterial diseases which attack tobacco in its cured state. (See definition of Damage, § 29.3514.) Injury to tobacco may be caused by field diseases, insects, or weather conditions; insecticides, fungicides, or cell growth inhibitors; nutritional deficiencies or cesses; or improper fertilizing, harvesting, curing, or handling. Injured tobacco includes dead, burned, hail-cut, torn, broken, frostbitten, sunburned, sunscalded, scorched, fire-killed, bulk-burnt, steam-burnt, house-burnt, bleached, bruised, discolored, or deformed leaves; or tobacco affected by wildfire rust, frog-eye, mosaic, root rot, wilt, black shank, or other diseases. (See rule 15, § 29.3616.)

§ 29.3525 Leaf scrap.

A byproduct of unstemmed tobacco. Leaf scrap results from handling unstemmed tobacco and consists of loose and tangled whole or broken leaves.

§ 29.3526 Leaf structure.

The cell development of a leaf as indicated by its porosity. (See Elements of Quality, § 29.3586.)

§ 29.3527 Leaf surface.

The roughness or smoothness of the web or lamina of a tobacco leaf. Leaf surface is affected to some extent by the size and shrinkage of the veins or fibers. (See Elements of Quality, § 29.3586.)

§ 29.3528 Length.

The linear measurement of cured tobacco leaves from the butt of the midrib to the extreme tip. (See U.S. Standard Tobacco 4-Inch Sizes, § 29.3591.)

§ 29.3529 Lot.

A pile, basket, bulk, or more than one bale, case, hogshead, tierce, package, or other definite package unit.

§ 29.3530 Maturity.

The degree of ripeness. (See Elements of Quality, § 29.3586, and rule 16, § 29.3617.)

§ 29.3531 Mixed (M).

Variegated or distinctly different colors of the type mingled together. (See rules 17, § 29.3618; 18, § 29.3619.)

§ 29.3532 Nested.

Any tobacco which has been loaded, packed, or arranged to conceal foreign matter or tobacco of inferior grade, quality, or condition. Nested includes: (a) Any lot of tobacco which contains foreign matter or damaged, injured, tangled, or other inferior tobacco, any of which cannot be readily detected upon inspection because of the way the lot is packed or arranged; (b) any lot of tied tobacco which contains foreign matter in the inner portions of the hands or which contains foreign matter in the heads under the tie leaves; (c) any lot of tied tobacco in which the leaves on the outside of the hands are placed or arranged to conceal inferior quality leaves on the inside of the hands or which contains wet tobacco or tobacco of lower quality in the heads under the tie leaves; and (d) any lot of tobacco which consists of distinctly different grades, qualities, or conditions and which is stacked or arranged in layers with the same kinds together so that the tobacco in the lower layer or layers is distinctly inferior in grade, quality, or condition from the tobacco in the top or upper layers. (See rule 24, § 29.3625.)

§ 29.3533 No Grade.

A designation applied to a lot of tobacco classified as nested, offtype, rework, or semicured; tobacco that is damaged 20 percent or more, abnormally dirty, extremely wet or watered, contains foreign matter, or has an odor foreign to the type. (See rule 24, § 29.3625.)

§ 29.3534 Offtype.

Tobacco of distinctly different characteristics which cannot be classified as

Dark Air-cured, U.S. Type 35, 36, or 37. (See rule 24, § 29.3625.)

§ 29.3535 Order (case).

The state of tobacco with respect to its moisture content.

§ 29.3536 Package.

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

§ 29.3537 Packing.

A lot of tobacco consisting of a number of packages submitted as one definite unit for sampling or inspecting. It is represented to contain the same kind of tobacco and has a common identification number or mark on each package.

§ 29.3538 Quality.

A division of a group or the second factor of a grade based on the relative degree of one or more elements of quality in tobacco.

§ 29.3539 Raw.

Freshly harvested tobacco or tobacco as it appears between the time of harvesting and the beginning of the curing process.

§ 29.3540 Resweated.

The condition of tobacco which has passed through a second fermentation under abnormally high temperatures or refermented with a relatively high percentage of moisture. Resweated includes tobacco which has been dipped or reconditioned after its first fermentation and put through a forced or artificial sweat.

§ 29.3541 Rework.

Any lot of tobacco which needs to be resorted or otherwise reworked to prepare it properly for market in the manner which is customary in the type area, including: (a) Tobacco which is so mixed that it cannot be classified properly in any grade of the type, because the lot contains a substantial quantity of two or more distinctly different grades which should be separated by sorting; (b) tobacco which contains an abnormally large quantity of foreign matter or an unusual number of muddy or extremely dirty leaves which should be removed; and (c) tobacco not tied in hands, not packed straight, not properly tied, or otherwise not properly prepared for market. (See rule 24, § 29.3625.)

§ 29.3542 Semicured.

Tobacco in the process of being cured or which is partially but not thoroughly cured. Semicured includes tobacco which contains fat stems, wet butts, swelled stems, frozen tobacco, and tobacco having frozen stems or stems that have not been thoroughly dried in the curing process. (See rule 24, § 29.3625.)

§ 29.3543 Side.

A certain phase of quality, color, or length as contrasted with some other phase of quality, color, or length; or any peculiar characteristic of tobacco.

§ 29.3544 Size.

The length of tobacco leaves. (See U.S. Standard Tobacco 4-Inch Sizes § 29.3591.)

§ 29.3545 Sound.

Free of damage.

§ 29.3546 Special factor.

A symbol or term authorized to designate a peculiar side or characteristic which tends to modify a grade. (See rules 21, § 29.3622; 22, § 29.3623; 23, § 29.3624.)

§ 29.3547 Steam-dried.

The condition of unfermented tobacco as customarily prepared for storage by means of a redrying machine or other steam-conditioning equipment.

§ 29.3548 Stem.

The midrib or large central vein of a tobacco leaf.

§ 29.3549 Stemmed.

A form of tobacco, including strips and strip scrap, from which the stems or midribs have been removed.

§ 29.3550 Strips.

The sides of a tobacco leaf from which the stem has been removed or a lot of tobacco composed of strips.

§ 29.3551 Subgrade.

Any grade modified by a special factor symbol.

§ 29.3552 Sweated.

The condition of tobacco which has passed through one or more fermentations natural to tobacco packed with a normal percentage of moisture. This condition is sometimes described as aged.

§ 29.3553 Sweating.

The condition of tobacco in the process of fermentation.

§ 29.3554 Tobacco.

Tobacco as it appears between the time it is cured and stripped from the stalk, or primed and cured, and the time it enters into the different manufacturing processes. The acts of stemming, sweating, and conditioning are not regarded as manufacturing processes. Tobacco, as used in these standards, does not include manufactured or semimanufactured products, stems, cuttings, clippings, trimmings, siftings, or dust.

§ 29.3555 Tobacco products.

Manufactured tobacco, including cigarettes, cigars, smoking tobacco, chewing tobacco, and snuff, which is subject to Internal Revenue tax.

§ 29.3556 Type.

A division of a class of tobacco having certain common characteristics and closely related grades. Tobacco which has the same characteristics and corresponding qualities, colors, and lengths is classified as one type, regardless of any factors of historical or geographical nature which cannot be determined by an examination of the tobacco.

§ 29.3557 Type 35.

That type of air-cured tobacco commonly known as One Sucker Air-cured, Kentucky-Tennessee-Indiana One Sucker, or Dark Air-cured One Sucker, including the upper Cumberland District One Sucker, and produced principally in northern Tennessee, south central Kentucky, and southern Indiana.

§ 29.3558 Type 36.

That type of air-cured tobacco commonly known as Green River, Green River Air-cured, or Dark Air-cured of the Henderson and Owensboro Districts, and produced principally in the Green River section of Kentucky.

§ 29.3559 Type 37.

That type of air-cured or sun-cured tobacco commonly known as Virginia Sun-cured, Virginia Sun and Air-cured, or Dark Air-cured of Virginia, and produced principally in the central section of Virginia north of the James River.

§ 29.3560 Undried.

The condition of unfermented tobacco which has not been air-dried or steam-dried.

§ 29.3561 Uniformity.

An element of quality which describes the consistency of a lot of tobacco as it

is prepared for market. Uniformity is expressed in grade specifications as a percentage. The percentage is applicable to group, quality, and color. (See rule 14, § 29.3615.)

§ 29.3562 Unsound (U).

Damaged under 20 percent. (See rule 21, § 29.3622.)

§ 29.3563 Unstemmed.

A form of tobacco, including whole leaf and leaf scrap, from which the stems or midribs have not been removed.

§ 29.3564 Variegated.

Any leaf of which 20 percent or more of its leaf surface is off brown, grayish, mottled, or bleached and does not blend with the normal colors of the type. (See rules 17, § 29.3618; 18, § 29.3619.)

§ 29.3565 Wet (W).

Any sound tobacco containing excessive moisture to the extent that it is in unsafe- or doubtful-keeping order. Wet applies to any tobacco which is not

damaged but which is likely to damage if treated in the customary manner (See rule 22, § 29.3623.) (For extremely wet or watered tobacco, see rule 24, § 29.3625.)

§ 29.3566 Width.

The relative breadth of a tobacco leaf expressed in relation to its length. (See Elements of Quality, § 29.3586.)

ELEMENTS OF QUALITY

§ 29.3586 Elements of quality and degrees of each element.

These standardized words or terms are used to describe tobacco quality and to assist in interpreting grade specifications. Tobacco attributes or characteristics which constitute quality are designated as elements of quality. The range within each element is expressed by the use of words or terms designated as degrees. These several degrees are arranged to show their relative value, but the actual value of each degree varies with type, group, and grade.

Elements		Degrees			
Maturity.....	Immature.....	Underripe.....	Mature.....	Ripe.....	
Body.....		Thin.....	Medium.....	Heavy.....	
Leaf structure.....		Close.....	Firm.....	Open.....	
Leaf surface.....		Rough.....	Crepy.....	Smooth.....	
Oil.....		Lean.....	Oily.....	Rich.....	
Finish.....		Dull.....	Normal.....	Clear.....	
Color intensity.....		Pale.....	Moderate.....	Deep.....	
Elasticity.....		Inelastic.....	Semielastic.....	Elastic.....	
Width.....		Narrow.....	Normal.....	Spready.....	
Uniformity.....		(1)	(1)	(1)	
Injury tolerance.....		(1)	(1)	(1)	

1 Expressed in percentage.

SIZES

§ 29.3591 U.S. Standard Tobacco 4-Inch Sizes.¹

Inches	U.S. sizes	Approximate centimeters
32.....		80
28.....	47	70
24.....	46	60
20.....	45	50
16.....	44	40
12.....	43	30
8.....	42	20
4.....	41	10
0.....	40	0

¹ Regular 4-inch sizes are used to state length when this factor is not sufficiently important to use 1- or 2-inch sizes. Seventy-five percent of the leaves in a lot or package of any 4-inch size must fall within the range for that size. For example: If a lot or package of tobacco is represented to be of U.S. size 44, then 75 percent of the leaves of such lot or package must be between 16 and 20 inches (or 40 and 50 centimeters) in length.

RULES

§ 29.3601 Rules.

The application of §§ 29.3501 to 29.3566, § 29.3591, §§ 29.3646 to 29.3652, and § 29.3681 shall be in accordance with the following rules.

§ 29.3602 Rule 1.

Each grade shall be treated as a subdivision of a particular type. When the grade is stated in an inspection certificate, the type also shall be stated.

§ 29.3603 Rule 2.

The determination of a grade shall be based upon a thorough examination of a lot of tobacco or of an official sample of the lot

§ 29.3604 Rule 3.

In drawing an official sample from a hoghead or other package of tobacco, three or more breaks shall be made at

such points and in such manner as the inspector or sampler may find necessary to determine the kinds of tobacco and the percentage of each kind contained in the lot. All breaks shall be made so that the tobacco contained in the center of the package is visible to the sampler. Tobacco shall be drawn from at least three breaks from which a representative sample of not less than six hands shall be selected. The sample shall include tobacco of each different group, quality, color, length, and kind found in the lot in proportion to the quantities of each contained in the lot.

§ 29.3605 Rule 4.

All standard grades must be clean.

§ 29.3606 Rule 5.

The grade assigned to any lot of tobacco shall be a true representation of the tobacco at the time of inspection and certification. If, at any time, it is found that a lot of tobacco does not comply with the specifications of the grade previously assigned it shall not thereafter be represented as such grade.

§ 29.3607 Rule 6.

A lot of tobacco on the marginal line between two colors shall be placed in the color with which it best corresponds with respect to body or other associated elements of quality.

§ 29.3608 Rule 7.

Any lot of tobacco which meets the specifications of two grades shall be placed in the higher grade. Any lot of tobacco on the marginal line between two grades shall be placed in the lower grade.

§ 29.3609 Rule 8.

A lot of tobacco meets the specifications of a grade when it is not lower in any degree of any element of quality than the minimum specifications of such grade.

§ 29.3610 Rule 9.

In determining the grade of a lot of tobacco, the lot as a whole shall be considered. Minor irregularities which do not affect over one percent of the tobacco shall be overlooked.

§ 29.3611 Rule 10.

Any special factor approved by the Director of the Tobacco Division, Consumer and Marketing Service, may be used after a grademark to show a peculiar side or characteristic of the tobacco which tends to modify the grade.

§ 29.3612 Rule 11.

Interpretations, the use of specifications, and the meaning of the terms shall be in accordance with determinations or clarifications made by the Chief of the Standards and Testing Branch and approved by the Director.

§ 29.3613 Rule 12.

The use of any grade may be restricted by the Director during any marketing season, when it is found that the grade is not needed or appears in insufficient volume to justify its use.

§ 29.3614 Rule 13.

Length shall be stated in connection with each grade of the A, B, and C groups and may be stated in connection with grades of other groups. For this purpose, the regular 4-inch series of U.S. standard tobacco sizes shall be used. (See Applicable U.S. Standard Sizes, § 29.3681.)

§ 29.3615 Rule 14.

Degrees of uniformity shall be expressed in terms of percentages. The percentages shall govern the portion of a lot which must meet the specifications of the grade. The minor portion must be closely related but may be of a different group, quality, and color from the major portion. These percentages shall not affect limitations established by other rules.

§ 29.3616 Rule 15.

The application of injury as an element of quality shall be expressed in terms of a percentage of tolerance. The appraisal of injury shall be based upon the percentage of affected leaf surface or the degree of injury. In appraising injury, consideration shall be given to the normal characteristics of the group as related to injury.

§ 29.3617 Rule 16.

Normal injury associated with ripeness shall be excluded from injury tolerance except when such injury is considered detrimental to the quality of the tobacco.

§ 29.3618 Rule 17.

Any lot of tobacco which is not green but contains over 30 percent of variegated leaves shall be described as "variegated" and designated by the color symbol "M." Variegated leaves may be included in any group to the following extent: In the third quality, 10 percent;

in the fourth quality, 20 percent; and in the fifth quality, 30 percent.

§ 29.3619 Rule 18.

Any lot of tobacco of the B, C, T, or X groups shall be classified as "mixed" and designated by the color symbol "M" when it is not green but contains (a) over 30 percent of colors distinctly different from the major color or (b) over 30 percent of a combination of variegated and colors distinctly different from the major mingled together.

§ 29.3620 Rule 19.

Any lot of tobacco containing 20 percent or more of green leaves or any lot which is not crude but contains 20 percent or more of green and crude combined shall be designated by the color symbol "G."

§ 29.3621 Rule 20.

Crude leaves shall not be included in any grade of any color except the fourth and fifth qualities of the B, C, T, and X groups in green color. Any lot containing 20 percent or more of crude leaves shall be designated as Nondescript.

§ 29.3622 Rule 21.

Tobacco damaged under 20 percent but which otherwise meets the specifications of a grade shall be treated as a subgrade by placing the special factor "U" after the grademark. Tobacco damaged 20 percent or more shall be designated "No-G."

§ 29.3623 Rule 22.

Sound tobacco that is wet or in doubtful-keeping order but which otherwise meets the specifications of a grade shall be treated as a subgrade by placing the special factor "W" after the grademark. This special factor does not apply to tobacco designated "No-G."

§ 29.3624 Rule 23.

Special factors "BH" (big heads) and "BL" (broad leaf) shall be used as follows: "BH" in types 35 and 36 to designate tobacco tied in extremely big hands and "BL" in type 35 to designate broad leaf tobacco.

§ 29.3625 Rule 24.

Tobacco shall be designated as No Grade, using the grademark "No-G," when it is dirty, nested, offtype, semi-cured, damaged 20 percent or more, extremely wet or watered, or when it needs to be reworked, contains foreign matter, or has an odor foreign to the type.

GRADES

§ 29.3646 Wrappers (A Group).

This group consists of leaves from the Heavy Leaf and the Thin Leaf groups. Cured leaves of the A group are very elastic, have small- to medium-sized and blending fibers, and show a low percentage of injury affecting wrapper yield.

U.S. Grade names, minimum specifications, grades and tolerances

A1F Choice Quality Medium-brown Wrappers.

Ripe, medium body, open leaf structure, smooth, rich in oil, clear finish, deep color intensity, elastic, spready, and 20 percent of leaves not lower than B2 or C2.

A2F Fine Quality Medium-brown Wrappers.

Ripe, medium body, open leaf structure, smooth, rich in oil, clear finish, deep color intensity, elastic, spready, and 30 percent of leaves not lower than B2 or C2.

A3F Good Quality Medium-brown Wrappers.

Ripe, medium body, open leaf structure, smooth, oily, clear finish, deep color intensity, elastic, normal width, and 40 percent of leaves not lower than B3 or C3.

A1R Choice Quality Reddish-brown Wrappers.

Ripe, medium body, open leaf structure, smooth, rich in oil, clear finish, deep color intensity, elastic, spready, and 20 percent of leaves not lower than B2 or C2.

A2R Fine Quality Reddish-brown Wrappers.

Ripe, medium body, open leaf structure, smooth, rich in oil, clear finish, deep color intensity, elastic, spready, and 30 percent of leaves not lower than B2 or C2.

A3R Good Quality Reddish-brown Wrappers.

Ripe, medium body, open leaf structure, smooth, oily, clear finish, deep color intensity, elastic, normal width, and 40 percent of leaves not lower than B3 or C3.

§ 29.3647 Heavy Leaf (B Group).

This group consists of leaves which are medium to heavy in body and show little or no ground injury.

U.S. Grade names, minimum specifications, grades and tolerances

B1F Choice Quality Medium-brown Heavy Leaf.

Ripe, medium body, open leaf structure, smooth, rich in oil, clear finish, deep color intensity, semielastic, spready, 90 percent uniform, and 10 percent injury tolerance.

U.S. Grade names, minimum specifications, and tolerances

B2F Fine Quality Medium-brown Heavy Leaf.

Ripe, medium body, open leaf structure, smooth, rich in oil, clear finish, deep color intensity, semielastic, spready, 85 percent uniform, and 15 percent injury tolerance.

B3F Good Quality Medium-brown Heavy Leaf.

Mature, medium body, firm leaf structure, crepy, oily, normal finish, moderate color intensity, semielastic, normal width, 80 percent uniform, and 20 percent injury tolerance.

B4F Fair Quality Medium-brown Heavy Leaf.

Mature, medium body, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 70 percent uniform, and 30 percent injury tolerance.

B5F Low Quality Medium-brown Heavy Leaf.

Underripe, medium body, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 60 percent uniform, and 40 percent injury tolerance.

B1R Choice Quality Reddish-brown Heavy Leaf.

Ripe, heavy, open leaf structure, smooth, rich in oil, clear finish, deep color intensity, semielastic, spready, 90 percent uniform, and 10 percent injury tolerance.

B2R Fine Quality Reddish-brown Heavy Leaf.

Ripe, heavy, open leaf structure, smooth, rich in oil, clear finish, deep color intensity, semielastic, spready, 85 percent uniform, and 15 percent injury tolerance.

B3R Good Quality Reddish-brown Heavy Leaf.

Mature, heavy, firm leaf structure, crepy, oily, normal finish, moderate color intensity, semielastic, normal width, 80 percent uniform, and 20 percent injury tolerance.

B4R Fair Quality Reddish-brown Heavy Leaf.

Mature, heavy, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 70 percent uniform, and 30 percent injury tolerance.

B5R Low Quality Reddish-brown Heavy Leaf.

Underripe, heavy, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 60 percent uniform, and 40 percent injury tolerance.

U.S. Grade names, minimum specifications, and tolerances

B1D Choice Quality Dark-brown Heavy Leaf.

Ripe, heavy, open leaf structure, smooth, rich in oil, normal finish, deep color intensity, semielastic, spready, 90 percent uniform, and 10 percent injury tolerance.

B2D Fine Quality Dark-brown Heavy Leaf.

Ripe, heavy, open leaf structure, smooth, rich in oil, normal finish, deep color intensity, semielastic, spready, 85 percent uniform, and 15 percent injury tolerance.

B3D Good Quality Dark-brown Heavy Leaf.

Mature, heavy, firm leaf structure, crepy, oily, normal finish, moderate color intensity, semielastic, normal width, 80 percent uniform, and 20 percent injury tolerance.

B4D Fair Quality Dark-brown Heavy Leaf.

Mature, heavy, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 70 percent uniform, and 30 percent injury tolerance.

B5D Low Quality Dark-brown Heavy Leaf.

Underripe, heavy, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 60 percent uniform, and 40 percent injury tolerance.

B3M Good Quality Mixed Heavy Leaf.

Mature, medium body, firm leaf structure, crepy, oily, normal finish, moderate color intensity, semielastic, normal width, 80 percent uniform, and 20 percent injury tolerance.

B4M Fair Quality Mixed Heavy Leaf.

Mature, medium body, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 70 percent uniform, and 30 percent injury tolerance.

B5M Low Quality Mixed Heavy Leaf.

Underripe, medium body, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 60 percent uniform, and 40 percent injury tolerance.

B3G Good Quality Green Heavy Leaf.

Underripe, heavy, firm leaf structure, crepy, oily, normal finish, semielastic, normal width, 80 percent uniform, and 20 percent injury tolerance.

B4G Fair Quality Green Heavy Leaf.

Immature, medium body, close leaf structure, rough, lean in oil, dull finish, inelastic, narrow, 70 percent uniform, and 30 percent injury tolerance.

B5G Low Quality Green Heavy Leaf.

Immature, medium body, close leaf structure, rough, lean in oil, dull finish, inelastic, narrow, 60 percent uniform, and 40 percent injury tolerance.

§ 29.3648 Thin Leaf (C Group).

This group consists of leaves that are thin to medium in body and show little or no ground injury.

U.S. Grade names, minimum specifications, grades and tolerances

- C1L** Choice Quality Light-brown Thin Leaf.
Ripe, thin, open leaf structure, smooth, oily, clear finish, deep color intensity, semielastic, spready, 90 percent uniform, and 10 percent injury tolerance.
- C2L** Fine Quality Light-brown Thin Leaf.
Ripe, thin, open leaf structure, smooth, oily, clear finish, deep color intensity, semielastic, spready, 85 percent uniform, and 15 percent injury tolerance.
- C3L** Good Quality Light-brown Thin Leaf.
Mature, thin, firm leaf structure, crepy, oily, normal finish, moderate color intensity, semielastic, normal width, 80 percent uniform, and 20 percent injury tolerance.
- C4L** Fair Quality Light-brown Thin Leaf.
Mature, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 70 percent uniform, and 30 percent injury tolerance.
- C5L** Low Quality Light-brown Thin Leaf.
Underripe, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 60 percent uniform, and 40 percent injury tolerance.
- C1F** Choice Quality Medium-brown Thin Leaf.
Ripe, thin, open leaf structure, smooth, rich in oil, clear finish, deep color intensity, semielastic, spready, 90 percent uniform, and 10 percent injury tolerance.
- C2F** Fine Quality Medium-brown Thin Leaf.
Ripe, thin, open leaf structure, smooth, rich in oil, clear finish, deep color intensity, semielastic, spready, 85 percent uniform, and 15 percent injury tolerance.
- C3F** Good Quality Medium-brown Thin Leaf.
Mature, thin, firm leaf structure, crepy, oily, normal finish, moderate color intensity, semielastic, normal width, 80 percent uniform, and 20 percent injury tolerance.
- C4F** Fair Quality Medium-brown Thin Leaf.
Mature, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 70 percent uniform, and 30 percent injury tolerance.

U.S. Grade names, minimum specifications, grades and tolerances

- C5F** Low Quality Medium-brown Thin Leaf.
Underripe, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 60 percent uniform, and 40 percent injury tolerance.
- C1R** Choice Quality Reddish-brown Thin Leaf.
Ripe, thin, open leaf structure, smooth, rich in oil, clear finish, deep color intensity, semielastic, spready, 90 percent uniform, and 10 percent injury tolerance.
- C2R** Fine Quality Reddish-brown Thin Leaf.
Ripe, thin, open leaf structure, smooth, rich in oil, clear finish, deep color intensity, semielastic, spready, 85 percent uniform, and 15 percent injury tolerance.
- C3R** Good Quality Reddish-brown Thin Leaf.
Mature, thin, firm leaf structure, crepy, oily, normal finish, moderate color intensity, semielastic, normal width, 80 percent uniform, and 20 percent injury tolerance.
- C4R** Fair Quality Reddish-brown Thin Leaf.
Mature, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 70 percent uniform, and 30 percent injury tolerance.
- C5R** Low Quality Reddish-brown Thin Leaf.
Underripe, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 60 percent uniform, and 40 percent injury tolerance.
- C3M** Good Quality Mixed Thin Leaf.
Mature, thin, firm leaf structure, crepy, oily, normal finish, moderate color intensity, semielastic, normal width, 80 percent uniform, and 20 percent injury tolerance.
- C4M** Fair Quality Mixed Thin Leaf.
Mature, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 70 percent uniform, and 30 percent injury tolerance.
- C5M** Low Quality Mixed Thin Leaf.
Underripe, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 60 percent uniform, and 40 percent injury tolerance.
- C3G** Good Quality Green Thin Leaf.
Underripe, medium body, firm leaf structure, crepy, oily, normal finish, semielastic, normal width, 80 percent uniform, and 20 percent injury tolerance.

U.S. Grade names, minimum specifications, grades and tolerances

- C4G Fair Quality Green Thin Leaf.**
Immature, thin, close leaf structure, rough, lean in oil, dull finish, inelastic, narrow, 70 percent uniform, and 80 percent injury tolerance.
- C5G Low Quality Green Thin Leaf.**
Immature, thin, close leaf structure, rough, lean in oil, dull finish, inelastic, narrow, 60 percent uniform, and 40 percent injury tolerance.

§ 29.3649 Tips (T Group).

This group consists of leaves usually grown near the top of the stalk and are too short to meet the specifications for U.S. size 44.

U.S. Grade names, minimum specifications, grades and tolerances

- T3F Good Quality Medium-brown Tips.**
Mature, medium body, firm leaf structure, crepy, oily, normal finish, moderate color intensity, semielastic, normal width, 80 percent uniform, and 20 percent injury tolerance.
- T4F Fair Quality Medium-brown Tips.**
Mature, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 70 percent uniform, and 30 percent injury tolerance.
- T5F Low Quality Medium-brown Tips.**
Underripe, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 60 percent uniform, and 40 percent injury tolerance.
- T3R Good Quality Reddish-brown Tips.**
Mature, medium body, firm leaf structure, crepy, oily, normal finish, moderate color intensity, semielastic, normal width, 80 percent uniform, and 20 percent injury tolerance.
- T4R Fair Quality Reddish-brown Tips.**
Mature, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 70 percent uniform, and 30 percent injury tolerance.
- T5R Low Quality Reddish-brown Tips.**
Underripe, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 60 percent uniform, and 40 percent injury tolerance.
- T3D Good Quality Dark-brown Tips.**
Mature, medium body, firm leaf structure, crepy, oily, normal finish, moderate color intensity, semielastic, normal width, 80 percent uniform, and 20 percent injury tolerance.
- T4D Fair Quality Dark-brown Tips.**
Mature, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 70 percent uniform, and 30 percent injury tolerance.

U.S. Grade names, minimum specifications, grades and tolerances

- T5D Low Quality Dark-brown Tips.**
Underripe, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 60 percent uniform, and 40 percent injury tolerance.
- T3M Good Quality Mixed Tips.**
Mature, medium body, firm leaf structure, crepy, oily, normal finish, moderate color intensity, semielastic, normal width, 80 percent uniform, and 20 percent injury tolerance.
- T4M Fair Quality Mixed Tips.**
Mature, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 70 percent uniform, and 80 percent tolerance.
- T5M Low Quality Mixed Tips.**
Underripe, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 60 percent uniform, and 40 percent injury tolerance.
- T3G Good Quality Green Tips.**
Underripe, medium body, firm leaf structure, crepy, oily, normal finish, semielastic, normal width, 80 percent uniform, and 20 percent injury tolerance.
- T4G Fair Quality Green Tips.**
Immature, thin, close leaf structure, rough, lean in oil, dull finish, inelastic, narrow, 70 percent uniform, and 30 percent injury tolerance.
- T5G Low Quality Green Tips.**
Immature, thin, close leaf structure, rough, lean in oil, dull finish, inelastic, narrow, 60 percent uniform, and 40 percent injury tolerance.

§ 29.3650 Lugs (X Group).

This group consists of leaves that normally grow on the lower portion of the stalk. Leaves of the X group usually have a high degree of maturity and show ground and other injury characteristic of the group.

U.S. Grade names, minimum specifications, grades and tolerances

- X1L Choice Quality Light-brown Lugs.**
Ripe, thin, open leaf structure, smooth, oily, clear finish, deep color intensity, semielastic, normal width, 90 percent uniform, and 10 percent injury tolerance.
- X2L Fine Quality Light-brown Lugs.**
Ripe, thin, open leaf structure, smooth, oily, clear finish, deep color intensity, semielastic, normal width, 85 percent uniform, and 15 percent injury tolerance.

U.S. Grade names, minimum specifications, grades and tolerances

- X3L** Good Quality Light-brown Lugs.
Mature, thin, firm leaf structure, crepy, lean in oil, normal finish, moderate color intensity, inelastic, narrow, 80 percent uniform, and 20 percent injury tolerance.
- X4L** Fair Quality Light-brown Lugs.
Mature, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 70 percent uniform, and 30 percent injury tolerance.
- X5L** Low Quality Light-brown Lugs.
Underripe, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 60 percent uniform, and 40 percent injury tolerance.
- X1F** Choice Quality Medium-brown Lugs.
Ripe, thin, open leaf structure, smooth, oily, clear finish, deep color intensity, semielastic, normal width, 90 percent uniform, and 10 percent injury tolerance.
- X2F** Fine Quality Medium-brown Lugs.
Ripe, thin, open leaf structure, smooth, oily, clear finish, deep color intensity, semielastic, normal width, 85 percent uniform, and 15 percent injury tolerance.
- X3F** Good Quality Medium-brown Lugs.
Mature, thin, firm leaf structure, crepy, lean in oil, normal finish, moderate color intensity, inelastic, narrow, 80 percent uniform, and 20 percent injury tolerance.
- X4F** Fair Quality Medium-brown Lugs.
Mature, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 70 percent uniform, and 30 percent injury tolerance.
- X5F** Low Quality Medium-brown Lugs.
Underripe, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 60 percent uniform, and 40 percent injury tolerance.
- X1R** Choice Quality Reddish-brown Lugs.
Ripe, medium body, open leaf structure, smooth, oily, clear finish, deep color intensity, semielastic, normal width, 90 percent uniform, and 10 percent injury tolerance.
- X2R** Fine Quality Reddish-brown Lugs.
Ripe, medium body, open leaf structure, smooth, oily, clear finish, deep color intensity, semielastic, normal width, 85 percent uniform, and 15 percent injury tolerance.
- X3R** Good Quality Reddish-brown Lugs.
Mature, medium body, firm leaf structure, crepy, lean in oil, normal finish, moderate color intensity, inelastic, narrow, 80 percent uniform, and 20 percent injury tolerance.

U.S. Grade names, minimum specifications, grades and tolerances

- X4R** Fair Quality Reddish-brown Lugs.
Mature, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 70 percent uniform, and 30 percent injury tolerance.
- X5R** Low Quality Reddish-brown Lugs.
Underripe, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 60 percent uniform, and 40 percent injury tolerance.
- X3D** Good Quality Dark-brown Lugs.
Mature, medium body, firm leaf structure, crepy, lean in oil, normal finish, moderate color intensity, inelastic, narrow, 80 percent uniform, and 20 percent injury tolerance.
- X4D** Fair Quality Dark-brown Lugs.
Mature, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 70 percent uniform, and 30 percent injury tolerance.
- X5D** Low Quality Dark-brown Lugs.
Underripe, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 60 percent uniform, and 40 percent injury tolerance.
- X3M** Good Quality Mixed Lugs.
Mature, thin, firm leaf structure, crepy, lean in oil, normal finish, moderate color intensity, inelastic, narrow, 80 percent uniform, and 20 percent injury tolerance.
- X4M** Fair Quality Mixed Lugs.
Mature, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 70 percent uniform, and 30 percent injury tolerance.
- X5M** Low Quality Mixed Lugs.
Underripe, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 60 percent uniform, and 40 percent injury tolerance.
- X3G** Good Quality Green Lugs.
Underripe, medium body, firm leaf structure, crepy, lean in oil, normal finish, inelastic, narrow, 80 percent uniform, and 20 percent injury tolerance.
- X4G** Fair Quality Green Lugs.
Immature, thin, close leaf structure, rough, lean in oil, dull finish, inelastic, narrow, 70 percent uniform, and 30 percent injury tolerance.
- X5G** Low Quality Green Lugs.
Immature, thin, close leaf structure, rough, lean in oil, dull finish, inelastic, narrow, 60 percent uniform, and 40 percent injury tolerance.

§ 29.3651 Nondescript (N Group).

Extremely common tobacco which does not meet the minimum specifications or which exceeds the tolerance of the lower grade of any other group except Scrap.

U.S. Grade names, minimum specifications, grades and tolerances

N1L First Quality Light-colored Nondescript.

Thin to medium body and 60 percent injury tolerance.

N2L Second Quality Light-colored Nondescript.

Thin to medium body and over 60 percent injury tolerance.

N1R First Quality Dark-colored Nondescript.

Thin to heavy body and 60 percent injury tolerance.

N2R Second Quality Dark-colored Nondescript.

Thin to heavy body and over 60 percent injury tolerance.

N1G First Quality Crude Green Nondescript. 60 percent crude leaves or injury tolerance.

N2G Second Quality Crude Green Nondescript.

Over 60 percent crude leaves or injury tolerance.

§ 29.3652 Scrap (S Group).

A byproduct of stemmed and unstemmed tobacco. Scrap accumulates from handling tobacco in farm buildings, warehouses, packing and conditioning plants, and stemmeries.

U.S. grade Grade name and specifications

S Scrap.

Loose, tangled, whole, or broken unstemmed leaves; or the web portions of tobacco leaves reduced to scrap by any process.

SUMMARY OF STANDARD GRADES

§ 29.3676 Summary of standard grades.

6 Grades of Wrappers

A1F	A1R
A2F	A2R
A3F	A3R

21 Grades of Heavy Leaf

B1F	B1R	B1D		
B2F	B2R	B2D		
B3F	B3R	B3D	B3M	B3G
B4F	B4R	B4D	B4M	B4G
B5F	B5R	B5D	B5M	B5G

21 Grades of Thin Leaf

C1L	C1F	C1R		
C2L	C2F	C2R		
C3L	C3F	C3R	C3M	C3G
C4L	C4F	C4R	C4M	C4G
C5L	C5F	C5R	C5M	C5G

15 Grades of Typs

T3F	T3R	T3D	T3M	T3G
T4F	T4R	T4D	T4M	T4G
T5F	T5R	T5D	T5M	T5G

24 Grades of Lugs

X1L	X1F	X1R			
X2L	X2F	X2R			
X3L	X3F	X3R	X3D	X3M	X3G
X4L	X4F	X4R	X4D	X4M	X4G
X5L	X5F	X5R	X5D	X5M	X5G

6 Grades of Nondescript

N1L	N1R	N1G
N2L	N2R	N2G

1 Grade of Scrap

S

Special factors "U" and "W" may be applied to all grades in all types, "B1" to grades in types 35 and 36, and "BL" to type 35. Tobacco not covered by the standard grades is designated "No-G."

APPLICABLE U.S. STANDARD SIZES

§ 29.3681 Applicable U.S. standard sizes.

Types 35 and 36

A1-A2-A3	45, 46, 47
B1-B2-B3-B4-B5	44, 45, 46, 47
C1-C2-C3-C4-C5	44, 45, 46, 47

Type 37

A1-A2-A3	44, 45, 46
B1-B2-B3-B4-B5	44, 45, 46
C1-C2-C3-C4-C5	44, 45, 46

KEY TO STANDARD GRADEMARKS

§ 29.3686 Key to standard grade marks.

Group	Qualities	Colors
A—Wrappers	1—Choice	L—Light brown
B—Heavy Leaf	2—Fine	F—Medium brown
C—Thin Leaf	3—Good	R—Reddish brown
T—Tips	4—Fair	D—Dark brown
X—Lugs	5—Low	M—Mixed
N—Nondescript		G—Green
S—Scrap		

OFFICIAL STANDARD GRADES FOR PENNSYLVANIA SEEDLEAF TOBACCO (U.S. TYPE 41)

AUTHORITY: §§ 29.4251 to 29.4391 issued under 49 Stat. 734; 7 U.S.C. 511m.

SOURCE: §§ 29.4251 to 29.4391 appear at 28 F.R. 14482, Dec. 31, 1963, unless otherwise noted.

DEFINITIONS

§ 29.4251 Definitions.

As used in §§ 29.4251-29.4391, the words and phrases hereinafter defined shall have the indicated meanings so assigned.

§ 29.4252 Air-cured.

Tobacco cured under natural atmospheric conditions. Artificial heat is sometimes used to control excess humidity during the curing period to prevent pole-sweat, pole-burn, and shed-burn in damp weather. Air-cured tobacco should not carry the odor of smoke or fumes resulting from the application of artificial heat.

§ 29.4253 Body.

The thickness and density of a leaf or the weight per unit of surface. (See chart, § 29.4326.)

§ 29.4254 Burn.

The duration of combustion or length of time that a tobacco leaf will hold fire after ignition. (See rule 17, § 29.4348.)

§ 29.4255 Case (order).

The state of tobacco with respect to its moisture content.

§ 29.4256 Class.

A major division of tobacco based on method of cure or principal usage.

§ 29.4257 Clean.

Tobacco is described as clean when it contains only a normal amount of sand or soil particles. Leaves grown on the lower portion of the stalk normally contain more sand or dirt than those from higher stalk positions.

[28 F.R. 14483, Dec. 31, 1963, as amended at 29 F.R. 16854, Dec. 9, 1964]

§ 29.4258 Condition.

The state of tobacco which results from the method of preparation or from the degree of fermentation. Words used to describe the condition of tobacco are: Undried, air-dried, steam-dried, sweating, sweated, and aged.

§ 29.4259 Crude.

A subdegree of maturity.

[28 F.R. 14483, Dec. 31, 1963, as amended at 29 F.R. 16854, Dec. 9, 1964]

§ 29.4260 Cured.

Tobacco dried of its sap by either natural or artificial processes.

§ 29.4261 Damage.

The effect of mold, must, rot, black rot, or other fungus or bacterial diseases which attack tobacco in its cured state. Tobacco having the odor of mold, must, or rot is considered damaged. (See rule 16, § 29.4347.)

§ 29.4262 Dirty.

The state of tobacco containing an abnormal amount of dirt or sand. (See rule 16, § 29.4347.)

§ 29.4263 Elements of quality.

Physical characteristics used to determine the quality of tobacco. Words selected to describe degrees within each element are shown in the chart in § 29.4326.

§ 29.4264 Foreign matter.

Any extraneous substance or material such as stalks, suckers, straw, or strings. (See rule 16, § 29.4347.)

§ 29.4265 Form.

The stage of preparation of tobacco such as stemmed or unstemmed.

§ 29.4266 General quality.

The quality of tobacco considered in relation to the type as a whole. General quality is distinguished from the restricted use of the term "quality" within a group.

§ 29.4267 Grade.

A subdivision of a type according to group and quality and to other characteristics when they are of sufficient importance to be treated separately.

§ 29.4268 Grademark.

In this type a grademark normally consists of a letter to indicate group and a number to indicate quality. For example, C2 means Stripper, good quality.

§ 29.4269 Group.

A division of a type consisting of one or more grades based on certain characteristics which are related to stalk position or the general quality of the tobacco. Groups in this type are Stripper (C), Straight Stripped (X), Farm Filler (Y), and Nondescript (N). Throwout leaves not meeting C-group grade specifications will be included in the X and Y groups.

[28 F.R. 14483, Dec. 31, 1963, as amended at 29 F.R. 16854, Dec. 9, 1964]

§ 29.4270 Injury.

Hurt or impairment from any cause except the fungus or bacterial diseases which attack tobacco in its cured state but which is not serious enough to be classified as waste. (See definition of Damage, § 29.4261.) Injury to tobacco may be caused by field diseases, insects, or weather conditions; insecticides, fungicides, or cell growth inhibitors; nutritional deficiencies or excesses; or improper fertilizing, harvesting, curing, or handling. Injured tobacco includes dead, burnt, hail-cut, torn, broken, frost-bitten, frozen, sunburned, unscaled, bulk-burnt, pole-burnt, shed-burnt, pole-sweated, stem-rotted, bleached, bruised, discolored, or deformed leaves; or tobacco affected by wildfire, rust, frog-eye, mosaic, root rot, wilt, black shank, or other diseases. (See rule 13, § 29.4344.)

§ 29.4271 Leaf scrap.

A byproduct of unstemmed tobacco. Leaf scrap results from handling unstemmed tobacco and consists of loose and tangled whole or broken leaves.

§ 29.4272 Leaf-structure.

The cell development of a leaf as indicated by its porosity. (See chart, § 29.4326.)

§ 29.4273 Length.

The linear measurement of cured tobacco leaves from the butt of the midrib to the extreme tip.

§ 29.4274 Lot.

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

§ 29.4275 Maturity.

The degree of ripeness. (See chart, § 29.4326.)

§ 29.4276 Nested.

Any tobacco which has been loaded, packed, or arranged to conceal foreign matter or tobacco of inferior grade, quality, or condition. Nested includes any lot of tobacco which contains foreign matter or damaged, injured, tangled, or other inferior tobacco, any of which cannot be readily detected upon inspection because of the way the lot is packed or arranged. (See rule 16, § 29.4347.)

§ 29.4278 Oil (life).

A soft, semifluid constituent of tobacco. (See chart, § 29.4326.)

§ 29.4279 Offtype.

Tobacco of distinctly different characteristics which cannot be classified as Type 41. (See rule 16, § 29.4347.)

§ 29.4280 Package.

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

§ 29.4281 Packing.

A lot of tobacco consisting of a number of packages submitted as one definite unit for sampling or inspecting. It is represented to contain the same kind of tobacco and has a common identification number or mark on each package.

§ 29.4282 Quality.

A division of a group or the second factor of a grade based on the relative degree of one or more elements of quality.

§ 29.4283 Raw.

Tobacco as it appears between the time of harvesting and the beginning of the curing process.

§ 29.4284 Semicured.

Tobacco in the process of being cured or which is partially but not thoroughly cured. Semicured includes tobacco which contains fat stems, wet butts, swelled stems, and tobacco having frozen stems or stems that have not been thoroughly dried in the curing process. (See rule 16, § 29.4347.)

§ 29.4285 Side.

A certain phase of quality as contrasted with some other phase of quality, or any peculiar characteristic of tobacco.

§ 29.4286 Sound.

Free of damage.

[28 F.R. 14484, Dec. 31, 1963, as amended at 29 F.R. 16854, Dec. 9, 1964]

§ 29.4287 Stem.

The midrib or large central vein of a tobacco leaf.

§ 29.4288 Stemmed.

A form of tobacco, including strips and strip scrap, from which the stems or midribs have been removed.

§ 29.4289 Stem rot.

The deterioration of an uncured or frozen stem resulting from bacterial action. Although stem rot results from bacterial action, it is inactive in cured tobacco and is treated as a kind of injury in this type. (See rule 14, § 29.4345.)

§ 29.4290 Strength (tensile).

The stress a tobacco leaf can bear without tearing. (See chart, § 29.4326.)

§ 29.4291 Strips.

The sides of a tobacco leaf from which the stem has been removed or a lot of tobacco composed of strips.

§ 29.4292 Sweated.

The condition of tobacco which has passed through one or more seasonal fermentations natural to tobacco packed with a normal percentage of moisture, or tobacco which has reached the same degree of fermentation under a "forced-sweat" process.

§ 29.4293 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, sweat-

ing, and stemming are not regarded as manufacturing processes.

§ 29.4294 Tobacco products.

Manufactured tobacco, including cigarettes, cigars, smoking tobacco, chewing tobacco, and snuff, which is subject to Internal Revenue tax.

§ 29.4295 Type.

A division of a class of tobacco having certain common characteristics and closely related grades. Tobacco which has the same characteristics and corresponding qualities, colors, and lengths is classified as one type, regardless of any factors of historical or geographical nature which cannot be determined by an examination of the tobacco.

§ 29.4296 Type 41.

That type of cigar-leaf tobacco commonly known as Pennsylvania Seedleaf or Pennsylvania Broadleaf, produced principally in Lancaster County, Pennsylvania, and adjoining counties, and including other areas of Pennsylvania and Maryland in which the seedleaf variety is grown.

§ 29.4297 Undried.

The condition of unfermented tobacco which has not been air-dried or steam-dried.

§ 29.4298 Uniformity.

A grade requirement designating the percentage of a lot or packing which must meet the specified degree of each element of quality. (See rule 12, § 29.4343.)

§ 29.4299 Unstemmed.

A form of tobacco, including whole leaf and leaf scrap, from which the stems or midribs have not been removed.

§ 29.4300 Unsweated.

The condition of cured tobacco which has not been sweated.

§ 29.4301 Waste.

The portion or portions of the web of tobacco leaves which, because of excessive injury, have been lost or rendered unserviceable for use in tobacco products. Waste includes: (a) Portions which have decomposed or largely decomposed by field diseases, field-firing, pole-burning, or bulk-burning; (b) portions which have been sunburned; and (c) portions which are dead, trashy, and do not have sufficient strength or stability to hold together in the normal manufacturing process due to excessive injury of any kind. (See rule 13, § 29.4344.)

[28 F.R. 14484, Dec. 31, 1963, as amended at 29 F.R. 16854, Dec. 9, 1964]

§ 29.4302 Wet (high-case).

Any sound tobacco containing excessive moisture to the extent that it is in unsafe or doubtful-keeping order.

[28 F.R. 14484, Dec. 31, 1963, as amended at 29 F.R. 16854, Dec. 9, 1964]

§ 29.4303 Width.

The relative breadth of a tobacco leaf expressed in relation to its length. (See chart, § 29.4326.)

ELEMENTS OF QUALITY

§ 29.4326 Elements of quality and degrees of each element.

Tobacco attributes or characteristics which constitute quality are designated as elements of quality. The range within each element is expressed by words or terms designated as degrees. These degrees are arranged to show their relative value and are used in determining the quality of tobacco.

Elements	Degrees		
Body	Thin	Medium	Heavy.
Maturity	Immature	Mature	Ripe.
Leaf structure	Close	Firm	Open.
Oil (life)	Lean	Oily	Rich.
Strength (tensile)	Weak	Normal	Strong.
Width	Narrow	(1)	Normal.
Length			

¹ Expressed in inches.

RULES

§ 29.4332 Rule 1.

§ 29.4331 Rules.

The application of §§ 29.4251—29.4303 and §§ 29.4361—29.4364 shall be in accordance with the following rules.

Each grade shall be treated as a subdivision of a particular type. When the grade is stated in an inspection certificate, the type also shall be stated.

§ 29.4333 Rule 2.

The determination of grade shall be based upon a representative sample or a thorough examination of a packing of tobacco.

§ 29.4334 Rule 3.

The grade shall be based upon a representative sample of the lot or packing. A minimum of 10 percent of the bundles or bales shall be selected at random for sampling; a higher percentage may be sampled at the discretion of the inspector. To obtain the sample, a sufficient amount of tobacco shall be drawn to be representative of each selected bale. In determining the grade, the inspector shall consider the general quality of all samples. The grade assigned shall represent the quality of the lot or packing as a whole.

§ 29.4336 Rule 5.

Tobacco leaves shall be placed straight in bundles or bales of normal weight, size, and shape with the butts out and tips overlapping from 6 to 8 inches or sufficiently to make a level, solid, and uniform pack. The sides of the bundles shall be completely covered with paper and tightly bound with not less than three large twines spaced so that the tobacco will be held securely together. Baling paper shall not contain waterproofing materials, and both paper and twine shall be clean and free from any materials which could be injurious to the tobacco. Improperly packed tobacco shall be graded "No-G."

[28 F.R. 14484, Dec. 31, 1963, as amended at 29 F.R. 16854, Dec. 9, 1964]

§ 29.4337 Rule 6.

The grade assigned to any lot or packing of tobacco shall be a true representation of the tobacco at the time of inspection and certification. If, at any time, it is found that a lot or packing of tobacco does not comply with the specifications of the grade previously assigned, it shall not thereafter be represented as such grade.

§ 29.4338 Rule 7.

Any lot or packing of tobacco which meets the specifications of two grades shall be placed in the higher grade. Any lot or packing of tobacco on the marginal line between two grades shall be placed in the lower grade.

§ 29.4339 Rule 8.

A lot or packing of tobacco meets the specifications of a grade when it is not lower in any element of quality than the degree stated in grade specifications and does not exceed the tolerance(s) of such grade.

§ 29.4340 Rule 9.

Interpretations, the use of specifications, and the meaning of terms shall be in accordance with determinations or clarifications made by the Chief of the Standards and Testing Branch and approved by the Director of the Tobacco Division, Consumer and Marketing Service.

§ 29.4341 Rule 10.

The use of any grade may be restricted by the Director during any marketing season when it is found that the grade is not needed or appears in insufficient volume to justify its use.

§ 29.4342 Rule 11.

In determining the grade of a lot or packing of tobacco, the lot or packing as a whole shall be considered. Minor irregularities which do not affect over one percent of the tobacco shall be overlooked.

§ 29.4343 Rule 12.

Uniformity shall be expressed in percentage. This percentage shall govern the portion of a lot or packing which must meet each Specification of the grade; the remaining portion must be closely related. The specified percentage of uniformity shall not affect limitations established by other rules.

§ 29.4344 Rule 13.

Injury and waste tolerances shall be expressed in percentages. The appraisal of injury and waste shall be based upon the percentage of affected leaf surface or the degree of injury, and consideration shall be given to the kinds of injury normal to the group. Stem rot is treated separately and may be included in any grade only as stated in § 29.4345.

§ 29.4345 Rule 14.

Stem rot shall not exceed 40 percent of the specified injury tolerance for any grade.

§ 29.4346 Rule 15.

Frozen or frostbitten tobacco shall be included only in N1 or N2.

[29 F.R. 16854, Dec. 9, 1964]

§ 29.4347 Rule 16.

Tobacco shall be graded "No-G" when it is damaged, dirty, nested, offtype, semicured, wet, improperly packed, contains foreign matter, has an odor foreign to the type, or does not meet the minimum specifications or exceeds either tolerance of the lowest grade of the C, X, and Y groups.

[28 F.R. 14485, Dec. 31, 1963, as amended at 29 F.R. 16854, Dec. 9, 1964]

§ 29.4348 Rule 17.

Burn shall be determined as the average burning time of leaves selected at random from the sample. A minimum of 10 leaves shall be selected as representative regardless of the number of bundles or bales in the lot. All burn tests shall be made on the same side of the leaf. The leaf shall be punctured to permit quick ignition when placed over a candle, alcohol lamp, or electrical-lighting device. Good burn shall average 5 seconds or longer; fair burn, 3 seconds; and poor burn, under 3 seconds. C1 shall require good burn and C2, fair burn.

GRADES

§ 29.4361 Stripper (C Group).

This group consists of tobacco from which trash and Farm Fillers have been removed. Tobacco of this group is locally known as "Wrappers."

U.S. Grade names, minimum specifications, and tolerances

- C1** Fine Quality Stripper
Medium body, ripe, open, rich in oil, strong, normal width, 22 inches or over in length. Uniformity, 80 percent. Tolerance: 10 percent injury.
- C2** Good Quality Stripper
Medium body, mature, firm, oily, normal strength and width, 18 inches or over in length. Uniformity, 80 percent. Tolerance: 20 percent injury of which 5 percent may be waste.
- C3** Low Quality Stripper
Thin, immature, close, lean in oil, weak, narrow Uniformity, 80 percent. Tolerances: 10 percent crude and 30 percent injury of which 10 percent may be waste.

§ 29.4362 Straight Stripped (X Group).

This group normally consists of tobacco from which trash and dirty fillers have been removed. Tobacco of this group is locally known as "Pull-off."

U.S. Grade names, minimum specifications, and tolerances

- X1** Fine Quality Straight Stripped
Medium body, ripe, firm, oily, normal strength and width. Uniformity, 80 percent. Tolerance: 20 percent injury of which 5 percent may be waste.
- X2** Good Quality Straight Stripped
Medium body, mature, close, lean in oil, normal strength, narrow. Uniformity, 80 percent. Tolerance: 30 percent injury of which not over 10 percent may be waste.
- X3** Low Quality Straight Stripped
Thin, immature, close, lean in oil, weak, narrow. Tolerances: less than 20 percent crude and 30 percent waste.

[28 F.R. 14485, Dec. 31, 1963, as amended at 29 F.R. 16854, Dec. 9, 1964]

§ 29.4363 Farm Filler (Y Group).

This group consists of tied tobacco and normally is tobacco from the lower portion of the stalk.

U.S. Grade names, minimum specifications, and tolerances

- Y1** Fine Quality Farm Filler
Thin, ripe, firm, lean in oil, normal strength. Uniformity, 80 percent. Tolerance: 20 percent waste.
- Y2** Good Quality Farm Filler
Thin, immature, close, lean in oil, weak. Tolerances: 10 percent crude and 40 percent waste.

[28 F.R. 14485, Dec. 31, 1963, as amended at 29 F.R. 16854, Dec. 9, 1964]

§ 29.4364 Nondescript (N Group).

Frozen or frostbitten tobacco or tobacco which does not meet the minimum specifications or exceeds either tolerance of the lowest grade of any other group.

U.S. grades

- Grade names and specifications*
- N1** Field frozen or frostbitten tobacco in safe-keeping order or case.
- N2** Frozen or frostbitten tobacco which is wet or in doubtful-keeping order or case.
- No-G** Tobacco which contains chicken dust, stone dust, or other foreign matter; is hail-cut or wasted in excess of the tolerances for X3 or Y2; is damaged, dirty, nested, offtype, semicured, wet, shingled or otherwise improperly packed; has an odor foreign to the type; contains 20 percent or more crude; or does not meet the minimum specifications of the lowest grade of the C, X, or Y groups.

[29 F.R. 16854, Dec. 9, 1964]

SUMMARY OF STANDARD GRADES

§ 29.4386 Summary of standard grades.

<p>3 Grades of Stripper</p> <p>C1 C2 C3</p> <p>3 Grades of Straight Stripped</p> <p>X1 X2 X3</p>	<p>2 Grades of Farm Filler</p> <p>Y1 Y2</p> <p>3 Grades of Nondescript</p> <p>N1 N2 No-G</p>
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[28 F.R. 14485, Dec. 31, 1963, as amended at 29 F.R. 16854, Dec. 9, 1964]

KEY TO STANDARD GRADEMARKS

§ 29.4391 Key to standard grademarks.

Groups	Qualities
C—Stripper	1—Fine
X—Straight Stripped	2—Good
Y—Farm Filler	3—Low
N—Nondescript	

OFFICIAL STANDARD GRADES FOR OHIO
CIGAR-LEAF TOBACCO (U.S. TYPES 42,
43, AND 44)

AUTHORITY: §§ 29.4501 to 29.4656 issued under sec. 14, 49 Stat. 734; 7 U.S.C. 511m.

SOURCE: §§ 29.4501 to 29.4656 appear at 28 F.R. 11719, Nov. 2, 1963; 28 F.R. 11926, Nov. 8, 1963, unless otherwise noted.

DEFINITIONS

§ 29.4501 Definitions.

As used in these standards, the words and phrases hereinafter defined shall have the indicated meanings so assigned.

§ 29.4502 Air-cured.

Tobacco cured under natural atmospheric conditions. Artificial heat is sometimes used to control excess humidity during the curing period to prevent pole-sweat, pole-burn, and shed-burn in damp weather. Air-cured tobacco should not carry the odor of smoke or fumes resulting from the application of artificial heat.

§ 29.4503 Body.

The thickness and density of a leaf or the weight per unit of surface. (See chart, § 29.4581.)

§ 29.4504 Case (order).

The state of tobacco with respect to its moisture content.

§ 29.4505 Class.

A major division of tobacco based on method of cure or principal usage.

§ 29.4506 Clean.

Tobacco is described as clean when it contains only a normal amount of sand or soil particles. Leaves grown on the lower portion of the stalk normally contain more sand or dirt than those from higher stalk positions. (See rule 4, § 29.4590.)

§ 29.4507 Condition.

The state of tobacco which results from the method of preparation or from the degree of fermentation. Words used to describe the condition of tobacco are: Undried, air-dried, steam-dried, sweating, sweated, and aged.

§ 29.4508 Crude.

A subdegree of maturity. (See rule 15, § 29.4601.)

§ 29.4509 Cured.

Tobacco dried of its sap by either natural or artificial processes.

§ 29.4510 Damage.

The effect of mold, must, rot, black rot, or other fungus or bacterial diseases which attack tobacco in its cured state. Tobacco having the odor of mold, must, or rot is considered damaged. (See rule 16, § 29.4602.)

§ 29.4511 Dirty.

The state of tobacco containing an abnormal amount of dirt or sand, or tobacco to which additional quantities of dirt or sand have been added. (See rule 16, § 29.4602.)

§ 29.4512 Elements of Quality.

Physical characteristics used to determine the quality of tobacco. Words selected to describe degrees within each element are shown in the chart in § 29.4581.

§ 29.4513 Foreign matter.

Any extraneous substance or material such as stalks, suckers, straw, strings, and rubber bands. (See rule 16, § 29.4602.)

§ 29.4514 Form.

The stage of preparation of tobacco such as stemmed or unstemmed.

§ 29.4515 General quality.

The quality of tobacco considered in relation to the type as a whole. General quality is distinguished from the restricted use of the term "quality" within a group.

§ 29.4516 Grade.

A subdivision of a type according to group and quality and to other characteristics when they are of sufficient importance to be treated separately.

§ 29.4517 Grademark.

In these types a grademark normally consists of a letter to indicate group and a number to indicate quality. For example, X2 means Straight Stripped, good quality.

§ 29.4518 Group.

A type division consisting of one or more grades which are based on the general quality of tobacco. Groups in these types are: Straight Stripped (X) and Nondescript (N).

§ 29.4519 Injury.

Hurt or impairment from any cause except the fungus or bacterial diseases which attack tobacco in its cured state, but which is not serious enough to be classified as waste. (See definition of Damage, § 29.4510.) Injury to tobacco may be caused by field diseases, insects, or weather conditions; insecticides, fungicides, or cell growth inhibitors; nutritional deficiencies or excesses; or improper fertilization, harvesting, curing, or handling. Injured tobacco includes dead, burnt, hall-cut, torn, broken, frost-bitten, frozen, sunburned, sunscalded, bulk-burnt, pole-burnt, shed-burnt, pole-sweated, stem-rotted, bleached, bruised, discolored, or deformed leaves; or tobacco affected by wildfire, rust, frog-eye, mosaic, root rot, wilt, black shank, or other diseases. (See rule 13, § 29.4599.)

§ 29.4520 Leaf scrap.

A byproduct of unstemmed tobacco. Leaf scrap results from handling unstemmed tobacco and consists of loose and tangled whole or broken leaves.

§ 29.4521 Leaf structure.

The cell development of a leaf as indicated by its porosity. (See chart, § 29.4581.)

§ 29.4522 Length.

The linear measurement of cured tobacco leaves from the butt of the midrib to the extreme tip.

§ 29.4523 Lot.

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

§ 29.4524 Maturity.

The degree of ripeness. (See chart, § 29.4581.)

§ 29.4525 Nested.

Any tobacco which has been loaded, packed, or arranged to conceal foreign matter or tobacco of inferior grade, quality, or condition. Nested includes any lot of tobacco which contains foreign matter or damaged, injured, tangled, or other inferior tobacco, any of which cannot be readily detected upon inspection because of the way the lot is packed or arranged. (See rule 16, § 29.4602.)

§ 29.4526 No-G.

A designation applied to a lot of tobacco classified as damaged, dirty, nested, offtype, semicured, or wet; tobacco that is improperly packed, contains foreign matter, or has an odor foreign to the type; or tobacco containing over 20 percent crude or over 60 percent waste. (See rule 16, § 29.4602.)

§ 29.4527 Oil (life).

A soft, semifluid constituent of tobacco. (See chart, § 29.4581.)

§ 29.4528 Offtype.

Tobacco of distinctly different characteristics which cannot be classified as Type 42, 43, or 44. (See rule 16, § 29.4602.)

§ 29.4529 Package.

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

§ 29.4530 Packing.

A lot of tobacco consisting of a number of packages submitted as one definite unit for sampling or inspection. It is represented to contain the same kind of tobacco and has a common identification number or mark on each package.

§ 29.4531 Quality.

A division of a group or the second factor of a grade based on the relative degree of one or more elements of quality.

§ 29.4532 Raw.

Tobacco as it appears between the time of harvesting and the beginning of the curing process.

§ 29.4533 Semicured.

Tobacco in the process of being cured or which is partially but not thoroughly cured. Semicured includes tobacco which contains fat stems, wet butts,

swelled stems, and tobacco having frozen stems or stems that have not been thoroughly dried in the curing process. (See rule 16, § 29.4602.)

§ 29.4534 Side.

A certain phase of quality as contrasted with some other phase of quality, or any peculiar characteristic of tobacco.

§ 29.4535 Sound.

Free of damage. (See rule 4, § 29.4590.)

§ 29.4536 Stem.

The midrib or large central vein of a tobacco leaf.

§ 29.4537 Stemmed.

A form of tobacco, including strips and strip scrap, from which the stems or midribs have been removed.

§ 29.4538 Stem rot.

The deterioration of an uncured or frozen stem resulting from bacterial action. Stem rot is inactive in cured tobacco and is treated as a kind of injury in these types. (See rule 14, § 29.4600.)

§ 29.4539 Strength (tensile).

The stress a tobacco leaf can bear without tearing. (See chart, § 29.4581.)

§ 29.4540 Strips.

The sides of a tobacco leaf from which the stem has been removed or a lot of tobacco composed of strips.

§ 29.4541 Sweated.

The condition of tobacco which has passed through one or more fermentations natural to tobacco packed with a normal percentage of moisture. This condition is sometimes described as aged.

§ 29.4542 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.

§ 29.4543 Tobacco products.

Manufactured tobacco, including cigarettes, cigars, smoking tobacco, chewing tobacco, and snuff, which is subject to Internal Revenue tax.

§ 29.4544 Type.

A division of a class of tobacco having certain common characteristics and closely related grades. Tobacco which

has the same characteristics and corresponding qualities, colors, and lengths is classified as one type, regardless of any factors of historical or geographical nature which cannot be determined by an examination of the tobacco.

§ 29.4545 Type 42.

That type of cigar-leaf tobacco commonly known as Gebhardt, Ohio Seed-leaf, or Ohio Broadleaf, produced principally in the Miami Valley section of Ohio and extending into Indiana.

§ 29.4546 Type 43.

That type of cigar-leaf tobacco commonly known as Zimmer, Spanish, or Zimmer Spanish, produced principally in the Miami Valley section of Ohio and extending into Indiana.

§ 29.4547 Type 44.

That type of cigar-leaf tobacco commonly known as Dutch, Shoestring Dutch, or Little Dutch, produced principally in the Miami Valley section of Ohio.

§ 29.4548 Undried.

The condition of unfermented tobacco which has not been air-dried or steam-dried.

§ 29.4549 Uniformity.

A grade requirement designating the percentage of a lot which must meet the specified degree of each element of quality. (See rule 12, § 29.4598.)

§ 29.4550 Unstemmed.

A form of tobacco, including whole leaf and leaf scrap, from which the stems or midribs have not been removed.

§ 29.4551 Unsweated.

The condition of cured tobacco which has not been sweated.

§ 29.4552 Waste.

The portion or portions of the web of tobacco leaves which have been lost or rendered unserviceable for use in tobacco products. Waste includes: (a) Portions which have decomposed or largely decomposed by field diseases, field-firing, pole-burning, or bulk-burning; (b) portions which have been frozen or sunburned; and (c) portions which are dead, trashy, and do not have sufficient strength or stability to hold together in the normal manufacturing process due to excessive injury of any kind. (See rule 13, § 29.4599.)

§ 29.4553 Wet (high-case).

Any sound tobacco containing excessive moisture to the extent that it is unsafe or doubtful-keeping order. Wet applies to any tobacco which is not damaged but which is likely to damage if treated in the customary manner. (See rule 16, § 29.4602.)

§ 29.4554 Width.

The relative breadth of a tobacco leaf expressed in relation to its length. (See chart, § 29.4581.)

ELEMENTS OF QUALITY

§ 29.4581 Elements of quality and degrees of each element.

These standardized words or terms are used to describe tobacco quality. Characteristics which constitute general quality are designated as elements of quality. The range within each element is expressed by words or terms designated as degrees. These degrees are arranged to show their relative value, but their actual value may vary with type.

Elements	Degrees		
Body.....	Thin.....	Medium..	Heavy.
Maturity.....	Immature..	Mature....	Ripe.
Leaf structure.....	Close.....	Firm.....	Open.
Oil (life).....	Lean.....	Oily.....	Rich.
Strength (tensile).....	Weak.....	Normal....	Strong.
Width.....	Narrow....	.....	Normal.
Length.....	.....	.....	(?).

¹ Expressed in inches.

RULES

§ 29.4586 Rules.

The application of these official standard grades shall be in accordance with the following rules.

§ 29.4587 Rule 1.

Each grade shall be treated as a subdivision of a particular type. When the grade is stated in an inspection certificate, the type also shall be stated.

§ 29.4588 Rule 2.

The determination of grade shall be based upon a representative sample or a thorough examination of a packing of tobacco.

§ 29.4589 Rule 3.

The grade of unsorted tobacco shall be based upon a representative sample of the packing. A minimum of 10 percent of the bundles or bales shall be selected at random for sampling; a higher per-

centage may be sampled at the discretion of the inspector. To obtain the sample, a sufficient amount of tobacco shall be drawn to be representative of each selected bale. In determining the grade, the inspector shall consider the general quality of all samples. The grade assigned shall represent the quality of the lot as a whole.

§ 29.4590 Rule 4.

Standard grades shall be assigned to clean and sound tobacco only.

§ 29.4591 Rule 5.

Tobacco leaves shall be placed straight in bundles or bales of normal weight, size, and shape with the butts out and tips overlapping from 6 to 8 inches or sufficiently to make a level, solid, and uniform pack. The sides of the bundles shall be completely covered with paper and tightly bound with not less than three large twines spaced so that the tobacco will be held securely together. Both paper and twine shall be clean and free from any foreign odor which could be injurious to the tobacco. Improperly packed tobacco shall be designated "No-G."

§ 29.4592 Rule 6.

The grade assigned to any lot of tobacco shall be a true representation of the tobacco at the time of inspection and certification. If, at any time, it is found that a lot of tobacco does not comply with the specifications of the grade previously assigned, it shall not thereafter be represented as such grade.

§ 29.4593 Rule 7.

Any lot of tobacco which meets the specifications of two grades shall be placed in the higher grade. Any lot of tobacco on the marginal line between two grades shall be placed in the lower grade.

§ 29.4594 Rule 8.

A lot of tobacco meets the specifications of a grade when it is not lower in any element of quality than the degree stated and does not exceed the tolerance(s) of such grade. However, width specifications shall be waived in Type 44.

§ 29.4595 Rule 9.

Interpretations, the use of specifications, and the meaning of terms shall be in accordance with determinations or clarifications made by the Chief of the Standards and Testing Branch and ap-

proved by the Director of the Tobacco Division, Consumer and Marketing Service.

§ 29.4596 Rule 10.

The use of any grade may be restricted by the Director during any marketing season when it is found that the grade is not needed or appears in insufficient volume to justify its use.

§ 29.4597 Rule 11.

In determining the grade of a lot of tobacco, the lot as a whole shall be considered. Minor irregularities which do not affect over one percent of the tobacco shall be overlooked.

§ 29.4598 Rule 12.

The uniformity requirement shall be expressed in percentages. These percentages shall govern the portion of a lot which must meet each specification of the grade; the remaining portion must be closely related. Specified percentages of uniformity shall not affect limitations established by other rules.

§ 29.4599 Rule 13.

Injury tolerances and waste tolerances shall be expressed in percentages. The appraisal of injury and of waste shall be based upon the percentage of affected leaf surface and the degree of injury.

§ 29.4600 Rule 14.

Stem rot shall not exceed 40 percent of the specified injury tolerance for any grade.

§ 29.4601 Rule 15.

Crude tobacco shall not be included in X1 or X2.

§ 29.4602 Rule 16.

Tobacco shall be designated by the grademark "No-G" when it is damaged, dirty, nested, offtype, semicured, wet, improperly packed, contains foreign matter, has an odor foreign to the type, or does not meet the minimum specifications or exceeds the tolerance of the lowest grade of any group.

GRADES

§ 29.4626 Straight Stripped (X Group).

This group consists of tobacco from which the trash and dirty fillers have been removed. This tobacco is locally known as "Wrappers and Fillers Stripped Together."

U.S. Grade names, minimum specifications, grades and tolerances

- X1 Fine Quality Straight Stripped. Heavy, ripe, open, rich in oil, strong, normal width, 18 inches or over in length. Uniformity, 80 percent. Tolerance: 10 percent injury.
- X2 Good Quality Straight Stripped. Medium body, mature, firm, oily, normal strength and width. Uniformity, 80 percent. Tolerance: 20 percent total injury of which not over 5 percent may be waste.
- X3 Low Quality Straight Stripped. Thin, immature, close, lean in oil, normal strength, narrow. Uniformity, 80 percent. Tolerances: 10 percent crude and 30 percent total injury of which not over 10 percent may be waste.
- X4 Poor Quality Straight Stripped. Thin, immature, close, lean in oil, weak, narrow. Tolerances: 10 percent crude and 40 percent waste.

§ 29.4627 Nondescript (N Group).

Tobacco which does not meet the minimum specifications or exceeds the tolerances of the lowest grade of the X group.

U.S.

grade Grade name and tolerances

N Nondescript. Tolerances: 20 percent crude and 60 percent waste.

SUMMARY OF STANDARD GRADES

§ 29.4651 Summary of standard grades.

FOUR GRADES OF STRAIGHT STRIPPED

X1 X2 X3 X4

ONE GRADE OF NONDESCRIPT

N

Tobacco not covered by standard grades is designated "No-G."

KEY TO STANDARD GRADEMARKS

§ 29.4656 Key to standard grademarks. GROUPS

X—Straight Stripped.
N—Nondescript.

QUALITIES

1—Fine. 3—Low.
2—Good. 4—Poor.

OFFICIAL STANDARD GRADES FOR PUERTO RICAN CIGAR-FILLER TOBACCO (U.S. TYPE 46)

AUTHORITY: §§ 29.5251 to 29.5386 issued under 49 Stat. 784; 7 U.S.C. 511m.

SOURCE: §§ 29.5251 to 29.5386 appear at 28 F.R. 13277, Dec. 7, 1963, unless otherwise noted.

DEFINITIONS

§ 29.5251 Definitions.

As used in §§ 29.5251-29.5386, the words and phrases hereinafter defined

shall have the indicated meanings so assigned.

§ 29.5252 Air-cured.

Tobacco cured under natural atmospheric conditions. Artificial heat is sometimes used to control excess humidity during the curing period to prevent pole-sweat, pole-burn, and shed-burn in damp weather. Air-cured tobacco should not carry the odor of smoke or fumes resulting from the application of artificial heat.

§ 29.5253 Body.

The thickness and density of a leaf or the weight per unit of surface.

§ 29.5254 Class.

A major division of tobacco based on method of cure or principal usage.

§ 29.5255 Clean.

Tobacco is described as clean when it contains only a normal amount of sand or soil particles. Leaves grown on the lower portion of the stalk normally contain more dirt or sand than those from higher stalk positions. (See rule 4, § 29.5325.)

§ 29.5256 Condition.

The state of tobacco which results from the method of preparation or from the degree of fermentation. Words used to describe the condition of tobacco are: Undried, air-dried, steam-dried, sweating, sweated, and aged.

§ 29.5257 Crude.

A subdegree of maturity. A condition similar to crude may result from sunburn or sunscald. Any leaf which is crude to the extent of 20 percent of its leaf surface may be described as crude. (See rule 14, § 29.5335.)

§ 29.5258 Cured.

Tobacco dried of its sap by either natural or artificial processes.

§ 29.5259 Damage.

The effect of mold, must, rot, black rot, or other fungus or bacterial diseases which attack tobacco in its cured state. Tobacco having the odor of mold, must, or rot is considered damaged. (See Nondescript, N Group, § 29.5363.)

§ 29.5260 Dirty.

The state of tobacco containing an abnormal amount of dirt or sand. (See rule 15, § 29.5336.)

§ 29.5261 Foreign matter.

Any extraneous substance or material such as stalks, straw, or abnormal amounts of dirt or sand. (See rule 15, § 29.5336.)

§ 29.5262 Form.

The stage of preparation of tobacco such as stemmed or unstemmed.

§ 29.5263 Grade.

A subdivision of a type according to group and quality and to other characteristics when they are of sufficient importance to be treated separately.

§ 29.5264 Grademark.

A symbol or a combination of symbols designated to identify standard grades. A letter is used to indicate group and a number to indicate quality. In Type 46 the third factor denotes: F, thin to medium body; P, heavy body; T, second crop; or S, stained. For example, C1P means Strippers, first quality, heavy body.

§ 29.5265 Group.

A type division consisting of one or more grades. Groups in Type 46 are: Strippers (C), Grinders (X), Nondescript (N), and Scrap (S).

§ 29.5266 Injury.

Hurt or impairment from any cause except the fungus or bacterial diseases which attack tobacco in its cured state. (See definition of Damage, § 29.5259.) Injury to tobacco may be caused by field diseases, insects, or weather conditions; insecticides, fungicides, or cell growth inhibitors; nutritional deficiencies or excesses; or improper fertilizing, harvesting, curing, or handling. Injured tobacco includes dead, burnt, hall-cut, torn, broken, ragged, sunburned, sunscalded, scorched, fire-killed, bulk-burnt, pole-burnt, barn-burnt, house-burnt, bleached, bruised, blackened, discolored, or deformed leaves; or tobacco affected by wildfire, rust, frog-eye, mosaic, root rot, wilt, black shank, or other diseases. (See rule 12, § 29.5333.)

§ 29.5267 Leaf scrap.

A byproduct of unstemmed tobacco. Leaf scrap results from handling unstemmed tobacco and consists of loose and tangled whole or broken leaves.

§ 29.5268 Length.

The linear measurement of cured tobacco leaves from the butt of the midrib to the extreme tip.

§ 29.5269 Lot.

A pile, basket, bulk, or more than one bale, case, hogshead, tierce, package, or other definite package unit.

§ 29.5270 Maturity.

The degree of ripeness. Tobacco is mature when it reaches its prime state of development.

§ 29.5271 Nested.

Any tobacco which has been loaded, packed, or arranged to conceal foreign matter or tobacco of inferior grade, quality, or condition. Nested includes any lot of tobacco which contains foreign matter or damaged, injured, tangled, or other inferior tobacco, any of which cannot be readily detected upon inspection because of the way the lot is packed or arranged. (See rule 15, § 29.5336.)

§ 29.5272 No grade.

A designation applied to a lot of tobacco classified as nested, offtype, semicured, or wet; tobacco that is abnormally dirty or improperly baled, contains foreign matter, or has an odor foreign to the type. (See rules 3, § 29.5324; 15, § 29.5336.)

§ 29.5273 Offtype.

Tobacco of distinctly different characteristics which cannot be classified in the grades of the type. (See rule 15, § 29.5336.)

§ 29.5274 Order (case).

The state of tobacco with respect to its moisture content.

§ 29.5275 Package.

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

§ 29.5276 Packing.

A lot of tobacco consisting of a number of packages submitted as one definite unit for sampling or inspection. It is represented to contain the same kind of tobacco and has a common identification number or mark on each package.

§ 29.5277 Quality.

A division of a group or the second factor of a grade based upon the stated specifications.

§ 29.5278 Semicured.

Tobacco in the process of being cured or which is partially but not thoroughly cured. Semicured includes tobacco which contains fat stems, wet butts, or

tobacco that has not been thoroughly dried in the curing process. (See definition of No Grade, § 29.5272 and rule 15, § 29.5336.)

§ 29.5279 Side.

A certain phase of quality as contrasted with some other phase of quality, or any peculiar characteristic of tobacco.

§ 29.5280 Sound.

Free of damage.

§ 29.5281 Stained (S).

A term applied to tobacco that is blackened, bruised, or discolored by excessive moisture. Any leaf affected 10 percent or more by any of these conditions may be described as stained. (See rule 13, § 29.5334.)

§ 29.5282 Stem.

The midrib or large central vein of a tobacco leaf.

§ 29.5283 Stemmed.

A form of tobacco, including strips and strip scrap, from which the stems or midribs have been removed.

§ 29.5284 Strips.

The sides of tobacco leaves from which the stems have been removed or a lot of tobacco composed of strips.

§ 29.5285 Sweated.

The condition of tobacco which has passed through one or more fermentations natural to tobacco packed with a normal percentage of moisture. This condition is sometimes described as fermented.

§ 29.5286 Sweating.

The condition of tobacco in the process of fermentation.

§ 29.5287 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.

§ 29.5288 Tobacco products.

Manufactured tobacco, including cigarettes, cigars, smoking tobacco, chewing tobacco, and snuff, which is subject to Internal Revenue tax.

§ 29.5289 Type.

A division of a class of tobacco having certain common characteristics and

closely related grades. Tobacco which has the same characteristics and corresponding qualities, colors, and lengths is classified as one type, regardless of any factors of historical or geographical nature which cannot be determined by an examination of the tobacco.

§ 29.5290 Type 46.

That type of cigar-leaf tobacco, commonly known as Puerto Rican filler, produced principally in the inland and semicoastal areas of Puerto Rico.

§ 29.5291 Undried.

The condition of unfermented tobacco which has not been air-dried or steam-dried.

§ 29.5292 Uniformity.

A grade requirement designating the percentage of a lot which must meet the stated specifications. (See rule 11, § 29.5332.)

§ 29.5293 Unstemmed.

A form of tobacco, including whole leaf and leaf scrap, from which the stems or midribs have not been removed.

§ 29.5294 Unsweated.

The condition of cured tobacco which has not been sweated.

§ 29.5295 Wet (high-case).

Any sound tobacco containing excessive moisture to the extent that it is in unsafe or doubtful-keeping order. Wet applies to any tobacco which is not damaged but which is likely to damage if treated in the customary manner. (See rule 15, § 29.5336.)

RULES

§ 29.5321 Rules.

The application of the standard grades in §§ 29.5251-29.5295 and §§ 29.5361-29.5364 shall be in accordance with the following rules.

§ 29.5322 Rule 1.

Each grade shall be treated as a subdivision of a particular type. When the grade is stated in an inspection certificate, the type also shall be stated.

§ 29.5323 Rule 2.

The determination of a grade shall be based upon a representative sample or a thorough examination of a lot of tobacco.

§ 29.5324 Rule 3.

Tobacco leaves shall be placed straight in bundles or bales of normal weight, size, and shape with the butts out and tips overlapping sufficiently to make a level, solid, and uniform pack. The sides of the bundles or bales shall be completely covered with burlap or other suitable protective material. Improperly packed tobacco shall be designated "No-G."

§ 29.5325 Rule 4.

Standard grades shall be assigned to clean tobacco only.

§ 29.5326 Rule 5.

The grade assigned to any lot of tobacco shall be a true representation of the tobacco at the time of inspection and certification. If, at any time, it is found that a lot of tobacco does not comply with the specifications of the grade previously assigned, it shall not thereafter be represented as such grade.

§ 29.5327 Rule 6.

Any lot of tobacco which meets the specifications of two grades shall be placed in the higher grade. Any lot of tobacco on the marginal line between two grades shall be placed in the lower grade.

§ 29.5328 Rule 7.

A lot of tobacco meets the specifications of a grade when it is not lower in any degree than the minimum specifications of such grade.

§ 29.5329 Rule 8.

In determining the grade of a lot of tobacco, the lot as a whole shall be considered. Irregularities which do not affect over one percent of the tobacco shall be overlooked.

§ 29.5330 Rule 9.

Interpretations, the use of specifications, and the meaning of terms shall be in accordance with determinations or clarifications made by the Chief of the Standards and Testing Branch and approved by the Director of the Tobacco Division, Consumer and Marketing Service.

§ 29.5331 Rule 10.

The use of any grade may be restricted by the Director during any marketing season when it is found that the grade is not needed or appears in insufficient volume to justify its use.

§ 29.5332 Rule 11.

Uniformity shall be expressed in terms of percentages. These percentages shall govern the portion of a lot which must meet each specification of the grade; the remaining portion must be closely related. Specified percentages of uniformity shall not affect limitations established by other rules.

§ 29.5333 Rule 12.

Injury tolerance shall be expressed in terms of a percentage. The appraisal of injury shall be based upon the percentage of affected leaf surface or the degree of injury.

§ 29.5334 Rule 13.

First quality tobacco stained 30 percent or less shall be graded X1S. Any tobacco stained over 30 percent but not more than 75 percent shall be graded X2S. Tobacco stained over 75 percent shall be graded "N."

§ 29.5335 Rule 14.

Any lot containing 20 percent or more of crude tobacco shall be designated by the symbol "N."

§ 29.5336 Rule 15.

Tobacco shall be classified No Grade, using the designation "No-G," when it is abnormally dirty, improperly baled, nested, off type, semicured, wet, contains foreign matter, or has an odor foreign to the type.

GRADES

§ 29.5361 Strippers (C Group).

Tobacco that is free of stain and is of long filler stemming quality.

U.S.

grades *Grade names and specifications*

C1F First Quality Thin Strippers
Eighty-five percent must be thin to medium bodied, mature, and 13 inches or over in length. Injury tolerance, 15 percent.

C1P First Quality Heavy Strippers
Eighty-five percent must be heavy bodied, mature, and 13 inches or over in length. Injury tolerance, 15 percent.

§ 29.5362 Grinders (X Group).

Short fillers or grinders.

U.S.

grades *Grade names and specifications*

X1F First Quality Thin Grinders
Seventy percent must be thin to medium bodied, mature, and 8 inches or over in length. Injury tolerance, 30 percent.

U.S. *Grade names, minimum specifications, grades and tolerances*

X1P First quality Heavy Grinders
Seventy percent must be heavy bodied, mature, and 8 inches or over in length. Injury tolerance, 30 percent.

X1S First Quality Stained Grinders
Seventy percent must be thin to heavy bodied, mature, and 8 inches or over in length. Tolerances: 30 percent injury and 30 percent stained.

X2F Second Quality Thin Grinders
Thin to medium bodied and over 30 percent injury tolerance; any yellow tobacco; or tobacco pole-burnt over 30 percent.

X2P Second Quality Heavy Grinders
Heavy bodied and over 30 percent injury tolerance; any hard or woody tobacco.

X2T Second Quality Second Crop Grinders
Thin to heavy-bodied sucker leaves and over 30 percent injury tolerance.

X2S Second Quality Stained Grinders
Thin to heavy bodied. Tolerances: Over 30 percent injury and over 30 percent but not more than 75 percent stained.

§ 29.5363 Nondescript (N Group).

U.S.

grade *Grade name and specifications*

N Nondescript
Moldy, musty, or otherwise damaged tobacco; or tobacco bruised, blackened, stained, or injured over 75 percent.

§ 29.5364 Scrap (S Group).

U.S.

grade *Grade name and specifications*

S Scrap
Loose, tangled, whole or broken leaves or the web portions of leaves reduced to scrap by any process. Scrap is free of strings, paper, excessive dirt, and other foreign matter.

SUMMARY OF STANDARD GRADES

§ 29.5381 Summary of standard grades.

2 Grades of Strippers

C1F C1P

7 Grades of Grinders

X1F X1P X2T X1S
X2F X2P X2T X2S

1 Grade of Nondescript

N

1 Grade of Scrap

S

Tobacco not covered by standard grades is designated "No-G."

KEY TO STANDARD GRADEMARKS

§ 29.5386 Key to standard grademarks.

<i>Groups</i>	<i>Qualities</i>	<i>Third factors</i>
C—Strippers	1—First	F—Thin to medium
X—Grinders	2—Second	body
N—Nondescript		P—Heavy body
S—Scrap		T—Second crop
		S—Stained

OFFICIAL STANDARD GRADES FOR CONNECTICUT VALLEY CIGAR-BINDER TOBACCO (U.S. TYPES 51 AND 52)

AUTHORITY: §§ 29.5501 to 29.5556 issued under sec. 14, 49 Stat. 734; 7 U.S.C. 511m.

SOURCE: §§ 29.5501 to 29.5556 appear at 27 F.R. 8577, Aug. 28, 1962, unless otherwise noted.

DEFINITIONS

§ 29.5501 Definitions.

As used in these standards, the words and phrases hereinafter defined shall have the indicated meanings so assigned.

§ 29.5502 Air-cured.

Tobacco cured under natural atmospheric conditions. Artificial heat sometimes is used to control excess humidity during the curing period to prevent pole-sweat, pole-burn, and shed-burn in damp weather. Air-cured tobacco should not carry the odor of smoke or fumes resulting from the application of artificial heat.

§ 29.5503 Body.

The thickness and density of a leaf or the weight per unit of surface. (See chart.)

§ 29.5504 Burn.

The duration of combustion or length of time that a tobacco leaf will hold fire after ignition. (See rule 18.)

§ 29.5505 Case (order).

The state of tobacco with respect to its moisture content.

§ 29.5506 Class.

A major division of tobacco based on method of cure or principal usage.

§ 29.5507 Clean.

Tobacco is described as clean when it contains only a normal amount of sand or soil particles. Leaves grown on the lower portion of the stalk normally contain more sand or dirt than those from higher stalk positions. (See rule 4.)

§ 29.5508 Condition.

The state of tobacco which results from the method of preparation or from the degree of fermentation. Words used to describe the condition of tobacco are: Undried, air-dried, steam-dried, sweating, sweated, and aged.

§ 29.5509 Crude.

A subdegree of maturity. (See rule 15.)

§ 29.5510 Cured.

Tobacco dried of its sap by either natural or artificial processes.

§ 29.5511 Damage.

The effect of mold, must, rot, black rot, or other fungus or bacterial diseases which attack tobacco in its cured state. Tobacco having the odor of mold, must, or rot is considered damaged. (See Rule 17.)

§ 29.5512 Dirty.

The state of tobacco containing an abnormal amount of dirt or sand, or tobacco to which additional quantities of dirt or sand have been added. (See rule 17.)

§ 29.5513 Elasticity.

The flexible, springy nature of the tobacco leaf to recover approximately its original size and shape after it has been stretched. (See chart.)

§ 29.5514 Elements of quality.

Physical characteristics used to determine the quality of tobacco. Words selected to describe degrees within each element are shown in the chart in § 29.5581.

§ 29.5515 Foreign matter.

Any extraneous substance or material such as stalks, suckers, straw, strings, and rubber bands. (See rule 17.)

§ 29.5516 Form.

The state of preparation of tobacco such as stemmed or unstemmed.

§ 29.5517 General quality.

The quality of tobacco considered in relation to the type as a whole. General quality is distinguished from the restricted use of the term "quality" within a group.

§ 29.5518 Grade.

A subdivision of a type according to group and quality and to other charac-

teristics when they are of sufficient importance to be treated separately.

§ 29.5519 Grademark.

In Types 51 and 52 a grademark normally consists of a letter to indicate group and a number to indicate quality. For example, B2 means Binder, good quality.

§ 29.5520 Group.

A type division consisting of one or more grades based on the general quality of tobacco. Groups in Types 51 and 52 are: Binder (B), Nonbinder (X), Non-descript (N), and Scrap (S).

§ 29.5521 Injury.

Hurt or impairment from any cause except the fungus or bacterial diseases which attack tobacco in its cured state. (See definition of Damage.) Injury to tobacco may be caused by field diseases, insects, or weather conditions; insecticides, fungicides, or cell growth inhibitors; nutritional deficiencies or excesses; or improper fertilization, harvesting, curing, or handling. Injured tobacco includes dead, burnt, hail-cut, torn, broken, frostbitten, frozen (see rule 16), sunburned, sunscalded, bulk-burnt, pole-burnt, shed-burnt, pole-sweated, stem-rotted, bleached, bruised, discolored, or deformed leaves; or tobacco affected by wildfire, rust, frog-eye, mosaic, root rot, wilt, black shank, or other diseases. (See rule 13.)

§ 29.5522 Leaf scrap.

A byproduct of unstemmed tobacco. Leaf scrap results from handling unstemmed tobacco and consists of loose and tangled whole or broken leaves.

§ 29.5523 Leaf structure.

The cell development of a leaf as indicated by its porosity. The degrees range from close (slick and tight) to open (porous). (See chart.)

§ 29.5524 Length.

The linear measurement of cured tobacco leaves from the butt of the midrib to the extreme tip.

§ 29.5525 Lot.

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

§ 29.5526 Maturity.

The degree of ripeness. (See chart.)

§ 29.5527 Nested.

Any tobacco which has been loaded, packed, or arranged to conceal foreign matter or tobacco of inferior grade, quality, or condition. Nested includes any lot of tobacco which contains foreign matter or damaged, injured, tangled, or other inferior tobacco, any of which cannot be readily detected upon inspection because of the way the lot is packed or arranged. (See rule 17.)

§ 29.5528 No Grade.

A designation applied to a lot of tobacco classified as damaged, dirty, nested, offtype, semicured, or wet; tobacco that is improperly packed, contains foreign matter, or has an odor foreign to the type. (See rules 5 and 17.)

§ 29.5529 Offtype.

Tobacco of distinctly different characteristics which cannot be classified as Type 51 or 52. (See rule 17.)

§ 29.5530 Package.

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

§ 29.5531 Packing.

A lot of tobacco consisting of a number of packages submitted as one definite unit for sampling or inspection. It is represented to contain the same kind of tobacco and has a common identification number or mark on each package.

§ 29.5532 Quality.

A division of a group or the second factor of a grade, based upon the relative degree of one or more of the elements of quality.

§ 29.5533 Raw.

Tobacco as it appears between the time of harvesting and the beginning of the curing process.

§ 29.5534 Semicured.

Tobacco in the process of being cured or which is partially but not thoroughly cured. Semicured includes tobacco which contains fat stems, wet butts, swell stems, and tobacco having frozen stems or stems that have not been thoroughly dried in the curing process. (See definition of No Grade and rule 17.)

§ 29.5535 Side.

A certain phase of quality as contrasted with some other phase of quality, or any peculiar characteristic of tobacco.

§ 29.5536 Sound.

Free of damage. (See rule 4.)

§ 29.5537 Stem.

The midrib or large central vein of a tobacco leaf.

§ 29.5538 Stemmed.

A form of tobacco, including strips and strip scrap, from which the stems or midribs have been removed.

§ 29.5539 Stem rot.

The deterioration of an uncured or frozen stem resulting from bacterial action. Although stem rot results from bacterial action, it is inactive in cured tobacco and is treated as a kind of injury in Types 51 and 52. (See rule 14.)

§ 29.5540 Strength (tensile).

The stress a tobacco leaf can bear without tearing. (See chart.)

§ 29.5541 Strips.

The sides of tobacco leaves from which the stems have been removed or a lot of tobacco composed of strips.

§ 29.5542 Sweated.

The condition of tobacco which has passed through one or more fermentations natural to tobacco packed with a normal percentage of moisture. This condition sometimes is described as aged.

§ 29.5543 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.

§ 29.5544 Tobacco products.

Manufactured tobacco, including cigarettes, cigars, smoking tobacco, chewing tobacco, and snuff, which is subject to Internal Revenue tax.

§ 29.5545 Type.

A division of a class of tobacco having certain common characteristics and closely related grades. Tobacco which has the same characteristics and corresponding qualities, colors, and lengths is classified as one type, regardless of any factors of historical or geographical nature which cannot be determined by an examination of the tobacco.

§ 29.5546 Type 51.

That type of cigar-leaf tobacco commonly known as Connecticut Valley Broadleaf or Connecticut Broadleaf, produced principally in the Connecticut River Valley.

§ 29.5547 Type 52.

That type of cigar-leaf tobacco commonly known as Connecticut Valley Havana Seed or Havana Seed of Connecticut and Massachusetts, produced principally in the Connecticut River Valley.

§ 29.5548 Undried.

The condition of unfermented tobacco which has not been air-dried or steam-dried.

§ 29.5549 Uniformity.

A grade requirement designating the percentage of a lot which must meet the specified degree of each element of quality. (See rule 12.)

§ 29.5550 Unstemmed.

A form of tobacco, including whole leaf and leaf scrap, from which the stems or midribs have not been removed.

§ 29.5551 Unsweated.

The condition of cured tobacco which has not been sweated.

§ 29.5552 Wet (high-case).

Any sound tobacco containing excessive moisture to the extent that it is in an unsafe or doubtful-keeping order. Wet applies to any tobacco which is not damaged but which is likely to damage if treated in the customary manner. (See Rule 17.)

§ 29.5553 Width.

The relative breadth of a tobacco leaf expressed in relation to its length. (See chart.)

ELEMENTS OF QUALITY

§ 29.5581 Elements of quality and degrees of each element.

These standardized words or terms are used to describe tobacco quality and to assist in interpreting grade specifications. Tobacco attributes or characteristics which constitute quality are designated as elements of quality. The range within each element is expressed by the use of words or terms designated as de-

grees. These degrees are arranged to show their relative value, but the actual value of each degree varies with type

and group. In each case the first and last degrees represent the full range for the element.

Elements	Degrees		
Body.....	Heavy.....	Medium.....	Thin.....
Maturity.....	Immature.....	Mature.....	Ripe.....
Leaf structure.....	Close.....	Firm.....	Open.....
Elasticity.....	Inelastic.....	Semielastic.....	Elastic.....
Strength (tensile).....	Weak.....	Normal.....	Strong.....
Width.....	Narrow.....	Normal.....	Spready.....
Length.....	(1).....	(1).....	(1).....
Uniformity.....	(2).....	(2).....	(2).....
Injury tolerance.....	(3).....	(3).....	(3).....

¹ Expressed in inches.

² Expressed in percentages.

RULES

§ 29.5586 Rules.

The application of these official standard grades shall be in accordance with the following rules.

§ 29.5587 Rule 1.

Each grade shall be treated as a subdivision of a particular type. When the grade is stated in an inspection certificate, the type also shall be stated.

§ 29.5588 Rule 2.

The determination of a grade shall be based upon a representative sample or a thorough examination of a packing of tobacco.

§ 29.5589 Rule 3.

The grade of unsorted tobacco shall be based upon a representative sample of the packing. A minimum of 10 percent of the bundles or bales shall be selected at random for sampling; a higher percentage may be sampled at the discretion of the inspector. To obtain the sample, a sufficient amount of tobacco shall be drawn to be representative of each selected bale. In determining the grade, the inspector shall consider the quality of all samples. The grade assigned shall represent the quality of the lot as a whole.

§ 29.5590 Rule 4.

Standard grades shall be applied to clean and sound tobacco only.

§ 29.5591 Rule 5.

Tobacco leaves shall be placed straight in bundles or bales of normal weight, size, and shape with the butts out and tips overlapping from 6 to 8 inches or sufficiently to make a level, solid, and uniform pack. The sides of the bundles shall be completely covered with paper,

or other suitable protective material, and tightly bound with not less than three large twines spaced so that the tobacco will be held securely together. Improperly packed tobacco shall be designated as "No-G."

§ 29.5592 Rule 6.

The grade assigned to any lot of tobacco shall be a true representation of the tobacco at the time of inspection and certification. If, at any time, it is found that a lot of tobacco does not comply with the specifications of the grade previously assigned, it shall not thereafter be represented as such grade.

§ 29.5593 Rule 7.

Any lot of tobacco which meets the specifications of two grades shall be placed in the higher grade. Any lot of tobacco on the marginal line between two grades shall be placed in the lower grade.

§ 29.5594 Rule 8.

A lot of tobacco meets the specifications of a grade when it is not lower in any degree of any element of quality than the minimum specifications of such grade.

§ 29.5595 Rule 9.

In determining the grade of a lot of tobacco, the lot as a whole shall be considered. Minor irregularities which do not affect over one percent of the tobacco shall be overlooked.

§ 29.5596 Rule 10.

Interpretations, the use of specifications, and the meaning of terms shall be in accordance with determinations or clarifications made by the Chief of the Standards Branch and approved by the Director of the Tobacco Division, Consumer and Marketing Service.

§ 29.5597 Rule 11.

The use of any grade may be restricted by the Director during any marketing season when it is found that the grade is not needed or appears in insufficient volume to justify its use.

§ 29.5598 Rule 12.

Uniformity shall be expressed in percentages. These percentages shall govern the portion of a lot which must meet each specification of the grade; the remaining portion must be related. Grade specifications state the minimum acceptable degree of each element of quality. Specified percentages of uniformity shall not affect limitations established by other rules.

§ 29.5599 Rule 13.

Injury tolerance shall be expressed in percentages. The appraisal of injury shall be based upon the percentage of affected leaf surface or the degree of injury, and consideration shall be given to the kinds of injury normal to the group or grade.

§ 29.5600 Rule 14.

Stem rot shall not exceed 50 percent of the specified injury tolerance for any grade.

§ 29.5601 Rule 15.

In grade specifications the tolerance of crude shall apply to the entire leaf surface of the lot.

§ 29.5602 Rule 16.

In grade specifications frozen shall be treated as a separate kind of injury and the tolerance shall apply to the entire leaf surface of the lot.

§ 29.5603 Rule 17.

Tobacco shall be designated as No Grade, using the grademark "No-G," when it is damaged, dirty, nested, off-type, semicured, wet, improperly packed, contains foreign matter, or has an odor foreign to the type.

§ 29.5604 Rule 18.

Burn shall be determined as the average burning time of leaves selected at random from the sample. A minimum of 10 leaves shall be selected as representative regardless of the number of bundles or bales in the lot. All burn tests shall be made in the binder-cutting area on the same side of the leaf. The leaf shall be punctured to permit quick ignition when placed over a candle, al-

cohol lamp, or electrical-lighting device. Good burn shall average 6 seconds or longer; fair burn, 3 to 5 seconds; and poor burn, under 3 seconds. B1 and B2 shall require good burn and B3, fair burn.

GRADES

§ 29.5626 Binder (B Group).

Farm lots of tobacco suitable for utilization as cigar binders.

U.S. Grade names, minimum specifications, and tolerances

B1	Fine Quality Binder	Thin, ripe, open, elastic, strong, spready, and over 19 inches in length. Uniformity, 90 percent; injury tolerance, 10 percent.
B2	Good Quality Binder	Thin, ripe, open, elastic, normal strength and width, and over 19 inches in length. Uniformity, 80 percent; injury tolerance, 20 percent.
B3	Fair Quality Binder	Medium body, mature, firm, semi-elastic, normal strength and width, and over 19 inches in length. Uniformity, 70 percent; injury tolerance, 30 percent.
B4	Poor Quality Binder	Medium body, mature, firm, inelastic, normal strength, and narrow. Uniformity, 60 percent; injury tolerance, 40 percent.
B5	Low Quality Binder	Heavy, immature, close, inelastic, weak, and narrow. Uniformity, 60 percent. Tolerances: 5 percent crude, 5 percent frozen, and 40 percent injury.

§ 29.5627 Nonbinder (X Group).

Farm lots of nonbinder tobacco.

U.S. Grade name, minimum specifications, and tolerances

X1	Nonbinder	Heavy, immature, close, inelastic, weak, and narrow. Tolerances: 10 percent crude, 10 percent frozen, and 60 percent injury.
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§ 29.5628 Nondescript (N Group).

Tobacco which does not meet the minimum specifications of the lowest grade of any other group.

U.S.

Grade names and tolerances

N1	First Nondescript	Tolerances: 20 percent crude, 20 percent frozen, and 60 percent injury.
N2	Second Nondescript	Over 20 percent crude, over 20 percent frozen, or over 60 percent injury.

§ 29.5629 Scrap (S Group).

A byproduct of unstemmed and stemmed tobacco. Scrap accumulates

from handling tobacco in farm buildings, warehouses, packing and conditioning plants, and stemmeries.

U.S.

grade Grade name and specifications

S Scrap

Loose, tangled, whole, or broken unstemmed leaves, or the web portions of tobacco leaves reduced to scrap by any process.

SUMMARY OF STANDARD GRADES

§ 29.5651 Summary of standard grades.

5 Grades of Binder

B1

B2

B3

B4

B5

1 Grade of Non-

binder

X1

? Grades of Non-

descript

N1

N2

1 Grade of Scrap

S

Tobacco not covered by standard grades is designated as "No-G."

KEY TO STANDARD GRADEMARKS

§ 29.5656 Key to standard grademarks.

Groups

Qualities

B—Binder.

1—Fine.

X—Nonbinder.

2—Good.

N—Nondescript.

3—Fair.

S—Scrap.

4—Poor.

5—Low.

OFFICIAL STANDARD GRADES FOR WISCONSIN CIGAR-BINDER TOBACCO (U.S. TYPES 54 AND 55¹)

AUTHORITY: §§ 29.6001 to 29.6161 issued under sec. 14, 49 Stat. 734; 7 U.S.O. 511m.

SOURCE: §§ 29.6001 to 29.6161 appear at 27 F.R. 12668, Dec. 21, 1962, unless otherwise noted.

DEFINITIONS

§ 29.6001 Definitions.

As used in these standards, the words and phrases hereinafter defined shall have the indicated meanings so assigned.

§ 29.6002 Air-cured.

Tobacco cured under natural atmospheric conditions. Artificial heat sometimes is used to control excess humidity during the curing period to prevent pole-sweat, pole-burn, and shed-burn in damp weather. Air-cured tobacco should not carry the odor of smoke or fumes resulting from the application of artificial heat.

¹ These standards also apply to Type 53 Havana seed tobacco.

§ 29.6003 Body.

The thickness and density of a leaf or the weight per unit of surface. (See chart.)

§ 29.6004 Burn.

The duration of combustion or length of time that a tobacco leaf will hold fire after ignition. (See rule 18.)

§ 29.6005 Case (order).

The state of tobacco with respect to its moisture content.

§ 29.6006 Class.

A major division of tobacco based on method of cure or principal usage.

§ 29.6007 Clean.

Tobacco is described as clean when it contains only a normal amount of sand or soil particles. Leaves grown on the lower portion of the stalk normally contain more sand or dirt than those from higher stalk positions. (See rule 4.)

§ 29.6008 Condition.

The state of tobacco which results from the method of preparation or from the degree of fermentation. Words used to describe the condition of tobacco are: Undried, air-dried, steam-dried, sweating, sweated, and aged.

§ 29.6009 Crude.

A subdegree of maturity. (See rule 15.)

§ 29.6010 Cured.

Tobacco dried of its sap by either natural or artificial processes.

§ 29.6011 Damage.

The effect of mold, must, rot, black rot, or other fungus or bacterial diseases which attack tobacco in its cured state. Tobacco having the odor of mold, must, or rot is considered damaged. (See rule 17.)

§ 29.6012 Dirty.

The state of tobacco containing an abnormal amount of dirt or sand, or tobacco to which additional quantities of dirt or sand have been added. (See rule 17.)

§ 29.6013 Elasticity.

The flexible, springy nature of the tobacco leaf to recover approximately its original size and shape after it has been stretched. (See chart.)

§ 29.6014 Elements of quality.

Physical characteristics used to determine the quality of tobacco. Words selected to describe degrees within each element are shown in the chart in § 29.6081.

§ 29.6015 Foreign matter.

Any extraneous substance or material such as stalks, suckers, straw, strings, and rubber bands. (See rule 17.)

§ 29.6016 Form.

The stage of preparation of tobacco such as stemmed or unstemmed.

§ 29.6017 General quality.

The quality of tobacco considered in relation to the type as a whole. General quality is distinguished from the restricted use of the term "quality" within a group.

§ 29.6018 Grade.

A subdivision of a type according to group and quality and to other characteristics when they are of sufficient importance to be treated separately.

§ 29.6019 Grademark.

In these types a grademark normally consists of a letter to indicate group and a number to indicate quality. For example, B2 means Binder, fair quality.

§ 29.6020 Group.

A type division consisting of one or more grades based on the general quality of tobacco. Groups in these types are: Binder (B), Stripper (C), Straight Stripped (X), Farm Filler (Y), Nondescript (N), and Scrap (S).

§ 29.6021 Injury.

Hurt or impairment from any cause except the fungus or bacterial diseases which attack tobacco in its cured state. (See definition of Damage.) Injury to tobacco may be caused by field diseases, insects, or weather conditions; insecticides, fungicides, or cell growth inhibitors; nutritional deficiencies or excesses; or improper fertilization, harvesting, curing, or handling. Injured tobacco includes dead, burnt, hail-cut, torn, broken, frostbitten, frozen (see rule 18), sunburned, sunscalded, bulk-burnt, pole-burnt, shed-burnt, pole-sweated, stem-rotted, bleached, bruised, discolored, or deformed leaves; or tobacco affected by wildfire, rust, frog-eye, mosaic, root rot, wilt, black shank, or other diseases. (See rule 13.)

§ 29.6022 Leaf scrap.

A byproduct of unstemmed tobacco. Leaf scrap results from handling unstemmed tobacco and consists of loose and tangled whole or broken leaves.

§ 29.6023 Leaf structure.

The cell development of a leaf as indicated by its porosity. The degrees range from close (slick and tight) to open (porous). (See chart.)

§ 29.6024 Length.

The linear measurement of cured tobacco leaves from the butt of the midrib to the extreme tip.

§ 29.6025 Lot.

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

§ 29.6026 Maturity.

The degree of ripeness. (See chart.)

§ 29.6027 Nested.

Any tobacco which has been loaded, packed, or arranged to conceal foreign matter or tobacco of inferior grade, quality, or condition. Nested includes any lot of tobacco which contains foreign matter or damaged, injured, tangled, or other inferior tobacco, any of which cannot be readily detected upon inspection because of the way the lot is packed or arranged. (See rule 17.)

§ 29.6028 No Grade.

A designation applied to a lot of tobacco classified as damaged, dirty, nested, offtype, semicured, or wet; tobacco that is improperly packed, contains foreign matter, or has an odor foreign to the type. (See rules 5 and 17.)

§ 29.6029 Offtype.

Tobacco of distinctly different characteristics which cannot be classified as Type 53, 54, or 55. (See rule 17.)

§ 29.6030 Package.

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

§ 29.6031 Packing.

A lot of tobacco consisting of a number of packages submitted as one definite unit for sampling or inspection. It is represented to contain the same kind of tobacco and has a common identification number or mark on each package.

§ 29.6032 Quality.

A division of a group or the second factor of a grade based on the relative degree of one or more elements of quality.

§ 29.6033 Raw.

Tobacco as it appears between the time of harvesting and the beginning of the curing process.

§ 29.6034 Semicured.

Tobacco in the process of being cured or which is partially but not thoroughly cured. Semicured includes tobacco which contains fat stems, wet butts, swelled stems, and tobacco having frozen stems or stems that have not been thoroughly dried in the curing process. (See definition of No Grade and rule 17.)

§ 29.6035 Side.

A certain phase of quality as contrasted with some other phase of quality, or any peculiar characteristic of tobacco.

§ 29.6036 Sound.

Free of damage. (See rule 4.)

§ 29.6037 Stem.

The midrib or large central vein of a tobacco leaf.

§ 29.6038 Stemmed.

A form of tobacco, including strips and strip scrap, from which the stems or midribs have been removed.

§ 29.6039 Stem rot.

The deterioration of an uncured or frozen stem resulting from bacterial action. Although stem rot results from bacterial action, it is inactive in cured tobacco and is treated as a kind of injury in these types. (See rule 14.)

§ 29.6040 Strength (tensile).

The stress a tobacco leaf can bear without tearing. (See chart.)

§ 29.6041 Strips.

The sides of a tobacco leaf from which the stem has been removed or a lot of tobacco composed of strips.

§ 29.6042 Sweated.

The condition of tobacco which has passed through one or more fermentations natural to tobacco packed with a normal percentage of moisture. This condition sometimes is described as aged.

§ 29.6043 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.

§ 29.6044 Tobacco products.

Manufactured tobacco, including cigarettes, cigars, smoking tobacco, chewing tobacco, and snuff, which is subject to Internal Revenue tax.

§ 29.6045 Type.

A division of a class of tobacco having certain common characteristics and closely related grades. Tobacco which has the same characteristics and corresponding qualities, colors, and lengths is classified as one type, regardless of any factors of historical or geographical nature which cannot be determined by an examination of the tobacco.

§ 29.6046 Type 53.

That type of cigar-leaf tobacco commonly known as York State or Havana Seed of New York and Pennsylvania, produced principally in the Big Flats and Onondaga sections of New York and extending into Pennsylvania.

§ 29.6047 Type 54.

That type of cigar-leaf tobacco commonly known as Southern Wisconsin Cigar-leaf or Southern Wisconsin Binder-type, produced principally south and east of the Wisconsin River.

§ 29.6048 Type 55.

That type of cigar-leaf tobacco commonly known as Northern Wisconsin Cigar-leaf or Northern Wisconsin Binder-type, produced principally north and west of the Wisconsin River and extending into Minnesota.

§ 29.6049 Undried.

The condition of unfermented tobacco which has not been air-dried or steam-dried.

§ 29.6050 Uniformity.

A grade requirement designating the percentage of a lot which must meet the specified degree of each element of quality. (See rule 12.)

§ 29.6051 Unstemmed.

A form of tobacco, including whole leaf and leaf scrap, from which the stems or midribs have not been removed.

§ 29.6052 Unsweated.

The condition of cured tobacco which has not been sweated.

§ 29.6053 Wet (high-case).

Any sound tobacco containing excessive moisture to the extent that it is in unsafe or doubtful-keeping order. Wet applies to any tobacco which is not damaged but which is likely to damage if treated in the customary manner. (See rule 17.)

§ 29.6054 Width.

The relative breadth of a tobacco leaf expressed in relation to its length. (See chart.)

ELEMENTS OF QUALITY

§ 29.6081 Elements of quality and degrees of each element.

These standardized words or terms are used to describe tobacco quality and to assist in interpreting grade specifications. Tobacco attributes or characteristics which constitute quality are designated as elements of quality. The range within each element is expressed by the use of words or terms designated as degrees. These degrees are arranged to show their relative value, but the actual value of each degree varies with type and group.

Elements	Degrees		
Body.....	Heavy.....	Medium....	Thin.
Maturity.....	Immature.	Mature.....	Ripe.
Leaf structure.....	Close.....	Firm.....	Open.
Elasticity.....	Inelastic.....	Semielastic..	Elastic.
Strength.....	Weak.....	Normal.....	Strong.
(tensile).			
Width.....	Narrow.....	do.....	Spready.
Length.....	(1).....	(1).....	(1)
Uniformity.....	(2).....	(2).....	(2)
Injury.....	(3).....	(3).....	(3)
tolerance.			

1 Expressed in inches.
2 Expressed in percentages.

RULES

§ 29.6086 Rules.

The application of these official standards shall be in accordance with the following rules.

§ 29.6087 Rule 1.

Each grade shall be treated as a subdivision of a particular type. When the grade is stated in an inspection certificate, the type also shall be stated.

§ 29.6088 Rule 2.

The determination of grade shall be based upon a representative sample or a thorough examination of a packing of tobacco.

§ 29.6089 Rule 3.

The grade of unsorted tobacco shall be based upon a representative sample of the packing. A minimum of 10 percent of the bundles or bales shall be selected at random for sampling; a higher percentage may be sampled at the discretion of the inspector. To obtain the sample, a sufficient amount of tobacco shall be drawn to be representative of each selected bale. In determining the grade, the inspector shall consider the quality of all samples. The grade assigned shall represent the quality of the lot as a whole.

§ 29.6090 Rule 4.

Standard grades shall be assigned to clean and sound tobacco only.

§ 29.6091 Rule 5.

Tobacco leaves shall be placed straight in bundles or bales of normal weight, size, and shape with the butts out and tips overlapping from 6 to 8 inches or sufficiently to make a level, solid, and uniform pack. The sides of the bundles shall be completely covered with paper, or other suitable protective material, and tightly bound with not less than three large twines spaced so that the tobacco will be held securely together. Improperly packed tobacco shall be designated as "No-G."

§ 29.6092 Rule 6.

The grade assigned to any lot of tobacco shall be a true representation of the tobacco at the time of inspection and certification. If, at any time, it is found that a lot of tobacco does not comply with the specifications of the grade previously assigned, it shall not thereafter be represented as such grade.

§ 29.6093 Rule 7.

Any lot of tobacco which meets the specifications of two grades shall be placed in the higher grade. Any lot of tobacco on the marginal line between two grades shall be placed in the lower grade.

§ 29.6094 Rule 8.

A lot of tobacco meets the specifications of a grade when it is not lower in any degree of any element of quality than the minimum specifications of such grade.

§ 29.6095 Rule 9.

In determining the grade of a lot of tobacco, the lot as a whole shall be con-

sidered. Minor irregularities which do not affect over one percent of the tobacco shall be overlooked.

§ 29.6096 Rule 10.

Interpretations, the use of specifications, and the meaning of terms shall be in accordance with determinations or clarifications made by the Chief of the Standards Branch and approved by the Director of the Tobacco Division, Consumer and Marketing Service.

§ 29.6097 Rule 11.

The use of any grade may be restricted by the Director during any marketing season when it is found that the grade is not needed or appears in insufficient volume to justify its use.

§ 29.6098 Rule 12.

Uniformity shall be expressed in percentages. These percentages shall govern the portion of a lot which must meet each specification of the grade; the remaining portion must be related. Grade specifications state the minimum acceptable degree of each element of quality. Specified percentages of uniformity shall not affect limitations established by other rules.

§ 29.6099 Rule 13.

Injury tolerance shall be expressed in percentages. The appraisal of injury shall be based upon the percentage of affected leaf surface or the degree of injury, and consideration shall be given to the kinds of injury normal to the group or grade.

§ 29.6100 Rule 14.

Stem rot shall not exceed 40 percent of the specified injury tolerance for any grade.

§ 29.6101 Rule 15.

In grade specifications the tolerance of crude shall apply to the entire leaf surface of the lot.

§ 29.6102 Rule 16.

In grade specifications frozen shall be treated as a separate kind of injury and the tolerance shall apply to the entire leaf surface of the lot.

§ 29.6103 Rule 17.

Tobacco shall be designated as No Grade, using the grademark "No-G," when it is damaged, dirty, nested, offtype, semicured, wet, improperly packed, contains foreign matter, or has an odor foreign to the type.

§ 29.6104 Rule 18.

Burn shall be determined as the average burning time of leaves selected at random from the sample. A minimum of 10 leaves shall be selected as representative regardless of the number of bundles or bales in the lot. All burn tests shall be made in the bindercutting area on the same side of the leaf. The leaf shall be punctured to permit quick ignition when placed over a candle, alcohol lamp, or electrical-lighting device. Good burn shall average 6 seconds or longer; fair burn, 3 to 5 seconds; and poor burn, under 3 seconds. B1 and B2 shall require good burn and B3, fair burn.

GRADES

§ 29.6126 Binder (B Group).

Tobacco of this group is of cigar-binder quality from which trash and trashy Farm Fillers have been removed.

U.S. Grade names, minimum specifications, and tolerances

B1 Fine Quality Binder. Thin, ripe, open, elastic, strong, spready, and 19 inches or over in length. Uniformity, 90 percent; injury tolerance, 10 percent.

B2 Fair Quality Binder. Medium body, ripe, open, semielastic, strong, normal width, and 19 inches or over in length. Uniformity, 80 percent; injury tolerance, 20 percent.

B3 Low Quality Binder. Medium, ripe, firm, semielastic, normal strength and width, and 17 inches or over in length. Uniformity, 70 percent; injury tolerance, 30 percent.

[27 F.R. 12668, Dec. 21, 1962, as amended at 34 F.R. 17061, Oct. 21, 1969]

§ 29.6127 Stripper (C Group).

This group consists of tobacco from which the trash and trashy Farm Fillers have been removed but does not meet the specifications of the Binder group.

U.S. Grade names, minimum specifications, and tolerances

C1 Fine Quality Stripper. Heavy, ripe, firm, semielastic, normal strength and width, and 16 inches or over in length. Uniformity, 90 percent; injury tolerance, 10 percent.

C2 Fair Quality Stripper. Heavy, mature, close, inelastic, normal strength, narrow, and 16 inches or over in length. Uniformity, 80 percent. Tolerances: 5 percent crude, 5 percent frozen, and 20 percent injury.

C3 Low Quality Stripper. Heavy, immature, close, inelastic, weak, and narrow. Uniformity, 70 percent. Tolerances: 10 percent crude, 10 percent frozen, and 80 percent injury.

§ 29.6128 Straight Stripped (X Group).

This group consists of unsorted tobacco from which the trash has been removed.

U.S. Grade names, minimum specifications, and tolerances

X1 Fine Quality Straight Stripped. Heavy, ripe, firm, semielastic, normal strength and width, and 16 inches or over in length. Uniformity, 85 percent; injury tolerance, 15 percent.

X2 Fair Quality Straight Stripped. Heavy mature, close, inelastic, normal strength, narrow, and 16 inches or over in length. Uniformity, 75 percent. Tolerances: 5 percent crude, 5 percent frozen, and 25 percent injury.

X3 Low Quality Straight Stripped. Heavy, immature, close, inelastic, weak, and narrow. Uniformity, 60 percent. Tolerances: 10 percent crude, 10 percent frozen, and 40 percent injury.

§ 29.6129 Farm Filler (Y Group).

This group consists of tobacco from the lower portion of the stalk and may include throw out leaves from the Binder and Stripper groups.

U.S. Grade names, minimum specifications, and tolerances

Y1 Fine Quality Farm Filler. Thin, ripe, open, semielastic, normal strength and width, and 12 inches or over in length. Uniformity, 85 percent; injury tolerance, 15 percent.

Y2 Fair Quality Farm Filler. Thin, ripe, firm, inelastic, normal strength, and narrow. Uniformity, 75 percent. Tolerances: 5 percent crude, 5 percent frozen, and 25 percent injury.

Y3 Low Quality Farm Filler. Thin, mature, close, inelastic, weak, and narrow. Uniformity, 60 percent. Tolerances: 10 percent crude, 10 percent frozen, and 40 percent injury.

§ 29.6130 Nondescript (N Group).

Tobacco which does not meet the minimum specifications or exceeds the tolerance of the lowest grade of any other group.

U.S. grades Grade names and tolerances

N1 First Quality Nondescript. Tolerances: 20 percent crude, 20 percent frozen, and 60 percent injury.

N2 Second Quality Nondescript. Over 20 percent crude, over 20 percent frozen, or over 60 percent injury.

§ 29.6131 Scrap (S Group).

A byproduct of unstemmed and stemmed tobacco. Scrap accumulates from handling tobacco in farm buildings,

warehouses, packing and conditioning plants, and stemmeries.

U.S. grade Grade name and specifications

S Scrap. Loose, tangled, whole, or broken unstemmed leaves, or the web portion of tobacco leaves reduced to scrap by any process.

SUMMARY OF STANDARD GRADES

§ 29.6155 Summary of standard grades.

<p><i>Three grades of binder</i></p> <p>B1 B2 B3</p> <p><i>Three grades of straight stripped</i></p> <p>X1 X2 X3</p> <p><i>Two grades of non-descript</i></p> <p>N1 N2</p>	<p><i>Three grades of stripper</i></p> <p>C1 C2 C3</p> <p><i>Three grades of farm filler</i></p> <p>Y1 Y2 Y3</p> <p><i>One grade of scrap</i></p> <p>S</p>
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Tobacco not covered by standard grades is designated as "No-G."

KEY TO STANDARD GRADEMARKS

§ 29.6161 Key to standard grademarks.

<p><i>Groups</i></p> <p>B—Binder. C—Stripper. X—Straight Stripped. Y—Farm Filler N—Nondescript. S—Scrap.</p>	<p><i>Qualities</i></p> <p>1—Fine. 2—Fair. 3—Low.</p>
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OFFICIAL STANDARDS FOR CONNECTICUT VALLEY SHADE-GROWN CIGAR-WRAPPER¹

AUTHORITY: §§ 29.6251 to 29.6411 issued under sec. 14, 49 Stat. 734; 7 U.S.C. 511m.

SOURCE: §§ 29.6251 to 29.6411 appear at 36 F.R. 5665, Mar. 26, 1971, unless otherwise noted.

DEFINITIONS

§ 29.6251 Definitions.

As used in these standards, the words and phrases hereinafter defined shall have the indicated meanings so assigned.

§ 29.6252 Air-cured.

Tobacco cured under natural atmospheric conditions without the use of artificial heat except to prevent pole-burn in damp weather.

¹These standards provide grades for both air-cured and candela-cured tobacco.

§ 29.6253 **Body.**

The thickness and density of a leaf or the weight per unit of surface. (See chart, § 29.6371.)

§ 29.6254 **Brown colors.**

A group of natural wrapper colors ranging from a golden brown to reddish brown. The range is expressed as golden brown (L), light brown (F), and reddish brown (R).

§ 29.6255 **Candela-cured.**

Tobacco cured under controlled artificial atmospheric conditions by regulating the heat and humidity. This process produces a green or greenish color in the cured leaves.

§ 29.6256 **Candela-cured green colors.**

A group of candela-cured wrapper colors ranging from a yellowish green to dark green. The range is expressed as yellowish green (YG), light green (LG), green (G), and dark green (KG).

§ 29.6257 **Class.**

A major division of tobacco based on method of cure or principal usage.

§ 29.6258 **Color.**

The third factor of a grademark based on the relative hues, saturation or chroma, and color values common to the type.

§ 29.6259 **Color shade.**

The varying strength or weakness of a color or hue.

§ 29.6260 **Color symbols.**

In this type the color symbols used for naturally cured tobacco are L—golden brown, F—light brown, M—mixed color, V—greenish, FL—fleck, R—reddish brown, K—variegated, and G—green. Color symbols used for candela-cured tobacco are LG—light green, G—green, YG—yellowish green, FL—fleck, and KG—dark green or dark green and variegated mixed.

§ 29.6261 **Condition.**

The state of tobacco which results from the method of preparation or from the degree of fermentation. Words used to describe the condition of tobacco are undried, air-dried, steam-dried, sweating, sweated, and aged.

§ 29.6262 **Crude.**

A subdegree of maturity. (See rule 19, § 29.6355.)

§ 29.6263 **Cured.**

Tobacco dried of its sap by either natural or artificial processes.

§ 29.6264 **Damage.**

The effect of mold, must, rot, black rot, or other fungous or bacterial diseases which attack tobacco in its cured state. Tobacco having the odor of mold, must, or rot is considered damaged. (See rule 20, § 29.6356.)

§ 29.6265 **Dirty.**

The state of tobacco containing an abnormal amount of dirt or sand. (See rule 20, § 29.6356.)

§ 29.6266 **Elasticity.**

The flexible, springy nature of the tobacco leaf to recover approximately its original size and shape after it has been stretched.

§ 29.6267 **Elements of quality.**

Physical characteristics used to determine the quality of tobacco. Words selected to describe degrees within each element are shown in § 29.6371.

§ 29.6268 **Fibers.**

Lateral and cross veins in a tobacco leaf. (See chart, § 29.6371.)

§ 29.6269 **Fleck (FL).**

Spots or dapples on the surface of the tobacco leaf. (See rule 14, § 29.6350.)

§ 29.6270 **Foreign matter.**

Any extraneous substance or material. (See rule 20, § 29.6356.)

§ 29.6271 **Form.**

The stage of preparation of tobacco such as stemmed or unstemmed.

§ 29.6272 **Grade.**

A subdivision of a type according to group and quality and to other characteristics when they are of sufficient importance to be treated separately.

§ 29.6273 **Grademark.**

A grademark normally consists of three symbols which indicate group, quality, and color. A letter is used to indicate group, a number to indicate quality, and a letter or letters to indicate color. Color symbols are used only in the A group.

§ 29.6274 **Green (G).**

Green color. In natural wrappers any leaf which has a green color affecting

10 percent or more of its surface may be described as green. (See rule 17, § 29.6353.)

§ 29.6275 **Greenish (V).**

A color term applied to greenish-tinged air-cured tobacco. Any leaf of natural wrapper tobacco which has a greenish tinge or a pale green color affecting 10 percent or more of its surface may be described as greenish. (See rule 16, § 29.6352.)

§ 29.6276 **Group.**

A division of a type covering closely related grades. Groups in this type are Wrappers (A), Stained (S), Brokes (X) and Nondescript (N).

§ 29.6277 **Injury.**

Hurt or impairment. (See rule 13, § 29.6349.)

§ 29.6278 **Leaf scrap.**

A byproduct of unstemmed tobacco. Leaf scrap results from handling unstemmed tobacco and consists of loose and tangled whole or broken leaves.

§ 29.6279 **Leaf structure.**

The cell development of a leaf as indicated by its porosity. (See chart, § 29.6371.)

§ 29.6280 **Length.**

The linear measurement of cured tobacco leaves from the butt of the midrib to the extreme tip. (See chart, § 29.6371.)

§ 29.6281 **Lot.**

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

§ 29.6282 **Maturity.**

The degree of ripeness. (See chart, § 29.6371.)

§ 29.6283 **Mixed color (M).**

Normal colors of air-cured type 61 mixed in various proportions. Golden brown, light brown, reddish brown, and greenish hues may be included.

§ 29.6284 **Nested.**

Any tobacco which has been loaded, packed, or arranged to conceal foreign matter or tobacco of inferior grade, quality, or condition. (See rule 20, § 29.6356.)

§ 29.6285 **Oftype.**

Tobacco of distinctly different characteristics which cannot be classified as type 61. (See rule 20, § 29.6356.)

§ 29.6286 **Order (case).**

The state of tobacco with respect to its moisture content.

§ 29.6287 **Package.**

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

§ 29.6288 **Packing.**

A lot of tobacco consisting of a number of packages submitted as one definite unit for sampling or inspecting. It is represented to contain the same kind of tobacco and has a common identification number or mark on each package.

§ 29.6289 **Quality.**

A division of a group or the second factor of a grademark based on the relative degree of one or more elements of quality in tobacco.

§ 29.6290 **Semicured.**

Tobacco in the process of being cured or which is partially but not thoroughly cured. Semicured includes tobacco which contains fat stems, wet butts, swelled stems, or stems that have not been thoroughly dried in the curing process. (See rule 20, § 29.6356.)

§ 29.6291 **Side.**

A certain phase of quality, color, or length as contrasted with some other phase of quality, color, or length; or any peculiar characteristic of tobacco.

§ 29.6292 **Sound.**

Free of damage.

§ 29.6293 **Special factor.**

A symbol or term authorized to be used with specified grades. Tobacco to which a special factor is applied may meet the general specifications but has a peculiar side or characteristic which tends to modify the grade. (See rule 9, § 29.6345.)

§ 29.6294 **Stained.**

A term applied to tobacco that has been blackened, bruised, or discolored by excessive moisture. (See rules 18 and 20, §§ 29.6354 and 29.6356.)

§ 29.6295 **Stem.**

The midrib or large central vein of a tobacco leaf.

§ 29.6296 **Stemmed.**

A form of tobacco, including strips and strip scrap, from which the stems or midribs have been removed.

§ 29.6297 Strips.

The sides of a tobacco leaf from which the stem has been removed or a lot of tobacco composed of strips.

§ 29.6298 Subgrade.

Any grade modified by a special factor symbol.

§ 29.6299 Sweated.

The condition of tobacco which has passed through one or more fermentations natural to tobacco packed with a normal percentage of moisture. This condition is sometimes described as aged.

§ 29.6300 Sweating.

The condition of tobacco in the process of fermentation.

§ 29.6301 Tobacco.

Tobacco as it appears between the time it is cured and stripped from the stalk, or primed and cured, and the time it enters into the different manufacturing processes. The acts of stemming, sweating, and conditioning are not regarded as manufacturing processes. Tobacco, as used in these standards, does not include manufactured or semimanufactured products, stems, cuttings, clippings, trimmings, siftings, or dust.

§ 29.6302 Tobacco products.

Manufactured tobacco, including cigarettes, cigars, smoking tobacco, chewing tobacco, and snuff.

§ 29.6303 Type.

A division of a class of tobacco having certain common characteristics and closely related grades. Tobacco which has the same characteristics and corresponding qualities, colors, and lengths is classified as one type, regardless of any factors of historical or geographical nature which cannot be determined by an examination of the tobacco.

§ 29.6304 Type 61.

That type of shade-grown tobacco known as Connecticut Valley Shade-grown, produced principally in the Connecticut Valley section of Connecticut and Massachusetts.

§ 29.6305 Undried.

The condition of unfermented tobacco which has not been air-dried or steam-dried.

§ 29.6306 Uniformity.

An element of quality which describes the consistency of a lot of tobacco. (See rule 12, § 29.6348.)

§ 29.6307 Unstemmed.

A form of tobacco, including whole leaf and leaf scrap, from which the stems or midribs have not been removed.

§ 29.6308 Variegated.

Two or more contrasting colors or tints within a leaf. (See rule 15, § 29.6351.)

§ 29.6309 Wet.

Any sound tobacco containing excessive moisture to the extent that it is in unsafe or doubtful-keeping order. Wet applies to any tobacco which is not damaged but which is likely to damage if treated in the customary manner. (See rule 20, § 29.6356.)

RULES

§ 29.6336 Rules.

The application of these official standard grades shall be in accordance with the following rules.

§ 29.6337 Rule 1.

Each grade shall be treated as a subdivision of a particular type. When the grade is stated in an inspection certificate, the type also shall be stated.

§ 29.6338 Rule 2.

The determination of a grade shall be based upon a thorough examination of a lot or packing of tobacco or of an official sample of the lot or packing.

§ 29.6339 Rule 3.

The grade assigned to any lot or packing of tobacco shall be a true representation of the tobacco at the time of inspection and certification. If, at any time, it is found that a lot or packing of tobacco does not comply with the specifications of the grade previously assigned, it shall not thereafter be represented as such grade.

§ 29.6340 Rule 4.

Tobacco of the A, X, or S groups shall be placed straight in boxes or bales of normal size, weight, and shape with the butts out and tips overlapping sufficiently to make a level, solid, and uniform pack. All sides of the bales shall be

completely covered with paper or other suitable protective material.

§ 29.6341 Rule 5.

A lot or packing of tobacco on the marginal line between two colors shall be placed in the color with which it best corresponds with respect to body or other associated elements of quality.

§ 29.6342 Rule 6.

Any lot or packing of tobacco which meets the specifications of two grades shall be placed in the higher grade.

§ 29.6343 Rule 7.

A lot or packing of tobacco meets the specifications of a grade when it is not lower in any element of quality than the degree stated in grade specifications and does not exceed the tolerance(s) of such grade.

§ 29.6344 Rule 8.

In determining the grade of a lot or packing of tobacco, the lot or packing as a whole shall be considered. Minor irregularities which do not affect over 1 percent of the tobacco shall be overlooked.

§ 29.6345 Rule 9.

Any special factor approved by the Director of the Tobacco Division, Consumer and Marketing Service, may be used after a grademark to show a peculiar side or characteristic of the tobacco which tends to modify the grade.

§ 29.6346 Rule 10.

Interpretations, the use of specifications, and the meaning of terms shall be in accordance with determinations or clarifications made by the Chief of the Standards and Testing Branch, and approved by the Director.

§ 29.6347 Rule 11.

The use of any grade may be restricted by the Director during any marketing season when it is found that the grade is not needed or appears in insufficient volume to justify its use.

§ 29.6348 Rule 12.

Uniformity shall be expressed in percentages. These percentages shall govern the portion of a lot or packing which must meet each specification of the grade; the remaining portion must be

closely related. Specified percentages of uniformity shall not affect limitations established by other rules.

§ 29.6349 Rule 13.

Injury tolerance shall be expressed in percentages. The appraisal of injury shall be based upon the percentage of affected wrapper cutting area or the degree of injury.

§ 29.6350 Rule 14.

Fleck shall be included only in A2FL, A3FL, N1, and N2.

§ 29.6351 Rule 15.

Any lot or packing of tobacco containing over 10 percent of variegated leaves shall be designated by the color symbol "K" in natural wrappers and "KG" in candela wrappers.

§ 29.6352 Rule 16.

Any lot or packing of L- or F-colored natural wrapper tobacco containing over 10 percent of greenish leaves shall be designated by the color symbol "V".

§ 29.6353 Rule 17.

Any lot or packing of natural wrapper tobacco containing over 10 percent of green leaves shall be designated by the color symbol "G".

§ 29.6354 Rule 18.

Stained tobacco shall be included only in grades of the S and N groups.

§ 29.6355 Rule 19.

Crude leaves shall be included only in N2.

§ 29.6356 Rule 20.

Tobacco shall be designated "N2" when it is crude, damaged, dirty, improperly packed, nested, offtype, semicured, wet, or when it contains foreign matter, is stained over 20 percent, or has an odor foreign to the type.

ELEMENTS OF QUALITY

§ 29.6371 Elements of quality and degrees of each element.

These words or terms are used to determine tobacco quality. Characteristics which constitute general quality are designated as elements of quality. The range within each element is expressed by words or terms designated as degrees.

Elements		Degrees	
Body	Thin	Medium	Heavy.
Color shade	True	Dusky	Dull.
Maturity	Ripe	Unripe	Immature.
Leaf structure	Open	Firm	Close.
Fiber size	Small	Medium	Large.
Fiber color	Blending	Contrasting	Clashing.
Injury tolerance	Expressed in percentages.		
Uniformity	do.		
Length	Expressed in inches.		

U.S. Grade names, minimum specifications, and tolerances

A2M	Fine Mixed-color Natural Wrappers Medium body, true color shades, ripe, open, small and blending fibers, over 14 inches in length. Uniformity, 90 percent; injury tolerance, 10 percent.
A3M	Good Short Mixed-color Natural Wrappers

GRADES FOR NATURAL (AIR-CURED) TOBACCO

§ 29.6386 **Wrappers (A Group).**

This group consists of tied, elastic tobacco having at least 90 percent of uninjured surface usable for cigar wrappers.

U.S. Grade names, minimum specifications, and tolerances

A1L	Choice Golden Brown Natural Wrappers Thin, true color shade, ripe, open, small and blending fibers, over 14 inches in length. Uniformity, 95 percent; injury tolerance, 5 percent.
A2L	Fine Golden Brown Natural Wrappers Medium body, true color shade, ripe, open, small and blending fibers, over 14 inches in length. Uniformity 90 percent; injury tolerance, 10 percent.
A3L	Good Short Golden Brown Natural Wrappers Thin to medium body, true color shade, ripe, open, small and blending fibers, 14 inches or under in length. Uniformity, 95 percent; injury tolerance, 5 percent.
A1F	Choice Light Brown Natural Wrappers Thin, true color shade, ripe, open, small and blending fibers, over 14 inches in length. Uniformity, 95 percent; injury tolerance, 5 percent.
A2F	Fine Light Brown Natural Wrappers Medium body, true color shade, ripe, open, small and blending fibers, over 14 inches in length. Uniformity, 90 percent; injury tolerance, 10 percent.
A3F	Good Short Light Brown Natural Wrappers Thin to medium body, true color shade, ripe, open, small and blending fibers, 14 inches or under in length. Uniformity, 95 percent; injury tolerance, 5 percent.
A1M	Choice Mixed-color Natural Wrappers Thin, true color shades, ripe, open, small and blending fibers, over 14 inches in length. Uniformity, 95 percent; injury tolerance, 5 percent.

Thin to medium body, true color shades, ripe, open, small and blending fibers, 14 inches or under in length. Uniformity, 95 percent; injury tolerance, 5 percent.

A2V	Fine Greenish Natural Wrappers Thin to medium body, true color shade, ripe, open, small and blending fibers, over 14 inches in length. Uniformity, 90 percent; injury tolerance, 10 percent.
A3V	Good Greenish Short Natural Wrappers

Medium body, true color shade, ripe, open, small and blending fibers, 14 inches or under in length. Uniformity, 90 percent; injury tolerance, 10 percent.

A2FL	Fine Fleck Natural Wrappers Thin to medium body, ripe, open, small and blending fibers, over 14 inches in length. Uniformity, 90 percent; injury tolerance, 10 percent.
A3FL	Good Fleck Short Natural Wrappers Heavy, ripe, firm, 14 inches or under in length. Uniformity, 90 percent; injury tolerance, 10 percent.

Good Reddish Brown Natural Wrappers
Heavy, ripe, firm. Uniformity, 90 percent; injury tolerance, 10 percent.

A3K	Good Variegated Natural Wrappers Medium body, unripe, firm. Uniformity, 90 percent; injury tolerance, 10 percent.
A3G	Good Green Natural Wrappers Heavy, immature, close. Uniformity, 90 percent; injury tolerance, 10 percent.

§ 29.6387 **Stained (S Group).**

This group consists of tied, stained tobacco from the A group.

U.S. Grade names, minimum specifications, and tolerances

S1	Choice Stained Natural Wrappers Thin, true color shades, ripe, open, over 14 inches in length. Uniformity, 85 percent. Tolerances: 5 percent injury, 10 percent stain parallel to the midrib.
S2	Fine Stained Natural Wrappers Medium body, ripe, open, over 14 inches in length. Uniformity, 70 percent. Tolerances: 10 percent injury, 20 percent stain.

§ 29.6388 Brokes (S Group).

This group consists of tied, highly injured tobacco from the A group.

U.S. Grade names, minimum specifications, and tolerances

- X1 **Choice Natural Brokes**
Medium body, true color shades, ripe, open. Minimum wrapper yield, 50 percent.
- X2 **Fine Natural Brokes**
Medium body, ripe, open. Minimum wrapper yield, 25 percent.

§ 29.6389 Nondescript (N Group).

Tobacco which does not meet the specifications of the lowest grade in any other group. This tobacco may be tied in hands or packed loose.

U.S. Grade names and specifications

- N1 **Best Natural Nondescript**
Any tobacco except N2 which does not meet the specifications of the lowest grade in the A, S, or X groups.
- N2 **Lowest Natural Nondescript**
Any tobacco classified as crude, damaged, dirty, nested, offtype, semicured, or wet; tobacco that is improperly packed, contains foreign matter, is stained over 20 percent, or has an odor foreign to the type.

GRADES FOR CANDELA-CURED TOBACCO

§ 29.6396 Wrappers (A Group).

This group consists of tied, elastic tobacco having at least 90 percent of uninjured surface usable for cigar wrappers.

U.S. Grade names, minimum specifications, and tolerances

- A1LG **Choice Light Green Candela Wrappers**
Thin, true color shade, ripe, open, small and blending fibers, over 14 inches in length. Uniformity, 95 percent; injury tolerance, 5 percent.
- A1G **Choice Green Candela Wrappers**
Medium body, true color shade, ripe, open, small and blending fibers, over 14 inches in length. Uniformity, 95 percent; injury tolerance, 5 percent.
- A2G **Fine Green Short Candela Wrappers**
Medium body, true color shade, ripe, open, small and blending fibers, 14 inches or under in length. Uniformity, 95 percent; injury tolerance, 5 percent.
- A3YG **Good Yellowish Green Candela Wrappers**
Thin to medium body, ripe, open, medium-sized and contrasting fibers. Uniformity, 90 percent; injury tolerance, 10 percent.

U.S. Grade names, minimum specifications, and tolerances

- A3FL **Good Fleck Candela Wrappers**
Thin to medium body, ripe, firm. Uniformity, 90 percent; injury tolerance, 10 percent.
- A3KG **Good Dark Green and Variegated Candela Wrappers**
Heavy, unripe, close. Uniformity, 90 percent; injury tolerance, 10 percent.

§ 29.6397 Brokes (X Group).

This group consists of tied, highly injured tobacco from the A group.

U.S. Grade names and minimum specifications

- X1 **Choice Candela Brokes**
Medium body, true color shades, ripe, open. Minimum wrapper yield, 50 percent.
- X2 **Fine Candela Brokes**
Medium body, ripe, firm. Minimum wrapper yield, 25 percent.

§ 29.6398 Nondescript (N Group).

Tobacco which does not meet the specifications of the lowest grade in any other group. This tobacco may be tied in hands or packed loose.

U.S. Grade names and specifications

- N1 **Best Candela Nondescript**
Any tobacco except N2 which does not meet the specifications of the lowest grades in the A or X groups.
- N2 **Lowest Candela Nondescript**
Any tobacco classified as crude, damaged, dirty, nested, offtype, semicured, or wet; tobacco that is improperly packed, contains foreign matter, or has an odor foreign to the type.

SUMMARY OF STANDARD GRADES

§ 29.6406 Summary of standard grades.

NATURAL (AIR-CURED)

Wrappers

A1L	A2F	A3M	A3FL
A2L	A3F	A2V	A3R
A3L	A1M	A3V	A3K
A1F	A2M	A2FL	A3G

Stained

S1 S2

Brokes

X1 X2

Nondescript

N1 N2

CANDELA-CURED

Wrappers

A1LG	ASYG
A1G	A3FL
A2G	A3KG

Brokes

X1	X2
----	----

Nondescript

N1	N2
----	----

KEY TO STANDARD GRADEMARKS

§ 29.6411 Key to standard grademarks.

Groups

- A—Wrappers.
- S—Stained.
- X—Brokes.
- N—Nondescript.

Qualities

- 1—Choice.
- 2—Fine.
- 3—Good.

Colors

- | | |
|------------------|--|
| L—Golden brown. | LG—Light green. |
| F—Light brown. | YG—Yellowish green. |
| M—Mixed color. | KG—Dark green, or dark green and variegated mixed. |
| V—Greenish. | |
| FL—Fleck. | |
| R—Reddish brown. | |
| K—Variegated. | |
| G—Green. | |

OFFICIAL STANDARDS FOR GEORGIA AND FLORIDA SHADE-GROWN CIGAR-WRAPPER¹

AUTHORITY: §§ 29.6501 to 29.6661 issued under sec. 14, 49 Stat. 734; 7 U.S.C. 511m.

SOURCE: §§ 29.6501 to 29.6661 appear at 36 F.R. 5869, Mar. 26, 1971, unless otherwise noted.

DEFINITIONS

§ 29.6501 Definitions.

As used in these standards, the words and phrases hereinafter defined shall have the indicated meanings so assigned.

§ 29.6502 Air-cured.

Tobacco cured under natural atmospheric conditions without the use of artificial heat except to prevent pole-burn in damp weather.

§ 29.6503 Body.

The thickness and density of a leaf or the weight per unit of surface. (See chart, § 29.6616.)

§ 29.6504 Candela-cured.

Tobacco cured under controlled artificial atmospheric conditions by regulating the heat and humidity. This process pro-

duces a green or greenish color in the cured leaves.

§ 29.6505 Candela-cured green colors.

A group of candela-cured wrapper colors ranging from a yellowish green to dark green. The range is expressed as yellowish green (YG), light green (LG), green (G), and dark green (KG).

§ 29.6506 Class.

A major division of tobacco based on method of cure or principal usage.

§ 29.6507 Color.

The third factor of a grademark based on the relative hues, saturation or chroma, and color values common to the type.

§ 29.6508 Color shade.

The varying strength or weakness of a color or hue.

§ 29.6509 Color symbols.

In this type the color symbols used for naturally cured tobacco are M—mixed color, FL—fleck, K—variegated, and G—green. Color symbols used for candela-cured tobacco are LG—light green, G—green, YG—yellowish green, FL—fleck, and KG—dark green or dark green and variegated mixed.

§ 29.6510 Condition.

The state of tobacco which results from the method of preparation or from the degree of fermentation. Words used to describe the condition of tobacco are undried, air-dried, steam-dried, sweating, sweated, and aged.

§ 29.6511 Crude.

A subdegree of maturity. (See rule 18, § 29.6599.)

§ 29.6512 Cured.

Tobacco dried of its sap by either natural or artificial processes.

§ 29.6513 Damage.

The effect of mold, must, rot, black rot, or other fungous or bacterial diseases which attack tobacco in its cured state. Tobacco having the odor of mold, must, or rot is considered damaged. (See rule 19, § 29.6600.)

§ 29.6514 Dirty.

The state of tobacco containing an abnormal amount of dirt or sand. (See rule 19, § 29.6600.)

¹ These standards provide grades for both air-cured and candela-cured tobacco.

§ 29.6515 Elasticity.

The flexible, springy nature of the tobacco leaf to recover approximately its original size and shape after it has been stretched.

§ 29.6516 Elements of quality.

Physical characteristics used to determine the quality of tobacco. Words selected to describe degrees within each element are shown in § 29.6616.

§ 29.6517 Fibers.

Lateral and cross veins in a tobacco leaf. (See chart, § 29.6616.)

§ 29.6518 Fleck (FL).

Spots or dapples on the surface of the tobacco leaf. (See rule 14, § 29.6595.)

§ 29.6519 Foreign matter.

Any extraneous substance or material. (See rule 19, § 29.6600.)

§ 29.6520 Form.

The stage of preparation of tobacco such as stemmed or unstemmed.

§ 29.6521 Grade.

A subdivision of a type according to group and quality and to other characteristics when they are of sufficient importance to be treated separately.

§ 29.6522 Grademark.

A grademark normally consists of three symbols which indicate group, quality, and color. A letter is used to indicate group, a number to indicate quality, and a letter or letters to indicate color. Color symbols are used only in the A group.

§ 29.6523 Green (G).

Green color. In natural wrappers any leaf which has a green color affecting 10 percent or more of its surface may be described as green. (See rule 16, § 29.6597.)

§ 29.6524 Greenish.

A term applied to greenish-tinged air-cured tobacco. Any leaf of natural wrapper tobacco which has a greenish tinge or a pale green color affecting 10 percent or more of its surface may be described as greenish.

§ 29.6525 Group.

A division of a type covering closely related grades. Groups in this type are Wrappers (A), Stained (S), Brokes (X), and Nondescript (N).

§ 29.6526 Injury.

Hurt or impairment. (See rule 13, § 29.6594.)

§ 29.6527 Leaf scrap.

A byproduct of unstemmed tobacco. Leaf scrap results from handling unstemmed tobacco and consists of loose and tangled whole or broken leaves.

§ 29.6528 Leaf structure.

The cell development of a leaf as indicated by its porosity. (See chart, § 29.6616.)

§ 29.6529 Length.

The linear measurement of cured tobacco leaves from the butt of the midrib to the extreme tip. (See chart, § 29.6616.)

§ 29.6530 Lot.

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

§ 29.6531 Maturity.

The degree of ripeness. (See chart, § 29.6616.)

§ 29.6532 Mixed color (M).

Normal colors of air-cured type 62 mixed in various proportions. Golden brown, light brown, reddish brown, and greenish hues may be included.

§ 29.6533 Nested.

Any tobacco which has been loaded, packed, or arranged to conceal foreign matter or tobacco of inferior grade, quality, or condition. (See rule 19, § 29.6600.)

§ 29.6534 Offtype.

Tobacco of distinctly different characteristics which cannot be classified as type 62. (See rule 19, § 29.6600.)

§ 29.6535 Order (case).

The state of tobacco with respect to its moisture content.

§ 29.6536 Package.

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

§ 29.6537 Packing.

A lot of tobacco consisting of a number of packages submitted as one definite unit for sampling or inspecting. It is represented to contain the same kind of tobacco and has a common identification number or mark on each package.

§ 29.6538 Quality.

A division of a group or the second factor of a grademark based on the relative

degree of one or more elements of quality in tobacco.

§ 29.6539 Semicured.

Tobacco in the process of being cured or which is partially but not thoroughly cured. Semicured includes tobacco which contains fat stems, wet butts, swelled stems, or stems that have not been thoroughly dried in the curing process. (See rule 19, § 29.6600.)

§ 29.6540 Side.

A certain phase of quality, color, or length as contrasted with some other phase of quality, color, or length; or any peculiar characteristic of tobacco.

§ 29.6541 Sound.

Free of damage.

§ 29.6542 Special factor.

A symbol or term authorized to be used with specified grades. Tobacco to which a special factor is applied may meet the general specifications but has a peculiar side or characteristic which tends to modify the grade. (See rule 9, § 29.6590.)

§ 29.6543 Stained.

A term applied to tobacco that has been blackened, bruised, or discolored by excessive moisture. (See rules 17 and 19, §§ 29.6598 and 29.6600.)

§ 29.6544 Stem.

The midrib or large central vein of a tobacco leaf.

§ 29.6545 Stemmed.

A form of tobacco, including strips and strip scrap, from which the stems or midribs have been removed.

§ 29.6546 Strips.

The sides of a tobacco leaf from which the stem has been removed or a lot of tobacco composed of strips.

§ 29.6547 Subgrade.

Any grade modified by a special factor symbol.

§ 29.6548 Sweated.

The condition of tobacco which has passed through one or more fermentations natural to tobacco packed with a normal percentage of moisture. This condition is sometimes described as aged.

§ 29.6549 Sweating.

The condition of tobacco in the process of fermentation.

§ 29.6550 Tobacco.

Tobacco as it appears between the time it is cured and stripped from the stalk, or primed and cured, and the time it enters into the different manufacturing processes. The acts of stemming, sweating, and conditioning are not regarded as manufacturing processes. Tobacco, as used in these standards does not include manufactured or semimanufactured products, stems, cuttings, clippings, trimmings, siftings, or dust.

§ 29.6551 Tobacco products.

Manufactured tobacco, including cigarettes, cigars, smoking tobacco, chewing tobacco, and snuff.

§ 29.6552 Type.

A division of a class of tobacco having certain common characteristics and closely related grades. Tobacco which has the same characteristics and corresponding qualities, colors, and lengths is classified as one type, regardless of any factors of historical or geographical nature which cannot be determined by an examination of the tobacco.

§ 29.6553 Type 62.

That type of shade-grown tobacco known as Georgia and Florida Shade-grown, produced principally in southwestern Georgia and in the central part of northern Florida.

§ 29.6554 Undried.

The condition of unfermented tobacco which has not been air-dried or steam-dried.

§ 29.6555 Uniformity.

An element of quality which describes the consistency of a lot of tobacco. (See rule 12, § 29.6593.)

§ 29.6556 Unstemmed.

A form of tobacco, including whole leaf and leaf scrap, from which the stems or midribs have not been removed.

§ 29.6557 Variegated.

Two or more contrasting colors or tints within a leaf. (See rule 15, § 29.6596.)

§ 29.6558 Wet.

Any sound tobacco containing excessive moisture to the extent that it is in unsafe or doubtful-keeping order. Wet applies to any tobacco which is not damaged but which is likely to damage if

treated in the customary manner. (See rule 19, § 29.6600.)

RULES

§ 29.6581 Rule 1.

The application of these official standard grades shall be in accordance with the following rules.

§ 29.6582 Rule 1.

Each grade shall be treated as a subdivision of a particular type. When the grade is stated in an inspection certificate, the type also shall be stated.

§ 29.6583 Rule 2.

The determination of a grade shall be based upon a thorough examination of a lot or packing of tobacco or of an official sample of the lot or packing.

§ 29.6584 Rule 3.

The grade assigned to any lot or packing of tobacco shall be a true representation of the tobacco at the time of inspection and certification. If, at any time, it is found that a lot or packing of tobacco does not comply with the specifications of the grade previously assigned, it shall not thereafter be represented as such grade.

§ 29.6585 Rule 4.

Tobacco of the A, X, or S groups shall be placed straight in boxes or bales of normal size, weight, and shape with the butts out and tips overlapping sufficiently to make a level, solid, and uniform pack. All sides of the bales shall be completely covered with paper or other suitable protective material.

§ 29.6586 Rule 5.

A lot or packing of tobacco on the marginal line between two colors shall be placed in the color with which it best corresponds with respect to body or other associated elements of quality.

§ 29.6587 Rule 6.

Any lot or packing of tobacco which meets the specifications of two grades shall be placed in the higher grade.

§ 29.6588 Rule 7.

A lot or packing of tobacco meets the specifications of a grade when it is not lower in any element of quality than the degree stated in grade specifications and does not exceed the tolerance(s) of such grade.

§ 29.6589 Rule 8.

In determining the grade of a lot or packing of tobacco, the lot or packing as a whole shall be considered. Minor irregularities which do not affect over one percent of the tobacco shall be overlooked.

§ 29.6590 Rule 9.

Any special factor approved by the Director of the Tobacco Division, Agricultural Marketing Service, may be used after a grademark to show a peculiar side or characteristic of the tobacco which tends to modify the grade.

§ 29.6591 Rule 10.

Interpretations, the use of specifications, and the meaning of terms shall be in accordance with determinations or clarifications made by the Chief of the Standards and Testing Branch and approved by the Director.

§ 29.6592 Rule 11.

The use of any grade may be restricted by the Director during any marketing season when it is found that the grade is not needed or appears in insufficient volume to justify its use.

§ 29.6593 Rule 12.

Uniformity shall be expressed in percentages. These percentages shall govern the portion of a lot or packing which must meet each specification of the grade; the remaining portion must be closely related. Specified percentages of uniformity shall not affect limitations established by other rules.

§ 29.6594 Rule 13.

Injury tolerance shall be expressed in percentages. The appraisal of injury shall be based upon the percentage of affected wrapper cutting area or the degree of injury.

§ 29.6595 Rule 14.

Fleck shall be included only in A3FL, N1, and N2.

§ 29.6596 Rule 15.

Any lot or packing of tobacco containing over 10 percent of variegated leaves shall be designated by the color symbol "K" in natural wrappers and "KG" in candela wrappers.

§ 29.6597 Rule 16.

Any lot or packing of natural wrapper tobacco containing over 10 percent of green leaves shall be designated by the color symbol "G."

§ 29.6598 Rule 17.

Stained tobacco shall be included only in grades of the S and N groups.

§ 29.6599 Rule 18.

Crude leaves shall be included only in N2.

§ 29.6600 Rule 19.

Tobacco shall be designated "N2" when it is crude, damaged, dirty, improperly packed, nested, offtype, semicured, wet, or when it contains foreign matter, is stained over 20 percent, or has an odor foreign to the type.

ELEMENTS OF QUALITY

§ 29.6616 Elements of quality and degrees of each element.

These words or terms are used to determine tobacco quality. Characteristics which constitute general quality are designated as elements of quality. The range within each element is expressed by words or terms designated as degrees.

Elements	Degrees		
Body.....	Thin.....	Medium....	Heavy.
Color shade....	True.....	Dusky.....	Dull.
Maturity.....	Ripe.....	Unripe....	Immature.
Leaf structure.	Open.....	Firm.....	Close.
Fiber size....	Small.....	Medium....	Large.
Fiber color....	Blending....	Contrasting.	Clashing.
Injury tolerance.	Expressed in percentages.		
Uniformity.....	do.....		
Length.....	Expressed in inches.		

GRADES FOR NATURAL (AIR-CURED) TOBACCO

§ 29.6636 Wrappers (A Group).

This group consists of tied, elastic tobacco having at least 90 percent of uninjured surface usable for cigar wrappers.

U.S. Grade names, minimum specifications, and tolerances

- A1M** Choice Mixed-color Natural Wrappers
Thin, true color shades, ripe, open, small and blending fibers, over 14 inches in length. Uniformity, 95 percent; injury tolerance, 5 percent.
- A2M** Fine Short Mixed-color Natural Wrappers
Thin, true color shades, ripe, open, small and blending fibers, 14 inches or under in length. Uniformity, 95 percent; injury tolerance, 5 percent.

U.S. Grade names, minimum specifications, and tolerances

- A3M** Good Mixed-color Natural Wrappers
Medium body, true color shades, ripe, open, medium-sized and contrasting fibers, over 14 inches in length. Uniformity, 90 percent; injury tolerance, 10 percent.
- A3FL** Good Fleck Natural Wrappers
Medium body, ripe, firm, over 14 inches in length. Uniformity, 90 percent; injury tolerance, 10 percent.
- A3K** Good Variegated Natural Wrappers
Medium body, unripe, firm. Uniformity, 90 percent; injury tolerance, 10 percent.
- A3G** Good Green Natural Wrappers
Heavy body, immature, close. Uniformity, 90 percent; injury tolerance, 10 percent.

§ 29.6637 Stained (S Group).

This group consists of tied, stained tobacco from the A group.

U.S. Grade names, minimum specifications, and tolerances

- S1** Choice Stained Natural Wrappers
Thin, true color shades, ripe, open, over 14 inches in length. Uniformity, 85 percent. Tolerances: 5 percent injury, 10 percent stain parallel to the midrib.
- S2** Fine Stained Natural Wrappers
Medium body, ripe, open, over 14 inches in length. Uniformity, 70 percent. Tolerances: 10 percent injury, 20 percent stain.

§ 29.6638 Brokes (X Group).

This group consists of tied, highly injured tobacco from the A group.

U.S. Grade names and minimum specifications

- X1** Choice Natural Brokes
Medium body, true color shades, ripe, open. Minimum wrapper yield, 50 percent.
- X2** Fine Natural Brokes
Medium body, ripe, open. Minimum wrapper yield, 25 percent.

§ 29.6639 Nondescript (N Group).

Tobacco which does not meet the specifications of the lowest grade in any other group. This tobacco may be tied in hands or packed loose.

U.S. Grade names and specifications

- N1** Best Natural Nondescript
Any tobacco except N2 which does not meet the specifications of the lowest grade in the A, S, or X groups.

U.S. grades *Grade names and specifications*
N2 Lowest Natural Nondescript

Any tobacco classified as crude, damaged, dirty, nested, offtype, semicured, or wet; tobacco that is improperly packed, contains foreign matter, is stained over 20 percent, or has an odor foreign to the type.

GRADES FOR CANDELA-CURED TOBACCO

§ 29.6646 Wrappers (A Group).

This group consists of tied, elastic tobacco having at least 90 percent of uninjured surface usable for cigar wrappers.

U.S. grades *Grade names, minimum specifications, and tolerances*

A1LG Choice Light Green Candela Wrappers

Thin, true color shade, ripe, open, small and blending fibers, over 14 inches in length. Uniformity, 95 percent; injury tolerance, 5 percent.

A1G Choice Green Candela Wrappers

Medium body, true color shade, ripe, open, small and blending fibers, over 14 inches in length. Uniformity, 95 percent; injury tolerance, 5 percent.

A2G Fine Green Short Candela Wrappers

Medium body, true color shade, ripe, open, small and blending fibers, 14 inches or under in length. Uniformity, 95 percent; injury tolerance, 5 percent.

A3YG Good Yellowish Green Candela Wrappers

Thin to medium body, ripe, open, medium-sized and contrasting fibers. Uniformity, 90 percent; injury tolerance, 10 percent.

A3FL Good Fleck Candela Wrappers

Thin to medium body, ripe, firm. Uniformity, 90 percent; injury tolerance, 10 percent.

A3KG Good Dark Green and Variegated Candela Wrappers

Heavy, unripe, close. Uniformity, 90 percent; injury tolerance, 10 percent.

§ 29.6647 Brokes (X Group).

This group consists of tied, highly injured tobacco from the A group.

U.S. grades *Grade names and minimum specifications*

X1 Choice Candela Brokes

Medium body, true color shades, ripe, open. Minimum wrapper yield, 50 percent.

X2 Fine Candela Brokes

Medium body, ripe, firm. Minimum wrapper yield, 25 percent.

§ 29.6648 Nondescript (N Group).

Tobacco which does not meet the specifications of the lowest grade in any other group. This tobacco may be tied in hands or packed loose.

U.S. grades *Grade names and specifications*

N1 Best Candela Nondescript

Any tobacco except N2 which does not meet the specifications of the lowest grades in the A or X groups.

N2 Lowest Candela Nondescript

Any tobacco classified as crude, damaged, dirty, nested, offtype, semicured, or wet; tobacco that is improperly packed, contains foreign matter, or has an odor foreign to the type.

SUMMARY OF STANDARD GRADES

§ 29.6656 Summary of standard grades.

NATURAL (AIR-CURED)

Wrappers

A1M	A3FL
A2M	A3K
A3M	A3G

Stained

S1	S2
----	----

Brokes

X1	X2
----	----

Nondescript

N1	N2
----	----

CANDELA-CURED

Wrappers

A1LG	A3YG
A1G	A3FL
A2G	A3KG

Brokes

X1	X2
----	----

Nondescript

N1	N2
----	----

KEY TO STANDARD GRADEMARKS

§ 29.6661 Key to standard grademarks.

<i>Groups</i>	<i>Qualities</i>
A—Wrappers.	1—Choice.
S—Stained.	2—Fine.
X—Brokes.	3—Good.
N—Nondescript.	

Colors

M—Mixed color.	YG—Yellowish green.
FL—Fleck.	KG—Dark green, or dark green and variegated mixed.
K—Variegated.	
G—Green.	
LG—Light green.	

Subpart D—Orders of Designation of Tobacco Markets

§ 29.8001 Designation of tobacco markets.

The act of Congress approved August 23, 1935 (49 Stat. 731; 7 U. S. C., Chapter 21A) entitled "The Tobacco Inspection Act" contains the following provisions:

Sec. 2. That transactions in tobacco involving the sale thereof at auction as commonly conducted at auction markets are affected with a public interest; that such transactions are carried on by tobacco producers generally and by persons engaged in the business of buying and selling tobacco in commerce; that the classification of tobacco according to type, grade, and other characteristics affects the prices received therefor by producers; that without uniform standards of classification and inspection the evaluation of tobacco is susceptible to speculation, manipulation, and control, and unreasonable fluctuations in prices and quality determinations occur which are detrimental to producers and persons handling tobacco in commerce; that such fluctuations constitute a burden upon commerce and make the use of uniform standards of classification and inspection imperative for the protection of producers and others engaged in commerce and the public interested therein.

Sec. 5. That the Secretary is authorized to designate those auction markets where tobacco bought and sold thereon at auction, or the products customarily manufactured therefrom, moves in commerce. Before any market is designated by the Secretary under this section he shall determine by referendum the desire of tobacco growers who sold tobacco at auction on such market during the preceding marketing season. The Secretary may at his discretion hold one referendum

for two or more markets or for all markets in a type area. No market or group of markets shall be designated by the Secretary unless two-thirds of the growers voting favor it. The Secretary shall have access to the tobacco records of the Collector of Internal Revenue and of the several collectors of internal revenue for the purpose of obtaining the names and addresses of growers who sold tobacco on any auction market, and the Secretary shall determine from said records the eligibility of such grower to vote in such referendum, and no grower shall be eligible to vote in more than one referendum. After public notice of not less than thirty days that any auction market has been so designated by the Secretary, no tobacco shall be offered for sale at auction on such market until it shall have been inspected and certified by an authorized representative of the Secretary according to the standards established under this Act, except that the Secretary may temporarily suspend the requirement of inspection and certification at any designated market whenever he finds it impracticable to provide for such inspection and certification because competent inspectors are not obtainable or because the quantity of tobacco available for inspection is insufficient to justify the cost of such service: *Provided*, That, in the event competent inspectors are not available, or for other reasons, the Secretary is unable to provide for such inspection and certification at all auction markets within a type area, he shall first designate those auction markets where the greatest number of growers may be served with the facilities available to him. No fee or charge shall be imposed or collected for inspection or certification under this section at any designated auction market. Nothing contained in this Act shall be construed to prevent transactions in tobacco at markets not designated by the Secretary or at designated markets where the Secretary has suspended the requirement of inspection or to authorize the Secretary to close any market.

Designated Tobacco Markets

Territory	Types of tobaccos	Auction markets	Order of designation	Citation
(a) Kentucky-Tennessee..	Fire-cured, and Green River Dark Air-cured — Types 22, 23, 24, and 36.	Clarksville, Tenn..... Springfield, Tenn. Hopkinsville, Ky. Paducah, Ky. Mayfield, Ky. Murray, Ky. Madisonville, Ky. Henderson, Ky.	June 18, 1936	1 F. R. 757
(b) Virginia.....	Fire-cured—Type 21...	Lynchburg, Va..... Bedford, Va. Farmville, Va. Blackstone, Va. Drakes Branch, Va.	June 18, 1936	1 F. R. 757.
(c) South Carolina.....	Flue-cured—Type 13..	Lake City, S. C..... Darlington, S. C. Pamplico, S. C. Farmville, N. C.....	July 1, 1936; as amended July 15, 1936 July 13, 1936	1 F. R. 842 968.
(d) North Carolina.....	Flue-cured—Type 12..	Goldsboro, N. C..... Oxford, N. C.....	July 13, 1936	1 F. R. 921.
(e) North Carolina.....	Flue-cured—Type 11 (b).		Aug. 26, 1936	1 F. R. 1416.
(f) Kentucky.....	Burley—Type 31.....	Bowling Green, Ky..... Cynthiana, Ky. Horse Cave, Ky. Mt. Sterling, Ky.	Nov. 14, 1936	1 F. R. 2266.

Designated Tobacco Markets—Continued

Territory	Types of tobaccos	Auction markets	Order of designation	Citation
(g) North Carolina.....	Flue-cured.....	Wendell, N. C.....	Sept. 14, 1937	2 F. R. 2169.
(h) Kentucky.....	Burley—Type 31.....	Danville, Ky.....	Dec. 3, 1937	2 F. R. 3102.
(i) Virginia.....	Flue-cured.....	South Hill, Va.....	Aug. 23, 1938	3 F. R. 2074.
(j) Kentucky.....	Green River and One-Sucker.	Owensboro, Ky.....	Sept. 9, 1938	3 F. R. 2208.
(k) Virginia.....	Burley.....	Abingdon, Va.....	Nov. 16, 1938	3 F. R. 2734.
West Virginia.		Huntington, W. Va.		
Tennessee.		Knoxville, Tenn.		
Kentucky.		Maysville, Ky.		
Ohio.		Paris, Ky.		
		Springfield, Ky.		
		Ripley, Ohio.		
(l) Georgia.....	Flue-cured.....	Adel, Ga.....	June 22, 1939	4 F. R. 2476.
		Douglas, Ga.		
		Nashville, Ga.		
(m) North Carolina.....	Flue-cured.....	Greenville, N. C.....	July 24, 1939	4 F. R. 3421.
(n) Tennessee.....	Fire-cured.....	Paris, Tenn.....	Nov. 7, 1939	4 F. R. 4537.
Kentucky.....	Burley.....	Lebanon, Ky.		
		Columbia, Tenn.		
		Mt. Pleasant, Tenn.		
(o) Georgia.....	Flue-cured.....	Valdosta, Ga.....	} June 21, 1940	5 F. R. 2335.
Florida.....		Live Oak, Fla.....		
(p) Kentucky.....	All.....	Shelbyville, Ky.....	July 17, 1940	5 F. R. 2607.
(q) Georgia.....	Flue-cured.....	Danville, Va.....	Aug. 16, 1941	6 F. R. 4111.
North Carolina.		Dillon, S. C.		
South Carolina.		Fuquay Springs-Varina, N. C.		
Virginia.		Hahira, Ga.		
		Loris, S. C.		
		Metter, Ga.		
		Reidsville, N. C.		
		Robersonville, N. C.		
		Statesboro, Ga.		
		Tarboro, N. C.		
		Timmonsville, S. C.		
		Williamston, N. C.		
(r) Kentucky.....	One-sucker.....	Franklin, Ky.....	Oct. 9, 1941	6 F. R. 5147.
Tennessee.		Mayfield, Ky.		
		Russellville, Ky.		
		Westmoreland, Tenn.		
(s) Indiana.....	Burley.....	Asheville, N. C.....	Oct. 25, 1941	6 F. R. 5478.
Kentucky.		Bloomfield, Ky.		
Missouri.		Boone, N. C.		
North Carolina.		Camp Taylor, Ky.		
Tennessee.		Carrollton, Ky.		
		Carthage, Tenn.		
		Covington, Ky.		
		Fayetteville, Tenn.		
		Franklin, Tenn.		
		Gallatin, Tenn.		
		Glasgow, Ky.		
		Greensburg, Ky.		
		Greenville, Tenn.		
		Harrodsburg, Ky.		
		Hartsville, Tenn.		
		Hopkinsville, Ky.		
		Johnson City, Tenn.		
		Lexington, Ky.		
		Louisville, Ky.		
		Madison, Ind.		
		Morristown, Tenn.		
		New Albany, Ind.		
		New Tazewell, Tenn.		
		Owensboro, Ky.		
		Richmond, Ky.		
		Rogersville, Tenn.		
		Weston, Mo.		
(t) Georgia.....	Flue-cured.....	Aberdeen, N. C.....	June 26, 1942	7 F. R. 4811.
Florida.....		Ahoskie, N. C.		
North Carolina.		Baxley, Ga.		
South Carolina.		Blackshear, Ga.		
Virginia.		Brookneal, Va.		
		Burlington, N. C.		
		Carthage, N. C.		
		Chadbourne, N. C.		
		Chase City, Va.		
		Clarksville, Va.		
		Clarkton, N. C.		
		Conway, S. C.		
		Durham, N. C.		
		Fair Bluff, N. C.		
		Fairmont, N. C.		
		Hazlehurst, Ga.		

Designated Tobacco Markets—Continued

Territory	Type of tobaccos	Auction markets	Order of designation	Citation
(t) Georgia, Florida, North Carolina, South Carolina, Virginia—Continued	Flue-cured—Con.	Henderson, N. C. ----- Kenbridge, Va. ----- Kingstree, S. C. ----- Kinston, N. C. ----- Lake City, Fla. ----- Lawrenceville, Va. ----- Louisburg, N. C. ----- Lumberton, N. C. ----- Madison, N. C. ----- Martinsville, Va. ----- Mebane, N. C. ----- Moultrie, Ga. ----- Mt. Airy, N. C. ----- Mullins, S. C. ----- Pelham, Ga. ----- Petersburg, Va. ----- Rocky Mount, N. C. ----- Rocky Mount, Va. ----- Toxboro, N. C. ----- Sanford, N. C. ----- Smithfield, N. C. ----- South Boston, Va. ----- Stoneville, N. C. ----- Tabor City, N. C. ----- Tifton, Ga. ----- Vidalia, Ga. ----- Wallace, N. C. ----- Warrenton, N. C. ----- Washington, N. C. ----- Waycross, Ga. ----- Whiteville, N. C. ----- Wilson, N. C. ----- Winston-Salem, N. C. -----	June 26, 1942 —Con.	7 F. R. 4811. —Con.
(u) Virginia	All	Richmond, Va.	Nov. 7, 1942	7 F. R. 9107.
(v) Tennessee	All	Springfield and Clarksville, Tenn.	Sept. 18, 1944	9 F. R. 11571.
(w) Georgia	All	Quitman, Ga.	Aug. 28, 1945	10 F. R. 11104.
(x) Georgia	All	Fitzgerald, Ga.	July 22, 1946	11 F. R. 7957.
(y) North Carolina	All	Clinton, N. C.	Aug. 9, 1946	11 F. R. 8712.
(z) Kentucky	All	Winchester, Ky.	Oct. 30, 1946	11 F. R. 13069.
(aa) North Carolina	All	Fayetteville, N. C.	June 17, 1947	12 F. R. 401A.
(bb) Maryland	All	Hughesville, La Plata, Upper Marlboro, and Waldorf, Md.	May 17, 1948	13 F. R. 2579.
(cc) Florida	All	Jasper, Fla.	May 27, 1948	13 F. R. 2963.
(dd) Georgia	All	Claxton, Ga.	July 30, 1948	13 F. R. 4493.
(ee) Kentucky	All	London, Ky.	Oct. 25, 1948	13 F. R. 6344.
(ff) North Carolina	All	West Jefferson, N. C.	Oct. 25, 1948	13 F. R. 6343.
(gg) North Carolina	All	Dunn, N. C.	July 15, 1949	14 F. R. 4514.
(hh) North Carolina	All	Ellerbe, N. C.	Aug. 25, 1949	14 F. R. 5364.
(ii) Kentucky, Tennessee	All	Somerset, Ky. Sparta, Tenn.	Oct. 7, 1949	14 F. R. 6193.
(jj) North Carolina, South Carolina, Georgia	All	Greensboro, N. C. ----- Windsor, N. C. ----- Hemingway, S. C. ----- Sylvester, Ga. -----	June 16, 1950	15 F. R. 3360.
(kk) Kentucky	All	Franklin, Ky. ----- Russellville, Ky. ----- Scottsville, Ky. -----	June 21, 1950	15 F. R. 4072.
(ll) Tennessee, Virginia	All	Athens, Tenn. ----- Sweetwater, Tenn. ----- Pennington Gap, Va. -----	July 18, 1950	15 F. R. 4673.
(mm) Kentucky	All	Mayfield, Ky. ----- Murray, Ky. ----- Paducah, Ky. -----	Oct. 19, 1950	15 F. R. 7117.
(nn) South Carolina	All	Lamar, S. C.	May 28, 1951	16 F. R. 5108.
(oo) Tennessee	All	Mountain City, Tenn.	Nov. 1, 1951	16 F. R. 11260.
(pp) Florida	All	High Springs	June 2, 1954	19 F. R. 3211.
(qq) Tennessee	All	Newport	Oct. 27, 1954	19 F. R. 6873.
(rr) Georgia	All	Alma and Pearson	May 13, 1955	20 F. R. 3352.
(ss) Kentucky	All	Henderson, Ky. ----- Gate City, Va. -----	Oct. 29, 1955	20 F. R. 8142.
(tt) Florida	All	Madison, Fla. ----- Swainsboro, Ga. ----- Thomasville, Ga. -----	July 6, 1956	21 F. R. 4993.
(uu) Kentucky	All	Morehead	June 18, 1958	23 F. R. 4377.
(vv) North Carolina	All	Yadkinville, N. C.	April 15, 1970	35 F. R. 6107.

(Sec. 14, 49 Stat. 734, as amended; 7 U.S.C. 511m. Interprets or applies secs. 2, 5, 49 Stat. 731, 732, 7 U.S.C. 511a, 511d) [1 F.R. 649, June 23, 1936; redesignated at 14 F.R. 465, Feb. 3, 1949; further redesignated at 24 F.R. 2776, Apr. 10, 1959, as amended at 35 F.R. 6107, Apr. 15, 1970]

Subpart E—Forms**APPLICATION AND AGREEMENT FOR
PERMISSIVE INSPECTION SERVICE****§ 29.9001 Application and agreement for
permissive tobacco inspection
service.**

Application for inspection service on an agreement basis is hereby made under the authority of The Tobacco Inspection Act and the regulations issued pursuant thereto (7 CFR Part 29). Upon approval of this application by the Agricultural Marketing Service, United States Department of Agriculture (hereinafter referred to as "AMS"), C&MS will furnish inspection service in accordance with the terms and conditions hereof, and this document shall constitute an agreement for permissive inspection. Such inspection service is to be performed for the firm herein designated:

(Name of firm)

(Street address)

(City and State)

The applicant agrees to pay for the full cost of the inspection service covered hereby to AMS at the time the respective invoices are rendered by AMS. The full costs shall be determined in accordance with the following rates for services as are applicable:

A. Determination of fees or charges and payments of costs.

1. Fees or charges for inspection at redrying plants and receiving points shall include travel expense, per diem allowance and salaries: *Provided*, That charges for verification or confirmation of grades previously assigned at redrying plants and receiving points shall not include a charge for salaries if there has been no change in ownership of the tobacco involved and if inspectors performing such verification or confirmation were not recalled to duty for the purpose of performing such service.

2. Charges for inspection at non-designated auction markets shall include travel expense, per diem allowance and salaries.

3. Fees or charges for hogshead, bale or case inspection shall be the actual total cost including travel expense, per diem allowance and salaries.

4. Fees or charges for sample inspection shall be the actual total cost including travel expense, per diem allowance and salaries.

5. All charges as assessed under paragraphs 1, 2, 3 and 4, shall be increased by 8 percent to cover administrative expenses.

6. It is mutually agreed that AMS will pay all expenses above mentioned from any available appropriation with the agreement and understanding that C&MS shall be reimbursed therefor by the applicant for all expenses so paid by C&MS for conducting the work hereunder.

7. The applicant agrees to reimburse the Consumer and Marketing Service for all expenses incurred in the conduct of the services rendered under this application, not later than 15 days from the date of billing, such payment to be made by check, money order, or draft, payable and mailed to the Agricultural Marketing Service, Washington 25, D.C., for deposit to the appropriation from which the expenses were paid.

B. Employment and assignment of inspectors. 1. All inspectors given Federal appointments shall be under the jurisdiction of the AMS as to supervision, salaries, hours of work and duties. All inspectors shall make such reports to the Administrator of the AMS as may be required.

2. AMS will assume, through its local representatives, responsibility for the administrative and technical supervision of the inspection service established, maintained and conducted under this application; such representatives to determine the detailed assignments of inspectors. Assignment of inspectors and licensees shall be at the sole discretion of AMS.

3. AMS will select, train and appoint such inspectors as are necessary to perform the work, with the understanding that it assumes no responsibility beyond its ability to obtain suitable qualified men at salaries determined by the provisions of the Federal Classification Act.

4. AMS shall not be responsible for damages accruing through any acts of commission or omission on the part of any Federal employee or licensee.

C. Rules and regulations. 1. It is mutually agreed that all inspection work shall be in accordance with the United States Standards and that certificates issued shall be Federal certificates issued in accordance with the rules and regulations of the Secretary of Agriculture under The Tobacco Inspection Act.

2. The applicant agrees to comply with the terms and conditions of the regulations and such other terms and conditions hereinafter enumerated.

3. All terms used herein shall have the same meaning as when used in the aforesaid Regulations and Instructions.

D. Continuation of services and termination. 1. This agreement shall continue in force until June 30, 19--., and as long thereafter as Congress shall provide the necessary authority therefor, subject to annual confirmation by a duly authorized officer of the United States Department of Agriculture; provided, however, that this agreement may be abrogated at any time by mutual consent or by either party hereto by giving written notice to the other party thirty (30) days in advance of and specifying the date of termination.

2. The services to be rendered hereunder shall be terminated by AMS at any time AMS, acting pursuant to any applicable laws, rules, or regulations, debars the applicant from receiving any further benefits of the service, or the services hereunder may be

suspended or terminated at any time C&MS concludes that the applicant has not conformed, or cannot conform, hereto.

E. Member of Congress provision. 1. No member of or delegate to Congress, or Resident Commissioner after his election or appointment, and either before or after he has qualified and during his continuance in office; and no officer, agent or employee of the Government shall be admitted to any share or part of this agreement or to any benefit to arise thereupon. The provision herein with respect to the interest of members of or delegates to Congress and Resident Commissioners in the agreement shall not be construed to extend to any incorporated company where such contract or agreement is made for the general benefit of such incorporation or company.

 (Applicant)
 By -----

 (Street)

 (City) (State)

 (Date)

Approved:
 By -----

 (Title)

 (Date)

*Agricultural Market-
 ing Service, U.S.
 Department of Ag-
 riculture.*

(Sec. 14, 49 Stat. 734, as amended; 7 U. S. C. 511m) [21 F.R. 3669, May 30, 1956, as amended at 25 F.R. 4949, June 4, 1960; redesignated at 24 F.R. 2776, Apr. 10, 1959]

PART 30—TOBACCO STOCKS AND STANDARDS

CLASSIFICATION OF LEAF TOBACCO COVERING CLASSES, TYPES, AND GROUPS OF GRADES

- Sec.
- 30.1 Definitions of terms used in classification of leaf tobacco.
- 30.2 Leaf tobacco.
- 30.3 Unstemmed.
- 30.4 Stemmed.
- 30.5 Class.
- 30.6 Type.
- 30.7 Group.
- 30.8 Scrap.
- 30.9 Nondescript.
- 30.10 Cure.
- 30.11 Flue-cure.
- 30.12 Fire-cure.
- 30.13 Air-cure.
- 30.14 Cigar filler.
- 30.15 Cigar binder.
- 30.16 Cigar wrapper.
- 30.17 Damage.
- 30.18 Injury.
- 30.19 Nested.

- Sec.
- 30.20 Crude.
- 30.21 Foreign matter.
- 30.31 Classification of leaf tobacco.
- 30.36 Class 1; flue-cured types and groups.
- 30.37 Class 2; fire-cured types and groups.
- 30.38 Class 3; air-cured types and groups.
- 30.39 Class 4; cigar-filler types and groups.
- 30.40 Class 5; cigar-binder types and groups.
- 30.41 Class 6; cigar-wrapper types and groups.
- 30.42 Class 7; miscellaneous types of domestic tobacco.
- 30.43 Class 8; foreign-grown cigar-leaf types.
- 30.44 Class 9; foreign-grown types other than cigar-leaf.

REPORTS

30.60 Reports.

AUTHORITY: The provisions of this Part 30 issued under sec. 2, 45 Stat. 1079, as amended; 7 U.S.C. 502.

SOURCE: The provisions of this Part 30 contained in SRA, BAE 118, Nov. 1929; 19 F.R. 57, Jan. 6, 1954, unless otherwise noted.

CLASSIFICATION OF LEAF TOBACCO COVERING CLASSES, TYPES, AND GROUPS OF GRADES

§ 30.1 Definitions of terms used in classification of leaf tobacco.

For the purpose of §§ 30.1–30.44 the terms appearing in §§ 30.2–30.21 shall be construed as explained therein.

§ 30.2 Leaf tobacco.

Tobacco in the forms in which it appears between the time it is cured and stripped from the stalk, or primed and cured, and the time it enters into the different manufacturing processes. The acts of stemming, sweating or fermenting, and conditioning are not regarded as manufacturing processes. Leaf tobacco does not include any manufactured or semimanufactured tobacco, stems which have been removed from leaves, cuttings, clippings, trimmings, shorts, or dust.

§ 30.3 Unstemmed.

A form of leaf tobacco consisting of a collection of leaves from which the stems or midribs have not been removed, including leaf-scrap.

§ 30.4 Stemmed.

A form of leaf tobacco consisting of a collection of leaves from which the stems or midribs have been removed, including strip scrap.

§ 30.5 Class.

One of the major divisions of leaf tobacco based on the distinct characteristics of the tobacco caused by differences in varieties, soil and climatic

conditions, and the methods of cultivation, harvesting, and curing.

§ 30.6 Type.

A subdivision of a class of leaf tobacco, having certain common characteristics which permit of its being divided into a number of related grades. Any tobacco that has the same characteristics and corresponding qualities, colors, and lengths, shall be treated as one type, regardless of any factors of historical or geographical nature which can not be determined by an examination of the tobacco.

§ 30.7 Group.

A group of grades, or a division of a type covering several closely related grades, based on the general quality of the tobacco, including the percentage of injury, and other factors. The factors that determine the group divisions also largely determine the usage or suitability of tobacco for certain purposes.

§ 30.8 Scrap.

A byproduct from handling leaf tobacco in both the unstemmed and stemmed forms, consisting of loose and tangled portions of tobacco leaves, floor sweepings, and all other tobacco materials (except stems) which accumulate in auction and storage warehouses, packing and conditioning plants, and stemmeries. Scrap which accumulates from handling unstemmed leaf tobacco is known as leaf-scrap and scrap which accumulates from handling stemmed leaf tobacco is known as strip-scrap. The scrap group, covering both leaf-scrap and strip-scrap is designated by the letter "S".

§ 30.9 Nondescript.

Any tobacco of a certain type which can not be placed in other groups of the type, or any nested tobacco, or any muddy or extremely dirty tobacco, or any tobacco containing an unusual quantity of foreign matter, or any crude tobacco, or any tobacco which is damaged to the extent of 20 percent or more, or any tobacco infested with live tobacco beetles or other injurious insects, or any wet tobacco, or any tobacco that contains fat stems or wet butts. The nondescript group is designated by the letter "N."

§ 30.10 Cure.

To dry the sap from newly harvested tobacco by either natural or artificial

process. Proper curing is done under such conditions as will permit of the chemical and physiological changes necessary to develop the desired quality of color in tobacco.

§ 30.11 Flue-cure.

To cure tobacco under artificial atmospheric conditions by a process of regulating the heat and ventilation without allowing smoke or fumes from the fuel to come in contact with the tobacco.

§ 30.12 Fire-cure.

To cure tobacco under artificial atmosphere conditions by the use of open fires, the smoke and fumes of which are allowed to come in contact with the tobacco.

§ 30.13 Air-cure.

To cure tobacco under natural atmospheric conditions without the use of fire, except for the purpose of preventing pole burn (house burn) in damp weather.

§ 30.14 Cigar filler.

The tobacco that forms the core or inner part of a cigar. Cigar-filler tobacco is tobacco of the kind and quality commonly used for cigar fillers. Cigar-filler types are those which produce chiefly tobacco suitable for cigar-filler purposes.

§ 30.15 Cigar binder.

A portion of a tobacco leaf rolled around the filler of a cigar to bind or hold it together and form the first covering. Cigar-binder tobacco is tobacco of the kind and quality commonly used for cigar binders. Cigar-binder types are those which produce chiefly tobacco suitable for cigar-binder purposes.

§ 30.16 Cigar wrapper.

A portion of a tobacco leaf forming the outer covering of a cigar. Cigar-wrapper tobacco is tobacco of the kind and quality commonly used for cigar wrappers. Cigar-wrapper types are those which produce chiefly tobacco suitable for cigar-wrapper purposes.

§ 30.17 Damage.

The effect of mold, must, rot, black rot, or other fungous or bacterial diseases which attack tobacco in its cured state. Any tobacco having the odor of mold, must, or rot shall be included in damaged tobacco. (Note distinction between "damage" and "injury.")

§ 30.18 Injury.

Hurt or impairment from any cause except the fungous or bacterial diseases which attack tobacco in its cured state. Injured tobacco shall include any dead, burnt, or ragged tobacco; or tobacco that has been torn or broken, frozen or frosted, sunburned or scalded, scorched or fire-killed, bulk-burnt or stem-brunt, pole burnt or house burnt, bleached or bruised; or tobacco containing discolored or deformed leaves; or tobacco hurt by insects; or tobacco affected by wild-fire, black fire, rust, frogeye, mosaic, frenching, sanddrown, or other field diseases.

§ 30.19 Nested.

Any lot of tobacco which has been so handled or packed as to conceal damaged, injured, tangled, or inferior tobacco, or foreign matter.

§ 30.20 Crude.

Very unripe, and having the general appearance of being very immature. Crude tobacco ordinarily has a characteristic green color.

§ 30.21 Foreign matter.

Any substance or material extraneous to tobacco leaves, such as dirt, sand, stalks, suckers, straws, and strings.

§ 30.31 Classification of leaf tobacco.

For the purpose of this classification leaf tobacco shall be divided into the following classes:

- Class 1. Flue-cured types.
- Class 2. Fire-cured types.
- Class 3.² Air-cured types.
- Class 4. Cigar-filler types.
- Class 5. Cigar-binder types.
- Class 6. Cigar-wrapper types.
- Class 7. Miscellaneous domestic types.
- Class 8. Foreign-grown cigar-leaf type.
- Class 9. Foreign-grown types, other than cigar leaf.

²Class 3 covers Air-cured tobacco other than cigar leaf. This class may be subdivided as follows: Class 3a, Light Air-cured tobacco, including types 31 and 32, and class 3b, Dark Air-cured tobacco, including types 35, 36, and 37.

For the purpose of this classification the classes shall be divided into the types and groups set forth in §§ 30.36-30.44.

§ 30.36 Class 1; flue-cured types and groups.

(a) *Type 11.* That type of flue-cured tobacco commonly known as Old Belt Flue-cured, Western District Bright, Middle Belt Flue-cured, or Semibold Belt Flue-cured; and produced principally in the Piedmont sections of Virginia and North Carolina.

(b) *Type 12.* That type of flue-cured tobacco commonly known as Eastern Flue-cured, New Belt of North Carolina Flue-cured, Eastern District Bright, or Eastern Carolina Bright; and produced principally in the coastal plains section of North Carolina, north of the South River.

(c) *Type 13.* That type of flue-cured tobacco commonly known as Southeastern Flue-cured, Southeastern Bright, South Carolina Flue-cured, or New Belt of South Carolina and southeastern North Carolina; and produced principally in the coastal plains section of South Carolina and the southeastern counties of North Carolina south of the South River.

(d) *Type 14.* That type of flue-cured tobacco commonly known as Southern Flue-cured, Southern Bright, Southern District Bright, New Belt of Georgia and Florida, Florida Bright, Alabama Bright, or Georgia Flue-cured; and produced principally in the southern sections of Georgia and to some extent in Florida, Alabama, and Mississippi.

Groups applicable to types 11, 12, 13, and 14:

- A. Wrappers.
- B. Heavy leaf, cutting leaf, and fillers.
- C. Thin leaf or cutters.
- X. Lugs and ground leaves.
- S. Scrap, as defined.
- N. Nondescript, as defined.

§ 30.37 Class 2; fire-cured types and groups.

(a) *Type 21.* That kind of fire-cured tobacco commonly known as Eastern Fire-cured, Virginia Fire-cured, Smoked, or Dark-fired, or Dark Virginia; and produced principally in the Piedmont and mountain sections of Virginia.

(b) *Type 22.* That type of fire-cured tobacco commonly known as Southern Fire-cured, Clarksville, Hopkinsville, and Springfield Fire-cured or Dark-fired, or Kentucky-Tennessee Broadleaf; and produced principally in a section east

of the Tennessee River, in southern Kentucky and northern Tennessee.

(c) *Type 23.* That type of fire-cured tobacco commonly known as Western Fire-cured, Mayfield and Paducah Dark-fired or Western District Dark; and produced principally in a section between the Tennessee, Ohio, and Mississippi Rivers in western Kentucky and northwestern Tennessee.

(d) *Type 24.* That type of fire-cured tobacco commonly known as Northern Fire-cured, Henderson Dark-fired or Smoked, the Stemming District, Madisonville Dark or Dark-fired, including the fire-cured of the Owensboro district; and produced principally in the Henderson district of Kentucky.

Groups applicable to types 21, 22, 23, and 24:

- A. Wrappers.
- B. Heavy leaf.
- C. Thin leaf.
- X. Lugs.
- S. Scrap, as defined.
- N. Nondescript, as defined.

§ 30.38 Class 3; air-cured types and groups.

(a) *Type 31.* That type of air-cured tobacco commonly known as Burley, Burley, Air-cured, Red Burley, White Burley, or Light Air-cured of Kentucky; and produced principally in central and northeastern Kentucky, southern Ohio and Indiana, western West Virginia, central and eastern Tennessee, and sections of Virginia, North Carolina, Missouri, and Arkansas.

Groups applicable to type 31:

- A. Wrappers.
- B. Leaf or fillers and tips.
- C. Lugs or cutters.
- X. Trash, flyings and spools.
- S. Scrap, as defined.
- N. Nondescript, as defined.

(b) *Type 31-V.* Notwithstanding the definitions of "Type" and "Type 31", any tobacco having the general visual characteristics of quality, color, and length of Class 3, Type 31, air-cured tobacco, but which is a low-nicotine strain or variety, produced and to be marketed under such restrictions or controls as shall be specified by the Director of the Tobacco Division, Agricultural Marketing Service, United States Department of Agriculture, and which in its cured

state is found by an authorized representative of the Department to have a nicotine content of not more than eight-tenths of one per centum ($\frac{8}{10}$ of 1%), oven dry weight, shall not be classified as Type 31 but shall be classified and designated upon certification by the Department as Type 31-V. No groups are applicable to Type 31-V.

(c) *Restrictions and controls relating to the production and marketing of Type 31-V tobacco as a prerequisite to the classification and certification of such tobacco—*(1) *Declaration of seed or seedlings.* Tobacco shall be produced from seed or seedlings declared to be a suitable low-nicotine strain or variety for the production of Type 31-V, by an agency or agencies designated by the Director of the Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture.

(2) *Production under contract.* Type 31-V tobacco shall be grown under contract with a dealer in tobacco or a manufacturer of tobacco products. In addition to any other provisions not inconsistent herewith, the contract shall provide that:

(i) The dealer or manufacturer shall furnish to the grower seed or seedlings declared therefor as provided in subparagraph (1) of this paragraph;

(ii) The grower shall deliver to the dealer or manufacturer all tobacco produced from such seed or seedlings;

(iii) The grower shall produce not in excess of the number of acres of low-nicotine tobacco specified in the contract;

(iv) The grower shall establish clear lines of demarcation between the low-nicotine tobacco and any other type of tobacco grown on the farm; and

(v) The low-nicotine tobacco shall be housed and handled separately and shall not be commingled with any other type of tobacco: *Provided*, That this provision shall not prohibit the housing of low-nicotine and other types of tobacco in the same curing barn so long as the low-nicotine tobacco is clearly identified and is not commingled with any other type of tobacco.

(3) *Filing of copy of contract.* A copy of each contract referred to in subparagraph (2) of this paragraph shall be filed by the dealer or manufacturer with

the Tobacco Division by May 1 of each year.

(4) *Restrictions on sale and marketing.* The low-nicotine tobacco shall not be offered for sale, sold, marketed, or otherwise disposed of unless such tobacco is clearly represented and identified as being low-nicotine tobacco: *Provided*, That this restriction shall not apply to products manufactured from such tobacco.

(5) *Nicotine content.* The nicotine content of the tobacco in its cured state, based on an official sample drawn and selected as being representative of the whole production from the acreage of low-nicotine tobacco planted under said contract by the same grower during the same calendar year, shall not be more than eight-tenths of one per centum ($\frac{1}{10}$ of 1%) oven dry weight.

(6) *Furnishing of information.* Each dealer or manufacturer and each grower shall, from time to time, furnish to the Director of the Tobacco Division, such information as shall be requested relating to the production, stocks, and disposition of low-nicotine tobacco.

(7) *Prohibitions relating to seed and plants.* No seed shall be saved or harvested from the tobacco produced under a contract referred to in subparagraph (2) of this paragraph. No grower to whom seed or seedlings is furnished pursuant to subparagraph (2) (1) of this paragraph shall deliver or transfer any such seed or any plant produced therefrom to any other person.

(8) *Designation of seed or seedlings declaring agencies.* The Kentucky Agricultural Experiment Station, Lexington, Kentucky, is designated as an agency for the declaration of seed or seedlings pursuant to subparagraph (1) of this paragraph.

(9) *Definitions.* For the purposes of the restrictions and controls hereinbefore set forth a "dealer" or a "manufacturer" shall be a dealer in tobacco or a manufacturer of tobacco products so registered with the United States Treasury Department, Internal Revenue Service.

(10) *Tobacco previously produced.* Low-nicotine tobacco grown and harvested prior to the effective date hereof may be certified as Type 31-V tobacco without compliance with the require-

ments hereinbefore set forth: *Provided*, That satisfactory evidence of type is supplied to the Director of the Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture prior to certification.

(d) *Type 32.* That type of air-cured tobacco commonly known as Southern Maryland tobacco, Maryland Air-cured, or Maryland Export; and produced principally in southern Maryland. (Upper country Maryland is classed as "miscellaneous domestic.")

Groups applicable to type 32.

B. Heavy leaf, locally known as dull crop.

C. Thin leaf, locally known as bright crop.

X. Seconds and ground leaves.

S. Scrap, as defined.

N. Nondescript, as defined.

(e) *Type 35.* That type of air-cured tobacco commonly known as One-sucker, One-sucker Air-cured, Kentucky-Tennessee One-sucker, Indiana One-sucker, or Dark Air-cured One-sucker, including the Upper Cumberland District One-sucker; and produced principally in northern Tennessee, south central Kentucky, and southern Indiana.

(f) *Type 36.* That type of air-cured tobacco commonly known as Green River, Green River Air-cured, Henderson District Air-cured, or Owensboro District Air-cured; and produced principally in the Green River section of Kentucky in both the Owensboro and Henderson districts.

(g) *Type 37.* That type of air-cured or sun-cured tobacco, commonly known as Virginia Sun-cured, Virginia Sun and Air-cured, or Dark Virginia Air-cured; and produced principally in the central section of Virginia north of the James River.

Groups applicable to types 35, 36, and 37.

A. Wrappers.

B. Heavy leaf.

C. Thin leaf.

X. Lugs.

S. Scrap, as defined.

N. Nondescript, as defined.

[SRA, BAE 118, Nov. 1929, as amended at 12 F. R. 4879, July 23, 1947; 12 F. R. 8041, Dec. 3, 1947]

§ 30.39 Class 4; cigar-filler types and groups.

(a) *Type 41.* That type of cigar-leaf tobacco commonly known as Pennsyl-

vania Seedleaf, Pennsylvania Broadleaf, Pennsylvania Filler type, or Lancaster and York County Filler type; and produced principally in Lancaster County, Pa., and the adjoining counties.

Groups applicable to type 41:

- B. Binders or tops.
- C. Fillers, locally known as wrappers or B's.
- X. Stemming, farm fillers, ground leaves, and crops unsuitable for sorting.
- S. Scrap, as defined.
- N. Nondescript, as defined.

(b) *Type 42.* That type of cigar-leaf tobacco commonly known as Gebhardt, Ohio Seedleaf, or Ohio Broadleaf; and produced principally in the Miami Valley section of Ohio and extending into Indiana.

(c) *Type 43.* That type of cigar-leaf tobacco commonly known as Zimmer, Ohio Zimmer, or Zimmer Spanish; and produced principally in the Miami Valley section of Ohio and extending into Indiana.

(d) *Type 44.* That type of cigar-leaf tobacco commonly known as Dutch, Shoestring Dutch, or Little Dutch; and produced principally in the Miami Valley section of Ohio.

Groups applicable to types 42, 43, and 44:

- C. Fillers, locally known as wrappers.
- X. Stemming, farm fillers, ground leaves, and crops unsuitable for sorting.
- S. Scrap, as defined.
- N. Nondescript, as defined.

(e) *Type 45.* That type of cigar-leaf tobacco commonly known as Georgia and Florida Sun-grown Cigar-leaf or the Georgia and Florida Filler type; and produced principally in southwestern Georgia and the central part of northern Florida.

Groups applicable to type 45:

- C. Fillers.
- X. Stemming, ground leaves, and crops unsuitable for sorting.
- S. Scrap, as defined.
- N. Nondescript, as defined.

(f) *Type 46.* That type of cigar-leaf tobacco commonly known as Puerto Rican Sun-grown or the Puerto Rican Filler type, including primed (deshojado) and stalk-cut (manajo); and produced in Puerto Rico.

Groups applicable to type 46:

- C. Tripas or fillers.
- X. Resagos, terceros, boliches, and crops unsuitable for sorting.

S. Scrap (picadura), as defined.

N. Nondescript, as defined.

§ 30.40 Class 5; cigar-binder types and groups.

(a) *Type 51.* That type of cigar-leaf tobacco commonly known as Connecticut Broadleaf or Connecticut Valley Broadleaf; and produced principally in the Connecticut Valley section of Connecticut and Massachusetts.

(b) *Type 52.* That type of cigar-leaf tobacco commonly known as Connecticut Valley Havana Seed, Connecticut Havana Seed, Primed Havana, or Stalk-cut Havana; and produced principally in the Connecticut Valley section of Connecticut and Massachusetts.

(c) *Type 53.* That type of cigar-leaf tobacco commonly known as York State Tobacco, Havana Seed of New York, or the Binder type of New York and Pennsylvania; and produced principally in the Big Flats and Onondaga sections of New York State, and extending into Pennsylvania.

Groups applicable to types 51, 52, and 53:

- A. Wrappers.
- B. Binders, locally known as seconds.
- C. Fillers, locally known as tips or B's.
- X. Stemming, sand-leaf fillers, ground leaves, and crops unsuitable for sorting.
- S. Scrap, as defined.
- N. Nondescript, as defined.

(d) *Type 54.* That type of cigar-leaf tobacco commonly known as Southern Wisconsin Cigar-Leaf and Southern Wisconsin Binder type; and produced principally south and east of the Wisconsin River, and extending into Illinois.

(e) *Type 55.* That type of cigar-leaf tobacco commonly known as Northern Wisconsin Cigar-Leaf, or Northern Wisconsin Binder type; and produced principally north and west of the Wisconsin River, and to some extent in Minnesota.

Groups applicable to types 54 and 55:

- B. Binders.
- C. Fillers, locally known as tips or B's.
- X. Stemming, sand-leaf fillers, bottom leaves, and crops unsuitable for sorting.
- S. Scrap, as defined.
- N. Nondescript, as defined.

§ 30.41 Class 6; cigar-wrapper types and groups.

(a) *Type 61.* That type of cigar-leaf tobacco commonly known as Northern Shade, Connecticut Valley Shade-grown,

or Shade of Connecticut; and produced principally in the Connecticut Valley section of Connecticut and Massachusetts.

(b) *Type 62.* That type of cigar-leaf tobacco commonly known as Southern Shade Georgia and Florida Shade-grown, or Shade of Georgia and Florida; and produced principally in southwestern Georgia and in the central part of northern Florida.

Groups applicable to types 61 and 62:

- A. Wrappers.
- B. Binders.
- C. Fillers, or tips.
- X. Trashy fillers or loose leaves.
- S. Scrap, as defined.
- N. Nondescript, as defined.

§ 30.42 Class 7; miscellaneous types of domestic tobacco.

(a) No type or group divisions have been worked out for Class 7. In addition, notwithstanding the definitions of "Class," "Type," "Type 11," "Type 12," "Type 13" and "Type 14," any tobacco having the general visual characteristics of quality, color and length of the types and groups contained in Class 1, flue-cured tobacco, but which is a strain or variety found in its cured state by an authorized representative of the Department to have a nicotine content of not more than eight-tenths of one per centum ($\frac{8}{10}$ of 1%), oven dry weight, shall be designated upon certification by the Department as Class 7: *Provided*, That for the purpose of establishing and maintaining the identity of such tobacco, it shall not be sold or offered for sale through customary marketing channels for class 1, flue-cured tobacco; and it shall be identified in accordance with instructions issued by the Tobacco Division, Consumer and Marketing Service, U.S. Department of Agriculture (or other designated agency of the U.S. Department of Agriculture), covering certification of seed or seedlings, contracts for production, designation and demarcation of fields in which grown, maintenance of separate identity of such tobacco from other tobacco, furnishing of samples and furnishing of such information as may be requested relating to production, stocks, and disposition of such tobacco.

(b) For the purposes of the tobacco-stocks reports all miscellaneous domestic tobacco shall be designated as follows:

(1) *Type 70:* All domestic-grown tobacco which has not been otherwise classified, including tobacco cured in the same manner as Class 1, flue-cured tobacco, but having a nicotine content of not more than eight-tenths of one per centum ($\frac{8}{10}$ of 1%), oven dry weight. Also included in the miscellaneous types are such types as Ohio Flue-cured and Fire-cured (known as Eastern Ohio), Upper Country Maryland, Louisiana Perique, California Turkish, and Virginia One-sucker, and the production of the insular possessions of the United States not otherwise classified.

[18 F. R. 2747, May 13, 1953, as amended at 19 F. R. 4052, July 3, 1954]

§ 30.43 Class 8; foreign-grown cigar-leaf types.

No type or group divisions have been worked out for class 8. For the purposes of the tobacco-stocks reports all foreign-grown cigar-leaf tobacco shall be designated as follows:

(a) *Type 80.* All imported Sumatra, Java, Cuba (Havana) and other foreign-grown cigar-leaf tobacco in the continental United States, including that in customs bonded warehouses and factories and that withdrawn from bond.

§ 30.44 Class 9; foreign-grown types other than cigar-leaf.

No type or group divisions has been worked out for class 9. For the purposes of the tobacco stocks reports all foreign-grown types other than cigar-leaf tobacco shall be designated as follows:

(a) *Type 90.* All leaf tobaccos imported from Turkey, Greece, Bulgaria, Russia, China, or other countries which are used principally for cigarettes, pipe smoking, or chewing purposes.

REPORTS

§ 30.60 Reports.

Within fifteen (15) days after January 1, April 1, July 1, and October 1 of each year, all manufacturers, dealers, grower cooperative associations, owners or agents, other than the original grower of the tobacco and manufacturers who produced less than 185,000 cigars, or 750,000 cigarettes or 35,000 pounds of manufactured tobacco during the first three quarters of the preceding

calendar year, shall complete and mail to the Director, Tobacco Division, Consumer and Marketing Service, U.S. Department of Agriculture, Washington 25, D. C., in the detail required on forms available from him, reports showing the following information as to leaf tobacco in leaf and sheet form:

(a) *Tobacco in leaf form.* The pounds of tobacco in leaf form owned on the first day of the applicable quarter, with all stocks reported by types of tobacco and whether stemmed or unstemmed, and an additional separation to broad quality grouping for cigar leaf; and

(b) *Tobacco in sheet form.* The pounds of leaf tobacco stemmed or unstemmed included in and represented by all stocks of tobacco sheet owned on the first day of the applicable quarter, segregated by the classification and type of tobacco included in and represented by such tobacco sheet and further segregated as to whether for cigar binder or for cigarettes, except that a purchaser of tobacco sheet may, in lieu of the above, report the pounds of sheet tobacco owned on the first day of the applicable quarter, segregated as to whether for cigar binder or cigarettes and give the name of the firm or firms which produced such sheet tobacco.

[22 F. R. 9453, Nov. 27, 1957]

NOTE: The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reporting Act of 1942.

PART 31—WOOL STANDARDS

OFFICIAL STANDARDS OF THE UNITED STATES FOR GRADES OF WOOL

Sec.	Official grades.
31.0	Official grades.
31.1	Finer than grade 80's.
31.2	Grade 80's.
31.3	Grade 70's.
31.4	Grade 64's.
31.5	Grade 62's.
31.6	Grade 60's.
31.7	Grade 58's.
31.8	Grade 56's.
31.9	Grade 54's.
31.10	Grade 50's.
31.11	Grade 48's.
31.12	Grade 46's.
31.13	Grade 44's.
31.14	Grade 40's.
31.15	Grade 36's.
31.16	Coarser than grade 36's.

OFFICIAL STANDARDS OF THE UNITED STATES FOR GRADES OF WOOL TOP

Sec.	
31.100	Official grades.
31.101	Finer than grade 80s.
31.102	Grade 80s.
31.103	Grade 70s.
31.104	Grade 64s.
31.105	Grade 62s.
31.106	Grade 60s.
31.107	Grade 58s.
31.108	Grade 56s.
31.109	Grade 54s.
31.110	Grade 50s.
31.111	Grade 48s.
31.112	Grade 46s.
31.113	Grade 44s.
31.114	Grade 40s.
31.115	Grade 36s.
31.116	Coarser than grade 36s.

DEFINITIONS

31.200	Meaning of words.
31.201	Terms defined.

METHODS FOR DETERMINING GRADE OF WOOL

31.202	General.
31.203	Inspection method.
31.204	Measurement method.

METHODS FOR DETERMINING GRADE OF WOOL TOP

31.300	General.
31.301	Measurement method.
31.302	Inspection method.

SAMPLES REPRESENTATIVE OF OFFICIAL GRADE STANDARDS OF THE UNITED STATES FOR WOOL AND WOOL TOP

31.400	Standard samples for wool and wool top grades; method of obtaining.
31.401	Cost of standard samples for wool grades.
31.402	Cost of standard samples for wool top grades.

AUTHORITY: The provisions of this Part 31 issued under secs. 1-3, 45 Stat. 593, 594, secs. 203, 205, 60 Stat. 1087, 1090; 7 U.S.C. 415b-415d, 1622, 1624.

OFFICIAL STANDARDS OF THE UNITED STATES FOR GRADES OF WOOL

SOURCE: §§ 31.0 to 31.16 appear at 30 F.R. 10829, Aug. 20, 1965, unless otherwise noted.

§ 31.0 Official grades.

The official grades of wool shall be those established in §§ 31.1 through 31.16; *Provided, however,* That the wool which qualifies for any of the grades in §§ 31.1 through 31.15 on the basis of its average fiber diameter shall be reduced in grade to the next coarser grade if its standard deviation in fiber diameter exceeds the maximum specified for the grade to which the average fiber diameter corresponds.

§ 31.1 Finer than grade 80's.

Wool with an average fiber diameter of 17.69 microns or less and a standard deviation in fiber diameter of 3.59 microns or less.

§ 31.2 Grade 80's.

Wool with an average fiber diameter of 17.70 to 19.14 microns, inclusive, and a standard deviation in fiber diameter of 4.09 microns or less.

§ 31.3 Grade 70's.

Wool with an average fiber diameter of 19.15 to 20.59 microns, inclusive, and a standard deviation in fiber diameter of 4.59 microns or less.

§ 31.4 Grade 64's.

Wool with an average fiber diameter of 20.60 to 22.04 microns, inclusive, and a standard deviation in fiber diameter of 5.19 microns or less.

§ 31.5 Grade 62's.

Wool with an average fiber diameter of 22.05 to 23.49 microns, inclusive, and a standard deviation in fiber diameter of 5.89 microns or less.

§ 31.6 Grade 60's.

Wool with an average fiber diameter of 23.50 to 24.94 microns, inclusive, and a standard deviation in fiber diameter of 6.49 microns or less.

§ 31.7 Grade 58's.

Wool with an average fiber diameter of 24.95 to 26.39 microns, inclusive, and a standard deviation in fiber diameter of 7.09 microns or less.

§ 31.8 Grade 56's.

Wool with an average fiber diameter of 26.40 to 27.84 microns, inclusive, and a standard deviation in fiber diameter of 7.59 microns or less.

§ 31.9 Grade 54's.

Wool with an average fiber diameter of 27.85 to 29.29 microns, inclusive, and a standard deviation in fiber diameter of 8.19 microns or less.

§ 31.10 Grade 50's.

Wool with an average fiber diameter of 29.30 to 30.99 microns, inclusive, and a standard deviation in fiber diameter of 8.69 microns or less.

§ 31.11 Grade 48's.

Wool with an average fiber diameter of 31.00 to 32.69 microns, inclusive, and a standard deviation in fiber diameter of 9.09 microns or less.

§ 31.12 Grade 46's.

Wool with an average fiber diameter of 32.70 to 34.39 microns, inclusive, and a standard deviation in fiber diameter of 9.59 microns or less.

§ 31.13 Grade 44's.

Wool with an average fiber diameter of 34.40 to 36.19 microns, inclusive, and a standard deviation in fiber diameter of 10.09 microns or less.

§ 31.14 Grade 40's.

Wool with an average fiber diameter of 36.20 to 38.09 microns, inclusive, and a standard deviation in fiber diameter of 10.69 microns or less.

§ 31.15 Grade 36's.

Wool with an average fiber diameter of 38.10 to 40.20 microns, inclusive, and a standard deviation in fiber diameter of 11.19 microns or less.

§ 31.16 Coarser than grade 36's.

Wool with an average fiber diameter of 40.21 microns or more.

**OFFICIAL STANDARDS OF THE UNITED STATES
FOR GRADES OF WOOL TOP**

SOURCE: §§ 31.100 to 31.116 appear at 38 F.R. 19073, Dec. 21, 1968, unless otherwise noted.

§ 31.100 Official grades.

The official grades of wool top shall be those established in §§ 31.101 through 31.116: *Provided, however,* That wool top which qualifies for any of the grades in §§ 31.101 through 31.116 on the basis of its average fiber diameter but fails to meet the fiber diameter dispersion requirements for that grade shall be assigned a dual grade designation. In such case, the first designation shall indicate the grade based on the average fiber diameter and the second designation shall be that of the next coarser grade and shall indicate merely that the fiber diameter dispersion does not meet the requirements specified for the grade corresponding to the average fiber diameter.

§ 31.101 Finer than grade 80s.

Wool top with an average fiber diameter of 18.09 microns or less and a fiber diameter dispersion that meets the following requirements:

- 25 microns and under—not less than 95 percent.
- 25.1 microns and over—not more than 5 percent.
- 30.1 microns and over—not more than 1 percent.

§ 31.102 Grade 80s.

Wool top with an average fiber diameter of 18.10 to 19.59 microns, inclusive, and a fiber diameter dispersion that meets the following requirements:

- 25 microns and under—not less than 91 percent.
- 25.1 microns and over—not more than 9 percent.
- 30.1 microns and over—not more than 1 percent.

§ 31.103 Grade 70s.

Wool top with an average fiber diameter of 19.60 to 21.09 microns, inclusive, and a fiber diameter dispersion that meets the following requirements:

- 25 microns and under—not less than 83 percent.
- 25.1 microns and over—not more than 17 percent.
- 30.1 microns and over—not more than 3 percent.

§ 31.104 Grade 64s.

Wool top with an average fiber diameter of 21.10 to 22.59 microns, inclusive, and a fiber diameter dispersion that meets the following requirements:

- 30 microns and under—not less than 92 percent.
- 30.1 microns and over—not more than 8 percent.
- 40.1 microns and over—not more than 1 percent.

§ 31.105 Grade 62s.

Wool top with an average fiber diameter of 22.60 to 24.09 microns, inclusive, and a fiber diameter dispersion that meets the following requirements:

- 30 microns and under—not less than 86 percent.
- 30.1 microns and over—not more than 14 percent.
- 40.1 microns and over—not more than 1.50 percent.

§ 31.106 Grade 60s.

Wool top with an average fiber diameter of 24.10 to 25.59 microns, inclusive, and a fiber diameter dispersion that meets the following requirements:

- 30 microns and under—not less than 80 percent.
- 30.1 microns and over—not more than 20 percent.
- 40.1 microns and over—not more than 2 percent.

§ 31.107 Grade 58s.

Wool top with an average fiber diameter of 25.60 to 27.09 microns, inclusive, and a fiber diameter dispersion that meets the following requirements:

- 30 microns and under—not less than 72 percent.
- 30.1 microns and over—not more than 28 percent.
- 50.1 microns and over—not more than 1 percent.

§ 31.108 Grade 56s.

Wool top with an average fiber diameter of 27.10 to 28.59 microns, inclusive, and a fiber diameter dispersion that meets the following requirements:

- 30 microns and under—not less than 62 percent.
- 30.1 microns and over—not more than 38 percent.
- 50.1 microns and over—not more than 1 percent.

§ 31.109 Grade 54s.

Wool top with an average fiber diameter of 28.60 to 30.09 microns, inclusive, and a fiber diameter dispersion that meets the following requirements:

- 30 microns and under—not less than 54 percent.
- 30.1 microns and over—not more than 46 percent.
- 50.1 microns and over—not more than 2 percent.

§ 31.110 Grade 50s.

Wool top with an average fiber diameter of 30.10 to 31.79 microns, inclusive, and a fiber diameter dispersion that meets the following requirements:

- 30 microns and under—not less than 44 percent.
- 30.1 microns and over—not more than 56 percent.
- 50.1 microns and over—not more than 2 percent.

§ 31.111 Grade 48s.

Wool top with an average fiber diameter of 31.80 to 33.49 microns, inclusive, and a fiber diameter dispersion that meets the following requirements:

- 40 microns and under—not less than 75 percent.
- 40.1 microns and over—not more than 25 percent.
- 60.1 microns and over—not more than 1 percent.

§ 31.112 Grade 46s.

Wool top with an average fiber diameter of 33.50 to 35.19 microns, inclusive, and a fiber diameter dispersion that meets the following requirements:

- 40 microns and under—not less than 68 percent.
- 40.1 microns and over—not more than 32 percent.
- 60.1 microns and over—not more than 1 percent.

§ 31.113 Grade 44s.

Wool top with an average fiber diameter of 35.20 to 37.09 microns, inclusive, and a fiber diameter dispersion that meets the following requirements:

- 40 microns and under—not less than 62 percent.
- 40.1 microns and over—not more than 38 percent.
- 60.1 microns and over—not more than 2 percent.

§ 31.114 Grade 40s.

Wool top with an average fiber diameter of 37.10 to 38.99 microns, inclusive, and a fiber diameter dispersion that meets the following requirements:

- 40 microns and under—not less than 54 percent.
- 40.1 microns and over—not more than 46 percent.
- 60.1 microns and over—not more than 3 percent.

§ 31.115 Grade 36s.

Wool top with an average fiber diameter of 39.00 to 41.29 microns, inclusive, and a fiber diameter dispersion that meets the following requirements:

- 40 microns and under—not less than 44 percent.
- 40.1 microns and over—not more than 56 percent.
- 60.1 microns and over—not more than 4 percent.

§ 31.116 Coarser than grade 36s.

Wool top with an average fiber diameter of 41.30 microns or over.

DEFINITIONS

SOURCE: §§ 31.200 to 31.201 appear at 30 F.R. 10830, Aug. 20, 1965, unless otherwise noted.

§ 31.200 Meaning of words.

Words used in this part in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

§ 31.201 Terms defined.

For the purposes of this part, unless the context otherwise requires, the following terms shall be construed respectively to mean:

(a) *Department.* The United States Department of Agriculture.

(b) *Consumer and Marketing Service.* The Agricultural Marketing Service of the Department.

(c) *Administrator.* The Administrator of the Agricultural Marketing Service, or any officer or employee of the Agricultural Marketing Service to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(d) *Division.* The Livestock Division of the Agricultural Marketing Service.

(e) *Director.* The Director of the Division, or any officer or employee of the Division to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(f) *Grade.* (1) With respect to wool, this term means a numerical designation of wool fineness based on average fiber diameter and variation of fiber diameter. It does not include characteristics such as length, crimp, strength, elasticity, luster, hand, and color—all of which affect the spinnability of wool and the properties of the yarn and fabric and which are usually referred to as "quality." Neither does it apply to wool by geographic origin, breed of sheep, manner of preparation for market, or a combination of characteristics which makes wool appropriate for a specific use. These characteristics are usually referred to as "type."

(2) With respect to wool top, this term means a numerical designation of wool top fineness based on average fiber diameter and fiber diameter dispersion. It does not include characteristics such as length, crimp, strength, elasticity, luster, hand, and color—all of which affect the spinnability of wool and the properties of the yarn and fabric. These characteristics are usually referred to as "quality."

(g) *Wool*. The fiber from the fleece of sheep.

(h) *Wool top*. A continuous untwisted strand of scoured wool fibers from which the shorter fibers or nolls have been removed by combing

(1) *Fineness*. This term refers to fiber diameter.

(j) *Average fiber diameter*. The sum of the individual fiber diameter measurements divided by the number of fibers measured, as described in § 31.204(a).

(k) *Micron*. A unit of linear measurement equal to 1/1000 millimeter or 1/25400 inch.

(l) *Grease wool*. Wool, as obtained from living sheep.

(m) *Scoured wool*. Wool from which the bulk of the impurities have been removed by washing in warm water, soap, and alkali or by an equivalent process.

(n) *Fleece*. The wool of one sheep obtained by shearing.

(o) *Skirted fleece*. A fleece from which the belly, britch, and stained portions have been removed.

(p) *Sorted wool*. Wool removed from various parts of fleeces and combined into different groups or sorts, each of which has closely similar fineness, length, and other qualities.

(q) *Pulled wool*. Wool obtained from the pelts of slaughtered sheep by pulling or similar means after subjecting the pelt to sweating, the use of a depilatory, or other auxiliary treatment to loosen the wool fibers from the skin.

(r) *Card sliver*. Wool that has been scoured and carded and formed into a continuous, untwisted strand of loosely assembled fibers.

(s) *Lot*. (1) With respect to wool, this term means the entire quantity of wool or card sliver constituting the subject of consideration or test.

(2) With respect to wool top, this term means the entire quantity of wool top constituting the subject of consideration or test.

(t) *Sample*. (1) With respect to wool, this term means a suitable amount of wool representing a lot, obtained as described in § 31.204(a) (5).

(2) With respect to wool top, this term means four slivers of top obtained as described in § 31.301(a) (4).

(u) *Test specimen*. (1) With respect to wool, this term means a representative portion of the sample obtained and prepared as described in § 31.204(a) (6).

(2) With respect to wool top, this term means a sliver of wool top, at least 1 yard (0.91 meter) long, obtained as described in § 31.301(a) (4).

(v) *Test*. (1) With respect to wool, this term means a determination by measurement of the average fiber diameter and the standard deviation of a sample of wool, in accordance with the procedures provided in § 31.204.

(2) With respect to wool top, this term means a determination by measurement of the average fiber diameter and the fiber diameter dispersion of a sample of wool top, in accordance with procedures provided in § 31.301.

(w) *Core sampling*. A method of coring a package of wool by means of special tools to obtain a representative sample of the wool according to the appropriate procedures described in § 31.204(a) (5).

(x) *Hand sampling*. A method of drawing by hand many small handfuls of wool to obtain a representative sample of the wool according to the appropriate procedures described in § 31.204(a) (5).

(y) *Major sort*. The wool of one grade that is greater by weight than any other grade in a fleece.

(z) *Standards*. The official standards of the United States for grades of wool and wool top.

(aa) *Standard samples*. Physical samples representative of the standards.

(bb) *Bulk sample*. A quantity of wool selected for use in the preparation of standard samples.

[30 F.R. 10830, Aug. 20, 1965, as amended at 33 F.R. 19074, Dec. 21, 1968]

METHODS FOR DETERMINING GRADE OF WOOL

SOURCE: §§ 31.202 to 31.204 appear at 30 F.R. 10831, Aug. 20, 1965, unless otherwise noted.

§ 31.202 General.

The official standards of the United States for grades of wool, as defined in

§§ 31.1–31.16, shall be the basis of classification of wool by grade. Grade may be determined by inspection, usually by comparison of the fiber diameters of the wool being graded with the fiber diameters of samples representative of standards; or by measuring a prescribed number of fibers of a sample, calculating the average and standard deviation of fiber diameter and comparing the average and standard deviation with the diameter specifications for grades of wool. The provisions in §§ 31.203–31.204 prescribe methods for making such determinations. Both methods for determining grade shall be official; however, if the grade as determined by inspection differs from that determined by measurement, the grade determined by measurement shall prevail.

§ 31.203 Inspection method.

Determination of the grade of wool by inspection frequently will be facilitated by comparing the fiber fineness of a sample of wool representative of the lot with the fiber fineness of valid standard wool samples representative of the official grades, in accordance with the procedure described in this section. A core sample is not satisfactory for determination of grade by the inspection method. When using the standard wool samples, the following procedures shall be followed:

(a) *Procedure for wools not in fleece form.* The fibers in the lot sample shall be compared with the fibers in the standard wool samples. The grade of the lot shall be designated as the grade corresponding to the standard wool sample which the lot sample most nearly matches in fineness.

(b) *Procedure for fleeces.* (1) For fleeces that have a major sort, the grade of the major sort shall be determined in accordance with the procedure specified in paragraph (a) of this section, and this shall be designated as the grade of the fleece.

(2) For fleeces that do not have a major sort, the grade of the entire fleece shall be determined in accordance with the procedure specified in paragraph (a) of this section.

§ 31.204 Measurement method.

The determination of the grade of wool by measurement shall be by comparison of the measured average and standard deviation of fiber diameter with the spec-

ifications of the United States standards. This determination shall be made in accordance with the procedure for determining average and standard deviation of fiber diameter provided in paragraph (a) of this section and the procedure for designating grade provided in paragraph (b) of this section.

(a) *Procedure for determining average and standard deviation of fiber diameter—*(1) *Scope.* The procedure set forth in this section shall be used in the determination of the average and standard deviation of fiber diameter of grease wool, scoured wool, pulled wool, or wool in the form of card sliver.

(2) *Principle of procedure.* The average and standard deviation of fiber diameter are determined by sectioning the fibers in a specimen to a designated short length, mounting the sections on a slide, projecting the magnified image onto a scale, and measuring the diameter of a specified minimum number of the fibers, randomly selected, as specified in this section.

(3) *Apparatus and material.* The following apparatus and material are needed and shall comply with the following provisions:

(i) *Microprojector.* The microscope shall be equipped with a fixed body tube, a focusable stage responsive to coarse and fine adjustments, and a focusable substage with condenser and iris diaphragm. It shall be vertically installed with adequate light source, eyepiece, and objective to give a precise magnification of 500X as determined by use of a stage micrometer. A magnification of 500X can be obtained when the microscope is adjusted at a proper projection distance and equipped with a searchlight microprojector bulb, a 10 to 15X eyepiece, and a 20 to 21X objective of good quality with an aperture of approximately 0.50 centimeter.

(ii) *Stage micrometer.* Calibrated glass slide used for accurate setting and control of the magnification.

(iii) *Cross sectioning device, heavy duty.* An instrument approximately 2 inches in height, consisting essentially of a metal plate with slot for holding a quantity of fibers, a key for compressing the fibers, and a tongue-propelling arrangement by which the fiber bundle may be extruded for sectioning.

(iv) *Microscope slides.* 1" x 3" (25 x 75 mm).

(v) *Cover glasses.* No. 1 thickness, $\frac{3}{8}$ " x 2" (22 x 50 mm).

(vi) *Mounting medium.* Colorless mineral oil with a refractive index between 1.53 and 1.43, and of suitable viscosity.

(vii) *Wedge scales.* Strips of heavy paper or Bristol board, imprinted with a wedge for measurement of fiber diameter at a magnification of 500 \times . The wedge is usually divided into 2.5 micron intervals (cells).

(4) *Calibration.* The microscope shall be adjusted to give a magnification of 500 \times in the plane of the projected image. This may be accomplished by placing a stage micrometer on the stage of the microprojector and bringing the microscope into such adjustment that an interval of 0.20 mm on the stage micrometer will measure 100 mm when sharply focused in the center of the image plane.

(5) *Sampling.* The method of obtaining a sample representative of the fineness of a lot of grease wool, pulled wool, scoured wool, or card sliver will differ according to circumstances. Lots may be sampled either by coring or by hand. The sampling procedures, advisable are as follows:

(1) *Core sampling.* Core sampling of packaged scoured, pulled, or grease wool is advisable whenever feasible. Acceptable procedures and schedules for core sampling raw wool are described in current ASTM Standards on Textile Materials, Designation: D1060, "Standard Method of Core Sampling of Raw Wool Packages for Determination of Percentage of Clean Wool Fiber Present."¹ If a representative portion of the scoured wool core sample resulting from the test for clean wool fiber content is available, it may be used for average and standard deviation of fiber diameter determinations if the procedures described in ASTM Designation: D584, "Standard Methods of Tests for Wool Content of Raw Wool,"¹ are followed.

(ii) *Hand sampling an individual fleece.* A sample shall consist of approximately 30 grams of wool. For fleeces having a major sort, the sample shall be drawn at random from this part of the fleece. For fleeces not having a major

sort, the sample shall be drawn at random from all parts of the fleece.

(iii) *Hand sampling lots of fleece.* A sample shall consist of at least 3 pounds of wool. If the fleeces are packaged, the sample shall be drawn from at least 50 randomly selected fleeces from not less than 10 percent of randomly selected packages in the lot. If the fleeces are in piles, the sample shall be drawn from at least 50 fleeces selected from random locations throughout the pile. If there are less than 50 fleeces in the lot, all fleeces shall be sampled. Each fleece shall be sampled in accordance with the provisions in subdivision (ii) of this subparagraph.

(iv) *Hand sampling lots of scoured, pulled, and grease wool not in fleece form.* A sample shall consist of at least 3 pounds of wool. If the wool is packaged, the sample shall be drawn by taking a total of at least 50 handfuls of wool from not less than 10 percent of randomly selected packages in the lot. If the wool is in piles, the sample shall be drawn by taking from random locations throughout the pile at least 50 handfuls of wool.

(v) *Hand sampling card sliver.* Wool card sliver shall be sampled by drawing at random from the lot, preferably during the carding operation, ten 24-inch lengths of sliver.

(6) *Test specimens of grease wool, pulled wool, scoured wool, and card sliver.* The method of obtaining a test specimen representative of a sample drawn in accordance with the procedures of subparagraph (5) of this paragraph will differ according to circumstances. The methods advisable are as follows:

(1) *Obtaining test specimen from core test residue.* The test specimen shall be obtained from one or more aliquot portions of the scoured wool remaining after core testing of a lot for clean fiber content by using the following procedure: The sample shall be divided into 40 portions of approximately equal size. From each portion, a sufficient quantity of fibers shall be drawn at random to provide an aggregate test specimen of 20 grams. These fibers shall be mixed or blended to form the test specimen. For best blending results, test specimens from samples obtained by means of 1 $\frac{1}{4}$ -inch and larger coring tubes should be machine blended. However, samples drawn

¹ Copies of D1060 and D584 may be purchased from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pa., 19103.

with smaller tubes should not be machine blended since loss of fiber may occur. The machine blending of test specimens may be accomplished by carding the specimen 3 times, breaking the web and feeding at right angles after the first and second passes; or by gilling the specimens 15 times, breaking and combining the pieces of sliver to maintain a convenient length.

(ii) *Obtaining test specimens from other samples (except card sliver)*. Test specimens may be obtained by hand sampling or core sampling as described herein:

(a) *Hand sampling*. Samples shall be divided into 40 portions of approximately equal size. From each portion, a sufficient quantity of fiber to provide a test specimen of 20 grams shall be drawn at random. Test specimens of grease wool and pulled wool shall be scoured or otherwise cleaned. Clean specimens, except those from samples of wool with fibers less than $1\frac{1}{4}$ inches in length, shall be further homogenized, preferably by machine blending, following the procedures described in subdivision (i) of this subparagraph.

(b) *Core sampling*. The sample shall be compressed in a suitable container. By means of a $\frac{3}{8}$ -inch or a $\frac{1}{2}$ -inch coring tube with sharp tip, a sufficient number of cores shall be extracted to provide a test specimen of 20 grams of scoured wool. Test specimens of grease wool or pulled wool shall be scoured or otherwise cleaned.

NOTE: An example of a suitable container would be a box 12 inches by 10 inches by 6 inches deep, equipped with a floating top which has 16 randomly spaced holes three-fourth inch in diameter over its area. The wool may be firmly compressed by applying pressure on the top. The top is held in place by two rods extending through holes in the side of the box and over the top. The coring tube is thrust through the holes in the top to sample the wool.

(iii) *Obtaining test specimens from card sliver samples*. Portions shall be stripped from each of the ten 24-inch pieces of sliver obtained in accordance with subparagraph (5) (v) of this paragraph. These pieces shall be combined to form a composite sliver about 2 feet in length. This will constitute the test specimen.

(7) *Test condition*. Precondition all test specimens to approximate equilibrium in an atmosphere of 5 to 25 percent relative humidity at a temperature less than 122° F. (50° C.). Then condition them for at least 4 hours in the standard atmosphere for testing, 65 percent relative humidity ± 2 percent at 70° F. ± 2 ° F. (21° ± 1.1 ° C.) in temperature.

(8) *Preparation of slides*—(i) *Filling cross section device*. For specimen in sliver form, the specimen shall be placed in the slot of the cross section device, far enough from either end of the sliver to assure sectioning at an undisturbed area. It shall be compacted firmly with the compression key, and the latter secured with the set screw. For specimen not in sliver form, from the bulk of the test specimen, small quantities of fibers shall be drawn at random, packing the slot to the required level. The specimen shall be compacted firmly with the compression key, and the latter secured with the set screw.

(ii) *Preliminary section*. The gripped fibers shall be cut off at the upper and lower surfaces of the plate. The fiber bundle shall be extruded to the extent of approximately 0.50 mm in order to take up slack in the fibers and the propulsion mechanism. The projecting fibers shall be moistened with a few drops of mineral oil. This projecting fiber bundle shall be cut off with a razor blade flush with the upper surface of the fiber holder plate, and the section discarded.

(iii) *Final section*. The fiber bundle shall again be extruded, approximately 0.25 mm. The fiber bundle shall be moistened with a few drops of mineral oil, blotting off the excess. The projecting fibers shall be cut off with a sharp razor blade flush with the holder plate. The fiber pieces should adhere to the razor blade.

(iv) *Mounting the fibers*. A few drops of mineral oil shall be placed on a clean glass slide. With a dissecting needle, the fiber pieces shall be scraped from the razor blade onto the slide. The fibers shall be thoroughly dispersed in the oil with the dissecting needle and the slide completed with a cover glass. Sufficient oil should be used in the preparation of the slide to insure thorough distribution of the fibers, but an excess must be

avoided, as practically no oil should be permitted to flow out or be squeezed out beyond the borders of the cover glass. If the number of fibers is too great to permit proper distribution on the slide, or if an excess of oil has been used, a portion of the mixture, after thorough dispersion of the fibers, may be wiped away with a piece of tissue or cloth.

(v) *Finished slide.* The slide shall be placed on the stage of the microprojector, cover glass toward the objective. The measurement courses shall be planned across the slide so that the far, near, and intermediate areas will be reached. Slides shall be measured the day they are prepared.

(9) *Measurement of fibers.* Starting at the upper left corner on the slide, the midlength portion of the fiber to be measured shall be brought into sharp focus on the wedge scale. Fiber edges appear as fine lines without borders when they are uniformly in focus. It is unusual, however, for both edges of the fiber to be in focus at the same time. If both edges of the fiber are not uniformly in focus, adjustment shall be made so that one edge of the fiber is in focus and the other shows as a bright line. To record the measurement, it is necessary to mark the point where the wedge corresponds with the fiber image as determined by (i) the fine lines of both edges when they are uniformly in focus, or (ii) the fine line of one edge and the inner side of the bright line at the other edge when they are not uniformly in focus. The slide shall be traversed and successive fibers measured in the planned courses, measuring only those fibers whose midpoints come within the field—a circle 4 inches in diameter, centrally located in the projected area. Fibers shorter than 150 microns in length, and those having distorted images shall be excluded from measurement. The marks on the wedge indicating the diameter of fibers measured are counted and combined into cells for calculation as indicated in § 31.204(a) (12).

(10) *Nature of test.* A test shall comprise the measurement of the test specimen by two operators, each operator following independently the procedures of subparagraph (8) of this paragraph.

(11) *Number of fibers.* The minimum number of fibers required for each test

shall be the number for the respective grade as prescribed in the procedure for designating grade (paragraph (b) of this section), each operator measuring approximately one-half the required number of fibers. The prescribed minimum number of fibers per test should result in confidence limits of the mean ranging from approximately ± 0.4 to ± 0.5 micron at a probability level of 95 percent, when wools of average uniformity in fiber fineness are measured.

(12) *Calculation and report.* The measurements of both operators shall be combined and the following calculations made by using the applicable formulae shown below:

- (i) Total number of measurements (n)
- (ii) The average diameter of fiber (\bar{X}): $\bar{X} = A + mE$
- (iii) The standard deviation (σ): $\sigma = m\sqrt{E_1 - E_2}$

In the formulae stated above:

- A = Midpoint of cell containing the smallest measurement
- m = Cell interval
- $E_1 = \frac{\sum fx}{n}$
- $E_2 = \frac{\sum fz^2}{n}$
- Σ = Summation
- f = Observed frequency
- z = Deviation in cells from A

An example of the calculations is set forth below:

EXAMPLE OF CALCULATIONS: AVERAGE FIBER DIAMETER AND STANDARD DEVIATION

Cell No.	Cell boundary	A	Deviation in cells from A, z	Observed frequency f	fx	fz ²
5.....	10.0-12.5	11.25	0	1	0	0
6.....	12.5-15.0	-----	1	12	12	12
7.....	15.0-17.5	-----	2	53	106	212
8.....	17.5-20.0	-----	3	113	339	1,017
9.....	20.0-22.5	-----	4	132	528	2,112
10.....	22.5-25.0	-----	5	141	705	3,525
11.....	25.0-27.5	-----	6	111	666	3,996
12.....	27.5-30.0	-----	7	79	553	3,871
13.....	30.0-32.5	-----	8	63	504	4,032
14.....	32.5-35.0	-----	9	44	396	3,564
15.....	35.0-37.5	-----	10	28	280	2,800
16.....	37.5-40.0	-----	11	7	77	847
17.....	40.0-42.5	-----	12	6	72	864
18.....	42.5-45.0	-----	13	5	65	845
19.....	45.0-47.5	-----	14	3	42	588
20.....	47.5-50.0	-----	15	0	0	0
21.....	50.0-52.5	-----	16	2	32	512
Total.....	-----	-----	-----	800	4,377	28,797

Number of measurements (n) = 800
 A (midpoint of cell containing smallest diameter measurement) = 11.25 microns
 m (cell interval) = 2.5 microns

$$E_1 = \left(\frac{\sum f^2}{n} \right) - \frac{4377}{800} = 5.4712 \text{ and } E_2 = \left(\frac{\sum f^2}{n} \right) - \frac{28,797}{800} = 35.9962$$

Average diameter, $\bar{X} = A + mE_1 = 11.25 + 2.5(5.4712) = 24.93$ microns*

Standard deviation, $\sigma = m\sqrt{E_1 - E_1^2} = 2.5\sqrt{35.9962 - 29.9340} = 2.5(2.4622) = 6.16$ microns*

*Round off the calculated values of average fiber diameter and of standard deviation to two decimal places as follows: If the figure in the third decimal place is 4 or less, retain the figure in the second decimal place unchanged; otherwise, increase the figure in the second decimal place by 1.

(b) *Procedure for designating grade.* For grade determination by measurement, the minimum number of fibers to be measured per test based on the average fiber diameter limits of the various grades is set forth below.

MEASUREMENT SCHEDULE FOR DESIGNATING GRADES OF WOOL

Grade	Minimum number of fiber diameter measurements	Limits for average fiber diameter (microns)	Limit for standard deviation, maximum (microns)
Finer than 80's	400	Under 17.70...	3.59
80's	400	17.70 to 19.14...	4.09
70's	400	19.15 to 20.59...	4.59
64's	600	20.60 to 22.04...	5.19
62's	800	22.05 to 23.49...	5.89
60's	800	23.50 to 24.94...	6.49
58's	1,000	24.95 to 26.39...	7.09
56's	1,200	26.40 to 27.84...	7.59
54's	1,400	27.85 to 29.29...	8.19
50's	1,600	29.30 to 30.99...	8.69
48's	1,800	31.00 to 32.69...	9.09
46's	2,000	32.70 to 34.39...	9.59
44's	2,200	34.40 to 36.19...	10.09
40's	2,400	36.20 to 38.09...	10.69
38's	2,600	38.10 to 40.20...	11.19
Coarser than 36's	2,600	Over 40.20.....	

(1) *Grade designation.* That grade shall be assigned to a sample of wool which corresponds, in the measurement schedule for designating grades of wool, to the measured average and standard deviation of fiber diameter, provided this is determined in accordance with the procedure set forth in paragraph (a) of this section. Example: Measured average fiber diameter equals 27.25 microns; number of fiber diameter measurements equal 1200; standard deviation equals 6.72 microns; grade designation equals 56's. If the measured standard deviation exceeds the maximum specified for the grade to which the measured average fiber diameter corresponds, assign to the wool the next coarser grade. Example:

Measured average fiber diameter equals 27.25 microns; number of fiber diameter measurements equal 1200; standard deviation equals 7.80 microns; grade designation equals 54's. Example: Measured average fiber diameter equals 27.25 microns; number of fiber diameter measurements equals 1200; standard deviation equals 8.50 microns; grade designation equals 54's.

(2) *Interpretation.* Since all the wool in a lot may not be of the same grade, the grade determined by measurement represents only the average grade of the entire lot. It should not be construed to represent the grade of any component part of the lot selected on a nonrandom basis.

METHODS FOR DETERMINING GRADE OF WOOL TOP

Source: §§ 31.300 to 31.302 appear at 33 F.R. 19074, Dec. 21, 1968, unless otherwise noted.

§ 31.300 General.

The official standards of the United States for grades of wool top as defined in §§ 31.100-31.116 shall be the basis for determining the grade of wool top. The provisions in §§ 31.301-31.302 prescribe two methods for making such determinations—by measurement and by inspection. Both methods for determining grade shall be official; however, if the grade as determined by inspection differs from that determined by measurement, the grade determined by measurement shall prevail.

§ 31.301 Measurement method.

The determination of the grade of wool top by measurement shall be by comparison of the measured average fiber diameter and fiber diameter dispersion with the specifications of the U.S. standards. This determination shall be made in accordance with the procedure for determining average fiber diameter and fiber diameter dispersion provided in paragraph (a) of this section and the procedure for designating grade provided in paragraph (b) of this section.

(a) *Procedure for determining average fiber diameter and fiber diameter dispersion—(1) Principle of procedure.* The average fiber diameter and fiber diameter dispersion are determined by

sectioning the fibers in a sample to a designated short length, mounting the sections of fibers on a slide, projecting the magnified image onto a scale, and measuring the diameter of a minimum number of fibers, as specified in this section.

(2) *Apparatus and material.* The following apparatus and material are needed and shall comply with the following provisions:

(i) *Microprojector.* The microscope shall be equipped with a fixed body tube, a focusable stage responsive to a coarse and fine adjustment, and a focusable substage with condenser and iris diaphragm. It shall be vertically installed with adequate light source, eyepiece, and objective to give a precise magnification of $500\times$ as determined by use of a stage micrometer. A magnification of $500\times$ can be obtained when the microscope is adjusted at a proper projection distance and equipped with a searchlight microprojector bulb, a $10\text{--}15\times$ eyepiece, and a $20\text{--}21\times$ objective of good quality with an aperture of approximately 0.50 centimeter.

(ii) *Stage micrometer.* Calibrated glass slide used for accurate setting and control of the magnification.

(iii) *Cross-sectioning device, heavy duty.* An instrument approximately 5 cm. (2 inches) in height, consisting essentially of a metal plate with slot for holding a quantity of fibers, a key for compressing the fibers, and a tongue-propelling arrangement by which the fiber bundle may be extruded for sectioning.

(iv) *Microscope slides.* 25×75 mm. ($1''\times 3''$).

(v) *Cover glasses.* No. 1 thickness, 22×50 mm. ($\frac{7}{8}''\times 2''$).

(vi) *Mounting medium.* Colorless mineral oil with a refractive index between 1.53 and 1.43 and of suitable viscosity.

(vii) *Wedge scales.* Strips of heavy paper or Bristol board imprinted with a wedge for use at a magnification of $500\times$. The wedge is usually divided into 2.5 micron intervals.

(3) *Calibration.* The microscope shall be adjusted to give a magnification of $500\times$ in the plane of the projected image. This may be accomplished by placing a stage micrometer on the stage of the microprojector and bringing the

microscope into such adjustment that an interval of 0.20 mm. on the stage micrometer will measure 100 mm. when sharply focused in the center of the image plane.

(4) *Sampling.* Sample the lot of top by drawing from each 20,000 pounds (9,072 kilograms), or fraction thereof, four sections of sliver (test specimen) each of which shall be at least 1 yard (0.91 meter) in length and taken from different balls of top selected at random. Take one ball only from any one bale or carton. For broken top take an equivalent aggregate length of sliver at random. The four test specimens shall constitute a sample.

(5) *Test condition.* Precondition all samples to approximate equilibrium in an atmosphere of 5–25 percent relative humidity at a temperature less than 50°C . (122°F .). Then condition them for at least 4 hours in the standard atmosphere for testing— 65 ± 2 percent relative humidity at $21\pm 1.1^\circ\text{C}$. ($70\pm 2^\circ\text{F}$.).

(6) *Preparation of slides*—(i) *Filling cross-section device.* Each sliver (test specimen) of top making up the sample shall be placed individually in the slot of the cross-section device far enough from either end of the sliver to assure sectioning at an undisturbed area. The sliver shall be compacted firmly with the compression key and the latter secured with the set screw.

(ii) *Preliminary section.* The gripped fibers shall be cut off at the upper and lower surfaces of the plate. The fiber bundle shall be extruded to the extent of approximately 0.50 mm. in order to take up slack in the fibers and the propulsion mechanism. The projecting fibers shall be moistened with a few drops of mineral oil. This projecting fiber bundle shall be cut off with a razor blade flush with the upper surface of the fiber holder plate and the section discarded.

(iii) *Final section.* The fiber bundle shall again be extruded, approximately 0.25 mm., the equivalent of 250 microns. The fiber bundle shall be moistened with a few drops of mineral oil and the excess blotted off. The projecting fibers shall be cut off with a sharp razor blade flush with the holder plate. The fiber pieces should adhere to the razor blade.

(iv) *Mounting the fibers.* A few drops of mineral oil shall be placed on a clean

glass slide. With a dissecting needle the fiber pieces shall be scraped from the razor blade onto the slide. The fibers shall be thoroughly dispersed in the oil with the dissecting needle and the slide completed with a cover glass. Sufficient oil should be used in the preparation of the slide to insure thorough distribution of the fibers, but an excess must be avoided, as practically no oil should be permitted to flow out or be squeezed out beyond the borders of the cover glass. If the number of fibers is too great to permit proper distribution on the slide, or if an excess of oil has been used, a portion of the mixture, after thorough dispersion of the fibers, may be wiped away with a piece of tissue or cloth.

(v) *Finished slide.* The slide shall be placed on the stage of the microprojector, cover glass toward the objective. The measurement courses shall be planned across the slide so that the far, near, and intermediate areas will be reached. Slides shall be measured the day they are prepared.

(7) *Measurement of fibers.* The mid-length portion of the fiber to be measured shall be brought into sharp focus on the wedge scale. Fiber edges appear as fine lines without borders when they are uniformly in focus. It is unusual, however, for both edges of the fiber to be in focus at the same time. If both edges of the fiber are not uniformly in focus, adjustment shall be made so that one edge of the fiber is in focus and the other shows as a bright line. The measurements of 100 fibers are recorded on one wedge by marking on the wedge scale the point where the wedge corresponds with the fiber image as determined by (i) the fine lines of both edges when they are uniformly in focus or (ii) the fine line of one edge and the inner side of the bright line at the other edge when they are not uniformly in focus. The slide shall be traversed and successive fibers measured in the planned courses, with only those fibers being measured whose midpoints come within the field—a circle 4 inches in diameter, centrally located in the projected area. Fibers shorter than 200 microns or longer than 300 microns and those having distorted images shall be excluded from measurement. The marks on the wedge indicating the diameter of fibers measured are counted and com-

bined into class intervals for calculation as indicated in subparagraph (10) of this paragraph. Occasionally a fiber diameter will be less or greater than the extreme limits of the wedge scale. When this occurs, the image of the fiber is projected onto the border of the wedge scale and lines are drawn on the scale at the edges of the fiber image. The distance between the lines is later measured with a metric ruler to obtain the correct average diameter of the fiber. In using the metric scale in this manner, 1 mm. is equal to 2 microns at a magnification of 500 ×.

(8) *Nature of test.* One test shall consist of the measurement by two operators of the same four slivers (test specimens) of top. The measurement of both operators shall be combined for calculation of average fiber diameter and fiber diameter dispersion.

(9) *Number of slides and fibers.* Each operator shall make a slide from each test specimen for a total of four slides per operator. The number of fibers to be measured per slide shall be determined by dividing the total number of fibers to be measured per test by 8 (the total number of slides prepared per test). The minimum number of fiber measurements required for each test shall be the number for the respective grade as prescribed in the measurement schedule for designating grades of wool top set forth in paragraph (c) of this section. Each operator shall measure approximately one-half the required number of fibers. In lots that are assigned a dual grade designation, the minimum number of fibers measured shall be that specified for the coarser of the two grades.

(10) *Calculations.* From the observations recorded on the wedge scales, compute the total number of measurements (n), the distribution of fiber diameter frequencies, and the average diameter of fiber (\bar{X}).

(i) The average diameter of fiber (\bar{X}) shall be determined by the following formula: $\bar{X} = A + mE_1$. In this formula—

A = Class interval midpoint

m = Class interval

$E_1 = \frac{\sum f_i x_i}{n}$, where

Σ = Summation

f = Observed frequency

x = Deviation in class intervals from A

n = Total number of measurements

An example of the calculations is set forth below, based on an arbitrary selection of a class interval midpoint of 6.25 microns:

EXAMPLE OF CALCULATIONS: AVERAGE FIBER DIAMETER AND FIBER DIAMETER DISPERSION

Class interval	A	Deviation in class intervals from A z	Observed frequency f	fx	Cumulative frequency	Cumulative percent
5.0-7.5	6.25	0	0	0	0	0
7.5-10.0		0	0	0	0	0
10.0-12.5		1	1	2	2	1
12.5-15.0		2	2	12	36	13
15.0-17.5		3	3	53	212	66
17.5-20.0		4	4	113	565	179
20.0-22.5		5	5	132	792	311
22.5-25.0		6	6	141	987	452
25.0-27.5		7	7	111	858	563
27.5-30.0		8	8	79	711	642
30.0-32.5		9	9	63	630	705
32.5-35.0		10	10	44	484	749
35.0-37.5		11	11	28	330	777
37.5-40.0		12	12	7	91	784
40.0-42.5		13	13	6	84	790
42.5-45.0		14	14	5	75	795
45.0-47.5		15	15	3	45	798
47.5-50.0		16	16	0	0	798
50.0-52.5	17	17	2	36	800	
Total			800	5,977		

Number of measurements (n)=800
 A (class interval midpoint)=6.25 microns
 m (class interval)=2.5 microns

$$E_1 = \left(\frac{\sum fx}{n} \right) - \frac{5977}{800} = 7.47$$

Average diameter, $\bar{X} = A + m E_1 = 6.25 + 2.5(7.47) = 24.93$ microns¹

(b) Procedure for designating grade.

A grade shall be assigned to a lot of wool top which corresponds to the average fiber diameter and fiber diameter dispersion requirements specified in §§ 31.100-31.116 and paragraph (c) of this section.

(1) Single grade designation. If the measured average diameter and fiber diameter dispersion correspond to a single grade, that shall be the grade assigned to the sample.

¹Round off the calculated values of average fiber diameter to two decimal places as follows: If the figure in the third decimal place is 4 or less, retain the figure in the second decimal place unchanged; otherwise, increase the figure in the second decimal place by 1.

Example: Average fiber diameter—28.10 microns.

Fiber diameter dispersion:
 30 microns and under—64 percent.
 30.1 microns and over—36 percent.
 50.1 microns and over—1 percent.
 Grade designation—56s.

(2) Dual grade designation. If the fiber diameter dispersion does not meet the requirements for the grade to which the average fiber diameter corresponds, the wool top shall be assigned a dual grade designation, the second designation being one grade coarser than the grade to which the average fiber diameter corresponds.

Example: Average fiber diameter—28.10 microns.

Fiber diameter dispersion:
 30 microns and under—61 percent.
 30.1 microns and over—39 percent.
 50.1 microns and over—2 percent.
 Grade designation—56s-54s.

(c) Measurement schedule for designating grades of wool top.

Grade	Finer than 80s	80s	70s	64s	62s	60s	58s	56s	54s	50s	48s	46s	44s	40s	36s	Coarser than 36s
Average fiber diameter range, microns:																
Minimum	18.09	18.10	19.60	21.10	22.60	24.10	25.60	27.10	28.60	30.10	31.80	33.50	35.20	37.10	39.00	41.30
Maximum	18.09	19.59	21.09	22.59	24.09	25.59	27.09	28.59	30.09	31.79	33.49	35.19	37.09	38.99	41.29	
Fiber diameter dispersion, percent: ¹																
26 microns and under, minimum	95	91	83	92	86	80	72	62	54	44						
30 microns and under, minimum																
40 microns and under, minimum	5	9	17								75	08	62	54	44	
25.1 microns and over, maximum		1	3	8	14	20	28	38	46	56						
40.1 microns and over, maximum				1	1.5	2	1	1	2	2	25	32	38	46	56	
60.1 microns and over, maximum																
Number of fibers required per test: ²	400	400	400	600	800	800	1,000	1,200	1,400	1,600	1,800	2,000	2,200	2,400	2,600	2,600

¹ The second maximum percent shown for any grade is a part of, and not in addition to, the first maximum percent. In each grade, the minimum percent and the first maximum percent total 100 percent.

² Research has shown that when wools of average uniformity in fiber diameter are measured, the prescribed number of fibers to measure per test will result in confidence limits of the mean ranging from approximately ± 0.4 to ± 0.5 micron at a probability of 95 percent.

§ 31.302 Inspection method.

The grade of wool top also may be determined by inspection. This usually will be facilitated by comparing the fibers in the sample of wool top to be graded with fibers in the wool top samples certified by the U.S. Department of Agriculture as representative of the official grades. When using the certified samples to determine the grade of wool top, the grade assigned shall be that of the certified sample which most nearly matches the wool top being graded.

SAMPLES REPRESENTATIVE OF OFFICIAL GRADE STANDARDS OF THE UNITED STATES FOR WOOL AND WOOL TOP

SOURCE: §§ 31.400 to 31.402 appear at 30 F.R. 10833, Aug. 20, 1965, unless otherwise noted.

§ 31.400 Standard samples for wool and wool top grades; method of obtaining.

Samples certified as representative of the official standards of the United States for grades of wool and wool top will be furnished as follows, subject to other conditions of this section, upon filing of an approved application and prepayment of costs thereof as fixed in §§ 31.401 and 31.402. The certification will be issued by the United States Department of Agriculture and will be signed by the Director of the Livestock Division or other official duly authorized by him.

(a) Samples representative of each of the standard grades of wool:

(1) Complete set: Grades 80's through 36's. Fourteen samples, each of approximately $\frac{1}{8}$ pound grease wool, or

(2) Individual sample: Individual samples of approximately $\frac{1}{8}$ pound of grease wool.

NOTE: A sample consists of wool randomly selected from a bulk sample. The measured average and standard deviation of fiber diameter of the bulk sample are within the limits corresponding to the grade of the standard sample as set forth in §§ 31.2 through 31.15.

(b) Samples representative of each of the standard grades of wool top:

(1) Complete set: Grades 80's through 36's. Fourteen samples, each of approximately 3 ounces wool top, or

(2) Individual sample: Individual samples of approximately 3 ounces of wool top, representing a standard grade.

(c) Each application for standard samples of wool or wool top shall be upon

an application form furnished or approved by the Agricultural Marketing Service, shall be signed by the applicant, and shall be accompanied by certified check, draft, post office money order, or express money order, payable to the "Agricultural Marketing Service," in an amount to cover the cost of the samples requested, and shall incorporate the following agreement:

(1) That no samples representative of the official wool or wool top standards shall be considered or used as representing such standards after cancellation in accordance with this section.

(2) That the said standard samples shall be subject to inspection by the Secretary or by any duly authorized officer or agent of the Department of Agriculture during usual business hours of the person having custody of the samples.

(3) That the certificate covering any of the samples representative of the standards may be revoked and canceled by the Director of the Livestock Division if it is found upon such inspection that the said samples are not representative of the official standards.

§ 31.401 Cost of standard samples for wool grades.

(a) Complete set: \$22 each, delivered to any destination within the United States and \$24 each, delivered to any destination outside the United States.

(b) Individual sample: \$2 each, delivered to any destination within the United States and \$2.50 each, delivered to any destination outside the United States.

§ 31.402 Cost of standard samples for wool top grades.

(a) Complete set: \$42 each, delivered to any destination within the United States and \$44 each, delivered to any destination outside the United States.

(b) Individual sample: \$3 each, delivered to any destination within the United States and \$3.50 each, delivered to any destination outside the United States.

PART 32—MOHAIR STANDARDS

OFFICIAL STANDARDS OF THE UNITED STATES FOR GRADES OF GREASE MOHAIR

Sec.

32.1 Official grease mohair grades.

DEFINITIONS

32.200 Meaning of words.

32.201 Terms defined.

METHODS FOR DETERMINING GRADE OF GREASE MOHAIR

- Sec.
- 32.202 General.
- 32.203 Inspection method.
- 32.204 Measurement method.
- 32.205 Interpretation.

SAMPLES REPRESENTATIVE OF OFFICIAL GRADE STANDARDS OF THE UNITED STATES FOR GREASE MOHAIR

- 32.400 Standard samples of grease mohair grades; method of obtaining.
- 32.401 Cost of standard samples for grease mohair grades.

AUTHORITY: The provisions of this Part 32 issued under 60 Stat. 1087; 7 U.S.C. 1621 et. seq.

SOURCE: The provisions of this Part 32 appear at 36 F.R. 12682, July 3, 1971, unless otherwise noted.

OFFICIAL STANDARDS OF THE UNITED STATES FOR GRADES OF GREASE MOHAIR

§ 32.1 Official grease mohair grades.

The official grades for grease mohair and the specifications for each shall be those set forth in Table 1. However, mohair which qualifies for any of the grades on the basis of its average fiber diameter but whose standard deviation of average fiber diameter exceeds the maximum permitted for that grade shall be assigned a dual grade designation. In such case, the first designation shall indicate the grade based on the average fiber diameter and the second designation shall be that of the next coarser grade.

TABLE 1. SPECIFICATIONS FOR THE OFFICIAL GRADES OF GREASE MOHAIR

Grade	Fiber diameter		Approximate number of fiber measurements ¹
	Limits for average (microns)	Maximum standard deviation (microns)	
Finer than 40s...	Under 23.01...	7.2	1,000
40s.....	23.01-25.00...	7.6	1,000
36s.....	25.01-27.00...	8.0	1,200
32s.....	27.01-29.00...	8.4	1,200
30s.....	29.01-31.00...	8.8	1,400
28s.....	31.01-33.00...	9.2	1,400
26s.....	33.01-35.00...	9.6	1,600
24s.....	35.01-37.00...	10.0	1,600
22s.....	37.01-39.00...	10.5	1,800
20s.....	39.01-41.00...	11.0	2,200
18s.....	41.01-43.00...	11.5	2,200
Coarser than 18s.....	43.01 and over.....		2,600

¹ The number of fibers to measure for each test shall be the number needed to attain confidence limits of the mean within ± 0.40 micron at a probability of 95 percent. Measurement of the approximate number of fibers for the grades listed above may serve as a guide to meet the required confidence limits. The numbers indicated are based on mohair matchings.

DEFINITIONS

§ 32.200 Meaning of words.

Words used in this part in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

§ 32.201 Terms defined.

For the purposes of this part, unless the context otherwise requires, the following terms shall be construed respectively to mean:

(a) *Administrator.* The Administrator of the Agricultural Marketing Service, or any officer or employee of the Agricultural Marketing Service to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(b) *Average fiber diameter.* The sum of the individual fiber diameter measurements divided by the number of fibers measured, as described in § 32.204(a).

(c) *Bulk sample.* A quantity of grease mohair selected for use in the preparation of standard samples.

(d) *Card sliver.* Mohair that has been scoured and carded and formed into a continuous, untwisted strand of loosely assembled fibers.

(e) *Agricultural Marketing Service.* The Agricultural Marketing Service of the Department.

(f) *Core sampling.* Coring packages of mohair by means of special tools to obtain a representative sample of the mohair according to the appropriate procedures described in § 32.204(a)(4).

(g) *Department.* The U.S. Department of Agriculture.

(h) *Director.* The Director of the Division, or any officer or employee of the Division to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(i) *Division.* The Livestock Division of the Agricultural Marketing Service.

(j) *Fineness.* Average fiber diameter.

(k) *Fleece.* The mohair of one Angora goat obtained by shearing.

(l) *Grade.* A numerical designation of mohair fineness based on average fiber diameter and variation of fiber diameter. It does not include characteristics such as length, crimp, strength, elasticity, luster, hand, and color, all of which affect the spinability of mohair and the

properties of the yarn and fabric and which are usually referred to as "quality." Neither does it apply to mohair by geographic origin, manner of preparation for market, or a combination of characteristics which makes mohair appropriate for a specific use. These are usually referred to as "type."

(m) *Grease mohair.* Mohair as obtained from living Angora goats.

(n) *Hand sampling.* Drawing handfuls of mohair to obtain a sample according to the appropriate procedures described in § 32.204(a)(4).

(o) *Lot.* The entire quantity of mohair constituting the subject of consideration or test.

(p) *Matchings.* Sortings made by grouping together parts of mohair fleeces that are closely similar in fineness, length, and other qualities with the following removed, if necessary: Coarse neck, belly, britch, and stained portions.

(q) *Micron.* A unit of linear measurement equal to 1/1000 millimeter or 1/25400 inch.

(r) *Mohair.* Fiber from the Angora goat.

(s) *Mohair top.* A continuous untwisted strand of scoured mohair fibers from which the shorter fibers—noils—have been removed by combing.

(t) *Pulled mohair.* Mohair obtained from the pelts of slaughtered goats by pulling or similar means after subjecting the pelt to sweating, the use of a depilatory, or other auxiliary treatment to loosen the mohair fibers from the skin.

(u) *Sample.* A portion of a lot which is taken for grade determination.

(v) *Scoured mohair.* Mohair from which the bulk of the impurities have been removed by washing in warm water, soap, and alkali or by an equivalent process.

(w) *Standards.* The official standards of the United States for grades of grease mohair.

(x) *Standard samples.* Physical samples representative of the standards.

(y) *Test.* A determination, by measurement, of the average fiber diameter and standard deviation in fiber diameter of test specimens of mohair, in accordance with the procedures provided in § 32.204.

(z) *Test specimen.* A representative portion of the sample obtained and prepared as described in § 32.204(a)(5).

METHODS FOR DETERMINING GRADE OF GREASE MOHAIR

§ 32.202 General.

The official standards of the United States for grades of grease mohair as defined in § 32.1 shall be the basis for grade determination. Grade may be determined by (a) inspection or (b) by measuring the number of fibers of a sample needed to attain the required precision of the average, calculating the average fiber diameter, and standard deviation in fiber diameter, and comparing the average fiber diameter and standard deviation with the specifications for grades of grease mohair. Both methods for determining grade shall be official; however, if the grade as determined by inspection differs from that determined by measurement, the grade determined by measurement shall prevail. Although these standards are developed specifically for grease mohair and based primarily on tests of grease mohair matchings, they are applicable also to mohair in the pulled or scoured state, or to mohair in the form of card sliver.

§ 32.203 Inspection method.

Determination of the grade of grease mohair by inspection will be facilitated by comparing the fineness and variability in fineness of fibers of a sample of mohair representative of the lot or fleece with the fibers of valid standard grease mohair samples representative of the official grades. The grade assigned the lot or fleece shall be that of the standard mohair sample which most nearly matches the mohair being graded.

§ 32.204 Measurement method.

(a) The determination of the grade of grease mohair by measurement shall be by comparison of the measured average fiber diameter and standard deviation of the fiber diameter with the specifications of the Official Standards of the United States for Grades of Grease Mohair in § 32.1. This determination shall be made in accordance with the procedure for determining the average fiber diameter and the standard deviation of fiber diameter set forth in paragraph (b) of this section and the procedure for designating grade set forth in paragraph (c) of this section.

(b) Procedure for determining average fiber diameter and standard deviation of fiber diameter:

(1) *Principle of procedure.* The average fiber diameter and standard deviation of fiber diameter are determined by sectioning the fibers in a test specimen to a designated short length, mounting the sections on a slide, projecting the magnified image onto a wedge scale, and measuring the diameter of the required number of the fibers, as specified in this section.

(2) *Apparatus and material.* The following apparatus and material are needed and these shall comply with the following provisions:

(i) *Microprojector.* The microscope shall be equipped with a fixed body tube, a focusable stage responsive to coarse and fine adjustments, and a focusable substage with condenser and iris diaphragm and a vertically installed adequate light source to give a precise magnification of 500X when equipped with a 10 to 15X eyepiece, and a 20 to 21X objective with an aperture of approximately 0.50 centimeter.

(ii) *Stage micrometer.* Calibrated glass slide used for accurate setting and control of the magnification.

(iii) *Cross sectioning device, heavy duty.* An instrument approximately 2 inches in height, consisting essentially of a metal plate with slot for holding a quantity of fibers, a key for compressing the fibers, and a tongue-propelling arrangement by which the fiber bundle may be extruded for sectioning.

(iv) *Microscope slides.* 1" x 3" (25 x 75 mm.).

(v) *Cover glasses.* No. 1 thickness, 7/8" x 2" (22 x 50 mm.).

(vi) *Mounting medium.* Colorless mineral oil with a refractive index between 1.53 and 1.43, and of suitable viscosity.

(vii) *Wedge scales.* Strips of heavy paper or Bristol board, imprinted with a wedge for measurement of fiber diameter at a magnification of 500X. The wedge is usually divided into 2.5-micron intervals (cells).

(3) *Calibration.* The microscope shall be adjusted to give a magnification of 500X in the plane of the projected image. This shall be accomplished by placing a stage micrometer on the stage of the

microprojector and bringing the microscope into such adjustment that an interval of 0.20 mm. on the stage micrometer will measure 100.0 mm. when sharply focused in the center of the image plane.

(4) *Sampling.* The method of obtaining a sample representative of the fineness of a lot of grease mohair, pulled mohair, scoured mohair, or card sliver will differ according to the manner in which it is stored and the equipment available for sampling. Lots may be sampled either by coring or by hand. The sampling procedures are as follows:

(i) *Core sampling.* Core sampling of packaged scoured, pulled, or grease mohair is advisable. Acceptable procedures and schedules for core sampling grease mohair are those described for raw wool in current ASTM Standards on Textile Materials, Designation D 1060, "Standard Method of Core Sampling of Raw Wool Packages for Determination of Percentage of Clean Wool Fiber Present."¹ If a representative portion of the scoured mohair core sample resulting from the test for clean mohair fiber content is available, it may be used for fiber diameter measurements.

(ii) *Hand sampling an individual fleece.* A sample shall consist of approximately 60 grams of mohair and shall be drawn at random from all parts of a fleece.

(iii) *Hand sampling lots of scoured, pulled, and grease mohair.* A sample shall consist of at least 6 pounds of mohair. If the mohair is packaged, the sample shall be drawn by taking a total of at least 50 randomly selected handfuls of mohair from not less than 10 percent of the packages randomly selected from the lot. If the mohair is in piles, the sample shall be drawn by taking a handful from at least 50 locations throughout the pile.

(iv) *Hand sampling card sliver.* Mohair card sliver shall be sampled by drawing at random from the lot, preferably during the carding operation, ten 24-inch lengths of sliver.

(5) *Test specimens.* The method of obtaining a test specimen representative

¹A publication containing these ASTM Standards is published by the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103, for \$22.

of a sample drawn in accordance with the procedures of subparagraph (4) of this paragraph will differ according to the type of sample and the equipment available for subsampling. The methods are as follows:

(i) *Obtaining test specimen from clean fiber core test residue.* The test specimen shall be obtained from the scoured mohair remaining after testing for clean fiber content by using the following procedure: The sample shall be divided into 40 portions of approximately equal size. From each portion, a sufficient quantity of fibers shall be drawn at random to provide an aggregate test specimen of at least 40 grams. These fibers shall be mixed or blended to form the test specimen. For best blending results, test specimens from samples obtained by means of 1¼-inch and larger coring tubes should be machine blended. The machine blending of test specimens may be accomplished by carding the specimen three times, breaking the web and feeding at right angles after the first and second passes; or by gilling the specimens 15 times, breaking and combining the pieces of sliver to maintain a convenient length. Core samples drawn with smaller coring tubes should not be machine blended since loss of fiber may occur.

(ii) *Obtaining test specimens from other samples (except card sliver).* Test specimens may be obtained by hand sampling or core sampling as described herein:

(a) *Hand sampling.* Samples shall be divided into 40 portions of approximately equal size. From each portion, a sufficient quantity of fiber to provide a test specimen of at least 40 grams shall be drawn at random. Test specimens of grease mohair and pulled mohair shall be scoured or otherwise cleaned. Clean specimens, except those from samples of mohair with fibers less than 1¼ inches in length, shall be further blended, preferably by machine, following the procedures described in subdivision (i) of this subparagraph (5).

(b) *Core sampling.* The sample shall be compressed in a suitable container. By means of a ½-inch coring tube with sharp tip, a sufficient number of cores shall be extracted at random to provide a test specimen of at least 40 grams of

scoured mohair. Test specimens of grease mohair or pulled mohair shall be scoured or otherwise cleaned.

NOTE: An example of a suitable container would be a box 12 inches by 10 inches by 6 inches deep, equipped with a floating top which has 16 equally spaced holes three-fourth inch in diameter over its area. The mohair may be firmly compressed by applying pressure on the top. The top is held in place by two rods extending through holes in the side of the box and over the top. The coring tube is thrust through the holes in the top to sample the mohair.

(iii) *Obtaining test specimens from card sliver samples.* Portions—approximately one-tenth the width of a sliver—shall be stripped from each of the ten 24-inch pieces of sliver obtained in accordance with subparagraph (4)(iv) of this paragraph (b). These pieces shall be combined to form a composite sliver. This will constitute the test specimen.

(6) *Test condition.* Test specimens shall be preconditioned to approximate equilibrium in an atmosphere of 5 to 25 percent relative humidity at a temperature less than 122° F. (50° C.). Then the test specimens shall be conditioned for at least 4 hours in the standard atmosphere for testing, namely, 63 to 67 percent relative humidity at a temperature of 68° to 72° F. (19.0° to 22.1° C.).

(7) *Preparation of slides—(i) Filling cross section device.* A specimen in sliver form shall be placed in the slot of the cross section device at a section of the sliver estimated to be a full fiber length or more from the end of the sliver. The sliver shall be firmly compacted with the compression key which shall then be secured with the set screw. For specimens not in sliver form, from the bulk of the test specimen, small quantities of fibers shall be drawn at random, packing the slot to the required level. The specimen shall be compacted firmly with the compression key which shall then be secured with the set screw.

(ii) *Preliminary section.* The gripped fibers shall be cut off at the upper and lower surfaces of the plate. The fiber bundle shall be extruded to the extent of approximately 0.50 mm. in order to take up slack in the fibers and the propulsion mechanism. The projecting fibers shall be moistened with a few drops of mineral oil. This projecting fiber bundle shall be

cut off with a sharp razor blade flush with the upper surface of the fiber holder plate. This section shall be discarded.

(iii) *Final section.* The fiber bundle shall again be extruded, approximately 0.25 mm. The fiber bundle shall be moistened with a few drops of mineral oil, blotting off the excess. The projecting fibers shall be cut off with a sharp razor blade flush with the holder plate. The fiber pieces should adhere to the razor blade.

(iv) *Mounting the fibers.* A few drops of mineral oil shall be placed on a clean glass slide. With a dissecting needle, the fiber pieces shall be scraped from the razor blade onto the slide. The fibers shall be thoroughly dispersed in the oil with the dissecting needle and the slide completed with a cover glass. Sufficient oil should be used in the preparation of the slide to insure thorough distribution of the fibers, but an excess must be avoided, as practically no oil should be permitted to flow out or be squeezed out beyond the borders of the cover glass. If the number of fibers is too great to permit proper distribution on the slide, or if an excess of oil has been used, a portion of the mixture, after thorough dispersion of the fibers, may be wiped away with a piece of tissue or cloth. Slides shall be measured the day they are prepared.

(8) *Measurement of fibers.* The slide shall be placed on the stage of the microprojector, cover glass toward the objective. Fiber diameter measurements shall be made at the approximate mid-length of the fibers. Fiber edges appear as fine lines without borders when they are uniformly in focus. It is unusual, however, for both edges of the fiber to be in focus at the same time. If both edges of the fiber are not uniformly in focus, adjustment shall be made so that one edge of the fiber is in focus and the other shows as a bright line. To record the measurement, it is necessary to mark the point where the wedge corresponds with the fiber image as determined by (i) the fine lines of both edges when they are uniformly in focus, or (ii) the fine line of one edge and the inner side of the bright line at the other edge when they are not uniformly in focus. The slide shall be traversed in planned

courses so that fibers on all portions of the slide will be measured. Successive fibers should be measured whose mid-points come within the field—a circle 4 inches in diameter, centrally located in the projected area. Fibers shorter than 200 microns or longer than 300 microns and those having distorted images shall be excluded from measurement. The marks on the wedge scale indicating the diameter of fibers measured are counted and combined into cells for calculation as indicated in paragraph (a) (11) of this section.

(9) *Nature of test.* A test shall comprise the measurement of the test specimen by two operators, each operator following independently the procedures of subparagraph (7) of this paragraph (b).

(10) *Number of fibers to measure.* The number of fibers to measure for each test shall be the number needed to attain confidence limits of the mean within ± 0.40 micron at a probability of 95 percent. The approximate number of fiber measurements needed for each of the grades—as listed in Table 1—may serve as a guide. However, the precise number of fibers to be measured can be calculated by using the equation shown below:

$$n = \left(\frac{1.96\sigma}{0.40} \right)^2$$

In this equation:

n = Number of fibers to be measured, and
 σ = Standard deviation of fiber diameters.

(11) *Calculation and report.* The measurements of both operators shall be combined and the following calculations made by using the applicable formulae shown below:

(i) Total number of measurements (n)

(ii) The average diameter of fiber (\bar{X}):

$$\bar{X} = A + mE_1$$

(iii) The standard deviation (σ):

$$\sigma = m\sqrt{E_2 - E_1^2}$$

In the formulae stated above:

A = Midpoint of cell containing the smallest measurement.

m = Cell interval.

$$E_1 = \frac{\Sigma fx}{n}$$

$$E_2 = \frac{\Sigma fx^2}{n}$$

Σ = Summation.

f = Observed frequency.

x = Deviation in cells from A .

An example of the calculations is set forth below:

EXAMPLE OF CALCULATIONS: AVERAGE FIBER DIAMETER, STANDARD DEVIATION, AND CONFIDENCE LIMITS OF MEAN

Cell No.	Cell boundary	A	Deviation in cells from A, z	Observed frequency, f	fx	fx ²
5.....	10.0-12.5	11.25	0	1	0	0
6.....	12.5-15.0	-----	1	15	15	15
7.....	15.0-17.5	-----	2	66	132	264
8.....	17.5-20.0	-----	3	141	423	1,269
9.....	20.0-22.5	-----	4	165	660	2,640
10.....	22.5-25.0	-----	5	176	880	4,400
11.....	25.0-27.5	-----	6	138	828	4,968
12.....	27.5-30.0	-----	7	99	693	4,851
13.....	30.0-32.5	-----	8	79	632	5,056
14.....	32.5-35.0	-----	9	55	495	4,455
15.....	35.0-37.5	-----	10	35	350	3,500
16.....	37.5-40.0	-----	11	9	99	1,089
17.....	40.0-42.5	-----	12	8	96	1,152
18.....	42.5-45.0	-----	13	6	78	1,014
19.....	45.0-47.5	-----	14	4	56	784
20.....	47.5-50.0	-----	15	0	0	0
21.....	50.0-52.5	-----	1	3	48	768
Total.....	-----	-----	-----	1,000	5,435	36,225

Number of measurements (n)=1,000.

A (midpoint of cell containing smallest diameter measurement)=11.25 microns.

m cell interval)=2.5 microns.

$$L_1 = \left(\frac{\sum fx}{n} \right) = \frac{5485}{1000} = 5.4850 \text{ and } E_2 = \left(\frac{\sum fx^2}{n} \right) = \frac{36,225}{1,000} = 36.2250$$

Average diameter, $\bar{X} = A + mE_1 = 11.25 + 2.5(5.4850) = 24.96$ microns.¹

Standard deviation, $\sigma = m \sqrt{E_2 - E_1^2} = 2.5 \sqrt{36.2250 - 30.0852} = 2.5(2.4779) = 6.19$ microns.¹

Confidence limits of mean at 95 percent probability level = $\pm \frac{1.96\sigma}{\sqrt{n}} = \pm \frac{12.1324}{31.6127} = \pm 0.38$ micron.¹

¹ Round off the calculated values of average fiber diameter, standard deviation, and confidence limit of the mean to two decimal places as follows: If the figure in the third decimal place is 4 or less, retain the figure in the second decimal place unchanged; otherwise, increase the figure in the second decimal place by 1.

(c) Procedure for designating grade:

(1) *Single grade designation.* If the measured average fiber diameter and standard deviation correspond to requirements set forth for a single grade, that shall be the grade assigned to the sample. Example: Measured average fiber diameter=28.50 microns; standard deviation=8.1 microns; the grade designation is 32s.

(2) *Dual grade designation.* If the standard deviation exceeds the limits for the grade to which the average fiber diameter corresponds, the mohair shall be assigned a dual grade designation, the second designation being one grade coarser than the grade to which the average fiber diameter corresponds. Example: Measured average fiber diameter =28.50 microns; standard deviation =8.6 microns; the grade designation is 32s/30s.

§ 32.205 Interpretation.

Since all the portions of a lot of mohair may not be of the same grade, the grade determined represents only the

average grade of the entire lot. It should not be construed to represent the grade of any component part of the lot.

SAMPLES REPRESENTATIVE OF OFFICIAL GRADE STANDARDS OF THE UNITED STATES FOR GREASE MOHAIR

§ 32.400 Standard samples of grease mohair grades; method of obtaining.

Samples certified as representative of the official standards of the United States for grades of grease mohair will be furnished as follows, subject to other conditions of this section, upon filing of an approved application and prepayment of the costs thereof as fixed in § 32.401. The certification will be issued by the U.S. Department of Agriculture and will be signed by the Director of the Livestock Division or other official duly authorized by him.

(a) Samples representative of each of the standard grades of grease mohair:

(1) *Complete set.* Ten certified samples of grease mohair, grades 40s through 18s.

(2) *Individual sample.* Individual certified samples of grease mohair.

NOTE: A certified sample consists of grease mohair randomly selected from a bulk sample. The measured average and standard deviation of fiber diameter of the bulk sample were within the limits corresponding to the grade of the standard sample as set forth in § 32.1.

(b) Each application for standard samples of grease mohair shall be upon an application form furnished or approved by the Consumer and Marketing Service, shall be signed by the applicant, and shall be accompanied by certified check, draft, post office money order, or express money order, payable to the "Agricultural Marketing Service," in an amount to cover the cost of the samples requested, and shall incorporate the following agreement.

(1) That no samples representative of the official grease mohair standards shall be considered or used as representing such standards after cancellation in accordance with this section.

(2) That the said standard samples shall be subject to inspection by the Secretary or by any duly authorized officer or agent of the Department of Agriculture during usual business hours of the person having custody of the samples.

(3) That the certificate covering any of the samples representative of the standards may be revoked and canceled by the Director of the Livestock Division, if it is found upon such inspection that the said samples are not representative of the official standards.

§ 32.401 Cost of standard samples for grease mohair grades.

(a) *Complete set.* \$22 each, delivered to any destination within the United States and \$25 each, delivered to any destination outside the United States.

(b) *Individual sample.* \$2.50 each, delivered to any destination within the United States, and \$3 each, delivered to any destination outside the United States.

PART 33—EXPORT APPLES AND PEARS

DEFINITIONS

Sec	
33.1	Act.
33.2	Person.
33.3	Secretary.
33.4	Carrier.
33.5	Apples.

Sec.	
33.6	Pears.
33.7	Package.
33.8	Less than carload lot.

REGULATIONS

33.10	Minimum requirements.
33.11	Inspection and certification.

EXEMPTIONS

33.12	Apples and pears not subject to regulations.
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WITHHOLDING CERTIFICATES

33.13	Notice.
33.14	Opportunity for hearing.
33.15	Suspension of inspection.
33.16	Service of notice or order.

INTERPRETATIVE RULES

33.50	Apples and pears for processing.
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AUTHORITY: The provisions of this Part 33 issued under sec. 7, 48 Stat. 124; 7 U.S.C. 587.

SOURCE: The provisions of this Part 33 appear at 24 F.R. 6609, Aug. 14, 1959, unless otherwise noted.

DEFINITIONS

§ 33.1 Act.

"Act" and "Export Apple and Pear Act" are synonymous and mean "An act to promote the foreign trade of the United States in apples and/or pears, to protect the reputation of American-grown apples and pears in foreign markets, to prevent deception or misrepresentation as to the quality of such products moving in foreign commerce, to provide for the commercial inspection of such products entering such commerce, and for other purposes," approved June 10, 1933 (48 Stat. 123; 7 U.S.C. 581 et seq.).

§ 33.2 Person.

"Person" means an individual, partnership, association, corporation, or any other business unit.

§ 33.3 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States Department of Agriculture to whom authority has heretofore been delegated or to whom authority may hereafter be delegated to act in his stead.

§ 33.4 Carrier.

"Carrier" means any common or private carrier, including, but not being limited to, trucks, railroads, airplanes, vessels, tramp or chartered steamers whether carrying for hire or otherwise.

§ 33.5 Apples.

"Apples" means fresh whole apples in packages whether or not they have been in storage.

§ 33.6 Pears.

"Pears" means fresh whole pears in packages whether or not they have been in storage.

§ 33.7 Package.

"Package" means any container of apples or pears.

§ 33.8 Less than carload lot.

Less than carload lot means a quantity of apples or pears in packages not exceeding 20,000 pounds gross weight or 400 standard boxes or equivalent.

[29 F.R. 13559, Oct. 2, 1964]

REGULATIONS**§ 33.10 Minimum requirements.**

No person shall ship, or offer for shipment, and no carrier shall transport, or receive for transportation, any shipment of apples or pears to any foreign destination unless:

(a) Apples grade at least U.S. No. 1 grade or U.S. No. 1 Early grade, as specified in the United States Standards for Apples (§§ 51.300–51.323; 28 F.R. 9685), do not contain apple maggot and do not have more than 2 percent, by count, of apples with apple maggot injury, nor more than 2 percent, by count, of apples infested with San Jose scale or scale of similar appearance;

(b) Pears grade at least U.S. No. 2 grade, as specified in the United States Standards for Summer and Fall Pears, such as Bartlett, Hardy, and other similar varieties (§§ 51.1260 to 51.1280 of this chapter), or in the United States Standards for Winter Pears, such as Anjou, Bosc, Comice, and other similar varieties (§§ 51.1300 to 51.1323 of this chapter) do not contain apple maggot, and do not have more than 2 percent, by count, of pears with apple maggot injury, nor more than 2 percent, by count, of pears infested with San Jose scale or scale of similar appearance;

(c) Each package of apples or pears is packed so that the apples or pears in the top layer shall be reasonably representative in size, color, and quality of the contents of the package; and

(d) Each package of apples or pears is marked plainly and conspicuously with (1) the name and address of the grower,

or domestic distributor: *Provided*, That the name of the foreign distributor may be placed on consumer unit packages shipped in a master container if such master container is marked with the name and address of the grower, packer, or domestic distributor; (2) the variety of the apples or pears; (3) the name of the U.S. grade or the name of a state grade if the fruit meets each minimum requirement of a U.S. grade specified in this section; and (4) the numerical count or the minimum size, or, for pears, the count size in terms of the number required to fill a standard western pear box in accordance with the standard pack requirements set forth in the applicable U.S. Standard specified in this section. If count size is used, the number denoting count shall be followed by the word "size," e.g., 120 size.

[24 F.R. 6610, Aug. 14, 1959, as amended at 28 F.R. 12901, Dec. 12, 1963; 32 F.R. 9298, June 30, 1967; 33 F.R. 12819, Sept. 11, 1968]

§ 33.11 Inspection and certification.

(a) Each person shipping, or offering for shipment, apples or pears to any foreign destination shall cause them to be inspected by the Federal or Federal-State Inspection Service in accordance with regulations governing the inspection and certification of fresh fruits, vegetables and other products (Part 51 of this chapter) and certified as meeting the requirements of the act and this part. No carrier shall transport, or receive for transportation, apples or pears to any foreign destination unless they have been so inspected and certified. Inspection and certification may be obtained at any time prior to exportation of the apples or pears. Such a Federal or Federal-State certificate shall be designated as an "Export Form Certificate" and shall include the following statement: "Meets requirements of Export Apple and Pear Act." The shipper shall deliver a copy of the Export Form Certificate or Memorandum of Inspection to the export carrier. Whenever apples or pears are inspected and certified at any point other than the port of exportation, the shipper shall deliver a copy of the Export Form Certificate or Memorandum of Inspection to the agent of the first carrier that thereafter transports such apples or pears and such agent shall deliver such copy to the proper official of the carrier on which the apples or pears, covered by such cer-

tificate or memorandum, are to be exported. A copy of the Export Form Certificate or Memorandum of Inspection shall be filed by the export carrier for a period of not less than three (3) years after date of export.

(b) If the inspector has reason to believe that samples of a lot of apples or pears have been obtained for a determination as to compliance with tolerance for spray residue, established under the Federal Food, Drug and Cosmetic Act, as amended (52 Stat. 1040; 21 U.S.C. 301 et seq.), he shall not issue a certificate on the lot unless it complies with such tolerances.

EXEMPTIONS

§ 33.12 Apples and pears not subject to regulation.

Except as otherwise provided in this section, any person may, without regard to the provisions of this part, ship or offer for shipment, and any carrier may, without regard to the provisions of this part, transport or receive for transportation to any foreign destination:

(a) A quantity of apples or pears to any foreign country not exceeding a total of 5,000 pounds gross weight or 100 boxes of apples or pears packed in standard boxes on a single conveyance: *Provided*, That pears may be shipped to Venezuela or Mexico in less than carload lots not exceeding one such lot to any one consignee or receiver on a single conveyance.

(b) Apples or pears to Pacific ports west of the International Date Line which do not meet maturity standards of the grade specified in § 33.10, if the packages are conspicuously marked or printed with the words "Immature Fruit;" (in letters at least two inches high) if inspected and certified as meeting all other requirements of §§ 33.10 and 33.11.

(c) Apples for processing which do not meet the grade standards specified in § 33.10, if such apples grade at least U.S. No. 1 as specified in U.S. Standards for Apples for Processing (§§ 51.340 to 51.344 of this chapter), and if the containers are conspicuously marked "Cannery" (in letters at least two inches high) if inspected and certified as meeting all other requirements of §§ 33.10 and 33.11.

(d) Pears for processing which do not meet the grade standards specified in

§ 33.10, if such pears grade at least U.S. No. 1 as specified in U.S. Standards for Pears for Canning (§§ 51.1345 to 51.1358 of this chapter), and if the containers are conspicuously marked "Cannery" (in letters at least two inches high) if inspected and certified as meeting other requirements of §§ 33.10 and 33.11.

[24 F.R. 6610, Aug. 14, 1959, as amended at 30 F.R. 8775, July 13, 1965]

WITHHOLDING CERTIFICATES

§ 33.13 Notice.

If the Secretary is considering withholding the issuance of certificates under the act for a period of not exceeding 90 days to any person who ships, or offers for shipment, apples or pears to any foreign destination in violation of any provisions of the act or this part, he shall cause notice to be given to the person accused of the nature of the charges against him and of the specific instances in which violation of the act or the regulations in this part is charged.

§ 33.14 Opportunity for hearing.

The person accused shall be entitled to a hearing, provided he makes written request therefor and files a written responsive answer to the charges made not later than 10 days after service of such notice upon him. The right to hearing shall be restricted to matters in issue. At such hearing, he shall have the right to be present in person or by counsel and to submit evidence and argument in his behalf. Failure to request a hearing within the specified time or failure to appear at the hearing when scheduled shall be deemed a waiver of the right to hearing. Such person may, in lieu of requesting an oral hearing, file a sworn written statement with the Secretary not later than 10 days after service of such notice upon him.

§ 33.15 Suspension of inspection.

Any order to withhold the issuance of a certificate, as provided in section 6 of the act, will be effective from the date specified in the order but no earlier than the date of its service upon the person found to have been guilty. Such order will state the inclusive dates during which it is to remain in effect, and during this period no inspector employed or licensed by the Secretary shall issue any Export Form Certificate or Memorandum of Inspection to such person.

§ 33.16 Service of notice or order.

Service of any notice or order required by the act or prescribed by the regulations in this part shall be deemed sufficient if made personally upon the person served, by registered mail, or by leaving a copy of such notice or order with an employee or agent at such person's usual place of business or abode or with any member of his immediate family at his place of abode. If the person named is a partnership, association, or corporation, service may similarly be made by service on any member of the partnership or any officer, employee, or agent of the association or corporation.

INTERPRETATIVE RULES

§ 33.50 Apples and pears for processing.

The terms "apples for processing" and "pears for processing" as used in § 33.12 of this part apply only and are restricted to packages of apples or pears which were originally packaged for processing and marked "Cannery" as required by § 33.12 (c) and (d) of this part. Packages of apples or pears not so originally packaged and marked are not eligible for certification as "apples for processing" or "pears for processing" for purposes of this part.

[25 F.R. 12430, Dec. 6, 1960]

PART 34—TOBACCO SEED AND PLANT EXPORTATION ACT

GENERAL PROVISIONS

Sec. 34.1 Definitions.

ADMINISTRATION

34.2 Administrator.

PERMITS

- 34.3 Permit required.
 34.4 Restrictions upon issuance of permits.
 34.5 Method of obtaining permits.
 34.6 Exceptions.

INSTRUCTIONS TO SHIPPERS

- 34.7 Marking packages.
 34.8 Shipments by mail.
 34.9 Shipments by railway, ferry boat, or vehicle.
 34.10 Shipments by seagoing vessel or airplane.

DISPOSITION OF USED PERMITS

34.11 Procedure.

AUTHORITY: The provisions of this Part 34 issued under sec. 1, 54 Stat. 231; 7 U.S.C. 516.

SOURCE: The provisions of this Part 34 appear at 11 F.R. 6171, June 7, 1946; 19 F.R. 57, Jan. 6, 1954, unless otherwise noted.

GENERAL PROVISIONS

§ 34.1 Definitions.

(a) "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.

(b) "Administrator" means the Administrator, Agricultural Marketing Service, U.S. Department of Agriculture, or any employee of the U.S. Department of Agriculture to whom authority has heretofore lawfully been delegated or to whom authority may hereafter lawfully be delegated to act in his stead.

(c) "Director" means the Director of the Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture.

(d) "Act" means the Tobacco Seed and Plant Exportation Act.

ADMINISTRATION

§ 34.2 Administrator.

The Administrator is charged with the administration of the provisions of the act and the regulations in this part.

PERMITS

§ 34.3 Permit required.

No tobacco seed or live tobacco plants may be exported from the United States or any Territory subject to the jurisdiction thereof to any foreign country, port, or place unless such exportation or transportation shall have been authorized in advance by a written permit of the Secretary countersigned by the Director.

§ 34.4 Restrictions upon issuance of permits.

(a) Permits will be granted only where the evidence indicates that the consignee is a representative of a government institution or an agency engaged in conducting agricultural experiments in the course of scientific research.

(b) Quantities permitted to be exported will be restricted to 14 grams or ½ ounce of seed or 500 live plants of any one variety, with the exception of the species *Nicotiana rustica*, to which this restriction will not apply.

§ 34.5 Method of obtaining permits.

Applications for permits shall show the following information:

- (a) Name and address of exporter.
- (b) Name, official title, address of person to whom the seed or plants are to be consigned, and the institution at which research is to be conducted.
- (c) Type and variety of seed or plants.
- (d) Nature of experiments to be conducted and objectives sought.
- (e) Method of shipment proposed.
- (f) Port of exit or post office of mailing.
- (g) The intended date of exportation.

§ 34.6 Exceptions.

Shipments of tobacco seed or plants originating in a foreign country and entering or leaving a port of the United States in transit through the territory of the United States to a foreign country will not require a permit under the terms of the regulations in this part.

INSTRUCTIONS TO SHIPPERS

§ 34.7 Marking packages.

Packages or parcels containing tobacco seed or plants, the exportation of which has been authorized, shall be marked "Tobacco Seed and Plant Export Permit No. _____" with the permit number inserted in the blank space.

§ 34.8 Shipments by mail.

The permit must be filed by the consignor with the Postmaster at the office of mailing.

§ 34.9 Shipments by railway, ferry boat, or vehicle.

The permit must be filed with the Collector of Customs at the port from which the shipment is to be exported.

§ 34.10 Shipments by seagoing vessel or airplane.

The permit must be filed with the Collector of Customs at the port of lading on board the exporting vessel or airplane at least 24 hours before departure; and, in the case of shipment by a seagoing vessel, the permit must be filed at least 24 hours before the lading of such vessel.

DISPOSITION OF USED PERMITS

§ 34.11 Procedure.

Permits filed with postmasters and collectors of customs shall be stamped or endorsed to show the place and date

of filing, and shall be mailed to the following address: Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington 25, D.C.

PART 35—EXPORT GRAPES AND PLUMS

DEFINITIONS

- | | |
|------|-----------------|
| Sec. | Act. |
| 35.1 | Person. |
| 35.2 | Secretary. |
| 35.3 | Carrier. |
| 35.4 | Package. |
| 35.5 | Shipment. |
| 35.6 | Certificate. |
| 35.7 | Date of export. |

REGULATIONS

- 35.11 Minimum requirements.
- 35.12 Inspection and certification.

EXEMPTIONS

- 35.13 Minimum quantity.

WITHHOLDING CERTIFICATES

- 35.14 Notice.
- 35.15 Opportunity for hearing.
- 35.16 Suspension of inspection.
- 35.17 Service of notice or order.

AUTHORITY: The provisions of this Part 35 issued under 74 Stat. 734; 75 Stat. 220; 7 U.S.C. 591-599.

SOURCE: The provisions of this Part 35 appear at 26 F.R. 8934, Sept. 22, 1961, unless otherwise noted.

DEFINITIONS

§ 35.1 Act.

"Act" or "Export Grape and Plum Act" means "An Act to promote the foreign trade of the United States in grapes and plums, to protect the reputation of American-grown grapes and plums in foreign markets, to prevent deception or misrepresentation as to the quality of such products moving in foreign commerce, to provide for the commercial inspection of such products entering such commerce, and for other purposes" (74 Stat. 734; 75 Stat. 220; 7 U.S.C. 591-599).

§ 35.2 Person.

"Person" means an individual, partnership, association, corporation, or any other business unit.

§ 35.3 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or any

officer or employee of the United States Department of Agriculture to whom authority has heretofore been delegated or to whom authority may hereafter be delegated to act in his stead.

§ 35.4 Carrier.

"Carrier" means any common or private carrier, including, but not being limited to, trucks, rail, airplanes, vessels, tramp or chartered steamers, whether carrying for hire or otherwise.

§ 35.5 Package.

"Package" means any container of Emperor variety grapes.

§ 35.6 Shipment.

"Shipment" means one or more lots of Emperor variety grapes shipped or offered for shipment by any one person in a single conveyance to a foreign country regardless of the number of consignees, receivers, or ports of destination in that country.

§ 35.7 Certificate.

"Certificate" or "Certificate of Inspection" means any of the official forms of inspection certificate, bearing the statement "meets Export Grape and Plum Act," issued by the Federal or Federal-State Inspection Service in accordance with regulations governing the inspection of fresh fruits, vegetables, and other products (7 CFR Part 51).

§ 35.8 Date of export.

"Date of export" means the date of loading on board the exporting carrier on which movement of the grapes from the United States is effected. The date of the on board bill of lading (or loading tally sheet) shall be considered to be the date the grapes were loaded on board, unless an "on board" date is shown.

REGULATIONS

§ 35.11 Minimum requirements.

No person shall ship, or offer for shipment, and no carrier shall transport, or receive for transportation, any shipment of Emperor variety grapes to any foreign destination unless:

(a) Such grapes in sawdust packs meet each applicable minimum requirement of the U.S. Fancy Export Grade as specified in the United States Standards for Grades of Table Grapes (European or Vinifera type) (§§ 51.880-51.912 of this chapter).

(b) Such grapes in other than sawdust packs meet each applicable minimum requirement of the U.S. No. 1 Table Grade as specified in the United States Standards for Grades of Table Grapes (European or Vinifera type) (§§ 51.880-51.912 of this chapter).

(c) Each package of such grapes, other than consumer sized packages of 5 pounds or less in master containers, is marked plainly and conspicuously with (1) the name and address of the grower or packer; (2) the variety; and (3) the name of the U.S. grade, as "U.S. Fancy Export" or "U.S. No. 1 Table" or higher grade, if the fruit meets each applicable minimum requirement of such grade.

[37 F.R. 16167, Aug. 11, 1972]

§ 35.12 Inspection and certification.

(a) Each person shipping, or offering for shipment, Emperor variety grapes to any foreign destination shall cause them to be inspected within 14 days prior to date of export by the Federal or Federal-State Inspection Service in accordance with regulations governing the inspection and certification of fresh fruits, vegetables, and other products (Part 51 of this chapter) and certified as meeting the requirements of the Act and this part.

(b) The Federal or Federal-State certificate of inspection shall include the following statement "Meets Export Grape and Plum Act." No carrier shall transport or receive for transportation Emperor variety grapes to any foreign destination unless a copy of the certificate of inspection issued thereon is surrendered to such carrier when such grapes are so received. The shipper shall deliver a copy of such certificate covering the shipment to the export carrier. Such grapes may be inspected at points other than port of exportation. Whenever such grapes are inspected and certified at any point other than port of exportation, the shipper shall deliver a copy of such certificate to the agent of the first carrier that thereafter transports such grapes and such agent shall deliver such copy to the proper official of the carrier on which the grapes are to be exported.

(c) A copy of the Certificate of Inspection shall be filed by the export carrier for a period of not less than three (3) years following date of export.

(d) Persons exporting grapes under the provisions of section 2 of the Act

shall first submit to the Federal or Federal-State Inspection Service a certification in duplicate stating the names and addresses of the contracting parties, the date of contract, the quantity of grapes to be delivered, the U.S. grade specified, the expected date of shipment, and the name and address of the export carrier. The certificate of inspection shall indicate that the grapes are eligible for export under section 2 of the Act.

(e) If the inspector has reason to believe that samples of a lot of Emperor variety grapes have been obtained for a determination as to compliance with tolerance for spray residue, established under the Federal Food, Drug and Cosmetic Act, as amended (52 Stat. 1040; 21 U.S.C. 301 et seq.), he shall not issue a certificate on the lot unless it complies with such tolerances.

EXEMPTIONS

§ 35.13 Minimum quantity.

Any person may, without regard to the provisions of this part, ship or offer for shipment, and any carrier may, without regard to the provisions of this part, transport or receive for transportation to any foreign destination, a shipment of 25 packages or less of Emperor variety grapes, not exceeding 1,250 pounds gross weight.

WITHHOLDING CERTIFICATES

§ 35.14 Notice.

If the Secretary is considering withholding the issuance of certificates under the Act for a period of not exceeding 90 days to any person who ships, or offers for shipment, Emperor variety grapes to any foreign destination in violation of any provisions of the Act or this part, he shall cause notice to be given to the person accused of the nature of the charges against him and of the specific instances in which violation of the Act or the regulations in this part is charged.

§ 35.15 Opportunity for hearing.

The person accused shall be entitled to a hearing, provided he makes written request therefor and files a written responsive answer to the charges made not later than 10 days after service of such notice upon him. The right to hearing shall be restricted to matters in issue. At such hearing, he shall have the right to be present in person or by counsel and to submit evidence and argument in his behalf. Failure to request a hearing

within the specified time or failure to appear at the hearing when scheduled shall be deemed a waiver of the right to hearing. Such person may, in lieu of requesting an oral hearing, file a sworn written statement with the Secretary not later than 10 days after service of such notice upon him.

§ 35.16 Suspension of inspection.

Any order to withhold the issuance of a certificate, as provided in section 6 of the Act, will be effective from the date specified in the order but no earlier than the date of its service upon the person found to have been guilty. Such order will state the inclusive dates during which it is to remain in effect, and during this period no inspector employed or licensed by the Secretary shall issue any Certificate of Inspection to such person.

§ 35.17 Service of notice or order.

Service of any notice or order required by the Act or prescribed by the regulations in this part shall be deemed sufficient if made personally upon the person served, by registered mail, or by leaving a copy of such notice or order with an employee or agent at such person's usual place of business or abode or with any member of his immediate family at his place of abode. If the person named is a partnership, association, or corporation, service may similarly be made by service on any member of the partnership or any officer, employee, or agent of the association or corporation.

PART 41—[RESERVED]

PART 42—STANDARDS FOR CONDITION OF FOOD CONTAINERS

Subpart A—Definitions

- Sec. 42.101 Meaning of words.
- 42.102 Definitions, general.

Subpart B—Condition Inspection Procedures

- 42.103 Purpose and scope.
- 42.104 Sampling plans and defects.
- 42.105 Basis for selection of sample.
- 42.106 Classifying and recording defects.
- 42.107 Lot acceptance criteria.
- 42.108 Normal, tightened or reduced inspection.
- 42.109 Sampling plans for normal condition of container inspection, Tables I and I-A.
- 42.110 Sampling plans for tightened condition of container inspection, Tables II and II-A.

Sec.

42.111 Sampling plans for reduced condition of container inspection, Tables III and III-A; and limit number for reduced inspection, Table III-B.

42.112 Defects of containers, Tables IV, V, VI, VII.

42.113 Defects of label, marking, or code, Table VIII.

Subpart C—Miscellaneous

42.115 Operating Characteristic (OC) curves.

AUTHORITY: The provisions of this Part 42 issued under secs. 203, 205, 60 Stat. 1067, as amended, 1090, as amended; 7 U.S.C. 1622, 1624.

SOURCE: The provisions of this Part 42 appear at 31 F.R. 4687, Mar. 19, 1966; 31 F.R. 4649, Mar. 25, 1966, unless otherwise noted.

Subpart A—Definitions

§ 42.101 Meaning of words.

Words used in this part in the singular form shall be considered to import the plural, or vice versa, as the case may demand.

§ 42.102 Definitions, general.

For the purpose of this part, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

Acceptable Quality Level (AQL). The AQL is expressed in terms of defects per 100 units (DHU) Lots having a quality level equal to a specified AQL will be accepted approximately 95 percent of the time when using the sampling plans prescribed for the AQL. (See operating characteristic curves in Subpart C, § 42.115.)

Acceptance Number (Ac). The number in a sampling plan that indicates the maximum number of defects permitted in a sample in order to consider a lot as meeting a specific requirement.

Administrator. The Administrator of the Agricultural Marketing Service (C&MS) of the Department or any other officer or employee of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in his stead.

Condition. The degree of acceptability of the container with respect to freedom from defects which affect the serviceability, including appearance as well as usability, of the container for its intended purpose.

Defect classifications. The terms used to denote the severity of a defect. The terms are as follows:

(1) **Critical defect**—A defect that seriously affects, or is likely to seriously affect, the usability of the container for its intended purpose.

(2) **Major defect**—A defect that materially affects, or is likely to materially affect, the usability of the container for its intended purpose.

(3) **Minor defect**—A defect that materially affects the appearance of the container but is not likely to affect the usability of the container for its intended purpose.

(4) **Insignificant defect**—A flaw in the container that does not materially affect the appearance and does not affect usability of the container for its intended purpose. When performing examinations, insignificant defects shall not be recorded.

Department. The U. S. Department of Agriculture.

Double sampling. A sampling inspection scheme which involves use of two independently drawn but related samples, a first sample and a second sample which is added to the first to form a total sample size. A double sampling plan consists of first and total sample sizes with associated acceptance and rejection criteria. The first sample must be inspected first and, if possible, a decision as to acceptance or rejection of the lot made before a second sample is inspected. When the decision cannot be made on the first sample, a second sample is inspected, the decision to accept or reject is based on the total sample size.

Lot. A collection of filled food containers of the same size, type, and style. The term shall mean "inspection lot," i.e., a collection of units of product from which a sample is to be drawn and inspected to determine conformance with the applicable acceptance criteria. An inspection lot may differ from a collection of units designated as a lot for other purposes (e.g., production lot, shipping lot, etc.).

Operating characteristic curve (OC curve). A curve that gives the probability of acceptance as a function of a specific lot quality level. It shows the discriminatory power of a sampling plan, i.e., how the probability of accepting a lot varies with the quality of the containers offered for inspection.

Origin inspection. An inspection made at any location where the filled containers are examined prior to shipment or transfer to the purchaser.

Primary container. The immediate container in which the product is packaged and which serves to protect, preserve, and maintain the condition of the product. It may be metal, glass, fiber, wood, textile, plastic, paper, or any other suitable type of material and may be supplemented by liners, overwraps, or other protective materials.

Random sampling. A process of selecting a sample from a lot whereby each unit in the lot has an equal chance of being chosen.

Rejection number (Re). The number in a sampling plan that indicates the minimum number of defects in a sample that will cause a lot to fail a specific requirement.

Sample. Any number of sample units which are to be used for inspection.

Sample size (n). The number of sample units which are to be included in the sample.

Sample unit. The individual container including any component parts.

Sampling plan. Any plan stating the sample size or sizes, acceptance number or numbers, and rejection number or numbers.

Shipping case. The container in which the product or primary containers of the product are placed to protect, preserve, and maintain the condition of the product during transit or storage. The shipping case may include strapping, liners or other protective material.

Single sampling. A sampling inspection scheme where the decision to accept or reject an inspection lot with respect to a specified requirement is made after the inspection of a single sample. A single sampling plan consists of a single sample size with associated acceptance and rejection criteria.

Total defects. The sum of critical, major, and minor defects.

[31 F.R. 4687, Mar. 19, 1966, as amended at 36 F.R. 18456, Sept. 15, 1971]

Subpart B—Condition Inspection Procedures

§ 42.103 Purpose and scope.

(a) This subpart outlines the procedure to be used to establish the condition of containers in lots of packaged foods. This subpart shall be used to determine the acceptability of a lot based on specified acceptable quality levels and defects referenced in § 42.104 or any alternative plan which is approved by the Adminis-

trator. In addition, any other sampling plan in the tables with a larger first sample size than that indicated by the lot size range may be specified when approved by the Administrator. This subpart or approved alternative plan will be applied when a Government agency or private user of the C&MS inspection or grading services requests that filled primary containers or shipping cases, or both, be certified for condition. Unless the request for certification specifically asks that only the primary container or only the shipping case be examined, both containers will be examined.

(b) Unless otherwise specified by the user of service, this subpart will not apply to inspection lots of less than 50 shipping cases or to inspection lots of less than 300 primary containers. When the primary container is the shipping case, the shipping case limit will apply. When the lot size exceeds either the 50 shipping case limit or the 300 primary container limit or both, the provisions of paragraph (a) of this section will apply.

[31 F.R. 4687, Mar. 19, 1966, as amended at 36 F.R. 18456, Sept. 15, 1971]

§ 42.104 Sampling plans and defects.

(a) **Sampling plans.** Sections 42.109 through 42.111 show the number of containers to examine for condition in relation to lot size ranges. The tables provide acceptance (Ac) and rejection (Re) numbers for lot acceptance (or rejection) based on the number, class, and type of defects present in the sample.

(b) **Defects.** The tables in § 42.113 enumerate and classify defects according to the degree to which the individual defect affects the serviceability, including appearance as well as usability, of the container for its intended purpose. The table in § 42.113 enumerates and classifies defects of the label, marking, or code.

[31 F.R. 4687, Mar. 19, 1966, as amended at 36 F.R. 18456, Sept. 15, 1971]

§ 42.105 Basis for selection of sample.

(a) **Identification of lot.** Selection of proper samples requires sufficient information to identify the lot; such information includes, but is not limited to:

(1) The lot size (see § 42.103 for restriction on small lots);

(2) The type and size of container;

(3) The code marks or other identification marks and the number of containers represented by each mark;

(4) The history of the lot regarding previous inspections; and

(5) The inspection status (normal, tightened, or reduced).

(b) *Preliminary scanning.* Prior to drawing the sample, the lot should be scanned to determine if any segments or portions are abnormal with respect to wet cases, blown cans, top layer rust, leaking bags, etc. If such segments or portions noted are of any consequence, the lot may be rejected for condition of containers without sampling.

(c) *Sample size.* Determination of the number of containers to check for condition:

(1) Refer to the table in §§ 42.109 through 42.111 (sampling plans) and find where the lot size (number of individual containers) fits into the column headed "Lot Size Ranges."

(i) Tables I-A (normal), II-A (tightened), or III-A (reduced), as applicable, will apply to origin inspections, unless the contractor requests that corresponding single sampling plans be used.

(ii) The appropriate double sampling plans in Table I will apply to other than origin inspections, unless the contractor requests that corresponding single sampling plans be used.

(2) Select the appropriate sample size for the corresponding lot size range as indicated in the appropriate column headed "Sample Size."

(3) Lots rejected for unsatisfactory condition of containers may be subsequently sampled after being reconditioned or reworked. Such lots or resulting portion of a lot may be sampled as a reoffered lot providing the reoffered portion is separately identifiable. When making such inspections, the appropriate sampling plan for tightened inspection shall be used. Except in the case of an appeal inspection, it is not permissible to reinspect a previously rejected lot until it has been reconditioned or reworked.

(d) *Sample selection.* Select samples from the lot presented in accordance with either of the following two procedures as may be applicable. (A lot offered for inspection will be accepted or rejected in its entirety with either sampling procedure used to select the sample.)

(1) *Proportional random sampling.* When the number of codes or other identifying marks within the lot and the approximate number of cases or containers per code are known, select sample

units at random within each mark and in a number proportionate to the number of containers represented by such mark.

(2) *Simple random sampling.* When there are no code or other identifying marks, or when the number of codes or identifying marks within the lot and/or approximate number of cases or containers per mark are not known, select sample units at random from the entire lot.

(e) *Maximum sample units per case.* If the lot is cased, predetermine the number of containers to draw from each sampled case as well as the position within the case. Do not restrict the sampling to the top or bottom layers or to the corners. The best sample is one selected from all the various positions in the shipping case. It is desirable but not mandatory to limit the number of sample units to a single container from any one case. Multiple sample units may be taken from a single case but not in excess of the following plan:

(1) When containers are packed 12 or less to a case, draw a maximum of 6 sample units from any one case; and

(2) When containers are packed more than 12 to a case but not more than 60, draw a maximum of 12 sample units from any one case; and

(3) When containers are packed more than 60 to a case but not more than 250, draw a maximum of 16 sample units from any one case; and

(4) When containers are packed more than 250 in a case, draw a maximum of 24 sample units from any one case.

[31 F.R. 4687, Mar. 19, 1966, as amended at 36 F.R. 18458, Sept. 15, 1971]

§ 42.106 Classifying and recording defects.

(a) *Classifying defects.* Examine each sample unit for the applicable type of defects listed in the table covering the container being inspected in §§ 42.112 and 42.113. Other defects, not specifically listed, shall be classified according to their effect on the intended use of the container.

(1) Related defects are defects on a single container that are related to a single cause. If the initial incident causing one of the defects had not occurred, none of the other related defects on the container would be present. As an example of related defects, a can may be a leaker and the exterior may also be seriously rusted due to the leakage of the contents. In this case, the container is scored only once for these two defects

since the rust condition can be attributed to the leak. Score the container according to whichever condition is the most serious. In this example, score as a "leaker" (a critical defect) and not as "pitted rust" (a major defect).

(2) Unrelated defects are defects on a single container that result from separate causes. If the incident that caused one of the defects had not occurred, the other unrelated defects on the container would still be present. As an example of unrelated defects, a can may be seriously rusted, may have a bad dent along the seam, and the label may also be detached from the can because of improper gluing. In this case it is unlikely that any of the three defects exist because of a common cause. Therefore, they are considered unrelated defects and should be scored as three defects.

(3) The lot acceptance portion of this procedure is based on the number of defects per 100 containers. It is necessary to determine if the defects on any one container are "related" defects or "unrelated" defects. A container is scored for the most serious of related defects, and is also scored for each unrelated defect.

(b) *Recording defects.* Record on a worksheet the number, type, and class (critical, major, or minor) of defects on each sample unit.

(c) *Totaling defects.* Add the number of defects in each class, then add the number of minor, major, and critical defects to obtain the total defects.

[31 F.R. 4687, Mar. 19, 1966, as amended at 36 F.R. 18456, Sept. 15, 1971]

§ 42.107 Lot acceptance criteria.

(a) The acceptability of the lot is determined by relating the number and class of defects enumerated on the worksheet to the acceptance and rejection numbers shown in §§ 42.109 through 42.111 for the respective sample size and Acceptable Quality Level (AQL).

(b) Unless otherwise specified, use the following AQL's for the respective class of defects:

Defect class	AQL at origin inspection	AQL at other than origin inspection
Critical.....	0.25	0.25
Major.....	1.5	2.5
Total.....	6.5	10.0

(c) Refer to the appropriate sample size and AQL and compare the number of defects found in the sample with the acceptance (Ac) and rejection (Re) numbers in the sampling plan.

(1) Accept the lot after examining the single sample or first sample of a double sampling plan when all of the following conditions are met:

(i) The number of critical defects does not exceed the applicable acceptance number (Ac) for critical defects, and

(ii) The number of major defects does not exceed the applicable acceptance number (Ac) for major defects, and

(iii) The total number of critical, major, and minor defects does not exceed the applicable acceptance number (Ac) for total defects.

(2) Reject the lot after examining the single sample or first sample of a double sampling plan when any one or more of the following conditions occur:

(i) The number of critical defects equals or exceeds the applicable rejection number (Re) for critical defects, or

(ii) The number of major defects equals or exceeds the applicable rejection number (Re) for major defects, or

(iii) The total number of critical, major, and minor defects equals or exceeds the applicable rejection number (Re) for total defects.

(3) If the lot can neither be accepted nor rejected on the first sample, when a double sampling plan is used, select and examine the prescribed second sample. Accept the lot if the accumulated defects of the first and second sample meet conditions of subparagraph (1) of this paragraph, otherwise, reject the lot.

[31 F.R. 4687, Mar. 19, 1966, as amended at 36 F.R. 18456, Sept. 15, 1971]

§ 42.108 Normal, tightened, or reduced inspection.

(a) *Normal inspection.* Sampling plans for normal inspection are those in Tables I and I-A. These plans shall be used except when the history of inspection permits reduced inspection or requires tightened inspection.

(b) *Tightened inspection.* Sampling plans for tightened inspection are those in Tables II and II-A.

(c) *Reduced inspection.* Sampling plans for reduced inspection are those in Tables III and III-A.

(d) **Switching rules:** The normal inspection procedure shall be followed except when conditions in subparagraph (1) or (3) of this paragraph are applicable or unless otherwise specified. Application of the following switching rules will be restricted to the inspection of lots for one applicant at a single location (plant, warehouse, etc.), and will be based upon records of original inspections of lots (excluding resubmitted lots) at that same location.

(1) *Normal inspection to reduced inspection.* When normal inspection is in effect, reduced inspection shall be instituted providing that reduced inspection is considered desirable by the Administrator and further provided that all of the following conditions are satisfied for each class of defect:

(i) The preceding 10 inspection lots (or more, as indicated by the note to Table III-B) which have been inspected within the preceding 6 months have been on normal inspection and none has been rejected on original inspection; and

(ii) The total number of defects in the samples from the preceding 10 inspection lots (or such other number of lots used for condition in subdivision (1) of this subparagraph) is equal to or less than the applicable number given in Table III-B. If a double sampling plan is used, all samples inspected should be included, not "first" samples only; and

(2) *Reduced inspection to normal inspection.* When reduced inspection is in effect, normal inspection shall be reinstated if any of the following occur:

(i) An inspection lot is rejected on original inspection; or

(ii) Production becomes irregular (delayed or accelerated); or

(iii) Other valid conditions warrant that normal inspection shall be reinstated.

(3) *Normal inspection to tightened inspection.* When normal inspection is in effect, tightened inspection shall be instituted when 2 out of 5 consecutive inspection lots have been rejected on original inspection.

(4) *Tightened inspection to normal inspection.* When tightened inspection is in effect, normal inspection shall be reinstated when five consecutive inspection lots have been considered acceptable on original inspection.

(e) When the rules require a switch in the inspection status because of one or

more classes of defects, all classes of defects shall be inspected under the new inspection criteria. At the option of the user of the service and when approved by the Administrator, such user may elect to remain on normal inspection when qualified for reduced inspection, or on tightened inspection when qualified for normal inspection

(f) **Appeal inspection:**

(1) *Appeal request.* Any interested party who is not satisfied with the results of a condition inspection on packaged food containers, as stated on an official certificate, may request an appeal inspection.

(2) *How to file an appeal.* A request for an appeal inspection may be made orally or in writing. If made orally, written confirmation may be required. The applicant shall clearly state the reasons for requesting the appeal service and a description of the product to be appealed.

(3) *When an application for an appeal inspection may be refused.* When it appears that: (i) The reasons given in the request are frivolous or not substantial; or (ii) the condition of the containers has undergone a material change since the original inspection; or (iii) the original lot is no longer intact, the applicant's request for the appeal inspection may be refused. In such case, the applicant shall be promptly notified of the reason(s) for such refusal.

(4) *Who shall perform the appeal.* An appeal inspection shall be performed by a person(s) other than the person who made the inspection being appealed.

(5) *Sampling procedures.* The sampling plan for an appeal inspection shall be the next larger sampling plan from the plan in the table used in the original inspection.

(6) *Appeal certificate.* Immediately after an appeal inspection is completed, an appeal certificate shall be issued to show that the original inspection was sustained or was not sustained. Such certificate shall supersede any previously issued certificate for the inspection involved and shall clearly identify the number and date of the superseded certificate. The issuance of the appeal certificate may be withheld until the previously issued certificate and all copies have been returned when such action is deemed necessary to protect the interest of the Government.

[31 F.R. 4687, Mar. 19, 1966 as amended at 36 F.R. 18456, Sept. 15, 1971]

§ 42.109 Sampling plans for normal condition of container inspection, Tables I and I-A.
TABLE I—SAMPLING PLANS FOR NORMAL CONDITION OF CONTAINER INSPECTION

Code	Lot size ranges—Number of containers in lot	Type of plan	Sample size		Other acceptable quality levels																	
			Sample size		0.25		0.50		1.0		1.5		2.5		4.0		6.5		10.0			
			Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re		
CA	6,000 or less	Single	126	0	1	2	2	3	3	4	4	5	6	7	9	10	18	14				
CB	6,001-12,000	Single	264	1	2	2	3	4	5	6	7	8	11	12	16	17	23	24				
CC	12,001-36,000	Double	174	0	2	2	0	3	2	6	2	6	3	7	6	10	14	14	19			
CD	Over 36,000	Single	500	2	3	3	4	6	7	8	9	13	14	19	20	28	29	41	42			
CE		Single	1,250	4	5	5	7	8	13	14	18	19	27	28	42	43	64	65	96			

Ac = Acceptance number.
Re = Rejection number.
(*) = Reject on one or more defects. These plans are less preferable than those with numbers listed under Ac and Re.

TABLE I-A—SAMPLING PLANS OF SELECTED AQL'S FOR NORMAL CONDITION OF CONTAINER INSPECTION

Code	Lot size ranges— Number of containers in lot	Type of plan	Sample size		Acceptable quality levels					
					0.25		1.5		6.5	
					Ac	Re	Ac	Re	Ac	Re
CA	6,000 or less.....	Double.....	1st.....	36	(*)	(*)	0	4	2	7
			2d.....	60						
			Total.....	96						
CB	6,001-12,000.....	Double.....	1st.....	120	0	2	2	6	10	14
			2d.....	60						
			Total.....	180						
CC	12,001-36,000.....	Double.....	1st.....	168	0	3	2	7	12	18
			2d.....	180						
			Total.....	348						
CD	Over 36,000.....	Double.....	1st.....	228	0	3	3	9	15	24
			2d.....	288						
			Total.....	516						

(*)=Reject on one or more defects.

[31 F.R. 4687, Mar. 19, 1966, as amended at 36 F.R. 18457, Sept. 15, 1971]

§ 42.110 Sampling plans for tightened condition of container inspection; Tables II and II-A.
TABLE II—SAMPLING PLANS FOR TIGHTENED CONDITION OF CONTAINER INSPECTION

Code	Lot size ranges— Number of containers in lot	Type of plan	AQL 0.15		Other acceptable quality levels																
			Sample size	Ac	Re	0.26		0.50		1.0		1.5		2.5		4.0		6.5		10.0	
						Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re
CB	6,000 or less	Single	264	0	1	0	1	1	2	2	3	4	5	6	7	8	11	12	16	17	
		Double	120	(*)	(*)	0	2	0	3	2	5	2	6	3	7	6	10	10	14	14	
		Total	180	(*)	(*)	1	2	2	3	4	5	6	6	8	9	12	13	17	18		
CC	6,001-12,000	Single	500	1	2	1	2	2	3	3	4	6	7	8	9	13	14	19	20	28	29
		Double	360	0	2	0	2	0	3	0	4	1	5	2	7	5	10	7	13	12	18
		Total	864	1	2	2	2	3	3	4	7	8	9	10	14	16	21	22	31	32	
CD	12,001-36,000	Single	800	2	3	2	3	3	4	5	6	9	10	12	13	18	19	28	29	42	43
		Double	456	0	3	0	3	0	5	2	7	3	9	5	11	8	17	15	24	24	
		Total	1,256	2	3	3	3	4	5	6	9	10	12	13	19	20	29	30	43	44	
CE	Over 36,000	Single	1,250	3	4	3	4	4	5	7	8	13	14	18	19	27	28	42	43	64	65
		Double	456	0	4	1	5	2	6	5	10	8	13	12	19	21	28	32	41	41	
		Total	1,706	3	4	4	5	8	9	14	15	19	20	29	30	44	45	69	70		
CF		Single	1,250	3	4	4	5	7	6	10	11	19	20	26	27	41	42	63	64	96	97

(*) Reject on one or more defects.

TABLE II-A—SAMPLING PLANS OF SELECTED AQL'S FOR TIGHTENED CONDITION OF CONTAINER INSPECTION

Code	Lot size ranges— Number of containers in lot	Type of plan	Sample size		Acceptable quality levels					
					0.25		1.5		6.5	
					Ac	Re	Ac	Re	Ac	Re
CB	6,000 or less.....	Double.....	1st.....	120	(*)	(*)	2	5	6	10
			2d.....	60						
			Total.....	180	(*)	(*)	4	5	12	13
CC	6,001-12,000.....	Double.....	1st.....	168	0	2	1	5	7	13
			2d.....	180						
			Total.....	348	1	2	7	8	21	22
CD	12,001-36,000.....	Double.....	1st.....	228	0	3	2	7	8	17
			2d.....	288						
			Total.....	516	2	3	9	10	29	30
CE	Over 36,000.....	Double.....	1st.....	456	0	4	5	10	21	28
			2d.....	408						
			Total.....	864	3	4	14	15	44	45

(*) Reject on one or more defects.

[31 F.R. 4687, Mar. 19, 1966, as amended at 36 F.R. 18457, Sept. 15, 1971]

§ 42.111 Sampling plans for reduced condition of container inspection, Tables III and III-A; and limit number for reduced inspection, Table III-B.

TABLE III—SAMPLING PLANS FOR REDUCED CONDITION OF CONTAINER INSPECTION

Code	Lot size ranges— Number of con- tainers in lot	Type of plan	Sample size	Acceptable quality levels																		
				0.15		0.25		0.50		1.0		1.5		2.5		4.0		6.5		10.0		
				Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re	
CAA	6,000 or less	Single	29	1	2	1	2	1	2	1	2	1	2	1	2	1	2	1	2	1	2	
		Double	18	0	2	0	2	0	2	0	2	0	2	0	2	0	2	0	2	0	2	0
		Total	36	1	2	1	2	1	2	1	2	1	2	1	2	1	2	1	2	1	2	1
CA	6,001-36,000	Single	84	1	2	1	2	1	2	3	3	4	4	5	6	7	9	10	13	14	14	
		Double	36	0	2	0	2	0	2	0	2	0	2	0	2	0	2	0	2	0	2	0
		Total	60	1	2	1	2	1	2	3	3	4	4	5	6	7	9	10	13	14	14	
CB	Over 36,000	Single	96	1	2	1	2	1	2	3	3	4	4	5	7	8	10	11	15	16	16	
		Double	168	1	2	1	2	2	3	4	5	6	7	8	11	12	16	17	23	24	24	
		Total	120	0	2	0	2	0	2	0	2	0	2	0	2	0	2	0	2	0	2	0
CC		Single	180	1	2	1	2	2	3	4	5	6	8	9	12	13	17	18	25	26	26	
		Double	315	1	2	2	3	3	4	6	7	8	9	13	14	19	20	28	29	41	42	
		Total																				

TABLE III-A—SAMPLING PLANS FOR REDUCED CONDITION OF CONTAINER INSPECTION

Code	Lot size ranges— Number of containers in lot	Type of plan	Sample size		Acceptable quality levels					
					0.25		1.5		6.5	
					Ac	Re	Ac	Re	Ac	Re
CAA	6,000 or less.....	Double.....	1st.....	18	0	2	0	2	1	4
			2d.....	18						
			Total.....	36	1	2	1	2	5	6
CA	6,001-36,000.....	Double.....	1st.....	36	0	2	0	4	2	7
			2d.....	60						
			Total.....	96	1	2	3	4	10	11
CB	Over 36,000.....	Double.....	1st.....	120	0	2	2	6	10	14
			2d.....	60						
			Total.....	180	1	2	5	6	17	18

TABLE III-B—LIMIT NUMBERS FOR REDUCED INSPECTION

Number of sample units from last 10 lots inspected within 6 months	Acceptable quality level								
	0.15	0.25	0.5	1.0	1.5	2.5	4.0	6.5	10.0
220-499.....	(*)	(*)	(*)	0	1	4	8	14	24
500-799.....	(*)	(*)		2	3	7	14	25	40
800-1,249.....	(*)		0	4	7	14	24	42	68
1,250-1,999.....	0	0	1	7	13	24	40	69	110
2,000-3,149.....	0	2	6	14	22	40	68	115	181
3,150-4,999.....	1	4	10	24	38	67	111	186	
5,000-7,999.....	3	7	18	40	63	110	181		
8,000-12,499.....	7	14	31	68	105	181			
12,500-19,999.....	18	24	52	110	169				

*Denotes that the number of sample units from the last 10 inspection lots is not sufficient for reduced inspection for this AQL. In this instance more than 10 inspection lots may be used for the calculations if; the inspection lots used are the most recent ones in sequence within the last 6 months, they have all been on normal inspection, and none has been rejected on original inspection.

[31 F.R. 4637, Mar. 19, 1966, as amended at 36 F.R. 18457, Sept. 15, 1971]

§ 42.112 Defects of containers: Tables IV, VI, and VII.

TABLE IV—METAL CONTAINERS

Defects	Categories		
	Critical	Major	Minor
Type or size of container or component parts not as specified.....	None permitted		
Closure incomplete, not located correctly or not sealed, crimped, or fitted properly.....		101	201
Dirty, stained or smeared container.....			201
Key opening metal containers (when required):			
(a) Key missing.....		102	
(b) Key does not fit tab.....		103	
(c) Tab of opening band insufficient to provide accessibility to key.....		104	
(d) Improper scoring (band would not be removed in one continuous strip).....		105	
Open top with plastic overcap (when required):			
(a) Plastic overcap missing.....		106	
(b) Plastic overcap warped (making opening or reapplication difficult).....		107	
Outside tinplate or coating (when required):			
(a) Missing or incomplete.....			202
(b) Blistered, flaked, sagged, or wrinkled.....			203
(c) Scratched or scored.....			204
(d) Fine cracks.....			205
Rust (rust stain confined to the top or bottom double seam or rust that can be removed with a soft cloth is not scored a defect):			
(a) Rust stain (nonmilitary purchases).....			206
(b) Rust stain (military purchases).....		108	
(c) Pitted rust.....		109	
Wet cans (excluding refrigerated containers).....			207
Dent:			
(a) Materially affecting appearance but not usability.....			208
(b) Materially affecting usability.....		110	
Buckle:			
(a) Not involving end seam.....			209
(b) Extending into the end seam.....		111	
Collapsed container.....		112	
Paneled side materially affecting appearance but not usability.....			210
Solder missing when required.....		113	
Cable cut exposing seam.....		114	
Improper side seam.....		115	
Swell, springer, or flipper (not applicable to gas or pressure packed product nor frozen products).....	1		
Leaker or blown container.....	2		
Frozen products only:			
(a) Bulging ends $\frac{3}{16}$ " to $\frac{1}{2}$ " beyond lip.....			211
(b) Bulging ends more than $\frac{1}{4}$ " beyond lip.....		116	

TABLE V—GLASS CONTAINERS

Defects	Categories		
	Critical	Major	Minor
Type or size of container or component parts not as specified.....	None permitted		
Closure not sealed, crimped, or fitted properly.....		101	201
Dirty, stained, or smeared container.....			202
Chip in glass.....			203
Stone (unmelted material) in glass.....			204
Pits in surface of glass.....			205
Sagging surface.....			
Bead (bubble within glass):			
(a) $\frac{1}{8}$ " to $\frac{1}{16}$ " in diameter.....			206
(b) Exceeding $\frac{1}{8}$ " in diameter.....		102	
Checked.....		103	
Thin spot in glass.....		104	
Blister (structural defect).....		105	
Bird swing (glass appendage inside container).....	1		
Broken or leaking container.....	2		
Cap (nonheat processed):			
(a) Cross-threaded.....			207
(b) Loose but not leaking.....			208
(c) Pitted rust.....		106	
Cap (heat processed):			
(a) Cross-threaded or loose.....	3		
(b) Pitted rust.....		107	
Sealing tape or cello band (when required):			
(a) Improperly placed.....			209
(b) Not covering juncture of cap and glass.....		108	
(c) Ends overlap by less than $\frac{1}{2}$ ".....		109	
(d) Loose or deteriorating.....		110	

TABLE VI—RIGID AND SEMIRIGID CONTAINERS—CORRUGATED OR SOLID FIBERBOARD, CHIPBOARD, WOOD, ETC. (EXCLUDING GLASS AND METAL)

Defects	Categories		
	Critical	Major.	Minor
Type or size of container or component parts not as specified.....	None permitted		
Component part missing.....		101	
Closure not sealed, crimped, or fitted properly:			
(a) Primary container.....		102	
(b) Other than primary container.....			201
Dirty, stained, or smeared container.....			202
Wet or damp (excluding ice packs):			
(a) Materially affecting appearance but not usability.....			203
(b) Materially affecting usability.....		103	
Moldy area.....	1		
Crushed or torn area:			
(a) Materially affecting appearance but not usability.....			204
(b) Materially affecting usability.....		104	
Separation of lamination (corrugated fiberboard):			
(a) Materially affecting appearance but not usability.....			205
(b) Materially affecting usability.....		105	
Product sifting or leaking.....		106	
Nails or staples (when required):			
(a) Not as required, insufficient number or improperly positioned.....			206
(b) Nails or staples protruding.....		107	
Glue or adhesive (when required); not holding properly not covering area specified, or not covering sufficient area to hold properly:			
(a) Primary container.....		108	
(b) Other than primary container.....			207
Flap:			
(a) Projects beyond edge of container more than ¼ inch.....			208
(b) Does not meet properly, allowing space of more than ¼ inch.....			209
Sealing tape or strapping (when required):			
(a) Missing.....		109	
(b) Improperly placed or applied.....			210

TABLE VII—FLEXIBLE CONTAINERS (PLASTIC, CELLO, PAPER, TEXTILE, ETC.)

Defects	Categories		
	Critical	Major	Minor
Type or size of container or component parts not as specified.....	None permitted		
Closure not sealed, crimped, stitched, or fitted properly:			
(a) Primary container.....		101	
(b) Other than primary container.....			201
Dirty, stained, or smeared container.....			202
Unmelted gels in plastic.....			203
Torn container:			
(a) Materially affecting appearance but not usability.....			204
(b) Materially affecting usability.....		102	
Product sifting or leaking.....		103	
Moldy area.....	1		
Individual packages sticking together or to shipping case (tear when separated).....		104	
Not fully covering product.....		105	
Wet or damp (excluding ice packs):			
(a) Materially affecting appearance but not usability.....			205
(b) Materially affecting usability.....		106	
Overwrap (when required):			
(a) Missing.....		107	
(b) Loose, not sealed or closed.....			206
(c) Improperly applied.....			207
Sealing tape, strapping or adhesives (when required):			
(a) Missing.....		108	
(b) Improperly placed, applied, torn, or wrinkled.....			208
Tape over bottom and top closures (when required):			
(a) Not covering stitching.....		109	
(b) Torn (exposing stitching).....		110	
(c) Wrinkled (exposing stitching).....		111	
(d) Not adhering to bag:			
1. Exposing stitching.....		112	
2. Not exposing stitching.....			209
(e) Improper placement.....			210

[31 F.R. 4687 Mar. 19, 1966, as amended at 36 F.R. 18457, Sept. 15, 1971]

§ 42.113 Defects of label, marking, or code; Table VIII

TABLE VIII—LABEL, MARKING OR CODE

Defect	Categories	
	Major	Minor
Not specified method.....	101	-----
Missing (when required).....	102	-----
Loose or improperly applied.....	-----	201
Torn or mutilated.....	-----	202
Text illegible or incomplete.....	-----	203
Incorrect.....	-----	204
In wrong location.....	-----	205

Subpart C—Miscellaneous

§ 42.115 Operating Characteristics (OC) curves.

(a) This section contains the Operating Characteristic (OC) curve for each of the sampling plans given in Tables I, I-A, II, II-A, III and III-A. The OC curve and the corresponding sampling plans are listed by AQL.

(b) Different acceptance and rejection criteria are provided for each AQL. The criteria for each AQL must be obtained from the applicable sampling plan tables.

(c) The curves show the ability of the various sampling plans to distinguish between good and bad lots. This can be illustrated by examining OC curve 6 for an AQL of 0.25 defects per hundred units in the Reduced and Normal Inspection Plans. If the quality of the lots submitted for inspection is poorer than the AQL of 0.25 defects per hundred units, fewer lots will be accepted. For example, OC curve 6 shows that when the quality of lots submitted for inspection is 1.0 defects per hundred units, only 26 percent of the lots are expected to be accepted. Conversely when the quality of the lots submitted for inspection is better than the AQL of 0.25 defects per hundred units, most lots are expected to

be accepted. For example, the same OC curve 6 shows that when the quality of lots submitted for inspection is 0.10 defects per hundred units, about 99 percent of the lots are expected to be accepted.

(d) The table of sampling plans that correspond to OC curve 6 can be found over the curves for an AQL of 0.25 defects per hundred units in the Reduced and Normal Inspection Plan. An examination of this table reveals that there is one single and one double sampling plan that have OC curves comparable to OC curve 6. The first plan listed is a single plan requiring the inspection of 500 individual containers. Under this plan the lot is accepted as meeting the requirements for an AQL of 0.25 if there are 3 or less defects in the sample or rejected if there are 4 or more defects in the sample.

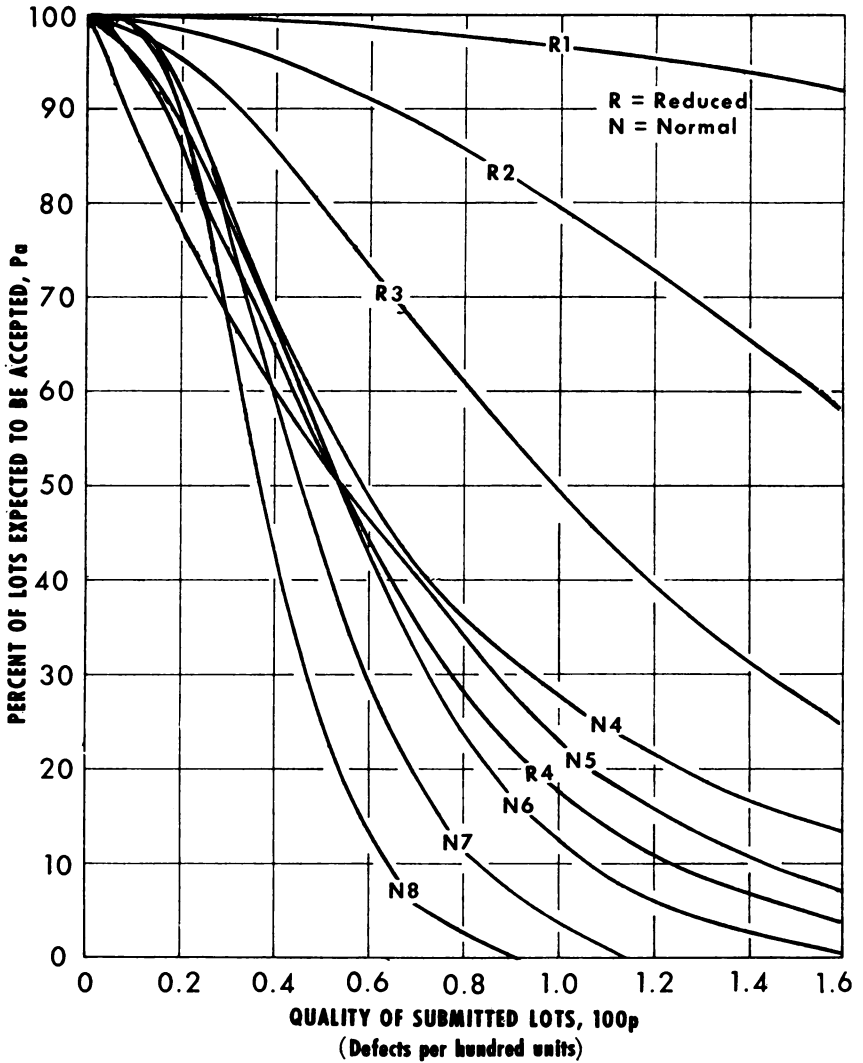
(e) The next plan that is listed in the column headed 6 for an AQL of 0.25 is a double sampling plan that requires the initial inspection of 228 individual containers. The lot will be accepted as meeting the requirements of an AQL of 0.25 if there are no defects in the sample, and rejected if there are 3 or more defects in the sample. In the event that the number of defects is between the acceptance (0) and rejection (3) numbers, additional containers must be inspected. In this case, the table indicates that a total of 516 containers must be inspected before a decision can be made to either accept or reject the lot. This will require the inspection of 288 more containers (516—228=288).

If there are 3 or less defects in the total sample, the lot will be accepted. If there are 4 or more defects in the total sample, the lot will be rejected. The other double sampling plans operate in a similar manner with the only differences being the sample sizes and acceptance and rejection numbers.

REDUCED AND NORMAL INSPECTION PLANS
SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL-0.15 DEFECTS PER HUNDRED UNITS
 [Sampling plans—AQL-0.15]

Comparable sampling plans		Identification number of OC curve																															
		R1			R2			R3			R4			N4			N5			N6			N7			N8							
		n _o	Ac	Re	n _o	Ac	Re	n _o	Ac	Re	n _o	Ac	Re	n _o	Ac	Re	n _o	Ac	Re	n _o	Ac	Re	n _o	Ac	Re	n _o	Ac	Re	n _o	Ac	Re		
Single	29	1	2	84	1	2	128	0	1	315	1	2	168	1	2	264	1	2	500	2	3	800	3	4	1250	4	5						
Double	18	0	2	36	0	2							120	0	2	174	0	2	262	0	3	456	0	4	864	3	4						
	36	1	2	96	1	2							180	1	2	336	1	2	640	2	3												

OC CURVES - AQL = 0.15



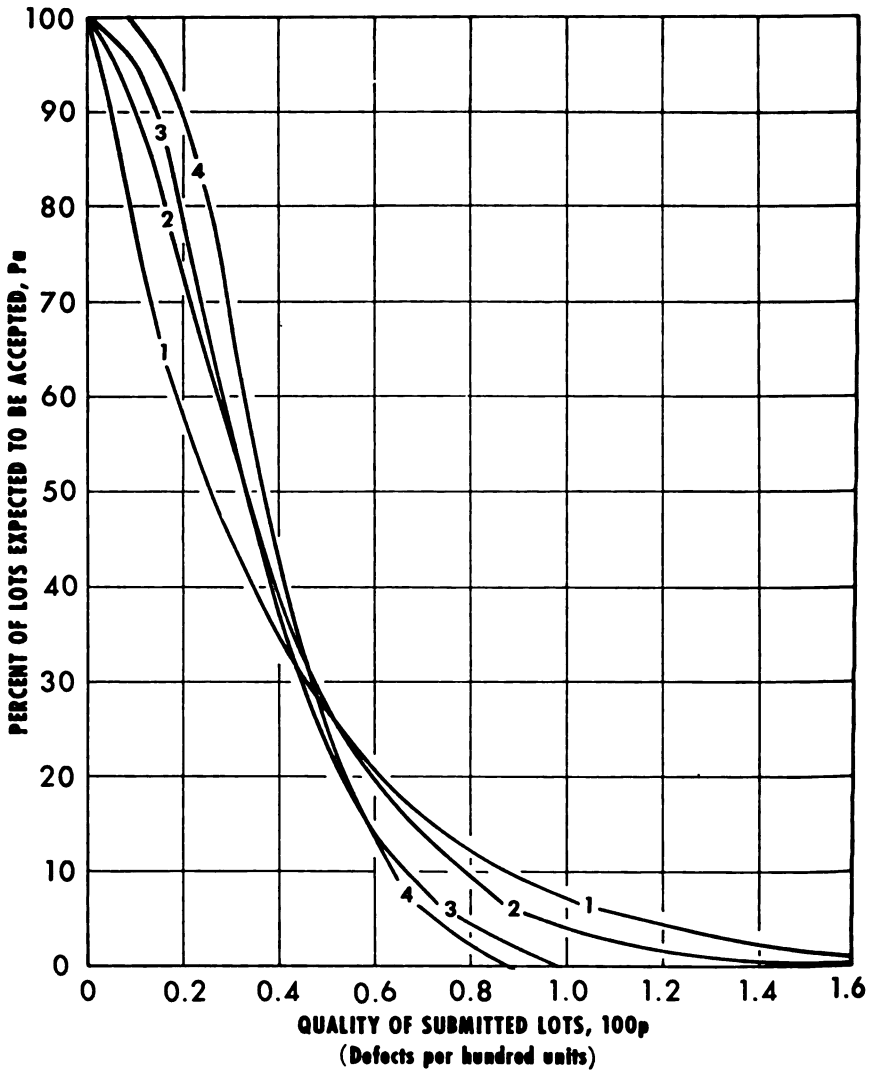
TIGHTENED INSPECTION PLANS

SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=0.15 DEFECTS PER HUNDRED UNITS
(Sampling plans—AQL=0.15)

Comparable sampling plans	Identification number of OC curves											
	1			2			3			4		
	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re
Single	264	0	1	500	1	2	800	2	3	1250	3	4
Double	-----	-----	-----	360	0	2	456	0	3	576	0	3
	-----	-----	-----	516	1	2	864	2	3	1296	3	4

n_c = Cumulative sample size. Ac = Acceptance number Re = Rejection number.

OC CURVES - AQL = 0.15



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NEG. C&MS 118-65 (12) AGRICULTURAL MARKETING SERVICE

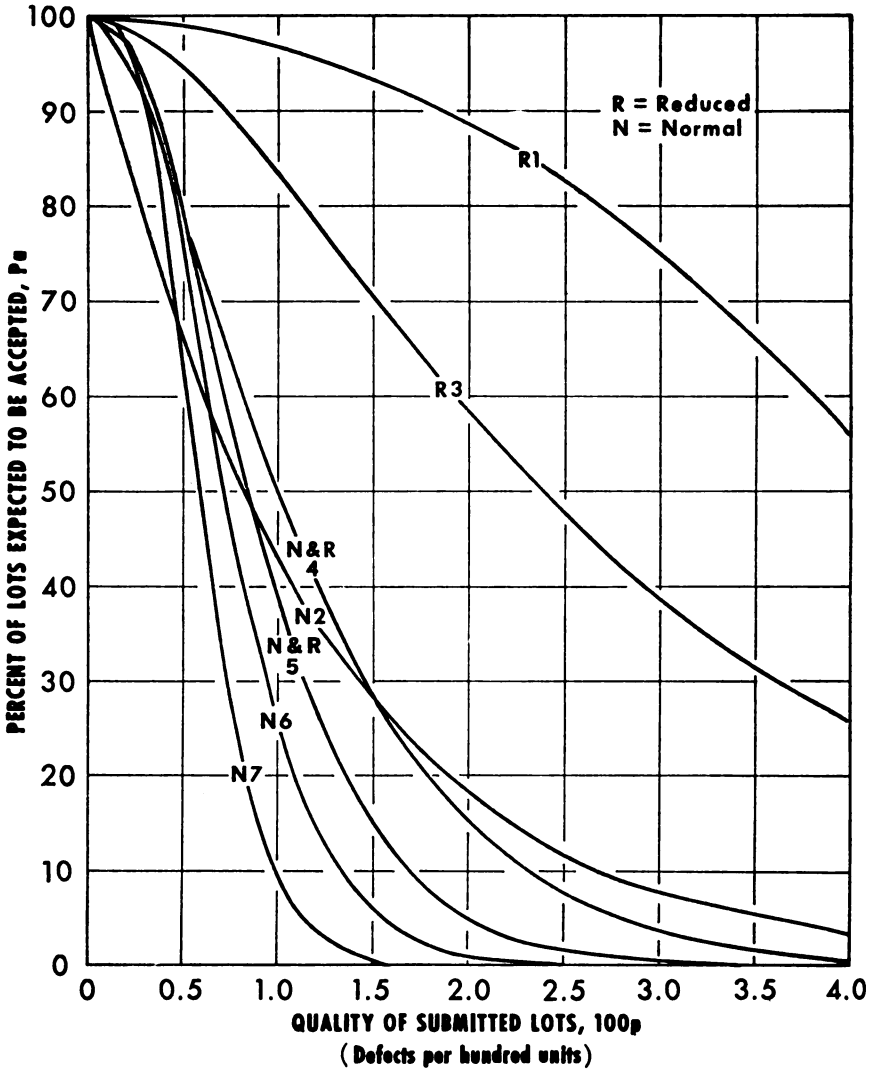
REDUCED AND NORMAL INSPECTION PLANS

SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=0.25 DEFECTS PER HUNDRED UNITS
[Sampling plans—AQL=0.25]

Comparable sampling plans	Identification number OC curves																				
	R1			N2			R3			N and R4			N and R5			N6			N7		
	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re
Single	20	1	2	84	0	1	84	1	2	168	1	2	315	2	3	500	3	4	800	4	5
Double	18	0	2	---	---	---	36	0	2	120	0	2	168	0	3	228	0	3	---	---	---
	18	1	2	---	---	---	96	1	2	180	1	2	348	2	3	516	3	4	---	---	---

n.=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.

OC CURVES - AQL = 0.25

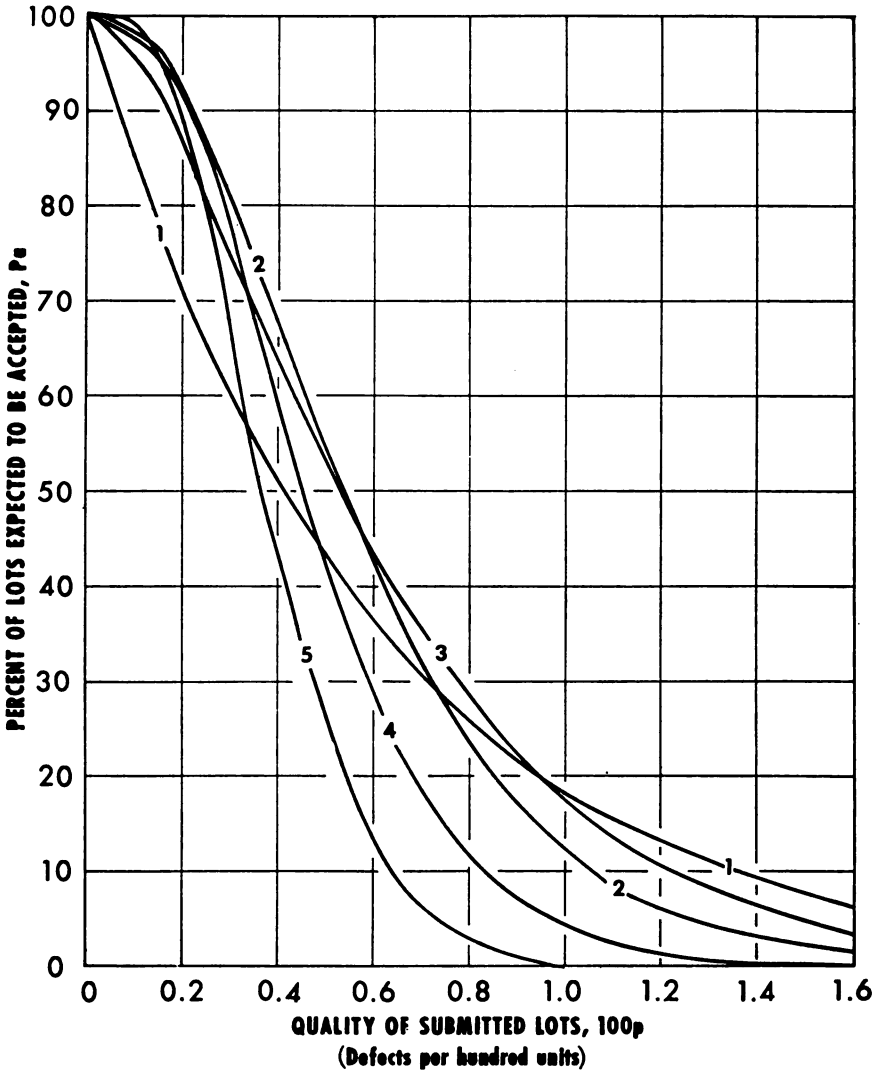


TIGHTENED INSPECTION PLANS
 SAMPLING PLANS AND OPERATION CHARACTERISTIC (OC) CURVES FOR AQL=0.25
 DEFECTS PER HUNDRED UNITS
 [Sampling plans—AQL=0.25]

Comparable sampling plans	Identification number of OC curves														
	1			2			3			4			5		
	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re
Single	168	0	1	315	1	2	500	2	3	800	3	4	1250	4	5
Double	-----	-----	-----	168	0	2	228	0	3	456	0	4	-----	-----	-----
	-----	-----	-----	348	1	2	516	2	3	864	3	4	-----	-----	-----

n_c=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.

OC CURVES - AQL = 0.25



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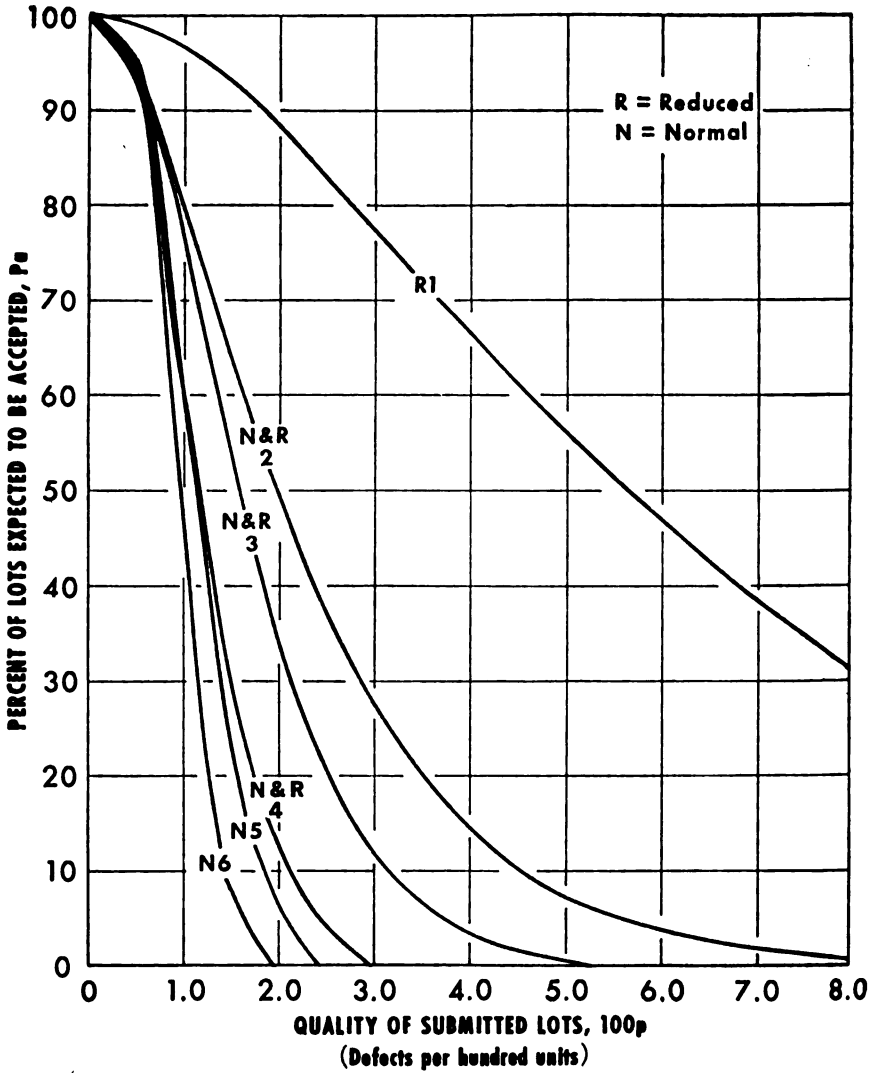
REDUCED AND NORMAL INSPECTION PLANS

SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=0.50 DEFECTS PER HUNDRED UNITS
[Sampling plans—AQL=0.50]

Comparable sampling plans	Identification number of OC curves																	
	R1			N and R2			N and R3			N and R4			N5			N6		
	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re
Single	29	1	2	84	1	2	166	2	3	315	3	4	500	5	6	800	7	8
Double	18 36	0 1	2	36 96	0 1	2	120 180	0 2	3 3	168 348	0 3	4 4	228 516	0 5	5 6	-----	-----	-----

n.=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.

OC CURVES - AQL = 0.50



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TIGHTENED INSPECTION PLANS

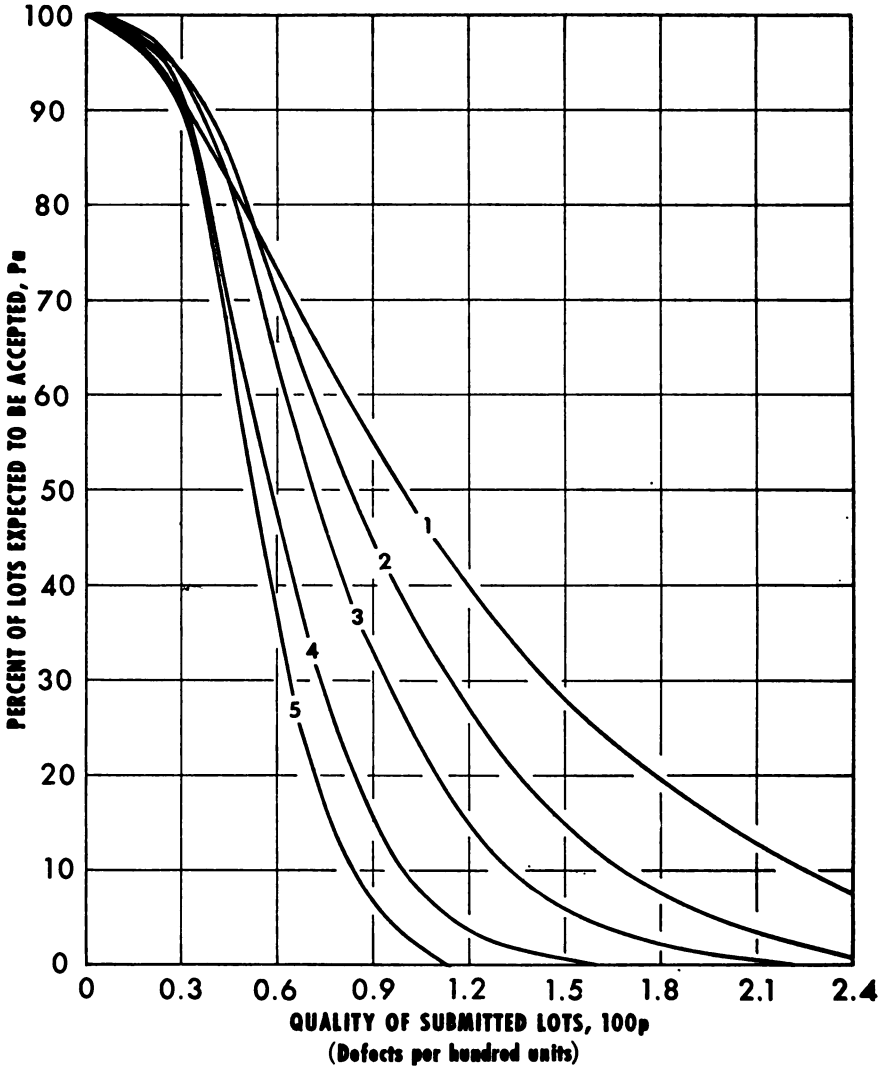
SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR
AQL=0.50 DEFECTS PER HUNDRED UNITS

[Sampling plans—AQL=0.50]

Comparable sampling plans	Identification number of OC curves														
	1			2			3			4			5		
	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re
Single	168	1	2	315	2	3	500	3	4	800	4	5	1250	6	7
Double	120	0	2	168	0	3	228	0	3	456	1	5	-----	-----	-----
	180	1	2	348	2	3	516	3	4	864	4	5	-----	-----	-----

n.=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.

OC CURVES - AQL = 0.50



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NEG. C&MS 131-65 (12) AGRICULTURAL MARKETING SERVICE

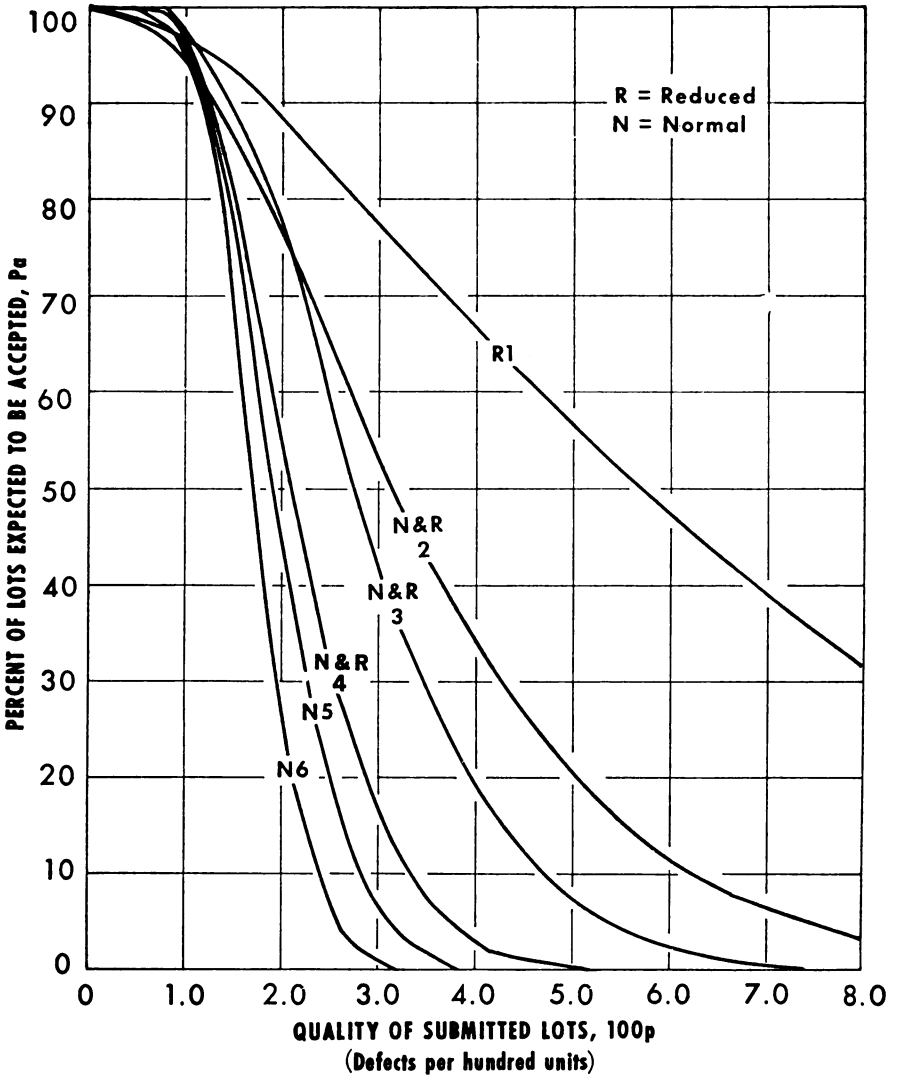
REDUCED AND NORMAL INSPECTION PLANS

SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=1.00 DEFECTS PER HUNDRED UNITS
[Sampling plans—AQL=1.00]

Comparable sampling plans	Identification number of OC curves																	
	R1			N and R2			N and R3			N and R4			N5			N6		
	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re
Single	29	1	2	84	2	3	168	4	5	315	6	7	500	9	10	800	13	14
Double	18 36	0 1	2	36 96	0 2	3 3	120 180	2 4	5 5	168 348	1 7	5 8	228 516	2 9	7 10	-----	-----	-----

n. = Cumulative sample size. Ac = Acceptance number. Re = Rejection number.

OC CURVES - AQL = 1.00



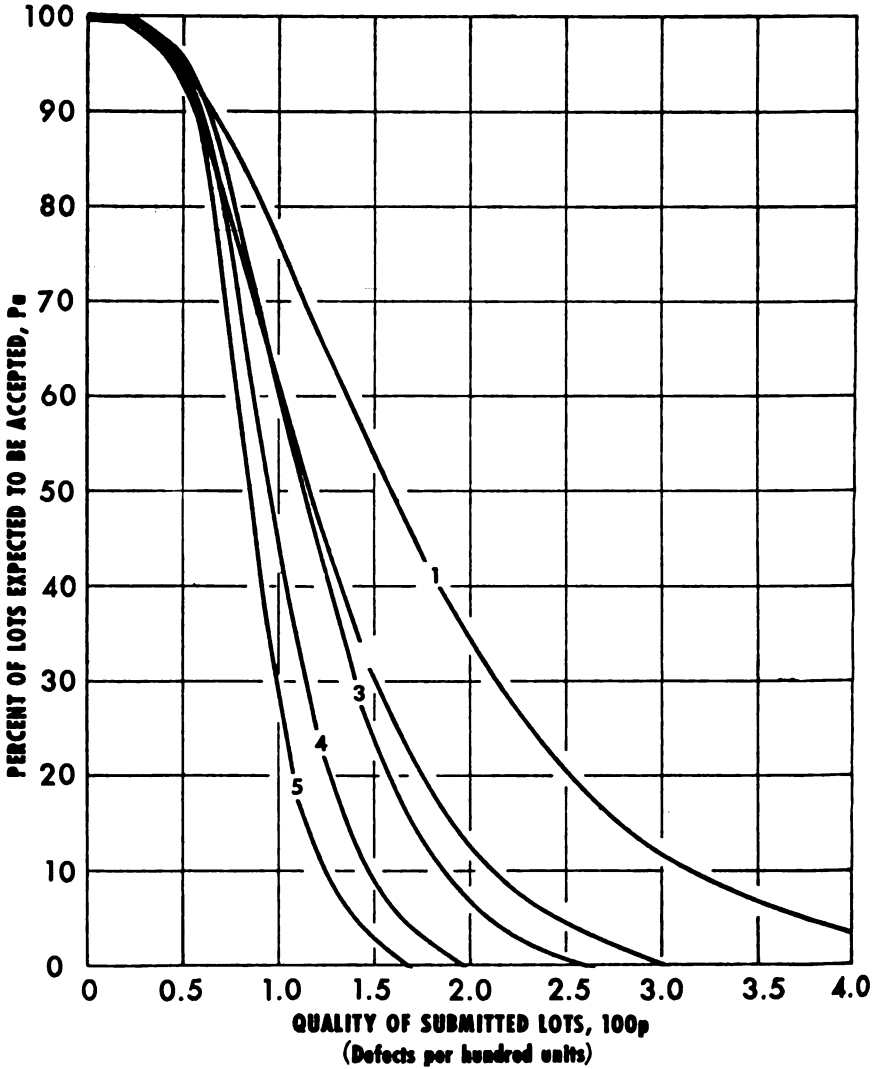
TIGHTENED INSPECTION PLANS

SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=1.00 DEFECTS PER HUNDRED UNITS
[Sampling plans—AQL=1.00]

Comparable sampling plans	Identification number of OC curves														
	1			2			3			4			5		
	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re
Single	168	2	3	315	3	4	500	5	6	800	7	8	1250	10	11
Double	120	0	3	168	0	4	228	0	5	456	2	6	-----	-----	-----
	180	2	3	348	3	4	516	5	6	864	8	9	-----	-----	-----

n_c=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.

OC CURVES - AQL = 1.00



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NEG. C&MS 132-65 (12) AGRICULTURAL MARKETING SERVICE

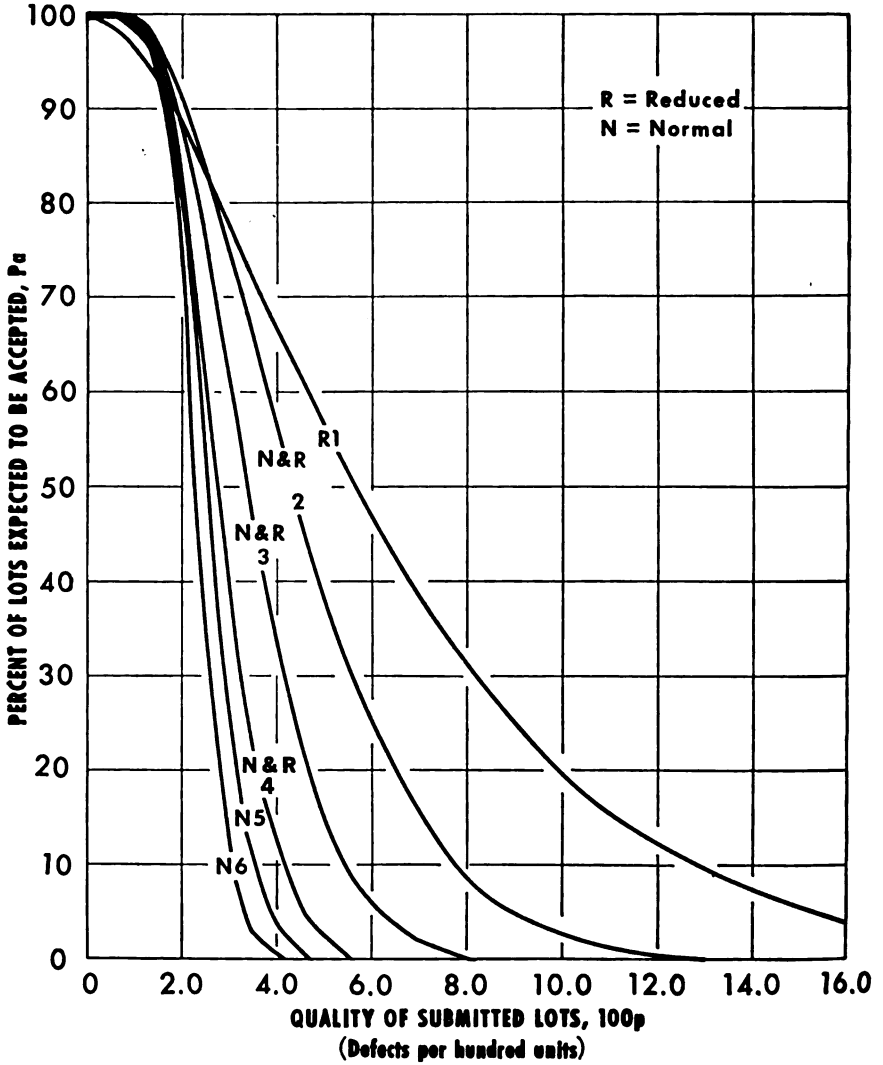
REDUCED AND NORMAL INSPECTION PLANS

SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=1.50 DEFECTS PER HUNDRED UNITS
[Sampling plans—AQL=1.50]

Comparable sampling plans	Identification number of OC curves																	
	R1			N and R2			N and R3			N and R4			N5			N6		
	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re
Single	29	1	2	84	3	4	168	5	6	315	8	9	500	12	13	800	18	19
Double	18 36	0 1	2 2	36 96	0 3	4 4	120 180	2 5	6 6	168 348	2 9	7 10	228 516	3 12	9 13	-----	-----	-----

n.—Cumulative sample size. Ac—Acceptance number. Re—Rejection number.

OC CURVES - AQL = 1.50



U. S. DEPARTMENT OF AGRICULTURE

NEG. C&MS 121-65 (12) AGRICULTURAL MARKETING SERVICE

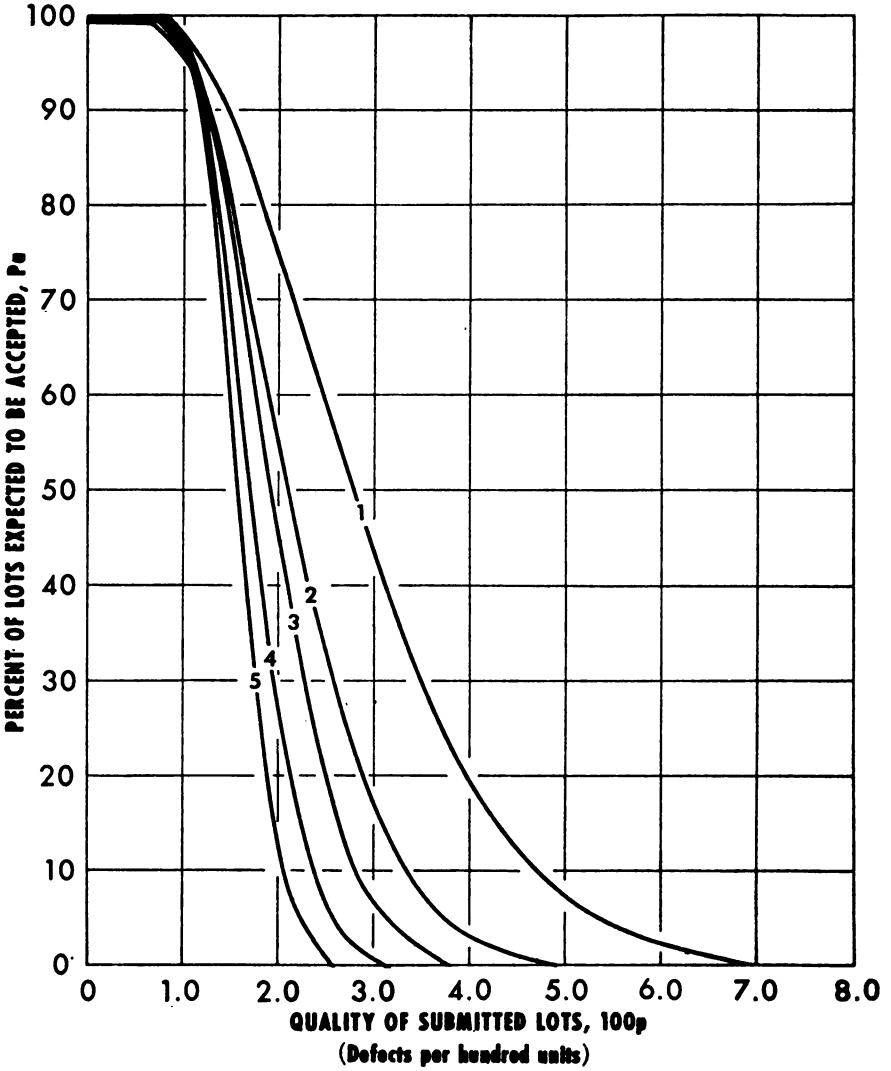
TIGHTENED INSPECTION PLANS

SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=1.50 DEFECTS PER HUNDRED UNITS
[Sampling plans—AQL=1.50]

Comparable sampling plans	Identification number of OC curves														
	1			2			3			4			5		
	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re
Single	168	4	5	315	6	7	500	9	10	800	13	14	1250	19	20
Double	120	2	5	168	1	5	228	2	7	456	5	10	-----	-----	-----
	180	4	5	348	7	8	516	9	10	864	14	15	-----	-----	-----

n.=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.

OC CURVES - AQL = 1.50



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NEG. C&MS 130-65 (12) AGRICULTURAL MARKETING SERVICE

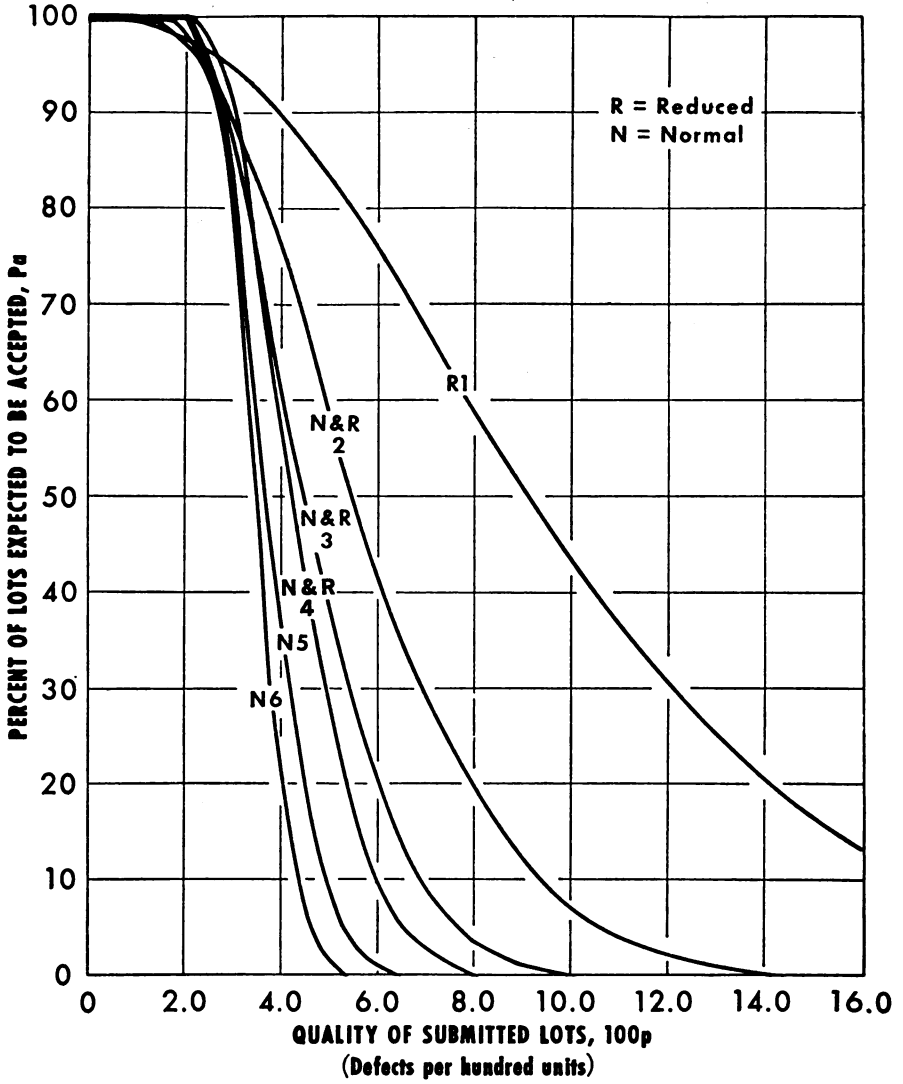
REDUCED AND NORMAL INSPECTION PLANS

SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=2.50 DEFECTS PER HUNDRED UNITS
[Sampling plans—AQL=2.50]

Comparable sampling plans	Identification number of OC curves																	
	R1			N and R2			N and R3			N and R4			N5			N6		
	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re
Single	29	2	3	84	4	5	168	7	8	315	13	14	500	18	19	800	27	28
Double	18 36	0 2	3 3	36 96	0 4	4 5	120 180	3 8	7 9	168 348	5 14	10 15	228 516	5 19	11 20	-----	-----	-----

n.—Cumulative sample size. Ac=Acceptance number. Re=Rejection number.

OC CURVES - AQL = 2.50



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NEG. C&MS 125-65 (12) AGRICULTURAL MARKETING SERVICE

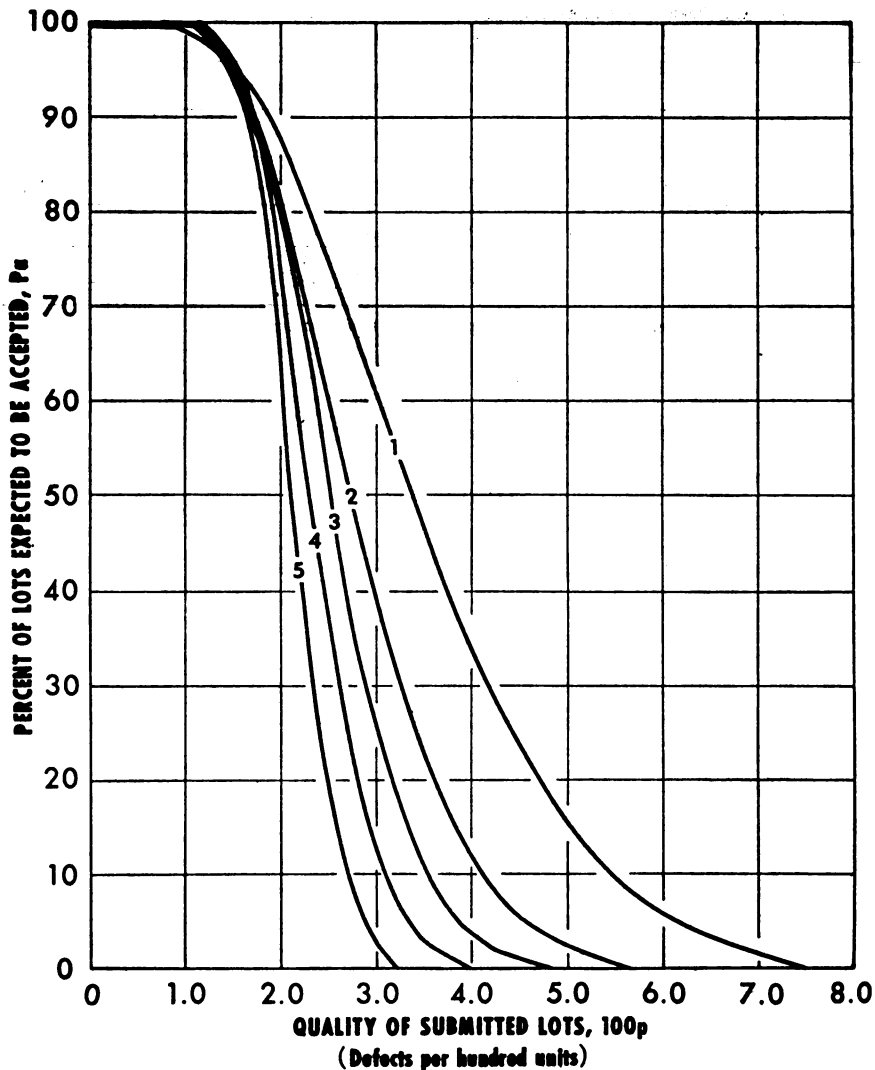
TIGHTENED INSPECTION PLANS

SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=2.50 DEFECTS PER HUNDRED UNIT
 [Sampling plans—AQL=2.50]

Comparable sampling plans	Identification number of OC curves														
	1			2			3			4			5		
	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re
Single	168	5	6	315	8	9	500	12	13	800	18	19	1250	26	27
Double	120	2	6	168	2	7	228	3	9	456	8	13	-----	-----	-----
	180	5	6	348	9	10	516	12	13	864	19	20	-----	-----	-----

n.=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.

OC CURVES - AQL = 2.50



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NEG. C&MS 126-65 (12) AGRICULTURAL MARKETING SERVICE

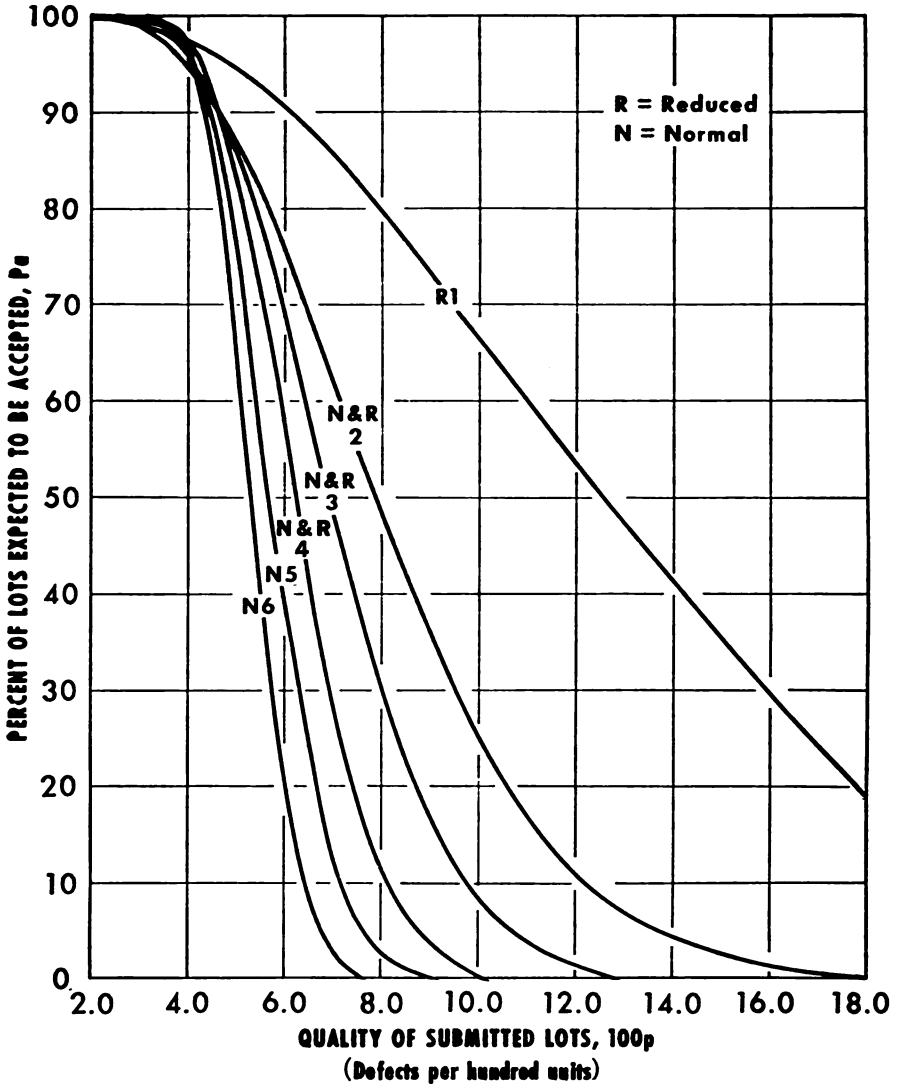
REDUCED AND NORMAL INSPECTION PLANS

SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=4.00 DEFECTS PER HUNDRED UNITS
[Sampling plans—AQL=4.00]

Comparable sampling plans	Identification number of OC curves																	
	R1			N and R2			N and R3			N and R4			N5			N6		
	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re
Single	29	3	4	84	6	7	168	11	12	315	19	20	500	28	29	800	42	43
Double	18 36	1 4	3 5	36 96	0 7	5 8	120 180	6 12	10 13	168 348	7 21	13 22	228 516	8 29	17 30	-----	-----	-----

n.=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.

OC CURVES - AQL = 4.00



TIGHTENED INSPECTION PLANS

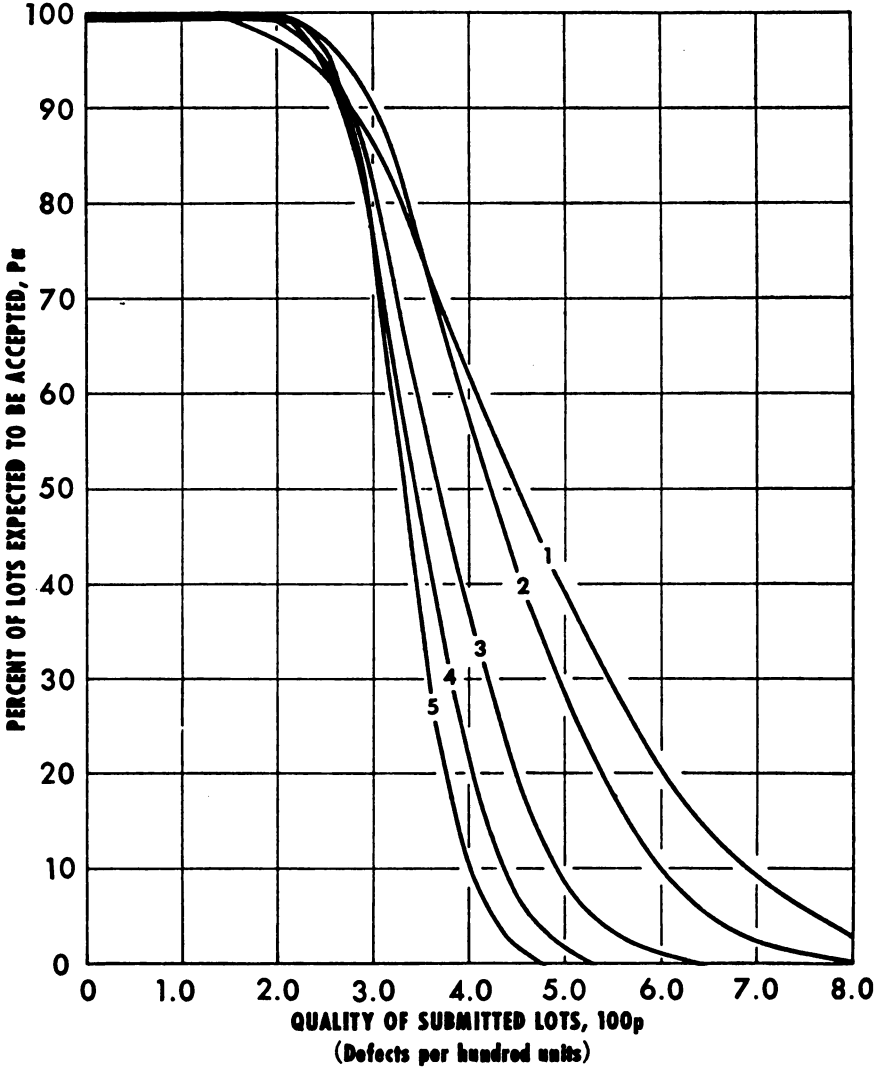
SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=4.00 DEFECTS PER HUNDRED UNITS

[Sampling plans—AQL=4.00]

Comparable sampling plans	Identification number of OC curves														
	1			2			3			4			5		
	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re
Single	168	7	8	315	13	14	500	18	19	800	27	28	1250	41	42
Double	120 180	3 8	7 9	168 348	5 14	10 15	228 516	5 19	11 20	456 864	12 29	19 30	-----	-----	-----

n.=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.

OC CURVES - AQL = 4.00



U. S. DEPARTMENT OF AGRICULTURE

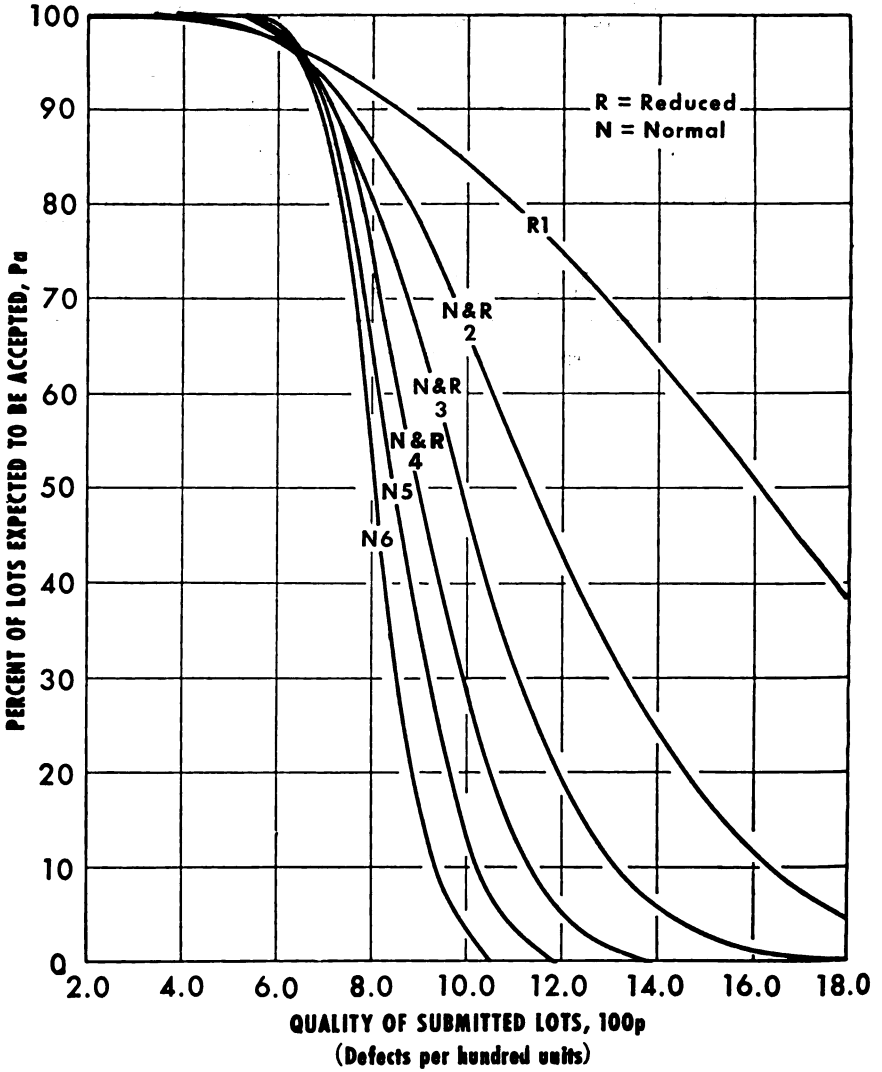
NEG. C&MS 127-65 (12) AGRICULTURAL MARKETING SERVICE

REDUCED AND NORMAL INSPECTION PLANS
SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR
AQL=6.50 DEFECTS PER HUNDRED UNITS
 [Sampling plans—AQL=6.50]

Comparable sampling plans	Identification number of OC curves																	
	R1			N and R2			N and R3			N and R4			N5			N6		
	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re
Single	29	4	5	84	9	10	168	16	17	315	28	29	500	42	43	800	64	65
Double	18 26	1 5	4 6	36 96	2 10	7 11	120 180	10 17	14 18	168 348	12 31	18 32	228 516	15 43	24 44	-----	-----	-----

n.—Cumulative sample size. Ac—Acceptance number. Re—Rejection number.

OC CURVES - AQL = 6.50



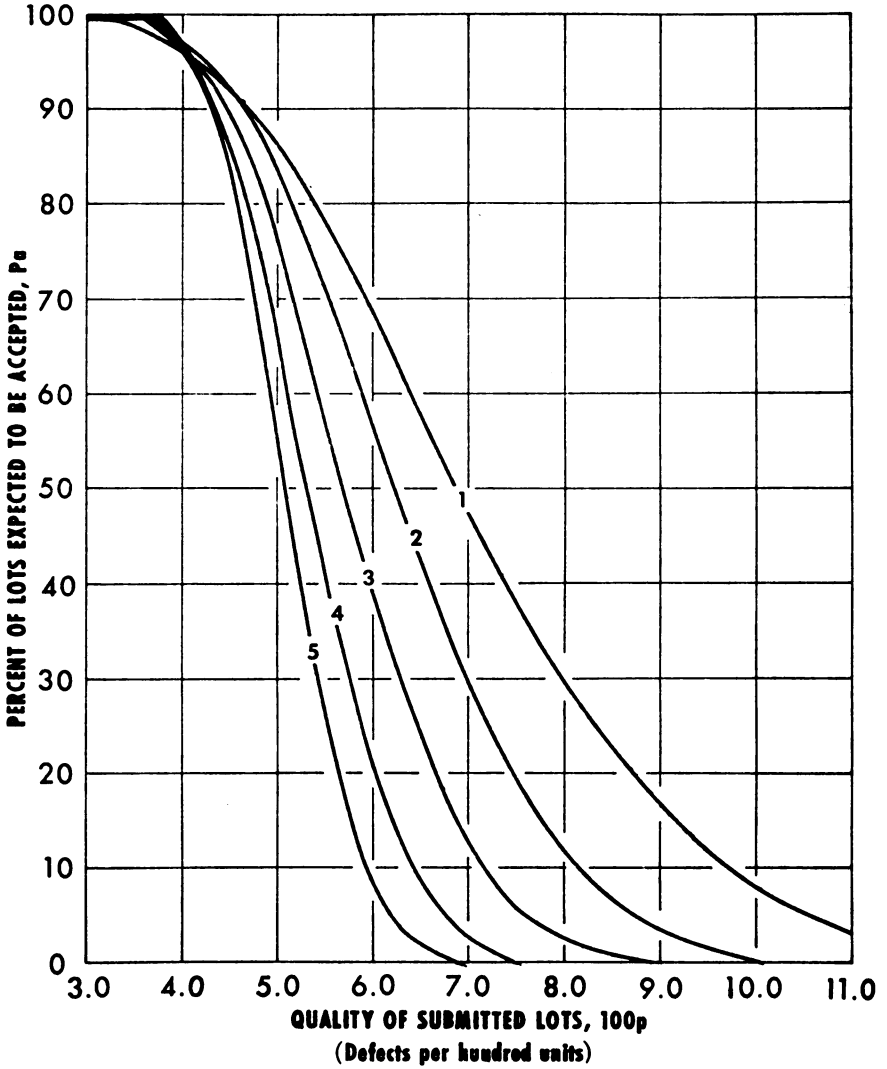
TIGHTENED INSPECTION PLANS

SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=6.50 DEFECTS PER HUNDRED UNITS
 [Sampling plans—AQL=6.50]

Comparable sampling plans	Identification number of OC curves														
	1			2			3			4			5		
	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re
Single	168	11	12	315	19	20	500	28	29	800	42	43	1250	63	64
Double	120 180	6 12	10 13	168 348	7 21	13 22	228 516	8 29	17 30	456 864	21 44	28 45	-----	-----	-----

n_c=Cumulative sample size. Ac=Acceptance number Re=Rejection number.

OC CURVES - AQL = 6.50



U. S. DEPARTMENT OF AGRICULTURE

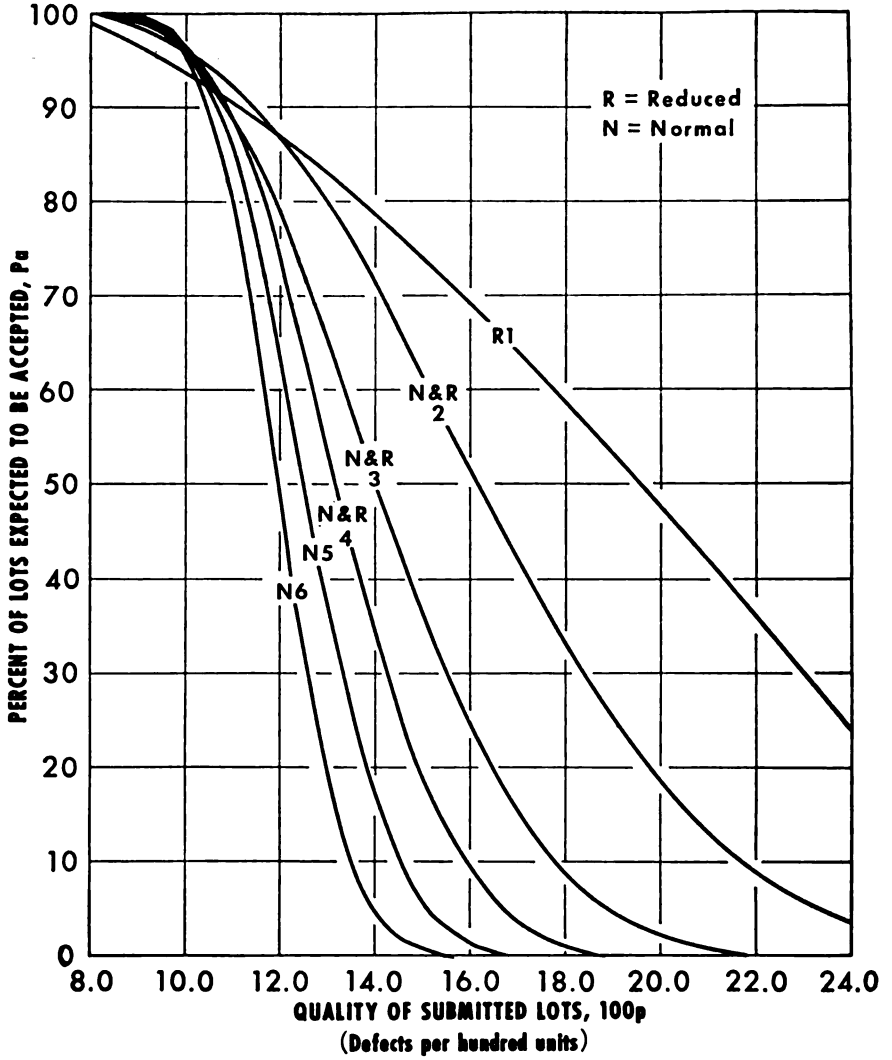
NEG. C&MS 133-65 (12) AGRICULTURAL MARKETING SERVICE

REDUCED AND NORMAL INSPECTION PLANS
 SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR
 AQL=10.00 DEFECTS PER HUNDRED UNITS
 [Sampling plans—AQL=10.00]

Comparable sampling plans	Identification number of OC curves																	
	R1			N and R2			N and R3			N and R4			N5			N6		
	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re
Single	29	5	6	84	13	14	168	23	24	315	41	42	500	62	63	800	95	96
Double	18 36	2 6	5 7	36 96	3 15	9 16	120 180	14 25	19 26	168 348	19 45	26 46	228 516	23 64	34 65	-----	-----	-----

n.—Cumulative sample size. Ac—Acceptance number. Re—Rejection number.

OC CURVES - AQL = 10.00

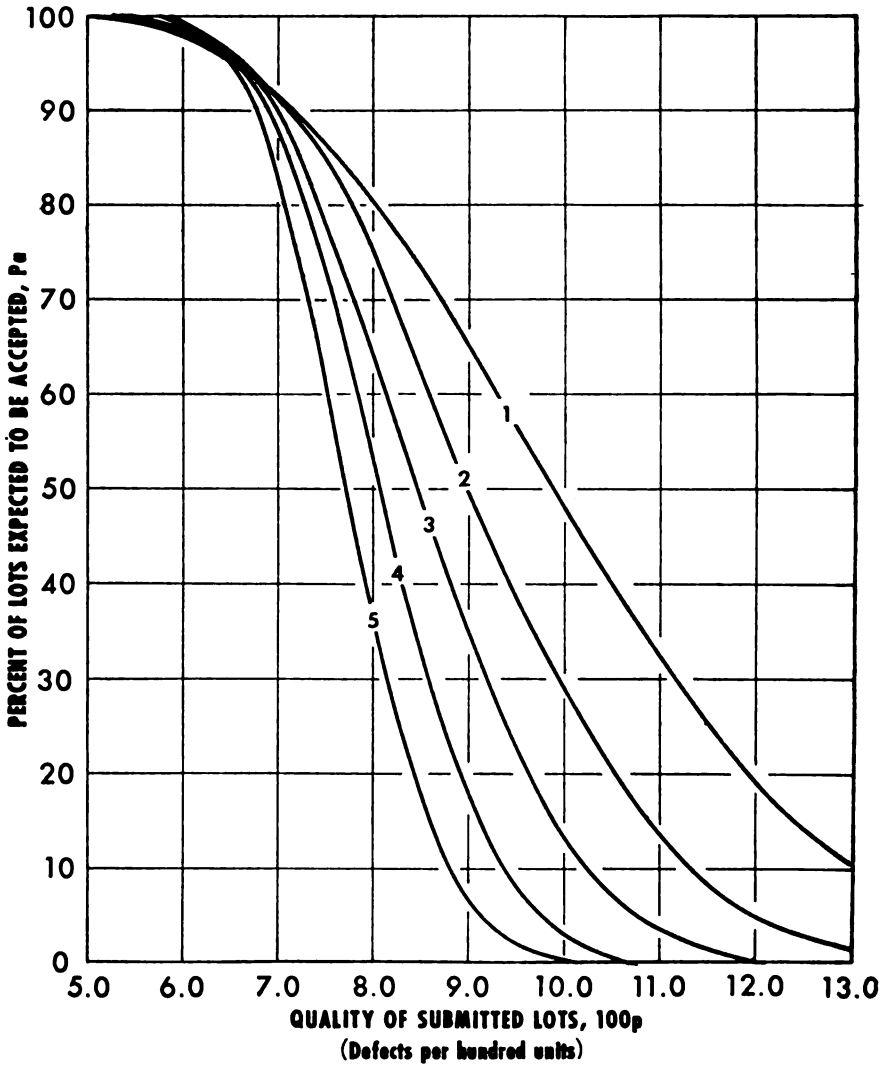


TIGHTENED INSPECTION PLANS
 SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR
 AQL=10.00 DEFECTS PER HUNDRED UNITS
 [Sampling plans—AQL=10.00]

Comparable sampling plans	Identification number of OC curves														
	1			2			3			4			5		
	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re
Single	168	16	17	315	28	29	500	42	43	800	64	65	1250	96	97
Double	120 180	10 17	14 18	168 348	12 31	18 32	228 516	15 43	24 44	456 864	32 69	41 70	-----	-----	-----

n.=Cumulative sampling size. Ac=Acceptance number. Re=Rejection number.

OC CURVES - AQL = 10.00



U. S. DEPARTMENT OF AGRICULTURE NEG. C&MS 123-65 (12) AGRICULTURAL MARKETING SERVICE
 [31 F.R. 4687, Mar. 19, 1966; 31 F.R. 4949, Mar. 25, 1966, as amended at 36 F.R. 18487,
 Sept. 15, 1971]

PART 43—STANDARDS FOR SAMPLING PLANS

DEFINITIONS

- Sec.
43.101 Meaning of words.
43.102 Definitions.

SAMPLING PLANS

- 43.103 Purpose and scope.
43.104 Master table of single and double sampling plans.
43.105 Operating characteristics (OC) curves.
43.106 Choosing AQL's and sampling plans.

AUTHORITY: The provisions of this Part 43 issued under secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended; 7 U.S.C. 1622, 1624.

SOURCE: The provisions of this Part 43 appear at 29 F.R. 5870, May 5, 1964, unless otherwise noted.

DEFINITIONS

§ 43.101 Meaning of words.

Words used in this subpart in the singular form shall be considered to impart the plural, or vice versa, as the case may demand.

§ 43.102 Definitions.

Statistical and inspection or sampling terms and their respective definitions that are used in the sampling plans and operating characteristic curves or which are pertinent to the understanding of inspection by attributes follow:

Acceptable quality level (AQL). The AQL is expressed in terms of percent defective or defects per 100 units. Lots having a quality level equal to a specified AQL will be accepted approximately 95 percent of the time when using the sampling plans prescribed for that AQL.

Acceptance number (Ac). The number in a sampling plan that indicates the maximum number of defects or defectives permitted in a sample in order to consider a lot as meeting a specific requirement.

Acceptance sampling. The art or science that deals with procedures in which decisions to accept or reject lots or processes are based on the examination of samples.

Attributes. Refers to the measurement of a given factor noting and recording the presence or absence of some characteristic (attribute) in each of the units in the group under consideration.

Consumer's risk. The risk a consumer takes that a lot will be accepted by a sampling plan even though the lot does

not conform to requirements. In the standards of this subpart this risk is nominally set at ten percent.

Consumer Protection. The ability of a sampling plan to reject unacceptable supplies. This is measured as the complement of the probability of acceptance (Pa) for the Limited Quality (LQ) lots. The consumer protection is 90 percent in these standards.

Defect. A failure to meet a requirement imposed on a unit with respect to a single quality characteristic. A unit may contain more than one defect.

Defective. A defective unit; one containing one or more defects with respect to the quality characteristic(s) under consideration.

Inspection. The examination (including testing) of supplies (including, when appropriate, raw materials, components and intermediate assemblies).

(1) **Acceptance inspection.** An inspection to determine conformance of supplies to specified requirements in order to accept or reject the supplies.

(2) **Estimation inspection.** In dealing with attributes, an inspection to determine the amount of the supplies conforming to a specified requirement—usually expressed as a percentage.

Inspection by attributes. Inspection whereby either the sample unit is classified as defective or non-defective with respect to a requirement or set of requirements (when on a "defective" basis); or, inspection whereby the number of defects in each sample unit is counted with respect to a requirement or set of requirements (when on a "defect" basis).

Limiting Quality (LQ). The LQ is expressed in terms of percent defective or defects per 100 units. Lots inspected under the standards of this subpart that have a ten percent probability of acceptance are referred to as a lot having a quality level equal to LQ.

Lot. A collection of units of the same size, type and style which has been manufactured or processed under essentially the same conditions. The term shall mean "inspection lot," i.e., a collection of units of product from which a sample is to be drawn and inspected to determine conformance with the acceptability criteria. An inspection lot may differ from a collection of units designated as a lot for other purposes (e.g., production lot, shipping lot, etc.).

Lot size. The number of units in the lot.

Operating characteristic curve (OC curve). A curve that gives the probability of acceptance as a function of a specific lot quality level.

Probability of acceptance (Pa). For a given sampling plan and a given quality of inspection lots, is that percentage of inspection lots expected to be accepted.

Process capability. Performance of a process under normal operating conditions. The performance is measured with respect to specific characteristics.

Producer's risk. The risk that a producer takes that a lot will be rejected by a sampling plan even though the lot conforms to requirements. In the standards of this subpart this risk is nominally set at five percent.

Random sampling. A process of selecting a sample from a lot whereby each unit in the lot has an equal chance of being chosen. Ordinary haphazard choice is generally insufficient to guarantee randomness. Devices such as tables of random numbers are used to remove subjective biases inherent in personal choice.

Rejection number (Re). The number in a sampling plan that indicates the minimum number of defects or defectives permitted in a sample that will cause a lot to fail a specific requirement.

Sample. Any number of sample units which are to be used for inspection.

Sample size. The number of sample units which are to be included in the sample.

Sample unit. A container, the entire contents of a container, a portion of the contents of a container, a composite mixture of a product, or any other unit of container or commodity to be used for inspection.

Sampling. The act of drawing or selecting sample units from a given lot.

Sampling plan. A specific plan which states the sample size(s), acceptance number(s) and rejection number(s). In the standards of this subpart two types of sampling plans are provided:

(1) *Single sampling plan.* A sampling inspection scheme in which a decision to accept or reject an inspection lot is based on the inspection of a single sample. A single sampling plan consists of a single sample size with associated acceptance and rejection number(s).

(2) *Double sampling plan.* A sampling inspection scheme which involves use of two independently drawn but related samples, a first sample (n_1) and a

second sample which is added to the first to form a total sample size (n_2). A double sampling plan consists of a first and total sample size with associated acceptance and rejection number(s). Inspection of the first sample leads to a decision to accept, to reject, or to take a second sample and the examination of a second sample, when required, always leads to a decision to accept or reject.

SAMPLING PLANS

§ 43.103 Purpose and scope.

(a) This subpart contains selected single and double sampling plans for inspection by attributes. They are to serve as a source of plans for developing sound specifications, standards, or sampling and inspection procedures.

(b) The sampling plans of this subpart and corresponding operating characteristic curves are indexed by acceptable quality level, AQL. The AQL's expressed in percent defectives or defects per hundred units are:

0.065	0.40	2.5	8.5
0.10	0.65	4.0	10.0
0.15	1.0	5.0	12.5
0.25	1.5	6.5	15.0

§ 43.104 Master table of single and double sampling plans.

(a) In the master table, a sampling plan is selected by first determining the sample size or sizes and AQL to be used. Then find the applicable acceptance (Ac) and rejection (Re) numbers at the intersection of the sample size(s) row and AQL column. These numbers together with the sample size or sizes constitute a sampling plan.

(b) Single sampling plans having a sample size of 66 or greater and an acceptance number of 1 are not included in the Master Table. These plans are listed in the tables which supplement the Master Table and accompany the OC curves as indexes to the comparable double sampling plans. The use of these single sampling plans do not facilitate the practice of using two or more AQL's simultaneously with the same sample size.

§ 43.105 Operating characteristics (OC) curves.

The OC curves shows the ability of the various sampling plans, presented for each AQL, to distinguish between lots of different quality.

§ 43.106 Choosing AQL's and sampling plans.

(a) The selection of AQL's and sampling plans for given lot sizes depends on too many factors to permit the issuance of a "pre-selected" standard set of plans for specified lot sizes. Each user of the standards of this subpart should select AQL's and sampling plans that are tailored to best meet his needs.

(b) Some of the factors that must be considered prior to selecting the AQL's are:

(1) Class of defects such as major and minor: Major defects would generally require lower AQL's than those for minor defects;

(2) Process capabilities under good commercial practice with respect to the defects in question: For example, if under normal production processes, the defect level cannot be kept below 2.0 percent defective, the selection of an AQL of 0.15 percent defective, although desirable for the defects in question, may not be practical;

(3) Consumer preferences: These may require higher AQL's or permit lower AQL's than process capabilities would indicate; and

(4) Time and cost required to sample and inspect a lot under various AQL's: The smaller the AQL the more time and cost of inspection.

(c) Some of the factors that may be considered prior to selecting the sampling plans for given lot sizes are:

(1) The applicable AQL(s): The AQL dictates, among other things, the small-

est sample size that can be used and the size of the "jumps" from one sample size to the next larger one;

(2) The relative ability of the plans to discriminate between "good" and "bad" lots: Although several plans in these standards have the same AQL, they differ in their ability to reject lots worse than the AQL's. The OC curve in the standards of this subpart provide the basis for determining the discriminating ability of each plan;

(3) The amount, time, and cost of sampling required;

(4) The size and value of the lots relative to the producer and consumer protection a sampling plan affords: One may be willing to take larger risks of passing "bad" lots that are small or of lesser value than they would for larger more valuable lots;

(5) The knowledge about the lot(s) to be submitted for inspection: Lots consisting of product produced under essentially the same conditions may require smaller sample sizes than those consisting of product produced by different shifts and different raw stock for example; and

(6) The record of the quality level of previously submitted lots: The sample size can be smaller for lots submitted from a supplier with a consistent record of quality levels significantly better than the specified AQL(s) than sample sizes for the supplier whose records show considerable variability in quality, "borderline" supplies or product worse than the AQL.

MASTER TABLE OF SINGLE AND DOUBLE SAMPLING PLANS¹

Sample size code letter	Sample size	Acceptable quality levels																															
		0.065		0.10		0.15		0.25		0.40		0.65		1.0		1.5		2.5		4.0		5.0		6.5		8.5		10.0		12.5		15.0	
		Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re	Ac	Re		
A.A.	n ₁ =1																																
A.	n ₁ =2																																
B.	n ₁ =3																																
C.	n ₁ =4																																
D.	n ₁ =5																																
E.	n ₁ =6																																
EE.	n ₁ =7																																
F.	n ₁ =9																																
G.	n ₁ =11																																
H.	n ₁ =13																																
I.	n ₁ =15																																
J.	n ₁ =17																																
K.	n ₁ =20																																
L.	n ₁ =25																																
M.	n ₁ =30																																
N.	n ₁ =40																																
O.	n ₁ =50																																
P.	n ₁ =60																																
Q.	n ₁ =75																																
R.	n ₁ =100																																
S.	n ₁ =125																																
T.	n ₁ =150																																
U.	n ₁ =2000																																

¹ Double plans are indicated by 2 sample sizes, n₁ (first) and n₂ (total).
Ac = Acceptance number.
Re = Rejection number.

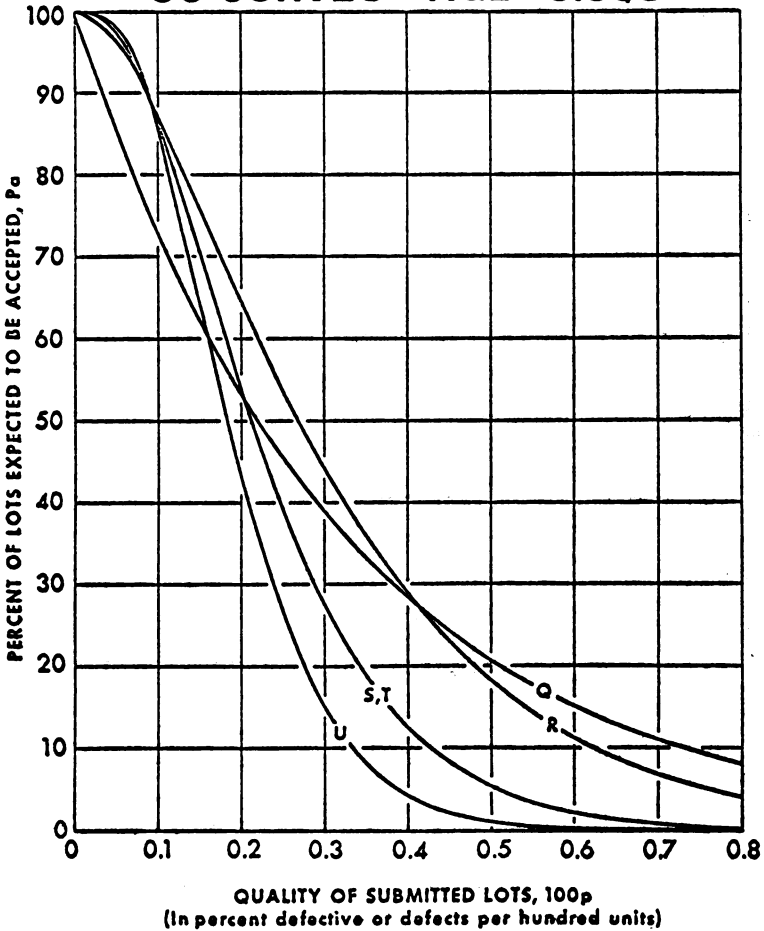
SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=0.065 PERCENT DEFECTIVE (OR AQL=0.065 DEFECTS PER HUNDRED UNITS)

[Sampling plans—AQL=0.065]

Comparable sampling plans	Identification letter of OC curve											
	Q			R			S,T			U		
	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re	n.	Ac	Re
Single.....	315	0	1	624	1	2	1250	2	3	2000	3	4
Double.....	500	0	2	800	0	2	800	0	3	.....	.....	.....
	644	1	2	1804	2	3	.....	.....	.....	.....	.....	.....

n. = Cumulative sample size.
 Ac = Acceptance number.
 Re = Rejection number.

OC CURVES - AQL = 0.065

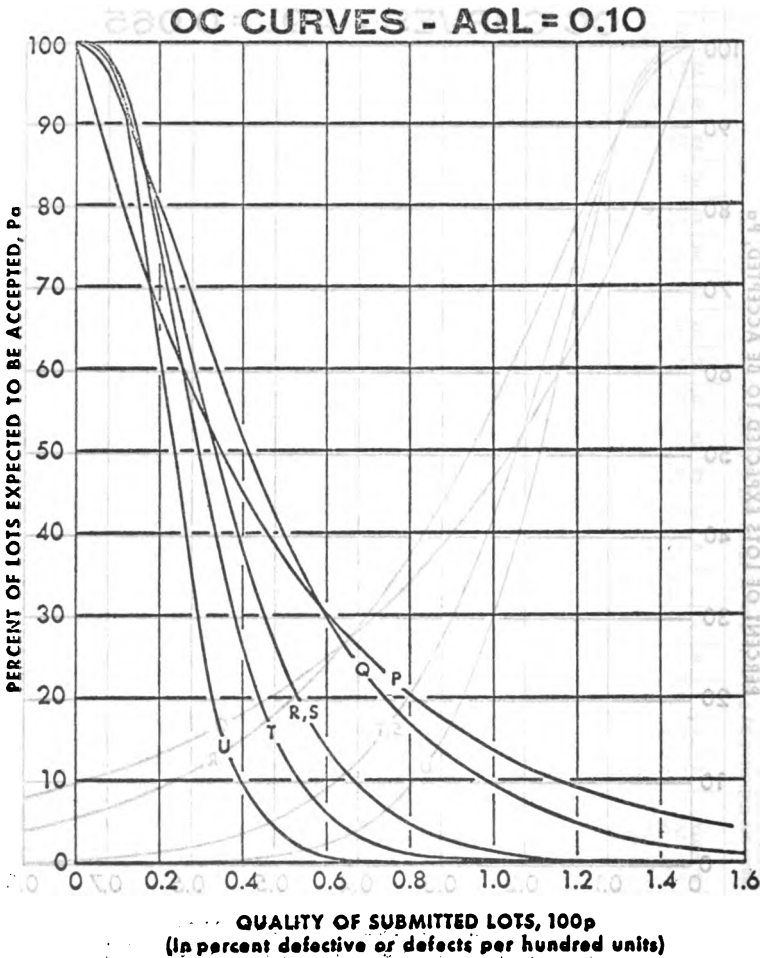


SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=0.10 PERCENT DEFECTIVE (OR AQL= 0.10 DEFECTS PER HUNDRED UNITS)

[Sampling plans—AQL=0.10]

Comparable sampling plans	Identification letter of OC curve														
	P			Q			R,S			T			U		
	n _e	Ac	Re	n _e	Ac	Re	n _e	Ac	Re	n _e	Ac	Re	n _e	Ac	Re
Single.....	200	0	1	408	1	2	800	2	3	1250	3	4	2000	4	5
Double.....				315	0	2	500	0	3						
				435	1	2	836	2	3						

n_e = Cumulative sample size.
 Ac = Acceptance number.
 Re = Rejection number.

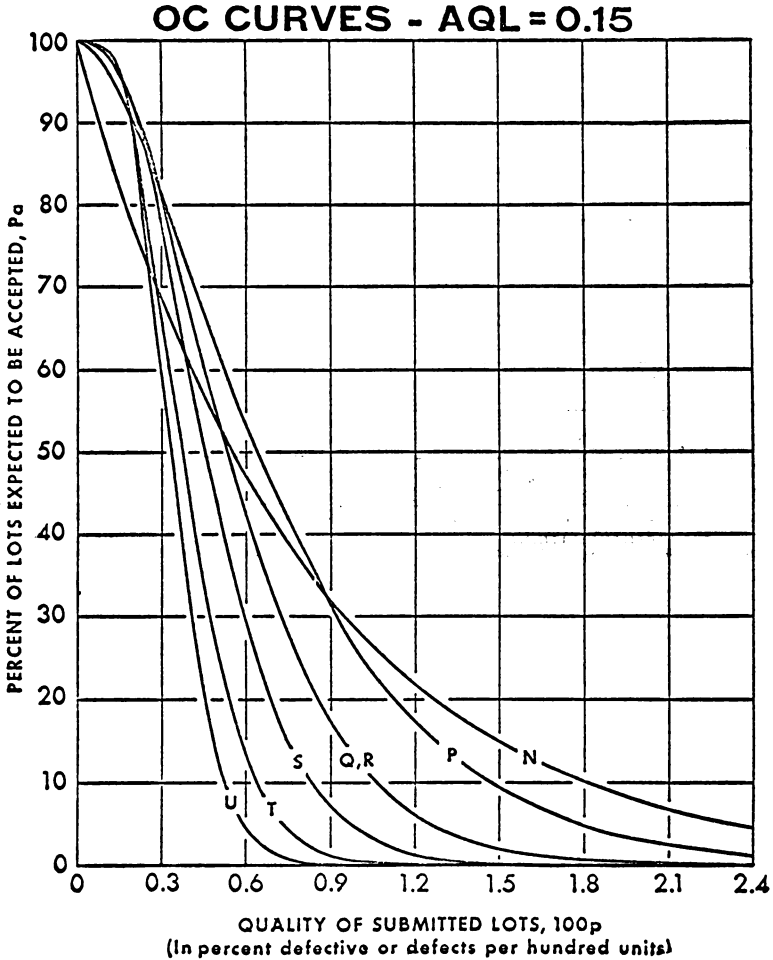


SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=0.15 PERCENT DEFECTIVE (OR AQL=0.15 DEFECTS PER HUNDRED UNITS)

[Sampling plans—AQL=0.15]

Comparable sampling plans	Identification letter of OC curve																	
	N			P			Q,R			S			T			U		
	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re
Single.....	126	0	1	264	1	2	500	2	3	800	3	4	1250	4	5	2000	6	7
Double.....	-----	-----	-----	264	0	2	315	0	3	-----	-----	-----	-----	-----	-----	-----	-----	-----
	-----	-----	-----	284	1	2	519	2	3	-----	-----	-----	-----	-----	-----	-----	-----	-----

n_c = Cumulative sample size.
 Ac = Acceptance number.
 Re = Rejection number.

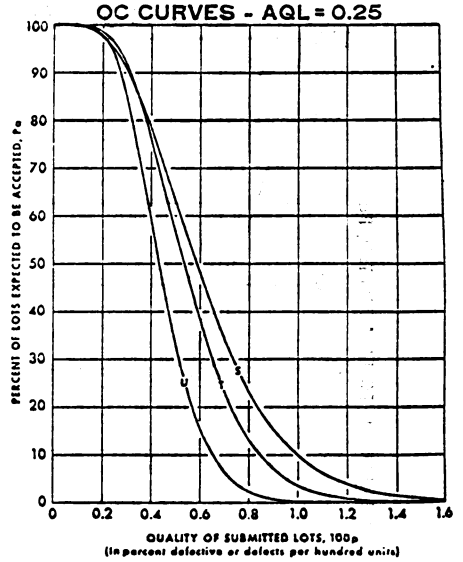
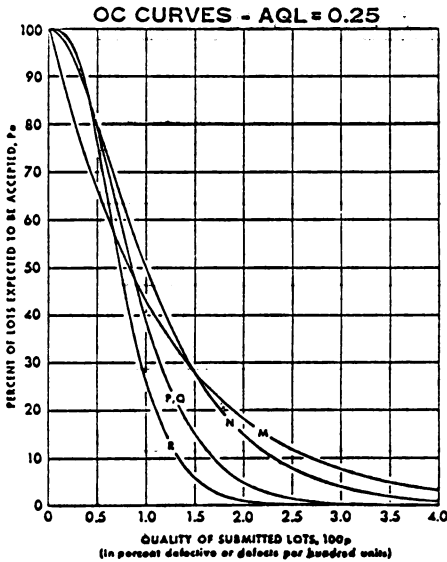


SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=0.25 PERCENT DEFECTIVE (OR AQL)=0.25 DEFECTS PER HUNDRED UNITS)

(Sampling plans—AQL=0.25)

Compa- rable sam- pling plans	Identification letter of OC curve																				
	M			N			P,Q			R			S			T			U		
	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re
Single.....	84	0	1	168	1	2	315	2	3	500	3	4	800	4	5	1250	6	7	2000	9	10
Double.....	-----	-----	-----	126	0	2	200	0	3	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----
	-----	-----	-----	180	1	2	326	2	3	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----

n_c = Cumulative sample size.
 Ac = Acceptance number.
 Re = Rejection number.

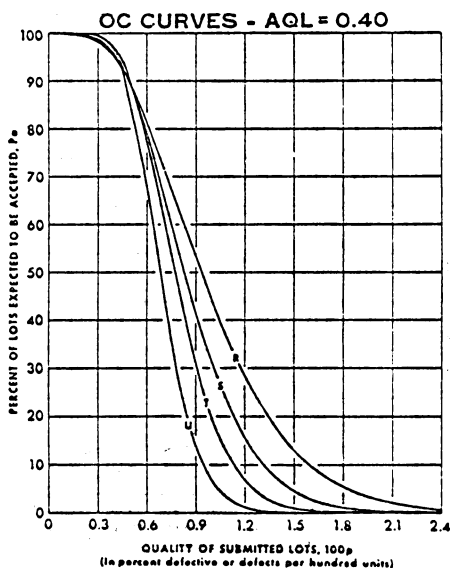
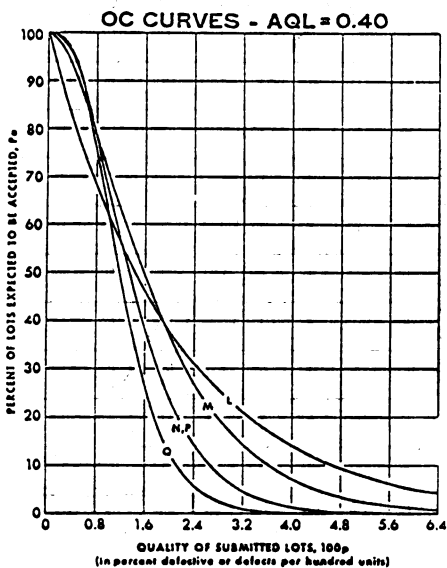


SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=0.40 PERCENT DEFECTIVE (OR AQL=0.40 DEFECTS PER HUNDRED UNITS)

[Sampling plans—AQL=0.40]

Comparable sampling plans	Identification letter of OC curve																							
	L			M			N,P			Q			R			S			T			U		
	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re
Single.....	48	0	1	108	1	2	200	2	3	315	3	4	500	4	5	800	6	7	1250	9	10	2000	13	1
Double.....				84	0	2	126	0	3															
				120	1	2	210	2	3															

n_c = Cumulative sample size.
 Ac = Acceptance number.
 Re = Rejection number.

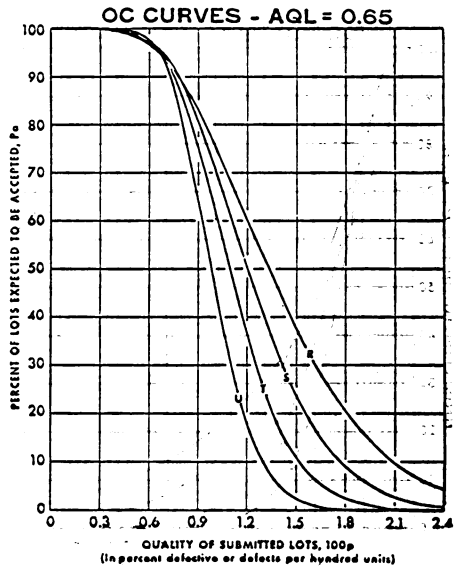
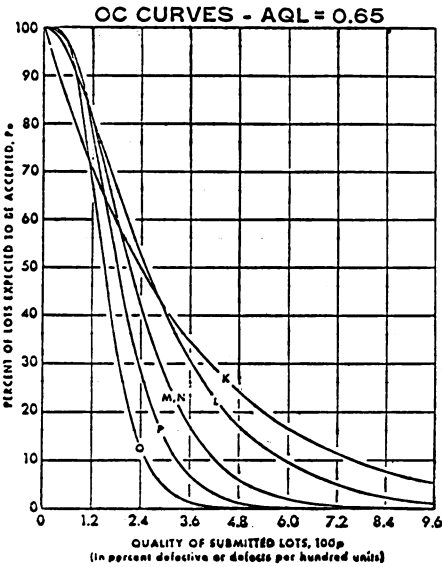


SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=0.65 PERCENT DEFECTIVE (OR AQL=0.65 DEFECTS PER HUNDRED UNITS)

[Sampling plans—AQL=0.65]

Comparable sampling plans	Identification letter of OC curve																										
	K			L			M,N			P			Q			R			S			T			U		
	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re			
Single.....	29	0	1	66	1	2	126	2	3	200	3	4	315	4	5	600	6	7	800	9	10	1250	13	14	2000	19	20
Double.....	---	---	---	48	0	2	84	0	3	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
	---	---	---	72	1	2	132	2	3	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---

n_c = Cumulative sample size.
 Ac = Acceptance number.
 Re = Rejection number.

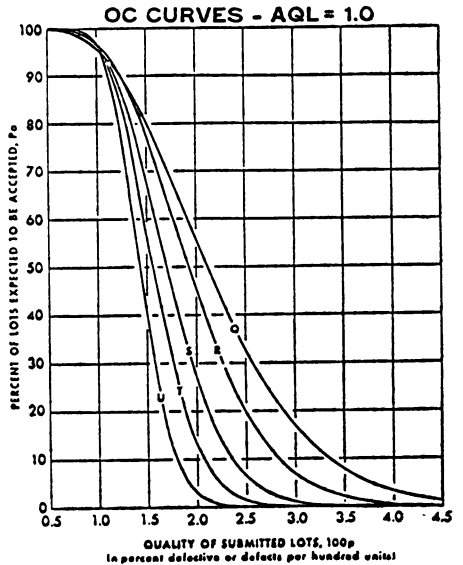
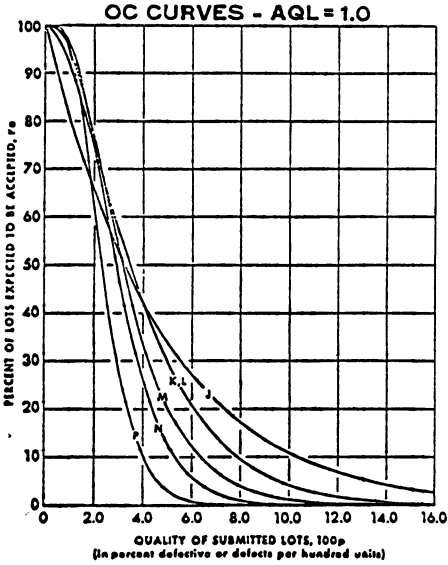


SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=1.0 PERCENT DEFECTIVE (OR AQL=1.0 DEFECTS PER HUNDRED UNITS)

[Sampling plans—AQL=1.0]

Comparable sampling plans	Identification letter of OC curve														
	J			K,L			M			N			P		
	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re
Single.....	21	0	1	48	1	2	84	2	3	126	3	4	200	4	5
Double.....				29	0	2									
				65	1	2									
Comparable sampling plans	Q			R			S			T			U		
	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re
	Single.....	315	6	7	500	9	10	800	13	14	1250	19	20	2000	28	29

n_c = Cumulative sample size.
 Ac = Acceptance number.
 Re = Rejection number.



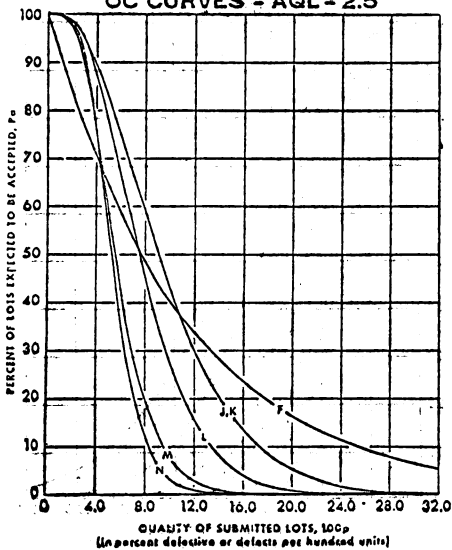
SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=2.5 PERCENT DEFECTIVE (OR AQL= 2.5 DEFECTS PER HUNDRED UNITS)

[Sampling plans—AQL=2.5]

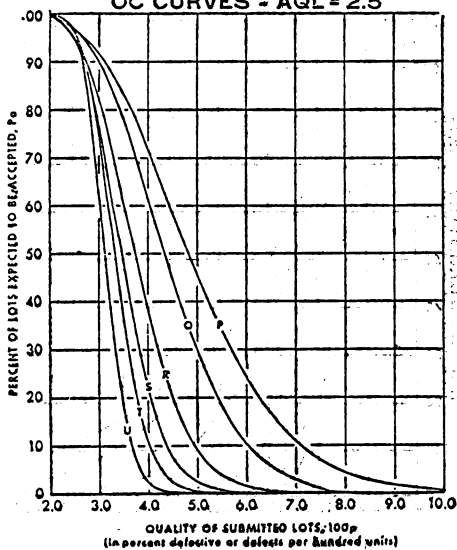
Comparable sampling plans	Identification letter of OC curve																	
	F			J,K			L			M			N			P		
	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re
Single.....	9	0	1	29	2	3	48	3	4	84	4	5	126	6	7	200	9	10
Double.....				21	0	2												
				31	2	3												
Q			R			S			T			U						
n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re				
Single.....	315	13	14	500	18	19	800	27	28	1250	41	42	2000	62	63			

n_c = Cumulative sample size.
 Ac = Acceptance number.
 Re = Rejection number.

OC CURVES - AQL = 2.5



OC CURVES - AQL = 2.5



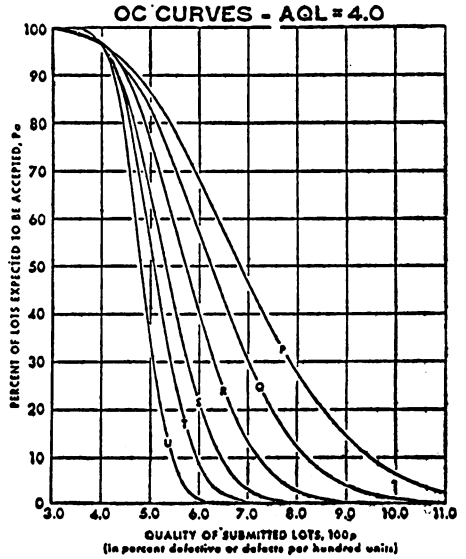
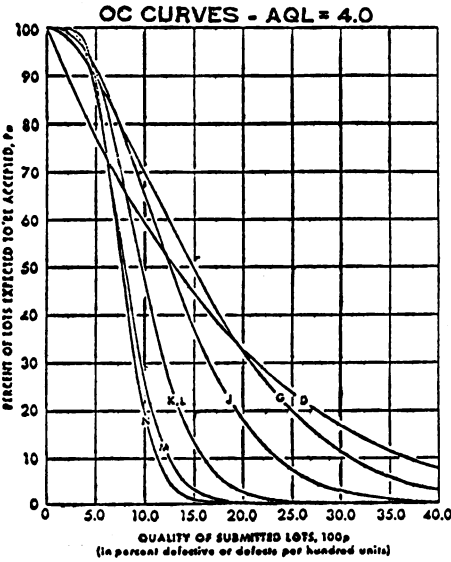
SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=4.0 PERCENT DEFECTIVE (OR AQL=4.0 DEFECTS PER HUNDRED UNITS)

[Sampling plans—AQL=4.0]

Comparable sampling plans	Identificatio Letter of OC Curve																	
	D			G			J			K,L			M			N		
	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re
Single.....	5	0	1	11	1	2	21	2	3	48	4	5	84	6	7	126	9	10
Double.....										29	1	4						
										65	6	7						

Comparable sampling plans	P			Q			R			S			T			U		
	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re
	Single.....	200	13	14	315	19	20	500	28	29	800	42	43	1250	63	64	2000	96

n_c = Cumulative sample size.
 Ac = Acceptance number.
 Re = Rejection number.



SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=5.0 PERCENT DEFECTIVE (OR AQL=5.0 DEFECTS PER HUNDRED UNITS)

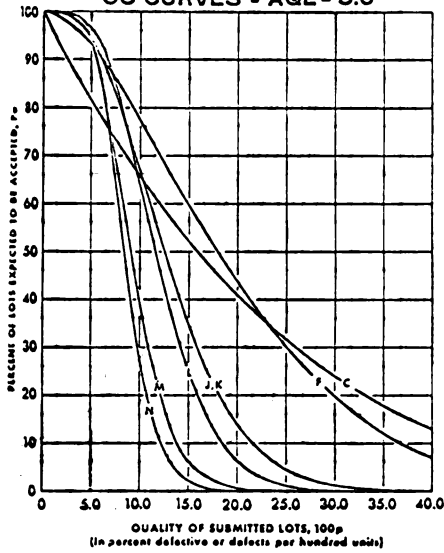
[Sampling plans—AQL=5.0]

Comparable sampling plans	Identification letter of OC curve																	
	C			F			J,K			L			M			N		
	n_c	Ae	Re	n_c	Ae	Re	n_c	Ae	Re	n_c	Ae	Re	n_c	Ae	Re	n_c	Ae	Re
Single.....	4	0	1	9	1	2	29	3	4	48	5	6	84	7	8	126	10	11
Double.....	-----	-----	-----	-----	-----	-----	21	1	4	-----	-----	-----	-----	-----	-----	-----	-----	-----
	-----	-----	-----	-----	-----	-----	31	3	4	-----	-----	-----	-----	-----	-----	-----	-----	-----

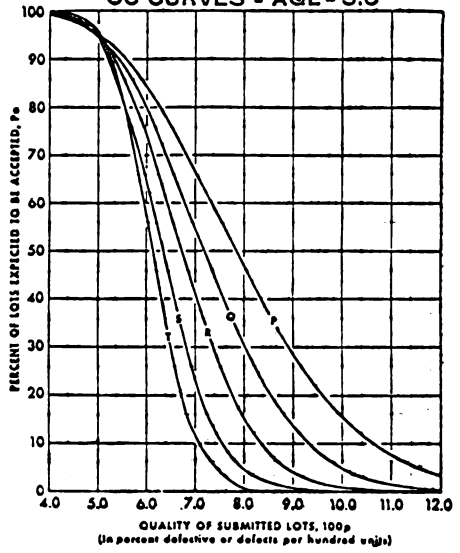
	P			Q			R			S			T		
	n_c	Ae	Re	n_c	Ae	Re	n_c	Ae	Re	n_c	Ae	Re	n_c	Ae	Re
	Single.....	200	15	16	315	22	23	500	33	34	800	50	51	1280	76	77

n_c = Cumulative sample size.
 Ae = Acceptance number.
 Re = Rejection number.

OC CURVES - AQL = 5.0



OC CURVES - AQL = 5.0

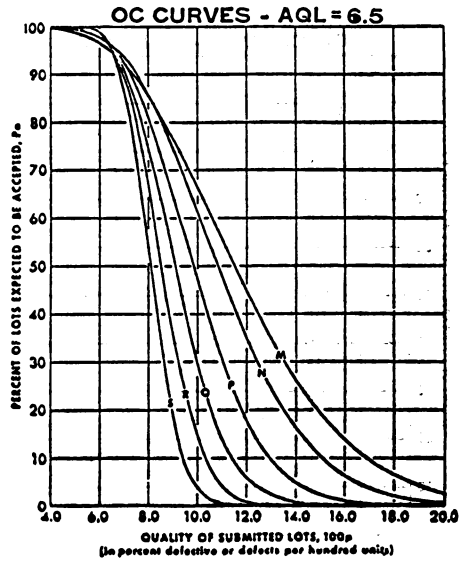
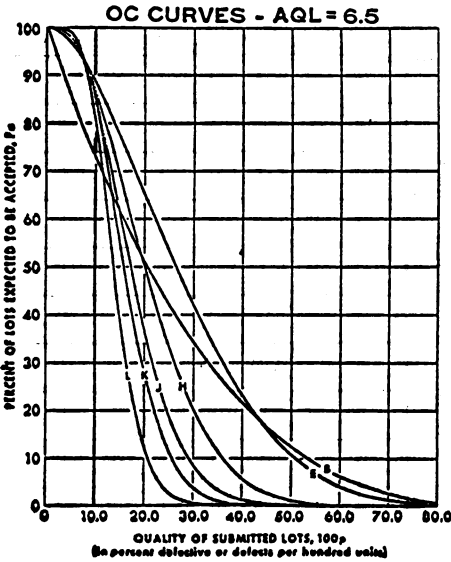


SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=6.5 PERCENT DEFECTIVE (OR AQL=6.5 DEFECTS PER HUNDRED UNITS)

[Sampling plans—AQL=6.5]

Comparable sampling plans	Identification letter of OC curve																	
	B			E			H			J			K			L		
	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re
Single.....	3	0	1	6	1	2	13	2	3	21	3	4	29	4	5	48	6	7
Single.....	M			N			P			Q			R			S		
	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re
	84	9	10	126	13	14	200	19	20	315	23	29	500	42	43	800	64	65

n_c —Cumulative sample size.
 Ac—Acceptance number.
 Re—Rejection number.



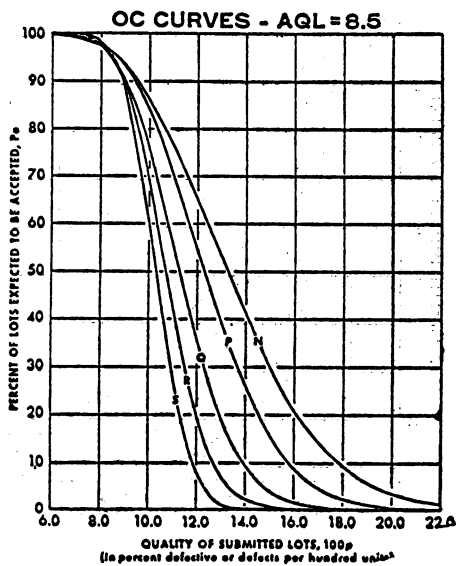
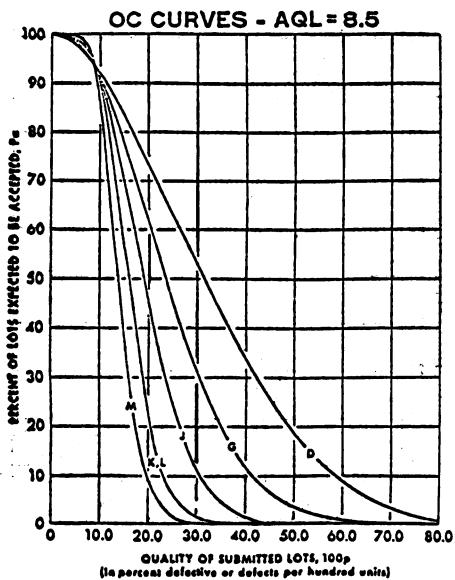
SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=8.5 PERCENT DEFECTIVE (OR AQL=8.5 DEFECTS PER HUNDRED UNITS)

[Sampling plans—AQL=8.5]

Comparable sampling plans	Identification letter of OC curve														
	D			G			J			K,L			M		
	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re
Single.....	5	1	2	11	2	3	24	4	5	48	7	8	84	11	12
Double.....							21	3	5	29	3	7			
							31	5	6	65	9	10			

Comparable sampling plans	N			P			Q			R			S		
	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re
	Single.....	126	16	17	200	24	25	315	35	36	500	53	54	800	82	83

n_c = Cumulative sample size.
 Ac = Acceptance number.
 Re = Rejection number.

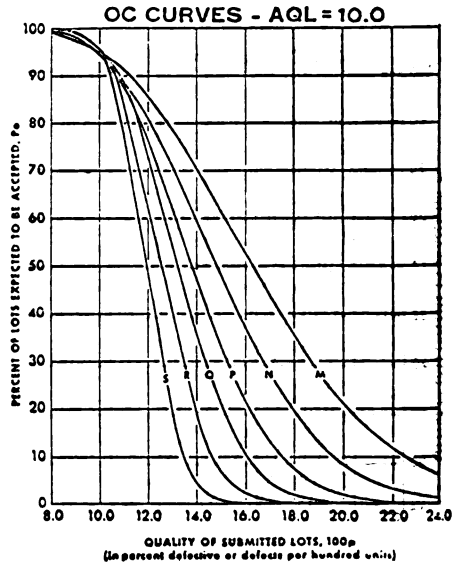
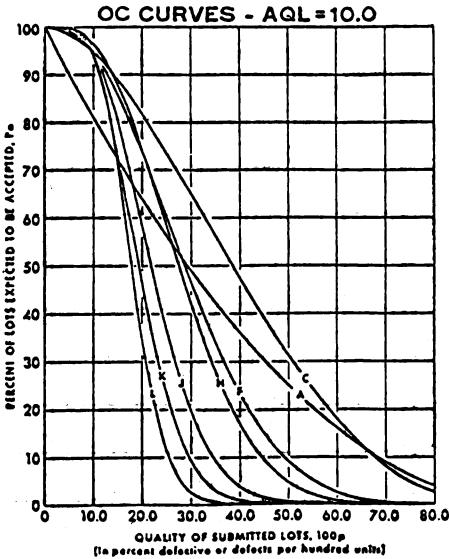


SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=10.0 PERCENT DEFECTIVE (OR AQL=10.0 DEFECTS PER HUNDRED UNITS)

[Sampling plans—AQL=10.0]

Comparable sampling plans	Identification letter of OC curve																				
	A			C			F			H			J			K			L		
	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re
Single.....	2	0	1	4	1	2	9	2	3	13	3	4	21	4	5	29	5	6	48	8	9
Single.....	M			N			P			Q			R			S					
	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re
	84	13	14	126	18	19	200	27	28	315	41	42	500	62	63	800	95	96			

n_c = Cumulative sample size.
 Ac = Acceptance number.
 Re = Rejection number.

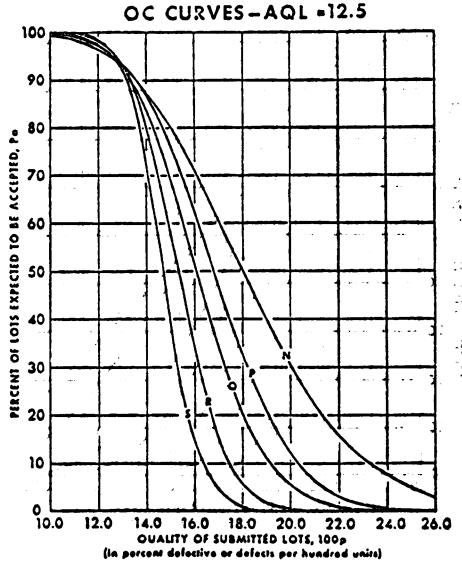
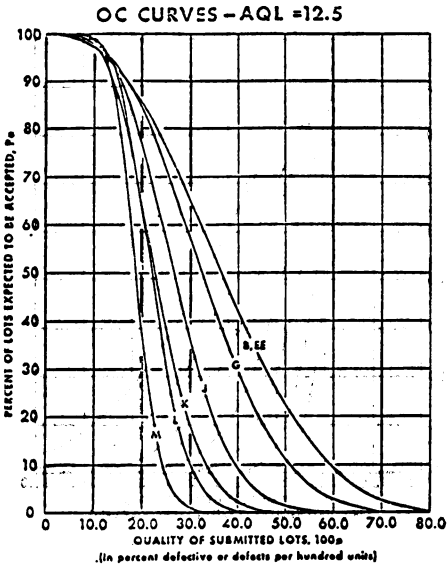


SAMPLING PLANS AND OPERATING CHARACTERISTICS (OC) CURVES FOR AQL=12.5 PERCENT DEFECTIVE (OR AQL=12.5 DEFECTS PER HUNDRED UNITS)

[Sampling plans—AQL=12.5]

Comparable sampling plans	Identification letter of OC curve																	
	B,EE			G			J			K			L			M		
	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re
Single.....	7	2	3	11	3	4	21	5	6	29	6	7	48	10	11	84	15	16
Double.....	3	0	3															
	8	2	3															
N			P			Q			R			S						
n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re	n _c	Ac	Re				
Single.....	126	22	23	200	33	34	315	50	51	500	76	77	800	117	118			

n_c = Cumulative sample size.
 Ac = Acceptance number.
 Re = Rejection number.

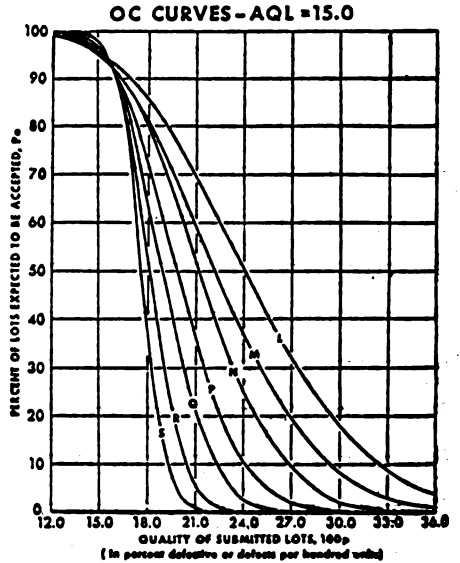
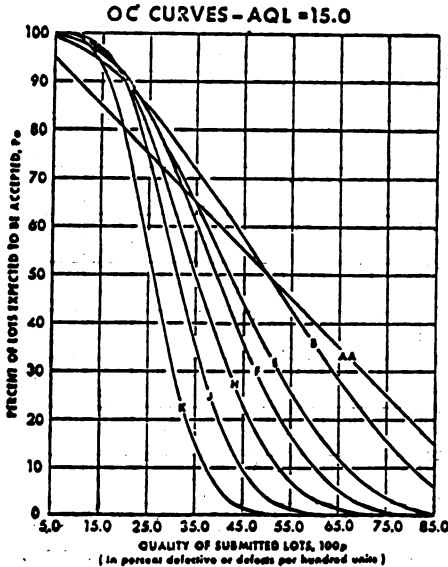


SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=15.0 PERCENT DEFECTIVE (OR AQL=15.0 DEFECTS PER HUNDRED UNITS)

[Sampling plans—AQL=15.0]

Compara- ble sampling plans	Identification letter of OC curve																				
	AA			B			E			F			H			J			K		
	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re
Single.....	1	0	1	3	1	2	6	2	3	9	3	4	13	4	5	21	6	7	29	7	8
Compara- ble sampling plans	L			M			N			P			Q			R			S		
	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re	n_c	Ac	Re
	Single.....	48	11	12	84	18	19	126	26	27	200	39	40	315	59	60	500	90	91	800	140	141

n_c —Cumulative sample size.
Ac—Acceptance number.
Re—Rejection number.



PART 44—[RESERVED]
PART 45—[RESERVED]

FINDING AIDS

A list of current CFR volumes, a list of superseded CFR volumes, and a list of CFR titles, subtitles, chapters, subchapters and parts are included in the subject index volume to the Code of Federal Regulations which is published separately and revised annually.

Table of CFR Titles and Chapters

Alphabetical List of CFR Subtitles and Chapters

List of CFR Sections Affected

Table of CFR Titles and Chapters

Title 1—General Provisions

Chap.

- I Administrative Committee of the Federal Register
- II Office of the Federal Register

Title 2—[Reserved]

Title 3—The President

- I-III [Reserved]
- IV Codified Text of Selected Presidential Documents
- V Executive Office of the President

Title 3A—The President, Appendix

- I Proclamations
- II Executive Orders
- III Presidential Documents Other Than Proclamations and Executive Orders

Title 4—Accounts

- I General Accounting Office
- II Federal Claims Collection Standards (General Accounting Office—Department of Justice)
- III Cost Accounting Standards Board

Title 5—Administrative Personnel

- I Civil Service Commission
- III Office of Management and Budget
- V International Organizations Employees Loyalty Board
- VI Department of Defense
- VII Advisory Commission on Intergovernmental Relations
- IX Appalachian Regional Commission
- X National Capital Housing Authority
- XI United States Soldiers' and Airmen's Home
- XII District of Columbia Redevelopment Land Agency
- XIII National Commission on Product Safety
- XIV Federal Labor Relations Council and Federal Service Impasses Panel

Title 6—Economic Stabilization

Chap.

- I Cost of Living Council
- II Pay Board
- III Price Commission
- IV Internal Revenue Service

Title 7—Agriculture

SUBTITLE A—Office of the Secretary of Agriculture

SUBTITLE B—Regulations of the Department of Agriculture

- I Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture
- II Food and Nutrition Service, Department of Agriculture
- III Animal and Plant Health Inspection Service, Department of Agriculture
- IV Federal Crop Insurance Corporation, Department of Agriculture
- V Agricultural Research Service, Department of Agriculture
- VI Soil Conservation Service, Department of Agriculture
- VII Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture
- VIII Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture
- IX Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture
- X Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture
- XI Agricultural Marketing Service (Marketing Agreements and Orders; Miscellaneous Commodities), Department of Agriculture
- XII Statistical Reporting Service (Agricultural Statistics), Department of Agriculture
- XIV Commodity Credit Corporation, Department of Agriculture
- XV Foreign Agricultural Service, Department of Agriculture
- XVI Rural Telephone Bank, Department of Agriculture
- XVII Rural Electrification Administration, Department of Agriculture
- XVIII Farmers Home Administration, Department of Agriculture
- XXI Foreign Economic Development Service, Department of Agriculture
- XXIV Board of Contract Appeals, Department of Agriculture
- XXV Export Marketing Service, Department of Agriculture
- XXXVI Office of the Inspector General, Department of Agriculture

Title 8—Aliens and Nationality

- I Immigration and Naturalization Service, Department of Justice
- II Office of Alien Property, Department of Justice

Title 9—Animals and Animal Products

Chap.

- I Animal and Plant Health Inspection Service, Department of Agriculture
- II Packers and Stockyards Administration, Department of Agriculture
- III Animal and Plant Health Inspection Service (Meat and Poultry Products Inspection), Department of Agriculture
- IV Agricultural Research Service, Department of Agriculture

Title 10—Atomic Energy

- I Atomic Energy Commission

Title 11—Federal Elections

- I Comptroller General

Title 12—Banks and Banking

- I Bureau of the Comptroller of the Currency, Department of the Treasury
- II Federal Reserve System
- III Federal Deposit Insurance Corporation
- IV Export-Import Bank of the United States
- V Federal Home Loan Bank Board
- VI Farm Credit Administration
- VII National Credit Union Administration

Title 13—Business Credit and Assistance

- I Small Business Administration
- III Economic Development Administration, Department of Commerce
- IV Emergency Loan Guarantee Board

Title 14—Aeronautics and Space

- I Federal Aviation Administration, Department of Transportation
- II Civil Aeronautics Board
- III National Transportation Safety Board
- V National Aeronautics and Space Administration

Title 15—Commerce and Foreign Trade

SUBTITLE A—Office of the Secretary of Commerce

SUBTITLE B—Regulations Relating to Commerce and Foreign Trade

- I Bureau of the Census, Department of Commerce
- II National Bureau of Standards, Department of Commerce
- III Bureau of East-West Trade, Department of Commerce

Title 15—Commerce and Foreign Trade (Continued)

- Chap.
- IV Foreign-Trade Zones Board
 - V Office of Trade Adjustment Assistance, Department of Commerce
 - VI Bureau of Domestic Commerce, Department of Commerce
 - VII Office of Import Programs, Department of Commerce
 - VIII Office of Business Economics, Department of Commerce
 - IX National Oceanic and Atmospheric Administration, Department of Commerce
 - X Office of Foreign Direct Investments, Department of Commerce
 - XII United States Travel Service, Department of Commerce
- SUBTITLE C—Regulations Relating to Foreign Trade Agreements
- XX Office of the Special Representative for Trade Negotiations

Title 16—Commercial Practices

- I Federal Trade Commission

Title 17—Commodity and Securities Exchanges

- I Commodity Exchange Authority (Including Commodity Exchange Commission), Department of Agriculture
- II Securities and Exchange Commission

Title 18—Conservation of Power and Water Resources

- I Federal Power Commission
- II Tennessee Valley Authority
- III Delaware River Basin Commission
- IV Office of Water Resources Research, Department of the Interior
- VI Water Resources Council

Title 19—Customs Duties

- I Bureau of Customs, Department of the Treasury
- II United States Tariff Commission

Title 20—Employees' Benefits

- I Bureau of Employees' Compensation, Department of Labor
- II Railroad Retirement Board
- III Social Security Administration, Department of Health, Education, and Welfare
- IV Employees' Compensation Appeals Board, Department of Labor
- V Manpower Administration, Department of Labor
- VI Employment Standards Administration, Department of Labor

Title 21—Food and Drug

- I Food and Drug Administration, Department of Health, Education, and Welfare
- II Bureau of Narcotics and Dangerous Drugs, Department of Justice
- III Special Action Office for Drug Abuse Prevention

Title 22—Foreign Relations

- Chap.
- I Department of State
 - II Agency for International Development, Department of State
 - III Peace Corps
 - IV International Joint Commission, United States and Canada
 - V United States Information Agency
 - VI United States Arms Control and Disarmament Agency
 - VII Overseas Private Investment Corporation
 - VIII Employee-Management Relations Commission
 - X Inter-American Foundation

Title 23—Highways

- I Federal Highway Administration, Department of Transportation
- II Highway Safety Program Standards, Department of Transportation

Title 24—Housing and Urban Development

SUBTITLE A—Office of the Secretary, Department of Housing and Urban Development

SUBTITLE B—Regulations Relating to Housing and Urban Development

- I Office of Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development
- II Office of Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Commissioner (Federal Housing Administration), Department of Housing and Urban Development
- III Government National Mortgage Association, Department of Housing and Urban Development
- IV Office of Assistant Secretary for Housing Management, Department of Housing and Urban Development
- V Office of Assistant Secretary for Community Development, Department of Housing and Urban Development
- VI Office of Assistant Secretary for Community Planning and Management, Department of Housing and Urban Development
- VII Community Development Corporation, Department of Housing and Urban Development
- VIII Office of Assistant Secretary for Research and Technology, Department of Housing and Urban Development
- IX Office of Interstate Land Sales Registration, Department of Housing and Urban Development
- X Federal Insurance Administration, Department of Housing and Urban Development

Title 25—Indians

- I Bureau of Indian Affairs, Department of the Interior
- II Indian Arts and Crafts Board, Department of the Interior
- III Indian Claims Commission

Title 26—Internal Revenue

Chap.

- I Internal Revenue Service, Department of the Treasury

Title 27—Alcohol, Tobacco Products and Firearms

- I Bureau of Alcohol, Tobacco, and Firearms, Department of the Treasury

Title 28—Judicial Administration

- I Department of Justice
- II Subversive Activities Control Board
- III Federal Prison Industries, Department of Justice

Title 29—Labor

SUBTITLE A—Office of the Secretary of Labor

SUBTITLE B—Regulations Relating to Labor

- I National Labor Relations Board
- II Office of the Assistant Secretary for Labor-Management Relations, Department of Labor
- III National Railroad Adjustment Board
- IV Office of Labor-Management and Welfare-Pension Reports, Department of Labor
- V Wage and Hour Division, Department of Labor
- IX Construction Industry Collective Bargaining Commission
- X National Mediation Board
- XII Federal Mediation and Conciliation Service
- XIV Equal Employment Opportunity Commission
- XVI Automotive Agreement Adjustment Assistance Board
- XVII Occupational Safety and Health Administration, Department of Labor
- XVIII Construction Industry Stabilization Committee
- XX Occupational Safety and Health Review Commission

Title 30—Mineral Resources

- I Bureau of Mines, Department of the Interior
- II Geological Survey, Department of the Interior
- III Board of Mine Operations Appeals, Department of the Interior
- IV Federal Metal and Nonmetallic Mine Safety, Board of Review
- V Interim Compliance Panel (Coal Mine Health and Safety)

Title 31—Money and Finance: Treasury

SUBTITLE A—Office of the Secretary of the Treasury

SUBTITLE B—Regulations Relating to Money and Finance

- I Monetary Offices, Department of the Treasury
- II Fiscal Service, Department of the Treasury

Title 31—Money and Finance: Treasury (Continued)

Chap.

- IV** Secret Service, Department of the Treasury
- V** Office of Foreign Assets Control, Department of the Treasury
- VI** Bureau of Engraving and Printing, Department of the Treasury

Title 32—National Defense

SUBTITLE A—Department of Defense

- I** Office of the Secretary of Defense
- V** Department of the Army
- VI** Department of the Navy
- VII** Department of the Air Force

SUBTITLE B—Other Regulations Relating to National Defense

- XII** Defense Supply Agency
- XIV** The Renegotiation Board
- XVI** Selective Service System
- XVII** Office of Emergency Preparedness
- XVIII** Office of Civil Defense, Office of the Secretary of the Army
- XIX** Central Intelligence Agency

Title 32A—National Defense, Appendix

- I** Office of Emergency Preparedness
- VI** Bureau of Domestic Commerce, Department of Commerce
- VII** Department of Commerce and Department of Transportation
- VIII** Transport Mobilization Staff, Interstate Commerce Commission
- IX** Federal Highway Administration, Department of Transportation
- X** Office of Oil and Gas, Department of the Interior
- XI** Oil Import Appeals Board
- XV** Federal Reserve System
- XVIII** National Shipping Authority, Maritime Administration, Department of Commerce
- XIX** Office of the Maritime Administrator, Department of Commerce

Title 33—Navigation and Navigable Waters

- I** Coast Guard, Department of Transportation
- II** Corps of Engineers, Department of the Army
- IV** Saint Lawrence Seaway Development Corporation

Title 34—[Reserved]

Title 35—Panama Canal

- I** Canal Zone Regulations

Title 36—Parks, Forests, and Memorials

Chap.

- I National Park Service, Department of the Interior
- II Forest Service, Department of Agriculture
- III Corps of Engineers, Department of the Army
- IV American Battle Monuments Commission
- V Smithsonian Institution

Title 37—Patents, Trademarks, and Copyrights

- I Patent Office, Department of Commerce
- II Copyright Office, Library of Congress

Title 38—Pensions, Bonuses, and Veterans' Relief

- I Veterans Administration

Title 39—Postal Service

- I United States Postal Service
- III Postal Rate Commission

Title 40—Protection of Environment

- I Environmental Protection Agency
- IV Low-Emission Vehicle Certification Board

Title 41—Public Contracts and Property Management

SUBTITLE A—Federal Procurement Regulations System

- 1 Federal Procurement Regulations
- 3 Department of Health, Education, and Welfare
- 4 Department of Agriculture
- 5 General Services Administration
- 5A Federal Supply Service, General Services Administration
- 5B Public Buildings Service, General Services Administration
- 5C Property Management and Disposal Service, General Services Administration
- 5D Transportation and Communications Service, General Services Administration
- 6 Department of State
- 7 Agency for International Development, Department of State
- 8 Veterans Administration
- 9 Atomic Energy Commission
- 10 Department of the Treasury
- 12 Department of Transportation
- 13 Department of Commerce
- 14 Department of the Interior
- 14H Bureau of Indian Affairs, Department of the Interior
- 14R Office of Saline Water, Department of the Interior

Title 41—Public Contracts and Property Management (Continued)

Chap.

- 15 Environmental Protection Agency
- 18 National Aeronautics and Space Administration
- 19 United States Information Agency
- 22 Office of Economic Opportunity
- 23 U.S. Arms Control and Disarmament Agency
- 24 Department of Housing and Urban Development
- 25 National Science Foundation
- 29 Department of Labor

SUBTITLE B—Other Provisions Relating to Public Contracts

- 50 Public Contracts, Department of Labor
- 51 Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped
- 60 Office of Federal Contract Compliance, Equal Employment Opportunity, Department of Labor

SUBTITLE C—Federal Property Management Regulations System

- 101 Federal Property Management Regulations
- 103 Department of Health, Education, and Welfare
- 105 General Services Administration
- 109 Atomic Energy Commission
- 114 Department of the Interior

SUBTITLE D—Other Provisions Relating to Property Management

- 115 Environmental Protection Agency

Title 42—Public Health

- I Public Health Service, Department of Health, Education, and Welfare
- II Children's Bureau, Social and Rehabilitation Service, Department of Health, Education, and Welfare
- III St. Elizabeths Hospital, Department of Health, Education, and Welfare

Title 43—Public Lands: Interior

SUBTITLE A—Office of the Secretary of the Interior

SUBTITLE B—Regulations Relating to Public Lands

- I Bureau of Reclamation, Department of the Interior
- II Bureau of Land Management, Department of the Interior

Title 44—Public Property and Works

- III Department of State
- IV Bureau of Domestic Commerce, Department of Commerce
- V Library of Congress

Title 45—Public Welfare

- Chap. **SUBTITLE A—Department of Health, Education, and Welfare,
 General Administration**
- SUBTITLE B—Regulations Relating to Public Welfare**
- I Office of Education, Department of Health, Education, and
 Welfare**
- II Social and Rehabilitation Service (Assistance Programs), Depart-
 ment of Health, Education, and Welfare**
- IV Social and Rehabilitation Service (Rehabilitation Programs), De-
 partment of Health, Education, and Welfare**
- V Foreign Claims Settlement Commission of the United States**
- VI National Science Foundation**
- VII Commission on Civil Rights**
- VIII Civil Service Commission**
- IX Administration on Aging, Social and Rehabilitation Service, De-
 partment of Health, Education, and Welfare**
- X Office of Economic Opportunity**
- XI National Foundation on the Arts and the Humanities**
- XII ACTION**

Title 46—Shipping

- I Coast Guard, Department of Transportation**
- II Maritime Administration, Department of Commerce**
- III Coast Guard (Great Lakes Pilotage), Department of Trans-
 portation**
- IV Federal Maritime Commission**

Title 47—Telecommunication

- I Federal Communications Commission**
- II Office of Telecommunications Policy**

Title 48—[Reserved]

Title 49—Transportation

- SUBTITLE A—Office of the Secretary of Transportation**
- SUBTITLE B—Other Regulations Relating to Transportation**
- I Department of Transportation**
- II Federal Railroad Administration, Department of Transportation**
- III Federal Highway Administration, Department of Transportation**
- IV Coast Guard, Department of Transportation**
- V National Highway Traffic Safety Administration, Department of
 Transportation**
- VI Urban Mass Transportation Administration, Department of
 Transportation**
- X Interstate Commerce Commission**

Title 50—Wildlife and Fisheries

Chap.

- I** Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service,
Department of the Interior
- II** National Marine Fisheries Service, National Oceanic and Atmos-
pheric Administration, Department of Commerce
- III** International Regulatory Agencies (Fishing and Whaling)
- IV** Fish and Wildlife Service, Department of the Interior

Finding Aids

Table

- I** Parallel Tables of Statutory Authorities and Rules
- II** Parallel Tables of Presidential Documents
- III** Guide to Federal Register Finding Aids
- IV** List of Acts Requiring Publication in the Federal Register
- V** Guide to Record Retention Requirements

Alphabetical List of CFR Subtitles and Chapters

	Title and Subtitle or Chapter Reference
ACTION	45, XII
Administrative Committee of the Federal Register	1, I
Advisory Commission on Intergovernmental Relations	5, VII
Agency for International Development	22, II
Federal Procurement Regulations System	41, 7
Aging, Administration on	45, IX
Agricultural Marketing Service	7, I, IX, X, XI
Agricultural Research Service	7, V; 9, IV
Agricultural Stabilization and Conservation Service	7, VII, VIII
Agriculture Department	
Agricultural Marketing Service	7, I, IX, X, XI
Agricultural Research Service	7, V; 9, IV
Agricultural Stabilization and Conservation Service	7, VII, VIII
Animal and Plant Health Inspection Service	7, III; 9, I, III
Commodity Credit Corporation	7, XIV
Commodity Exchange Authority	17, I
Commodity Exchange Commission	17, I
Contract Appeals, Board of	7, XXIV
Export Marketing Service	7, XXV
Farmers Home Administration	7, XVIII
Federal Crop Insurance Corporation	7, IV
Federal Procurement Regulations System	41, 4
Food and Nutrition Service	7, II
Foreign Agricultural Service	7, XV
Foreign Economic Development Service	7, XXI
Forest Service	36, II
Inspector General, Office of the	7, XXVI
Packers and Stockyards Administration	9, II
Rural Electrification Administration	7, XVII
Rural Telephone Bank	7, XVI
Secretary of Agriculture, Office of	7, Subtitle A
Soil Conservation Service	7, VI
Statistical Reporting Service	7, XII
Air Force Department	32, VII
Alcohol, Tobacco, and Firearms, Bureau of	27, I
Alien Property, Office of	8, II
American Battle Monuments Commission	36, IV
Animal and Plant Health Inspection Service	7, III; 9, I, III
Appalachian Regional Commission	5, IX
Arms Control and Disarmament Agency, U.S.	22, VI
Federal Procurement Regulations System	41, 23
Army Department	32, V
Civil Defense, Office of	32, XVIII
Engineers, Corps of	33, II; 36, III
Arts and the Humanities, National Foundation on the	45, XI
Atomic Energy Commission	10, I
Federal Procurement Regulations System	41, 9
Federal Property Management Regulations System	41, 109
Automotive Agreement Adjustment Assistance Board	29, XVI
Blind-Made Products, Committee on Purchases of	41, 51
Budget, Office of Management and	5, III
Business Economics, Office of	15, VIII

	Title and Subtitle or Chapter Reference
Canal Zone Regulations	35, I
Census Bureau	15, I
Central Intelligence Agency	32, XIX
Children's Bureau, Social and Rehabilitation Service	42, II
Civil Aeronautics Board	14, II
Civil Defense Office, Office of the Secretary of the Army	32, XVIII
Civil Rights Commission	45, VII
Civil Service Commission	5, I, IV; 45, VIII
Claims Collection Standards, Federal	4, II
Coast Guard	33, I; 46, I, III; 49, IV
Commerce Department	
Assistant Secretary of Commerce for Domestic and Inter- national Business	32A, VII
Business Economics, Office of	15, VIII
Census Bureau	15, I
Domestic Commerce Bureau	15, VI; 32A, VI; 44, IV
East-West Trade, Bureau of	15, III
Economic Development Administration	13, III
Federal Procurement Regulations System	41, 13
Foreign Direct Investments, Office of	15, X
Import Programs, Office of	15, VII
Maritime Administration	32A, XVIII, XIX; 46, II
National Bureau of Standards	15, II
National Defense	32A, VII
National Oceanic and Atmospheric Administration	15, IX; 50, II
National Shipping Authority	32A, XVIII
Patent Office	37, I
Secretary of Commerce, Office of	15, Subtitle A
Special Representative for Trade Negotiations, Office of	15, XX
Trade Adjustment Assistance, Office of	15, V
United States Travel Service	15, XII
Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped	41, 51
Commodity Credit Corporation	7, XIV
Commodity Exchange Authority	17, I
Commodity Exchange Commission	17, I
Community Development, Office of	24, V
Assistant Secretary for	
Community Development Corporation	24, VII
Community Planning and Management, Office of Assistant Secretary for	24, VI
Comptroller General	11, I
Comptroller of the Currency, Bureau of	12, I
Construction Industry Collective Bargaining Commission	29, IX
Construction Industry Stabilization Committee	29, XVIII
Consumer and Marketing Service	7, I, IX, X, XI; 9, III
Contract Appeals, Board of	7, XXIV
Copyright Office, Library of Congress	37, II
Cost Accounting Standards Board	4, III
Cost of Living Council	6, I
Credit Union Administration, National	45, III
Customs Bureau	19, I
Defense Department	5, VI; 32, Subtitle A, XII
Air Force Department	32, VII
Army Department	32, V, XVIII; 33, II; 36, III
Navy Department	32, VI
Secretary of Defense, Office of	32, I
Defense Supply Agency	32, XII
Delaware River Basin Commission	18, III
District of Columbia Redevelopment Land Agency	5, XII
Domestic Commerce Bureau	15, VI; 19, III; 32A, VI; 44, IV
Drug Abuse Prevention, Special Action Office for	21, III

	Title and Subtitle or Chapter Reference
East-West Trade, Bureau of	15, III
Economic Development Administration	13, III
Economic Opportunity, Office of	41, 22; 45, X
Economics, Office of Business	15, VIII
Education, Office of	45, I
Emergency Loan Guarantee Board	13, IV
Emergency Preparedness, Office of	32, XVII; 32A, I
Employee-Management Relations Commission	22, VIII
Employees' Compensation, Bureau of	20, I
Employees' Compensation Appeals Board	20, IV
Employees Loyalty Board, International Organizations	5, V
Employment Standards Administration	20, VI
Engineers, Corps of	33, II; 36, III
Engraving and Printing, Bureau of	31, VI
Environmental Protection Agency	40, I; 41, 15, 115
Equal Employment Opportunity	41, 60
Equal Employment Opportunity Commission	29, XIV
Equal Opportunity, Office of Assistant Secretary for	24, I
Executive Office of the President	3, V
Export Marketing Service	7, XXV
Export-Import Bank of the United States	12, IV
Farm Credit Administration	12, VI
Farmers Home Administration	7, XVIII
Federal Aviation Administration	14, I
Federal Claims Collection Standards	4, II
Federal Communications Commission	47, I
Federal Contract Compliance, Office of	41, 60
Federal Crop Insurance Corporation	7, IV
Federal Deposit Insurance Corporation	12, III
Federal Highway Administration	23, I; 32A, IX; 49, III
Federal Home Loan Bank Board	12, V
Federal Insurance Administration	24, X
Federal Labor Relations Council and Federal Service Impasses Panel	5, XIV
Federal Maritime Commission	46, IV
Federal Mediation and Conciliation Service	29, XII
Federal Metal and Nonmetallic Mine Safety, Board of Review	30, IV
Federal Power Commission	18, I
Federal Prison Industries	28, III
Federal Procurement Regulations	41, I
Federal Procurement Regulations System	41, Subtitle A
Federal Property Management Regulations	41, 101
Federal Property Management Regulations System	41, Subtitle C
Federal Railroad Administration	49, II
Federal Register, Administrative Committee of	1, I
Federal Register, Office of	1, II
Federal Reserve System	12, II; 32A, XV
Federal Supply Service	41, 5A
Federal Trade Commission	16, I
Fiscal Service, Treasury Department	31, II
Fish and Wildlife Service	50, I, IV
Food and Drug Administration	21, I
Food and Nutrition Service	7, II
Foreign Agriculture Service	7, XV
Foreign Assets Control, Office of	31, V
Foreign Claims Settlement Commission of United States	45, V
Foreign Direct Investments, Office of	15, X
Foreign Economic Development Service	7, XXI
Foreign-Trade Zones Board	15, IV
Forest Service	36, II
General Accounting Office	4, I, II
General Services Administration	
Federal Procurement Regulations System	41, 1, 5, 5A, 5B, 5C, 5D
Federal Property Management Regulations System	41, 101, 105
Geological Survey	30, II
Government National Mortgage Association	24, III
Great Lakes Pilotage	46, III

	Title and Subtitle or Chapter Reference
Health, Education, and Welfare, Department of	45, Subtitle A
Children's Bureau, Social and Rehabilitation Service	42, II
Education, Office of	45, I
Federal Procurement Regulations System	41, 3
Federal Property Management Regulations System	41, 103
Food and Drug Administration	21, I
Public Health Service	42, I
Rehabilitation Service	42, II; 45, II, IV, IX
St. Elizabeths Hospital	42, III
Social Security Administration	20, III
Highway Administration, Federal	23, I; 49, III
Highway Safety Bureau, National	23, II
Highway Safety Program Standards	23, II
Housing and Urban Development Department	
Community Development, Office of Assistant Secretary for	24, V
Community Development Corporation	24, VII
Community Planning and Management, Office of Assistant Secretary for	24, VI
Equal Opportunity, Office of Assistant Secretary for	24, I
Federal Insurance Administration	24, X
Federal Procurement Regulations System	41, 24
Government National Mortgage Association	24, III
Housing Management, Office of Assistant Secretary for	24, IV
Housing Production and Mortgage Credit—Federal Housing Commissioner [Federal Housing Administration], Office of Assistant Secretary for	24, II
Interstate Land Sales Registration, Office of	24, IX
Research and Technology, Office of Assistant Secretary for	24, VIII
Secretary, Office of	24, Subtitle A
Housing Management, Office of Assistant Secretary for	24, IV
Housing Production and Mortgage Credit—Federal Housing Commissioner [Federal Housing Administration], Office of Assistant Secretary for	24, II
Immigration and Naturalization Service	8, I
Import Programs, Office of	15, VII
Indian Affairs, Bureau of	25, I; 41, 14H
Indian Arts and Crafts Board	25, II
Indian Claims Commission	25, III
Inter-American Foundation	22, X
Intergovernmental Relations, Advisory Commission on	5, VII
Interim Compliance Panel (Coal Mine Health and Safety)	30, V
Interior Department	
Federal Procurement Regulations System	41, 14, 14H
Federal Property Management Regulations System	41, 114
Fish and Wildlife Service	50, I, IV
Geological Survey	30, II
Indian Affairs, Bureau of	25, I
Indian Arts and Crafts Board	25, II
Land Management Bureau	43, II
Mine Operations Appeals, Board of	30, III
Mines, Bureau of	30, I
National Park Service	36, I
Oil and Gas, Office of	32A, X
Reclamation, Bureau of	43, I
Saline Water, Office of	41, 14R
Secretary of the Interior, Office of	43, Subtitle A
Water Resources Research, Office of	18, IV
Inspector General, Office of the	7, XXVI
Internal Revenue Service	6, IV; 26, I; 27, I
International Development, Agency for	22, II; 41, 7
International Joint Commission, United States and Canada	22, IV
International Organizations Employees Loyalty Board	5, V

	Title and Subtitle or Chapter Reference
International Regulatory Agencies (Fishing and Whaling)	50, III
Interstate Commerce Commission	49, X
Transport Mobilization Staff	32A, VIII
Interstate Land Sales Registration, Office of	24, IX
Justice Department	28, I
Alien Property, Office of	8, II
Federal Claims Collection Standards	4, II
Federal Prison Industries	28, III
Immigration and Naturalization Service	8, I
Narcotics and Dangerous Drugs, Bureau of	21, II
Labor Department	
Employees' Compensation, Bureau of	20, I
Employees' Compensation Appeals Board	20, IV
Employment Standards Administration	20, VI
Federal Contract Compliance, Office of	41, 60
Federal Procurement Regulations System	41, 29, 50
Labor-Management and Welfare-Pension Reports, Office of	29, IV
Labor-Management Relations, Office of the Assistant Secretary	29, II
Manpower Administration	20, V
Occupational Safety and Health Administration	29, XVII
Public Contracts	41, 50
Secretary of Labor, Office of	29, Subtitle A
Wage and Hour Division	29, V
Labor-Management and Welfare-Pension Reports, Office of	29, IV
Land Management, Bureau of	43, II
Library of Congress	44, V
Copyright Office	37, II
Low-Emission Vehicle Certification Board	40, IV
Management and Budget, Office of	5, III
Manpower Administration	20, V
Maritime Administration	46, II
Maritime Administrator, Office of	32A, XIX
National Shipping Authority	32A, XVIII
Mine Operations Appeals, Board of	30, III
Mines, Bureau of	30, I
Monetary Offices, Treasury Department	31, I
Narcotics and Dangerous Drugs, Bureau of	21, II
National Aeronautics and Space Administration	14, V
Federal Procurement Regulations System	41, 18
National Bureau of Standards	15, II
National Capital Housing Authority	5, X
National Commission on Product Safety	5, XIII
National Credit Union Administration	45, III
National Foundation on the Arts and the Humanities	45, XI
National Highway Traffic Safety Administration	49, V
National Labor Relations Board	29, I
National Marine Fisheries Service	50, II
National Mediation Board	29, X
National Oceanic and Atmospheric Administration	15, IX; 50, II
National Park Service	36, I
National Railroad Adjustment Board	29, III
National Science Foundation	45, VI
Federal Procurement Regulations System	41, 25
National Shipping Authority	32A, XVIII
National Transportation Safety Board	14, III
Navy Department	32, VI
Occupational Safety and Health Administration	29, XVII
Occupational Safety and Health Review Commission	29, XX
Oil and Gas, Office of	32A, X
Oil Import Appeals Board	32A, XI
Overseas Private Investment Corporation	22, VII

	Title and Subtitle or Chapter Reference
Packers and Stockyards Administration	9, II
Panama Canal, Canal Zone Regulations	35, I
Patent Office	37, I
Pay Board	6, II
Peace Corps	22, III
Postal Rate Commission	39, III
Postal Service, United States	39, I
Presidential Documents	3, I, II, III, IV, V
Executive Orders	3, II, IV
Proclamations	3, I, IV
Price Commission	6, III
Procurement Regulations System, Federal	41, Subtitle A
Property Management Regulations System, Federal	41, Subtitle C
Public Buildings Service	41, 5B
Public Contracts, Department of Labor	41, 50
Public Health Service	42, I
Railroad Adjustment Board, National	29, III
Railroad Administration, Federal	49, II
Railroad Retirement Board	20, II
Reclamation, Bureau of	43, I
Renegotiation Board	32, XIV
Research and Technology, Office of Assistant Secretary for	24, VIII
Rural Electrification Administration	7, XVII
Rural Telephone Bank	7, XVI
St. Elizabeths Hospital	42, III
Saint Lawrence Seaway Development Corporation	33, IV
Saline Water, Office of	41, 14R
Secret Service, Treasury Department	31, IV
Securities and Exchange Commission	17, II
Selective Service System	32, XVI
Small Business Administration	13, I
Smithsonian Institution	36, V
Social Security Administration	20, III
Soil Conservation Service	7, VI
Sport Fisheries and Wildlife, Bureau of	50, I
State Department	22, I; 44, III
Agency for International Development	22, II; 41, 7
Federal Procurement Regulations System	41, 6
Statistical Reporting Service, Agriculture Department	7, XII
Subversive Activities Control Board	28, II
Tariff Commission, United States	19, II
Telecommunications Policy, Office of	47, II
Tennessee Valley Authority	18, II
Trade Adjustment Assistance, Office of	15, V
Trade Negotiations, Office of Special Representative	15, XX
Transport Mobilization Staff, Interstate Commerce Commission	32A, VIII
Transportation, Department of	49, I
Coast Guard	33, I; 46, I, III; 49, IV
Federal Aviation Administration	14, I
Federal Highway Administration	23, I; 32A, IX; 49, III
Federal Procurement Regulations System	12
Federal Railroad Administration	49, II
Highway Safety Program Standards	23, II
National Defense	32A, VII
National Highway Traffic Safety Administration	49, V
Secretary, Office of	49, Subtitle A
Urban Mass Transportation	49, VI
Transportation and Communications Service	41, 5D
Transportation Safety Board, National	14, III
Travel Service, United States	15, XII

	Title and Subtitle or Chapter Reference
Treasury Department	
Alcohol, Tobacco, and Firearms, Bureau of	27, I
Comptroller of the Currency, Bureau of	12, I
Customs Bureau	19, I
Engraving and Printing, Bureau of	31, VI
Federal Procurement Regulations System	41, 10
Fiscal Service	31, II
Foreign Assets Control, Office of	31, V
Internal Revenue Service	26, I
Monetary Offices	31, I
Secret Service	31, IV
Secretary of the Treasury, Office of	31, Subtitle A
United States and Canada, International Joint Commission	22, IV
United States Arms Control and Disarmament Agency	22, VI; 41, 23
United States Information Agency	22, V; 41, 19
United States Postal Service	39, I
United States Soldiers' and Airmen's Home	5, XI
United States Tariff Commission	19, II
United States Travel Service	15, XII
Urban Mass Transportation	49, VI
Veterans Administration	38, I
Federal Procurement Regulations System	41, 8
Wage and Hour Division	29, V
Water Resources Council	18, VI
Water Resources Research, Office of	18, IV
Welfare-Pension Reports, Office of Labor-Management and	29, IV
Wildlife, Bureau of Sport Fisheries and	50, I

List of CFR Sections Affected

All changes in this volume of the Code of Federal Regulations which were made by documents published in the Federal Register since January 1, 1964, are enumerated in the following list. Entries indicate the nature of the changes effected. Page numbers refer to Federal Register pages. The user should consult the entries for chapters and parts as well as sections for revisions.

For the period before January 1, 1964, see the "List of CFR Sections Affected, 1949-1963," which is published in a separate volume.

1964

7 CFR	29 F.R. Page
Subtitle A	
1.27	
Revised	7311
(e) added	9319
1.103	
(a) revised	10573
1.201	
Amended	339
5.2	
Amended	2641
5.3	
Revised	12451
5.4	
Amended	2641
7.15	
(e) and (f) revised	14351
7.16	
(c) and (d) revised	14351
7.28	
(a) and (c) revised; (d) added ..	14351
7.29	
Revised	14352
7.30	
Revised	14352
7.31	
Revised	14353
13	
Revised	9425
15	
Added	16274
Heading revised; text designated as Subpart A; Subpart B added	16966
15.1-15.12	
Designated as Subpart A	16966
15.50, 15.51	
Subpart B added	16966
16	
Added	14837

7 CFR—Continued

	29 F.R. Page
Chapter I	
Subchapter C heading revised ..	7863
26.29	
(m) (3) amended	7085
26.74	
Revised	5506
26.101-26.103	
Recodified as 26.101-26.129; revised	1313
Effective date of recodification and revision postponed	2593
Effective date of recodification and revision further post- poned in part	5379
26.101-26.129	
Recodified from 26.101-26.103; revised	1313
Effective date of recodification and revision postponed	2593
Effective date of recodification and revision further post- poned in part	5379
27.48	
Added	13797
28.15	
(d) added	7661
28.40	
(b) revised	7661
(b) revised	12419
28.956	
Amended	7374
29.1009	
Amended	7709
29.1162	
Amended	7709
29.1165	
Amended	7709
29.1167	
Amended	7709

Title 7—Agriculture

7 CFR—Continued

Chapter I—Continued

29.1181	
Amended	7709
29.1225	
Amended	7709
29.4257	
Amended	16854
29.4259	
Amended	16854
29.4269	
Amended	16854
29.4277	
Revoked	16854
29.4286	
Amended	16854
29.4301	
Amended	16854
29.4302	
Amended	16854
29.4335	
Revoked	16854
29.4336	
Amended	16854
29.4346	
Revised	16854
29.4347	
Amended	16854
29.4362	
Amended	16854
29.4363	
Revised	16854
29.4364	
Revised	16854
29.4386	
Amended	16854
33.8	
Revised	13559
33.12	
Introductory text and (a) re-	
vised	13559
43	
Added	5870

1965

7 CFR

Subtitle A

1	
Subpart G deleted	12329
1.101—1.106	
Subpart G deleted	12329
5.1	
(a) revised	2521
5.2	
Amended	2923

29 F.R.
Page

7 CFR—Continued

Subtitle A—Continued

5.4	
Amended	2923
5.5	
(b) revised	2521
6	
Subpart recodified and revised ..	8623
6.20—6.31	
Subpart recodified from 6.20—	
6.33; revised	8623
6.20—6.33	
Subpart recodified as 6.20—	
6.31; revised	8623
7	
Revised	14301
7.11	
Revised	3809
7.12	
(a) revised; (c) added	3809, 4157
7.13	
Revised	3809
7.14	
(e) deleted	3810
7.15	
(j) revised; (k) redesignated as	
(m); new (k) and (l) added ..	3810
(e) and (f) revised	5759, 5787
7.16	
(c) and (d) revised	5759
7.18	
Revised	3810
7.19	
Revised	3810
7.20	
(b) revised	5759
7.24	
Revised	3810
7.25	
(b) revised	5759
7.28	
(a) and (c) revised	5759
7.29	
(a), (b), and (c) revised	5760
11	
Subpart A recodified and re-	
vised; Appendix A added	15514
11.1—11.15	
Subpart A recodified as 11.1—	
11.18 and revised; Appendix A	
added	15514
11.1—11.18	
Subpart A recodified from 11.1—	
11.15 and revised; Appendix A	
added	15514
11.7	
(b) (3) revised	4240

30 F.R.
Page

List of CFR Sections Affected

7 CFR—Continued	30 F.R. Page
Subtitle A—Continued	
11.8	
(d) (8) revised.....	4240
15	
Subpart C added.....	14355
Subpart A appendix amended..	14845
15.60—15.143	
Subpart C added.....	14355
16.2	
(h) and (j) revised.....	251
(h) and (j) revised.....	7426
(f), (h), and (j) revised.....	13897
16.6	
(b) revised.....	13897
16.8	
Revised	251
Revised	7426
Revised	13897
16.17	
Revised	13897
Subtitle B:	
Chapter I:	
Heading revised.....	2129
26.2	
(i), (j), (p) amended.....	8031
26.29	
(m) (3) amended.....	8031
26.30a	
Amended	8031
26.87	
Amended	8031
26.88	
Amended	8031
26.116	
Amended	8031
26.127	
(a) revised.....	2851
26.501—26.504	
Recodified as 26.501—26.514; re-	
vised	4605
26.501—26.514	
Recodified from 26.501—26.504;	
revised	4605
26.508	
Corrected	5760
27	
Subpart B deleted.....	7239
27.2	
(c) amended.....	15351
27.92	
Amended	15351
27.210—27.213	
Subpart B deleted.....	7239
28	
Subpart C added; recodified	
from Subpart B of Part 27....	7239

7 CFR—Continued	30 F.R. Page
Chapter I—Continued	
28.2	
(e), (f), and (g) amended.....	6637
28.107	
Revised	6637
28.123	
Amended	6637
28.124	
Amended	6637
28.151	
Amended	6637
28.601—28.603	
Added	7239
28.901	
(b), (c) and (d) amended.....	15351
28.950	
(b), (c), and (d) amended.....	7426
28.956	
Amended	7426
Amended	9529
28.959	
29.3	
(h) amended.....	7385
29.16	
Amended	7385
29.17	
Amended	7385
29.51	
Amended	7385
29.75a	
Added	12627
29.501—29.582	
Recodified as 29.3501—29.3686;	
revised	9207
29.1116	
29.1162	
Amended	6573
29.1163	
Amended	6573
29.1165	
Amended	6573
29.1167	
Amended	6573
29.1181	
Amended	6573
29.2363	
Amended	7385
29.2626	
Amended	7385
29.3112	
Amended	7385
29.3362	
Amended	7385
Amended	7385
Amended	7427

Title 7—Agriculture

7 CFR—Continued	30 F.R. Page
Chapter I—Continued	
29.3501—29.3686	
Recodified from 29.501—29.582; revised	9207
29.4340	
Amended	7385
29.4595	
Amended	7385
29.5330	
Amended	7385
29.5596	
Amended	7385
29.6096	
Amended	7385
29.9001	
Amended	7385
30.38	
(b) and (c) (1) and (10) amended	7385
30.42	
(a) amended	7385
30.60	
Amended	7385
31.0—31.16	
Recodified from 31.1—31.12; re- vised	10829
31.1—31.12	
Recodified as 31.0—31.16; re- vised	10829
31.51	
Deleted	10830
31.151	
Recodified as 31.300; revised	10830
31.200—31.204	
Added	10830
31.201—31.204	
Deleted	10830
31.300	
Recodified from 31.151; revised	10830
31.400—31.402	
Added	10830
33.12	
(a) revised	8775
34.1	
(b) and (c) amended	7385
34.11	
Amended	7385
41.6	
Redesignated as 41.6-1; section heading and center heading revised	479
41.6-1	
Redesignated from 41.6; section heading and center heading revised	479

7 CFR—Continued	30 F.R. Page
Chapter I—Continued	
41.6-2	
Added	479
41.11	
Revised	479
41.19	
Revised	479

1966

7 CFR	31 F.R. Page
Subtitle A	
0	
Added	8528
0.735-23	
(b) revised	9544
1.6	
Revised	2894
5.2	
Amended	10767
Amended	15631
5.4	
Amended	10767
7.18	
Revised	6570
11.2	
(c) (6) revised	3059
11.7	
(c) revised	3059
11.10	
(e) revised	3059
11.11	
(p) revised	3059
11.12	
Heading of (j) revised; (j) (4) added	3059
11.13	
(c) (3), (d) and (e) (2) revised	3059
11.14	
(c) revised	3060
11.15	
Introductory text added; intro- ductory text of (a), (a) (1), (5) and (8), (b) (2) and (3) revised; (b) (10) and (c) (7) and (8) added	3060
15.52	
Added	2645
Revised	8175
15.124	
Added	8586
16.2	
(f), (h), and (j) revised	15483
16.8	
Revised	15483
17	
Added	16818

List of CFR Sections Affected

7 CFR—Continued

31 F.R.
Page

Chapter I	
Subchapter M added; recodified from Subchapter B of 6 CFR	
Ch. V	13747
26.74	
(g) amended.....	14825
26.903	
Added	4949
26.904	
Added	8113
26.905	
Added	8113
28.2	
(p) revised.....	7734
28.15	
(d) revised.....	7734
28.25	
(g) revised.....	9412
28.40	
(b) revised.....	7734
28.116	
(a), (c), and (d) revised.....	7734
(c) revised.....	11213
28.910	
Revised	7734
28.956	
Amended	7734
42	
Revised	4687
Corrected	4949

1967

7 CFR

32 F.R.
Page

Subtitle A	
1	
Subpart A revised.....	9605
1.1—1.6	
Subpart A revised.....	9605
1.26	
Revised	5458
1.51	
Revised	1021
1.52	
Added	2805
(c) revised.....	7835
5.2	
Amended	11031
Amended	16385
5.4	
Amended	11031
Amended	16385
6.20—6.31	
Subpart revised.....	20801

7 CFR—Continued

32 F.R.
Page

Subtitle A—Continued	
6.32	
Added	10833
(c) (1) (1) revised.....	12438
7.8	
Revised	7171
7.18	
Revised	7171
15	
Appendix amended.....	705
15.4	
(d) and (e) added.....	3967
17	
Appendix A corrected.....	921
Appendix B corrected.....	3935
Appendix A amended.....	5978
17.1	
(c) (3) corrected.....	3935
17.2	
(b) (7) corrected.....	3935
(b) (7) and (c) (2) revised.....	5977
17.7	
(c) revised.....	5977
17.8	
(c) (1) and (2) revised; (c) (6) added	5977
17.9	
(o) (1) corrected.....	921
(k) (7) corrected.....	3935
(j) (5) and (m) revised.....	5977
17.10	
(a) (1), (h) (1), (3), (5), and (6), (l), and (p) revised.....	5977
17.13	
(c) (2) and (4) corrected.....	921
(d) (1), (3), (6) (1), and (7) (1) revised; (d) (8) deleted.....	5978
17.14	
(a) revised.....	5978
17.15	
(b) (5) corrected.....	3935
(a) (6), (b) (6) (II), and (c) (2) revised	5978
Chapter I	
26.29	
(m) (2) revised; (m) (3) amended; (m) (4) and (5) revised; (m) (6) amended....	13648
27.2	
(o) revised.....	4157
27.38	
(e) revised.....	7011
27.48	
Deleted	4157
27.93	
Revised	12831

Title 7—Agriculture

7 CFR—Continued

Chapter I—Continued

27.94	
Revised	4157
Revised	12831
28.40	
(e) revised	7011
28.525	
Center heading and section added	8760
29.1162	
Amended	5979
29.1163	
Amended	5979
29.1181	
Amended	5979
33.10	
(d) (1) revised	9298
44	
Recodified as 52.6041—52.6046; revised	8575

1968

7 CFR

Subtitle A

0.735-11	
Introductory text revised; (b) amended; (f) revised; (n) amended; (o) revised; (s) and (t) added	953
0.735-12	
(b) and (f) revised	953
0.735-13	
(c) deleted; (d) added	953
0.735-14	
Introductory text revised; (c) deleted	12083
0.735-15	
Amended	953
0.735-17	
Introductory text revised; (e) deleted	12083
0.735-20	
(a) amended	953
0.735-22	
(c) and (h) revised	953
0.735-23	
(a) amended	954
0.735-26	
(d), (g), (h), (j), (p), and (q) amended	954
0.735-51	
Revised	954
0.735-52	
Revised	954
0.735-54	
(b) revised	954
0.735-55	
Revised	954

32 F.R.
Page

7 CFR—Continued

Subtitle A—Continued

0.735-59	
(a) through (d) revised	954
0.735-60	
Amended	955
0.735-61	
Introductory text of (a) revised	955
0.735-62	
Revised	955
0.735-64	
(a) revised; (d) added	955
1.29	
Added	7295
1.41	
Amended	10273
5.2	
Amended	5038
Amended	9085
5.4	
Amended	5038
Amended	9085
7.5	
Revised	12955
7.7	
Revised	12956
7.9	
Revised	12956
7.10	
Revised	12956
7.11	
(a) revised	12956
7.14a	
Added	12956
7.20	
(b) revised	12956
7.25	
(b) revised	12956
15	
Subpart A appendix amended ..	7065
15.1—15.12	
Subpart A appendix amended ..	7065
16	
Revised	2497
16.2	
(f), (h), and (j) revised	17341
16.8	
Revised	17341
17	
Appendix A amended	5138
Appendix B amended	5139
17.1	
(d) revised	5137
17.2	
(c) (5) revised	5137
17.3	
(h) added	5137
17.5	
(e) added	5137

33 F.R.
Page

List of CFR Sections Affected

7 CFR—Continued	33 F.R.
Subtitle A—Continued	Page
17.6	
(f) revised; (g) deleted.....	5137
17.9	
(f) amended; (i) (5) revised;	
(k) (7) amended.....	5137
17.10	
(h) (3), (k), and (o) revised....	5137
17.13	
(c) (1) revised; (c) (2) amended;	
(c) (3) (1) and (d) (1), (3),	
(6) (1), and (7) (1) revised....	5138
(d) (1) revised.....	10005
17.14	
(b) (1) revised.....	5138
(b) (1) revised.....	10005
17.15	
Introductory text of (a) (2) and	
(a) (2) (1) and (3) revised;	
(c) (2) deleted.....	5138
Introductory text of (a) (2) and	
(a) (2) (i) revised.....	10005
(c) (1) revised.....	16381
17.16	
Amended	10005
18	
Added	12173
Chapter I	
26.74	
Revised	14620
26.80	
Revised	12819
26.87	
Revised	12819
26.127	
(a) revised.....	16065
(a) corrected.....	16489
27.93	
Revised	3501
Revised	9285
27.94	
Revised	3501
29.1008	
Amended	8721
29.1122	
Revised	8721
29.1161	
Amended	8721
29.1162	
Amended	8721
29.1163	
Amended	8721
29.1164	
Amended	8721
29.1165	
Amended	8721
29.1181	
Amended	8721

7 CFR—Continued	33 F.R.
Chapter 1—Continued	Page
29.1225	
Amended	8721
31.100—31.116	
Recodified from 31.101—31.114;	
revised	19073
31.101—31.114	
Recodified as 31.100—31.116;	
revised	19073
31.201	
(f) and (s) through (v)	
revised	19074
31.300—31.302	
Recodified from 31.100; revised..	19074
31.300	
Recodified as 31.300—31.302;	
revised	19074
33.10	
(d) (4) revised.....	12819

1969

7 CFR	34 F.R.
Subtitle A	Page
1.29	
(a) (6) redesignated as (7)	
and revised; new (a) (6)	
added; (c) (2) amended....	9261
5.2	
Amended	1132
Amended	14759
5.4	
Amended	1132
Amended	14759
Amended	15785
6	
Appendix 1 amended.....	924
Appendix 1 corrected.....	2021
6.20—6.31	
Subpart recodified from 6.20—	
6.32; revised.....	9743
Subpart Appendix 1 corrected...	9961
Subpart Appendix 1 amended...	18896
6.20—6.32	
Subpart recodified as 6.20—6.31;	
revised	9743
6.25	
Existing text of (b) designated	
as (b) (1); (b) (2) added....	18895
6.26	
(a) amended.....	18896
15	
Subpart A appendix amended..	1132
15.1—15.12	
Subpart A appendix amended..	1132
17	
Amended	8963

Title 7—Agriculture

7 CFR—Continued	34 F.R. Page
Subtitle A—Continued	
17.2	
(a) (6) and (9) and (c) (1) re- vised; (c) (21) added.....	8963
17.6	
(j) added.....	8963
(b) (1) revised.....	12015
Chapter I	
Subchapter G added.....	15632
26	
Subpart A recodified and re- vised	1860
26.1—26.88	
Subpart A recodified as 26.1— 26.129; revised.....	1860
26.1—26.129	
Subpart A recodified from 26.1— 26.88; revised.....	1860
26.19	
(a) corrected.....	5589
26.30	
Effective date of (d) (2) post- poned	13729
26.38	
Effective date of (d) postponed..	13729
26.48	
Effective date of (d) postponed..	13729
26.55	
Effective date of (b) (2) post- poned	13729
26.57	
Effective date postponed.....	13729
26.59	
(b) (20) corrected.....	5589
26.72	
(b) (1) corrected.....	5589
26.96	
(d) corrected.....	5589
26.100	
Effective date of (i) postponed..	13729
26.101—26.129	
Center heading and sections redesignated as 26.301— 26.329, respectively.....	3592
26.151—26.153	
Center heading and sections re- designated as 26.351—26.353, respectively	3593
26.201	
(c) (1) and (f) revised.....	3591
26.203	
(a), (b), (c), (e), and (g) (4) (1) and (5) (i) revised.....	3591
26.251	
(h) revised.....	3592

7 CFR—Continued	34 F.R. Page
Chapter I—Continued	
26.253	
(a) and (b) revised.....	3592
26.301—26.329	
Center heading and sections redesignated from 26.101— 26.129, respectively.....	3592
26.326	
Revised	3592
26.327	
Revised	3593
(a) revised.....	7800
26.328	
(f) (1) and (g) (1) revised.....	3593
26.329	
Revised	3593
26.351—26.353	
Center heading and sections redesignated from 26.151— 26.153, respectively.....	3593
26.351	
(f) revised.....	3593
26.353	
(a) and (b) revised.....	3593
26.401	
(b) revised.....	3593
26.402	
Revised	3593
26.451	
(b) revised.....	3594
26.453	
(a), (b), and (c) (7) (i) revised..	3594
26.512	
Revised	3594
26.513	
Revised	3594
26.514	
Revised	3594
26.551	
(c) revised.....	3594
26.553	
(a) and (b) revised.....	3594
26.601	
(h) revised.....	3595
(k) revised.....	7282
26.603	
(a) and (b) revised.....	3595
28.2	
(o) and (p) amended.....	9847
28.25	
(g) revised.....	7959
28.123	
Amended	9847
28.303	
(b) amended.....	9847

List of CFR Sections Affected

7 CFR—Continued	84 F.R.
	Page
Chapter I—Continued	
28.501—28.510	
Center heading and sections	
revised	9847
28.525	
(b) revised	9847
28.908	
(b) amended	9847
29.2	
(a) (1) amended	14461
29.3	
(e) revised; (j) amended	14461
29.3251—29.3401	
Center heading and sections	
recodified from 29.3251—	
29.3407; revised	5589
29.3251—29.3407	
Center heading and sections	
recodified as 29.3251—29.3401;	
revised	5589
29.6126	
Amended	17061

1970

7 CFR	85 F.R.
	Page
Subtitle A	
4	
Revised	381
5.4	
Amended	3158
7	
Revised	10831
10	
Deleted	13822
15	
Subpart A appendix amended ..	18384
Effective date corrected	19737
15.1—15.12	
Subpart A appendix amended ..	18384
Effective date corrected	19737
15.1	
(a) amended; (b) revised	18382
Effective date corrected	19737
15.2	
(b) and (d) revised	18383
Effective date corrected	19737
15.3	
(a) amended; (b) (3) redesi-	
gnated (b) (4) and re-	
vised; (b) (4) redesi-	
gnated (b) (5); new (b) (3)	
added; (b) (6) added; (c)	
amended	18383
Effective date corrected	19737

7 CFR—Continued	85 F.R.
	Page
Subtitle A—Continued	
15.4	
(a) (1) and (2), and (b) revised;	
(e) amended	18383
Effective date corrected	19737
15.9	
(d) amended	18384
Effective date corrected	19737
15.10	
(g) added	18384
Effective date corrected	19737
15.12	
(a) and (c) amended	18384
Effective date corrected	19737
17	
Appendix B amended	592
17.13	
(a) (2) and (8) (1) amended;	
(a) (8) (iv) deleted	592
19	
Added	7493
20	
Added	10837
Appendix B added	11613
20.3	
Existing text redesignated as	
(a) and paragraph heading	
added; (b) added	11613
(c) added	16398
(d) added	18384
(e) added	18597
(f) added	19563
Chapter I	
26	
Amended	9243
26.59	
(b) (15) (1) and (e) (1) revised ..	219
(b) (12) revised	12322
26.71	
(a) revised	9995
26.72	
Revised	9995
27.38	
(b) deleted	17935
27.80	
Revised	8531
27.81	
Revised	8531
28	
Subpart E recodified and re-	
vised	8532
28.116	
Revised	8531
28.117	
Revised	8531
28.120	
Revised	8531
28.122	
Revised	8531

Title 7—Agriculture

7 CFR—Continued	35 F.R.
Chapter I—Continued	Page
28.123	
Revised	8531
28.148	
Revised	8532
28.149	
Revised	8532
28.151	
Revised	8532
28.184	
Revised	8532
28.910	
Revised	10739
28.911	
Revised	8532
28.950—28.961	
Subpart E recodified as 28.950—	
28.962; revised	8532
28.950—28.962	
Subpart E recodified from	
28.950—28.961; revised	8532
29.3011	
Amended	10490
29.3042	
Revoked	10490
29.3151	
Amended	10490
29.3152	
Amended	10490
29.3155	
Revised	10490
29.3181	
Amended	10490
29.8001	
Amended	6107

1971

7 CFR	36 F.R.
	Page
Subtitle A	
0 Revised	413
1.52 (c) revised	6071
5.2 Amended	15516
5.4 Amended	15516
6 Appendix 1 amended	12506
6.26 (a) table amended	12506
7.3 Revised	6887
7.20 Amended	6887
15.2 (b) revised	3411
16 Superseded by Part 760 of	
Chapter VII	5205, 5285
20.3 Heading amended	40

7 CFR—Continued	36 F.R.
Subtitle A—Continued	Page
20.5 Added	25399
21 Added; incorrectly designated	
as Part 19	8433
Correctly designated	19007
20.4 Revised	40
(b), (c) and (d) added	21577
Chapter I	
29.6251—29.6411 Added	5665
29.6501—29.6661 Added	5669
32 Added	12682
41.4—41.22 Removed	1877
42.102 Amended	18456
42.103 (a) revised	18456
42.104 (a) revised	18456
42.105 (a) (5) and (c) (2) re-	
vised	18456
42.106 (a) (1) revised	18456
42.107 (a) and the introductory	
text of (c) revised	18456
42.108 Introductory text of (d),	
introductory text of (d) (1),	
(d) (4) and (e) revised; (d)	
(1) (iii) removed; (f) added ..	18456
42.109 Table I amended	18457
42.110 Tables II and II-A	
amended	18457
42.111 Table III revised; Table	
III-A amended	18457
42.112 Tables IV, VI and VII re-	
vised	18457
42.115 Amended	18457

1972

7 CFR	37 F.R.
	Page
Subtitle A	
Nomenclature changes	6327
2 Redesignated as Part 9; new	
Part 2 added	28463
6 Center heading added	11234
6.15 Added	11234
6.16 Added	11234
6.26 (a) table and (b) amended ..	28889
6.31 Appendix 1 amended	28889
7.11 (a) revised	3349
7.13 Revised	3349
7.15 (h) revised	3349
7.18 Revised	3349
9 Added; redesignated from Part	
2	28463
17.1 (c) (1) amended	16669
20 Removed	14381

List of CFR Sections Affected

7 CFR—Continued		37 F.R. Page	7 CFR—Continued		37 F.R. Page
Chapter I			Chapter I—Continued		
Heading revised; nomenclature			29.1—29.3 (Subpart A) revised		7765
changes	8059		29.2251—29.2481 Revised		13521
26.72 (a) amended	15911		29.2501—29.2696 Revised		13626
28.116 (a) revised	28271		29.2662 Amended		15501
28.117 Revised	28271		35.11 Revised		16167
28.910 (b) revised	28271		41 Removed		23624



