

Farm Service Agency, USDA

§ 737.74

license shall apply to more than one warehouse, the Secretary or his designated representative shall issue a new license, omitting the names of the warehouses for which licenses have been suspended, terminated, or revoked. Such new license shall be posted as prescribed in § 737.54.

§ 737.66 Lost or destroyed licenses.

Upon satisfactory proof of the loss or destruction of a license issued to a sampler, inspector, grader, or weigher a duplicate thereof or a new license may be issued under the same or a new number.

§ 737.67 Reports.

Each sampler, inspector, grader, or weigher shall, from time to time, when requested by the Department, make reports on forms furnished for the purpose by the Service bearing upon his activities as such licensee.

§ 737.68 Unlicensed persons; misrepresentation.

No person shall in any way represent himself to be a sampler, inspector, grader, or weigher licensed under the act unless he holds an unsuspended or unrevoked license issued under the act.

TOBACCO CLASSIFICATION

§ 737.69 Type, grade, form, or condition; statement.

Whenever the type, grade, form, or condition of tobacco is required to be or is stated for the purposes of the act and the regulations in this part, it shall be stated in accordance with §§ 737.69 through 737.73.

§ 737.70 Standards to be used.

Until such time as official tobacco standards of the United States are in effect, the type, grade, form, and condition of tobacco shall be stated: (a) In accordance with such standards, if any, as may be approved for the purpose by the Administrator, or his representative, or (b) in the absence of any such standards, in accordance with the standards adopted by any tobacco organization or by the tobacco trade generally in the locality in which the warehouse is located, subject to disapproval by the Administrator.

§ 737.71 Type, grade, form, or condition.

Whenever the type, grade, form, or condition of tobacco is stated for the purposes of the act and the regulations in this part, the terms used shall be correctly applied and shall be so selected as not to convey a false impression of the tobacco. In determining the type, grade, form, or condition of a package of tobacco, the package as a whole shall be considered rather than parts of it which do not materially affect the value of the entire package and minor irregularities in the tobacco shall be overlooked.

§ 737.72 Type, grade, and form; statement.

Whenever the type, grade, or form of tobacco is stated for the purposes of the act and the regulations in this part, it shall be based upon a careful and thorough examination of the package of tobacco or an official sample thereof. In case the tobacco in one part of a package or sample is inferior to that in other parts of the package or sample, the grade assigned to the tobacco shall be an average, considering the proportion that each part bears to the whole, and in case of a question as to which grade of two or more grades should be assigned to the tobacco, the lowest grade in question shall be assigned.

§ 737.73 Statement of condition.

Whenever the condition of tobacco is stated for the purpose of the act and the regulations in this part, it shall be based upon a careful and thorough examination of the package of tobacco. In case any portion of a package of tobacco is found to be in a tangled, doubtful keeping, or nested condition, the condition stated for the whole package shall be based upon such tangled, doubtful keeping, or nested portion.

APPEAL ON SAMPLING OR CLASSIFICATION OF TOBACCO

§ 737.74 New receipts; expenses.

If a question arises as to the accuracy of an official sample, or whether the type, grade, form, or condition of the tobacco was correctly stated in a

§ 737.75

receipt or certificate issued under the act or the regulations in this part, the warehouseman concerned or any person financially interested in the tobacco involved may, after reasonable notice to the other party, submit the question to such committee as the Administrator may appoint. The decision of the committee shall be final, unless the Administrator shall direct a review of the question. Immediately upon making their decision, the committee shall issue a certificate embodying their findings to the appellants and the licensee or licensees involved. If the decision of the committee be that the sample was not representative of the package of tobacco, or that the type, grade, form, or condition was not correctly stated, the receipt or certificate involved shall be returned to and canceled by the licensee who issued it and the licensee shall issue in lieu thereof a new receipt or certificate embodying therein the statement of type, grade, form, or condition in accordance with the findings of the committee. All necessary and reasonable expense of such appeal shall be borne by the losing party, unless the Administrator shall decide that the expense should be pro-rated between the parties.

MISCELLANEOUS

§ 737.75 Bonds required; re State warehouses.

Every person applying for a license or licensed under section 9 of the act shall, as such, be subject to all portions of the regulations in this part, except § 737.5, so far as they may relate to warehousemen. If there is a law of any State providing for a system of warehouses owned, operated, or leased by such State, a person applying for a license under section 9 of the act, to accept the custody of tobacco and to store the same in any of said warehouses, may, in lieu of a bond or bonds, complying with § 737.12, file with the Secretary a single bond meeting the requirements of the act and the regulations in this part, in such form, and in such amount not less than \$5,000 as he shall prescribe, to insure the performance by such person, with respect to the acceptance of the custody of tobacco and its storage in the warehouses

7 CFR Ch. VII (1-1-01 Edition)

in such system for which licenses are or may be issued, of his obligations arising during the periods of such licenses, and in addition, if desired by the applicant, during the periods of any modifications or extensions thereof. In fixing the amount of such bond, consideration shall be given, among other appropriate factors, to the character of the warehouses involved, their actual or contemplated capacity, the bonding requirements of the State, and its liability with respect to such warehouses. If the Secretary shall find the existence of conditions warranting such action, there shall be added to the amount of the bond so fixed a further amount, fixed by him, to meet such conditions.

§ 737.76 Publications.

Publications under the act and the regulations in this part shall be made in such media as may be deemed proper by the Administrator.

[62 FR 33541, June 20, 1997]

§ 737.77 Violations to be reported.

Every person licensed under the act shall immediately furnish the Service any information which comes to the knowledge of such person tending to show that any provision of the act or the regulations in this part has been violated.

§ 737.78 Procedure in hearings.

Hearings under the Act or the regulations in this part, except those relating to appeals or arbitrations shall be conducted in accordance with the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary under various statutes (7 CFR 1.130 through 1.151).

[45 FR 6775, Jan. 30, 1980. Redesignated at 50 FR 1814, Jan. 14, 1985]

§ 737.79 One document and one license to cover several products.

A license may be issued for the storage of two or more agricultural products in a single warehouse. Where such a license is desired, a single application, inspection, bond, record, report, or other paper, document, or proceeding relating to such warehouse,