

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 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