

his designated representative, a written statement specifying the charges and shall be allowed a reasonable time within which he may answer the same in writing and apply for a hearing, an opportunity for which shall be afforded in accordance with § 735.89.

[29 FR 15720, Nov. 24, 1964. Redesignated at 50 FR 1814, Jan. 14, 1985; Amdt. 2, 53 FR 27149, July 19, 1988]

§ 735.8 Return of suspended or revoked warehouse license.

In case a license issued to a warehouseman terminates or is suspended or revoked by the Secretary, or his designated representative, such license shall be returned to the Secretary. At the expiration of any period of suspension of such license, unless it be in the meantime revoked, the dates of the beginning and termination of the suspension shall be indorsed thereon, it shall be returned to the warehouseman to whom it was originally issued, and it shall be posted as prescribed in § 735.6; or in the discretion of the Administrator a new license may be issued.

§ 735.9 Lost or destroyed warehouse license.

Upon satisfactory proof of the loss or destruction of a license issued to a warehouseman, a duplicate thereof may be issued under the same number.

§ 735.10 Unlicensed warehousemen must not represent themselves as licensed.

No warehouse or its warehouseman shall be designated as licensed under the act and no name or description conveying the impression that it or he is so licensed shall be used, either in a receipt or otherwise, unless such warehouseman holds an unsuspended and unrevoked license for the conduct of such warehouse.

§ 735.11 Bond required; time of filing.

Each warehouseman applying for a warehouse license under the Act shall, before such license is granted, file with the Secretary or his designated representative a bond either:

(a) In the form of a bond containing the following conditions and such other terms as the Secretary or his designated representative may prescribe

in the approved bond forms, with such changes as may be necessary to adapt the forms to the type of legal entity involved:

Now, therefore, if the said license(s) or any amendments thereto be granted and said principal, and its successors and assigns operating said warehouse(s), shall faithfully perform during the period of this bond all obligations of a licensed warehouseman under the terms of [the United States Warehouse Act] and regulations thereunder relating to the above-named products.

Then this obligation shall be null and void and of no effect, otherwise to remain in full force. For purposes of this bond, the aforesaid obligations under the Act, regulations, and contracts include obligations under any and all modifications of the Act, the regulations, and the contracts that may hereafter be made, notice of which modifications to the surety being hereby waived.

This bond shall remain in force and effect for a minimum term of one year beginning with the effective date of this bond and thereafter shall be considered as a continuous bond, subject to termination as herein provided.

Regardless of the number of years this bond remains in force, or the number of premiums paid, and regardless of the number or amount of claims or claimants, in no event shall the aggregate liability of the surety under this bond exceed the amount of this bond.

This bond may be terminated at the end of the initial one year term by providing at least 120 days advance written notice of cancellation to the Secretary. This bond may be canceled at any time after the initial one year term beginning with the bond effective date by providing 120 days advance written notice of cancellation to the Secretary. If said notice is given by the surety, a copy of the notice shall be mailed on the same day to the principal. Cancellation of this bond shall not affect any liability that shall have accrued under this bond prior to the effective date of cancellation.

This bond shall be effective on and after ———.

A bond in this form shall be subject to 7 CFR 735.5 and 735.12 through 735.15, and 31 CFR part 225; or

(b) In the form of a certificate of participation in and coverage by an indemnity or insurance fund as approved by the Secretary, established and maintained by a State, backed by the full faith and credit of the applicable State, and which guarantees depositors of the licensed warehouse full indemnification for the breach of any obligation of the licensed warehouseman

under the terms of the Act and regulations. A certificate of participation and coverage in such fund shall be furnished to the Secretary annually. If administration or application of the fund shall change after being approved by the Secretary, the Secretary may revoke his approval. Such revocation shall not affect a depositor's rights which have arisen prior to such revocation. Upon such revocation the licensed warehouseman then must comply with paragraphs (a) or (c) of this section. Such certificate of participation shall not be subject to §§ 735.12 and 735.13; or

(c) In the form of a deposit with the Secretary as security, United States bonds, Treasury notes, or other public debt obligations of the United States or obligations which are unconditionally guaranteed as to both interest and principal by the United States, in a sum equal at their par value to the amount of the penal bond required to be furnished, together with an irrevocable power of attorney and agreement in the form prescribed, authorizing the Secretary to collect or sell, assign and transfer such bonds or notes so deposited in case of any default in the performance of any of the conditions or stipulations of such penal bond. Obligations posted in accordance with this paragraph may not be withdrawn by the warehouseman until one year after license termination or until satisfaction of any claims against the obligations whichever is later. A bond in this form shall be subject to 7 CFR 735.5 and 735.12 through 735.15, and 31 CFR part 225.

[Amdt. 2, 53 FR 27149, July 19, 1988]

§ 735.12 Amount of bond; additional amounts.

(a) The amount of bond to be furnished by each warehouseman under the regulations in this part, shall be the rate of ten dollars (\$10.00) per bale for the maximum number of bales that the warehouse accommodates when stored in the manner customary to the warehouse as determined by the Secretary, but not less than twenty thousand dollars (\$20,000) nor more than two hundred fifty thousand dollars (\$250,000); except as provided in paragraphs (b) and (c) of this section.

(b) In case a warehouseman is licensed or applying for licenses to operate two or more warehouses in the same State, he may give a single bond meeting the requirements of the Act and the regulations in this part to cover all his warehouses within the State and shall be deemed to be one warehouse only for purposes of determining the amount of bond required under paragraph (a) of this section.

(c) In case of a deficiency in net assets above the twenty-five thousand dollars (\$25,000) minimum required by § 735.5(d)(1), there shall be added to the amount of bond determined in accordance with paragraph (a) of this section an amount equal to such deficiency or a letter of credit in the amount of the deficiency issued to the Secretary for a period of not less than two years to coincide with the period of any deposit of obligations under 7 CFR 735.11(c). Any letter of credit must be clean, irrevocable, issued by a commercial bank payable to the Secretary by sight draft and insured as a deposit by the Federal Deposit Insurance Corporation.

(d) If the Secretary, or his designated representative, finds that conditions exist which warrant requiring additional bond, there shall be added to the amount of bond as determined under the other provisions of this section, a further amount to meet such conditions.

[Amdt. 2, 53 FR 27150, July 19, 1988]

§ 735.13 Amendment to license.

In case an application is made under § 735.3 for an amendment to a license and no bond previously filed by the warehouseman covers obligations arising under such amendment, the warehouseman shall, when notice has been given by the Secretary, or his designated representative, that such amendment will be granted upon compliance by such warehouseman with the act, file with the Secretary, within the time, if any, fixed in such notice, a bond complying with the act. In the discretion of the Secretary, a properly executed instrument in form approved by him, amending, extending, or continuing in force and effect the obligations of a valid bond previously filed by the warehouseman and otherwise complying with the act and the regulations