

time furnish such additional information as the Department may find necessary to a proper consideration of his application.

**§ 737.4 Grounds for not issuing license.**

A license for the conduct to a warehouse shall not be issued if it be found by the Secretary, or his designated representative that the warehouse is not suitable for the proper storage of tobacco, that the warehouseman is insolvent or is incompetent to conduct such warehouse in accordance with the act and the regulations in this part, or that there is any other sufficient reason within the purposes of the act for not issuing such license.

**§ 737.5 Net assets.**

Each warehouseman conducting a warehouse licensed, or for which application for license has been made, shall have and maintain, above all exemptions and liabilities, net assets liable for the payment of any indebtedness arising from the conduct of the warehouse, to the extent of at least \$5 per 1,000 pounds of the maximum number of pounds of tobacco that the warehouse will accommodate when stored in the manner customary to the warehouse, as determined by the Administrator, except that the amount of such assets shall not be less than \$5,000 and need not be more than \$100,000. In case such warehouseman has applied for licenses to conduct two or more warehouses in the same State, the assets applicable to all of which shall be subject to the liabilities of each, such warehouses shall be deemed to be one warehouse for the purposes of the assets required under this section. For the purposes of this section only, paid-in capital stock, as such, shall not be considered a liability. A deficiency in such assets may be supplied by an increase in the amount of the licensed warehouseman's bond in accordance with § 737.12(b).

**§ 737.6 Posting license.**

Immediately upon receipt of his license or of any amendment thereto under the act, the warehouseman shall post the same, and thereafter, except as otherwise provided in the regulations in this part, keep it posted until

suspended or terminated, in a conspicuous place in the principal office where receipts issued by such warehouseman are delivered to depositors.

**§ 737.7 Suspension or revocation of license.**

Pending investigation, the Secretary, or his designated representative, whenever he deems necessary, may suspend a warehouseman's license temporarily without hearing. Upon written request and a satisfactory statement of reasons therefor, submitted by a warehouseman, the Secretary or his designated representative, may, without hearing, suspend or revoke the license issued to such warehouseman. The Secretary, or his designated representative, may, after opportunity for hearing has been afforded in the manner prescribed in this section, revoke a license issued to a warehouseman when such warehouseman (a) is bankrupt or insolvent, (b) has parted, in whole or in part, with his control over the licensed warehouse, (c) is in process of dissolution or has been dissolved, (d) has ceased to conduct such licensed warehouse, or (e) has in any other manner become nonexistent or incompetent or incapacitated to conduct the business of the warehouse. Whenever any of the conditions mentioned in paragraphs (a) through (e) of this section shall come into existence it shall be the duty of the warehouseman to notify immediately the Administrator of the existing condition. Before a license is revoked for any violation of or failure to comply with any provision of the act or of the regulations in this part or upon the ground that unreasonable or exorbitant charges have been made for services rendered, the warehouseman involved shall be furnished by the Secretary, or by 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 § 737.78.

**§ 737.8 Return of suspended or revoked license.**

If a license issued to a warehouseman terminates or is suspended or revoked by the Secretary or by his designated

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representative it shall be returned to the Secretary when requested. 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 endorsed thereon, it shall be returned to the licensed warehouseman to whom it was originally issued, and it shall be posted as prescribed in § 737.6.

**§ 737.9 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 or a new number.

**§ 737.10 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.

WAREHOUSE BONDS

**§ 737.11 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 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 1 year commencing \_\_\_\_\_, or until the termination of said license(s) in the event of termination prior to the end of the 1-year period, all obligations of a licensed warehouseman under the terms of the Act and regulations thereunder relating to the above-named products; and

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Faithfully perform during said 1-year period and thereafter, whether or not said warehouse(s) remain(s) licensed under the Act, such delivery obligations and further obligations as a warehouseman as exist at the beginning of said 1-year period or are assumed during said period and prior to termination of said license(s) under contracts with the respective depositors of such products in the warehouse(s);

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 and regulations and contracts shall 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.

[28 FR 5637, June 8, 1963. Redesignated at 50 FR 1814, Jan. 14, 1985]

**§ 737.12 Basis of amount of bond; additional amounts.**

(a) Exclusive of any amount which may be added in accordance with paragraphs (b) and (c) of this section, the amount of such bond shall be at the rate of \$5 per 1,000 pounds of the maximum number of pounds of tobacco that the warehouse will accommodate when stored in the manner customary to the warehouse, as determined by the Administrator, but not less than \$5,000 nor more than \$50,000. In case a warehouseman has applied for licenses to conduct two or more warehouses in the same State, the assets applicable to all of which shall be subject to the liabilities of each, and shall desire to give a single bond meeting the requirements of the act and the regulations in this part for the said warehouses, such warehouses shall be deemed to be one warehouse for the purposes of the bond required under §§ 737.11 through 737.15.

(b) In case of a deficiency in net assets under § 737.5 there shall be added to the amount ascertained in accordance with paragraph (a) of this section an amount equal to such deficiency.

(c) If the Secretary, or his designated representative finds the existence of conditions warranting such action, there shall be added to the amount ascertained in accordance with paragraphs (a) and (b) of this section a further amount, fixed by him to meet such conditions.