

§ 44.122

27 CFR Ch. I (4-1-04 Edition)

(b) Each bond and each extension of coverage of bond shall at the time of filing be accompanied by a power of attorney authorizing the agent or officer who executed the bond to so act on behalf of the surety. The appropriate ATF officer who is authorized to approve the bond may, whenever he deems it necessary, require additional evidence of the authority of the agent or officer to execute the bond or extension of coverage of bond. The power of attorney shall be prepared on a form provided by the surety company and executed under the corporate seal of the company. If the power of attorney submitted is other than a manually signed document, it shall be accompanied by a certificate of its validity.

(c) Treasury Department Circular No. 570 (Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies) is published in the FEDERAL REGISTER annually as of the first workday in July. As they occur, interim revisions of the circular are published in the FEDERAL REGISTER. Copies may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, DC 20226.

(July 30, 1947, ch. 390, 61 Stat. 648, as amended (6 U.S.C. 6, 7); sec. 202, Pub. L. 85-859, 72 Stat. 1421, as amended (26 U.S.C. 5711))

[T.D. ATF-92, 46 FR 46923, Sept. 23, 1981]

§ 44.122 Deposits of bonds, notes, or obligations in lieu of corporate surety.

Bonds or notes of the United States, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, may be pledged and deposited by the export warehouse proprietor as security in connection with bond to cover his operations, in lieu of the corporate surety, in accordance with the provisions of Treasury Department Circular No. 154, revised (31 CFR part 225). Such bonds or notes which are nontransferable, or the pledging of which will not be recognized by the Treasury Department, are not acceptable as security in lieu of corporate surety.

(72 Stat. 1421, 61 Stat. 650; 26 U.S.C. 5711, 6 U.S.C. 15)

§ 44.123 Amount of bond.

The amount of the bond filed by the export warehouse proprietor, as required by § 44.86, shall be not less than the estimated amount of tax which may at any time constitute a charge against the bond: *Provided*, That the amount of any such bond (or the total amount where original and strengthening bonds are filed) shall not exceed \$200,000 nor be less than \$1,000. The charge against such bond shall be subject to increase upon receipt of tobacco products, and cigarette papers and tubes into the export warehouse and to decrease as satisfactory evidence of exportation, or satisfactory evidence of such other disposition as may be used as the lawful basis for crediting such bond, is received by the appropriate ATF officer with respect to such articles transferred or removed. When the limit of liability under a bond given in less than the maximum amount has been reached, no additional shipments shall be received into the warehouse until a strengthening or superseding bond is filed, as required by § 44.124 or § 44.125.

(72 Stat. 1421, as amended; 26 U.S.C. 5711)

[T.D. 6871, 31 FR 50, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-232, 51 FR 28088, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986]

§ 44.124 Strengthening bond.

Where the appropriate ATF officer determines that the amount of the bond, under which an export warehouse proprietor is currently carrying on business, no longer adequately protects the revenue, and such bond is in an amount of less than \$200,000, the appropriate ATF officer may require the proprietor to file a strengthening bond in an appropriate amount with the same surety as that on the bond already in effect, in lieu of a superseding bond to cover the full liability on the basis of § 44.123. The appropriate ATF officer shall refuse to approve any strengthening bond where any notation is made thereon which is intended or which may be construed as a release of any former bond, or as limiting the amount

of either bond to less than its full amount.

(72 Stat. 1421; 26 U.S.C. 5711)

[25 FR 4718, May 28, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. ATF-480, 67 FR 30802, May 8, 2002.]

§ 44.125 Superseding bond.

An export warehouse proprietor shall file a new bond to supersede his current bond, immediately when (a) the corporate surety on the current bond becomes insolvent, (b) the appropriate ATF officer approves a request from the surety on the current bond to terminate his liability under the bond, (c) payment of any liability under a bond is made by the surety thereon, or (d) the appropriate ATF officer considers such a superseding bond necessary for the protection of the revenue.

(72 Stat. 1421; 26 U.S.C. 5711)

§ 44.126 Extension of coverage of bond.

An extension of the coverage of any bond filed under this part shall be manifested on Form 2105 (5000.7) by the export warehouse proprietor and by the surety on the bond with the same formality and proof of authority as required for the execution of the bond.

(72 Stat. 1421; 26 U.S.C. 5711)

[25 FR 4718, May 28, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. ATF-480, 67 FR 30802, May 8, 2002.]

§ 44.127 Approval of bond and extension of coverage of bond.

No person shall commence operations under any bond, nor extend his operations, until he receives from the appropriate ATF officer notice of his approval of the bond or of an appropriate extension of coverage of the bond required under this part.

(72 Stat. 1421; 26 U.S.C. 5711)

§ 44.128 Termination of liability of surety under bond.

The liability of a surety on any bond required by this part shall be terminated only as to operations on and after the effective date of a superseding bond, or the date of approval of the discontinuance of operations by the export warehouse proprietor, or otherwise in accordance with the termi-

nation provisions of the bond. The surety shall remain bound in respect of any liability for unpaid taxes, penalties, and interest, not in excess of the amount of the bond, incurred by the proprietor while the bond is in force.

(72 Stat. 1421; 26 U.S.C. 5711)

§ 44.129 Release of bonds, notes, and obligations.

(a) Bonds, notes, and other obligations of the United States, pledged and deposited as security in connection with bonds required by this part, shall be released only in accordance with the provisions of Treasury Department Circular No. 154 (31 CFR Part 225—Acceptance of Bonds, Notes or Other Obligations Issued or Guaranteed by the United States as Security in Lieu of Surety or Sureties on Penal Bonds). When the appropriate ATF officer is satisfied that it is no longer necessary to hold such security, he shall fix the date or dates on which a part or all of such security may be released. At any time prior to the release of such security, the appropriate ATF officer may, for proper cause, extend the date of release of such security for such additional length of time as in his judgment may be appropriate.

(b) Treasury Department Circular No. 154 is periodically revised and contains the provisions of 31 CFR part 225 and the forms prescribed in 31 CFR part 225. Copies of the circular may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, DC 20226.

(Sec. 202, Pub. L. 85-859, 72 Stat. 1421 (26 U.S.C. 5711); July 30, 1947, ch. 390, 61 Stat. 650 (6 U.S.C. 15))

[T.D. ATF-92, 46 FR 46923, Sept. 23, 1981; 46 FR 48644, Oct. 2, 1981]

Subpart G—Operations by Export Warehouse Proprietors

SOURCE: 25 FR 4719, May 28, 1960, unless otherwise noted. Redesignated at 40 FR 16835, Apr. 15, 1975.

§ 44.141 Sign.

Every export warehouse proprietor shall place and keep, on the outside of the building in which his warehouse is