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Executive Orders

EXECUTIVE ORDER NO. DCT 83-6

WHEREAS, the Job Training Partnership Act of 1982 (JTPA), (Public Law 97-300), establishes a partnership between the private and public sectors in aspects of local policymaking, planning, administration, and program operations for the purpose of helping prepare people with serious employment barriers to be productive members of the labor force and,

WHEREAS, "JTPA" requires the Governor, after receiving the proposal of the State Job Training Coordinating Council, to designate service delivery areas for the State; and,

WHEREAS, "JTPA" requires the governor to coordinate and approve job training policy, plans and services of all service delivery and state agencies throughout the State of Louisiana; and,

WHEREAS, the term "Job Training" includes training, education programs, and supportive services aimed at increasing the skills and employment opportunities for persons who are economically disadvantaged and other individuals facing serious barriers to employment, who are in special need of such training to obtain productive employment; and,

WHEREAS, it is mandated that state and local agencies closely coordinate their efforts in developing plans which meet the locally determined need in recommending programs to alleviate employment problems, in reducing duplication and gaps in program plans and services, and in effectively and economically utilizing state and federal funds; and,

WHEREAS, employment and training programs should be coordinated with human services to better serve those in need of training in our society; and,

WHEREAS, the State Job Training Coordinating Council must be established in accordance with the guidelines set forth in the Job Training Partnership Act of 1982, and the Secretary of Labor's Rules and Regulations as published in the *Federal Register*.

NOW, THEREFORE, I, DAVID TREEN, Governor of the State of Louisiana, by virtue of the authority vested in me by the Constitution and the laws of this State, do hereby order and direct the following:

1. The Louisiana Department of Labor is herewith designated as the administrative entity for all JTPA operations in the State.

2. The Governor's State Job Training Coordinating Council is created and established and shall consist of the following:

(A) One-third of the membership of the State Council shall be representatives of business and industry (including agriculture, where appropriate) in the State, including individuals who are representatives of business and industry on private industry councils in the State.

(B) Not less than 20 percent of the membership of the State Council shall be representatives of the State legislature and State agencies and organizations, such as the State educational agency, the State vocational education board, the State advisory council on vocational education, the State board of education (when not otherwise represented), State public assistance agencies, the State employment security agency, the State rehabilitation agency, the State occupational information coordinating committee, State postsecondary institutions, the State economic de-

velopment agency, State veterans' affairs agencies or equivalent, and such other agencies as the Governor determines to have a direct interest in employment and training and human resource utilization within the State.

(C) Not less than 20 percent of the membership of the State Council shall be representatives of the units or consortia of units of general local government in such State (including those which are administrative entities or grantees under this Act) which shall be nominated by the chief executive officers of the units or consortia of units of general local government; and,

(D) Not less than 20 percent of the membership of the State Council shall be representatives of the eligible population and of the general public, representatives of organized labor, representatives of community-based organizations, and representatives of local educational agencies (nominated by local educational agencies).

(E) From these groups I will designate one non-governmental member to be chairman of the State Council.

3. The State Council shall meet at regular intervals and at other times it deems advisable.

4. The State Council shall be provided professional, technical, and clerical staff which organizationally will be within the Louisiana Department of Labor and answerable to the Secretary of Labor or his designee.

5. The plans and decisions of the State Council shall be subject to approval by the Governor.

6. The State Council shall:

(A) Plan, coordinate and monitor the provision of programs and services under the Act.

(B) Recommend a Governor's coordination and special services plan;

(C) Recommend to the Governor substate service delivery areas, plan resource allocations under Section 202 (b) for the Governor's coordination and special services plan, develop appropriate linkage with other programs, coordinate activities with private industry councils, develop the Governor's coordination and special services plan and recommend variations in performance standards;

(D) Advise the Governor and local entities on job training plans and certify the consistency of such plans with criteria under the Governor's coordination and special services plan for coordination of activities under the Act with other Federal, State, and local employment related programs, including programs operated in designated enterprise zones.

(E) Review the operation of programs conducted in each service delivery area, and the availability, responsiveness, and adequacy of State services, and make recommendations to the Governor, appropriate chief elected officials, and private industry councils, service providers, the State legislature, and the general public with respect to ways to improve the effectiveness of such programs or services;

(F) Review and comment on the State plan developed for the State employment service agency;

(G) Make an annual report to the Governor which shall be a public document and issue such other studies, reports or documents as it deems advisable to assist service delivery areas in carrying out the purpose of the Act.

(H) Identify, in coordination with the appropriate State agencies, the employment and training and vocational education needs throughout the State and assess the extent to which employment and training, vocational education, rehabilitation services, public assistance, economic development, and other Federal, State, and local programs and services represent a consistent, integrated, and coordinated approach to meeting such needs; and

(I) Comment at least once annually on the reports re-

quired pursuant to Section 105 (d) (3) of the Vocational Education Act of 1963; and

(J) Review plans of all State agencies providing employment, training, and related services, and provide comments and recommendations to the Governor, the State legislature, the State agencies, and the appropriate Federal agencies on the relevancy and effectiveness of employment and training and related service delivery systems in the State.

BE IT FURTHER RESOLVED, that Executive Order No. 80-5 is hereby rescinded and recalled, and is null, void, and of no effect.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 19th day of April, A.D., 1983.

David C. Treen
Governor of Louisiana

EXECUTIVE ORDER NO. DCT 83-7

WHEREAS, Section 125 (A) of the Job Training Partnership Act of 1982 requires the Governor of each state to designate an organizational unit to oversee and manage a comprehensive statewide labor market and occupational supply and demand system; and

WHEREAS, under the new federal legislation each state is responsible for the design of a cost-effective labor market information system which is responsive to the economic demand and education and training supply support needs of the state and areas within the state; and

WHEREAS, each system must meet federal standards stipulated in Chapter 35 of Title 44, United States Code and other appropriate federal standards established by the Bureau of Labor Statistics of the United States Department of Labor; and

WHEREAS, each system must standardize available federal and state multi-agency administrative records and direct survey data sources to produce an employment and economic analysis to be used in carrying out the provisions of the Job Training Partnership Act, the Vocational Education Act, and the Wagner-Peyser Act; and

WHEREAS, the Louisiana Department of Labor, Office of Employment Security collects employment and occupational data from employers in order to operate Louisiana's Unemployment Insurance Program through a highly automated labor market information system; and

WHEREAS, the information gathered and developed by the Louisiana Department of Labor is the State's core information basic to any comprehensive, statewide labor market and occupational supply and demand information system;

NOW, THEREFORE, I, DAVID C. TREEN, Governor of the State of Louisiana, do hereby order and direct;

1. The administrative unit of Louisiana's labor market information programs shall be contained within the Louisiana Department of Labor under the direction of the Secretary of the Department;

2. The Secretary of the Department of Labor shall continue to use the Louisiana State Occupational Information Coordinating Committee as the lead agency in the dissemination of career and occupational information and, in addition, oversee the operation of such other systems as may be developed by the Committee;

3. The Secretary of the Department of Labor shall be responsible for the allocation of any federal, state or private funds

appropriated for labor market information purposes or programs.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this the 19th day of April, 1983.

David C. Treen
Governor of Louisiana

EXECUTIVE ORDER NO. DCT 83-8

WHEREAS, it has been reported to me by the Commissioner of Administration that the receipts of the Treasury appear likely to fall short of revenue estimates for the fiscal year 1982-1983; and

WHEREAS, continued maintenance of the appropriated level of expenditures will result, assuming the accuracy of current revenue estimates, in a deficit;

NOW, THEREFORE, pursuant to the authority granted me by Section 9 of Act 13 of the 1982 Regular Session of the Legislature, R.S. 39:55, and by Article IV, Section 5 of the Constitution, it is hereby ordered that the General Fund appropriations indicated in schedules 20-08-00, 20-09-00, and 20-10-00 of Act 13 of the 1982 Regular Legislative Session be reduced, on an annual basis, an additional 5.6 percent of the original amounts and that the State Treasurer shall make the distribution accordingly.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this the 4th day of May, A.D., 1983.

David C. Treen
Governor of Louisiana

Rules

RULE

Department of Agriculture Agricultural Commodities Commission

Notice is hereby given that the Louisiana Department of Agriculture, Louisiana Agricultural Commodities Commission, in accordance with the authority granted under LSA 3:3405 A (1) and pursuant to Notice of Intent published on February 20, 1983, has adopted the following Rules and Regulations for the Administration of LSA 3:3401 through LSA 3:3425:

LOUISIANA DEPARTMENT OF AGRICULTURE
Louisiana Agricultural Commodities Commission
RULES AND REGULATIONS
For the Administration of LSA 3:3401-3425

GENERAL PROVISIONS

- 1.0 Definitions
- 2.0 Administration of the affairs of the Commission
- 3.0 Agricultural commodities and other farm products regulated by the Commission

APPLICATION FOR LICENSE

- 4.0 Application for Warehouse and Grain Dealer License
- 5.0 Grounds for refusal to issue or renew a warehouse or grain dealer license

WAREHOUSE LICENSES

- 6.0 Requirements applicable to all warehouses
- 7.0 Standards for approval of facilities for storage of agricultural commodities
- 8.0 Bond required for warehouse license; provisions relative to licensed capacities
- 9.0 Provisional stock insurance required for warehouse license
- 10.0 Amendment to license required when change of status occurs
- 11.0 Procedure for initial licensing of warehouses during the period January 1, 1983 - June 30, 1983

GRAIN DEALERS

- 12.0 Requirements applicable to all grain dealers
- 13.0 Risk position requirements

ASSESSMENTS

- 14.0 Assessments; amount, time of payment, payment under special conditions

SCALE TICKETS

- 15.0 Scale tickets: filing, contents, maintenance in records

WAREHOUSE RECEIPTS

- 16.0 Warehouse receipts: required form; completion, distribution and maintenance requirements; form of non-negotiable receipts; use of State Warehouse Commission receipt forms
- 17.0 Warehouse receipts: issuance; open storage; partial delivery; duplicate receipts; delivery of commodities covered by receipts; cancellation; receipts on company-owned commodities; non-negotiable receipts; cessation of business; other applicable laws

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- 18.0 Official grades
- 19.0 Out-of-condition commodities

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- 20.0 Contracts required to be in written form
- 21.0 Records required to be maintained
- 22.0 Reports required

ACCESS REQUIREMENTS

- 23.0 Access requirements

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- 24.0 Posting requirements

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- 25.0 Adjudication required prior to suspension/revocation of license or imposition of other penalties; amount of penalties; surrender of license

SCHEDULE OF INSPECTIONS; VOLUNTARY INSPECTION SERVICE

- 26.0 Inspection of physical facilities and contents; schedule
- 27.0 Voluntary inspection service

EXEMPTIONS

- 28.0 Exemptions

General Provisions

1.0 Definitions

- 1.1 "Act" means the Agricultural Commodity Dealer and Warehouse Act (LSA 3:3401-3425).
- 1.2 "Advance" means a partial payment against total proceeds due to a seller.
- 1.3 "Adjudicatory proceeding" means an open public hearing by the Commission to determine whether violations of the Act or these regulations have occurred. Such proceedings are conducted in accordance with the Louisiana Administrative Procedure Act (LSA 49:951, et seq.).
- 1.4 "Agricultural commodities" means sugar, all agricultural products commonly classed as grain (rice, rough rice, corn, wheat, oats, rye, soybeans, barley, milo, and grain sorghum), and any other agricultural commodity, other than cotton, which the Commission may declare to be an agricultural commodity subject to regulation under the Act.
- 1.5 "Applicant" means any person making application for a license to engage in any of the activities regulated under the Act.
- 1.6 "Audited", with respect to a financial statement, means a financial statement prepared by an independent certified public accountant, the basis of which financial statement is the accountant's independent examination of the books and records of the business entity covered by the financial statement.
- 1.7 "Authentic act" means a statement executed before a notary public and at least two witnesses.
- 1.8 "Authorized agent", with reference to the authorized agent of a warehouse or grain dealer, means any representative thereof whose name has been filed with the Commission as such. A person whose name has not been filed with the Commission as an authorized agent will not be recognized by the Commission as entitled to act for or on behalf of a warehouse or grain dealer.
- 1.9 "Capacity" means all of the area of a licensee which is in any kind of protected enclosure.
- 1.10 "CCC" means Commodity Credit Corporation.
- 1.11 "Certified", with respect to the financial statements required under the Act, means a written statement signed by the independent certified public accountant preparing the financial statement.
- 1.12 "Commission" means the Louisiana Agricultural Commodities Commission.
- 1.13 "Commissioner" means the Louisiana Commissioner of Agriculture.
- 1.14 "Compilation", with respect to a financial statement, means a financial statement prepared by an independent certified public accountant solely on the basis of representations of the management of the business entity covered by the financial statement.

- 1.15 "Current financial statement" means a financial statement containing all of the documents listed in Rule 4.2 and presenting financial position as of the close of the applicant's or licensee's most recent fiscal year.
- 1.16 "Deferred price commodities" means commodities purchased by a grain dealer from a producer for which the sale price will be established after date of the initial agreement between the parties. The agreement between the parties covering deferred price commodities should be in writing. The term "deferred price commodities" is the same as the other following terms in general usage: price later, no price established (NPE), delayed price, basis contract, future settlement delivery, or contract for purchase.
- 1.17 "Department" means the Louisiana Department of Agriculture.
- 1.18 "Director" means the employee of the Commission who is responsible for implementing the policies of the Commission and performing the administrative responsibilities delegated to the Commissioner under the Act.
- 1.19 "Farm products" means products employed directly in the cultivation, production, or harvesting of any agricultural commodities, such as fertilizers or pesticides, and/or containers for agricultural commodities or farm products.
- 1.20 "Fee" means any charge imposed by a warehouse, directly or indirectly, for care of agricultural commodities belonging to any person other than the warehouse owner, including but not limited to base price adjustments, storage, handling, dockage, commission, drying, and/or conditioning fees.
- 1.21 "Field warehouse" means a warehouse operated by a management organization under a contractual agreement between the management organization and the owner of the warehouse.
- 1.22 "First point of sale" means (A) the initial time when title to agricultural commodities or farm products passes from a seller to a buyer, (B) the time when agricultural commodities or farm products are removed from storage, or (C) the time when agricultural commodities are placed under CCC loan.
- 1.23 "Grain dealer" means any person who purchases agricultural commodities from producers, sells agricultural commodities for producers, or represents producers in the purchase or sale of agricultural commodities. The term does not include producers who purchase grain commodities for their own use as feed or seed.
- 1.24 "Hedge", with respect to a contract to sell commodities, means a secondary contract to buy commodities to protect the obligations incurred with respect to the contract to sell. "Hedge", with respect to a contract to buy commodities, means a secondary contract to sell commodities to protect the obligations incurred with respect to the contract to buy.
- 1.25 "Independent certified public accountant" means a person who has completed all requirements established by the American Institute of Certified Public Accountants and the state Society of Certified Public Accountants. To be

recognized as an independent public accountant, the accountant, members of his immediate family, and his accounting business associates must be totally free of any obligation to or interest in the client, its management, or its owners.

- 1.26 "Licensee" means any person holding a license as a warehouse or grain dealer issued by the Commission.
- 1.27 "Licensed capacity" means the warehouse area which is bonded for the storage of agricultural commodities or farm products belonging to a person other than the owner of the warehouse.
- 1.28 "Open" or "open position" means the grain dealer's contracts for purchase or sale of agricultural commodities which are unhedged.
- 1.29 "Person" means any individual, partnership, company, firm, association, corporation, cooperative association, or any other legal entity engaged in any of the activities regulated under the Act.
- 1.30 "Producer" means the owner, tenant, lessee, or operator of land within this state who has an interest in or receives all or any part of the proceeds from the sale of agricultural commodities produced thereon.
- 1.31 "Review", with respect to a financial statement, means a financial statement prepared by an independent certified public accountant, in the preparation of which financial statement the accountant makes such inquiries of management and performs such analyses and/or comparisons as may appear appropriate to the accountant.
- 1.32 "Risk position" means the loss potential to the grain dealer resulting from bringing his open position to market.
- 1.33 "Scale ticket" means the document issued to a producer when agricultural commodities are delivered to a warehouse or grain dealer.
- 1.34 "Spot" or "spot sale" means a transaction where title to agricultural commodities passes from the producer to the buyer on the day of delivery, in which transaction the producer is paid promptly at the market price established on the day of delivery.
- 1.35 "Storage" means the physical possession by a warehouse, in any manner and/or under any type of fee arrangement, of agricultural commodities belonging to any person other than the owner of the warehouse. The term "storage" does not apply to a transaction in which title passes from the seller to the buyer upon delivery.
- 1.36 "Warehouse" means any building, structure, or any other protected enclosure in which agricultural commodities or farm products are stored for the public for a fee. The term includes facilities which commingle commodities, facilities which preserve the identity of separate lots of agricultural commodities, and facilities which dry and/or condition agricultural commodities belonging to any person other than the facility owner.

- 1.37 "Warehouseman" or "warehouse operator" means any person or other entity operating a warehouse.
- 1.38 "Warehouse receipts" may be negotiable or non-negotiable and are defined as follows:
- A. "Non-negotiable warehouse receipts" are written evidence of the deposit of agricultural commodities or farm products in a warehouse, which cannot be sold or traded by the holder and cannot be used to secure a loan.
 - B. "Negotiable warehouse receipts" are written evidence of the deposit of agricultural commodities or farm products in a warehouse, which can be sold or traded by the holder and can be used to secure a loan.

2.0 Administration of the affairs of the Commission

- 2.1 The officers of the Commission shall be a Chairman and a Vice-Chairman, who shall serve for terms of one year but may be elected for an indefinite number of terms.
- 2.2 After the initial election of officers, the Chairman and Vice-Chairman shall be elected at the Commission's regular meeting during the first quarter of each year.
- 2.3 In the absence of the Chairman at any meeting of the Commission, the Vice-Chairman shall preside.
- 2.4 The Commission shall hold at least one regular meeting during each quarter of the year, but may meet more frequently upon the call of the Chairman.
- 2.5 Meetings of the Commission shall normally be held in its domicile but may be held at other locations upon the determination of the Chairman or the will of the Commission.
- 2.6 The quorum of the Commission is five members.
- 2.7 An affirmative vote of a minimum of five members shall be required for the adoption of any motion.
- 2.8 There shall be no voting by proxy.
- 2.9 Rules and Regulations of the Commission, and amendments thereto, shall be noticed, adopted, and promulgated as required by the Louisiana Administrative Procedure Act.
- 2.10 The Chairman shall designate a Hearing Officer, who may or may not be a member of the Commission, to preside at all adjudicatory proceedings of the Commission. The Chairman may, if he so desires, serve as Hearing Officer at any adjudicatory proceeding.

- 2.11 The Commission shall serve as the Hearing Body in all adjudicatory proceedings and shall make the final determination with regard to the disposition of all matters coming to adjudication.
- 2.12 The Director shall provide clerical and other support services as may be required by the Commission and shall maintain and distribute appropriate Minute records of the Commission.
- 2.13 No member of the Commission shall participate in any discussion or vote concerning any matter before the Commission in which such member has a personal or commercial interest.
- 2.14 No member of the Commission or the staff shall disclose any financial information pertaining to any licensee or applicant for license.
- 2.15 The Commission may, from time to time, delegate any of its responsibilities to subcommittees appointed by the Chairman. Such subcommittees may perform such specific duties as may be assigned by the Chairman but all actions of such subcommittees shall be subject to ratification by the full Commission.

3.0 Agricultural commodities and other farm products regulated by the Commission

- 3.1 The following agricultural commodities shall be regulated by the Commission at all times:

- A. Sugar

- B. All agricultural commodities commonly classed as grain, including:

- | | |
|---------------|-------------------|
| 1. Rice | 6. Rye |
| 2. Rough rice | 7. Soybeans |
| 3. Wheat | 8. Barley |
| 4. Corn | 9. Milo |
| 5. Oats | 10. Grain sorghum |

- 3.2 Whenever Commission warehouse receipts are issued to cover any of the following agricultural commodities, the following agricultural commodities shall be regulated by the Commission:

- 1. Peppers
- 2. Oils (vegetables and mineral)
- 3. Pecans
- 4. Molasses and/or syrup
- 5. Any canned and/or frozen vegetables/fruits/juices

- 3.3 Whenever Commission warehouse receipts are issued to cover any of the following farm products while in storage, the following farm products shall be regulated by the Commission:

- A. Pesticides
- B. Fertilizers
- C. Containers for agricultural commodities listed in Rules 3.1 and 3.2 and farm products listed in this rule

- 3.4 Cotton being specifically excluded from the agricultural commodities regulated under the Act, warehouses storing cotton are not required to be governed by these regulations. However, whenever a warehouse storing cotton wishes to issue official Commission receipts on such cotton, the warehouse must voluntarily comply with these regulations. Approval for issuance of Commission warehouse receipts will not be granted for receipts covering cotton unless the warehouse voluntarily conforms to these regulations, certifies its willingness to do so, and collects and remits the assessments established by the Commission for cotton.
- 3.5 Commodities and farm products enumerated in Rules 3.2, 3.3, and 3.4 above shall be subject to all requirements set forth in these regulations whenever Commission warehouse receipts are issued.

Application for Warehouse and Grain Dealer License

- 4.0 Application for license (initial and renewal); time for filing; contents; fees; style of document
- 4.1 Applications for renewal of warehouse and grain dealer licenses must be filed no later than April 30th of each year. Applications for initial license may be filed at any time during the year. For both initial and renewal licenses, the following information must be furnished on the application form provided by the Commission:
- A. Type of application
 - 1. Warehouse
 - 2. Grain dealer
 - B. Date of submission
 - C. Nature of application
 - 1. Initial application
 - 2. Renewal application
 - D. Nature of applicant's business
 - 1. Sole proprietorship
 - 2. Partnership
 - 3. Corporation
 - 4. Association
 - 5. Agricultural cooperative
 - 6. Other
 - E. Name under which the business will operate
 - F. Address of the principal office of the business, either in-state or out-of-state, including mailing address, physical location, and phone number

- G. Name of the person in charge (e.g., manager, warehouseman, principal dealer, etc.) and his residence address and phone number
- H. If a partnership, the names, addresses, and interests of all partners
- I. If a corporation, the names and addresses of all officers
- J. If an association, including an agricultural cooperative, the names and addresses of all members of the board of directors
- K. Name and address of the owner of the business, if not shown under Items G, H, or I. Owner must be identified.
- L. Status of the facility in which the business will be operated:
 - 1. Owned by applicant
 - 2. Leased by applicant (short term or long term)
 - 3. Rented by applicant and name and address of owner
 - 4. Other
- M. Type of agricultural commodities that the applicant will store or trade
- N. For all business locations to be operated under one license:
 - 1. Address
 - 2. Total capacity
 - 3. Capacity to be licensed, if different from total capacity
 - 4. Name and residence address of person in charge of each facility
 - 5. Prior experience in storing or trading agricultural commodities of each person in charge (by years of experience)
- O. Bond status of the applicant
 - 1. Amount of bond posted
 - 2. Name and address of bonding company
 - 3. Period for which bond written
- P. Insurance of applicant
 - 1. Amount of provisional stock insurance carried
 - 2. Name and address of carrier
 - 3. Term of policy
- Q. Names and residence addresses of all authorized agents
- R. If business previously operated under another name, name and address of previous business

- S. Names and addresses of at least three references, by persons not in the employ of the applicant, as to the applicant's record, character, and business standing
- T. A statement that the applicant will abide by the requirements of the Act and these regulations
- U. A certified statement that all representations contained in the application and in all required attachments are true and correct
- V. Indication of the type of record storage available (fireproof, etc.)
- W. Grain dealer applicants only: Average total paid to producers during applicant's most recent fiscal year
- X. Warehouse applicants only:
 - 1. Date (month and year) of last inspection by Weights & Measures Division of the Department
 - 2. Name and license number of weighmaster for each location covered by the warehouse license
 - 3. Name and certificate number of employee certified as a pesticides applicator

4.2 For initial licensure under the Act, each applicant must provide a financial statement as of the close of the applicant's most recent fiscal year.

- A. The financial statement must be prepared and signed by an independent certified public accountant and must be presented in accordance with generally accepted accounting principles.
 - 1. Financial statements shall include contracts covering commodities which have not been delivered. Contracts covering commodities which have not been delivered to the licensee or applicant must be brought to market in the financial statement. Contracts on commodities which have not been delivered to the licensee or applicant may be made a part of the financial statement by means of a footnote to the statement.
 - 2. Fixed assets must be presented at cost on financial statements.
- B. The financial statement presented for initial licensure under the Act may be any of the following:
 - 1. Compilation
 - 2. Review
 - 3. Audited

C. The financial statement must contain:

1. A balance sheet
2. A statement of income (profit and loss)
3. A statement of retained earnings
4. A statement of changes in financial position
5. A certificate by the applicant or the chief executive officer of the applicant, in the form of an authentic act, that the financial statement accurately reflects the financial condition of the applicant for the period covered in the financial statement
6. Whenever the certificate required under Item 5 is executed by a representative of the applicant other than the owner or president, a resolution of the Board of Directors authorizing such representative to execute the certificate

D. Each applicant for initial licensure under the Act must agree to and cooperate with the conduct of a comprehensive audit of his books, records, and physical inventory by the Department immediately prior to the Commission's consideration of his application for license. The Department's report of the audit of the applicant's books, records, and inventory will be taken into account by the Commission in its consideration of the applicant's request for initial licensure under the Act. The Commission may waive this requirement for any applicant or licenses who submits an audited financial statement prepared by an independent certified public accountant.

E. Multi-state and/or multi-national corporations with subsidiary divisions located in Louisiana must either:

A. Submit a fully audited financial statement showing the position of the parent company, together with sufficient financial information pertaining to the Louisiana subsidiary to reasonably reflect the corporation's ability to satisfy all obligations to Louisiana producers; OR

B. Pay all expenses necessary for performance of a full audit, at one or more locations where pertinent corporation records are maintained, by the Department's Central Audit Committee.

4.3 Subsequent to July 1, 1983, each licensee must file a financial statement conforming to the requirements of Rule 4.2 above within ninety (90) days after the close of the licensee's fiscal year.

4.4 Each applicant must also provide the following information, in addition to completing the required application form and providing a financial statement:

A. Three signature cards, on card forms provided by the Commission, completed by each person listed as an authorized agent of the applicant, together with a resolution of the Board of Directors naming each person, other than the owner or president, whose name is listed as an authorized agent

- B. Bond which meets the requirements set forth in Rule 8.0 (warehouse license applicants) or Rule 12.7 (grain dealer license applicants)
 - C. Evidence of provisional stock insurance which meets the requirements set forth in Rule 9.0 (warehouses) or Rule 12.0 (grain dealers)
 - D. Copy of scale ticket. Applicants who do not use scale tickets in their business operations must certify to that effect in lieu of filing a scale ticket.
 - E. Applicants who apply under corporate status must provide evidence of compliance with Louisiana's Corporation Laws.
 - F. Applicants for warehouse license must also provide a copy of the warehouse's current schedule of tariffs or charges.
- 4.5 A fee of \$100, as required by the Act, must accompany each application at the time of filing. This fee is non-refundable, whether or not the license is granted.
- 4.6 All licenses shall signify on the face the following information:
- A. Name and address of licensee
 - B. Location of all licensed facilities
 - C. Licensed capacity of all locations
 - D. Amount of bond
 - E. Term of license
- 4.7 Approved licenses shall be issued in the name of the Commission and signed by the Commissioner.
- 5.0 Grounds for refusal to issue or renew a warehouse or grain dealer license
- 5.1 The Commission may refuse to issue or renew a warehouse or grain dealer license in any of the following circumstances:
- A. The applicant does not possess a good reputation.
 - B. The applicant cannot demonstrate to the satisfaction of the Commission that he is competent to operate the business for which the license is sought.
 - C. The applicant cannot demonstrate a reasonable net worth.
 - D. The applicant has failed to provide all of the information required in the application for license.
 - E. The applicant has previously refused to permit audit of his records.
 - F. The applicant has not or cannot secure the bond required by the Act.

- G. The applicant has not or cannot secure the insurance required by the Act.
 - H. If an applicant for a warehouse license: the facilities in which the business will be operated are not suitable for storage of agricultural commodities.
 - I. If an applicant for a grain dealer license: the applicant has failed to hedge his obligations to producers as required by the Act and these Rules and Regulations.
- 5.2 Any warehouse or grain dealer whose application for license is refused by the Commission may appeal the decision of the Commission under the Administrative Procedure Act or through the judicial process.

Warehouse Licenses

6.0 Requirements applicable to all warehouses

- 6.1 No person shall operate a warehouse subject to regulation under the Act unless licensed by the Commission or under the U. S. Warehouse Act. The following types of warehouses are specifically defined as warehouses subject to regulation under the Act:
 - A. Any facility offering storage as defined in Rule 1.35 hereof.
 - B. Any facility which issues state warehouse receipts covering agricultural commodities or farm products.
 - C. All field warehouses. The management organization operating a field warehouse must secure a separate license for each location. Field warehouses shall be licensed in the same manner as any other warehouses and regulations governing other warehouses shall apply equally to field warehouses.
- 6.2 Warehouses licensed under the U. S. Warehouse Act are not required to submit the application required under the Act but are subject to all other requirements of the Act, including the duty to collect and remit assessments levied on producers.
- 6.3 No warehouse, whether licensed under this Act or the U. S. Warehouse Act, shall buy or sell agricultural commodities for producers unless such warehouse is also licensed by the Commission as a grain dealer.
- 6.4 A single business entity which operates warehouse facilities at more than one location may be covered by one license. In such instances, the applicant must provide separate capacity and personnel information for each location but may submit a consolidated financial statement covering all locations.
- 6.5 When two or more businesses which are separate legal entities, even though owned and/or operated by the same individual or the same legal entity, are operated at one or more physical locations, each separate legal entity must obtain a separate license.

- 6.6 Each license is personal to the holder thereof and may not be transferred or assigned to another for any purpose or any period of time.
- 6.7 Licenses issued by the Commission shall be consecutively numbered and the the number shall include a fiscal year designation.
- 6.8 All warehouse licenses issued by the Commission shall expire on June 30th following date of issue, except licenses issued during the period January 1, 1983, through June 30, 1983, which may be issued to expire on June 30, 1984.
- 6.9 For initial and continuing licensure, the facility must meet all requirements of Rule 7.0 hereof.
- 6.10 The warehouse must meet all bonding and insurance requirements set forth in Rules 8.0 and 9.0 hereof prior to issuance of the license. Failure to maintain the required bond and insurance in full force and effect throughout the license period shall subject the licensee to revocation of his license.
- 6.11 The staff of each warehouse unit (excluding warehouses licensed under the U. S. Warehouse Act) must include a weighmaster licensed by the Weights and Measures Division of the Department who must be physically present at the facility during all normal business operations. The Commission may waive this requirement for any facility which does not normally weigh the agricultural commodities or farm products stored in the facility.
- 6.12 The staff of each warehouse unit must include a person certified as a commercial or private pesticide applicator. The Commission may waive this requirement for facilities which employ licensed pest control firms.
- 6.13 The person in charge of each warehouse unit must possess the following qualifications:
- A. Must be of legal age
 - B. Must demonstrate the following:
 - 1. Knowledge of the practical facts of keeping accurate records regarding the storage of agricultural commodities
 - 2. Knowledge of proper pest control and fumigation procedures
- 6.14 Provisions relative to the schedule of tariffs or charges
- A. On or before March 1, 1983, each warehouse must file its current tariff with the Commission for the Commission's approval as to form.
 - B. Whenever there is any change in any warehouse's tariff, the new tariff must be filed with the Commission prior to implementation of any changes.
 - C. The Director shall note on each warehouse's tariff the fact of its receipt by the Commission. Upon the warehouse's receipt of the tariff bearing the Director's notation, the warehouse shall post the copy bearing the Director's signature in a conspicuous location at the warehouse.

- D. Each tariff must indicate whether charges are made on the basis of barrels, bushels, or hundredweights.
 - E. The tariff should contain all fees routinely charged to depositors.
 - F. The tariffs or charges must be the same for the same class of services to each customer of the warehouse.
- 6.15 Each warehouse must maintain a daily inventory report on forms to be provided by the Commission.
- 7.0 Standards for approval of facilities for storage of agricultural commodities
- 7.1 The building must be of sound construction, in good physical condition, and suitable for storage of the agricultural commodities to be stored therein.
 - 7.2 The building must be weathertight so as to protect the commodities stored in it from the elements at all times.
 - 7.3 The building and the surroundings must be reasonably clean and free of debris of any kind.
 - 7.4 There must be safe ingress and egress to all storage units.
 - 7.5 Storage units having entrances more than 20 feet above ground or floor level must be equipped with a safe and adequate lift or ladder.
 - 7.6 All catwalks must be equipped with railings, must be structurally sound, and must be kept free of all grain or other matter which might endanger human human life.
 - 7.7 The facility must maintain reasonable provisions for rodent and insect control.
 - 7.8 Commodities or farm products stored in containers rather than in bulk must be separated by an aisle of sufficient width to permit passage for inspection.
 - 7.9 When different agricultural commodities are stored in the same facility in bulk, the different commodities must be separated by a substantial partition.
 - 7.10 When a warehouse license covers more than one facility, each warehouse unit must be designated by a number, beginning with the number "1", which number may not be changed without the prior approval of the Commission.
 - 7.11 Each storage unit, building, bin, or compartment must have painted thereon or securely affixed, in a conspicuous manner and location, an identifying number or letter, or both, which may not be changed without prior approval of the Commission.
 - 7.12 Bulk grain bins shall be numbered at all openings on top and also on or near all outlet valves underneath so as to be easily identified.

7.13 Each facility must contain adequate and accurate weighing and sampling equipment. All scales in warehouses licensed by the Commission are subject to examination by the Division of Weights and Measures of the Department.

7.14 Special requirements for rice:

Provisions for identification cards must be securely attached to all bins and when commodities are placed under receipt, an identification card showing the following information must be firmly attached to the bin boards:

- A. The lot number
- B. Whether the receipt is negotiable or non-negotiable
- C. The number of the receipt
- D. The name of the person or company to whom the receipt was issued
- E. The number of containers of commodities, if not in bulk, in the bin

8.0 Bond required for warehouse license; provisions relative to licensed capacities

8.1 Each applicant must execute and file a bond, on bond forms provided by the Commission, which bond must be issued by a company authorized to do business in Louisiana prior to issuance of the license.

8.2 Each bond must be conditioned upon (A) the faithful performance of all duties and obligations to patrons of the warehouse and (B) compliance with all requirements of the Act and these regulations.

8.3 The amount of the bond shall be established on the basis of the capacity to be licensed:

- A. The Commission shall establish capacity records for all licensed facilities. Whenever there is a discrepancy between the capacity claimed by the applicant and the Commission's capacity figures for the applicant, the bond to be required shall be determined by the Commission's capacity figures. A licensee may, however, appeal the decision of the Commission whenever he disagrees with the capacity figures established by the Commission for his facility.
- B. All facilities which commingle agricultural commodities must bond 100% of their available capacity, subject to the exemptions contained in Items E and F below.
- C. Facilities which store identity-preserved commodities may, with the prior approval of the Commission, bond 75% of their available capacity. In such event, the amount of the bond must be increased if commodities in storage exceed the licensed capacity.
- D. All capacity under one roof must be bonded.

- E. Outside tanks which are used solely for storage of company-owned commodities are not required to be bonded.
 - F. Buildings which are used solely for storage of company-owned commodities are not required to be bonded.
- 8.4 The amount of the bond shall be as follows:
- A. 20¢ per bushel for the 1st million bushels of licensed capacity - up to \$200,000 for a licensed capacity of 2 million bushels
 - B. Plus 15¢ per bushel for the 2nd million bushels of licensed capacity - a total of \$350,000 for a facility with a licensed capacity of 2 million bushels
 - C. Plus 10¢ per bushel for all bushels over 2 million bushels up to 3.5 million bushels of licensed capacity - a maximum of an additional \$150,000
- 8.5 A minimum bond of \$25,000 is required for all facilities of 125,000 bushels or less licensed capacity.
- 8.6 A maximum bond of \$500,000 is required for all facilities of 3.5 million or more bushels of licensed capacity.
- 8.7 Each bond shall be written for a period of one year, beginning on July 1st, or for such other period of time as the Commission may require for facilities licensed during the period of January 1, 1983, through June 30, 1983.
- 8.8 Each bond must provide for at least ninety (90) days written notice to the Commission prior to cancellation.
- 8.9 Each bond is subject to final approval by the Commission and must be so approved prior to issuance of the license.
- 8.10 Provisions for alternate security in lieu of the required bond:
- A. The Commission may accept alternate security in lieu of the required bond in an amount equal to 150% of the required bond. For example, alternate security for facilities containing 125,000 bushels or less licensed capacity would be \$37,500, and alternate security for facilities containing 3.5 million or more bushels licensed capacity would be \$750,000.
 - B. Alternate security may be offered only by:
 - 1. Pledging of certificates of deposit or similar negotiable instruments.
 - 2. Filing of an irrevocable letter of credit, which shall be non-cancellable for a period of one year
 - C. Alternate security is subject to the approval of the Commission and must be so approved prior to issuance of a license.

- D. All alternate security instruments shall be assigned to the Commission and maintained in the Commission office in Baton Rouge. Holders of certificates of deposit will continue to draw the interest thereon.
- E. Whenever any warehouse ceases to operate as a licensed warehouse, alternate security offered in lieu of the required bond shall be retained by the Commission until some form of public notice has been given and a final audit has been completed, which final audit shall be completed in not more than 120 days.

9.0 Provisional stock insurance required for warehouse license

- 9.1 At all times, each warehouse must carry sufficient provisional stock insurance to assure protection against fire and other hazards for all agricultural commodities in storage. Provisional stock insurance records are subject to examination by the Commission during audit of the facility.
- 9.2 The provisional stock insurance must be written for a period of at least one year by an insurance company authorized to do business in Louisiana and must provide for thirty (30) days written notice to the Commission prior to cancellation.
- 9.3 A copy of the insurance policy or a certificate of insurance must be filed with the Commission prior to issuance of the license.

10.0 Amendment to license required when change of status occurs

- 10.1 The licensee must give written notice to the Commission within three days after any of the following occurs:
 - A. Loss or damage to stored commodities or licensed facilities
 - B. Change of ownership of a licensed warehouse, including a change in the members of a partnership or in the officers of a corporation.
 - C. Change in management personnel of a licensed warehouse
 - D. Change in the name of the business operating the facility
 - E. Any major structural change in the facility
 - F. The termination of a lease covering a licensed facility
 - G. Change of business address
 - H. Filing of any legal action (except filing of suits for workmen's compensation) against the warehouse or the management personnel of the warehouse

- 10.2 The licensee must give prior written notice to the Commission before use of the facilities for the storage of any agricultural commodity not listed on the application and before any change in the licensed capacity of the facility (except a change resulting from fire or other actions outside the control of the warehouse).
- 10.3 Notice to the Commission concerning a change in licensed capacity shall include:
 - A. Name, address, and license number of the warehouse
 - B. Warehouse or warehouses affected by the change in capacity
 - C. Current licensed capacity of the affected facility(ies)
 - D. Proposed new capacity (whether increased or decreased)
- 10.4 Whenever the licensed capacity of a facility changes, the bond required under Rule 8.0 must be changed within 45 days to conform to the new capacity. Failure to amend the bond as required herein will subject the licensee to revocation of his license.
- 11.0 Procedures for initial licensing of warehouses during the period 1/1/83-6/30/83
 - 11.1 Interim license to expire June 30, 1983
 - A. Warehouse licenses issued under prior law which expire during the period January 1, 1983, through June 30, 1983, may be renewed for a period expiring June 30, 1983, without full compliance with all requirements set forth in Rule 4.0.
 - B. No license issued during the stated interim for which the applicant has failed to provide all information required under Rule 4.0 will be valid after June 30, 1983. The interim license shall state on its face that the license will expire on June 30, 1983.
 - C. No license shall be issued for the period expiring June 30, 1983, unless the applicant has fulfilled the bonding and insurance requirements set forth in Rules 8.0 and 9.0.
 - D. The fee for issuance of an interim license expiring June 30, 1983, shall be the same as the fee for issuance of an annual license, or \$100.00.
 - 11.2 Initial license for a period of more than one year
 - A. Warehouse licenses issued under prior law which expire during the period January 1, 1983, through June 30, 1983, may be renewed from date of expiration of the existing license through June 30, 1984, by compliance with all requirements of Rules 4.0, 8.0, and 9.0 hereof.

- B. The bond of a warehouse desiring an initial license of more than one year, expiring on June 30, 1984, must be written for the entire period covered by the license. Provisional stock insurance carried by such facilities must be of sufficient term to assure protection for agricultural commodities stored therein.
- C. The fee for an initial license issued under Rule 11.2 shall be the same as the fee for an annual license, or \$100.00.

Grain Dealers

12.0 Requirements applicable to all grain dealers

- 12.1 No person shall buy and/or sell agricultural commodities for producers, or represent producers in the purchase or sale of agricultural commodities, unless licensed as a grain dealer by the Commission.
- 12.2 No grain dealer may store agricultural commodities belonging to any other person unless such grain dealer is also licensed by the Commission as a warehouse or licensed under the U.S. Warehouse Act.
- 12.3 A single business entity which operates grain dealerships at more than one location may be covered by one license. In such instances, the applicant must provide separate personnel information for each location but may submit a consolidated financial statement covering all locations.
- 12.4 When two or more businesses which are separate legal entities, even though owned and/or operated by the same individual or the same legal entity, are operated at one or more physical locations, each separate entity must obtain a separate license.
- 12.5 Each grain dealer license issued by the Commission shall expire on June 30th following date of issue.
- 12.6 The applicant must be of legal age and must be able to demonstrate knowledge of the practical facts of keeping accurate records regarding the trading of agricultural commodities.
- 12.7 The applicant must execute and file a bond, on forms provided by the Commission, which is written by a bonding company authorized to do business in Louisiana. The bond shall be in an amount of \$50,000 and shall provide for ninety (90) days written notice to the Commission prior to cancellation. The bond must be conditioned upon (A) the faithful performance of all duties and obligations to producers, and (B) compliance with all requirements of the Act and these regulations. The bond is subject to the approval of the Commission and must be so approved prior to issuance of the license. Failure to keep the bond in full force and effect shall subject the grain dealer to suspension or revocation of his license.
- 12.8 The Commission may accept alternate security in an amount of \$75,000 in lieu of the required bond. Alternate security may be offered only by (A) pledging of certificates of deposit or other similar negotiable instruments, or (B) filing of an irrevocable letter of credit, which shall

be non-cancellable for a period of one year. All alternate security instruments must be assigned to the Commission and will be maintained in the Commission's office in Baton Rouge; holders of certificates of deposit may continue to draw interest thereon. Whenever any grain dealer ceases to operate as a licensed grain dealer, alternate security offered in lieu of the required bond shall be retained by the Commission until some form of public notice has been given and a final audit has been completed, which final audit shall be completed in not more than 120 days. Alternate security offered in lieu of the required bond is subject to the approval of the Commission and must be so approved prior to issuance of the license.

12.9 The applicant must demonstrate net worth which is reasonably sufficient to assure his ability to meet his obligations to producers. The Commission shall be the final judge of the sufficiency of each applicant's net worth.

12.10 Each grain dealer must maintain a daily risk position report on forms to be provided by the Commission.

13.0 Risk position requirements

13.1 Each grain dealer must achieve and maintain a relatively even hedge position within no more than three business days after deposit of agricultural commodities by a producer. "Relatively even hedge position" means that the grain dealer has entered into contracts to buy or sell commodities which are roughly equal in value to the amount of the dealer's outstanding obligations to producers.

13.2 Whenever a grain dealer's risk position is brought to market, his loss potential should never exceed 30% of the grain dealer's current net worth. No grain dealer may maintain a risk position in excess of 30% of his current net worth, provided that the Commission may specify a lower maximum risk position for any grain dealer in an amount having a reasonable relationship to that grain dealer's current net worth.

13.3 The Commission may require a lower maximum risk position on any grain dealer by the following procedures:

- A. The Commission shall notify the grain dealer that a public hearing will be held, within five days after notice, to establish for such grain dealer a requirement where his risk position will be less than 30% of his current net worth.
- B. The grain dealer may appear in his own behalf or may be represented by counsel at the hearing, and may show cause why such lower maximum risk position should not be established for such grain dealer.
- C. The Commission may require the submission of interim financial statements in order to make a final determination with respect to establishment of a lower risk position requirement for such grain dealer.

- D. The Commission shall make a determination at the public hearing and shall establish an exact risk position as a percentage of current net worth for such grain dealer. Written notice of the lower risk position requirement shall be given by the Director immediately following such public hearing.
- 13.4 Any grain dealer who does not adhere to the risk position requirement imposed for such grain dealer by the Commission shall be subject to the penalties set forth in Rule 25.0 hereof.
- 13.5 Any grain dealer whose risk position is established by the Commission at less than 30% of his net worth may request reconsideration of the established risk position whenever his financial position changes. Such request shall be made in writing, setting forth the reasons therefor, and the Commission shall consider the request at the next regularly scheduled quarterly meeting following receipt of such request.

Assessments

- 14.0 Assessments: amount, time of payment, payment under special conditions
- 14.1 Assessments shall be due and payable from the producer at the first point of sale as defined in Rule 1.22.
- 14.2 Each grain dealer shall deduct the assessments set forth in this Rule from the proceeds to be paid to producers at the time of sale of commodities, and, where no assessable sale has previously occurred, each warehouse shall collect the assessments set forth in this Rule when commodities or farm products are removed from storage.
- 14.3 Commodities placed in CCC storage shall be subject to the assessment provided under this Rule, and said assessment shall be due and payable on the date such commodities are placed under CCC loan or purchased by CCC.
- 14.4 The statutory assessment must be paid on agricultural commodities covered by a Payment-in-Kind (PIK) certificate, and such assessment shall be due and payable at the first point of sale as defined in Rule 1.22.
- 14.5 Assessments shall be levied at the rate of \$.005 per cwt on commodities normally weighed by hundredweight and at the rate of \$.003 per bushel on commodities normally weighed by bushels. The weight of commodities normally weighed in barrels shall be converted to bushels by multiplying the barrel weight times 3.6.
- 14.6 Assessments on regulated commodities listed in Rules 3.2 and 3.4 and farm products listed in Rule 3.3 shall be at rates comparable to the rates set forth in Rule 14.5 above. The exact assessment on each commodity and farm product shall be promulgated in the Louisiana Register and when so promulgated shall remain in full force and effect until changed by subsequent promulgation in the Louisiana Register. Such assessments may be collected as soon as promulgated in the Louisiana Register and shall be collected in the same manner as the assessments listed in Rule 14.5 above.

- 14.7 The grain dealer or warehouse shall be responsible for payment of the assessment set forth in this Rule on all commodities purchased from out-of-state sellers for which no assessment has been paid to the Commission by the seller.
- 14.8 CCC-owned commodities which remain in storage for more than one year shall be subject to the statutory assessment annually on the anniversary date of each warehouse receipt covering such commodities.
- 14.9 Each grain dealer and warehouse must remit all assessments withheld from producers, or otherwise due under this Rule, together with a report on the form provided by the Commission, to the Commissioner no later than the 15th day of each month.

Scale Tickets

- 15.0 Scale tickets: filing, contents, maintenance in records
 - 15.1 On or before the effective date of these regulations, each warehouse and each grain dealer must file a copy of the scale ticket currently used by the warehouse or grain dealer with the Commission. Scale tickets which conform to the requirements of this Rule will be approved by the Commission for continued use.
 - 15.2 Immediately upon deposit with a licensed warehouse or a licensed grain dealer of any agricultural commodity or farm product regulated under the Act, the warehouse or grain dealer must issue a scale ticket which conforms to the requirements of this Rule to the depositor. Warehouses licensed under the U. S. Warehouse Act may use scale tickets approved by the Federal licensing agency.
 - 15.3 Each scale ticket must contain the following information:
 - A. Name and location of the licensed warehouse or grain dealer
 - B. Name and other information sufficient to identify the owner of the agricultural commodities or farm products
 - C. The type, quantity, and grade (or applicable grade factors) necessary to determine the net value of the commodity received.
 - D. Date the commodity was deposited in the warehouse's or grain dealer's custody
 - E. One of the following, as appropriate:
 1. If the commodity is deposited on a "spot" basis, the words "spot" or "spot sale", and when so marked the scale ticket shall serve as written confirmation of the sale.
 2. If the commodity is deposited for any type of storage, including open storage, the word "storage"
 3. If the commodity is deposited for contract, the word "contract"

- D. Such other terms as may be agreed upon between the depositor and the warehouseman or grain dealer.
- 15.4 Scale tickets must be sequentially pre-numbered and must be issued to depositors in numerical order. Different scale ticket books may be used for different scales.
- 15.5 Each scale ticket shall consist of an original and at least one copy. The original or a copy of the scale ticket shall be maintained in numerical order in the licensee's records and shall be available for examination by the Commission at all times.
- 15.6 Whenever a scale ticket must be voided, all copies shall be so marked, dated, and signed by an authorized agent of the warehouse or grain dealer, and all copies of the voided scale ticket shall be maintained in the warehouse's or grain dealer's records.

Warehouse Receipts

- 16.0 Warehouse receipts: required form; completion, distribution, and maintenance requirements; form of non-negotiable receipts; use of State Warehouse Commission receipt forms
- 16.1 Except as herein provided, all warehouses shall use, only, sequentially pre-numbered warehouse receipt forms furnished by the Commission.
- 16.2 Warehouses licensed under the U. S. Warehouse Act may use receipt forms approved by the Federal licensing agency.
- 16.3 Receipts must be issued in triplicate and distributed as follows:
- A. Green copy (original, negotiable) - delivered to the person storing the agricultural commodities or farm products
 - B. Pink copy (non-negotiable) - mailed to the Commission on the day issued
 - C. Yellow copy (non-negotiable) - retained by the warehouse in numerical order as a part of the warehouse records
- 16.4 Whenever a warehouse receipt must be voided, all copies shall be so marked, dated, and signed by an authorized agent of the warehouse; the green and yellow copies of the voided receipt must be maintained in proper sequence in the warehouse's receipt records and the pink copy must be mailed to the Commission on the day voided.
- 16.5 A warehouse may issue receipts from only one receipt book at a time. However, when a warehouse operation consists of more than one location, a separate receipt book may be used at each location, with the prior approval of the Commission.
- 16.6 All information required for completion of a warehouse receipt must be typewritten or entered legibly in indelible ink.

- 16.7 All spaces on the warehouse receipt must be filled in with appropriate information or crossed out ("xxxxx").
 - 16.8 Warehouse receipts may be signed only by authorized agents of the warehouse.
 - 16.9 Facsimile signatures may not be affixed to warehouse receipts.
 - 16.10 If the warehouse ceases to operate as a licensed warehouse for any reason, all unused warehouse receipts must be immediately surrendered to the Commission.
 - 16.11 Any warehouse desiring to issue non-negotiable warehouse receipts shall make application to the Commission for non-negotiable warehouse receipts in the required form.
 - 16.12 Warehouses may procure supplies of warehouse receipts without cost by request to the Commission.
 - 16.13 Warehouses which have on hand a supply of warehouse receipt forms issued by the State Warehouse Commission may continue to issue such receipts until their supply of forms is exhausted.
- 17.0 Warehouse receipts: issuance; open storage; partial delivery; duplicate receipts; delivery of commodities covered by receipts; cancellation; receipts on company-owned commodities; non-negotiable receipts; cessation of business; other applicable laws
- 17.1 Issuance of receipts
 - A. Each warehouse must, on demand, issue a warehouse receipt for stored agricultural commodities or farm products.
 - B. No warehouse shall issue a warehouse receipt covering commodities which are already covered by an outstanding and uncanceled warehouse receipt, except as provided by Rule 17.4.
 - C. No warehouse may issue a warehouse receipt covering commodities which are not actually stored in the warehouse.
 - 17.2 Open storage

A warehouse which has commodities under open storage must, in all cases when such commodities are not physically stored in its facilities (i.e., forwarded), be able to produce or secure a warehouse receipt from the warehouse to which such commodities were forwarded. The physical whereabouts of all agricultural commodities in open storage are subject to verification by the Commission.
 - 17.3 Partial delivery
 - A. When only a portion of commodities covered by a warehouse receipt is to be removed from storage, the warehouse and the holder of the warehouse receipt must jointly execute a numbered "Partial Release" form which is provided by the Commission.

- B. Agents of the Commission shall note the issuance of a partial release, by number of each such partial release, on the original receipt.

17.4 Issuance of Duplicate Negotiable Warehouse Receipt

- A. If a negotiable warehouse receipt is lost or destroyed, the warehouse must notify the Commission of such loss or destruction prior to issuance of a duplicate warehouse receipt. A duplicate warehouse receipt replacing a lost or destroyed negotiable warehouse receipt may be issued by the warehouse only upon the written authorization of the Commission.
- B. Before authorizing issuance of a duplicate negotiable warehouse receipt, the Commission shall require that the person applying for authority to issue the duplicate warehouse receipt shall file with the Commission a notarized statement that:
 - 1. The applicant is lawfully entitled to possession of the duplicate warehouse receipt;
 - 2. He has not negotiated or assigned the lost or destroyed warehouse receipt; and
 - 3. Reporting how the original was lost or destroyed.
- C. A duplicate negotiable warehouse receipt issued to replace a lost or destroyed receipt must:
 - 1. Be marked "duplicate",
 - 2. Be distributed as required under Rule 16.3.
 - 3. Contain the same terms and conditions as the lost or destroyed warehouse receipt, and
 - 4. Bear on its face the number and date of the warehouse receipt in lieu of which it was issued

17.5 Delivery of commodities covered by warehouse receipt or scale ticket marked for storage

- A. The holder of a warehouse receipt or a scale ticket marked for storage may request delivery of the agricultural commodities, or any portion thereof, at any time.
- B. When the depositor of agricultural commodities removes such commodities from storage, the warehouse must deliver to the depositor commodities of the same quantity and grade as designated on the warehouse receipt or scale ticket marked for storage.
- C. The warehouse must, without unnecessary delay, deliver any agricultural commodities or farm products stored therein upon demand by the holder of a warehouse receipt or scale ticket marked for storage upon the following conditions:

1. Full payment of all amounts owed to the warehouse
2. Surrender of the warehouse receipt, if negotiable, for cancellation

17.6 Cancellation of warehouse receipt

- A. When commodities or farm products are removed from storage, the warehouse must promptly and plainly cancel the warehouse receipt covering such commodities or farm products.
- B. The warehouse shall retain both the green and the yellow copies of cancelled warehouse receipts in numerical order in the warehouse records for a period of at least three years after date of cancellation.
- C. No warehouse receipt shall be cancelled unless (1) the commodities have been removed from storage, by sale or otherwise; or (2) a new warehouse receipt has been issued to replace a lost or destroyed warehouse receipt, as provided under Rule 17.4.

17.7 Warehouse receipt on company-owned commodities

A warehouse may issue and hold a warehouse receipt for commodities which are company-owned, in whole or in part, and stored in the warehouse, provided that such warehouse receipts are subject to all requirements of these regulations.

17.8 Non-negotiable warehouse receipts

- A. Each person to whom a non-negotiable warehouse receipt is issued shall furnish the warehouse with a written statement naming persons having power to authorize delivery of the commodity covered by the non-negotiable warehouse receipt, together with a bona fide signature of such person. The warehouse shall not release the commodity except to persons so authorized by the owner of the commodities or farm products.
- B. The warehouse may release a portion of the commodities or farm products covered by a non-negotiable warehouse receipt, upon presentation of authorization as above required, but may not release all of the commodities covered by a non-negotiable warehouse receipt until such time as the non-negotiable warehouse receipt is returned and cancelled.

17.9 Cessation of business

Whenever any warehouse ceases to operate as a licensed warehouse, for any reason, the warehouse must satisfy all outstanding obligations to producers and all outstanding warehouse receipts must be cancelled. The requirement for cancellation does not, however, apply when the warehouse is unable, for any reason, to satisfy obligations to producers.

17.10 Other applicable laws

In any circumstances surrounding the issuance of warehouse receipts which are not covered by this Rule or the Act, the provisions of Chapter 7 of Title 10 of the Louisiana Revised Statutes of 1950 shall control.

Grading; Out-of-Condition Commodities

18.0 Official grades

All agricultural commodities shall be graded in accordance with official USDA grading standards.

19.0 Out-of-condition commodities

19.1 If a warehouse operator has reason to believe that any identity-preserved commodities are out-of-condition, or are becoming out-of-condition, he shall give immediate notice of such fact to the Director of the Commission and to the owner of the commodities.

19.2 The Director shall immediately send a representative to the warehouse to determine whether out-of-condition commodities should be cleaned, at the cost of the warehouse, or disposed of as the law permits and the circumstances require.

19.3 The storer of such commodities shall notify the warehouseman, within 24 hours after receipt of notice, of the disposition to be made of such commodities. If the storer of the commodities fails to make such notice to the warehouseman, the warehouseman may dispose of the commodities as authorized by the Commission.

Records and Reports

20.0 Contracts required to be in written form

All contracts, other than contracts for spot sale, in which title shall pass shall be evidenced in writing and maintained in the permanent records of the grain dealer or warehouse. Such contracts shall be available for examination by the Commission.

21.0 Records required to be maintained

21.1 Each grain dealer and warehouse shall maintain the following records, when applicable to the commodity stored or traded, on a current basis in the company's principal office in this state at all times:

- A. Current financial statement
- B. Bank statements
- C. Bank reconciliations
- D. Broker's statements
- E. Current listing of unpriced commodities
- F. Sequential record of all scale tickets
- G. Sequential record of all warehouse receipts
- H. Daily position report
- I. Settlement or distribution sheets
- J. Weight sheets
- K. Perpetual inventory record
- L. Insurance file, including copies of monthly reports to the carrier
- M. Record of all assessments collected and remitted
- N. Copies of all outstanding contracts
- O. Copies of all outstanding notes and mortgages affecting the business

22.0 Reports required

- 22.1 Each grain dealer and warehouse shall file a report of assessments collected from producers, on the form provided by the Commission, and remit such assessments to the Commissioner no later than the 15th day of each month. The assessment report must be filed each month whether or not any assessments were collected during the month.
- 22.2 No later than the 15th day of each month, each grain dealer shall file a copy of his daily position report for the preceding month and each warehouse shall file a copy of his daily inventory report for the preceding month with the Commission.
 - A. The reports shall be filed on forms provided by the Commission.
 - B. The Commission may accept computer print-outs containing the same information as required by the Commission's form.
 - C. The Commission may accept any report in substantially the same form which is prepared as a result of any Federal requirement in lieu of the report on the Commission's form.
- 22.3 Subsequent to initial licensure under the Act, each grain dealer and each warehouse shall file a financial statement, containing all of the information required under Rule 4.2 hereof, no later than ninety (90) days after the last day of the warehouse's or grain dealer's fiscal year.
- 22.4 Each grain dealer and each warehouse shall file such unaudited financial statements as and when required by the Commission.

Access Requirements

23.0 Access Requirements

- 23.1 Each licensee shall permit any officer or authorized representative of the Commission or the Commissioner to enter all locations listed on the application for license and inspect, examine, and/or audit all contents, facilities, equipment, records, books, and accounts relating thereto at any time during normal working hours, with or without notice.
- 23.2 The warehouseman or grain dealer shall provide the necessary assistance required for any inspection, examination, and/or audit made in accordance with the Act.
- 23.3 Each warehouse and all grain dealers having physical custody of commodities shall permit any authorized representative of the Commission or the Commissioner to sample commodities at any time during normal business hours.

Posting Requirements

24.0 Posting requirements

- 24.1 Each licensee shall post the original of his license issued by the Commission in a conspicuous location at his principal place of business. A copy of the license shall be posed at all other locations covered by the license.
- 24.2 Each warehouse shall post, so that it is clearly visible at the main entrance to the facilities, a sign showing that it is a bonded warehouse licensed by the Commission. When only a portion of the facilities is licensed by the Commission, that portion licensed by the Commission must be clearly marked.
- 24.3 The warehouse schedule of tariffs or charges must be posted in a conspicuous location at the facilities.
- 24.4 Grain dealers who are not licensed by the Commission or under the U. A. Warehouse Act must post a sign reading as follows: "This facility is not licensed to store agricultural commodities for producers. Title must pass from the producer upon delivery."

Suspension/Revocation of License; Other Penalties

25.0 Adjudication required prior to suspension/revocation of license or imposition of other penalties; amount of penalties; surrender of license

- 25.1 Whenever the Chairman has any reason to believe that a violation of the Act or these regulations has occurred, he shall call a meeting of the Commission for the purpose of conducting an adjudicatory hearing to make a determination with respect to the suspected violation.
- 25.2 Upon any directive of the Chairman, the Director shall give written notice to the person suspected of the violation, such notice to comply with the requirements of the Administrative Procedure Act, at least five days prior to the date set for such adjudicatory hearing.
- 25.3 At any such adjudicatory hearing, the person suspected of a violation of the Act or these regulations shall be accorded all of the rights set forth in the Administrative Procedure Act.
- 25.4 The Commission may suspend or revoke a license for any of the grounds set forth in Rule 5.0 hereof, or any other violation of the Act or these regulations, whenever proof thereof is made at any adjudicatory proceeding noticed and conducted as required by the Administrative Procedure Act.
- 25.5 Whenever the Commission makes a determination at an adjudicatory hearing that any violation of the Act or these regulations has occurred, the Commission may:
 - A. Suspend or revoke the license
 - B. Impose a monetary fine

- 25.6 Any suspension of a license shall be for a definite period of time and the licensee shall be informed in writing of the period of suspension.
- 25.7 The Commission may impose a penalty of up to \$1,000 for each violation of the Act or these regulations which is proven in an adjudicatory hearing.
- 25.8 Each separate day on which a violation occurs shall be considered a separate violation.
- 25.9 Whenever the Commission suspends or revokes a warehouse or grain dealer license, the former licensee must immediately surrender the original and all copies of the license.
- 25.10 No person whose license has been suspended or revoked may engage in any of the activities regulated under the Act.
- 25.11 Any licensee may appeal any action taken by the Commission to suspend/revoke a license or impose a monetary penalty by (A) applying for a re-hearing under the procedures provided in the Administrative Procedure Act, or (B) applying for judicial review of the Commission's determination, under either the Administrative Procedure Act or other applicable laws.

Schedule of Inspections; Voluntary Inspection Service

26.0 Inspection of physical facilities and contents; schedule

A complete inspection of the physical facilities and the contents thereof shall be made of each licensee at least once during each license period, but may be made more frequently. Such inspection of facilities and contents may or may not be made in conjunction with an audit of the licensee's books and records.

27.0 Voluntary inspection service

- 27.1 Warehouses which require more frequent inspection and verification of contents, for whatever reason, may secure such services by making application therefor to the Commission.
- 27.2 Voluntary inspection of facilities and contents, and verification thereof, on a schedule which shall be mutually agreed upon between the warehouse applying for voluntary inspection services and the Commissioner, shall be made for a fee of \$.005 per cwt for commodities normally weighed by hundredweight, \$.003 per bushel (or barrel weight converted to bushels as provided by Rule 14.4) for commodities normally weighed by bushel, or such other fee as may be promulgated by the Commission as an assessment fee on other agricultural commodities or farm products.
- 27.3 The fee for voluntary inspection services shall be due and payable within 15 days after each inspection is completed.

27.4 The total fee for each voluntary inspection of facilities and contents shall be determined by multiplying the total amount of commodities under warehouse receipt at the time of voluntary inspection services times the fee set forth in Rule 27.2 above.

27.5 The minimum inspection fee applicable to voluntary inspection services, when performed for any licensee of the Commission, shall be \$100.00.

Exemptions

28.0 Exemptions

These Rules and Regulations shall not apply to the following:

- A. Cold storage facilities
- B. Facilities which store only commodities which are imported from outside the boundaries of the continental United States
- C. The Cotton Classification Service conducted by the New Orleans Cotton Exchange.
- D. Seed dealers licensed under R. S. 3:1431, et seq., who store seed for producers, which is identifiable on the bag and in the seed dealer's records as to the owner thereof, but who do not engage in any other activities regulated under the Act. This exemption does not apply to seed dealers who issue warehouse receipts.

* * * * *

NOTE FOR INFORMATIONAL PURPOSES ONLY

Act 563 of 1982 also provides for the following criminal penalties, upon conviction:

1. R.S. 14:123, referenced in R.S. 3:3408 A (7), provides that persons found guilty of perjury may be: (a) imprisoned at hard labor for not more than ten years when convicted of a felony, or (b) in all other cases, fined not more than \$1,000 or imprisoned for five years, or both fined and imprisoned.
2. R.S. 3:3424 A provides that conviction of any of several listed acts which are mishandling of agricultural commodities in storage will subject the warehouseman to: (a) a fine of not more than \$10,000, (b) imprisonment for not more than 10 years, or (c) both fine and imprisonment. This statement defines the commission of any of the listed acts as "presumptive evidence" of the warehouseman's criminal intent, so the burden of proving the absence of criminal intent is entirely upon the accused warehouseman.
3. R.S. 3:3424 B provides that any grain dealer who maintains a risk position in excess of 30% of his net worth shall, upon conviction, be subject to: (a) a fine of not more than \$10,000, (b) imprisonment for not more than 10 years, or (c) both fine and imprisonment.

Bob Odom
Commissioner

RULE

Department of State Civil Service Board of Ethics for Elected Officials

The Board of Ethics for Elected Officials, in the Department of State Civil Service, has adopted the campaign finance disclosure forms and explanatory booklet. Copies of these forms and booklet may be obtained at the Board of Ethics for Elected Officials, 2133 Silverside, Suite E, Baton Rouge, LA 70808; at the State Register Office, P.O. Box 44095, Baton Rouge, LA 70804; or at any Clerk of Court's Office in each parish of the state.

R. Gray Sexton
Executive Secretary

RULE

Department of Commerce Office of Financial Institutions

Under authority granted by LRS 6:237(B), the Commissioner of Financial Institutions has adopted the following Rule for the purpose of providing a means by which state-chartered banks may have authority to invest in bankers' acceptances comparable with that granted National banks under Title 12 of the United States Code, Sections 84(5), 372, and 373, and Comptroller of the Currency's Interpretative Ruling 7.1550.

Bankers' Acceptances

A state bank may participate in total eligible bankers' acceptances to any one bank in an amount not to exceed 200 per centum of the paid-up and unimpaired capital stock and surplus of the purchasing bank. Eligible acceptances shall be those defined in Title 12 of the United States Code, Sections 372 and 373. A state bank may participate in total ineligible bankers' acceptances subject to the legal loan limits prescribed by LSA-RS 6:259.

Hunter O. Wagner, Jr.
Commissioner

RULES

Department of Commerce Real Estate Commission

The Louisiana Real Estate Commission, in accordance with the authority granted to it by R.S. 37:1431, et seq., and pursuant to the Administrative Procedure Act, R.S. 49:950, et seq., adopted the following regulations at a public hearing on March 9, 1983. The commission voted that the regulations would go into effect on the sixtieth day following adjournment of the 1983 Regular Session of the Louisiana Legislature.

REVISED REGULATIONS

(LAC 11-15:1 is retained in its current form)
LAC 11-15:2 Applications for Initial Licenses

Section 2.1 Every applicant for an initial real estate broker's or salesman's license must meet the following requirements before his application will be processed by the commission.

2.2 Every application must be fully completed, notarized and accompanied by the prescribed fees, including initial licensing, examination, recovery fund and education fund fees. All fees must be paid by way of a certified check, cashier's check, or money

order made payable to the Louisiana Real Estate Commission. In addition, every initial application for a salesman's license must be signed by a licensed broker who will serve as the applicant's sponsoring broker.

2.3 Every application must be received by the commission not less than 30 days prior to the date of the scheduled license examination which the applicant seeks to take. Applications received after that date will be processed for the following scheduled examination. The responsibility for timely submission of initial applications rests solely with each individual applicant.

2.4 Every applicant for an initial broker's license shall submit the following to the commission:

a. A current credit report obtained from a recognized credit reporting agency;

b. A properly executed and notarized escrow account affidavit, if required pursuant to Section 15 of these regulations and after the applicant has passed his broker's examination;

c. Satisfactory proof that the applicant is a high school graduate or the holder of a certificate of high school equivalency;

d. A certificate of completion from a real estate school holding a certificate of authority from the commission, or a copy of the applicant's university or college transcript indicating the title and number of the real estate related courses the applicant has completed, or evidence that the applicant is a holder in good standing of a broker's license in another state having educational requirements equal to or greater than those required by R.S. 37:1437 of an equivalent licensee in this state;

e. A completed testing service registration form provided to the applicant by the commission; and

f. A letter or acknowledgement executed by the applicant's sponsoring broker if required pursuant to Section 11 of these regulations.

2.5 Every applicant for an initial salesman's license shall submit the following to the commission:

a. Satisfactory proof that the applicant is a high school graduate or the holder of a certificate of high school equivalency;

b. A certificate of completion from a real estate school holding a certificate of authority from the commission, or a copy of the applicant's university or college transcript showing completion of real estate related courses, or evidence that the applicant is a holder in good standing of a salesman's license in another state having educational requirements equal to or greater than those required by R.S. 37:1437 of an equivalent licensee in this state; and

c. A completed testing service registration form provided to the applicant by the commission.

2.6 Satisfactory proof that the applicant is a high school graduate or the holder of a certificate of high school equivalency may be established by the original or a copy of the applicant's high school diploma, the applicant's university or college diploma, the applicant's certificate of high school equivalency, or, if none of the above is available, by an affidavit stating the date and place of the applicant's high school graduation or the granting of the applicant's certificate of high school equivalency.

2.7 Upon complying with the above requirements, an applicant shall be issued an admittance ticket by the testing service approximately 10 days before the date of the examination. The admittance ticket will specify the date, place and time of the examination for which admittance is authorized. If an applicant has not received such an admittance ticket at least one week prior to the examination, he should telephone the testing service at the number shown in his registration form. An applicant must present his admittance ticket and photographic evidence of the applicant's identity (e.g. driver's license, I.D. card) before he may take the examination.

LAC 11-15:3 Examinations

Section 3.1 Examinations shall be administered, after due notice thereof, only at the examination center, on the date, and at the time previously designated by the commission.

3.2 An examination may be taken only at the place, on the date and at the time specified in the applicant's admittance ticket.

3.3 An admittance ticket and photographic evidence of the applicant's identity (e.g. driver's license) shall be presented to the examination monitor by the applicant before an examination will be administered.

3.4 Any applicant who fails to appear for an examination, as specified in his admittance ticket, shall forfeit all fees. He may reapply to take a subsequent examination, provided that he again remits all prescribed fees and obtains a new admittance ticket to take the subsequent examination. The commission, at its discretion, may waive the second payment of such fees if it is demonstrated that factors beyond the control of the applicant prevented his appearance at his initially scheduled examination.

3.5 Any applicant who is disqualified, for any reason, on an examination shall forfeit all fees. He may reapply to take a subsequent examination, provided that he again remits all prescribed fees and obtains a new admittance ticket to take the subsequent examination.

3.6 Any applicant who takes and fails to pass his initial examination shall forfeit all examination fees. He may reapply to take a subsequent examination, provided that he remits a new examination fee within 90 days of his last test date and obtains a new admittance ticket to take the subsequent examination. After 90 days, the commission's files shall be cleared and remittance of all prescribed fees and a new application shall be required. The commission, at its discretion, may extend the 90 day retake period upon a showing that factors beyond the control of the applicant warrants such an extension.

3.7 Any applicant who takes an examination and passes either only the uniform portion or only the state portion shall be required to retake only that portion he failed to pass. He may reapply to take that portion at a subsequent examination, provided that he remits a new examination fee within 90 days of his last test date and obtains a new admittance ticket to take the subsequent examination. After 90 days, the commission's files shall be cleared and remittance of all prescribed fees and a new application shall be required. The commission, at its discretion, may extend the 90 day retake period upon a showing that factors beyond the control of the applicant warrants such an extension.

3.8 Any applicant for a real estate salesman's license who was previously licensed in his then state of residence as a real estate broker or salesman shall be required to take and pass only the Louisiana portion of an examination, provided he previously passed, within five years of applying for licensing in Louisiana, the uniform portion of a comparable broker's or salesman's examination administered by a national testing service approved by the commission.

3.9 Applicants may use non-programmable silent non-printing calculating devices during examinations. Applicants may not have in their possession or utilize any reference material during examinations. Any applicant having in his possession or utilizing any reference material during an examination shall be immediately disqualified and asked to leave the examination center.

LAC 11-15:4 Fees

Section 4.1 All fees are forfeited to the commission when received except as provided in other applicable Rules.

4.2 License fees shall cover a period of two calendar years and shall not be prorated.

4.3 All fees must be paid by way of a certified check, cashier's check or money order made payable to the Louisiana Real Estate Commission.

LAC 11-15:5 Renewal Applications

Section 5.1 The failure to timely renew a broker's or salesman's license shall result in the automatic suspension of the license as provided in R.S. 37:1442. The responsibility for timely submission of renewal applications accompanied by the appropriate fees rests solely with each individual licensee. All fees must be paid by way of a certified check, cashier's check or money order made payable to the Louisiana Real Estate Commission.

5.2 The suspension of the license of a sponsoring broker for non-renewal shall result in the automatic suspension effective January 1 of the ensuing license period of the real estate licenses of each associate broker or salesman sponsored by that broker until such time as the sponsoring broker renews his license, the associate broker assumes an unaffiliated status, or the associate broker's or salesman's license is transferred to a new sponsoring broker.

5.3 A salesman's or associate broker's renewal application must be signed by his sponsoring broker.

LAC 11-15:6 Delinquent Renewal

Section 6.1 An application for delinquent renewal of a broker's or salesman's license shall be accepted by the commission only during the two calendar year license period immediately following the last date on which the applicant held a valid license. Every such application must be accompanied by an affidavit explaining the reason(s) for the delinquency and by a delinquent renewal fee. All fees must be paid by way of a certified check, cashier's check or money order made payable to the Louisiana Real Estate Commission.

6.2 Former licensees who are not eligible for renewal because of delay beyond the two year delinquent renewal period shall apply as and meet all requirements of initial applicants; however, no applicant shall be subject to continuing education requirements who is exempted pursuant to R.S. 37:1437C(5).

LAC 11-15:7 Waivers

Section 7.1 The commission shall not waive any examination required of any applicant by law. The commission shall not waive any educational requirement required of an applicant by law except as hereinafter provided.

7.2 The commission may waive 50 classroom hours of the educational requirements required of a broker if the applicant has been actively engaged in the real estate business in Louisiana as a licensed salesman for at least five consecutive years immediately preceding the date of his application.

7.3 The commission may waive 100 classroom hours of the educational requirements required of a broker if the applicant has actively been engaged in the real estate business in Louisiana as a licensed salesman for at least 10 consecutive years immediately preceding the date of his application.

7.4 The commission may waive 50 classroom hours of the educational requirements required of a broker if the applicant has been actively engaged in the real estate business in a state other than Louisiana as a licensed salesman for at least five consecutive years immediately preceding the date of his application.

7.5 The commission may waive 100 classroom hours of the educational requirements required of a broker if the applicant has been actively engaged in the real estate business in a state other than Louisiana as a licensed broker for at least five consecutive years immediately preceding the date of his application.

7.6 The commission may waive 100 classroom hours of the educational requirements required of a broker if the applicant has been actively engaged in the real estate business in a state other than Louisiana as a licensed salesman for at least ten consecutive years immediately preceding the date of his application.

7.7 The commission may waive 100 classroom hours of the educational requirements required of a broker if the applicant has been actively engaged in the real estate business in a state

other than Louisiana as a licensed salesman for at least three years and thereafter as a licensed broker for at least two years immediately preceding the date of his application.

7.8 The Commission may waive all educational requirements where the applicant for a broker's license is the holder in good standing of an equivalent license in another state having educational requirements equal to or greater than those required by R.S. 37:1437 of an equivalent licensee in this state.

7.9 The Commission may waive all educational requirements where the applicant for a salesman's license is the holder in good standing of an equivalent license in another state having educational requirements equal to or greater than those required by R.S. 37:1437 of an equivalent licensee in this state. No other educational requirement waivers shall be granted for the classroom hours required of salesman applicants.

7.10 All educational requirement waivers granted by the commission are contingent upon the applicant's passage at his first testing of both the Louisiana and uniform portions of the broker's examination where applicable.

LAC 11-15:8 Broker Affiliation

Section 8.1 Any broker may become exclusively affiliated as an associate broker with a sponsoring broker provided that all requirements of his individual broker's license are maintained.

8.2 Any broker-applicant who elects, if and when he is licensed, to become exclusively affiliated with a sponsoring broker, whether that sponsoring broker is an individual, corporation or partnership, shall notify the commission when he submits his application. If and when the broker-applicant is licensed, the commission shall inscribe the name of the sponsoring broker on the license and issue it to the sponsoring broker.

8.3 Any presently licensed non-affiliated broker who elects to become exclusively affiliated with a sponsoring broker, shall notify the commission prior to beginning such a relationship and indicate the effective date thereof. The notification required by this Section shall be accompanied by delivery of the individual's broker's license to the commission along with a transfer fee of \$25. All fees must be paid by way of a certified check, cashier's check, or money order made payable to the Louisiana Real Estate Commission. The commission shall inscribe the name of the sponsoring broker on the license and immediately return the same to the sponsoring broker.

8.4 Any broker who is exclusively affiliated with a sponsoring broker is prohibited from maintaining an escrow account or rental trust account as otherwise required by the law or Rules of the commission. All money which would normally be deposited into the escrow account or rental trust account of such an exclusively affiliated broker shall be deposited into the escrow account or rental trust account of the sponsoring broker.

LAC 11-15:9 Salesman and Associated Broker Transfers and

Terminations

Section 9.1 Any associate broker or salesman who elects to transfer his license from one sponsoring broker to another and any associate broker who wishes to terminate his relationship with a sponsoring broker and assume an unaffiliated status shall notify his present sponsoring broker in writing by certified mail of the intended action and request that the sponsoring broker return the license to the commission within five days in accordance with the requirements specified in R.S. 37:1441.

9.2 A copy of that notification along with a transfer fee of \$25 and the acknowledgement of the new sponsoring broker, where there is to be a new sponsoring broker, shall be immediately forwarded to the commission by the transferring associate broker or salesman. All fees must be paid by way of a certified check, cashier's check or money order made payable to the Louisiana Real Estate Commission. No transfer fee shall be charged in any

situation specified in Sub-section 9.10 of these regulations. The associate broker or salesman shall also comply with all the termination responsibilities as set forth in Section 10 of these regulations.

9.3 Within five days of receiving notification of the associate broker's or salesman's desire to transfer or terminate, the present sponsoring broker shall return the associate broker's or salesman's license to the commission by hand delivery or by certified mail and acknowledge the transfer.

9.4 The failure of a sponsoring broker to promptly return to the commission the license of an associate broker or salesman who has notified the sponsoring broker of his intention and desire to transfer shall subject such sponsoring broker to suspension or revocation of his license.

9.5 Any sponsoring broker who wishes to terminate his sponsorship of an associate broker or salesman shall immediately notify the associate broker or salesman in writing and forward to the commission by hand delivery or by certified mail a signed copy of the notification along with the associate broker's or salesman's license.

9.6 Any associate broker who has been terminated by his sponsoring broker and who elects to become exclusively affiliated with another sponsoring broker shall notify the commission in writing and enclose with that notification a \$25 transfer fee. All fees must be paid by way of a certified check, cashier's check or money order made payable to the Louisiana Real Estate Commission. No transfer fee shall be charged in any situation specified in Sub-section 9.10 of these regulations. The commission shall reissue the associate broker's license inscribing thereon the name of the new sponsoring broker.

9.7 Any associate broker who has been terminated by his sponsoring broker and who elects to resume doing business without becoming affiliated with a new sponsoring broker shall notify the commission in writing and enclose with that notification a \$25 transfer fee and comply with the escrow accounts provisions of Section 15 of these regulations. All fees must be paid by way of a certified check, cashier's check or money order made payable to the Louisiana Real Estate Commission.

No transfer fee shall be charged in any situation specified in Sub-section 9.10 of these regulations.

9.8 Any salesman who has been terminated by his sponsoring broker shall notify the commission as to the identity of his new sponsoring broker and enclose along with that notification the acknowledgement of the new sponsoring broker and a transfer fee of \$25. All fees must be paid by way of a certified check, cashier's check or money order made payable to the Louisiana Real Estate Commission. The commission shall reissue the salesman's license inscribing thereon the name of the new sponsoring broker.

9.9 A transfer to a new sponsoring broker or a transfer to a unaffiliated broker status is effective upon the date the licensee receives notification from the commission that all transfer requirements have been met.

9.10 No transfer fee shall be charged to an associate broker or salesman who transfers in any one of the following situations:

- a. When his sponsoring broker has died;
- b. When his sponsoring broker has failed to renew his license;
- c. When his sponsoring broker's license has been suspended or revoked; or
- d. When his sponsoring broker has chosen to go out of business.

LAC 11-15:10 Termination Responsibilities

Section 10.1 Upon termination of a business relationship with a sponsoring broker, every salesman or associate broker shall immediately turn over to the former sponsoring broker all listing information, contracts, keys, and other property and pertinent