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Executive Orders

EXECUTIVE ORDER EWE-78-17

WHEREAS, the State of Louisiana has faced and, undoubtedly, will continue to face increasing demands for social and other governmental services, and

WHEREAS, the resource costs of social and other governmental services are accelerating at a faster rate than the projected growth of state resources, and

WHEREAS, through mastery of program evaluation techniques, state agencies will be better able to make the most efficient possible use of the resources allotted to them, while securing the maximum possible benefits from their program efforts for the people of Louisiana, and

WHEREAS, Act 277 of the 1976 Louisiana Legislature established a policy of mandatory review of state statutory agencies and required the periodic termination of such agencies, making their re-creation contingent of an evaluation of their program effectiveness.

NOW, THEREFORE, IT IS ORDERED THAT state agencies develop and implement policies of program evaluation designed to increase the efficiency of their resource utilization, to improve the effectiveness of their management structure, to measure the impact of their program efforts, to better their decision-making ability, and to thereby raise the quality of state services provided to the people of Louisiana, and

IT IS FURTHER ORDERED THAT, to aid agency efforts in this project, the Division of Administration and the Governmental Services Institute offer a series of training sessions designed to instruct senior state personnel in the techniques and theory of program evaluation, and

IT IS FURTHER ORDERED THAT, to ensure the success of program evaluation efforts in Louisiana, the Assistant Secretaries and Undersecretaries of all state departments lend this project their fullest cooperation.

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 6th day of December, A.D. 1978.

Edwin Edwards
Governor of Louisiana

Emergency Rules

DECLARATION OF EMERGENCY

**Department of Agriculture
Office of Agricultural and Environmental Sciences**

Effective December 7, 1978, the Department of Agriculture, Office of Agricultural and Environmental Sciences, has exercised those powers conferred by the emergency provisions of the Administration Procedures Act, R.S. 49:953, to adopt amendments to the Sweet-potato Weevil Quarantine and Regulations, which

were initially adopted under the provisions of Parts 2 and 3 of Chapter 12 of Title 3 of the Louisiana Revised Statutes of 1950. This action has been taken to prevent spread of Sweet-potato Weevil from infested areas, to areas not known to sustain infestations of these pests. This insect is considered to be the most destructive pest of sweet potato industry of Louisiana. In connection with this infestation, it has become necessary to promulgate the following emergency rule, by amending Supplement to Sweet-potato Quarantine and Regulation, Section III, Quarantined Areas, that portion of paragraph 2-A dealing with West Carroll Parish, by adding the following property.

... that portion consisting of a one mile radius of and including the property of E.A. O'Neal Farm, Eugene and Model O'Neal, section 10, R11E, T22N, which includes portions of sections 2, 3, 4, 9, 10, 11, 15, and 16.

Richard Carlton, State Entomologist
Office of Agricultural and
Environmental Sciences

DECLARATION OF EMERGENCY

**Department of Health and Human Resources
Office of Family Security**

Effective January 1, 1979, the Department of Health and Human Resources, Office of Family Security, has exercised those powers conferred by the emergency provisions of the Administrative Procedures Act, R.S. 49:953B, to adopt limitations in the Medical Assistance Program (MAP).

It has become necessary to promulgate the following emergency rule to remain within the budget appropriations for fiscal year 1978-79, the following program limitations are being implemented effective January 1, 1979:

(1) Inpatient hospital services. The number of days payable for inpatient hospital service are reduced from fifteen to ten. The present procedure for applying Professional Studies Activities/Length of Stay criteria to every admission may extend the number of inpatient hospital days if the patient is admitted with at least one eligible day remaining.

(2) Outpatient hospital services. The number of outpatient hospital visits are limited to three per calendar year.

(3) Physician services. The number of inpatient physician visits are reduced from fifteen to ten per calendar year. There is no provision for extension of visits beyond the ten visit limit.

(4) Home health services. Before payment can be made for all home health services, prior approval of the treatment plan by the MAP will be required. This prior approval will be secured directly from the MAP by the home health agency.

(5) Durable medical equipment. The existing program is being closely reviewed and a very restrictive criteria is being applied for approval of all durable medical equipment. Hearing aid batteries will no longer be a covered service.

(6) Drug services.

(a) The Medical Assistance Program will implement a "lock-in" procedure whereby a recipient suspected of overutilizing the pharmacy program is limited to services from one physician and one pharmacy.

(b) The following maintenance type drugs shall be dispensed in a month's supply or one hundred unit doses: anti-coagulants; anti-convulsants; oral anti-diabetics; calcium gluconate, calcium lactate, and calcium phosphate; cardiovascular drugs, including diuretics and antihypertensives; estrogens; ferrous gluconate and ferrous sulfate; potassium supplements; thyroid and anti-thyroid drugs; vitamins A, D, K, B₁₂ injection, folic acid, and nicotinic acid. Claims submitted for quantities less than a month's supply are to be rejected.

(c) The therapeutic class of antilipemics are to be excluded from payment. Examples of nonpayable drugs in this class are Athemol—N, Atromid—S, Choloxin, Colestid, Cytellin, Lorelco, Nicalex, and Questran.

(d) The following specific drugs are also to be excluded:

Amitriptyline Tab. 150 mg.	Motrin
Amoxicillin, All Forms	Nalfon
Clinoril	Naprosyn
Darvocet-N 50	Propoxyphene 32 mg.
Darvocet-N 100	Propoxyphene Comp. 32 mg.
Darvon-N	Propoxyphene with aspirin
Darvon N with ASA	Stero-Darvon with ASA
Indocin	Robaxisal
Melizine (Antivert)	Tetrex, All Forms
	Tolectin

(e) The program has established a price listing under which a payment will not be made in excess of the established maximum cost for certain drugs that are available from more than one manufacturer.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

DECLARATION OF EMERGENCY

Department of Health and Human Resources Office of Human Development

The Department of Health and Human Resources, Office of Human Development (OHD) does hereby exercise the emergency provisions of the Administrative Procedures Act (R.S. 49:953B) to adopt the following policy in relation to vendor payments to licensed day care centers and approved family day care homes. Effective January 1, 1979, the maximum rate of monthly payment to family day care homes is \$69.30 for each eligible child. The maximum rate of monthly payment to licensed day care centers is \$104.72 for each eligible child.

In addition, OHD is revising the eligibility criteria for day care which results in more children who become Title XX eligible to receive the service. Specifically, the criteria in regard to provision of day care has been expanded to provide that the service may be utilized in a formerly active protective service case when recommended by the service worker at the time the case is transferred to another OHD service unit. In addition, in former foster care cases the service of day care will be utilized to facilitate child and family adjustment immediately after the child is returned home from placement.

Adoption of emergency rulemaking is necessary as follows. State funds were appropriated for day care vendor payment rate increases by the 1978 Louisiana Legislature, contingent on the availability of federal funds. These federal funds were to be used in part to increase the state's vendor payment rate because of the inadequacy of present rates due to inflationary spiral. In November, 1978, P.L. 95-600, Revenue Act of 1978, releasing federal funds, was signed by President Carter. Therefore, in order to insure that day care centers have sufficient funds to meet the January 1, 1979, increase in social security taxes as well as minimum wage increases, the increase in payment rate will become effective January 1, 1979. Without sufficient funds to meet the increased costs in staff expenses, the health, safety, and welfare of many of Louisiana's children will be adversely affected by either a decrease in day care center staff or through involuntary displacement from day care center rolls.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

DECLARATION OF EMERGENCY

Department of Natural Resources Office of Conservation

Pursuant to the provisions of R.S. 49:953B, as Commissioner of Conservation, I have adopted Emergency Rules for Practice and Procedure for All Applications and Proceedings for Determination of Well Categories under Natural Gas Policy Act of 1978.

These rules are being adopted on an emergency basis due to the Natural Gas Policy Act of 1978. The failure to adopt rules with immediate effect could cause severe disruptions or uncertainty in the supply of natural gas for public consumption during the winter period, and I do find that an imminent peril to public welfare requires this emergency action.

These rules are designed to implement and clarify applicable Federal Energy Regulatory Commission regulations as they apply to Louisiana with the minimum possible imposition of a regulatory burden.

These Emergency Rules of Practice and Procedure shall be effective on and after November 27, 1978, as amended on November 29, 1978.

* * * *

Emergency Rules Practice and Procedure for All Applications and Proceedings for Determination of Well Categories Under Natural Gas Policy Act of 1978

(Editor's Note: The forms which accompany these rules are not published here, in accordance with R.S. 49:954.1C. Copies of the forms may be obtained from the Office of Conservation, Department of Natural Resources, Box 44275, Baton Rouge, Louisiana 70804.)

1. Definitions.

A. Unless the context specifically requires otherwise any special words or terms and phrases used herein are used as defined in the Natural Gas Policy Act of 1978, applicable Federal Energy Regulatory Commission rules and regulations pertaining thereto, or applicable meanings given in Title 30 of the Louisiana Revised Statutes.

B. "Commissioner" shall mean the Commissioner of Conservation, State of Louisiana.

C. "FERC" means the Federal Energy Regulatory Commission.

D. "NGPA" means the Natural Gas Policy Act of 1978.

E. "Sections 102, 103, 107 and 108" mean those sections of the Natural Gas Policy Act of 1978 (NGPA).

F. "District office" means one of the district offices of the Office of Conservation, State of Louisiana.

2. Applications.

2.1 Any interested person requesting the classification of a well or a reservoir pursuant to the authority granted to the Commissioner by Section 503 of the NGPA in order to determine the applicable category for any such wells or reservoirs pursuant to Title 1 of said NGPA shall:

2.2 File a written application made upon forms prescribed by the Office of Conservation, Department of Natural Resources, State of Louisiana. The original and two copies of such applications shall be filed with the Commissioner at the District Office for the district in which the subject well or reservoir is located. All applications must be completed in conformance with the Commissioner's Rules and Regulations as well as the rules and regulations of FERC before the applications will be considered by the Commissioner. An application may cover a new determi-

nation or a request for a change affecting an existing determination. An application may be amended, supplemented or withdrawn by the applicant at any time prior to the Commissioner's determination.

2.3 An individual application must be completed as to each well for which a status determination is being requested, and if more than one status determination is being requested as to a single well then all forms and information required for each requested determination shall be submitted jointly under one application with notice to the Commissioner that multiple determinations for one well are being sought under the application.

2.4 If applicant is an individual, the application shall be signed and sworn to by such individual. If applicant is a corporation, the application shall be signed and sworn to by a responsible official of such corporation. If applicant is a partnership, the application must be signed and sworn to by one general partner of the partnership.

2.5 Certify that the purchaser(s) of the natural gas has been served by delivery or by mail, postage prepaid, a copy of the application, less required supporting documents.

2.6 Include a filing fee of one hundred dollars per application to cover administrative costs.

2.7 Upon receipt of an application for a well status determination under the NGPA, the Commissioner shall notify the applicant of the receipt of its application by the Commissioner, and should the application be incomplete in any respect, indicate the items to be filed which would make the application complete. Upon receipt of a complete application, the Commissioner shall assign a docket number to the application, and notify the applicant of the hearing date and docket number.

3. Documents Supporting Application.

3.1 All applications must contain, prior to hearing, all information, data, forms, affidavits, plats, maps, exhibits and evidence as may be required by law or the rules and regulations of the FERC and the Louisiana Office of Conservation.

3.2 The form prescribed by the Commissioner shall prescribe for documents sufficient to comply with the minimum requirements imposed by the FERC. Additional support may be required by the Commissioner by giving notice of such to the applicant prior to the hearing, at the hearing itself, or by other means.

4. Notice; hearing.

4.1 Upon receipt by the Commissioner of a complete application and after assigning a docket number to the application, the Commissioner shall set a reasonable time and place for a hearing on the application and shall cause a notice of the application to be published in the Official Journal of the State of Louisiana. Such notice shall be published at least ten days before the hearing and shall include:

- A. A statement of the time, place and nature of the hearings.
- B. A statement of the legal authority and jurisdiction under which the hearing is to be held.
- C. A reference to the particular sections of the statutes and rules involved.
- D. A short and plain statement of the matters asserted and the relief sought.

Provided, however, that unless the Commissioner, for good reason, determines otherwise, an application involving recognition of the new onshore reservoir category (§102(c)(1)(c)) shall not be brought up for hearing prior to a hearing for unitization of the subject reservoir held pursuant to the rules of the Office of Conservation. Further, the Commissioner may hear any such NGPA application and unitization hearing jointly.

4.2 Any notice filed and published pursuant hereto may cover and include more than one well or reservoir in one notice

published provided the same applicant has filed for all such well determinations or multiple determinations as to any such well.

4.3 Any interested party shall have the right to protest to the Commissioner with respect to a determination sought by any applicant. Each protest shall include:

- A. An identification of the determination protested.
- B. The name and address of the person filing the protest.
- C. A statement of the effect the determination will have on the protestor.
- D. A statement of the precise grounds for the protest, and all supporting documents or references to any information relied on in connection with the protest.

After filing the protest as provided for herein the party filing such protest shall have the right to be heard at all hearings and to present witnesses and other evidence, whether or not represented by legal counsel or technical assistants, on all issues of fact involved and argument of all issues of law and policy involved and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

If such a protest is received by the Commissioner prior to the date set for the hearing, then a copy of same shall be delivered by the Commissioner to the applicant by mail, postage prepaid.

4.4 Except with regard to applications involving recognition of the new onshore reservoir category (§102(c)(1)(C)) wherein the limits of the subject reservoir have not been subject to an Office of Conservation unitization hearing prior to the NGPA determination hearing, if there are no protests filed, an application may be considered and determined by the Commissioner by informal disposition on the basis of sworn testimony, depositions, or affidavits filed in writing with the Commissioner as well as all exhibits, forms and other matters properly filed before the Commissioner, which matters shall comprise the transcript of the hearing on which the determination is based. Each applicant, requesting an informal disposition, as such, shall file with the Commissioner an affidavit agreeing that the determination can be made by the Commissioner without the necessity of an appearance. The Commissioner may, however, in any event, upon his own motion, require an evidentiary hearing with sworn testimony and in such cases shall notify the applicant prior to the hearing date of his decision to do so.

4.5 If an interested party files a protest at the hearing on the application, and no other protest to the application has been made prior to the hearing, then the Commissioner shall continue the hearing on the application until a date determined by him at that time, and his fixing of such new hearing date as such shall be notice to the party filing the protest. Thereafter, the Commissioner shall notify the applicant of the new hearing date and shall additionally send the applicant a copy of the protest which has been filed. Failure to appear at such continued hearing will be deemed a withdrawal by the applicant or any protestant.

4.6 The Commissioner shall mail a notice of his determination to the applicant and to all parties appearing at the hearing.

5. Rehearings.

5.1 Upon determination by the Commissioner, any party to the hearing may file a motion for rehearing within ten days after the date of determination. The application for rehearing shall set forth specifically the ground or grounds upon which such application is based. The grounds for such action shall be either that:

- A. The decision is clearly contrary to the law and the evidence.
- B. The party has discovered since the hearing evidence important to the issues which he could not have with due diligence obtained before or during the hearing.
- C. There is a showing that issues not previously considered ought to be examined in order properly to dispose of the matter.

D. There is other good ground for further consideration of the issues and the evidence in the public interest.

Upon such application the Commissioner shall have power to grant or deny rehearing or to abrogate or modify his previous determination without further hearing. Unless the Commissioner acts upon the application for rehearing within thirty days after it is filed, such application may be deemed to have been denied.

6. Notice of Determination.

6.1 Within five days after the last day for filing a motion for rehearing, or if such a motion is filed, within fifteen days after it is denied or overruled by operation of law, the Commissioner shall give written notice to the FERC of his determination in accordance with the FERC Rules and Regulations.

These emergency rules of practice and procedure shall be effective on and after November 27, 1978, as amended on November 29, 1978.

R. T. Sutton
Commissioner of Conservation

Rules

RULES

Department of Agriculture Fertilizer Commission

The Louisiana Fertilizer Commission adopted the following at its meeting of November 21, 1978:

1. Rules and regulations, statements of uniform interpretation and policy, and official terms and definitions as set forth in the Official Publication of the Association of American Plant Food Control Officials, Number 30, 1977.

2. Procedures for sampling and analysis of fertilizers as set forth in Official Method of Analysis of the Association of Official Analytical Chemists, Twelfth Edition, 1975.

The Department of the State Register has chosen to omit publication of the rules in accordance with R.S. 49:954.1C. The rules may be inspected at Room 118 Wilson Laboratories, Louisiana State University, Baton Rouge, Louisiana.

E. A. Epps, Jr., Chief Chemist
Fertilizer Commission

RULES

Department of Agriculture Market Commission

1. Approved loans will be funded or guaranteed only after the facility has been completed in accordance with the loan application. Furthermore, evidence must be submitted showing that all material suppliers and workmen have been fully paid.

2. Livestock and/or commodities will not be considered as primal security for any loan made or guaranteed by the State Market Commission.

3. No loans and/or guarantees will be extended for consolidation of previous financial obligations. See Attorney General's Opinion No. 76-165, 2/4/76.

4. Loans and/or guarantees will be extended only to facilities which process, distribute, and/or market basic raw agricultural commodities as they originate from Louisiana producers. (Previous loan requests which were determined not in compliance with the statutes include clothing manufacturing plants, nursery opera-

tions, plants producing fertilizer, agricultural chemicals, and veterinarian supplies, and feed manufacturing plants where the major ingredients are not grown in Louisiana.)

5. No loans or guarantees shall be made for any facility which is constructed on leased land unless the Market Commission has been furnished an assignment of the lease and right of re-assignment. The lease must be for a term of not less than five years beyond the term of the loan.

6. Applications for a loan guarantee shall include a letter of commitment from a lending institution setting forth the terms and conditions upon which the loan sought to be guaranteed will be made.

7. Any person indebted to the Market Commission, whether through a direct loan, participation loan, or guarantee, must carry public liability insurance on the facility in an amount of not less than five hundred thousand dollars, naming the Market Commission as an additional insured. The Market Commission must be furnished a certificate evidencing such insurance, which shall include a condition that the insurance can not be cancelled without thirty days notice to the Market Commission. In addition, the applicant must carry fire and extended insurance coverage on the facility, naming the Market Commission as a loss payee as its interest may appear.

8. An application and its supporting data must be filed in the Department of Agriculture's Office a minimum of thirty working days prior to the meeting of the Market Commission at which the application will be considered.

9. The application must include:

- A. A feasibility study of the proposed enterprise.
- B. A credit analysis of the principals.
- C. A three-year projected cash flow statement.
- D. A letter from a Department of Agriculture attorney stating the application is in compliance with the law.
- E. An evaluation of management capability.
- F. Turn-down letters from two area lending institutions. The Market Commission will attempt to obtain participation from local sources.

G. An explanation of how the proposed marketing facility would enhance and/or benefit the agricultural community in which it would be located.

H. A financial statement on the principals, corporations, or cooperatives prepared by a Public Accountant using acceptable accounting principles.

I. An appraisal, if an existing facility, using market data, cost and earning approaches as the basis of value. Appraisers must be approved by the Market Commission prior to submission of the appraisal.

J. An affidavit disclosing what relationship, if any, the applicant(s) may have to any state official or employee of the State Department of Agriculture.

10. Marketing specialists from the Department of Agriculture will be utilized to analyze feasibility studies, and shall report to the Market Commission.

11. It shall be a Market Commission policy that at least one Commission member make on-site inspections and familiarize himself with the proposed facility.

12. Upon completion of the facility, the applicant must submit to the Market Commission a copy of the note, the mortgage, and a mortgagee title insurance binder in favor of the Market Commission. Upon approval of these documents by a Department of Agriculture attorney, the Market Commission shall schedule a formal loan closing. On all loans to corporations, personal endorsements shall be required unless waived by unanimous vote of the Market Commission. In addition, each corporation shall furnish on the anniversary date of the loan the following:

- A. Names of all stockholders and the number of shares held by each.

B. The statement of its operations, including an analysis of profits and losses.

C. A statement of financial condition.

13. Follow procedures as outlined in House Concurrent Resolution No. 194 of 1973.

14. During the first meeting of the Market Commission of each calendar year, interest rates will be discussed and set for that calendar year.

15. Upon the signing of a loan guarantee, the Market Commission shall collect from the applicant a sum equal to one percent of the amount of the loan guaranteed by the Market Commission.

16. Terms or conditions imposed upon and made or part of any loan or guarantee agreement authorized by vote of the Market Commission shall not be varied or altered by any member of the Commission or employee of the Department of Agriculture, except by subsequent vote of approval by the Commission in open meeting, as reflected in the Commission's minutes.

17. The Market Commission shall not knowingly approve any loan or guarantee if the applicant has presently pending or outstanding any charge or liability relating to failure, or inability, to pay promissory notes or other evidence of indebtedness, including state or federal obligations; nor shall the Commission approve any loan or guarantee if the applicant has presently pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit. The applicant must give the Market Commission written authorization to conduct a credit investigation.

18. These rules shall complement, where there is no inconsistency or contradiction, those guidelines for facility loans previously adopted by the Market Commission in compliance with House Concurrent Resolution 194 of 1973 and House Concurrent Resolution 168 of 1974. If there is conflict with the previously adopted guidelines, the provisions of these rules shall prevail.

Dr. Mary B. Blalock, Assistant Commissioner
Office of Marketing

RULES

Department of Commerce Real Estate Commission

LAC 11-15:1 Authority

§1.1 The Rules and Regulations of the Louisiana Real Estate Commission contained herein have been adopted pursuant to and in compliance with R.S. 37:1431 et seq., and any violation of these rules or regulations, or of any real estate licensing law, shall be sufficient cause for any disciplinary action permitted by law.

LAC 11-15:2 Applications

§2.1 All applications for license shall meet the following requirements before being processed by the Commission:

§2.1.1 Applications shall be fully completed, notarized and accompanied by the appropriate fees, including licensing and examination fees, and revenues for the recovery fund and education fund.

§2.1.2 Applications shall be received by the Commission not less than thirty days prior to the date of the next scheduled license examination.

§2.1.3 Broker license applications shall include current credit report obtained from a recognized credit reporting agency; escrow account affidavit properly executed and notarized; broker application acknowledgment, if required, as specified in LAC 11-15:12.

§2.1.4 Salesman license applications shall include satisfactory proof of the attainment of a high school education or the

equivalent thereof; satisfactory proof of having completed the requisite educational hourly requirement.

§2.1.5 Proof may be established by the original or a copy of a high school diploma or the certificate of equivalency thereof. If the high school diploma or certificate of equivalency is not available the applicant may provide the Commission with an affidavit which shall state the date and place of attainment of a high school education or the equivalency thereof.

LAC 11-15:3 Examinations

§3.1 Examinations shall be held, after due notice thereof, at such time and place to be designated by the Louisiana Real Estate Commission. The following terms and conditions shall apply with respect to the taking of examinations:

§3.1.1 The responsibility for timely submission of initial applications rests solely with each individual applicant.

§3.1.2 In order to be permitted to take a license examination, an applicant must obtain an admittance authorization by complying with the provisions of LAC 11-15:2.

§3.1.3 Examinations shall be taken only on the date and time specified in the admittance authorization.

§3.1.4 Admittance authorization and photographic evidence of applicant's identity (e.g. driver's license) shall be presented to examination monitor by the applicant before an examination will be administered.

§3.1.5 Applicants who fail to appear for examination, as specified in their admittance authorization, shall forfeit all fees.

§3.1.6 Applicants who are disqualified, for any reason, on an examination shall forfeit all fees.

§3.1.7 Applicants who are disqualified on an examination and/or applicants who fail to appear to take the examination are permitted to reapply provided that they remit new license and examination fees and obtain an admittance authorization.

§3.1.8 Applicants who fail to pass their initial examination shall forfeit all examination fees. However, they are permitted to take subsequent examinations, provided that they remit a new examination fee and obtain an admittance authorization.

§3.1.9 Applicants who fail to pass any examination shall forfeit all fees.

§3.1.10 Applicants are permitted to use calculating devices during examinations. Applicants are not allowed to possess or utilize any reference material during examination. Examinations will be administered only at designated examination centers, on the prescribed date and at the prescribed time as shown on admittance authorization, and only after all of the requirements of this Rule have been met.

LAC 11-15:4 Fees

§4.1 All fees are forfeited to the Commission when received.

§4.2 License fees shall cover a period of one calendar year beginning January 1 and shall not be prorated. Commencing January 1, 1980, license fees shall be for a period of two years, and shall not be prorated thereafter.

§4.3 Any check remitted to the Commission as a fee which is returned unpaid by the issuer's bank shall be cause for suspension or revocation of license, and/or refusal to issue or renew license.

LAC 11-15:5 Renewal Applications

§5.1 Renewal applications shall be received by the Commission not later than October 15 in order for the license to be issued in proper statutory time.

§5.2 The responsibility for timely submission of renewal applications rests solely with each individual licensee. Failure to timely submit applications for renewal shall be cause for fine and/or suspension of license.

§5.3 Salesmen's licenses shall be renewed subsequent to renewal of their sponsoring broker's license.

§5.4 Salesmen's renewal applications shall be signed by the sponsoring broker and submitted to the Commission together with renewal fee.

§5.5 Renewal applications of licensees who intend to transfer from one broker to another at the beginning of the calendar year shall comply with the provisions of LAC 11-15:9 as set forth herein.

LAC 11-15:6 Delinquent Renewal

§6.1 Applications for renewal of delinquent licenses shall be accepted by the Commission only during the calendar year following the last date on which an applicant held a valid license. Delinquent applications shall be accompanied by an affidavit which explains the reason(s) for delinquency before renewal license will be issued.

§6.2 Former licensees who are not eligible for renewal shall apply as initial applicants.

§6.3 Examination requirements shall apply to all applicants who are not eligible for renewal.

§6.4 Former licensees who have not been licensed for three consecutive calendar years preceding their date of application are subject to all educational requirements of initial applicants.

LAC 11-15:7 Waivers

§7.1 The Louisiana Real Estate Commission shall not waive any examinations provided by law of an applicant, nor shall the Louisiana Real Estate Commission, except as hereinafter provided, waive any educational requirements as provided for by law. The Commission does hereby waive the hourly educational requirements for applicants for a broker's license as provided for in R.S. 37:1437, only under the following conditions:

§7.1.1 The Commission may waive thirty hours of the educational requirements required of a broker if the applicant has been actively engaged in the real estate business as a salesman and is the holder of a salesman's license for at least five consecutive years preceding the date of his application, and if said applicant has passed the salesman's examination as administered by the Louisiana Real Estate Commission.

§7.1.2 The Commission may waive sixty hours of the educational requirements required of a broker if the applicant has been actively engaged in the real estate business as a salesman and is the holder of a salesman's license for at least ten consecutive years preceding the date of his application, and if said applicant has passed the salesman's examination as administered by the Louisiana Real Estate Commission.

§7.1.3 The Commission may waive thirty 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 and is the holder of a salesman's license in good standing in another state for at least five consecutive years preceding the date of application and if said applicant has passed an examination on the Louisiana licensing laws and the rules and regulations of the Louisiana Real Estate Commission to be administered by the Louisiana Real Estate Commission.

§7.1.4 The Commission may waive sixty 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 and is the holder of a salesman's license in good standing in another state for at least ten consecutive years preceding the date of application and if said applicant has passed an examination on the Louisiana licensing laws and the rules and regulations of the Louisiana Real Estate Commission to be administered by the Louisiana Real Estate Commission.

§7.1.5 The Commission may waive sixty 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 and has been the holder of a salesman's license for at least three years and a broker's license for at least two years

in another state and has passed an examination to be administered by or under the direction of the Louisiana Real Estate Commission.

LAC 11-15:8 Broker Affiliation

§8.1 Brokers are permitted to become affiliated provided that all requirements of individual broker licenses are maintained.

§8.2 Presently licensed brokers or broker applicants who elect to become exclusively affiliated with another broker, whether that broker is an individual, corporation, or partnership, shall notify the Commission prior to beginning or terminating such relationship and indicate the effective date thereof. The notification required by this Section shall be on a form provided by the Commission and shall be accompanied by delivery of the individual's broker's license to the Commission along with a transfer fee of twenty-five dollars. The Commission shall inscribe the identity of the sponsoring broker on the license and immediately return same to the sponsoring broker.

§8.3 All brokers who are exclusively affiliated shall be exempt from the requirement of maintaining an escrow (trust) account as otherwise required in the law or rules and regulations of the Commission. The waiver provided herein must be specifically claimed by the broker and approved by the Commission.

LAC 11-15:9 Salesman License Transfer

§9.1 Licensees who elect to transfer their license from one sponsoring broker to another, shall notify their present sponsoring broker by registered or certified mail of the intended action, in writing, along with the request that the broker forward the license to the Louisiana Real Estate Commission in accordance with the time requirements specified in R. S. 37:1441A.

§9.2 A copy of said notification along with the transfer fee of ten dollars and the acknowledgement of the new sponsoring broker shall be immediately forwarded to the Commission by the transferring licensee.

§9.3 No action is required by the present sponsoring broker other than the prompt and timely return of the license to the Commission.

§9.4 Sponsoring brokers who return a salesman's license to the Commission for cancellation shall immediately sign and forward to the Commission by registered mail, a copy of the letter by which the broker notified the salesman that his license has been returned to the Commission for cancellation.

§9.5 A transfer to the new sponsoring broker is effective the date the license is received by the Louisiana Real Estate Commission.

§9.6 A sponsoring broker who fails to promptly return to the Commission the license of a licensee who has notified the sponsoring broker of his intention and desire to transfer, shall subject the sponsoring broker to fine and/or suspension and/or revocation of the broker's license.

LAC 11-15:10 Termination Responsibilities

§10.1 Upon termination of the business relationship with a sponsoring broker, salesmen and exclusively affiliated brokers shall immediately turn over to the sponsoring broker all listing information, contracts, keys, and other property and pertinent information or data obtained during said business relationship, whether such information was originally given by, or copied from the records of the sponsoring broker, or otherwise acquired by the salesman or exclusively affiliated broker during the business relationship with the said sponsoring broker.

§10.2 A licensee who has terminated a business relationship with his sponsoring broker shall not engage in any practice or conduct, directly or indirectly, which encourages, entices, or induces clients of the sponsoring broker to terminate any legal business relationship with said sponsoring broker.

§10.3 Compliance with this Rule is required before a license will be transferred.

§10.4 Sponsoring brokers who allege failure of compliance with this Rule shall furnish a documented report of the alleged violation to the Commission within ten days of termination of the business relationship. Failure to timely comply with the requirements of this Rule shall be deemed as a waiver thereof.

LAC 11-15:11 Broker

Application Acknowledgment

§11.1 Salesmen who apply for broker's licenses shall submit written acknowledgment of their application from their sponsoring broker. The acknowledgment shall be prepared by the applicant for execution by the sponsoring broker and may be submitted under separate cover or attached to the application when submitted to the Commission. No application will be processed until the acknowledgment is received by the Commission.

§11.2 Execution of the acknowledgment shall be done by the sponsoring broker, without qualification, within ten days following the applicant's receipt of written request therefor.

§11.3 Failure of the sponsoring broker to acknowledge in accordance with the provisions of this Rule, shall be cause for the suspension or revocation of license.

LAC 11-15:12 Trade Names and Names of Licensees

§12.1 Not more than one broker's license shall be issued in the same or substantially similar trade name.

§12.2 No surname shall appear on an individual broker's license except that of the said broker.

§12.3 No surname shall appear in the trade name of a corporation or partnership license to be issued after October 20, 1977, unless such surname is that of an active broker or brokers who own an interest in the said corporation or partnership.

§12.4 Every partnership or corporation must designate on the license a sponsoring broker who must own a substantial interest in said partnership or corporation.

§12.5 A license issued in the name of a corporation shall be limited to the legal name of the corporate entity and shall not include any additional trade names or surnames.

§12.6 The trade name of a licensee that is incorporated must be licensed in exactly the same manner and name as it appears on the corporate charter.

§12.7 Brokers who use franchise, trade, service, or professional names, symbols, or trademarks in connection with their activities, shall register such name, symbol, or trademark with the Commission; disclose to the public in all advertising, with the exception of standard picket yard signs, that the said real estate brokerage firm is independently owned and operated.

§12.8 A symbol or trademark utilized under this Rule shall not be similar or substantially similar to any other symbol or trademark that is registered with the Commission.

LAC 11-15:13 Concurrent Licenses

§13.1 Broker and salesman licenses shall not be issued nor held concurrently.

LAC 11-15:14 Advertising

§14.1 All advertising by real estate brokers shall be stated in the exact name as shown on their broker's license.

§14.2 Brokers shall have the actual written authority of the owner of any property before they represent or advertise the said property in any way.

§14.3 All advertising by real estate brokers shall be a clear, concise, true and up-to-date representation of the property advertised.

§14.4 All advertising, whether printed, by radio, television, display, or of any other nature, must contain the name and telephone number of the advertising broker. The name and telephone number of salesmen and/or broker affiliates may appear in advertising of the sponsoring broker; however, it must be displayed in a manner distinctively subordinate to that of the sponsoring broker.

§14.5 No advertisement shall be made by telephone number alone.

§14.6 A licensed broker or salesman offering property in which such licensee owns an interest shall state in his advertisement that the owner is a licensed real estate agent. The utilization of the term agent-owner will be sufficient to satisfy this regulation.

§14.7 No real estate broker shall offer or advertise to the public the service of "free appraisal" unless said broker is fully qualified and/or certified in the field of real estate appraisal by competent authority. Any real estate broker who, nevertheless, advertises or offers the service of "free appraisal" shall furnish a complete written copy of each appraisal that is requested in response to such offer or advertisement.

§14.8 Any broker who operates under or uses a franchise name shall incorporate in the franchise name and logotype his own name; however, the broker's name as licensed may not be less than fifty percent of the surface area of the entire combined area of both the broker's name and the trade name of logotype.

LAC 11-15:15 Escrow Accounts

§15.1 Immediately upon becoming licensed, each broker shall open and maintain an escrow (trust) account into which they shall deposit all monies, or other things of value received in trust on behalf of clients.

§15.2 The escrow (trust) account or rental trust account required by this Rule shall be established as a separate account in a bank in the parish in which the broker's main office is located except under circumstances where requirements of the principal parties dictate a different parish and mutual consent of said parties is obtained.

§15.3 If a broker opens a branch office in an adjoining parish, different from the parish in which his main office is located, the broker may open an additional separate escrow (trust) account or a separate rental trust account in the parish in which the branch office is located, in which he shall deposit monies or other things of value received in trust on behalf of his clients.

§15.4 A separate rental trust account shall be opened and maintained for the collection and management of rentals.

§15.5 Monies received in trust on behalf of clients are not assets of the broker and shall not be commingled with personal or business funds of the broker; however, a broker may deposit and keep a sum not to exceed one hundred dollars in said account from his personal funds, which sum shall be specifically identified and deposited to cover bank service charges related to said escrow (trust) account or separate rental trust account. Failure to comply with the requirements of this Section shall be construed as prima facie evidence of fraud.

§15.6 Applicants for broker's licenses shall execute affidavits authorizing and empowering the Commission or its representative to examine, inspect, and/or copy their escrow (trust) accounts or rental trust accounts.

§15.7 Brokers shall execute a separate escrow (trust) account or rental trust account affidavit upon opening any new or additional escrow (trust) account or rental trust account. Affidavits required by this Section shall be submitted to and received by the Commission within ten days following the opening of such account.

§15.8 Monies received and deposited in escrow (trust) accounts or rental trust accounts shall be transferred to the personal account of the broker only upon being earned and with the consent of the owner of the funds, or by court order.

§15.9 Brokers shall notify the Commission of their intention to close an escrow (trust) account or rental trust account at least ten days prior to the intended closing date.

§15.10 Upon cancellation of license for any reason, a broker shall nevertheless continue and maintain the escrow (trust) ac-

count or rental trust account until such time as all deposits therein have been properly disbursed according to law.

LAC 11-15:16 Change of Address

§16.1 Within ten days following the effective date licensees shall report any change in their business or residence address and/or telephone number to the Commission. Failure to do so within ten days of said effective date shall subject the licensee to a twenty-five dollar penalty and/or revocation or suspension of license.

LAC 11-15:17 Multiple Representation

§17.1 Real estate licensees represent one or another party to a transaction and shall not accept compensation from more than one party without the full knowledge of all parties to the transaction.

LAC 11-15:18 Licensee Ownership Disclosure

§18.1 A real estate licensee shall not acquire an interest in or buy for himself, his firm or any member thereof, or a corporation in which he has an interest, properties listed with him, or his company or firm, without making his true position known in writing to the owner.

LAC 11-15:19 Cooperative Transactions

§19.1 All written offers which are presented to a listing broker by a cooperating broker shall be presented to the owner of the listed property for his consideration and decision immediately.

§19.2 The listing brokers shall present all offers immediately, without delay, and/or as soon as possible without regard to consideration of other possible or pending offers of which he may be aware.

§19.3 Negotiations concerning property listed exclusively with one broker shall be carried on with the said listing broker, not the owner, except with the expressed consent of the said listing broker.

§19.4 All written offers presented by a cooperating broker to a listing broker shall provide for insertion for time of day, date, and acknowledgment of receipt by listing broker.

§19.5 All written offers presented to the owner and not accepted shall be clearly marked as rejected and signed by the owner (seller).

§19.6 In the event that the owner (seller) is not available and grants authority to listing broker to reject, the listing broker shall sign in lieu of owner (seller) but the listing broker shall nevertheless forward to owner a copy of the written offer to be signed by owner (seller) and said signed copy returned for files of both listing broker and selling (cooperating) broker.

LAC 11-15:20 Contract Tampering

§20.1 No broker or salesman shall induce any party to a contract to act in such a manner as to break such contract for the purpose of substituting in lieu thereof, a new contract with another real estate broker or salesman.

LAC 11-15:21

Payment to Nonlicensees

§21.1 Real estate licensees, in accordance with the provisions of R. S. 37:1455, shall not offer or pay a fee or any other compensation of any kind to any unlicensed person for the purpose of obtaining any listings, sales, or other real estate or business chance transactions.

LAC 11-15:22

Report of Legal Action

§22.1 Real estate licensees, in addition to the provisions of R. S. 37:1450 and in accordance with the provisions of R. S. 37:1455, shall report to the Commission:

§22.1.1 Any conviction, except minor traffic offenses, of any violation of the criminal laws of the United States or the State of Louisiana, regardless of the method used to arrive at the conviction and/or whether the conviction is appealed.

§22.1.2 Institution of any proceedings under the Federal Bankruptcy Act in which such licensee is named as debtor,

whether classified as voluntary, involuntary, individual, corporate, partnership, or in any way connected with such licensee's real estate business activities.

§22.2 The time and method for reporting required by this Rule shall be as specified in R. S. 37:1450.

LAC 11-15:23 Broker Records

§23.1 Brokers shall retain, readily available and properly indexed, copies of all documents which in any way pertain to real estate transactions wherein they have appeared in licensed capacity for at least five years.

LAC 11-15:24 Complaints

§24.1 Complaints involving violation of the Louisiana Real Estate Licensing Law and/or the rules and regulations of the Commission shall be signed by the complainant or his legal representative before any action thereon will be taken by the Commission.

§24.2 The Commission, on its own motion, may investigate any violations of the Louisiana Real Estate Licensing Law and/or the rules and regulations of the Commission.

LAC 11-15:25

Investigations and Hearings

§25.1 Licensees shall be prepared to answer all investigative questions propounded by authorized Commission investigative personnel.

§25.2 A licensee shall be required to cooperate fully with authorized Commission investigative personnel into any investigation conducted by the Louisiana Real Estate Commission.

§25.3 Failure to comply with the requirements of this Rule may be considered as contempt of the Louisiana Real Estate Commission as provided for in R. S. 37:1435(E).

§25.4 All investigations and hearings shall be held pursuant to and under the auspices of R. S. 37:1456 and Chapter 13 of Title 49 of the Louisiana Revised Statutes.

LAC 11-15:26 Broker and Salesman's Responsibilities

§26.1 It shall be the duty of all licensees to have knowledge and be aware of all laws regulating the real estate industry in Louisiana including, but not limited to, these rules and regulations and the Louisiana licensing laws as set forth in Chapter 17 of Title 37 of the Louisiana Revised Statutes.

§26.2 It shall be further the responsibility and duty of the sponsoring brokers to inform their salesmen of any changes of the Real Estate License Law and/or rules and regulations of the Commission.

LAC 11-15:27 Interstate Land Sales

§27.1 Unless registered in Louisiana as hereinafter specified, no person, partnership, or corporation shall sell or offer for sale in Louisiana any out-of-state real estate in a subdivision which is subject to the Federal Interstate Land Sales Full Disclosure Act except through a licensed resident Louisiana real estate broker.

§27.2 Prior to the time when subject real estate is offered for sale, such person, partnership, or corporation shall make application to the Commission for registration in this state. Applications for registration shall contain the following information and supporting documents:

§27.2.1 Name, address, and whether the applicant is a person, partnership, or corporation.

§27.2.2 Partnership: the names and addresses of the individual members thereof.

§27.2.3 Corporation: names and addresses of officers and members of board of directors and place of incorporation.

§27.2.4 Legal description of the real estate offered for sale, including area maps and recorded plats.

§27.2.5 Name and address of legal owner of the subject real estate.

§27.2.6 A certified, audited financial statement disclosing the current financial condition of the developer.

§27.2.7 A statement of title to the property including all encumbrances with recording data on the day of application.

§27.2.8 Copies of the instruments by which the property was acquired and documentary evidence stating whether mortgagee or trustee of a deed of trust will or will not subordinate his interest in the real estate to the interest of a purchaser.

§27.2.9 Sales contracts intended to be used which shall contain a provision entitling the purchaser, if he has not seen the land, to an unconditional right of refund of all payments made under the contract after inspecting the land if inspection is made within thirty days from the date of the contract. Such contracts shall also contain a provision granting to the purchaser an unconditional right to rescind the contract for a period of fourteen days if he has not inspected the land.

§27.2.10 A zoning or other governmental regulations statement disclosing whether or not such regulations have been satisfied.

§27.2.11 A copy of an offering statement which sets forth the material facts with respect to the subject real estate.

§27.3 After receiving the application, the Commission may require such additional information deemed necessary.

§27.4 The Commission shall require a personal inspection of the property by a person(s) designated by it to determine whether, in general, the property can be utilized as indicated by the subdivider. All such inspection expenses incurred shall be borne by the applicant who shall deposit with the inspector in advance a sum sufficient to cover such expenses.

§27.5 Applicants shall appoint the Louisiana Secretary of State to act as the applicant's agent for the service of all judicial process or legal notices directed to such applicant. Service upon the agent so designated shall be equivalent to personal service upon the applicant.

§27.6 If the requirements set forth herein are met, the Commission shall register the subdivision for a period of one year. The subdivider shall renew each year by furnishing the Commission with all information as would modify or change the information previously submitted. Should the Commission deem that an additional inspection is necessary, the cost of making same shall be paid by the subdivider in the manner provided for initial registration.

§27.7 Neither the subdivider nor any representative of the subdivider shall in any manner refer to the Commission or any member or employee thereof in selling, offering for sale, advertising, or otherwise promoting the sale, mortgage, or lease of such real estate, nor make any representation whatsoever that such real estate has been inspected, approved, endorsed or in any way recommended by the Commission or any Louisiana official, department, or employee.

§27.8 The Commission shall have the power to withdraw any registration and/or issue a cease and desist order to any subdivider subject to these rules and regulations, upon determination that any federal or state law or Commission rule has been or will be violated.

LAC 11-15:28

Corporations and Partnerships

§28.1 A real estate broker's license shall not be granted to a corporation or partnership unless said corporation or partnership designates only one qualifying broker who shall own a substantial interest in and shall represent the said corporation or partnership. The qualifying broker shall sign the application for the corporation or partnership and all applications for the salesmen. All directors and officers of a broker corporation or partnership who actively participate in the real estate business of said corporation or partnership shall be licensed as individual real estate brokers. Upon termination of the qualifying broker's affiliation with the

broker corporation or partnership, for any reason, the qualifying broker shall immediately notify the Commission, and the broker corporation or partnership shall name a new qualifying broker and notify the Commission within ten days thereof. Every person who acts as a salesman for such corporation or partnership shall be licensed as a real estate salesman.

§28.2 Individuals who elect to become licensed as a corporation or partnership are subject to all requirements of the Louisiana Real Estate License Law and/or rules and regulations of the Commission that are imposed upon individual broker licensees.

§28.3 Upon dissolution of a corporation or partnership, the qualifying broker shall return the corporation or partnership broker's license to the Commission, accompanied by all exclusively affiliated broker and salesman licenses held by the broker corporation or partnership, within ten days following the date of corporation or partnership dissolution.

§28.4 Exemption: The provisions of this Rule which require a qualifying broker to own a substantial interest in the broker corporation or partnership shall be waived in those cases where ownership of stock in such corporations or partnerships, licensed prior to September 1, 1974, is precluded. The waiver outlined by this Section must be claimed by licensees and approved by the Commission in connection with renewal of licenses for 1975 and thereafter.

LAC 11-15:29 Franchise Operations

§29.1 Unless registered in Louisiana with the Louisiana Real Estate Commission as hereinafter specified, no person, partnership or corporation shall offer for sale, lease, rent, or use in any way, any franchise name to be publicly utilized or used by a licensed Louisiana real estate broker.

§29.2 Unless registered in Louisiana with the Louisiana Real Estate Commission as hereinafter specified, no person, partnership, or corporation engaged in a franchise operation of real estate brokerage firms shall operate in Louisiana.

§29.3 Any person, partnership, or corporation which intends to operate or do business as a franchiser of real estate brokerage firms in Louisiana shall make application to the Louisiana Real Estate Commission for registration. Applications for registration shall contain the following information and supporting documents:

§29.3.1 Name, address, and whether the applicant is a person, partnership or corporation.

§29.3.2 Partnership: the names and addresses of the individual members thereof.

§29.3.3 Corporation: names and addresses of officers and members of board of directors and place of incorporation.

§29.3.4 If a partnership or corporation: a certified copy of the articles of partnership or incorporation should be attached to the application, along with a copy of the charter of the same.

§29.3.5 A certified, audited financial statement disclosing the current financial condition of the applicant.

§29.3.6 A statement of the business activities of the applicant, including a description of the franchise agreement to be used in connection with the Louisiana real estate brokers, and a list of the states in which the franchiser is qualified to do and/or is doing business.

§29.4 Upon receipt of the application for registration, the Commission may require such additional information as it deems necessary.

§29.5 If the applicant is not a resident of Louisiana, it shall appoint the Louisiana Secretary of State to act as the applicant's agent for the service of all judicial process or legal notices directed to such applicant. Service upon the agent so designated shall be equivalent to personal service upon the applicant.

§29.6 If the requirements set forth herein are met the Commission shall register the franchiser for a period of one year. The franchiser shall then renew each year by furnishing the Commis-