

The National Agricultural
Law Center



University of Arkansas • Division of Agriculture

An Agricultural Law Research Project

Requirements for Grain Dealers

State of Louisiana

Auditing

www.NationalAgLawCenter.org



Requirements for Grain Dealers

STATE OF LOUISIANA

Current with legislation from the 2013 Reg.Sess.

LSA-R.S. 3:3405

§ 3405. Powers and duties of the commission

A. The commission shall:

- (1) Adopt rules and regulations necessary to enforce the provisions of this Chapter, including rules to establish criteria for granting or denying licenses. All rules and regulations shall be adopted in accordance with the Administrative Procedure Act.¹
- (2) Examine and investigate the qualifications of any applicant seeking licensure under this Chapter and determine the eligibility for licensure of each applicant.
- (3) Issue licenses to warehouses regulated under this Chapter, under such terms and conditions as the commission may, by regulation, determine to be appropriate, provided that the commission shall require such warehouses to be of sound construction and to be bonded and insured as required under this Chapter.
- (4) Issue licenses to grain dealers, provided that such persons shall be bonded and insured as required under this Chapter.
- (5) Require each warehouse licensed under this Chapter to use only such warehouse receipts and scale tickets as may be furnished or approved by the commission, provided that such warehouse receipts and scale tickets shall be sequentially pre-numbered.
- (6) Promulgate regulations setting forth the procedure whereby a farm product shall be regulated under this Chapter prior to the imposition of any requirement relative to the farm product.
- (7) Regularly and at least once during each license period, examine, inspect, and audit each licensee under this Chapter.
- (8) Issue licenses to cotton merchants regulated under this Chapter, under such terms and conditions as the commission may, by regulation, determine to be appropriate.

B. The commission may:

- (1) Repealed by Acts 2010, No. 767, § 2, eff. June 30, 2010.
- (2) Establish reasonable guidelines for and require the submission of inventory reports.
- (3) Require each person licensed under this Chapter to submit such reports as are necessary for the proper and efficient administration of this Chapter.
- (4) Declare, by regulation, any agricultural commodity or other farm product to be subject to this Chapter.
- (5) Establish and impose civil penalties for any violation of this Chapter or any rule or regulation adopted in accordance with the Administrative Procedure Act. Each day on which any violation occurs shall be considered a separate offense. No penalty may be imposed unless a violation is substantiated in an adjudicatory proceeding by the commission under Chapter 13 of Title 49 of the Louisiana Revised Statutes of 1950. The commission may not impose any

penalty in excess of one thousand dollars for each single day on which a violation occurs.

(6) Suspend or revoke the license of any warehouse, cotton merchant, or grain dealer licensed under this Chapter for any violation of this Chapter or any rule or regulation adopted in accordance with the Administrative Procedure Act, provided that no license shall be revoked in the absence of an adjudicatory proceeding by the commission in accordance with Chapter 13 of Title 49 of the Louisiana Revised Statutes of 1950.

(7) Sue on behalf of any producer, solely for the use and benefit of the producer, who is injured by the breach of any obligation secured by the bond required under this Chapter.

(8) Initiate legal proceedings seeking injunctive relief to restrain violations of this Chapter, the rules and regulations adopted by the commission, or the rulings of the commission. Venue for these proceedings shall be in the district court for the parish in which the violation occurred.

LSA-R.S. 3:3406

§ 3406. Powers and duties of the commissioner

A. The commissioner shall administer and enforce this Chapter in accordance with the rules and regulations promulgated by the commission. In the administration and enforcement of this Chapter, the commissioner and his duly constituted representatives are specifically authorized to do the following:

(1) Enter the premises of any warehouse, cotton merchant or cotton agent, or grain dealer required to be licensed under this Chapter, at any reasonable time during normal working hours, for the purpose of making any examination or any inspection of the premises and the contents thereof as may be necessary.

(2) Examine, copy, and audit the accounts, books, and records, including stock records, position records, balance sheets, scale tickets, and warehouse receipts of any warehouse, cotton merchant or cotton agent, or grain dealer required to be licensed under this Chapter, including all warehouses or grain dealers, or both, licensed under the United States Warehouse Act, as amended, and any applicant for licensure under this Chapter, or as otherwise permitted under this Chapter.

(3) Weigh and ascertain, by grading, the quality of any agricultural product regulated under this Chapter and certify such weight and grade.

B. The commissioner shall appoint and employ all personnel necessary for the efficient and proper administration of this Chapter, except as provided in R.S. 3:3404(B).

LSA-R.S. 3:3413

§ 3413. Hedging requirement, grain dealer's maximum risk position; appeal from commission action; change of maximum risk position

A. Each grain dealer shall adhere to normal merchandising practices, as determined by the commission, in hedging its obligations. "Normal merchandising practices" means that each grain dealer shall achieve and maintain a relatively even hedge position within a reasonable period of time after each purchase of commodities.

B. In order to determine the risk position of any grain dealer, the commission may require the grain dealer to submit, in addition to the certified financial statement required as a part of the application for licensure, unaudited financial statements in the interim between the annual application for the renewal of the license. No grain dealer may maintain a risk position in excess of thirty percent of its 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 net worth.

C. Whenever the commission, on the basis of its inspection, examination, or audit of a grain dealer, anticipates a need for the establishment of a maximum risk position of less than thirty percent of the grain dealer's current net worth, the commission shall notify the grain dealer, as required by Chapter 13 of Title 49 of the Louisiana Revised Statutes of 1950, to appear at a public hearing before the commission and show cause why such lower maximum risk position should not be established by the commission for the grain dealer. The grain dealer shall be allowed to appear in person or be represented by counsel at said public hearing and shall be afforded every reasonable opportunity to present data or arguments in support of its position. The commission shall not establish a maximum risk position of less than thirty percent of any grain dealer's current net worth prior to a hearing conducted pursuant to by Chapter 13 of Title 49 of the Louisiana Revised Statutes of 1950.

D. The commission may from time to time revise the risk position established for any grain dealer. Whenever the commission proposes to revise the maximum risk position established for any grain dealer, the grain dealer shall be notified and a public hearing conducted as required by Subsection C hereof prior to any change in the maximum risk position established for any grain dealer.

E. Any grain dealer may request in writing at any time that the commission revise the risk position established for his business activities and the commission shall act upon its request at its next regular or special meeting.

F. Any grain dealer aggrieved by any action of the commission in revising its maximum risk position may seek judicial relief as provided by Chapter 13 of Title 49 of the Louisiana Revised Statutes of 1950.

G. No cotton merchant shall be subjected to any type of hedging requirement.

LSA-R.S. 3:3419

§ 3419. Records required

A. Each warehouse shall maintain complete, separate, and correct records and accounts pertaining to each warehouse, including, but not limited to, records and accounts of all commodities and farm products received therein and withdrawn therefrom, all unissued warehouse receipts and scale tickets issued by it, and the warehouse receipts and scale tickets returned to it and canceled by it.

B. Each grain dealer and cotton merchant shall maintain complete, separate, and correct records, including but not limited to records of each transaction with each producer and records reflecting the grain dealer's or cotton merchant's daily position with respect to all commodity transactions.

C. Warehouses, cotton merchants, and grain dealers shall maintain all required records in a form acceptable to the commission for a period of five years.

D. Each warehouse, cotton merchant, and grain dealer shall permit any officer or authorized representative of the commission to enter all locations listed on the application of such warehouse, cotton merchant, or grain dealer and inspect, copy, examine, or audit all contents, facilities, equipment, records, books, and accounts relating thereto. Such inspection, copying, examination, or audit may be made on any business day, during normal working hours. The warehouse, cotton merchant, or grain dealer shall provide the necessary assistance required for any inspection, copying, examination, or audit made in accordance with this Chapter or the rules and regulations adopted pursuant hereto.