

Marketing Service. Authorized representatives of the Division may accept fees and issue receipts therefore.

[56 FR 8684, Mar. 1, 1991]

§ 46.7 Issuance of license.

Upon receipt of a valid application accompanied by the proper fee for a license, and bond, if required, the Director shall, if the applicant is found to be eligible, issue a license certifying that the licensee is authorized to engage in the business of a commission merchant, dealer, or broker. All fees, and any additional sums assessed by the Director in accordance with the Act, shall be deposited in a special fund designated as the "Perishable Agricultural Commodities Act fund."

§ 46.8 Copies of licenses.

Copies of licenses may be issued upon request and upon the payment of a fee of two dollars (\$2) for each copy. Each copy shall bear the word "copy" in conspicuous letters on its face and shall be certified by the Director as a true copy of the original.

§ 46.9 Termination, suspension, revocation, cancellation of licenses; notices; renewal.

(a) Under section 3(c) of the Act the license can be suspended if the licensee continues to use a trade name after being notified by the Director that such trade name has been disapproved.

(b) Under section 4(a) of the Act, after October 1, 1962, the license of any individual, corporation or association shall automatically terminate on the date of discharge in bankruptcy and the license of any partnership shall automatically terminate on the date of the discharge in bankruptcy of any of the general partners in the partnership.

(c) Under section 4(c) of the Act if a license is issued under a bond and the bond is terminated for any reason without the approval of the Director, within four years from the date of the issuance of the license, the license shall be automatically cancelled as of the date of termination and no new license shall be issued to such person during the four-year period without a new surety bond covering the remainder of such period. Also, if the Director

notifies the licensee that a bond in an increased amount is required and the licensee fails to provide such a bond within the specified time the license of such licensee shall be automatically suspended until such bond is provided.

(d) Under section 8(a) of the Act a license can be suspended or revoked for violations of section 2 of the Act or when the licensee is found guilty in a Federal Court of having violated section 14(b) of the Act.

(e) Under section 8(b) of the Act a license can be suspended or revoked if the licensee continues to employ any person in violation of the provisions of this section. Also, if any licensee is authorized to employ any person under a bond in accordance with this section and is notified by the Director subsequently to provide a bond in an increased amount and fails to provide such a bond within the time specified, approval of employment shall automatically terminate.

(f) Under section 8(c) of the Act a license can be revoked for any false or misleading statement, or through a misrepresentation or concealment or withholding of facts in connection with an application for a license.

(g) Under section 9 of the Act a license can be suspended if the licensee fails to keep such accounts, records, and memoranda as fully and correctly disclose all transactions involved in his business including the true ownership of such business by stock-holding or otherwise.

(h) Under section 13 of the Act a license can be suspended:

(1) If the licensee refuses to permit inspection of his records or of any lot of produce under his ownership or control; or

(2) If the licensee, subsequent to a determination in a formal disciplinary proceeding that it has violated the prompt payment provision of Section 2(4) of the Act, refuses to permit an inspection of its accounts, records and memoranda to insure that it is in compliance with the prompt payment provision of section 2(4) of the Act or fails or refuses to furnish, maintain, or adjust a surety bond in a form and amount satisfactory to the Secretary.

(i) Under section 4(a) of the Act at least thirty days prior to the anniversary date of a valid and effective license, the Director shall mail a notice to the licensee at the last known address advising that the license will automatically terminate on its anniversary date unless the annual fee is paid on or before such date. If the annual fee is not paid by the anniversary date, the licensee may obtain a renewal of that license at any time within 30 days of that date by paying the annual fee, plus five dollars (\$5). Within 60 days after the termination date of a valid and effective license, the former licensee shall be notified of such termination, unless a new license has been obtained in the meantime.

[28 FR 7067, July 11, 1963; 28 FR 7287, July 17, 1963, as amended at 44 FR 50576, Aug. 29, 1979]

§ 46.10 Nonlicensed person; liability; penalty.

Any commission merchant, dealer, or broker who violates the Act by engaging in business subject to the Act without a license may settle his liability, if such violation is found by the Director not to have been willful but was due to inadvertence, by paying the amount of fees that he would have paid had he obtained and maintained a license during the period that he engaged in business subject to the Act, plus an additional sum not in excess of twenty-five dollars (\$25) as may be determined by the Director.

§ 46.11 What constitutes valid license, form and use.

Each license shall bear a serial number, the names in which authorized to conduct business, type of ownership; if the business is individually owned, the name of the owner; if a partnership, the names of all general partners; the facsimile signature of the Director, the seal of the Department and shall be duly countersigned. The licensee may place upon his stationery, trucks, or business sign an inscription indicating that he is licensed under the Act, but such inscription must not be of such form or arrangement as to be deceptive or misleading to the public, nor shall any such inscription be displayed or used unless the person using the in-

scription has a license valid and effective at the time.

§ 46.12 Forms of inscriptions.

The following inscriptions, for use with or without the license number, meet the foregoing requirements and may be used by licensees: "Licensed by the U.S. Department of Agriculture under the Perishable Agricultural Commodities Act", or "Licensed under the PACA."

§ 46.13 Address, ownership, changes in trade name, changes in number of branches, changes in members of partnership, and bankruptcy.

The licensee shall:

(a) Promptly report to the Director in writing;

(1) Any change of address;

(2) Any change in officers, directors, and holders of more than ten percent of the outstanding stock of a corporation, with the percentage of the stock held by each such person;

(3) Any deletions or additions of trade names;

(4) Any change in the number and address of any branches or additional business facilities, and;

(5) When the licensee, or if the licensee is a partnership, any partner is subject to proceedings under the bankruptcy laws. A new license is required in case of a change in the ownership of a firm, an addition or withdrawal or members of a partnership, or in case business is conducted under a different corporate charter from that under which the license was originally issued.

(b) Obtain approval from the Director prior to using any trade name.

[44 FR 50576, Aug. 29, 1979]

ACCOUNTS AND RECORDS (GENERAL)

§ 46.14 General.

(a) Every commission merchant, dealer, and broker shall prepare and preserve for a period of two years from the closing date of the transaction the accounts, records, and memoranda required by the Act, which shall fully and correctly disclose all transactions involved in his business. Licensees shall keep records which are adapted to the particular business that the licensee is conducting and in each case