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# Executive Orders

## EXECUTIVE ORDER NO. DCT 83-4

WHEREAS, the purpose of this Order is to implement a course of action dedicated to freeze the number of state employees in the Executive Branch of government at the current level and to freeze further expenditures for travel and equipment in every agency without severely reducing state services or creating hardships;

NOW, THEREFORE, I, DAVID C. TREEN, Governor of the State of Louisiana, by virtue of the authority vested in me by the Constitution and applicable statutes of the State of Louisiana, do hereby order and direct:

1) Except as hereinafter authorized, no vacancy occurring after March 30, 1983 for any reason whatsoever shall be filled without express approval of the Governor. Additionally, no expenditures for travel and equipment shall be made without prior approval.

2) The following are exempt from the provisions of paragraph 1:

A. The Department of Corrections, the Department of Health and Human Resources and institutions of higher education, each only insofar as necessary to comply with court orders.

B. A position which must be filled following the occurrence of a vacancy in order to prevent emergencies or serious disruption of services. Agencies shall justify in writing such action to the Governor within 72 hours.

C. Transfers, promotions, or reallocations within a department and between departments which will not in any way increase the aggregate number of employees within the department.

D. The exceptions in paragraph B and C relate only to the necessity to fill vacancies when they occur. In no event are new positions to be created or filled without express approval of the Governor.

E. Expenditures for travel for audit and related personnel engaged in the revenue collection effort of the State.

F. Expenditures for athletic travel for institutions of higher education which have made prior contractual arrangements with other colleges and universities necessitating the travel.

G. Expenditures to replace equipment without which human life or safety would be endangered.

3) Each secretary shall file a report with the Governor on April 30, 1983 and a monthly report thereafter. The first report shall cover the period from March 30, 1983 through April 30, 1983. The reports shall reflect a full accounting of personnel changes within the agency for the period covered. They shall include employment figures at the beginning and end of each period and shall indicate how many vacancies have been filled and have not been filled pursuant to this order. The report shall also include a summary by category of transactions pursuant to the exceptions set forth in paragraphs 2 (A) (E) (F) and (G).

4) Written requests by the departments and agencies to fill vacancies or expend funds for travel and equipment shall be directed to the Governor and shall include justification for the action. To facilitate decisions on the written requests, the Chief Executive Assistant to the Governor is designated to act on behalf of the Governor.

5) Department and agency heads who do not report to secretaries but are in the Executive Branch of government are covered by the provisions of this Executive Order.

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 25th day of March, A.D., 1983.

David C. Treen  
Governor of Louisiana

## EXECUTIVE ORDER NO. DCT 83-5

WHEREAS, due to the natural and incidental disasters which have resulted and will continue to result from the torrential rains, high water levels and flooding of certain areas of the State of Louisiana, causing, or threatening to cause widespread and severe damage and injury, including loss of life or property; and

WHEREAS, persons and property in and near East Baton Rouge, East Feliciana, Livingston, Jefferson, Orleans, St. Helena, St. Landry, St. Tammany, Tangipahoa, West Baton Rouge, Pointe Coupee, Ascension, St. Charles, West Feliciana, St. Bernard, and Washington parishes are threatened by such disasters; and

WHEREAS, when such conditions exist it is necessary and appropriate, under the constitution and laws of this state, for the Governor to take such action as he considers necessary and appropriate to protect lives and property to the end that existing hazards and dangers will be decreased and hopefully eliminated; and

WHEREAS, the Chief Executive of Louisiana is required to act in the public interest in times of emergency and disaster: and

NOW, THEREFORE, by virtue of the powers vested in me to preserve law and order and to curtail and reduce the injury and damage to persons and property resulting from catastrophe and disaster, I, DAVID C. TREEN, acting under the authority granted to me and the duties imposed upon me by Article 4, Section 5 (A) and (J) of the Louisiana Constitution of 1974, Act 636 of 1974 as amended (The Louisiana Disaster Act of 1974), do hereby, and for an indefinite period not to exceed 30 days from this date, order and proclaim that a state of emergency exists in the parishes of East Baton Rouge, East Feliciana, Livingston, Jefferson, Orleans, St. Helena, St. Landry, St. Tammany, Tangipahoa, West Baton Rouge, Pointe Coupee, Ascension, St. Charles, West Feliciana, St. Bernard, and Washington, and that the resources of all of the departments of the State of Louisiana to the extent necessary be utilized in assisting with this emergency.

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 7th day of April, A.D., 1983.

David C. Treen  
Governor of Louisiana

# Emergency Rules

## DECLARATION OF EMERGENCY

### Department of Agriculture Agricultural Commodities Commission

In accordance with the emergency provisions of the Administrative Procedure Act (LSA 49:953 B), notice is hereby given that the Louisiana Agricultural Commodities Commission adopted the following assessments on an emergency basis at its meeting on March 29, 1983, pending adoption of final Rules governing the collection of assessments on agricultural commodities and farm products:

The following assessments shall be collected by licensed grain dealers when commodities are purchased from producers and by licensed warehouses when commodities and farm products are removed from storage:

Rough rice	\$ .005 per hundredweight
Rice	\$ .005 per hundredweight
Sugar	\$ .005 per hundredweight
Corn	\$ .003 per bushel
Soybeans	\$ .003 per bushel
Oats	\$ .003 per bushel
Milo or sorghum	\$ .003 per bushel
Wheat	\$ .003 per bushel
Cotton	\$ .10 per bale, 1st 5,000 bales \$ .05 per bale, all over 5,000 bales
Canned/frozen fruits/ juices/vegetables	\$ .015 per case/carton
Molasses/syrup	\$ .05 per 100 gallons
Oil	\$ .10 per 100 gallons
Pecans	
Shelled	\$ .01 per 30# carton
Unshelled	\$ .20 per 130#
Peppers	
Barrels	\$ .24 per barrel
Cisterns	\$ .20 per cistern

Bob Odom  
Commissioner

## DECLARATION OF EMERGENCY

### Department of Commerce Racing Commission

#### Proposed New Rule LAC 11-6:30.37

Pari-mutuel wagering within the enclosure of a licensed association's facility during approved racing dates on horse races held at a race track in another state or country may be permitted by the Commission. The following conditions must be met upon written application by the licensed association to the Commission:

A. The horse race must be of outstanding nature and of interest to a great number of patrons,

B. The horse race must be televised regionally, nationally, or internationally, or by closed-circuit network, so that patrons at the association's facility may view the racing event,

C. The licensed association must submit a written agreement with the host track or association where the race is held.

D. The licensed association must submit written approval by the host racing commission or board,

E. The licensed association must submit written approval by the host track or jurisdiction's horsemen's association,

F. Application to the Commission must be made at least 30 days before the racing event is to be held,

G. Notwithstanding the provisions of paragraph B, failure to receive the live telecast transmission of the race shall not affect wagers made and payoffs thereon.

Upon approval by the Commission of an association's application for pari-mutuel wagering on a racing event fulfilling the above criteria, the association agrees to:

A. Schedule not more than two such other track wagering events per day,

B. Schedule not more than 12 wagering events per day.

C. Accept wagers not more than 36 hours prior to the racing event,

D. Publish in its program the names of the contestants, owners, trainers, jockeys, weights, breeding information, color of silks, and a morning line of odds,

E. Display monies wagered and approximate odds on its tote board; win, place, show, daily double and exacta wagering shall be permitted on such other track racing events. The mutuel pay-off shall be computed on the basis of monies wagered at the licensed association's track on such other track racing events.

W. Ray Vanderhider  
Chairman

## DECLARATION OF EMERGENCY

### Department of Commerce Racing Commission

#### Proposed New Rule LAC 11-6:30.38

A horse race at a licensed association's track may be televised out of state. Pari-mutuel wagering may be permitted on such a race at a race track or entity in another state or country. A written application concerning the details of such a race and its agreements and contracts shall be submitted to the Commission for its approval at least 30 days prior to the racing event. Agreements and contracts shall comply with all applicable laws of the United States (particularly 15 U.S.C. Section 3001 et seq - Interstate Horseracing Act), and the laws of this State.

W. Ray Vanderhider  
Chairman

## DECLARATION OF EMERGENCY

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

The Department of Health and Human Resources, Office of Family Security has exercised the emergency provisions of the Administrative Procedure Act R.S. 49:953B to amend the policy regarding therapeutic leave days reimbursable under Medicaid for recipients in Intermediate Care Facilities for the Handicapped (ICFs/H) to incorporate provisions for new facilities.

The original Rule establishing this policy was published in the January 20, 1983 *Louisiana Register* (Volume 9, Number 1, page 14) and was amended by a Rule published in this issue of the *Louisiana Register*. This Emergency Rule is necessary as the original Rule did not provide for the establishment of allotment of leave days to new facilities. As the number of leave days is based on the number of certified recipients in the facility as of January 1st of the year, new facilities opening after January 1 would have to wait until the next January 1 to be allotted leave days without implementation of this Emergency Rule. This would imperil the health and welfare of the recipients in these new facilities as they would be deprived of their therapeutic leave days to which they should be entitled.

#### RULE

Effective April 1, 1983, the number of therapeutic leave days for new facilities which are reimbursable under Title XIX to an allotted number of leave days per facility based on the formula of

80 percent of the number of certified beds multiplied by 25 days for each bed to arrive at the facility's allotment of leave days for the initial year.

The facility's allotment shall be recomputed annually as of January 1 of each year based on the formula of 25 days per recipient multiplied by the number of certified recipients enrolled as of January 1 of each year.

If the number of certified recipients in an Intermediate Care Facility for the Handicapped (ICF/H) increases more than 15 percent in a quarter, an adjustment of the facility's allotment of therapeutic leave days may be requested.

A maximum limit of 50 therapeutic leave days per year for each individual recipient will be eligible for Title XIX reimbursement where permitted by the facility's use of their allotted number of leave days.

Roger P. Guissinger  
Secretary

# Rules

## RULES

### **Commissioner of Agriculture Advisory Commission on Pesticides**

The Commissioner of Agriculture, pursuant to Notice of Intent published in the *Louisiana Register* on March 20, 1983, and in accordance with the authority granted under LSA 3:3203, and upon the recommendations of the Advisory Commission on pesticides under the authority granted to the Commission under LSA 3:3213, has adopted the following Rules and Regulations for the implementation of LSA 3:3201-3280 following a public hearing held before the Commission beginning at 1:00 p.m. on Tuesday, April 5, 1983, at the State Capitol, Baton Rouge, Louisiana:

LOUISIANA DEPARTMENT OF AGRICULTURE  
Advisory Commission on Pesticides

RULES AND REGULATIONS  
For the Implementation of LSA 3:3201-3280

General Provisions

- 1.0 Authority
- 2.0 Definitions
- 3.0 Operation of the Commission

Registration of Pesticides

- 4.0 Registration of Pesticides
  - 4.1 General provisions
  - 4.2 Standard registrations
  - 4.3 Special registrations

Certification

- 5.0 Examinations of applicators, sales persons, and agricultural consultants
- 6.0 Certification of private applicators
- 7.0 Certification of commercial applicators
- 8.0 Certification of pesticide salespersons
- 9.0 Certification of agricultural consultants

Licensing of Firms

- 10.0 Licensing of Firms
  - 10.1 Owner-Operator
  - 10.2 Pesticide Dealers
  - 10.3 Agricultural Consultants

Pesticide Wastes

- 11.0 Pesticide wastes

Fees

- 12.0 Fees

Application of Pesticides

- 13.0 Application of Pesticides
  - 13.1 General restrictions on pesticides
  - 13.2 Aerial application of pesticides to rights-of-way to control woody vegetation
  - 13.3 Bulk storage of pesticides

Enforcement

- 14.0 Enforcement

1.0 Authority.

1.1 Under the authority of the Louisiana Pesticide Law, R.S. 3:3201, et seq., and in accordance with the provisions in R.S. 49:951, et seq., the commissioner of agriculture adopts the following regulations.

2.0 Definitions.

In addition to the definitions listed below and unless otherwise provided, the definitions in L.R.S. 3:3202 shall apply to these regulations.

- 2.1 "Bulk storage of pesticides" means the storage of any pesticide which is held in an individual container in undivided quantities of greater than 55 U.S. gallons liquid measure or 100 pounds net dry weight.
- 2.2 "Director" means the director of the pesticide commission or his duly authorized representatives acting at his direction.
- 2.3 "District office" means any office of the Department other than the Baton Rouge office.
- 2.4 "Herbicide" means any substance or mixture of substances intended for use in preventing or inhibiting the growth of, killing, or destroying plants and plant parts defined to be pests by the commissioner. The term "herbicide" shall for the purposes of these regulations include a substance or mixture of substances intended for use as a plant growth regulator, defoliant, or desiccant.
- 2.5 "Inorganic arsenicals" means any herbicide containing a compound formed by a reaction between arsenic and any substance which does not contain a carbon-hydrogen (organic) group (radical). Examples are arsenic trioxide, sodium arsenate, and arsenic acid.
- 2.6 "Insecticide" means any substance or mixture of substances intended for preventing or inhibiting the establishment, reproduction, development, or growth of; destroying; or repelling any member of the Class Insecta or other allied Classes in the Phylum Arthropoda that is defined as a pest by the commissioner.
- 2.7 "Phenoxy herbicides" means any herbicide as defined above that contains a phenoxy derivative of lower aliphatic acid as an ingredient thereof.
- 2.8 "Public utility" means a business or service which is engaged in regularly supplying the public with a service which is of public consequence and need, such as electricity, gas, water, transportation, or telephone or telegraph service.

3.0 Operation of the Commission.

- 3.1 Filings with the commission. All notices, petitions, documents, or other correspondence to the commission or the commissioner shall be addressed and mailed to:

Louisiana Department of Agriculture  
Office of Agricultural and Environmental Sciences  
Advisory Commission on Pesticides  
Baton Rouge, LA 70804

- 3.2 Chairman; Presiding Officer. The Chairman shall serve a term of one year or until a successor is elected. In the absence of the Chairman, the Vice-Chairman shall preside. In the absence of both the Chairman and the Vice-Chairman, the Chairman's duly appointed representative shall preside.
- 3.3 Expulsion. Each member being considered for expulsion and his sponsoring group, if any, shall be notified of the upcoming action at least 15 days before the commission meeting at which the action is to be considered. This notice shall be by certified mail. The commission may excuse an absence of a member.

4.0 Registration of Pesticides

- 4.1 General provisions. No pesticide shall be sold, offered for sale, or distributed in this state without being registered by the manufacturer annually with the Department. This registration shall expire on the last day of December of each year.
- 4.2 Standard Registrations.
- A. Application for registrations shall consist of two types, namely, initial registration and renewal registration. Initial registration application may be filed at any time of the year. Renewal registration application shall be filed by the first day of November each year. Failure to secure renewal of registration by January 1st of each registration year shall result in the assessment of a late fee. Application shall be made on forms prescribed by the commissioner.
- B. Any registration may be denied by the commissioner if he determines that:
- (1) The composition of the pesticide is not sufficient to support the claims made for the pesticide.
  - (2) The label on the pesticide does not comply with state and federal requirements.

- (3) Use of the pesticide may produce unreasonably adverse effects on the environment.
- C. Any pesticides registered in Louisiana must comply with the following:
- (1) Any pesticide sold or offered for sale or distribution must bear a label consistent with the label submitted in the registration application.
  - (2) Each shipping container must bear the lot or batch number of the pesticide.
- 4.3 Special registrations. The commissioner may issue the following registrations:
- A. State experimental use permits. (5f, FIFRA) If the E.P.A. authorizes the commissioner to issue state experimental use permits, the following terms and conditions shall apply:
- (1) Each person wishing to accumulate information necessary to register a pesticide for a special local need in this state shall file 5 copies of an application containing the following information:
    - (a) The manufacturer's name.
    - (b) The name, address and telephone number of the applicant.
    - (c) The proposed date of shipment or proposed shipping period not to exceed one year.
    - (d) The percentage of the active ingredients in the pesticide.
    - (e) The percentage of the inert ingredients of the pesticide.
    - (f) A statement of the approximate quantity to be tested.
    - (g) Available summary of test results on the acute toxicity of the pesticide.
    - (h) A statement of the scope of the proposed experimental program, including:
      - (i) The type of pests or organisms included in the study.
      - (ii) The crops, animals or commodities to be included in the study.

- (iii) The areas of the state in which the study is to be conducted.
  - (iv) The results of any previous tests conducted by the applicant of the pesticide in this or any other state.
- (i) When the pesticide is to be used on food or feed, a temporary tolerance must be obtained from the E.P.A. or evidence that the proposed experiment will not result in injury to man or animals, or in illegal residues entering the food chain.
- (j) The proposed labeling which must bear:
- (i) The prominent statement "For Distribution and Experimental Use Only Within Louisiana" on each container label and any labeling that accompanies the pesticide.
  - (ii) An adequate caution or warning statement to protect those who may handle or be exposed to the pesticide.
  - (iii) The name and address of the manufacturer.
  - (iv) The point of destination of the pesticide.
  - (v) Directions for use.
  - (vi) A statement listing the name and percentage of each active ingredient and the total percentage of inert ingredients.
- (2) After an application has been received, the commissioner shall review it for completeness. If the commissioner determines that an application is not complete, the applicant shall be allowed to submit such subsequent data as required by the commissioner for review. If the commissioner determines that an application is complete, he shall assign the application to an ad hoc advisory committee consisting of:
- (a) Director, Pesticides and Environmental Programs, Louisiana Department of Agriculture, or his designee.
  - (b) Assistant Commissioner, Office of Agricultural and Environmental Sciences, Louisiana Department of Agriculture, or his designee.

- (c) Director, Louisiana Cooperative Extension Service, or his designee.
  - (d) Director, Louisiana Agricultural Experiment Station, or his designee.
  - (e) The member of the Commission who represents the Louisiana Wildlife Federation, or his designee.
- (3) The committee shall consider the application based on the following criteria:
- (a) The applicant's need for the permit in order to accumulate data to support a special local needs registration.
  - (b) That the labeling is complete and correct as required in (A) (1) of this sub-part.
  - (c) That use of the pesticide under the permit will not cause unreasonable adverse effects on the environment.
  - (d) That either the applicant has supplied evidence that a tolerance or exemption from the requirement of a tolerance has been established for residues of the pesticide on such food or feed under Section 408 of the Federal Food, Drug and Cosmetic Act; or that the applicant shall destroy all food or feed crops involved in the project.
- (4) After receiving the recommendations of the committee, the commissioner may: grant the request, in which event he shall prescribe the terms, conditions, and period of time of the permit; or deny the permit.
- (5) The commissioner may revoke a permit if he finds that:
- (a) The terms and conditions of the permit have been violated, or are inadequate to avoid unreasonable adverse effects on the environment.
  - (b) Any required tolerance under the Federal Food, Drug, and Cosmetic Act (12 U.S.C. 301, et seq.) has been revoked by E.P.A. or any exemption from the requirements for tolerance has been withdrawn by E.P.A.

- (c) The permittee or any cooperator has failed to comply with any other federal or state law or regulation concerning state experimental use permits.

B. Special local needs registration (24-C FIFRA)

- (1) Each person wishing to register a pesticide for a special local need in this state shall file five copies of an application containing the following:
  - (a) Name and address of the applicant and any other person whose name will appear on the labeling or in the directions for use.
  - (b) The name of the pesticide product, and, if the application is for an amendment to a federally registered product, the E.P.A. registration number of that product.
  - (c) A copy of proposed labeling, including all claims made for the product as well as directions for its use to meet the special local need, consisting of:
    - (i) For a new product, a copy of the complete proposed labeling; or,
    - (ii) For an additional use of a federally registered product, a copy of proposed supplemental labeling and a copy of the labeling for the federally registered product.
  - (d) The active ingredients of the product, if the application is for a new product registration.
  - (e) The appropriate application fee as required by Part 8.0 of these regulations.
- (2) The issuance or denial of a registration of a pesticide under this section shall be done in accordance with federal regulations. The commissioner may refer this application to an ad hoc committee composed of:
  - (a) Director, Advisory Commission on Pesticides, or his designee.
  - (b) Director, Louisiana Cooperative Extension Service, or his designee.
  - (c) Director, Louisiana Agricultural Experiment Station, or his designee.

- (d) One agricultural consultant.
  - (e) One farmer.
  - (f) Such other members appointed by the commissioner as the commissioner deems necessary.
- (3) The committee shall consider the application based on the following criteria:
- (a) That the labeling is complete and correct.
  - (b) That use of the pesticide under the permit will not cause unreasonable adverse effects on the environment.
  - (c) That there is no other pesticide product registered with E.P.A. for the same use.
  - (d) That no other pesticide product is registered with E.P.A. which would be as safe and as efficacious, under the conditions of use proposed for a special local need.
  - (e) That there is no E.P.A. registered product available.
  - (f) That there is an E.P.A. tolerance established for the product, if it is to be used on a food or a feed crop.
  - (g) That the special local needs application is based on a changed use pattern.
  - (h) That the product shows promise of efficacy for the condition under which it will be used.
  - (i) Such other considerations as the commissioner deems appropriate.
- (4) After receiving the recommendation of the committee, the commissioner may:
- (a) Grant the registration, in which event he may prescribe the terms and conditions of use.
  - (b) Deny the registration.
- (5) The commissioner may amend or revoke a registration if he finds that:
- (a) The terms and conditions of the registration have been violated, or are inadequate to avoid unreasonably adverse effects on the environment.

- (b) Any required tolerance under the Federal Food, Drug, and Cosmetic Act (12 U.S.C. 301, et seq.) has been revoked by E.P.A. or any exemption from the requirements for tolerance has been withdrawn by E.P.A.
- (c) The registrant has failed to comply with any other federal or state law or regulation concerning state experimental use permits.

C. Special Exemptions

- (1) Specific exemption applications shall be completed in accordance with federal requirements after receiving the recommendations of the Director of the Louisiana Cooperative Extension Service or his designee and the Director of the Louisiana Agricultural Experiment Station, or his designee.
- (2) Quarantine-public health exemption. The commissioner may apply to EPA for a quarantine and/or public health exemption to allow the application of a pesticide if the commissioner finds that a foreign pest or a pest not previously known to be established in Louisiana threatens to become established. This application will be completed in accordance with federal requirements.
- (3) Crisis exemption. The commissioner may issue a crisis exemption in accordance with federal regulations for the use of an unregistered pesticide if he finds that:
  - (a) A situation involving the unpredictable outbreak of pests in the state is occurring;
  - (b) There is no readily available pesticide registered for the particular use to eradicate or control the pest; and
  - (c) The time element with respect to the application of the pesticide is so critical that there is no time to request a registration under any other sub-part of this Part.

4.4 Supervision of use. The sale, use, storage, distribution, transportation, or disposal of pesticides registered under this Part shall be subject to the supervision by the Department of Agriculture.

5.0 Examinations of applicators, sales persons, and agricultural consultants.

5.1 The minimum score necessary for successful completion of examinations for certifications under these rules shall be 70 points.

- 5.2 The director, in cooperation with the director of the Cooperative Extension Service or his designee, shall be responsible for the preparation of all examinations.
- 5.3 The director shall be responsible for the administration and grading of all examinations.
- 5.4 Each applicant who fails to receive a passing score on any test in any category or subcategory shall wait a minimum of 10 days before being eligible for re-examination.
- 5.5 No person shall be allowed to take an examination in any category more than three times in a 12 month period.
- 5.6 Louisiana citizens who have failed any examinations under these standards shall not be permitted to receive certification under a reciprocal agreement with another state.
- 5.7 No examinations shall be administered to employees of local, state and federal governments in the district offices.

#### 6.0 Certification of Private Applicators.

- 6.1 Certification for private applicators shall be issued only after the applicant has satisfactorily passed an examination or has satisfactorily completed a training course approved by the commissioner.
- 6.2 Examinations for certification for private applicators of pesticides will be given during office hours upon request of the applicant at Baton Rouge at the office of Pesticides and Environmental Programs; at any District Office of the Department of Agriculture; or at the office of the County Agent in any parish of the State. There shall be no fee for private applicator examinations or certifications.
- 6.3 Each person that has been certified as a private applicator and whose certification has not been revoked or suspended may renew that certification by attending a recertification meeting or passing an examination as designated by the commissioner.

#### 7.0 Certification of Commercial Applicators.

- 7.1 The commissioner hereby establishes the following standards as qualifications required for certification:

- A. Standards applicable to all categories:

- (1) Must be at least 18 years of age or an emancipated minor.

- (2) Must be able to read and write the English language with sufficient proficiency to demonstrate comprehension of label and labeling content and instructions.
- (3) Must submit an application for certification in the form required by the commissioner.
- (4) Must be able to demonstrate knowledge of the principles and practices of pest control and the safe use of pesticides. Applicants must demonstrate these capabilities by successfully completing the general standards examinations.
- (5) Must be able to successfully complete an examination in the specific category in which certification is sought.
- (6) All prior certifications, if any, must be in good standing at the time that the application for any examination is filed.

B. An individual applying for certification in Category 7b or c must have had two years experience in the phase of work for which he is making application. This experience must be substantiated by a notarized statement from the person who was responsible for the activity of the applicant during the time this experience was gained.

7.2 Categories are established on the basis of the location where application of pesticides will be made and each applicant for certification is required to successfully complete an examination in the category in which the applicant desires certification.

A. Certification in a category authorizes the commercial applicator to make application of or supervise the application of restricted use pesticides in the areas listed for each category.

B. The commissioner hereby establishes the following categories and subcategories of certification for commercial applicators:

- (1) Agricultural Pest Control - This category includes commercial applicators using or supervising the use of restricted use pesticides on agricultural lands, grasslands and non-crop agricultural lands.

This category also includes commercial applicators using or supervising the use of restricted use pesticides on animals and to places on or in which animals are confined.

Doctors of Veterinary Medicine engaged in the business of applying pesticides for hire, publicly holding themselves out as pesticide applicators, or engaged in large scale use of pesticides are included in this category.

- (2) Forest Pest Control - This category has been subdivided into the following three subcategories:

- (a) General Forestry. This subcategory includes commercial applicators using or supervising pesticides with restricted use to control pests in the regeneration, management, and production of forest stands.
  - (b) Forest Tree Seed Orchards and Nurseries. This subcategory includes commercial applicators using or supervising the use of restricted use pesticides to control pests and undesirable plants in the production of forest tree seed, seedlings, and cuttings.
  - (c) Wood Processing. This subcategory includes wood or fiber processing firms such as sawmills, veneer plants, plywood plants, wood preservation plants and pulping facilities which use restricted use pesticides in the manufacturing process of wood products.
- (3) Ornamental and Turf Pest Control. This category includes commercial applicators using or supervising the use of restricted use pesticides to control pests in the maintenance and production of ornamental trees, shrubs, flowers, and turf.
  - (4) Seed Treatment. This category includes commercial applicators using or supervising the use of restricted use pesticides on seeds.
  - (5) Aquatic Pest Control. This category includes commercial applicators using or supervising the use of any restricted use pesticide purposefully applied to standing or running water, excluding applicators engaged in public health related activities included in category 8 below.
  - (6) Right-of-way Pest Control. This category includes commercial applicators using or supervising the use of restricted use pesticides in the maintenance of public roads, electric power lines, pipelines, railway rights-of-way or other similar areas.
  - (7) Industrial, Institutional, Structural and Health Related Pest Control. This category includes commercial applicators and non-fee commercial applicators using or supervising the use of pesticides with restricted uses in, on or around food handling establishments, human dwellings, institutions, such as schools and hospitals, industrial establishments, including warehouses and grain elevators, and any other structures and adjacent area, public or private; and for the protection of stored, processed or manufactured products.

This category has been subdivided into three subcategories:

- (a) Subcategory 7a is for pest control operators who are or will be certified and licensed by the Structural Pest Control Commission. The commissioner hereby delegates to the Structural Pest Control Commission the authority to examine and certify all persons in this subcategory. The commissioner hereby delegates to the Structural Pest Control Commission the authority to enforce all federal and state laws and regulations as they apply to persons certified under this subcategory.
  - (b) Subcategory 7b is for applicators who apply or supervise the application of restricted use pesticides on a non-fee basis in, on or around institutions, motels, apartment houses, hotels, schools, hospitals and like places as the owner or in the employ of the owner.
  - (c) Subcategory 7c is for applicators who apply or supervise the application of restricted use pesticides on a non-fee basis in, on or around commercial grain elevators and other grain handling establishments, feed mills, flour mills, food processing plants and other places where processed or unprocessed foods are stored, as the owner or in the employ of the owner.
- (8) Public Health Pest Control. This category is for State, Federal or other governmental employees using or supervising the use of pesticides with restricted uses in public health programs for the management and control of pests having medical and public health importance.

This category has been subdivided into three subcategories:

- (a) Mosquito Control. This subcategory is for government employees who are applicators in organized mosquito abatement districts.
- (b) Rodent Control. This subcategory is for government employees who are applicators in rodent control programs.
- (c) Community Public Health. This subcategory is for government employees who are applicators concerned with the control of all of the arthropods and rodents of public health importance.

(9) Regulatory Pest Control. This category includes State, Federal or other governmental employees using or supervising the use of pesticides with restricted uses in the control of regulated pests.

(10) Demonstration and Research Pest Control. This category includes:

(a) individuals who demonstrate to the public the proper use and techniques of application of pesticides with restricted uses or supervise such demonstrations and persons conducting field research with pesticides, and in doing so, use or supervise the use of pesticides with restricted uses.

(b) This category has been subdivided into eight subcategories.

(i) Agricultural Pest Control

(ii) Forest Pest Control

(iii) Ornamental and Turf Pest Control

(iv) Seed Treatment

(v) Aquatic Pest Control

(vi) Right-of-way Pest Control

(vii) Industrial, Institutional, Structural and Health Related Pest Control

(viii) Public Health Pest Control

7.3 In addition to a determination of competence in a specific category or subcategory, each commercial applicator shall demonstrate practical knowledge of the principles and practices of pest control and safe use of pesticides. In order to meet this requirement, each commercial applicator, at the time of initial certification in at least one or more categories, must take a general standards exam.

7.4 Examinations for certification for commercial applicators will be given upon request of the applicant at Baton Rouge at the Office of Pesticides and Environmental Programs or in any District Office of the Department of Agriculture during office hours. Request for exams in District Offices must be made seven days in advance.

7.5 Each person that has been certified in any category or subcategory as a commercial applicator, and whose certification has not been revoked or suspended, may renew

that certification by attending a recertification meeting or training course for that category as designated by the commissioner.

7.6 The commissioner shall issue a certification card to each commercial applicator showing the categories or subcategories in which the applicator is certified. This certification card shall expire on the 31st day of December of each year. Each person wishing to renew a certification card shall do so by submitting an application form prescribed by the commissioner and by submitting the proper fee.

7.7 Each person who is certified as a commercial applicator need not be certified as a private applicator or a pesticide salesperson to apply or supervise the application of any restricted use pesticide as a private applicator or sell or supervise the sale of restricted use pesticides.

#### 8.0 Certification of Pesticide Salespersons.

8.1 Examinations for certification for pesticide salespersons will be given upon request of the applicant at Baton Rouge at the office of Pesticides and Environmental Programs, at any District Office of the Department of Agriculture or at the office of the County Agent in any parish of the State during office hours. Each person that has been certified as a pesticide salesperson and whose certification has not been revoked or suspended may renew that certification by attending a recertification meeting as designated by the commissioner. The commissioner shall issue a certification card to each pesticides salesperson. This card shall expire on the 31st day of December of each year. Each person wishing to renew a certification card shall do so by submitting an application form and the proper fee as prescribed by the commissioner.

8.2 No pesticide salesperson shall sell or distribute any restricted use pesticide to any person who does not hold a valid certification card.

#### 9.0 Certification of Agricultural Consultants.

9.1 The agricultural consultant application experience requirements shall be substantiated by a notarized statement from the person who was responsible for the applicant during the time this experience was gained.

9.2 Each application for an agricultural consultant's examination shall be reviewed by an ad hoc committee appointed by the chairman of the commission. The committee shall consider the application and make its recommendation to the commission.

9.3 Each application for an agricultural consultant's examination shall be approved by the commission before an examination is administered. Examinations for agricultural consultants shall only be administered in Baton Rouge at the office of Pesticides and Environmental Programs during office hours and shall be administered only after payment of the proper fee.

9.4 Certification of Agricultural Consultants.

A. Certification in a category authorizes the agricultural consultant to make recommendations in the areas listed for each category.

B. Applicants for certification as agricultural consultants shall elect to be examined in one or more of the following categories:

(1) Control of insects, mites, nematodes, or other invertebrates.

(a) Agricultural Entomology - making recommendations for the control of pests of agronomic crops, especially cotton, rice, soybeans, sugarcane, vegetables, pasture and forage, and grain crops.

(b) Forest Entomology - making recommendations for the control of forest plants.

(c) Household, Structural and Industrial Entomology - making recommendations for the control of household pests, structural and industrial pests (such as termites, in stores, warehouses and transportation facilities).

(d) Medical, Veterinary and Public Health Entomology - making recommendations for control of arthropods affecting man and animals.

(e) Orchard and Nut Tree Entomology - making recommendations for the control of orchard pests.

(f) Ornamental Entomology - making recommendations for the control of pests of ornamentals, lawns, turf and shade trees.

(2) Control of plant pathogens.

(a) Agricultural plant pathology - making recommendations for the control of diseases of agronomic crops, especially sugarcane, cotton, rice, soybeans and home garden plants.

(b) Turf, Ornamental, Shade-tree and Floral plant pathology - making recommendations for the control of diseases of turf, ornamentals, shade-trees and floral plants. Also includes greenhouse and nursery plant disease control.

- (c) Forest pathology - making recommendations for the control of diseases of trees in plantations, nurseries and managed or unmanaged forests wherein the principal value lies in the production of wood fiber.
  - (d) Orchard pathology - making recommendations for the control of diseases of wood vines and trees wherein the principal value lies in the production of fruits or nuts.
- (3) Control of weeds.
- (a) Agricultural weed control - making recommendations for the control of weeds and grasses in field crops, vegetable crops, pastures and rangeland.
  - (b) Turf, Ornamental and Shade-tree weed control - making recommendations for the control of weeds and grasses in ornamentals, turf areas, cemeteries and other similar areas.
  - (c) Forest weed control, Right-of-way and Industrial weed control - making recommendations for the control of weeds and grasses in forest lands and on rights-of-way and in industrial and commercial sites.
  - (d) Aquatic weed control - making recommendations for the control of weeds and grasses in and around the edges of lakes, ponds, streams and other bodies of water.
- (4) Soil management.

9.5 Each person that has been certified as an agricultural consultant and whose certification has not been revoked or suspended may renew that certification by attending a recertification meeting as designated by the commissioner.

9.6 The commissioner shall issue a certification card to each agricultural consultant showing the categories in which the consultant is certified. This certification card shall expire on the 31st day of December of each year. Each person wishing to renew a certification card shall do so by submitting an application form and the proper fee as designated by the commissioner.

9.7 Each person who is certified as an agricultural consultant, upon application to the commissioner, shall be certified as a: commercial applicator in the demonstration and research category; private applicator; or pesticide salesperson without further examination.

9.8 The persons exempted by L.R.S. 3:3246(I) are exempt from these regulations.

## 10.0 Licensing of Firms.

### 10.1 Owner-Operator

- A. Each applicant for an owner-operator license shall: submit an application form as prescribed by the commissioner; provide and maintain proof of financial responsibility as required by L.R.S. 3:3243C, or L.R.S. 3:3243D and paragraph B of this subpart; submit the appropriate license fee; and be certified as a commercial applicator, or employ a person certified as a commercial applicator. Owner-operator licenses shall expire on the 31st day of December of each year. License renewal applications shall be made in the same manner as initial license applications.
- B. If an owner-operator wishes to obtain liability insurance in lieu of the surety bond, the insurance shall be written by an insurance company approved by the commissioner. Each person who suffers damages caused by any action of an owner-operator in connection with any application of a pesticide may sue on the insurance policy in any court of competent jurisdiction to recover the damage. Such insurance shall not be cancelled without 30 days prior written notice to the commissioner.
- C. All mechanically powered equipment inspections must be requested and completed by the 31st day of May of each year or within 30 days after the equipment is used to apply any pesticide. All decals shall expire on the 31st day of December of each year.
  - (1) The commissioner shall determine that the following systems or controls are operating properly before issuing a decal for each aircraft operated by an owner-operator:
    - (a) The hopper shall be free of leaks.
    - (b) The valves shall provide positive shut off.
    - (c) The emergency dump, if present on aircraft, shall provide positive shut off.
    - (d) The booms, nozzles, and hose fittings shall be free of leaks.
    - (e) The distance between the outermost nozzles on the boom of a fixed wing aircraft shall not be more than 90% of the wing span of the aircraft. The boom on a rotary-winged aircraft may not exceed the rotor diameter unless distance on a specific aircraft does not constitute a safety hazard.
    - (f) There shall be a main fluid filter between main tank and boom system.

- (g) All equipment shall be equipped with a properly functioning pressure gauge.
- (2) The commissioner shall determine that the following systems or controls are operating properly before issuing a decal for each mechanically powered ground pesticide application equipment operated by an owner-operator.
  - (a) The hopper shall be free of leaks.
  - (b) All valves shall provide positive shut off.
  - (c) The booms, nozzles, and hose fittings shall be free of leaks.
- D. No decals shall be issued to any owner-operator who does not hold a valid owner-operator license.
- E. In addition to the record keeping requirements of L.R.S. 3:3243F, each owner-operator must comply with the following requirements:
  - (1) Separate records must be maintained, on an individual basis, for each certified applicator employed by the owner-operator.
  - (2) Listings of pesticides applied by each certified applicator must indicate the crops to which each pesticide is applied.
  - (3) All records must include the name of the person for whom each application of pesticides is made.
  - (4) All records must be maintained for a period of two years.

## 10.2 Pesticide Dealers

All pesticide dealer licenses shall expire on the 31st day of December of each year. The application for pesticide dealer license shall consist of a form prescribed by the commissioner and the proper fee. No dealer shall sell or distribute or allow the sale or distribution of any restricted use pesticide to any person unless that person holds a valid certification card.

## 10.3 Agricultural Consultants.

- A. Each applicant for an agricultural consultants license shall: apply to the commissioner on a form prescribed by the commissioner; be certified as an agricultural consultant or employ an agricultural consultant; and submit the appropriate license fee. Agricultural consultant licenses shall expire on the 31st day of December of each year. License renewal applications shall be made in the same manner as initial license applications.

11.0 Pesticide Wastes

11.1 Filing of Notification and Application.

- A. Any covered person who generates pesticide wastes must file a notification and permit application with the Division of Pesticide Waste Control in Baton Rouge by June 30, 1983.
- B. Each covered person must complete the notification/permit application form provided by the Division. Each applicant must submit the completed notification/permit application form, in triplicate, to the Division in Baton Rouge by June 30, 1983.
- C. Any person who submitted a notification/permit application may withdraw said form upon providing adequate proof to the Division that said person is not a covered person or that said covered person's business does not involve pesticide waste generation.

12.0 Fees

12.1 The fees for items covered by these regulations shall be as follows:

- A. Registration of pesticides-----\$15.00
- B. Late charge for registration of pesticides----\$50.00
- C. License Fee-----\$25.00
- D. Equipment Inspection Fee (Each Item)-----\$10.00
- E. Field Scout Registration Fee-----\$ 5.00
- F. Certification Fee-----\$ 5.00
- G. Examination Fee (In the Baton Rouge Office)---\$ 5.00
- H. Examination Fee (In the District Offices)-----\$15.00
- I. Certification Card Renewal Fee-----\$ 5.00

13.0 Application of Pesticides

13.1 General Restrictions on Pesticides.

- A. Pesticides that are not registered with the Louisiana Department of Agriculture shall not be applied within this state.

- B. Ester compounds of phenoxy herbicides containing an aliphatic alcohol radical with less than six carbon atoms shall not be applied in this state.
- C. The applicaiton of the following herbicides shall be restricted as set out in paragraphs D and E of this sub-part.

CHEMICAL NAME	COMMON NAME
4-amino-3,5,6-trichloro-picolinic acid	picloram
arsenic trioxide	
3-chlorophenoxy-alpha-propionamide	3-CPA
4-chlorophenoxy acetic acid	4-CPA
2,5-dichloro-3-nitrobenzoic acid	dinoben
2,4-dichlorophenoxy acetic acid	2,4-D
4-(2,4-dichlorophenoxy) butyric	2,4-DB
2,3,6-trichlorophenylacetic acid in combination with the dimethylamine salt of 2,4-dichlorophenoxy acetic acid	fenac plus
2, methoxy-3,6-dichlorobenzoic acid	dicamba
2-methyl-4-chlorophenoxy acetic acid	MCPA
4-(2 methyl-4-chlorophenoxy) butyric acid	
2-(2 methyl-4-chlorophenoxy)	2-MCPP
arsenic acid	Arsenic
sodium arsenite	
sodium 2,4-dichlorophenoxy ethyl sulfate	
(2,4,5-trichlorophenoxy) acetic acid	2,4,5-T
2-(2,4,5-trichlorophenoxy) ethyl 2,2-dechlorophropionate	
2-(2,4,5-trichlorophenoxy) propionic	silvex
tris (2,4-dichlorophenoxy ethyl) phosphite	

a mixture of tri-, tetra- and polychlorobenzoic acid

- D. Unless greater restrictions are placed by a product's label, the herbicides in paragraph C of this sub-part shall not be applied at less than the minimum distance set out in this section in the areas listed in paragraph E:

WIND SPEED	MINIMUM DISTANCE FROM CENTER OF SWATH TO SUSCEPTIBLE CROPS	
	<u>Aerial Equipment</u>	<u>Ground Equipment</u>
0-3 mph	1/2 mile downwind 1/2 mile crosswind 50 feet upwind	1/8 mile downwind 1/8 mile crosswind 20 feet upwind
3-6 mph	1 mile downwind 1/2 mile crosswind 50 feet upwind	1/4 mile downwind 1/8 mile crosswind 5 feet upwind
6-10 mph	2 miles downwind 1/2 mile crosswind 50 feet upwind	1/2 mile downwind 1/4 mile crosswind 5 feet upwind
Over 10 mph	Application Prohibited	Application Prohibited

Crosswind shall mean 90 degrees (+ or - 10 degrees) from the flight path or the direction of the application.

- E. The herbicides set out in paragraph D shall not be applied by commercial applicators or owner-operators between March 15 and September 15 of each year in the following parishes without prior written authorization from the commissioner. The parishes of restriction are Avoyelles, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, Ward 7 of DeSoto, East Carroll, Franklin, Grant, LaSalle, Madison, Morehouse, Natchitoches, Ouachita, Ward 2 of Pointe Coupee, Rapides, Red River, Richland, Tensas, Union, Webster, West Carroll, and Ward 7 of Winn.

The herbicides set out in Paragraph C shall not be applied by commercial applicators or owner-operators between March 1 and June 15 in the area of St. John the Baptist and St. James parishes lying between U. S. Highway 61 and the Mississippi River without prior written authorization from the commissioner of agriculture.

Each applicant requesting written authorization from the commissioner must contact the commissioner providing the time, date, chemical, site, location of the proposed application and the name of the person for whom the application is being requested 24 hours prior to proposed date of application.

13.2 Aerial application of pesticides to rights-of-way to control woody vegetation.

- A. This sub-part shall apply only in each parish whose governing authority appears in public hearing before the commission and secures the approval of the commissioner.
- B. Each applicator intending to apply pesticides aerially on any public utility right-of-way to control woody vegetation must notify the office of Pesticides and Environmental Programs, in writing, at least fifteen (15) days prior to the anticipated date of the application. That notice shall contain:

- (1) anticipated dates of application;
- (2) description of the area(s) to be aerially applied;
- (3) a telephone number and address of the applicator's office to which people can alert the applicator to sensitive areas;
- (4) the pesticides to be used in the projects.

- C. Within five (5) days after receipt of notice from an applicator, the Department shall:

- (1) notify the governing authority of any parish which elects to be governed by this regulation.
- (2) make a news release to the media of said parishes.

This notice and news release shall contain all of the information of the scheduled application of pesticides required by paragraph B above and the procedure to be followed in lodging a complaint with the Department.

- D. The governing authority may make other publications of the notice by whatever means considered appropriate by the governing authority. The governing authority shall notify the office of Pesticides and Environmental Programs of the media utilized for notice to the public of the intended application of pesticides.
- E. Applicator shall not make an aerial application of pesticides to control woody vegetation to a utility right-of-way inconsistent with the label of the pesticide being applied.
- F. Before pesticides are applied to rights-of-way to control woody vegetation, the applicator shall fly a reconnaissance flight over the right-of-way to be sprayed.

### 13.3 Bulk storage of pesticides.

- A. Each person who wishes to install facilities or operate existing facilities engaged in bulk distribution of restricted use pesticides to owner-operators or private applicators in this state shall notify the commissioner of that activity on a form prescribed by the commissioner.
- B. Owner-operators, commercial applicators or private applicators who store pesticides in bulk shall abide by the following condition.
  - (1) Each container for bulk handling shall be labeled with an approved E.P.A. label.
  - (2) Each container shall be provided with suitable sample points to permit withdrawal of official samples by personnel of the Louisiana Department of Agriculture.
  - (3) When containers are charged or recharged, the filling inlet shall be secured or locked in such manner as to prevent tampering with the contents.
  - (4) Official samples drawn from such containers shall be accepted without reservation as being representative of the material delivered to such containers and identified by markings on the container.
  - (5) Adequate provision shall be made in such handling to prevent damage or harm to persons, livestock and crops.
  - (6) Only products registered with the Louisiana Department of Agriculture shall be so handled.
  - (7) Each container shall be thoroughly cleaned out and relabeled before changing the material handled.
  - (8) Except for immediate use, no deliveries shall be made from bulk facilities.

### 14.0 Enforcement

#### 14.1 Inspections.

- A. When the commissioner believes that a violation of the provisions of these regulations has occurred, the commissioner may apply to the district court for the district in which the alleged violation occurred for a warrant to search the premises in which the alleged violation occurred and to obtain, at no cost to the state, samples of any pesticides or other materials involved in the alleged violation.

B. The commissioner shall have access to any premises where there is reason to believe that pesticides are sold, offered for sale, or held for distribution or application. The commissioner may examine any pesticide and may open any package and take a sample for analysis, at no cost to the state. If requested, the commissioner shall split the sample with the inspected person. Samples shall be taken in accordance with procedures established by the commissioner and shall be submitted to the state chemist for analysis. On completion of the analysis, the report shall be submitted to the manufacturer and the purchaser. If either person questions the validity of the analysis, that person may request in writing that another analysis be performed by a chemist approved by the commissioner. The person requesting the second analysis shall pay the costs of the second analysis.

Bob Odom  
Commissioner

**RULES**  
**Department of Agriculture**  
**Seed Commission**

The Louisiana Department of Agriculture, Seed Commission, pursuant to the authority granted under LSA 3:1433 and in accordance with Notice of Intent published on March 20, 1983, adopted the following amendments to the Louisiana Seed Certification Standards and Louisiana Seed Law Regulations at a public hearing beginning at 10:00 a.m. on Wednesday, April 6, 1983, at the State Capitol, Baton Rouge, Louisiana:

Rules 5.2, 5.3, and 5.5, relative to "Application deadlines", were amended to read as follows:

- 5.2 Onion bulbs and seed, and shallots - March 1
- 5.3 Clover (crimson, red, white), rescue grass, harding grass, vetch, and Irish potatoes - April 1
- 5.5 Okra, watermelon, sweet pototes and sweet potato plants - May 1

Rule 7.0, entitled "Lot of Seed", was amended to read as follows:

7.0 Lot of Seed

- 7.1 The applicant shall assign a specific, unique number or other mark when the seed is conditioned and bagged.
- 7.2 Each container in a given lot of seed shall be marked with the number or other mark assigned to that lot.
- 7.3 Seed lots may be blended if the variety and class are the same.
- 7.4 All seed must be bagged in new bags, unless other types of containers are approved by the Department of Agriculture prior to bagging.

A new Rule 8.6, reading as follows, was added:

8.0 Seed Sampling

\* \* \* \* \*

8.6 Re-sampling policy

- A. Except in special instances, as described below, only one sample shall be obtained from each certified seed lot:
  - 1. When a certified seed lot fails certification requirements due to physical or mechanical purity factors, such as excess inert matter or weed seed, the seed may be recondi-

tioned if the contaminants are separable. A complete purity analysis and germination test will be required on the reconditioned lot of seed.

2. Should a seed lot fail certified seed germination standards on the first laboratory test, a re-sample for germination test only for that seed lot will be permitted. Only one re-sample per seed lot will be permitted.
  3. Whenever a certified seed lot is divided into sub-lots, both a purity and a germination test will be required for all sub-lots.
  4. The last and most recent laboratory test report for a seed lot shall be the final analysis used to establish the eligibility for certification and will determine the information to be placed on the tag.
- B. A fee of \$10.00 will be charged for each re-sample, which fee shall be due and payable when the request for re-sample is initially made.

The prior Rule 9.0, entitled "Interagency Certification (Out-of-State Seed)", was re-numbered as Rule 14.0, without any change in the Rule title or the substantive content of the Rule, and a new Rule 9.0, entitled "Listing of Certified Seed Conditioning Plants" and reading as follows, was adopted:

#### 9.0 Listing of Certified Seed Conditioning Plants

- 9.1 Seed conditioning plants desiring to be listed in the Department of Agriculture's roster of seed conditioning plants must make a written application for inclusion on the list.
- 9.2 The Department of Agriculture will issue certificates to all seed conditioning plants making application for inclusion on the listing, on an annual basis, each such certificate to expire on June 30th following date of issue.

A new Rule 10.6, reading as follows, was added:

#### 10.0 Tagging

\* \* \* \* \*

- 10.6 Pretagging - In order to permit seedsmen to bag and label seed in advance of final laboratory reports, certification tags may be issued in advance. Such labels can be pre-issued upon receipt of completed field inspection reports showing that field production standards have been met. The state may grant a waiver on the movement of seed if an acceptable preliminary test is made on the seed lot. If pretagged lots fail laboratory analysis standards, all tags shall be destroyed or returned to the Louisiana Department of Agriculture. Failure to comply with this regulation will result in suspension of future pretag privileges.

Items 28 and 29 of Rule 12.0, entitled "Noxious Weeds", were amended to read as follows:

- 28. Morning Glory (Ipomoea spp.) 18 per lb.
- 29. Wild Poinsettia (Euphorbia heterophylla,  
E. dentata) 18 per lb.

The following items were deleted from Rule 12.0:

- 31. Wild Radish (Raphanus raphanistrum) 300 per lb.
- 32. Wild Carrot (Daucus carota) 300 per lb.
- 36. Red Root Pigweed (Amaranthus retroflexus) 300 per lb.

Beginning with Item 30 of Rule 12.0, the remaining items were re-numbered to read as follows:

- 30. Wild Mustard and Wild Turnips (Brassica spp.) 300 per lb.
- 31. Hemp Sesbania (Sesbania exaltata) 300 per lb.
- 32. Teaweed (Sida rhombifolia) 300 per lb.
- 33. Curly Indigo (Aeschynomene virginica) 300 per lb.
- 34. Mexican Weed (Caperonia castaneaefolia) 300 per lb.

Prior Rules 14.0, entitled "Violations", and 15.0, entitled "Penalties; adjudicatory hearing required", were re-numbered as Rules 15.0 and 16.0, respectively, without change in either of the Rule titles or in the substantive content of either of the Rules.

Prior Rules 16.0 through 45.0, containing specific standards for separate crops, were re-numbered as Rules 20.0 through 49.0, respectively, the new numbers being assigned to various crops in the same numerical sequence as in the previous rules, without change in the Rule titles or in the substantive content of the Rules, unless amended post in this document.

A new Rule 21.3, reading as follows, was added:

21.0 Bermuda and Zoysia Grass Seed Certification Standards

21.3 Seed Standards

Factor	Breeder	Foundation	Registered	Certified
Pure Seed	None	98.0%	98.0%	98.0%
Inert Matter	None	2.0%	2.0%	2.0%
Other Crops	None	.01%	.01%	.25%
Noxious Weeds	None	None	None	None
Other Weeds	None	.01%	.01%	.05%
Germination	None	85.0%	85.0%	85.0%

Rule 22.0 was amended to read as follows:

22.0 Crimson Clover Seed Certification Standards

22.1 Field Standards

Factor	Breeder	Foundation	Registered	Certified
Land requirement	5 yrs.	5 yrs.	3 yrs.	2 yrs.
Isolation	1,000 ft.	1,000 ft.	1,000 ft.	600 ft.
Other varieties	None	None	0.2%	0.5%
Noxious weeds	None	None	None	None

22.2 Seed Standards

Factor	Breeder	Foundation	Registered	Certified
Pure seed	98.0%	98.0%	98.0%	98.0%
Inert matter	2.0%	2.0%	2.0%	2.0%
Other crops	None	None	45 seed/lb.	90 seed/lb.
Noxious weeds	None	None	None	None
Other weeds	25 seed/lb.	50 seed/lb.	180 seed/lb.	360 seed/lb.
Germination	None	85.0%	85.0%	85.0%

Rule 23.0 was amended to read as follows:

23.0 Louisiana White, Louisiana White S 1, Ladino and Other White Clover Seed Certification Standards

23.1 Field Standards

Factor	Breeder	Foundation	Registered	Certified
Land requirement	5 yrs. <sup>1</sup>	5 yrs. <sup>1</sup>	3 yrs. <sup>1</sup>	2 yrs. <sup>2</sup>
Isolation	1,320 ft.	1,320 ft.	660 ft.	330 ft.
Other varieties and/or species that can be dif- ferentiated from the variety be- ing certified	None	None	None	None
Other crops (inseparable)	10 plants per acre	10 plants per acre	50 plants per acre	100 plants per acre

<sup>1</sup> A Foundation and/or Registered field may produce only two successive seed crops following seeding except that each may be reclassified to the next lower class after being harvested for seed for two years. A stand will not be eligible to produce any class of seed after four successive seed crops.

<sup>2</sup> A certified field on which a stand of perennial plants is maintained may produce a maximum of four successive seed crops following seeding.

23.2 Seed Standards

Factor	Breeder	Foundation	Registered	Certified
Pure seed	99.0%	98.0%	98.0%	98.0%
Inert matter	1.0%	2.0%	2.0%	2.0%
Other crops	None	None	45 seed/lb.	100 seed/lb.
Other varieties	None	None	None	10 seed/lb.
Other kinds	None	None	45 seed/lb.	90 seed/lb.
Sweet clover	None	None	45 seed/lb.	80 seed/lb.
Other clovers	None	None	None	None
Noxious weeds:				
Bracted plantain				
Buckhorn plantain	None	None	None	None
Other weeds	0.04%	0.04%	0.07%	0.14%
Wild carrot	None	None	None	None
Germination	None	85.0%	85.0%	85.0%

Rule 24.2, relative to Red Clover Seed, was amended to read as follows:

24.2 Seed Standards

Factor	Breeder	Foundation	Registered	Certified
Pure seed	99.0%	99.0%	99.0%	99.0%
Inert matter	1.0%	1.0%	1.0%	1.0%
Other crops	None	18 seed/lb.	90 seed/lb.	180 seed/lb.
Noxious weeds:				
Dock, Cheat, Darnel, Johnsongrass, Wild Mustard	None	45 seed/lb.	90 seed/lb.	100 seed/lb.
Dodder	None	None	None	None
Other weeds	0.05%	0.15%	0.15%	0.25%
Germination	None	85.0%	85.0%	85.0%

Rules 25.1 and 25.3, relative to Cottonseed, were amended to read as follows:

25.1 Field Standards

Factor	Breeder	Foundation	Registered	Certified
*Isolation		100 ft.	100 ft.	50 ft.
Other varieties & off-type plants	None	None	1 plant per acre	5 plants per acre
Noxious weeds:				
Cocklebur	None	5 plants per acre	8 plants per acre	10 plants per acre
*Fields entered for certification must be isolated at least 600 feet from Sea Island cotton, red leaf cotton, or other cottons which vary greatly in plant characteristics from the variety entered for certification, and at least one-half mile from <u>G. barbadense</u> and inter-specific hybrids involving <u>G. barbadense</u> .				

25.3 Seed Standards

Factor	Breeder	Foundation	Registered	Certified
Pure seed	99.0%	99.0%	99.0%	99.0%
Inert matter	1.0%	1.0%	1.0%	1.0%
Other crops	None	None	3 seed/lb.	5 seed/lb.
Noxious weeds:				
Cocklebur	None	None	1 seed/2 lbs.	1 seed/2 lbs.
Germination	None	70.0%	70.0%	70.0%

37.1 Conditions governing shipment or movement of Seed Irish Potatoes into Louisiana shall conform to the following:

- A. Seed Irish Potatoes must have passed field and storage seed certification requirements of the proper certifying agency. The tolerances for insects and diseases shall be the same as those set forth in the Louisiana Certified Seed Regulation for Seed Irish Potatoes (Rule 36.0).
- B. Each container of seed moved into, offered for sale, or sold in Louisiana shall have attached thereto an official foundation, registered, or certified seed tag issued by the proper certifying agency in the state of origin.

Rules 38.3, 38.5, and Paragraph B of Rule 38.6, all relative to Seed Sweet Potatoes and Sweet Potato Plants, were amended to read as follows:

38.3 Field Standards

Factor	Foundation	Registered	Certified
Land requirement	2 yr.	2 yr.	1 yr.
*Isolation	20 ft.	20 ft.	20 ft.
Other varieties	None	None	10 plants per acre
Mutations (current season)	5 plants per acre	5 plants per acre	10 plants per acre
Harmful insects:			
Sweet potato weevil ( <u>Cylas formicarius</u> Fab. var. <u>ele-ganthus</u> Summers)	None	None	None
Harmful diseases:			
Stem Rot ( <u>Fusarium hyperoxsporum</u> f. <u>batatas</u> )	None	None	5 plants per acre
Soil Rot ( <u>Actinomyces ipomoea</u> )	70 plants per acre	70 plants per acre	140 plants per acre
Other harmful diseases	None	None	None

\*In sweet potato plant certification, the unit of certification shall be a seed bed or seed row, and such unit cannot be divided for the purpose of certification.

38.5 Tuber Standards

Factor	Foundation	Registered	Certified
Off-type (mutations)	0.2%	0.2%	0.5%
Harmful insects:			
Sweet potato weevil ( <u>Cylas formicarius</u> Fab. var. <u>ele-ganthus</u> Summers)	None	None	None
Harmful diseases:			
Soil Rot ( <u>Actinomyces ipomoea</u> )	2.5%	2.5%	5.0%
Black Rot ( <u>Ceratostamella fimbriata</u> )	None	None	None

Scurf (Monilochaetes)



There shall not be more than 10% of sweet potatoes of poor quality and/or poor condition, brought about by internal breakdown, lack of latex, excessive bruising, chilling, or any other factor, and not more than a total of 15% of the foregoing factors that would cause the sweet potatoes to be of poor quality and/or condition.

38.6 Tagging and Certificate Tape

\*            \*            \*            \*            \*

B. Each tag shall contain the following:

1. Kind and variety
2. Year in which grown
3. Grower's name and address

Rule 40.0 was amended to read as follows:

40.0 Small Grain (Oats, Wheat, Rye) Seed Certification Standards

40.1 Field Standards

Factor	Breeder	Foundation	Registered	Certified
Land requirement	1 yr.	1 yr.	1 yr.	1 yr.
Isolation	None	10 ft.	10 ft.	10 ft.
Other crops	None	None	10 plants per acre	30 plants per acre
Other varieties	None	None	10 plants per acre	30 plants per acre
Diseases:				
Loose Smut	None	1.0%	1.0%	1.0%

40.2 Seed Standards

Factor	Breeder	Foundation	Registered	Certified
Pure seed	98.0%	98.0%	98.0%	97.0%
Inert matter	2.0%	2.0%	2.0%	3.0%
Other crops	None	5 seed/lb.	5 seed/lb.	10 seed/lb.
Other varieties	None	1 seed/lb.	5 seed/lb.	10 seed/lb.
Noxious weeds:				
Johnsongrass	None	None	None	None
Cheat & Darnel	None	6 seed/lb.	6 seed/lb.	12 seed/lb.
Other weeds	None	.01%	.02%	.03%
Germination	None	85.0%	85.0%	85.0%

Rule 44.0 was amended to read as follows:

44.0 Soybean Seed Certification Standards

44.1 Field Standards

Factor	Breeder	Foundation	Registered	Certified
*Land requirement	1 yr.	1 yr.	1 yr.	1 yr.
Isolation		10 ft.	10 ft.	10 ft.
Other varieties	None	None	3 plants per acre	10 plants per acre

44.0 Soybean Seed Certification Standards - Continued

44.1 Field Standards - Continued

Factor	Breeder	Foundation	Registered	Certified
Noxious weeds: Purple Moonflower ( <u>Ipomoea turbinata</u> ) & Balloon Vine ( <u>Cardiospermum</u> <u>halicacabum</u> )	None	None	5 plants per acre	10 plants per acre

\*Land requirement will be waived if the previous crop was grown from certified seed of the same variety, or of a variety having different plant pubescence or hilum color from the variety to be certified.

44.2 Seed Standards

Factor	Breeder	Foundation	Registered	Certified
Pure seed	98.0%	98.0%	98.0%	98.0%
Inert seed	2.0%	2.0%	2.0%	2.0%
Other crops	None	2 seed/lb.	2 seed/lb.	5 seed/lb.
Other varieties	None	2 seed/lb.	2 seed/lb.	5 seed/lb.
Noxious weeds	None	None	None	None
Other weeds	0.05%	10 seed/lb.	10 seed/lb.	10 seed/lb.
Germination	None	80.0%	80.0%	80.0%

Rule 45.0 was amended to read as follows:

45.0 Southern Field Pea (Cowpea) Seed Certification Standards

45.1 Field Standards

Factor	Breeder	Foundation	Registered	Certified
Land requirement	1 yr.	1 yr.	1 yr.	1 yr.
Isolation	None	10 ft.	10 ft.	10 ft.
Other varieties & off-type plants	None	3 plants per acre	3 plants per acre	3 plants per acre

45.3 Seed Standards

Factor	Breeder	Foundation	Registered	Certified
Pure seed	99.0%	98.0%	98.0%	98.0%
Inert matter	1.0%	2.0%	2.0%	2.0%
Other crops	None	None	None	1 seed/lb.
Other varieties	None	None	None	1 seed/lb.
Noxious weeds	None	None	None	None
Other weeds	None	None	None	1 seed/lb.
Germination	80.0%	80.0%	80.0%	80.0%

A new Rule 50.0, reading as follows, was added:

50.0 Turf Grass Certification Standards

50.1 Field Standards

Factor	Foundation	Registered	Certified
*Land requirement	5 yrs.	1 yr.	1 yr.
Isolation	6 ft.	6 ft.	6 ft.

50.0 Turf Grass Certification Standards - Continued

50.1 Field Standards - Continued

Factor	Foundation	Registered	Certified
Other varieties	None	1 plant per 1000 sq.ft.	3 plants per 1000 sq. ft.
Noxious weeds	None	None	None

\*A field entered for certification shall be subject to at least three inspections per year, one during dormancy and two during the active growing period prior to harvest. Harvested sprigs shall be inspected before final certification and issuance of tags on bags or certificate in case of bulk shipments.

50.2 Planting Stock Standards

Factor	Foundation	Registered	Certified
Pure live sprigs containing roots (minimum by count)	90.0%	90.0%	90.0%
Other live plants (maximum by count)	2.0%	2.0%	2.0%
Noxious weeds	None	None	None

A new Rule 51.0, reading as follows, was added:

51.0 Vetch Seed Certification Standards

51.1 Classes of Vetch Seed

A. Non-reseeding varieties

Recognized certified seed classes shall be breeder, foundation, registered, and certified vetch seed.

B. Hard-seeded varieties

Whenever a field of hard-seeded vetch has been established to produce either breeder, foundation, registered, or certified seed, the same certified seed class can be produced from that field as long as it remains in production and meets minimum seed certification standards.

51.2 Field Inspection

Field inspection shall be made at flowering time or before harvest when off-types and varietal mixtures can best be identified.

51.3 Field Standards

Factor	Foundation	Registered	Certified
Land requirement	5 yrs.	3 yrs.	2 yrs.
Isolation			
Self-pollinating varieties	10 ft.	10 ft.	10 ft.
Cross-pollinating varieties	400 ft.	400 ft.	400 ft.
Other varieties & off-types	1 per 1,000	1 per 400	1 per 100
Other crops	1 per 4,000	1 per 2,000	1 per 400
Noxious weeds (inseparable)	None	None	None

51.4 Seed Standards

Factor	Foundation	Registered	Certified
Pure seed	98.0%	98.0%	98.0%
Inert matter	2.0%	2.0%	2.0%
Total other crops	.35%	.75%	1.5%
Noxious weeds	None	None	None
Other weeds	.10%	.25%	.25%
Germination	80.0%	80.0%	80.0%

Rule 46.0, entitled "Repeal of Prior Rules and Regulations of the Seed Commission", was re-numbered as Rule 60.0, without change in the Rule title or the substantive content of the Rule.

The Seed Commission also amended Rule VI of the Louisiana Seed Law Regulations, entitled "List and Limitations of Noxious Weed Seeds", to bring Rule VI of the Louisiana Seed Law Regulations into conformity, in its entirety, with the listing and limitations on noxious weeds contained in Rule 12.0 of the Louisiana Seed Certification Standards as herein amended.

Copies of the complete Louisiana Seed Certification Standards, as herein amended, may be obtained by written, telephone, or personal request from Mr. John Armstrong, State Seed Analyst, Louisiana Department of Agriculture, P. O. Box 18190-B, University Station, Baton Rouge, Louisiana 70893, phone 504/342-5809.

Bob Odom  
Commissioner

## RULES

### Department of Agriculture Structural Pest Control Commission

The Department of Agriculture, Structural Pest Control Commission, in accordance with the authority granted under LSA 40:1261, et seq., and pursuant to Notice of Intent published on March 20, 1983, adopted the following amendments to the Rules and Regulations for Administration of the Structural Pest Control Law (LSA 40:1261-1274) at a public hearing beginning at 1 p.m. on April 7, 1983, at the State Capitol, Baton Rouge, LA:

Rule 3.4, relative to fees for place of business permits, was amended to read as follows:

3.4 The fee for issuance of a permit for operation shall be \$100 for firms which employ two or less employees and \$150 for firms which employ three or more employees.

Rule 3.5, relative to fees for renewal of such permits, was amended to read as follows:

3.5 The fee for renewal of a permit for operation shall be \$100 for firms which employ two or less employees and \$150 for firms which employ three or more employees.

Rule 5.3, relative to examination fees, was amended to read as follows:

5.3 Each applicant for examination shall pay a fee of \$50 at the time of submission of the application, which fee shall be nonrefundable.

Rule 8.0, entitled "Contracts for Termite Control Work", was amended by adding thereto a new Rule 8.6 reading as follows:

8.6 No fee shall be due to the Commission for the first ten termite contracts performed in each fiscal year by a structural pest control operator. The operator must, however, report the performance of the first ten contracts for termite control work in the report required under Rule 8.4 above. The fee established in R.S. 40:1272 is applicable to the eleventh and all subsequent contracts for termite control work in each fiscal year.

Bob Odom  
Commissioner

## RULES

### Department of Commerce Board of Certified Public Accountants

Notice is hereby given that the State Board of Certified Public Accountants of Louisiana pursuant to the authority vested in Section 75 of the Louisiana Revised Statutes, Title 37, Chapter 2, has adopted effective April 1, 1983 the following Rules:

1. LAC 11-9:4 R.S. 37:75 Amends Rule 4.3
2. LAC 11-9:5 R.S. 37:75 Amends Rule 5.5.4  
Adopts Rule 5.5.5  
Amends by renumbering former Rules 5.5.5, 5.5.6, 5.5.7 and 5.5.8 to 5.5.6, 5.5.7, 5.5.8, 5.5.9.
3. LAC 11-9:6 R.S. 37:75 Amends Rule 6.1.4 and 6.1.5
4. LAC 11-9:9 R.S. 37:78 Amends Rule 9.1.1
5. LAC 11-9:10 R.S. 37:78 Amends Rule 10.2.1, 10.2.2, 10.2.3
6. LAC 11-9:11 R.S. 37:79 Amends Rule 11.1, 11.2, 11.4, 11.5  
Adopts Rule 11.6

7. LAC 11-9:12 R.S. 37:80 Amends Rule 12.4.  
Adopts Rule 12.7
8. LAC 11-9:13 R.S. 37:80 Amends Rule 13.1\*
9. LAC 11-9:15 R.S. 37:82 Adopts Rule 15.2.1 B, 15.2.2 B, adopts Rule 15.2.6, Amends by renumbering former Rules 15.2.6, and 15.2.7 to 15.2.7 and 15.2.8

## REVISED RULES

4.3 Any meeting may be called by the President or by joint call of at least two of its members, to be held at the principal office of the Board, or at such other place as may be fixed by the Board. Regularly scheduled Board meetings are usually held on the last working day of January, March, July and September.

5.5.4 Solicitation. A licensee shall not by any direct uninvited personal communication solicit an engagement to perform professional services:

A. If the communication would violate Rule 5.5.3 above if it were a public communication; or

B. By the use of coercion, duress, compulsion intimidation, threats, overreaching, or vexatious or harassing conduct; or

C. Where the solicitation is done in-person or by telephone by the licensee or an employee or agent of the licensee.

Any written solicitation shall be subject to the provisions of Rule 5.5.5.

5.5.5 Written Advertisements, Solicitations, and Other Public Communications. A Licensee shall have the right to mail or deliver advertisements, solicitations and other public communications, subject to the following provisions:

A. A licensee shall not mail or deliver any advertisement, solicitation or other public communication if such advertisement, solicitation or other public communication would violate Rule 5.5.3 or Rule 5.5.4 above.

For purposes of these Rules, a public communication shall be deemed to include newsletters, brochures, magazines, books, announcements, notices, reports, notes, journals, letters, cards, inquiries, tapes, recordings and all other written, printed or recorded materials mailed or delivered to one or more addresses who are not clients of the licensee at the time of such mailing or delivery. Materials disseminated only to clients of the licensee shall not be deemed to be a public communication.

5.5.6 Form of Practice. A licensee may practice public accountancy only in a proprietorship, a partnership, or a professional corporation organized in accordance with the Louisiana Professional Accounting Corporations Law or similar law of another state.

5.5.7 Firm name. The name under which a licensee practices public accounting must indicate clearly whether he is an individual practicing in his own name or a named member of a partnership or professional accounting corporation. The words "and Associates" or "and Company" or similar words shall be used only to denote unnamed partner(s) of a partnership or shareholder(s) of a professional accounting corporation. However, names of one or more past partners or shareholders may be included in the firm name of a successor partnership or corporation. Also, a partner or shareholder surviving the death or withdrawal of all other partners or shareholders may continue to practice under the partnership or corporate name for up to two years after becoming a sole practitioner or sole shareholder. No licensee shall allow a person who is not a licensee and who is not in partnership with him or in his employ on a salary, to practice in his name. If a firm is incorporated, words so indicating must appear in or with the firm name each time it is used.

5.5.8 Communications. A CPA shall, when requested, respond to communications from the Board within 30 days of the mailing of such communications by registered or certified mail.

5.5.9 Applicability. All of the Rules of Professional Conduct shall apply to and be observed by licensees. Notwithstanding anything herein to the contrary, they shall also apply to and be observed by CPAs not in public practice, where applicable.

6.1.4 A certified public accountant who wishes to reenter practice after having allowed his license to lapse must present proof, documented in a form satisfactory to the Board, that he has satisfied the requirements for continuing professional education for the preceding period as specified by Rule 6.1.1.

6.1.5 For good cause shown, the Board may at its sole discretion issue a temporary license to an applicant and provide a specified period of time within which to satisfy the required continuing professional education.

9.1.1 Examinations are ordinarily held in May and November of each year. Candidates for these examinations shall file complete application forms. A complete application is one that is properly filled out, including payment of the required examination fee and, if a first-time application, accompanied by all required official transcripts.

Applications for the May examination must be received in the Board's office no later than March 1. Applications for the November examination must be received in the Board's office no later than September 1.

First-time or transfer-of-grades candidates who have not taken their accounting courses in Louisiana must include a copy of the course description(s) of all accounting courses not clearly identified by titles listed in Rule 9.2.2B.

#### 10.2 By Reciprocity

10.2.1 An applicant who has been certified as a public accountant by any state, as defined by R.S. 37:71F, shall be eligible for certification by the Board, provided that:

- A. The applicant possesses a baccalaureate degree;
- B. The applicant has successfully passed the Uniform Certified Public Accountant Examination prepared and graded by the American Institute of Certified Public Accountants;
- C. The application for certification by the Board is made through the state that issued the applicant's original certification;
- D. At the time of the application and consideration thereof by the Board, the certificate issued to the applicant by the state of original certification is in good standing; and
- E. The state that issued the applicant's original certification grants reciprocity certification to public accountants certified by the Board.

10.2.2 The provisions of the above Rule notwithstanding, if an applicant for a reciprocal certificate holds a certificate issued by the state of original certification prior to September 1, 1975 or has been in practice as a certified public accountant for four years in the ten years immediately prior to the date of submitting the application, he will not be required to possess a baccalaureate degree.

10.2.3 Applicants for reciprocal certificates shall not be required to reside or have a place for the regular transaction of business in Louisiana, but shall be required to take the CPA oath.

Complete applications for reciprocal certificates must be received in the Board's office 30 days prior to a regular Board meeting (Rule 4.3).

11.1 Eligibility for Licensing; Experience Requirement. To be eligible for initial licensing, other than upon renewal pursuant to R.S. 37:82, or for reinstatement of licensure which has expired by virtue of nonrenewal, a certified public accountant shall present proof, documented in a form satisfactory to the Board, that he has obtained such professional accounting experience as is prescribed by Rule 11.2 and 11.3 begun and completed within the six years

immediately preceding the date of application for licensing.

11.2 Qualifying Accounting Experience; Nature of Practice.

11.2.1 The professional experience requisite to licensing may be obtained:

A. By full-time employment for a period of two years, as a staff accountant, by a licensed, practicing certified public accountant or by a firm of certified public accountants who are licensed to practice public accounting under the laws of any state;

B. By employment for a period equivalent in the opinion of the Board to employment under 11.2.1A. in the accounting field in industry, business, government, or college teaching, or any combination of such types of employment, provided that such experience is obtained under proper supervision and is of sufficient depth and quality, as defined by Rule 11.4; or

C. By any combination of the types of employment specified in the preceding subparagraphs A and B of this Rule.

11.3 This qualifying accounting experience shall be in public accounting or such other accounting experience as, in the opinion of the Board, is equivalent to the foregoing.

#### 11.4 Equivalent Experience.

11.4.1 In addition to the requirements of Rule 11.2 and 11.3, the professional accounting experience requisite to licensing, if obtained in whole or in part in industry, business, government, or college teaching, must meet the following criteria:

A. The experience must be obtained under proper supervision, which may be evidenced by:

1. Supervision in the application of generally accepted accounting principles by a certified public accountant holding a managerial level one or more positions above the applicant's level.

2. Employment by a firm or organization having its financial statements examined on a periodic basis by independent certified public accountants during the term of the applicant's employment. The applicant must have been responsible for providing information, explaining systems and procedures and/or preparing schedules and analyses.

3. Employment by a governmental agency recognized by the Board as having responsibility and organizational structure for performing auditing and accounting functions.

4. Employment as a full-time teacher of subjects primarily in the accounting discipline, with the rank of assistant professor or above (or comparable positions), for an accredited college or university.

5. Such other forms of supervision as the Board considers adequate.

B. The experience must be of sufficient depth and quality, meeting the following criteria:

1. A level of responsibility shall have been attained which requires the applicant to exercise professional judgment on significant financial accounting and reporting matters.

2. The applicant shall have experience in the areas of financial accounting and reporting which follows generally accepted accounting principles. Additionally, the applicant may have had experience in other technical areas of the accounting profession, such as financial analysis, budget, management information systems, management accounting techniques (cost accounting, financial appraisal of capital expenditures, etc.) or internal auditing.

3. If the applicant's experience is in college teaching, he shall have taught courses for academic credit in at least three different areas of accounting above the introductory or elementary level. Examples of these areas are intermediate accounting, cost or managerial accounting, auditing, accounting systems, advanced problems, and accounting theory.

4. Such other experience of quality and depth as the Board considers adequate.

11.5 Advanced Degree Experience Equivalency. A Master's degree, or a more advanced degree, with a concentration in accounting shall be considered equivalent to one year of experience obtained on the staff of a certified public accountant or firm of certified public accountants. As used herein, concentration in accounting shall mean at least 15 credit hours in accounting courses (auditing, theory, practice, managerial, tax) the contents of which are at a level higher than the contents of the advanced accounting, basic cost accounting, basic income tax accounting, and basic auditing provided for the undergraduate level in Rule 9.2.2B, with at least three of the required 15 credit hours in accounting theory and practice and at least three credit hours in auditing.

11.6 In satisfaction of the experience requirement, the applicant must submit such substantiating written statements and documentation in such form as the Board shall require, from employers or others who have actual knowledge of such facts.

Complete applications must be received in the Board's office 30 days prior to a regular meeting (Rule 4.3.). Written statements confirming an applicant's experience must be submitted with the application. An application received without proper support, or support received without the application, is not acceptable.

12.4 The Board may reject or refuse to consider any application which is not complete in every detail, including submission of every document required by the application form and received in the Board's office by the appropriate due date.

12.7 In the event that examination papers are lost, any claim candidates may have against the State Board of Certified Public Accountants of Louisiana, its agents and employees will be limited to the examination fee paid.

Amend Rule 13.1 to substitute for (\*)

\*Candidates having passed the examination and meeting all other requirements for licensure must submit a complete application on forms prescribed by the Board and accompanied by all required supporting documentation within 30 days after the official release date of examination grades to avoid payment of additional fees. Applications that are incomplete or late are subject to the original license fee.

#### 15.2 Annual Notice of Form of Practice

##### 15.2.1

A. Every certified public accountant who is registered with the Board and who is engaged in the practice of his profession on his behalf shall file annually with the Board a certification that he is practicing as an individual and that there are no partners or associates practicing with him.

B. Firms which do not have offices in Louisiana but which do have Louisiana licensees as partners/shareholders must register the firm in Louisiana.

##### 15.2.2

A. Each firm of certified public accountants which has one or more offices located in Louisiana shall designate a resident licensee to actively supervise each office. One licensee may be so designated for more than one office. If such supervising licensee is not a partner or shareholder, the firm must have at least one partner or shareholder who is a licensee.

B. Each firm of certified public accountants with one or more Louisiana licensees as partners or shareholders which does not have an office located in Louisiana shall designate a licensee to register that firm in Louisiana. The designated licensee shall file those forms, lists, and documents required of a firm maintaining offices in Louisiana as set forth in Rule 15.2.3.

15.2.6 The statement referred to in Rules 15.2.1 and 15.2.2 above shall be accompanied by one legible copy of a compilation, review and audit report issued by the certified public accountant or firm of certified public accountants within the pre-

ceding twelve months of the Annual Notice of Form of Practice. The name of the clients for whom such reports were prepared may be obscured on or deleted from the copies submitted to the Board. The Board may request a copy of the registrant's current Peer Review Report.

15.2.7 An annual filing fee to be set by the Board, based on the total number of partners and/or shareholders in the firm who are not licensed to practice in Louisiana but not to exceed \$15 per partner/shareholder with a maximum of \$2,500 per firm, shall be paid by each firm that files in accordance with the provisions of Rule 15.2.3 above.

15.2.8 A filing fee, calculated in the same manner as the most recent annual filing fee provided in Rule 15.2.7 and prorated for the number of complete months remaining in the year, shall be paid by each firm that files in accordance with the provisions of Rule 15.2.4 above and that did not pay an annual filing fee for the immediately preceding filing period.

R. Wendel Foushee  
Secretary

### **RULE**

#### **Department of Commerce Racing Commission LAC 11-6:25.27**

The maximum number of starters in any race shall be limited to the number of starting positions afforded by the association starting gate and extensions thereof. The maximum number of starters shall further be limited by the number of horses which, in the opinion of the stewards, considering the safety of the horses and riders, can be afforded a fair and equal start.

An owner of a horse in a stakes race when denied the opportunity of starting because 1) the number of entries exceeds the capacity of the stall gate starting machine and extensions thereof, and 2) when the stewards limit the maximum number of starters, will be entitled to a refund of nomination and/or entry box fee.

In handicap stakes and allowance stakes preference will be given to high weights according to the conditions of the particular race.

W. Ray Vanderhider  
Chairman

### **RULES**

#### **Board of Elementary and Secondary Education**

##### Rule 6.00.12.b

The Board adopted a change in Policy #6.00.12.b of the Policy and Procedure Manual regarding employment after age 65 to agree with state and federal statutes as follows:

"It shall be the policy of the Board of Elementary and Secondary Education that any employee of said Board who has attained the age of 70 years shall be separated from service at the beginning of the year succeeding the year in which said employee attained the age of 70.

In any case in which the appointing authority certifies that the continuance in service of the employee who has attained the age of 70 or over would be advantageous to the system by reason of his expert knowledge and qualifications, such employee may be continued in public service by the appointing authority beyond the age of 70 for periods of one year."

James V. Soileau  
Executive Director

## RULE

### Office of the Governor Division of Administration Office of Purchasing

The Office of the Governor, Division of Administration, does hereby adopt the following Rule for Conduct of Hearing to be effective April 20, 1983.

#### CONDUCT OF HEARING In accordance with the LOUISIANA PROCUREMENT CODE (Revised Statutes: Title 39)

#### DEFINITIONS

1. **Hearing Officer:** The hearing officer shall be the chief procurement officer or his designee who shall exercise such authority as is granted for the conduct of protests in accordance with the provisions of the Louisiana Procurement Code. (Title 39:1551, et seq., Section 1671B)

2. **Commissioner:** The commissioner is the Commissioner of the Division of Administration.

3. **Aggrieved person:** An aggrieved person is a person who files a written protest in connection with the solicitation or award or the issuance of a written notice of intent to award a contract under the Louisiana Procurement Code and has or may have a pecuniary or other property interest in the award of the contract.

4. **Interested person:** An interested person is any person who has submitted a bid in response to an invitation for bids, a request for proposals, or other solicitation issued under the Louisiana Procurement Code who has or may have a pecuniary or other property interest which may be affected by a determination made in a protest hearing.

5. **Candidate for suspension or debarment:** A candidate for suspension or debarment is a person, who in the opinion of the chief procurement officer has committed an action giving cause for suspension or debarment pursuant to R.S. 39:1672(c).

6. **Contractor:** A contractor is a person who has been awarded a contract.

7. **Party:** A party as used herein, unless the context clearly indicates otherwise, is either a "contractor" or a "candidate for suspension or debarment" or both.

#### APPLICATION

The following Rules shall apply to all hearings held in accordance with Sections 1601, 1671, 1672, and 1673 of Title 39 of the Louisiana Revised Statutes.

#### INITIATION OF HEARING

1. **Responsibility of bidders and offerors:** A hearing held to consider the disqualification of a bidder or offeror shall be commenced with the giving of written notice issued by the chief procurement officer, the commissioner or head of a governmental body.

2. **Protest of aggrieved person in connection with the solicitation, award, or issuance of written notice of intent to award:** Any person who is aggrieved in connection with the solicitation, award, or issuance of written notice of intent to award may protest to the chief procurement officer. Protests with respect to a solicitation shall be submitted in writing prior to the opening of bids. Protests with respect to the award of a contract or the issuance of written notice of intent to award a contract shall be submitted in writing within sixty days after bid opening or fourteen days after contract award, whichever is later.

The written protest must state the issue(s) protested. The protest hearing is limited to the issues contained in the written protest unless there is a showing that an issue not mentioned ought

to be examined in order to properly dispose of the matter, or, in the public interest, there is other good ground for consideration of other issues and evidence.

Upon receipt of a written protest in conformity with the preceeding paragraph, the chief procurement officer shall cause to issue a written notice to the aggrieved person and shall also, issue a written notice to all interested persons.

3. **Suspensions and debarments:** A hearing for a candidate for suspension or debarment for cause from consideration for award of contracts or a suspension from such consideration during an investigation where there is probable cause for such debarment shall be initiated by issuance of written notice thereof.

4. **Contract and breach of contract controversies:** Hearings on controversies between the state and a contractor based upon breach of contract, mistake, misrepresentation, or other cause for contract modification or rescission shall commence with issuance of written notice by the chief procurement officer on his motion for reasons set forth in the notice or at the request of the contractor communicated in writing to the chief procurement officer and the head of the governmental body of the state utilizing the supplies, services, or major repairs under the contract.

#### NOTICE

The written notice required to be sent in order to commence a hearing within the foregoing section of these Rules for the adjudicatory hearings provided for to parties, aggrieved persons, or interested persons who do not waive their rights shall include:

A statement of the time, place, and nature of the hearing;

A statement of the legal authority and jurisdiction under which the hearing is to be held;

A reference to the particular sections of the statutes and Rules involved;

A short and plain statement of the matters asserted.

If the chief procurement officer is unable to state the matters in detail at the time notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, the chief procurement officer shall issue a more detailed notice prior to the date set for the hearing.

In addition to the requirements of the notice set forth above, the notice may contain a statement advising all parties, aggrieved persons, or interested persons as applicable that failure to participate in the noticed hearing shall serve to waive any and all further administrative remedies.

Whenever practical, the notice shall be served by return receipt certified mail. Where time or other factors render mail service impractical, the chief procurement officer may effect service by any other means reasonably calculated to communicate the written notice.

#### HEARING; RECORD

1. **Hearing:** An opportunity shall be afforded all parties, aggrieved persons, or interested persons to respond and present evidence on all issues of fact involved and argument on 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.

The hearing officer may, in his discretion, request written views from a governmental body which will be directly affected by the outcome of the adjudicatory hearing and give such weight to the submission as the facts and the law require. A copy of such written submission shall be provided to all parties, aggrieved persons, or interested persons participating in the adjudicatory proceeding.

Informal disposition may be made of any case of adjudication by stipulation, agreed settlement, consent order, or default.

2. **Record:** The record shall contain:

All pleadings, motions, intermediate rulings;

Evidence received or considered or a resume thereof if not transcribed;

A statement of matters officially noticed except matters so obvious that statement of them would serve no useful purpose;  
Offers of proof, objections, and rulings thereon;  
Proposed findings and exceptions;  
Any decision, opinion, or report by the officer presiding at the hearing.

The hearing officer shall have all proceedings before him recorded electronically and may in his discretion, or shall upon written request of any party, aggrieved person, or interested person, cause to be made a full transcript of said proceedings.

The cost of a transcript shall be paid by the Division of Administration when the hearing officer elects upon his motion to transcribe the proceedings. In such event, any party, aggrieved person, or interested person requesting a copy shall be given a copy upon first paying the actual cost thereof or upon payment of the cost of a portion of the transcript if the request is for a particular portion of the transcript.

The cost of a transcript shall be paid by the party, aggrieved person, or interested person when a transcript is made at their request. Copies requested shall be paid for by the party, aggrieved person, interested person, or the hearing officer as the case may be.

Findings of fact made by the hearing officer shall be based exclusively on the evidence and on matters officially noticed.

## RULES OF EVIDENCE; OFFICIAL NOTICE; OATHS AND AFFIRMATIONS; SUBPOENAS; DEPOSITIONS AND DISCOVERY; AND CONFIDENTIAL PRIVILEGED INFORMATION

1. **Rules of evidence:** The hearing officer (a) may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonable prudent persons in the conduct of their affairs. He shall give effect to the Rules of privilege recognized by law. He may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties, aggrieved person, or interested persons will not be prejudiced substantially, any part of the evidence may be received in written form. (b) All evidence, including records and documents in the possession of the governmental agency of which the hearing officer desires to avail himself, shall be offered and made a part of the record, and all such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. In case of incorporation by reference, the materials so incorporated shall be available for examination by the parties before being received in evidence.

2. **Official notice:** Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within a governmental agency's specialized knowledge. Parties, aggrieved persons, or interested persons shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. A governmental agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

3. **Oaths and affirmations:** The hearing officer shall have the power to administer oaths and affirmations, regulate the course of the hearings, set the time and place for continued hearings, fix the time for filing of briefs and other documents, and direct the parties to appear and confer to consider the simplification of the issues. The hearing officer shall also have authority to raise issues not otherwise raised by persons party to a hearing

where such an issue is pertinent to a proper disposition of the matter.

4. **Subpoenas:** The hearing officer shall have power to sign and issue subpoenas requiring attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence. No subpoena shall be issued until the party, aggrieved person, interested person, or governmental agency who wishes to subpoena the witness first deposits a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Witnesses subpoenaed to testify only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examinations, and to state the results thereof, shall receive such additional compensation from the party, aggrieved person, interested person, or governmental agency who wishes to subpoena such witness as may be fixed by the hearing officer with reference to the value of the time employed and the degree of learning or skill required. Whenever any person summoned neglects or refuses to obey such summons, or to produce books, papers, records, or other data, or to give testimony, as required, the hearing officer may apply to the judge of the district court for the district within which the person so summoned resides or is found, for an attachment against him as for a contempt.

5. **Depositions and discovery:** The hearing officer, governmental agency, or any party, aggrieved person, or interested person may take the depositions of witnesses, within or without the state, in the same manner as provided by law for the taking of depositions in civil actions in courts of record. Depositions so taken shall be admissible in the record of the hearing. The admission of such depositions may be objected to at the time of hearing and may be received in evidence or excluded from the evidence by hearing officer in accordance with the rules of evidence provided in these Rules.

6. **Confidential and privileged information:** Records and documents, in the possession of a governmental body, the hearing officer, or any officer or employee, including conclusions drawn therefrom which are deemed confidential and privileged shall not be made available for adjudication proceedings and shall not be subject to subpoena by any person or other state or federal agency.

Such records or documents shall only include any private contracts, geological and geophysical information and data, trade secrets and commercial or financial data, which are obtained by an agency through a voluntary agreement between the agency and any person, which said records and documents are designated as confidential and privileged by the parties when obtained, or records and documents which are specifically exempt from disclosure by statute.

## DECISIONS AND ORDERS OF THE HEARING OFFICER

If the subject matter of the hearing is not resolved, the hearing officer shall, within fourteen days of the conclusion of a protest hearing, or within a reasonable time of the conclusion of a hearing to determine responsibility, suspension or debarment, or a controversy between the state and a contractor, issue a written decision stating the reasons for the action taken and informing the party, aggrieved person, or interested person of the right to administrative review and thereafter judicial review where applicable.

A copy of the decision or order shall be mailed or otherwise furnished the party, aggrieved person, or interested person immediately.

The decision of the hearing officer shall become final and conclusive unless the decision is fraudulent or the party, aggrieved person, or interested person adversely affected by the decision or order has timely appealed administratively to the commissioner.