LOUISIANA HORTICULTURE C0MMISSION
HORTICULTURE LAW
Title 3
CHAPTER 24. HORTICULTURE

§3801. Horticulture Commission

A. The Horticulture Commission of Louisiana is hereby created within the Department of Agriculture and Forestry to be comprised of the following thirteen members:

(1) The commissioner of agriculture and forestry.
(2) The assistant commissioner of agricultural and environmental sciences.
(3) The director of the Louisiana Cooperative Extension Service.
(4) A licensed arborist.
(5) A licensed retail florist.
(6) A licensed wholesale florist.
(7) A licensed landscape horticulturist.
(8) A licensed landscape architect.
(9) A nursery stock dealer.
(10) A wholesale nurseryman.
(11) A licensed utility arborist.
(12) A sod grower.
(13) A licensed landscape irrigation contractor.

B. The commissioner of agriculture and forestry, the assistant commissioner of agricultural and environmental sciences, and the director of the Louisiana Cooperative Extension Service shall serve as ex officio members with the same rights, powers, and privileges as the other members.

C. The following members shall be appointed by the commissioner, subject to confirmation of the Senate, and shall serve terms of four calendar years beginning with the year of appointment in accordance with the following provisions:

(1) The licensed arborist shall be appointed during the second year of each administration from the arborists licensed by the commission.

(2) The licensed retail florist shall be appointed during the second year of each administration from a list of three persons nominated by the Louisiana State Florists Association, Inc.

(3) The licensed wholesale florist shall be appointed during the third year of each administration from a list of three persons nominated by the Louisiana Wholesale Florists Association.

(4) The licensed landscape horticulturist shall be appointed during the fourth year of each administration from a list of three persons nominated by the Louisiana Nursery and Landscape Association.

(5) The licensed landscape architect shall be appointed during the third year of each administration from a list of three persons nominated by the Louisiana Chapter of the American Society of Landscape Architects.

(6) The nursery stock dealer shall be appointed during the first year of each administration from a list of three persons nominated by the Louisiana Retailers Association.

(7) The wholesale nurseryman shall be appointed during the first year of each administration from a list of three persons nominated by the Louisiana Nursery and Landscape Association.

(8) The licensed utility arborist shall be appointed during the second year of each administration from the utility arborists licensed by the commission, who are graduate foresters and who work in the utility line clearing area.

(9) The sod grower shall be appointed during the fourth year of each administration from a list of three persons nominated by the Louisiana Turfgrass Association.

(10) The licensed landscape irrigation contractor shall be appointed during the first year of each administration from a list of three persons nominated by the Louisiana Irrigation Association.

D. Vacancies in the office of the appointed members shall be filled in the same manner as the original appointments. Appointments to fill vacancies shall be made within ninety days of the date the vacancy occurred and shall be for the unexpired portion of the term of the office vacated.

E. A majority of the members of the commission shall constitute a quorum for the transaction of all business and the carrying out of the duties of the commission. Each member shall take and subscribe to the oath of office prescribed for state officers. Members of the commission shall not receive any salary for their duties as members. The appointed members who are not state employees or officers may receive a per diem for each day spent in actual attendance of meetings of the commission or of duly appointed committees or subcommittees of the commission. The amount of the per diem shall be fixed by the commission in an amount not to exceed forty dollars. The appointed members who are not state employees or officers may receive a mileage allowance for mileage traveled in attending meetings. The mileage allowance shall be fixed by the commission in an amount not to exceed the mileage rate for state employees.

F. The commission is hereby authorized to adopt such rules and regulations as are necessary to enforce the provisions of this Chapter and to carry out the intent of the laws contained therein, including, but not limited to, rules and regulations for the following purposes:

(1) To govern the qualifications and practices of persons engaged in the professions and occupations regulated by the commission.

(2) To establish examinations for applications for licenses and to establish minimum scores necessary to pass those examinations.

(3) To require the payment of examination fees, license fees, and permit fees as provided in this Chapter.

(4) To hold hearings and to conduct investigations.

(5) To do all things necessary to prevent fraudulent practices by persons engaged in the professions and occupations regulated by the commission.

(6) To encourage holders of licenses and permits to participate in continuing education programs approved by the commission.

G. The commissioner of agriculture and forestry, the assistant commissioner for agricultural and environmental sciences, and the director of the Louisiana Cooperative Extension Service may name designees to attend meetings for those officers. The commissioner shall appoint an alternate member for each member he appoints. If the member is appointed from a list of nominees, the alternate shall be appointed from the same list. Any designee or alternate who attends a meeting as a representative of a member shall have the same rights, powers, and privileges, including voting rights, as the member he represents.

H. The commission, by a vote of two-thirds of the appointed members, may expel a member who has accumulated three consecutive unexcused absences from commission meetings.

I. The commission shall employ a director and assistant director who shall be appointed by the commission, subject to the approval of the commissioner. The director and assistant director shall be in the unclassified service.

Acts 1950, No. 224, §1. Amended by Acts 1954, No. 534, §1; Acts 1965, No. 127, §1; Acts 1972, No. 320, §1; Acts 1980, No. 330, §2; Acts 1981, No. 418, §1; Acts 1985, No. 120, §1; Acts 1986, No. 447, §1, eff. July 1, 1986; Acts 1988, No. 318, §1; Acts 1990, No. 69, §1; Acts 1992, No. 60, §1; Acts 1995, No. 182, §1; Acts 2004, No. 810, §1, eff. July 12, 2004; Acts 2008, No. 63, §1, eff. June 5, 2008; Acts 2008, No. 227, §1, eff. June 16, 2008; Acts 2008, No. 229, §1, eff. June 16, 2008; Acts 2008, No. 920, §1, eff. July 14, 2008; Acts 2010, No. 495, §1, eff. June 24, 2010.

§3802. Chairman, secretary

A. The commissioner of agriculture and forestry shall be the chairman of the commission. The chairman shall enforce the provisions of this Chapter and the rules and regulations adopted by the commission and shall employ such personnel, other than the director and assistant director, as may be necessary to administer the provisions of this Chapter.

B. The assistant commissioner for agricultural and environmental sciences shall serve as secretary of the commission.

Acts 1950, No. 224, §2. Amended by Acts 1952, No. 272, §1; Acts 1981, No. 621, §1, eff. Jan. 1, 1982; Acts 1985, No. 120, §1; Acts 1986, No. 447, §1, eff. July 1, 1986; Acts 2009, No. 24, §1, eff. June 12, 2009.

§3803. Definitions

As used in this Chapter, the following terms shall have the following meanings ascribed to them:

(1) "Chairman" means the chairman of the commission.

(2) "Commission" means the Horticulture Commission of Louisiana.

(3) "Commissioner" means the commissioner of agriculture and forestry.

(4) "Direct supervision" means giving direction or instruction to and accepting responsibility for the work product of the person being supervised.

(5) "Landscape irrigation contractor" means a person who is licensed to construct, install, connect, repair, maintain, improve, or alter any portion of a landscape irrigation system.

(6) "Landscape irrigation system" means any assemblage of component materials or special equipment that provides and distributes a controlled dispersion of water to landscaped areas for the purposes of irrigating vegetation or controlling dust and erosion.

(7) "License" means a document issued by the commissioner authorizing the holder to engage in the profession indicated thereon.

(8) "Mobile unit" means a container or means of conveyance from which cut flowers or nursery stock are sold.

(9) "Nursery" means any farm, grounds, or premises on which nursery stock is propagated, grown, or kept for sale or distribution.

(10) "Nursery stock" means all trees, shrubs, ornamental plants, grass sod, or foliage plants grown or kept for propagation, distribution, or sale.

(11) "Nurseryman" means any person who engages in the production, distribution, and sale of nursery stock.

(12) "Outlet" means a mobile unit or a place of business.

(13) "Permit" means a document issued by the commissioner authorizing the holder to engage in the occupation indicated thereon.

(14) "Person" means an individual or any legal or commercial entity, including a corporation, business trust, partnership, limited liability company, association, or joint venture. However, for the purposes of violations, adjudications, and penalties under this Chapter, "person" shall not include a person or entity volunteering to provide horticulture services.

(15) "Place of business" means a permanent location or a portion of a permanent location from which business in a regulated profession or occupation is transacted.

(16) "Secretary" means the secretary of the commission.

(17) "Vending machine" means any climate controlled mechanical, electric, or electronic self-service device which, upon insertion of money, credit card, token, or any other form of payment, automatically dispenses merchandise.

Acts 1950, No. 224, §3. Amended by Acts 1965, No. 127, §1; Acts 1972, No. 320, §§1, 2; Acts 1981, No. 112, §1; Acts 1985, No. 120, §1; Acts 2004, No. 810, §1, eff. July 12, 2004; Acts 2008, No. 63, §1, eff. June 5, 2008; Acts 2008, No. 227, §1, eff. June 16, 2008; Acts 2008, No. 229, §1, eff. June 16, 2008.

§3804. Regulation of professions and occupations

A. The commission shall regulate the following professions:

(1) Arborist.
(2) Retail florist.
(3) Wholesale florist.
(4) Landscape horticulturist.
(5) Landscape architect.
(6) Utility arborist.
(7) Landscape irrigation contractors.

B. The commission shall regulate the following occupations:

(1) Nursery stock dealer.
(2) Cut flower dealer.

C. No person shall receive fees, whether directly or indirectly, for engaging in a regulated profession, or advertise as engaged in a regulated profession, or solicit business in a regulated profession, unless the person holds a valid appropriate license issued by the commissioner, or has a regular employee who holds a valid appropriate license issued by the commissioner, or is employed by or is working under the direct supervision of a person who holds a valid appropriate license issued by the commissioner.

D. No person shall receive income, whether directly or indirectly, for engaging in a regulated occupation, or advertise as engaging in a regulated occupation, or solicit business in a regulated occupation, unless the person holds a valid appropriate permit issued by the commissioner, or has a regular employee who holds a

valid appropriate permit issued by the commissioner, or is employed by or supervised by a person who holds a valid appropriate permit issued by the commissioner and who accepts responsibility for insuring that the employee complies with the requirements of this Chapter.

E. The regulation of arborists is preempted by this Chapter. The governing authority of a political subdivision shall not adopt any ordinance in any way affecting the licensure or regulation of arborists, except as follows:

(1) The governing authorities of parishes and municipalities may request that the rules applicable to arborists be amended to provide for specific problems encountered by the parish or municipality.

(2) The following provisions shall govern requests by parish or municipal governing authorities:

(a) The request shall be addressed to the commissioner.

(b) The commission shall hear the request.

(c) The commission shall make a preliminary determination as to the advisability of amending the rules and shall transmit its determination to the commissioner.

(d) The commissioner shall make the final determination as to the desirability of amending the rules.

(e) If the commissioner determines that the rules should be amended, the rule shall be adopted in accordance with the Administrative Procedure Act.

(3) Any governing authority of a political subdivision may petition the commissioner for approval of an ordinance applicable to the licensure or regulation of arborists as follows:

(a) The governing authority shall transmit the proposed ordinance to the commissioner who shall refer the ordinance for hearing in accordance with R.S. 3:3804(E)(2).

(b) Upon receipt of the recommendation of the commission, the commissioner shall approve or disapprove the proposed ordinance.

(c) Any governing authority aggrieved by a final decision of the commissioner, shall have a right of judicial review of the administrative process in accordance with the Administrative Procedure Act.

Acts 1950, No. 224, §4. Amended by Acts 1965, No. 127, §1; Acts 1972, No. 320, §1; Acts 1974, No. 574, §3; Acts 1979, No. 500, §1; Acts 1981, No. 621, §1, eff. Jan. 1, 1982; Acts 1985, No. 120, §1; Acts 1992, No. 60, §1; Acts 2004, No. 810, §1, eff. July 12, 2004; Acts 2008, No. 63, §1, eff. June 5, 2008.

§3805. Applications

Each application to take an examination and each application for a license or permit shall be in writing and shall be on forms which shall be prescribed by the commission. Each application shall be accompanied by the appropriate fee and by such documents as the commission may require. Each applicant shall indicate on the application the street address of his residence and the street address of his place of business. If the residence or place of business does not have a street address, the applicant shall provide sufficient information to establish the physical location of the residence or place of business. Each applicant for a nursery stock dealer's permit or a cut flower dealer's permit shall have an identifying sales tax number issued by the secretary of revenue and taxation and shall indicate that number on the application.

Acts 1950, No. 224, §5. Amended by Acts 1954, No. 534, §2; Acts 1981, No. 621, §1, eff. Jan. 1, 1982; Acts 1985, No. 120, §1; Acts 1985, No. 192, §1.

§3806. Fees

A (1) The examination fee for each examination for a professional license, except for landscape architects, shall be established by the commission by rule in an amount not to exceed three hundred fifty dollars. In determining the amount of the fee, the commission shall consider the costs incurred in obtaining, administering, and grading the examination.

(2) The examination fee for each examination for a professional license for landscape architects shall be the cost incurred by the commission in obtaining the national examination plus an administrative fee, not to exceed two hundred dollars, which represents the cost of administering and grading the examination.

B. The license fee for each professional license which is issued or renewed by the commissioner shall be seventy-five dollars per license.

C. The permit fee for each nursery stock dealer's permit which is issued or renewed by the commissioner shall be one hundred thirty dollars per permit.

D. The permit fee for each cut flower dealer's permit which is issued or renewed by the commissioner shall be seventy dollars per permit.

E. In addition to the fees provided for in Subsections B, C, and D of this Section, each applicant who applies for the renewal of a license or permit more than fifteen working days after his license or permit has expired shall pay a late fee of twenty-five dollars for each late application.

F. The fees established in this Section shall not be refundable except under such conditions as the commission may establish.

G. (1) All assessments, fees, penalties, and all other funds received under the provisions of this Chapter, subject to the exceptions contained in Article VII, Section 9 of the Constitution of Louisiana, shall be deposited immediately upon receipt into the state treasury and shall be credited to the Bond Security and Redemption Fund.

(2) Out of the funds remaining in the Bond Security and Redemption Fund after a sufficient amount is allocated from that fund to pay all obligations secured by the full faith and credit of the state which become due and payable within any fiscal year, the treasurer, prior to placing the remaining funds in the state general fund, shall pay an amount equal to the total amount of funds paid into the state treasury under the provisions of this Chapter into a special fund which is hereby created in the state treasury and designated as the Horticulture and Quarantine Fund.

(3) All unexpended and unencumbered monies in the fund at the end of the fiscal year shall remain in the fund. The state treasurer shall invest monies in the fund in the same manner as monies in the state general fund. All interest earned on monies from the fund invested by the state treasurer shall be deposited in the fund.

(4) Subject to appropriation, the monies in the fund shall be used for the following purposes:

(a) To provide for the expenses of the program established by this Chapter and the expenses of the office of agricultural and environmental sciences, as determined by the commissioner.

(b) To fund any and all costs related to the purposes of this Chapter and to carrying out the powers and duties granted the commission and the commissioner under this Chapter.

Acts 1950, No. 224, §6. Amended by Acts 1981, No. 621, §1, eff. Jan. 1, 1982; Acts 1981, Ex.Sess., No. 2, §1, eff. Jan. 1, 1982; Acts 1985, No. 120, §1; Acts 1987, No. 844, §1; Acts 1992, No. 457, §1; Acts 1992, No. 984, §2; Acts 2003, No. 123, §1, eff. July 1, 2003; Acts 2011, No. 31, §1.

§3807. Examinations

A. Each applicant for a professional license shall satisfactorily pass an examination prior to being issued a license. The commission shall be responsible for the preparation, administration, and grading of examinations for professional licenses. The commission shall review and approve all proposed examinations and shall determine the minimum score necessary to satisfactorily pass each examination.

B. The examination for each profession shall be compiled from lists of questions submitted by the following organizations:

(1) The arboricultural examination shall be compiled from a list of questions submitted by the Louisiana State University Agricultural Center and the Louisiana Department of Agriculture and Forestry. The utility arboricultural examination shall be a separate examination pertaining to utility tree work and shall be compiled from a list of questions submitted by the Louisiana State University Agricultural Center and the Louisiana Department of Agriculture and Forestry.

(2) The retail florist examination shall be compiled from a list of questions submitted by the Louisiana State Florists Association, Louisiana State University Agricultural Center, and the Louisiana Department of Agriculture and Forestry.

(3) The wholesale florist examination shall be compiled from a list of questions submitted by the Louisiana Wholesale Florists Association, Louisiana State University Agricultural Center, and the Louisiana Department of Agriculture and Forestry.

(4) The landscape horticulturist examination shall be compiled from a list of questions submitted by the Louisiana Nursery and Landscape Association, Louisiana State University Agricultural Center, and the Louisiana Department of Agriculture and Forestry.

(5) The landscape architect examination shall be prepared by the Council of Landscape Architects Registration Board, supplemented with such other questions as shall be determined by the commission.

(6) Repealed by Acts 2008, No. 63, §2, eff. June 5, 2008.

(7) The landscape irrigation contractor examination shall be compiled from a list of questions submitted by the Louisiana Irrigation Association and the Louisiana Department of Agriculture and Forestry.

C. The commission shall fix the dates for all examinations for professional licenses. The commission may establish a date prior to each examination which shall be the last date on which applications to take the examination will be accepted, and may refuse to administer examinations to persons whose applications are received after that date.

D. Each person who has been issued a license and who fails to renew his license for three successive years, may do so upon completion of the requirements for renewal established by the commission. The maximum fee for delayed renewal shall be established by the commission, provided that said renewal fee shall not exceed three times the normal renewal fee. This delinquent renewal fee shall be in addition to the late renewal registration fee set forth in R.S. 3:3806(E).

E. The commission may enter into reciprocal agreements with licensing agencies in other states to provide that applicants for a landscape architect's license who are licensed in another state as a result of passing an examination which was approved by the Council of Landscape Architects Registration Board shall be given credit for having passed that examination and will be required only to pass the Louisiana section of the examination to be licensed in Louisiana.

Acts 1950, No. 224, §7. Amended by Acts 1965, No. 127, §1; Acts 1972, No. 320, §1; Acts 1981, No. 621, §1, eff. Jan. 1, 1982; Acts 1985, No. 120, §1; Acts 1987, No. 844, §1; Acts 1988, No. 230, §1; Acts 1990, No. 120, §1; Acts 1992, No. 60, §1; Acts 1992, No. 457, §1; Acts 2004, No. 810, §1, eff. July 12, 2004; Acts 2008, No. 63, §§1, 2, eff.

June 5, 2008; Acts 2008, No. 556, §1, eff. June 30, 2008; Acts 2008, No. 920, §1, eff. July 14, 2008; Acts 2010, No. 1040, §1, eff. July 8, 2010.

§3808. Terms and conditions of licenses and permits

A. A person who presents himself as, or advertises as, engaging in the arborist profession shall be required to obtain a license which shall subject that person to the following provisions:

(1) An arborist's license authorizes the holder thereof to recommend or execute the following measures:

(a) The removal of a tree or a portion of a tree.

(b) Measures to prolong the life of a tree.

(c) Measures to enhance the aesthetic value of a tree.

(2) For license renewal, each arborist is required to attend a continuing training seminar as determined by rule by the commission.

B. Retail florists shall be subject to the following provisions:

(1) A retail florist's license authorizes the holder thereof to arrange or supervise the arrangement of floral designs which include living or freshly cut plant materials and to sell at retail floral designs, cut flowers, and ornamental plants in pots normally and customarily sold by florists.

(2) Each person who engages in the profession of retail floristry shall have a regular employee at each place of business who is a licensed retail florist and whose license shall be on display at all times during the hours business is conducted in that profession.

(3) Notwithstanding the provisions of Subsection (2), an individual who is a licensed florist and who owns his own floral business may operate a vending machine at a location remote from the individual's place of business for the sale of cut flowers and floral designs, subject to all of the following restrictions:

(a) (i) No individual shall operate more than five vending machines at any time.

(ii) When a floral business is operated by two or more licensed florists, the floral business shall be limited to five vending machines, regardless of the number of licensed florists who are employed by the floral business.

(b) A licensee shall obtain a cut flower permit for each vending machine.

(c) The following shall be prominently displayed inside the vending machine in plain view or on each vending machine:

(i) The name of the licensed florist.

(ii) The address and telephone number, which is on record with the commission, of the individual owning or operating the vending machine.

(d) The cut flowers and floral designs sold from the vending machine shall be inspected or arranged by a licensed florist or under the supervision of a licensed florist at the owner's place of business prior to placement in the vending machine.

(e) The vending machine is monitored in person or electronically by a licensed florist or an individual under the direct supervision of a licensed florist at least once each business day and serviced as needed.

(4) The commission may adopt rules and regulations governing the profession of retail florist, including rules and regulations providing for the operation, location and monitoring of vending machines and for the quality, freshness, longevity, and freedom from injurious insects, diseases, or other pests, of cut flowers, floral designs, and ornamental plants in pots sold by a licensed florist.

(5) he provisions of this Subsection shall not apply to persons who arrange or sell floral designs composed entirely of artificial materials, or dried plant materials, or both.

(6) Individuals licensed to operate vending machines shall not operate them outside of the parish more than twenty-five miles beyond their place of business.

C. A wholesale florist's license authorizes the holder thereof to prepare and sell cut flowers, plant materials, and ornamental plants in pots normally and customarily used by retail florists to persons who hold a retail florist's license and to prepare and sell cut flowers to persons who hold a cut flower dealer's permit. A wholesale florist's license shall not authorize the holder thereof to arrange or sell floral designs.

D. A landscape horticulturist's license authorizes the holder to do the following:

(1) Implement plans, studies, surveys, specifications, and designs prepared by a licensed landscape architect.

(2) Recommend and implement measures for interior and exterior beautification and development through the use of nursery stock.

(3) Sell or lease nursery stock and to recommend and execute measures for the maintenance of nursery stock. Each landscape horticulturist may use his license for the sale or lease of nursery stock from only one place of business. The license shall be on display at all times during the hours nursery stock is sold.

(4) Prepare drawings to indicate the placement of nursery stock. Each drawing shall include the name and license number of the landscape horticulturist who prepared the drawing. No fee shall be charged for preparing a drawing. A landscape horticulturist may use a drawing prepared by him in connection with the submission of a bid proposal. A drawing shall not be used by any person to solicit bids for the sale of materials or rendering of services regulated by the Commission.

E. Landscape architects shall be subject to the following provisions:

(1) A landscape architect's license authorizes the holder thereof to perform professional services such as consultation, investigation, research, preparation of general development and detailed landscape design plans, studies, specifications, and responsible supervision in connection with the development of landscape areas where, and to the extent that, the principal purpose of the service is to arrange and modify the effects of natural scenery for aesthetic effect, considering the intended use of the land. Such services concern the arrangement of natural forms, features, and plantings, including the ground and water forms, vegetation, circulation, walks, and other landscape features to fulfill aesthetic and practical requirements.

(2) In order to accomplish the duties described in Paragraph (1) of this Subsection, the landscape architect may prepare feasibility studies; formulate graphic and written criteria to govern the aesthetic and practical planning and design of land construction programs; prepare, review, and analyze plans for aesthetic and practical land use and development; produce landscape plans, landscape grading and landscape drainage plans, landscape irrigation plans, planting plans, and related landscape construction details, specifications, estimates of probable costs, and reports for aesthetic and practical land use;

collaborate in the design of pleasing and practical settings and approaches for vehicular and pedestrian circulation systems, bridges, and nonhabitable structures, all with respect to the practical and aesthetic requirements of the areas on which they are to be placed; negotiate and arrange for execution of landscape projects; and conduct field observation of landscape construction, restoration, and maintenance.

(3) Nothing in this Subsection shall permit any person licensed under this Subsection to perform professional services which are defined as the practice of architecture in R.S. 37:141 et seq., or the practice of engineering or land surveying in R.S. 37:681 et seq., and which are not included in the practice of landscape architecture under this Subsection. Nothing in this Subsection shall prohibit the practice of engineering or land surveying or the practice of architecture by any person who is licensed as a professional engineer or land surveyor under R.S. 37:681 et seq., or as an architect under R.S. 37:141 et seq.

(4) In order to qualify to take the examination for the landscape architect's license, the applicant shall meet one of the qualifications set forth in this Paragraph. The applicant shall submit evidence of qualification in the form required by the commission by rule. The applicant shall indicate on the application which qualification the applicant meets. The qualifications are:

(a) The applicant is the holder of a professional degree from a school whose curriculum has been accredited by the accrediting entity approved by the American Society of Landscape Architects or is the holder of a degree which the commission by rule has declared to be the educational equivalent of that degree and has completed a minimum of one year internship under the direct supervision of a licensed landscape architect, or landscape horticulturist, or design professional in a related profession.

(b) The applicant has completed six years of practical landscape architectural experience under the direct supervision of a licensed landscape architect or landscape horticulturist, or design professional in a related profession.

(c) The applicant possesses a combination of education and experience which the commission, by rule, has determined to be the equivalent of the qualifications in Subparagraphs (a) and (b) of this Paragraph.

(5) The commission shall issue each licensed landscape architect a permanent registration number.

(6) Each landscape architect shall affix his seal to all drawings or specifications prepared by or under the direct supervision of the landscape architect.

(7) The seals used by landscape architects shall meet the specifications determined by rule by the commission.

F. Repealed by Acts 2008, No. 63, §2, eff. June 5, 2008.

G. Each person licensed under the provisions of this Chapter shall meet the professional standards determined by the commission for each profession and shall notify the commission of each change in the address of the residence or place of business of the license holder.

H. A nursery stock dealer's permit authorizes the holder thereof to sell nursery stock. A nursery stock dealer's permit shall not authorize the holder thereof to install nursery stock.

I. A cut flower dealer's permit authorizes the holder to do any of the following:

(1) Sell cut flowers either singly or in bunches, or both. However, the holder of a cut flower permit may not sell cut flowers within three hundred feet of the place of business of another person engaged in the profession of retail florist.

(2) Operate under that permit a vending machine for the sale of cut flowers and floral design in accordance with the provisions of this Chapter and the rules and regulations adopted pursuant to this Chapter, if the holder is engaged in the profession of retail florist.

J. Each person issued a permit under the provisions of this Chapter shall meet the occupational standards determined by the commission for each occupation and shall notify the commission of each change in the address of the permit holder.

K. Each person who holds a valid Louisiana Nursery Certificate Permit may use that permit in lieu of a nursery stock dealer's permit, or a cut flower dealer's permit, or both, at any one outlet.

L. Each nursery stock dealer and cut flower dealer shall secure an appropriate permit for each outlet operated by the dealer.

M. Each license and permit issued under the provisions of this Chapter shall expire on January thirty-first of each year and may be renewed in accordance with rules adopted by the commission.

N. Each holder of a license or permit issued under the provisions of this Chapter shall present such license or permit upon demand of any authorized agent of the horticulture commission.

O. Utility arborists shall be subject to the following provisions:

(1) A utility arborist's license authorizes the holder thereof to recommend or execute the removal of trees or portions of trees along utility rights of way.

(2) For license renewal, each utility arborist is required to attend a continuing training seminar as determined by rule by the commission.

P. Landscape irrigation contractors shall be subject to the following provisions:

(1) Notwithstanding any other law to the contrary, a landscape irrigation contractor's license authorizes the holder to construct, install, connect, repair, maintain, improve, or alter any portion of a landscape irrigation system, including the required wiring within that system, and to install and connect the landscape irrigation system to the required power supply and to a public or private water supply system.

(2) For license renewal, each landscape irrigation contractor shall obtain continuing training as determined by rule of the commission.

(3) He shall request and be issued any necessary permits from any governing authority.

(4) Prior to connecting to a public or private water supply system, a licensed landscape irrigation contractor shall obtain a water supply protection specialist endorsement from the State Plumbing Board. The State Plumbing Board shall issue a special endorsement of a water supply protection specialist to any licensed landscape irrigation contractor who completes the training required by the State Plumbing Board as provided for in R.S. 37:1368(H)(1); however, neither a journeyman plumber's license nor a master plumber's license shall be required.

(5) Backflow prevention devices shall be installed in accordance with the provisions of Part XIV of the Louisiana State Sanitary Code by a person holding a water supply protection specialist endorsement.

(6) Nothing in this Subsection shall permit any licensed landscape irrigation contractor to perform any electrical or plumbing services not provided for in this Subsection, for which a license is required from any other regulatory board. Nothing in this Subsection shall prohibit a licensed electrician or plumber from providing electrical or plumbing services necessary to make or keep an irrigation system operational.

Acts 1987, No. 844, §1; Acts 1988, No. 231, §1; Acts 1992, No. 60, §1; Acts 2004, No. 810, §1, eff. July 12, 2004; Acts 2008, No. 63, §§1, 2, eff. June 5, 2008; Acts 2008, No. 227, §1, eff. June 16, 2008; Acts 2010, No. 495, §1, eff. June 24, 2010.

§3809. Employee of persons who hold licenses and permits

A. Each person who holds a professional license issued under the provisions of this Chapter may employ personnel to work under the direct supervision of the license holder in the profession indicated on the license. The license holder shall give direction and instruction to such personnel and shall be responsible for insuring that the work product of such personnel meets the appropriate professional standards determined by the commission.

B. Each person who holds an occupational permit issued under the provisions of this Chapter may employ personnel to work in the occupation indicated on the permit. The permit holder shall be responsible for insuring that such personnel meet the appropriate occupational standards determined by the commission.

Added by Acts 1965, No. 127, §2. Amended by Acts 1972, No. 320, §1; Acts 1981, No. 621, §1, eff. Jan. 1, 1982; Acts 1985, No. 120, §1.

§3810. Violations

A. Failure to comply with any provision of this Chapter or of any rule or regulation adopted pursuant to this Chapter shall constitute a violation. Violations include but are not limited to:

(1) Performing any of the following acts in a regulated profession or occupation without either a valid appropriate license or permit issued by the commissioner or without a regular employee who holds a valid appropriate license or permit issued by the commissioner:

(a) Engaging in or doing any form of work in a regulated profession or occupation.

(b) Receiving income, whether directly or indirectly, for engaging in or doing any form of work in a regulated profession or occupation.

(c) Advertising, soliciting, or otherwise attempting to obtain any form of work in a regulated profession or occupation.

(2) Failing to abide by any cease and desist order issued by the commission or any stop order or notice of non-compliance issued by the commissioner or their authorized employees or agents.

(3) Performing any fraudulent practice while engaged in a regulated profession or occupation or intentionally misrepresenting any matter involved in or related to work in a regulated profession or occupation.

(4) Altering, forging, counterfeiting, or using without authority any license, permit, or other document provided for in this Chapter or in any rule or regulation adopted pursuant to this Chapter.

(5) Knowingly permitting any person under direct supervision of a person holding a license or permit pursuant to this Chapter to violate any provision of this Chapter or any rule or regulation adopted pursuant to this Chapter.

(6) Failing to comply with the continuing education requirements adopted by the commission for any regulated profession or occupation.

(7) Failing to timely pay any fee, penalty, or other cost imposed under this Chapter or any rule or regulation adopted pursuant to this Chapter.

(8) Failing to meet the appropriate minimum standards of practice for a regulated profession or occupation established by the commission through rule or regulation.

B. Each violation shall be considered a separate offense and each day on which a violation occurs or continues to occur shall be considered a separate offense.

Added by Acts 1965, No. 127, §2. Amended by Acts 1981, No. 621, §1, eff. Jan. 1, 1982; Acts 1985, No. 120, §1; Acts 2008, No. 229, §1, eff. June 16, 2008.

§3810.1. Adjudicatory proceedings

A. Findings of violations and imposition of penalties may be made only by a ruling of the commission based upon an adjudicatory proceeding held in accordance with the provisions of the Administrative Procedure Act and this Chapter.

B. Whenever the commissioner has any reason to believe that a violation of this Chapter or of any rule or regulation adopted pursuant to this Chapter has occurred, the commissioner may present the alleged violations to the commission for a determination.

C. A hearing officer shall be appointed to preside over the hearing.

D. Notice of the alleged violation, the date of the adjudicatory hearing, the conduct of discovery and the adjudicatory hearing shall be as provided in the Administrative Procedure Act.

E. The ruling of the commission shall be in writing and provided to the person charged with the violation, as provided by the Administrative Procedure Act.

F. Any appeal from a ruling of the commission shall be in accordance with the Administrative Procedure Act.

Acts 2008, No. 229, §1, eff. June 16, 2008.

§3810.2. Civil penalties and costs

A. Whoever is found by the commission to have violated a provision of this Chapter or any rule or regulation adopted pursuant to this Chapter shall be fined as follows:

(1) The commission may assess a civil penalty of not more than two hundred fifty dollars for each violation of any provision of this Chapter or any rule or regulation adopted pursuant to this Chapter if the person subject to the civil penalty has not been found guilty of a violation of any provision of this Chapter or any rule or regulation adopted pursuant to this Chapter in a prior adjudicatory proceeding held by the commission.

(2) The commission may assess a civil penalty of not more than five hundred dollars for each violation of any provision of this Chapter or any rule or regulation adopted pursuant to this Chapter if the person subject to the civil penalty has been found guilty of a violation of any provision of this Chapter or any rule or regulation adopted pursuant to this Chapter in a prior adjudicatory proceeding held by the commission.

(3) The commission may assess a civil penalty of not more than one thousand dollars for each violation of any provision of this Chapter or any rule or regulation adopted pursuant to this Chapter if the person subject to the civil penalty has been found guilty of a violation of any provision of this Chapter or any

rule or regulation adopted pursuant to this Chapter in two or more prior adjudicatory proceedings held by the commission.

B. In addition to civil penalties, the commission may assess the cost of the adjudicatory proceeding against any person found to be in violation of this Chapter or any rule or regulation adopted pursuant to this Chapter. The commission shall, by rule or regulation, determine the amount of the cost of an adjudicatory proceeding, which may include the cost of any investigation leading up to or made during the course of an adjudicatory proceeding.

Acts 2008, No. 229, §1, eff. June 16, 2008.

§3810.3. Enforcement

A. The commission may issue a cease and desist order and the commissioner may issue a stop order or notice of non-compliance to stop or prevent a violation of any provision of this Chapter or any rule or regulation adopted pursuant to this Chapter.

B. The commissioner may seek to collect any fee, penalty, or cost that may be due under any provision of this Chapter or any rule or regulation adopted pursuant to this Chapter.

C. The commissioner may institute civil proceedings in any court of proper jurisdiction and venue to:

(1) Enforce the rulings of the commission.

(2) Collect any fee, penalty or cost due under any provision of this Chapter or any rules or regulations adopted pursuant to this Chapter.

(3) Seek injunctive relief to restrain and prevent violations of any provision of this Chapter or of any rule or regulation adopted pursuant to this Chapter.

Acts 2008, No. 229, §1, eff. June 16, 2008.

§3811. Revocation of licenses and permits

A. The commission may revoke or suspend any license or permit issued under the provisions of this Chapter upon a determination by the commission that the holder of the license or permit has violated the provisions of this Chapter or the rules and regulations of the commission, or has failed to meet the professional or occupational standards determined by the commission, or has failed to insure that the personnel employed by the holder of the license or permit meet the professional or occupational standards determined by the commission.

B. Licenses and permits may be revoked or suspended only by a ruling of the commission based on an adjudicatory hearing held in accordance with the provisions of the Louisiana Administrative Procedure Act.

C. The commission shall notify each person whose license has been revoked or suspended, by certified mail, return receipt requested.

D. Each person whose license or permit has been revoked or suspended shall return the license or permit to the commission within fifteen days of the date on which the notice of the revocation or suspension was received.

Added by Acts 1965, No. 127, §2. Amended by Acts 1981, No. 621, §1, eff. Jan. 1, 1982; Acts 1985, No. 120, §1.

§3812. Mandamus to compel issuance of license or permit

Any person who is denied a permit or license by the commission may institute legal proceedings against the commission in the district court for the parish of East Baton Rouge. If the court finds that the license or permit should have been issued, the court may issue a writ of mandamus to compel the commission to issue the license or permit.

Added by Acts 1965, No. 127, §2. Amended by Acts 1981, No. 621, §1, eff. Jan. 1, 1982; Acts 1985, No. 120, §1.

§3813. Repealed by Acts 1987, No. 844, §2.

§3814. Meetings of the commission

The commission shall hold regular meetings twice each year. The commission may meet at other times upon the call of the chairman or of any three members. The commission shall not meet more than six times in any calendar year.

Added by Acts 1965, No. 127, §2. Amended by Acts 1981, No. 621, §1, eff. Jan. 1, 1982; Acts 1985, No. 120, §1; Acts 1990, No. 112, §1.

§3815. Transition provisions

Any person holding either a horticulturist license or landscape contractor's license prior to February 1, 2009 and who is eligible to renew his license shall be issued a landscape horticulturist license in place of the old license without further application or examination upon the payment of any required renewal fee.

Added by Acts 1965, No. 127, §2; Acts 1985, No. 120, §1; Acts 2008, No. 63, §1, eff. June 5, 2008.

§3816. Special provisions

The following provisions shall supersede the requirements and provisions of this Chapter:

(1) An individual performing certain gardening activities, such as mowing, edging, hand weeding, or trimming of hedges and shrubbery, under the direction and responsibility of the owner of the property, shall not be required to obtain any license required by this Chapter to practice his occupation.

(2) An individual who prunes a tree, under the specific direction and responsibility of the owner of the property, in which the branch to be removed is two inches or less in diameter and is within ten feet of ground level, shall not be required to obtain any license required by this Chapter.

(3) The provisions of Paragraphs (1) and (2) of this Section shall not apply to services performed for commercial establishments.

(4) A landowner or homeowner doing work on his own property, a land surveyor practicing his profession, land clearing operations, forestry operations, and utility companies doing work in emergency situations or in the preventing of emergency situations, for the restoration of service, or for the installation of individual service lines by an installer repair technician, shall not be required to obtain a utility arborist license as required by this Chapter.

(5) A person who constructs, installs, connects, repairs, maintains, improves, or alters an irrigation system used for agricultural or forestry purposes or on property owned, managed, or leased by that person or

his employer shall not be required to obtain a landscape irrigation contractor license as required by this Chapter.

(6) The provisions of this Chapter shall not supersede local ordinances adopted by local governing authorities regarding the installation of backflow prevention devices.

(7) (a) In the event of a catastrophe and a declaration of emergency, the commissioner may issue a temporary arborist license authorizing a person to perform the measures specified by R.S. 3:3808(A).

(b) Applicants for a temporary arborist license shall:

(i) Be licensed in another state as a result of passing a state examination or have acquired International Society of Arboriculture (ISA) Certification.

(ii) Present proof of license in another state or proof of ISA Certification.

(iii) Present a certification of insurance as provided in LAC 7:XXIX.117(E)(2).

(iv) Pay a fee of one hundred fifty dollars.

(c) The temporary arborist license shall be applied for within ninety days of the declaration of emergency and shall be in effect for a period of ninety days from the date of issuance.

(d) If the holder of the temporary arborist license desires to continue performing measures specified in R.S. 3:3808(A) beyond the ninety-day period, he shall be required to obtain an arborist license through normal procedures established by the Louisiana Horticulture Commission for such license.

Acts 1987, No. 874, §1; Acts 1992, No. 60, §1; Acts 2004, No. 810, §1, eff. July 12, 2004; Acts 2010, No. 34, §1.

Title 7
AGRICULTURE AND ANIMALS
Part XXIX. Horticultural Commission
Chapter 1. Horticulture

§101. Administration of the Affairs of the Horticulture Commission

A. In the absence of the chairman, the secretary shall preside at meetings of the commission.

B. The chairman may designate a hearing officer, who may or may not be a member of the commission, to preside at all adjudicatory proceedings of the commission.

C. The commission shall serve as a hearing body in all adjudicatory proceedings and shall make the final decision with respect to the disposition of all matters brought to adjudication.

D. Whenever any member of the commission desires to be represented at any meeting of the commission, the member must give at least five working days prior written notice to the secretary, naming the individual who will represent the member at the meeting of the commission.

E. Meetings of the commission shall normally be held at the domicile of the commission but may be held at other locations throughout the state upon the determination of the chairman of the commission.

F. The commission shall be convened upon the call of the chairman.

G. The commission may act to expel a member under the provisions of R.S. 3:3801(H) only after its intent to do so has been advertised to all members of the commission by placement of the expulsion matter on the agenda for the meeting at which the vote for expulsion will be taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801 and R.S. 3:3814.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:183 (April 1982).

§102. Definitions

A. The words and terms defined in R.S. 3:3803 are applicable to this Chapter.

B. The following words and terms are defined for the purpose of enforcing the provisions of R.S. 3:3801 et seq.

Arborist—any person trained in the care and removal of shade and ornamental trees. Shade and ornamental trees may be defined as those on an existing homesite or commercial property and those on property permitted for development for commercial or residential purposes. This definition shall also apply to any tree within 100 feet of any improvements on these properties.

Department—The Louisiana Department of Agriculture and Forestry.

Floral Design—an arrangement of cut flowers, ornamental plants, other living or freshly cut plant materials, or any combination thereof intentionally constructed so as to constitute a planned relationship among them.

Horticulture Law—Louisiana Revised Statutes of 1950, Title 3, Chapter 24, §3801 et seq.

Landscape Architect—any person that applies creative and technical skills and scientific, cultural and political knowledge in the planned arrangement of natural and constructed elements on the land with a concern for the stewardship and conservation of natural, constructed and human resources.[1]

Stop Order and Notice of Non-Compliance—a directive issued by the commissioner or the department or authorized agent to a person prohibiting that person from continuing a particular course of conduct or prohibiting the advertisement, application, distribution, disturbance, movement, performance, sale or offer for sale of a service or material thing, or both.

[1]American Society of Landscape Architects (ASLA) Definition of Landscape Architecture, ASLA Member Handbook, adopted November 18, 1983.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801 and R.S. 3:3814.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Horticulture Commission, LR 26:627 (April 2000), amended LR 33:1854 (September 2007), LR 34:2547 (December 2008).

§103. Enforcement

A. Hearings

1. Investigative hearings shall be for the purpose of investigating alleged violations of the Horticulture Law Law or regulations promulgated by the commission.
2. Investigative hearings may be held upon the call of the commission. Such hearings may be held in any part of the state.
3. The chairman, the secretary, a member designated by the chairman, or a hearing officer designated by the commission who need not be a member of the commission, shall preside at investigative hearings. All witnesses shall be sworn or shall make affirmation.
4. Investigative hearings conducted by the commission shall be open to the general public.
5. If the commission determines that evidence or testimony at an investigative hearing may tend to defame, degrade, or incriminate any person, it shall afford such person, upon request, an opportunity to appear as a witness; receive and dispose of requests from such persons to subpoena additional witnesses; and afford such person, or his attorney, upon request the opportunity to examine or cross-examine witnesses.
6. The director of the horticulture commission, upon approval of the chairman or secretary, is authorized to sign subpoenas which require the attendance and giving of testimony by persons who may possess any knowledge concerning any offense under investigation at an investigative hearing or for investigative purposes. The subpoena shall set forth reasonable grounds therefore, and shall order the person to appear at a designated time and place. The director may also order the issuance of a subpoena duces tecum as described above.
7. Whenever any person summoned under this regulation neglects or refuses to obey such summons or to produce books, papers, records or other data, or to give testimony as required, the commission 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.
8. A subpoena may be served by any person authorized by law to serve civil process, or by any agents of the commission, and the return made in writing by any such person shall be accepted as proof of service.
9. The commission is the sole judge of the pertinency of testimony and evidence adduced at such hearings.
10. The attorney for the commission and that of any public agency which may be participating in the investigation shall have the right to be present at all hearings and shall have the right to examine or cross-examine any witness.
11. Witnesses at investigative hearings may be accompanied by their own counsel.
12. A copy of this regulation shall be made available to any witness and a copy shall be delivered at the time of making service, to each person upon whom a subpoena is served; in addition thereto each person upon whom a subpoena is served shall be informed in writing that the commission suggests that he consult his attorney and that his attorney should attend the hearing to advise him.
13. The commission may, in its discretion, issue a report upon the conclusion of any such investigative hearing.
14. As a result of such investigations, the commission may initiate adjudicatory proceedings against licensees, permittee, or persons engaged in any regulated profession or occupation, may refer matters to other public agencies and may take any other appropriate action.
15. Investigative hearings may be conducted jointly with other interested public agencies.
16. It shall not be necessary to publish any advance notice of any investigative hearing and it shall be necessary that subpoenas disclose the general nature of the investigation.

17. At all investigative hearings the testimony shall be recorded stenographically or otherwise. Upon payment of the costs thereof, and when authorized by the commission, a witness may obtain a transcript copy of his testimony given at a public session.

B. Access to Premises

1. Any authorized representative of the commission or of the commissioner shall have access to, and may enter at all reasonable hours, all places of business operated by license or permit holders or persons engaged in any regulated profession or occupation to perform horticultural inspections and/or investigations. Any information gained through utilization of the authority granted hereinabove in this Subsection shall be treated as confidential and shall be used only for the administration of this Chapter, provided, that such information may be divulged by a person when called upon to testify in any adjudicatory proceeding before the commission or the commissioner or in any court proceedings, and provided further, that nothing contained in this Section shall prevent the use of any information procured by the commission or the commissioner in the compiling and dissemination of general statistical data containing information procured from a number of licensees or permittee and compiled in such a manner as not to reveal individual information of any licensee or permittee.

C. Cease and Desist. Upon determination of violation of law or rules and regulations, the commission may issue a cease and desist order describing with particularity the violative action and ordering the immediate cessation of said violative action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:183 (April 1982), amended LR 9:410 (June 1983), LR 34:2547 (December 2008).

§105. Qualifications for Examination and Licensure or Permitting

A. All applicants for examination and licensure or permitting under the provisions of R.S. 3:3801 et seq., must have attained their eighteenth birthday before taking an examination and before being issued a license or permit. Provided, however, that an applicant for examination who is 17 years of age, but who will attain his or her eighteenth birthday between regularly scheduled examinations may apply for and take the examination immediately prior to his or her eighteenth birthday. No applicant who qualifies to take an examination before his or her eighteenth birthday shall be issued a license or permit before attaining his or her eighteenth birthday.

B. All applicants for the landscape architect examination must meet one of the following qualifications:

1. holds a degree in landscape architecture, or holds a degree in another field with a minimum of the following credit hours earned from an accredited university or college curriculum:

   a. 25 hours in Landscape Design;

   b. 12 hours in Landscape Implementation (Construction);

   c. 6 hours in Plant Science or Plant Identification;

   d. 6 hours in Landscape Drawing or Graphics;

   e. 3 hours in Landscape History;

   f. 3 hours in Professional Practice;

   g. and has completed an equivalent of one year internship under the direct supervision of a licensed landscape architect, landscape horticulturist, engineer, architect, or a licensed professional with a design or contracting firm;

2. has completed the equivalent of six years of practical experience under the direct supervision of a licensed landscape architect, landscape horticulturist, or environmental designer. Must present a minimum of six examples of work in at least three of the following areas:

   a. site design;

b. staking or layout plan;

c. grading plan;

d. irrigation plan;

e. construction details;

f. planting plan with a plant list;

g. specifications;

NOTE: Examples of work submitted become the property of the commission.

3. has a combination of education and experience equivalent to §105.B.1 and 2. In determining credit to be given for education other than in landscape architecture, the applicant may be given up to two years credit for a degree in horticulture/plant science, architecture, civil engineering, environmental design, or urban design.

C. Any application received under §105.B.2 or 3 shall be reviewed by a committee appointed by the commission to determine qualifications.

D. All applicants for licensure must successfully complete the examination prescribed by the commission for the area in the practice of horticulture for which the license is sought.

1. Applicants for a landscape architect's license who are applying through reciprocity shall submit evidence of successful completion of an exam approved by CLARB or the commission and licensure in another state whose requirements for licensure are at least equal to those of this state. Such persons shall be required to pass the Louisiana section of the examination in order to be licensed in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801, R.S. 3:3807, and R.S. 3:3808.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:7 (January 1988), LR 20:639 (June 1994), LR 26:2240 (October 2000, LR 35:1227 (July 2009).

§107. Application for Examination and Licensure or Permitting

A. Each applicant must complete the application form prescribed by the commission for the area in the practice of horticulture for which the license or permit is sought.

B. Landscape Architect

1. Applicants who desire to take the examination for landscape architect must file the completed application, together with any supporting evidence, official transcript(s), and affidavit(s) as may be necessary, and with the fee required under §109.B at the commission's state office in Baton Rouge. The application must be postmarked or received by the deadline date established for applying for examination, which date shall be published in a prior issue of the *Louisiana Register*.

2. Any applicant for licensure as a landscape architect who successfully completes one or more of the different sections of the examination but does not successfully complete all sections of the examination will not be required to submit to re-examination in any section which was successfully completed. In such cases, the applicant may apply to re-take only the section(s) of the examination which were not successfully completed.

C. Arborist, Landscape Horticulturist, Landscape Irrigation Contractor, Retail Florist, Utility Arborist, Wholesale Florist

1. Applicants who desire to take the examination for arborist, landscape horticulturist, landscape irrigation contractor, retail florist, utility arborist, or wholesale florist may apply at any time, in person or by writing, to the commission's state office in Baton Rouge or to any district office of the Department of Agriculture and Forestry. Applicants who apply in person, will be allowed, whenever feasible, to complete the written application form at the initial visit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801, R.S. 3:3807, and R.S. 3:3808.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:7 (January 1988), LR 18:249 (March 1992), LR 20:639 (June 1994), LR 23:854 (July 1997), LR 29:1460 (August 2003), LR 31:1053 (May 2005), LR 35:1227, 1228 (July 2009), LR 37:3464 (December 2011).

§109. Examination Fees

A. Landscape Architect

1. The fee for examination for licensure as a landscape architect shall be the cost for each section of the examination plus an administrative fee of $200 for first time applicants and those applying through reciprocity.

2. The fee for re-examination in the various sections for licensure as a landscape architect shall be the cost for each section plus one administrative fee of $100.

B. Arborist, Landscape Horticulturist, Landscape Irrigation Contractor, Retail Florist, Utility Arborist, Wholesale Florist

1. The fee for examination or re-examination for licensure as an arborist, landscape horticulturist, landscape irrigation contractor, retail florist, utility arborist, or wholesale florist shall be $50.

C. All fees required under this rule must be submitted at the same time as the application; failure to submit any required fees will bar the applicant from taking the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3806, R.S. 3:3805, and R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:8 (January 1988), LR 18:249 (March 1992), LR 20:640 (June 1994), LR 29:2297 (November 2003), LR 31:1053 (May 2005), LR 35:1227 (July 2009), LR 37:3464 (December 2011).

§111. Minimum Examination Performance Levels Required

A. The performance level for satisfactory completion of all examinations for licensure, except the examination for landscape architect, shall be a minimum of 70 percent.

B. The minimum performance level for satisfactory completion of the examination for landscape architect shall be the minimum performance level acceptable to the Council of Landscape Architects Registration Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3807 and R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 20:153 (February 1994), LR 35:1229 (July 2009), LR 37:3464 (December 2011).

§113. Examination Schedule

A. Landscape Architect

1. The examination for licensure as a landscape architect shall be given by the commission on the date selected for administration of the examination nationally by the Council of Landscape Architects Registration Board.

2. The commission shall publish the time and location selected by the Council of Landscape Architects Registration Board for administration of the examination for landscape architect in an issue of the *Louisiana Register* to be published prior to the scheduled examination date and will disseminate information concerning the scheduled examination to all interested applicants.

3. The Louisiana section of the examination for landscape architect shall be given on the date selected for administration of the examination nationally by the Council of Landscape Architects Registration Board and at no more than one other time during the year, if deemed necessary to the commission based on the number of applicants desiring to take the Louisiana section.

B. Arborist, Landscape Horticulturist, Landscape Irrigation Contractor, Retail Florist, Utility Arborist, Wholesale Florist

1. Examinations for licensure as an arborist, landscape horticulturist, landscape irrigation contractor, retail florist, utility arborist, or wholesale florist will be administered in the commission's state office in Baton Rouge and in district offices of the Department of Agriculture and Forestry upon request. Interested applicants may apply, in person or by writing, at the state office or the most convenient district office. A date for the examination will be established for each applicant.

2. Whenever any applicant fails to successfully complete all phases of an examination for licensure, he may not apply to re-take the section of the examination which was not successfully completed for a period of two weeks following the date of the examination which he failed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3807 and R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:8 (January 1988), LR 18:250 (March 1992), LR 20:640 (June 1994), LR 31:1053 (May 2005), LR 35:1227 (July 2009), LR 37:3465 (December 2011).

§115. General Requirements for All Licensees or Permittee

A. All licensees or permittees must cooperate with any representative of the commission in any inspection of the premises and/or any other reasonable request. The giving of a false statement to any representative of the commission by a licensee or permittee shall constitute a violation of this regulation.

B. A person holding a license in a regulated profession may be the licensee for only one person or business. The licenses of all licensees regularly assigned to work in any outlet shall be prominently displayed at all times in a location accessible to the general public or any representative of the commission.

C. The permits of cut flower dealers and nursery stock dealers must be prominently displayed at all times in a location accessible to the general public or any representative of the commission.

D. All sod sold or installed in quantities of two pallets or 100 square yards or more shall be accompanied by a completed form indicating the type and class of sod. The form shall be specified by the commission and the consumer shall be provided with the completed form at the time of sale or installation. Copies of completed forms shall be kept on file and made available to commission representatives upon request for a period of one year after sale or installation.

1. The types of sod shall be indicated as: Centipede, St. Augustine, Bermuda, Zoysia, Carpet, Mixed, or Other. Bermuda, mixed, or other types shall be specified as to varieties.

2. The classes of sod shall be indicated as follows.

a. Class A (Superior Quality)—shall be free from bahia grass, torpedo grass, and Florida betony. Shall not contain more than 5 plants per 100 square feet of any other grasses, broadleaf weeds, or sedges.

b. Class B (Good Quality)—shall be free from bahia grass, torpedo grass, and Florida betony. Shall not contain more than 25 plants per 100 square feet of any other grasses, broadleaf weeds, or sedges.

c. Class C (Field Sod)—may include all sod not covered in the Classes A or B above. It may consist of sod lifted from pastures which may have been grown primarily for forages.

3. All sod must be free of insects and diseases and viable at the time of sale or installation.

4. It is the responsibility of the licensee or permittee to provide the proper classification of sod. Any discrepancies will be investigated by a representative of the commission. Any improper classification shall be considered a violation of this Part.

E. Licensees must display at least one of their license numbers on both sides of all vehicles that have advertisement or signs and are used for business purposes with lettering at least 2 inches high and legible at the distance of 25 feet. The number to be displayed shall be the last four digits of the license number preceded by two letters indicating the type of license as follows.

AR—Arborist

LH—Landscape Horticulturist
LA—Landscape Architect
IC—Landscape Irrigation Contractor
RF—Retail Florist
UA—Utility Arborist
WF—Wholesale Florist

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801 and R.S. 3:3808.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 20:640 (June 1994), LR 21:548 (June 1995), LR 31:1053 (May 2005), LR 34:2547 (December 2008), LR 35:1227 (July 2009).

§117. Professional and Occupational Standards and Requirements

A. Retail Florist

1. Professional Standards

a. All cut flowers, ornamental plants, and living or freshly cut plant materials sold or offered for sale must be fresh, of high quality, and free from injurious insects, diseases, and other pests. No plant material of low quality and no wilted or dead plant materials may be offered for sale to the general public or sold to a consumer except when specifically requested by the consumer.

b. Floral designs, cut flowers, ornamental plants, and living or freshly cut plant materials must be cared for in a manner that, to the extent reasonably possible, maintains their freshness and increases their longevity.

c. Coolers where floral designs, cut flowers, ornamental plants, or living or freshly cut plant materials, are kept or stored must be clean and maintained at a temperature conducive to prolonging the freshness of the said products kept or stored in the coolers.

d. Containers holding cut flowers or living or freshly cut plant materials must be maintained in a manner that does not adversely affect the cut flowers or plant material. Water in containers must be changed periodically so as to remain clean at all times.

e. Floral designs shall be prepared in a good and workmanlike manner and shall satisfy the consumer's requests that are objective in nature. All reasonable efforts should be made to satisfy the consumer's requests that are subjective in nature. All floral designs must be constructed in such a manner as to remain intact during transportation.

f. All wires, steel picks, corsage pins, and other sharp objects employed in the construction of a floral design must be used in a manner that will maintain the integrity of the floral design while minimizing the risk of injury to any person handling the floral design.

g. Compliance with equivalent procedures and techniques set forth in James L. Johnson, William J. McKinley, Jr. and M. Buddy Benz, *Flowers: Creative Design* (San Jacinto Publishing Co. 7th ed. 2001; distributed by Texas A&M Univ. Press) will establish a rebuttable presumption of compliance by the licensee with these professional standards.

2. Requirements

a. Retail florist shops that lose their licensed florist will be granted a grace period of 90 days of operating without the services of a full-time licensed florist. This grace period shall end 90 days from that date. The purpose of this grace period is to provide the florist shop an opportunity to employ a licensed person. This grace period can only be used once in a 12-month period. Retail florist shops shall cease to engage in the profession of retail florist after the grace period has been exhausted. In the event a retail florist shop, despite reasonable prevention efforts, loses its only or only remaining regularly employed licensed retail florist, the florist shop must replace the regularly employed licensed retail florist as soon as possible but in no event more than 90 days from the first day the retail florist shop operated without a regularly employed licensed retail florist. Notwithstanding the foregoing, no retail florist shop shall operate without a regularly licensed retail florist for more than a total of 90 days in any 12-month period that follows the first day of operation without a regularly employed licensed retail florist.

b. Retail florists may rent potted ornamental plants for special events such as weddings, conventions, trade shows, etc., if such plants are normally and customarily sold by florists and such plants do not require maintenance, other than normal watering. Plants rented by retail florists for a special event shall be rented only for the duration of that special event.

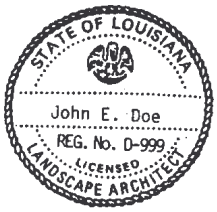
B. Landscape Architect

1. Without good cause, all designs must make use of plant materials commonly found growing in Louisiana or which are suitable for growth in Louisiana's growing conditions.

2. Licensees must meet the standards established by the Council of Landscape Architects Registration Board.

3. Each landscape architect must obtain a seal of the design authorized by the commission. The seal shall be placed on all professional documents, including contracts, maps, plans, designs, drawings, specifications, estimates and reports, issued by a licensed landscape architect for use in this state.

a. The seal required shall be circular and 1 5/8 inches in diameter. The words "State of Louisiana" shall be along the top circumference and the words "Licensed Landscape Architect" shall be along the bottom circumference. The individual's name shall be placed horizontally in the center of the field with his registration number below. Letters and figures shall be as shown on the example printed herein to insure uniformity.



b. A rubber stamp facsimile, which conforms to the official design of the seal described in §117.B.3.a, may be obtained and used in place of the seal by a licensed landscape architect.

c. The licensee shall sign his or her legal name on each document and shall then affix his or her seal over that signature. The presence of one's seal over the signature on any document constitutes proof that he or she accepts all legal and professional responsibility for the work accomplished. The seal shall be used only by the licensee responsible to this commission for authorship of the documents thus identified. No person other than the licensee represented shall use or attempt to use the prescribed seal, and no unlicensed person shall be authorized to use the prescribed seal. Authorized use of the prescribed seal is an individual act whereby the licensee must personally inscribe the seal over his or her signature. The licensee is responsible for the security of the seal when not in use.

4. All designs and specifications utilizing sod shall specify the type and class of sod to be used as provided in §115.D and accompanied by the sod classification form specified by the commission.

5. Continuing Education Requirements

a. Compliance with these continuing education requirements is necessary for a landscape architect, ("licensee"), to maintain a landscape architect license in this state.

b. The commission shall administer the continuing education requirements through a standing continuing education committee consisting of not more than two staff members and at least three licensed Louisiana landscape architects elected by mail ballot. The landscape architects on the committee will each serve a term of two years. The call for nominations and balloting for committee service will be conducted concurrent with annual balloting for members of the Louisiana Landscape Architects Selection Board.

c. A licensee shall attend, or complete an approved substitute for attendance, a minimum of 8 credit hours of continuing education within each calendar year. If more than 8 credit hours are obtained during a calendar year, a licensee may carry over a maximum of 4 credit hours from one calendar year to the next. Any credit hours carried over into a following calendar year shall apply to that year only and may not be

carried forward into subsequent years. A credit hour must contain at least 50 minutes of actual instruction or education.

d. Activities that may be approved for continuing education credits must contain instructional or educational components. Such activities include annual professional meetings, lectures, seminars, workshops, conferences, university or college courses, in-house training, and self directed activities. The commission's staff shall make the initial determination as to whether an activity qualifies for continuing education credit. If the commission's staff determines that an activity may not qualify, that activity request will be automatically forwarded to the continuing education committee for review and the committee's determination. Any licensee or other applicant for approval of an activity may appeal any committee rejection of an activity for continuing education credit to the commission. However, the commission retains the right to review and approve or disapprove any activity as a qualifying continuing education activity and the number of credit hours arising from such activity, even if there is no appeal. Any appeal from any decision of the commission shall be taken in accordance with the Administrative Procedure Act, (R.S. 49:950 et seq.).

e. A licensee shall keep all records showing attendance, or completions of an approved substitute for attendance, at continuing education activities for three years following the year in which attendance or completion was done.

f. Each licensee shall annually submit a written certification signed by the licensee that the licensee has, during that calendar year, attended, or completed an approved substitute for attendance, the number of credit hours stated in the certification. If credit hours carried over from the previous year are being used as a substitute for attendance then the certification shall state the number of carried over credit hours that are being used. The certifications shall be attached to the licensee's annual license renewal application. Any renewal application received without this certification shall not be processed for license renewal and the license fees submitted with the application shall be refunded to the licensee.

g. The commission shall cause an annual audit of licensees to be conducted. Licensees shall be selected for audit either by cross-section of licensees or by random audit. The provisions of this subsection notwithstanding, an investigation of a licensee for possible violation of these continuing education requirements may be conducted if there is reason to believe that a violation may have occurred. Licensees selected for audit will be required to provide documented proof of their having obtained the continuing education credits for the year being audited. A licensee's failure to provide documented proof of having attended, or completed an approved substitute for attendance, for each credit hours certified for the year being audited shall be a violation of this Part. In the event that a licensee provides documented proof of having attended, or undertaken an approved substitute for attendance, any credit hour certified for the year being audited and such credit hour is disallowed then the licensee shall have six months from date of notification of the disallowance to attend, or complete an approved substitute for attendance, a sufficient number of approved credit hours to make up for the disallowed credits. The credit hours attended to make up for any disallowed credit hours shall not count toward the minimum credit hours needed for any other year. Failure to timely make up for the disallowed credit hours shall be deemed a violation of this Part. An appeal from a disallowance of any credit hour may be taken as provided in Subparagraph d.

h. A licensee may submit a written request for an approved substitute for attendance or for a hardship exemption or extension of time in which to obtain the minimum credit hours for the year in which the request is made. The licensee must detail the reason for the request, such as the benefit of any substitution, any physical disability, illness, or extenuating circumstance, and a specification of the requested substitute for attendance, including number of credit hours, course of study, etc. The licensee must also provide any additional information asked for in consideration of the request.

C. Wholesale Florist

1. All flowers or greenery sold or offered for sale must be fresh and of high quality. No wilted or dead plant materials may be offered for sale to persons holding the proper license or permits.

2. All nursery stock sold or offered for sale must be fresh and of high quality and free from injurious insects, diseases, and other pests. No low quality plant materials may be offered for sale.

3. Coolers from which cut flowers or greenery are sold, or in which cut flowers or greenery are stored prior to sale, must be kept clean at all times. Water in containers must be changed regularly and kept clean at all times.

D. Landscape Horticulturist

1. Any nursery stock used in landscaping, leased, or sold, or offered for use in landscaping, lease, or sale, shall be of high quality and free from injurious insects, diseases, and other pests. Nursery stock which is leased must be maintained in high quality and free from injurious insects, diseases, and other pests.
2. All plant beds must be properly prepared and must allow for proper drainage.
3. All recommendations and maintenance and planting practices must incorporate sound horticultural practices.
4. All sod installed, sold, or recommended shall be classified as provided in §115.D.
5. Recommendations and maintenance and planting practices shall meet the standards outlined in *The Louisiana Manual for the Environmental Horticulture Industry* published by the Louisiana Nursery and Landscape Association.
6. Landscape horticulturists who prepare drawings to indicate the planting and location and arrangement of plant materials by that landscape horticulturist shall place his name, the words "Landscape Horticulturist," and his license number on each drawing prepared by him. Drawings prepared by a landscape horticulturist may be used only by that landscape horticulturist and no one else in connection with the submission of a bid proposal.
7. Licensees must display their license at all times in a location accessible to the general public or any representative of the commission.

E. Arborist

1. Licensees may not use climbing irons in any trees which are not to be removed except as provided §117.E.3 hereof.
2. Before the commission issues an arborist's license, the person to be licensed shall first furnish to the commission the following:
   a. a certificate of insurance, written by an insurance company authorized to do business in Louisiana, covering the public liability of the applicant for personal injuries and property damages, providing for not less than $25,000 per person for personal injuries and not less than $50,000 for property damages, both limits applicable to each separate accident, provided that the commission may waive the requirement for the stated insurance coverages for any licensed arborist who does not physically work on trees or accept responsibility for work on trees but only provides consultation with respect to work on trees. The certificate of insurance must provide for 30 days' written notice to the commission prior to cancellation.
3. When the characteristics of a tree require the use of climbing irons, the licensee may use climbing irons but only with the prior written permission of the owner of the tree.
4. Licensees shall enter into a written contract with the property owner employing him for arboricultural work, which contract must specify the services to be performed and the sum to be paid for the services. Both parties shall receive a copy of the contract.
5. Licensees may apply pesticides only for the purposes of retarding decay or disease. See also §119.A relative to application of pesticides.
6. Licensees engaged in the feeding of trees must follow proper fertilizer schedules and rates according to label directions. Representatives of the commission may take a sample of the nutrients applied during any tree feeding operation for the purpose of verifying its chemical analysis.
7. Licensees must display their license at all times in a location accessible to the general public or any representative of the commission.

8. Prior to renewal of an arborist license, the licensee shall provide the commission with certifiable evidence of completion of a continuing training seminar which was previously approved by the commission.

9. Recommendations and pruning practices shall meet the standards outlined in the *Arborists' Certification Study Guide* published by the International Society of Arboriculture.

F. Nursery Stock Dealer

1. All nursery stock sold or offered for sale must be fresh and of high quality and must be free from injurious insects, diseases, and other pests. No low quality plant materials may be offered for sale to the general public.

2. All indoor nursery stock offered for sale must be displayed or offered for sale under the protection of some type of covering, such as inside a building or under a carport, tent, or canopy, which will protect such plant material from exposure to sun, wind, or rain.

3. A clean source of water must be provided at all times when plants are offered for sale.

4. Nursery stock dealers operating from a mobile unit shall not sell nursery stock within 300 feet of a place of business that holds a nursery stock dealer's permit, nursery certificate permit, horticulture service license, retail florist license or a wholesale florist license.

5. The permit holder must display his permit at all times in a location accessible to the general public or any representative of the commission.

6. All sod sold shall be classified as provided in §115.D.

G. Cut Flower Dealer

1. All flowers or greenery offered for sale must be fresh and of high quality. No wilted or dead plant materials may be offered for sale to the general public, save and except when specifically requested by consumer.

2. A clean source of water must be provided for all flowers or greenery that are offered for sale. Water in containers must be changed regularly and kept clean at all times.

3. The permit holder must display his decal and/or permit at all times in a location accessible to the general public or any representative of the commission.

4. The restriction against a cut flower dealer locating within 300 feet of an established retail florist shall not apply to cut flower dealers in permanent locations. In addition, cut flower dealers operating from a mobile unit shall not sell cut flowers, within 300 feet of place of business that holds a cut flower dealer's permit.

H. Utility Arborist

1. Licensees may not use climbing irons in any trees which are not to be removed except in remote utility rights-of-way that are inaccessible to tree trimming equipment where no other practical means of trimming the tree is available or as provided in §117.E.3.

2. Before the commission issues a utility arborist license, the person to be licensed shall first furnish to the commission a certificate of insurance as provided in §117.E.2.a.

3. Licensees must make their license available to the public or any representative of the commission at all times.

4. Prior to renewal of a utility arborist license, the licensee shall provide the commission with certifiable evidence of completion of a continuing training seminar which was previously approved by the commission.

5. Recommendations and pruning practices shall meet the standards outlined in the *International Society of Arboriculture Certification Manual* and *Best Management Practices—Utility Pruning of Trees*, a publication by the International Society of Arboriculture.

I. Landscape Irrigation Contractor

1. Before the commission issues a landscape irrigation contractor license the person to be licensed shall first furnish to the commission a certificate of insurance, written by an insurance company authorized to do business in Louisiana, covering the public liability of the applicant, as a licensee, for personal injuries and property damages. The insurance policy shall provide for not less than $25,000 per personal injuries and

not less than $50,000 for property damages, both limits applicable to each separate accident. The certificate of insurance must provide for 30 days' written notice to the commission prior to cancellation. The commission may, however, waive the requirement for the stated insurance coverage for any licensed landscape irrigation contractor who does not physically work on landscape irrigation systems or accept responsibility for work on landscape irrigation systems but only provides consultation or other associated services with respect to landscape irrigation systems or the work performed on such systems.

2. Licensees are required to attend and complete a commission approved continuing training seminar at least once every three years. Each licensee, prior to renewal of his or her license, shall provide the commission with certifiable evidence that the licensee has timely and successfully completed such a seminar.
3. Licensed landscape irrigation contractors shall enter into a written contract with the property owner, specifying the landscape irrigation services to be performed and the sum to be paid for the services. The contract shall include the following statement: "Any complaints regarding landscape irrigation installation should be directed to the Louisiana Horticulture Commission at 225/952-8100." Both parties shall receive a copy of the contract.
4. Licensees must display their license at all times in a location accessible to the general public or any representative of the commission.
5. The following clarifications apply to licensed landscape irrigation contractors.
   a. A licensed landscape irrigation contractor is not required to have a water supply protection specialist endorsement from the State Plumbing Board in order to install an irrigation system up to the point of connecting the irrigation system to a public or private water supply system or installing a backflow prevention device.
   b. A licensed landscape irrigation contractor shall also have a water supply protection specialist endorsement from the State Plumbing Board before connecting any irrigation system to a public or private water supply system or installing a backflow prevention device, pursuant to R.S. 3:3808(P)(4), (5).
   c. A governing authority, such as a parish or municipality, shall issue all necessary permits, including necessary electrical permits, to a licensed landscape irrigation contractor who does not hold a water supply protection specialist endorsement for the installation of an irrigation system, except for those permits that would allow such a licensed landscape irrigation contractor to connect the irrigation system to a public or private water supply system or install a backflow prevention device.
   d. A governing authority, such as a parish or municipality shall issue all necessary permits to a licensed landscape irrigation contractor who holds a water supply protection specialist endorsement from the State Plumbing Board for the installation of an irrigation system, including necessary electrical permits and those permits that would allow such a licensed landscape irrigation contractor to connect the irrigation system to a public or private water supply system or install a backflow prevention device.
   e. A licensed landscape irrigation contractor who also holds a water supply protection specialist endorsement from the State Plumbing Board is required by R.S. 3:3816(6) to install backflow prevention devices in accordance with ordinances adopted by local governing authorities, such as parishes and municipalities, regulating the installation of backflow prevention devices. If a local governing authority does not have an ordinance regulating the installation of backflow prevention devices, such devises shall be installed in accordance with the requirements of Part XIV (Plumbing) of the Sanitary Code, State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801, and R.S. 3:3808.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185 (April 1982), amended LR 9:410 (June 1983), LR 11:317 (April 1985), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:8 (January 1988), LR 20:640 (June 1994), LR 27:1832 (November 2001), LR 31:1054 (May 2005), LR 32:78 (January 2006), LR 32:1010 (June 2006), LR 33:1854 (September 2007), LR 35:1228 (July 2009), LR 36:2520 (November 2010).

§119. Prohibition

A. No licensee or permittee of the commission may apply pesticides to any properties which are not owned, rented, or leased by the licensee or permittee or persons engaged in any regulated profession or occupation

unless such licensee or permittee, or persons engaged in any regulated profession or occupation is properly licensed or certified by the department in accordance with the Louisiana Pesticide Law (R.S. 3:3201 et seq.).

B. Licensees, permittees, or persons engaged in any regulated profession or occupation shall not engage in any fraudulent practices.

C. Licensees, permittees, or persons engaged in any regulated profession or occupation shall not engage in any false advertisement of any kind.

D. No licensee, permittee, or persons engaged in any regulated profession or occupation of the commission shall fail to comply with any cease and desist order directed and delivered to said licensee, permittee, or persons engaged in any regulated profession or occupation.

E. No person, with intent to sell or in any way dispose of merchandise, securities, service, or anything directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title, or an interest therein, shall make, publish, disseminate, circulate, or place before the public, or cause directly or indirectly to be made, published, disseminated, circulated, or placed before the public, in this state, in a newspaper or other publications, or in the form of a book, notice, hand-bill, poster, bill, circular, pamphlet, or letter, or radio broadcasts, telecasts, wire, wireless, motion picture, or in any other way, an advertisement of any sort regarding merchandise, securities, service, or anything offered to the public, which advertisement contains any assertion, representation or statement of fact which is untrue, deceptive or misleading.

F. No licensee, permitee or person engaged in any profession or occupation regulated by the commission shall use the words "design" or "designer" or any form of these words, whether separately or in combination with other words in any advertisement, solicitation or title, or on any estimate, contract or other document, except for those persons who are licensed as a landscape architect or as a retail florist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:186 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 29:1460 (August 2003), LR 36:2520 (November 2010).

§121. Re-Issuance of Suspended, Revoked or Unrenewed License or Permit

A. Whenever a license or permit is suspended by the commission, the violations which caused the suspension must be corrected, to the satisfaction of the commission, prior to re-issuance of the suspended license or permit.

B. Whenever a license or permit is suspended by the commission, the holder of the suspended license or permit must pay the fee required under §109 for renewal of the license or permit prior to re-issuance.

C. Whenever a license or permit is revoked by the commission:

1. the violations which caused the revocation must be corrected to the satisfaction of the commission prior to re-issuance of the license or permit;
2. the holder of a revoked license must apply to take and must successfully complete all phases of the examination prescribed for the license;
3. the holder of a revoked permit must file a complete application prior to a re-issuance of the permit;
4. the holder of a revoked license or permit who seeks re-issuance thereof must pay the fees prescribed in §109 for the initial issuance of such license or permit;
5. the relevant requirements of Paragraphs C.1-4 must be complied with prior to re-issuance of a revoked license or permit.

D. Whenever a licensee fails to renew a license:

1. if the period of non-renewal is more than three years, but less than or equal to five years, the license may be re-issued upon payment of fees required under R.S. 3:3807(D);
2. if the period of non-renewal is more than five years, he or she must either retake the appropriate exam or petition the commission for re-issuance of the license. The holder of the un-renewed license must provide evidence that they have been active in the appropriate profession during the period of non-renewal. If the

commission approves the re-issuance of the license, the license will be re-issued only after payment of fees under R.S. 3:3807(D).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3811 and R.S. 3:3801.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:186 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 26:627 (April 2000).

§123. Stop Orders and Notice of Non-Compliance

A. A person believed to be in violation of the Horticulture Law or regulations of the commission may be issued a verbal or written stop order or written notice of non-compliance by the department or authorized agent to prevent possible future violations from occurring.

B. If an alleged violator refuses to accept a written stop order or notice of non-compliance when tendered or refuses or fails to claim such stop order or notice of non-compliance sent by certified mail, the stop order or notice of non-compliance shall be deemed to have been delivered to the alleged violator.

C. An adjudicatory proceeding before the commission shall commence against an alleged violator for the alleged violations that led to the issuance of the stop order or order of non-compliance, even if he is in compliance, under any of the following circumstances:

1. if the alleged violations involve fraudulent practices or activities;

2. if the alleged violations caused personal injury or economic loss other than payment for services rendered, to another person;

3. if the alleged violator has refused or failed to accept the stop order or order of non-compliance, or has attempted to avoid or evade delivery of the stop order or order of non-compliance.

D. An adjudicatory proceeding before the commission shall commence against an alleged violator for the alleged violations that led to the issuance of the stop order or order of non-compliance if he refuses or fails to comply with the stop order or order of non-compliance.

E. No provision of this Section shall prevent the institution of an adjudicatory proceeding against an alleged violator who has not been issued a stop order or notice of non-compliance or for violations that occur after the issuance of a stop order or notice of non-compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Horticulture Commission, LR 34:2547 (December 2008).