

**Title 7**  
**AGRICULTURE AND ANIMALS**  
**Part XXIII. Pesticides**

**Chapter 1. Authority, Pesticide  
Declarations, Definitions**

**§101. Authority**

A. Under the authority of the Louisiana Pesticide Law, R.S. 3:3201 et seq., and in accordance with the provisions in R.S. 49:950 et seq., the commissioner of Agriculture and Forestry adopts the following regulations.

B. The commissioner of Agriculture and Forestry, in accordance with R.S. 3:3203(E) has determined that pharmaceuticals administered to livestock used for agriculture purposes are pesticides. Pharmaceuticals administered to livestock used for agricultural purposes shall be registered with the department in accordance with the Louisiana Pesticide Law and the rules and regulations found in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:171 (April 1983), amended LR 27:2084 (December 2001), ), repromulgated by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3466 (December 2011).

**§103. Definitions**

A. The definitions in R.S. 3:3202 are applicable to this Part.

B. The following words and terms are defined for the purposes of this Part.

*Agricultural Pesticide*—any pesticide product labeled for use in or on a farm, forest, nursery, or greenhouse.

*Application*—the activities directly related to the administering of a pesticide, including activities leading up to the actual administration of the pesticide (pre-application activities), the actual administering of the pesticide (application activities), and those occurring after the administering of the pesticide (post-application activities). Application activities include those such as the actual administering of the pesticide by any method, such as spraying or topical use.

a. Pre-application activities include those such as: arranging for the application; mixing and loading the pesticide; transporting or storing the pesticides; and necessary preparations for the application of the pesticide such as employee notification, workers and handlers training, decontamination, use and care of personal protective equipment, emergency information, and heat stress management.

b. Post-application activities include those such as: restricted-entry intervals; responsibilities related to worker training, notification, and decontamination; providing emergency assistance; transporting or storing the pesticides; and disposing of any excess pesticides, spray mix, equipment wash waters, pesticide containers, and other materials containing the pesticide.

*Bulk Facilities*—any person, except registrants, who engage in the activity of repackaging any agricultural pesticide product, except manufacturing use products and plant-incorporated protectants into refillable and non-refillable containers. This includes certified commercial applicators and licensed owner-operators dispensing agricultural pesticides from a stationary container.

*Containment Pad*—a containment structure that meets the design, construction materials and capacity requirements of 750 gallons or 100 percent of the capacity of the largest container/equipment used on the pad (whichever is less), for new and existing containment structures and accommodates pesticide spills or leaks in dispensing areas at bulk facilities.

*Containment Structure or Structure*—new and existing structures, at bulk facilities, that meets the design, construction materials and capacity requirements to contain spills or leaks from stationary pesticide containers or pesticide dispensing activities.

a. An existing containment structure is a structure for which installation began on or before July 1, 2011.

b. A new containment structure is a structure for which installation began after July 1, 2011 if certain conditions regarding permits, construction and contracts are met.

*Director*—the director of the Division of Pesticide and Environmental Programs or his duly authorized representatives acting at his direction.

*District Office*—any office of the department other than the Baton Rouge main office.

*Division*—the Division of Pesticide and Environmental Programs in the Office of Agricultural and Environmental Sciences of the department.

*Drift*—the physical movement of pesticides either in particulate, liquid or vapor form beyond the target area where the pesticide was applied.

*Herbicide*—any substance or mixture of substances intended for use in preventing or inhibiting the growth of, killing, or destroying plants and plant parts defined to be pests by the commissioner. The term herbicide shall for the purposes of these regulations include a substance or mixture

of substances intended for use as a plant growth regulator, defoliant, or desiccant.

*Inorganic Arsenical*—any herbicide containing a compound formed by a reaction between arsenic and any substance which does not contain a carbon-hydrogen (organic) group (radical). Examples are arsenic trioxide, sodium arsenate, and arsenic acid.

*Insecticide*—any substance or mixture of substances intended for preventing or inhibiting the establishment, reproduction, development, or growth of; destroying; or repelling any member of the class insecta or other allied classes in the phylum arthropoda that is defined as a pest by the commission.

*Livestock used for Agricultural Purposes*—any animal bred, kept, maintained, raised or used for profit or for the purpose of selling or otherwise producing crops, animals, or plant or animal products for market. This definition includes cattle, buffalo, bison, oxen and other bovine; horses, mules, donkeys, and other equine; sheep; goats; swine; domestic rabbits; fish, pet turtles and other animals identified with aquaculture which are located in artificial reservoirs or enclosures that are both on privately owned property and constructed so as to prevent, at all times, the ingress and egress of fish life from public waters; imported exotic deer and antelope, elk, farm-raised white-tailed deer, farm-raised ratites and other farm-raised exotic animals; chickens, turkeys and other poultry; any animals placed under the jurisdiction of the commissioner or the department; and any hybrid, mixture or mutation of any type of animal if used for an agricultural purpose. However, dogs and cats shall not be considered livestock under these regulations.

*Pharmaceuticals*—any substance intended for use in the diagnosis, cure, mitigation, treatment or prevention of plant or animal pests, diseases, viruses, bacteria or other microorganisms in or on livestock and any substance other than food intended to affect the structure or any function of the body of any livestock.

*Phenoxy Herbicides*—any herbicide as defined above that contains a phenoxy derivative of lower aliphatic acid as an ingredient thereof.

*Public Utility*—a business or service which is engaged in regularly supplying the public with a service which is of public consequence and need, such as electricity, gas, water, transportation, or telephone or telegraph service.

*Resident*—any person who has been domiciled in Louisiana for a period of at least 90 days immediately preceding the date of application for the license and/or certification and has not claimed residence elsewhere for any purpose.

*Rinsate*—the liquid produced from the rinsing of the interior of any equipment or container that has come in direct contact with any pesticide.

*Secondary Containment Structure* (for the purposes of Subpart J)—a structure, including rigid diking, that is designed and constructed to intercept and contain

agricultural pesticide spills and leaks and to prevent runoff and leaching from stationary agricultural pesticide containers. These are described as new or existing with the required capacities in the following:

a. new containment structures, un-protected from precipitation, 110 percent of the largest stationary container plus the displaced volume of other tanks and appurtenances within the containment area; or

b. existing structures, un-protected from precipitation, 100 percent of the largest stationary container plus the displaced volume of other tanks and appurtenances within the containment area; or

c. new or existing structures, protected from precipitation, 100 percent of the largest stationary container plus the displaced volume of other tanks and appurtenances within a containment area.

*Stationary Pesticide Container*—a refillable container that is fixed at a single bulk facility or, if not fixed, remains at the bulk facility for at least 30 consecutive days, and that holds pesticide during the entire time. Stationary pesticide containers are subject to the regulations if they are designed to hold undivided quantities of pesticides equal to or greater than 500 gallons for liquids or 4000 pounds for dry pesticides.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3202 and 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:171 (April 1983), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February 1989), LR 27:2085 (December 2001), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, Advisory Commission on Pesticides, LR 35:626 (April 2009), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3466 (December 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 38:3103 (December 2012), LR 42:730 (May 2016).

## Chapter 3. Advisory Commission on Pesticides

### §301. Filings with the Commission

A. All notices, petitions, documents, or other correspondence to the commission or the commissioner shall be addressed and mailed to Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, 5825 Florida Blvd, Baton Rouge, LA 70806.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:172 (April 1983), repromulgated by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3467 (December 2011).

**§303. Chairman; Presiding Officer**

A. The chairman shall serve a term of one year or until a successor is elected. In the absence of the chairman, the vice-chairman shall preside. In the absence of both the chairman and the vice-chairman, the chairman's duly appointed representative shall preside.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3212.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:172 (April 1983), repromulgated by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3467 (December 2011).

**§305. Expulsion**

A. Each member being considered for expulsion and his sponsoring group, if any, shall be notified of the upcoming action at least 15 days before the commission meeting at which the action is to be considered. This notice shall be by certified mail. The commission may excuse an absence of a member.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3211.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:172 (April 1983), repromulgated by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3467 (December 2011).

**§307. Requests for Adoption, Amendment or Repeal of a Rule**

A. Any interested person may, pursuant to R.S. 49:953(C), request the commissioner adopt, amend, or repeal a rule ("rule change") that the commissioner has the authority to make.

B. A request for a rule change shall be in writing, be signed by the person making the request, and shall contain the following information:

1. a statement of whether the requested rule change involves the adoption, amendment, or repeal of a rule, or any combination thereof;

2. a citation to the existing rule for which an amendment or repeal is being requested or a statement that the rule will be a new rule, if proposed for adoption;

3. a draft of the proposed wording of the requested rule change or a statement detailing the content of the requested rule change;

4. a statement of why the request is being made;

5. a simple, concise and direct statement of the material facts that the requesting party believes support the requested rule change;

6. a statement of who would benefit from the requested rule change and how they would be benefited if not already included in any of the previously required statements;

7. if known, the specific citation to any statute(s) that specifically relates to the content of the requested rule change;

8. the name, address, telephone number, and, if available, a fax number and e-mail address of the person making the request;

9. a request that does not comply with the Paragraphs in this Subsection shall be returned to the requesting party with an attached statement explaining why the request is incomplete.

C. The written request for a rule change shall be addressed to the director of the Advisory Commission on Pesticides and shall be mailed or hand delivered to 5825 Florida Boulevard, Suite 3003, Baton Rouge, LA 70806.

D. The request for a rule change shall be presented to the commissioner for due consideration.

1. The commissioner or an officer of the department statutorily authorized to make the rule change may make a decision regarding the requested rule change without the necessity of meeting with the requesting party in person.

a. A decision will be made within 30 days of receipt of the written request unless referred to the commission as provided in Paragraph 2 of this Subsection or unless taken under consideration.

b. The requesting party shall be notified in writing or by electronic means of the commissioner's decision.

2. The commissioner may direct that the request for a rule change be presented to the commission for review and recommendation. In such case, the request shall be presented to the commission at its next regularly scheduled meeting. If the next regularly scheduled meeting is more than 30 days from the date the request for a rule change was received by the department, the chairman of the commission may call a special meeting for the purpose of hearing the request. The proposed rule change shall be reviewed by the agency's staff which may participate in any discussion and make any recommendations to the commission that the staff deems proper.

a. Notice of the meeting and the placement of the request on the agenda shall be provided to the person submitting the request at least 10 days prior to the meeting.

b. Failure of the requesting party to attend the meeting for purposes of discussing the proposed rule change may be cause for the request to be denied.

c. The commission may take the matter under consideration or defer action pending further information. If the matter is taken under consideration or action is deferred, then it will be taken up again at the next regularly scheduled meeting of the agency.

d. The commission shall make a recommendation to the commissioner on the request for a rule change. The person requesting the rule change shall be notified in writing or by electronic means of the commissioner's decision.

E. The agency, in its review of the requested rule change, shall be exercising its rulemaking powers under the Administrative Procedure Act (R.S. 49:950 et seq.) and its decision shall be a discretionary exercise of its rulemaking powers and shall not be a “decision” or “order” as defined in the Administrative Procedure Act.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3203 and R.S. 49:953.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3467 (December 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 42:731 (May 2016).

**§309. Procedure for Declaratory Orders and Rulings**

A. This rule provides for the filing and prompt disposition of petitions or requests for declaratory orders and rulings as to the applicability of any statutory provision or as to the applicability or validity of any rule or order of the agency, as required by R.S. 49:962 and 49:963(D) of the Administrative Procedure Act.

B. No technical form of making a request is required but a request for a declaratory order or ruling shall be made in writing, shall be signed by the person making the request, and shall contain the following information:

1. a citation to the specific statutory provision, rule or order that will be the subject of the declaratory order or ruling;
2. a simple, concise, and direct statement of the material facts that the requesting party believes the agency should be aware of in making a determination;
3. a concise statement of why the declaratory order or ruling is being requested;
4. a short, simple and direct statement of how the requesting party would like the agency to rule;
5. a short, simple, and direct statement of the statute, cases, opinions, or other legal authority that the requesting party believes support the requested declaratory order or ruling;
6. a list of all persons that the requesting party may call to testify and a list of all documents that may be submitted as evidence, if the agency decides to hear testimony and take evidence;
7. the name, address, telephone number, and, if available, a fax number and e-mail address of the person making the request. This information shall be either printed on any letterhead or provided in the written request in legible form;
8. a request that does not comply with the Paragraphs in this Subsection shall be returned to the requesting party with an attached statement explaining why the request is incomplete.

C. A written request for a declaratory order or ruling shall be addressed to the director of the Advisory

Commission on Pesticides and shall be mailed or delivered to 5825 Florida Boulevard, Suite 3003, Baton Rouge, LA 70806.

D. The request for a declaratory order or ruling shall be referred by the commissioner to the commission for review and recommendation. The commission shall consider the request as follows.

1. The request for a declaratory order shall be presented to the commission at its next regularly scheduled meeting that is more than 30 days after the request is received unless the department’s staff determines that the matter can be fairly heard at a meeting that is scheduled to be held less than 30 days after the request is received.
2. Notice of the meeting and the placement of the request on the agenda shall be provided at least 10 days prior to the meeting to the person submitting the requesting party.
3. Failure of the requesting party to attend the meeting for purposes of presenting the matter to the agency may be cause for the request to be denied.
4. The requesting party and the department may both call witnesses and present documentary evidence in regard to the matter. The administrative proceeding shall be conducted in accordance with the Administrative Procedure Act. The administrative proceeding shall be recorded and the decision of the agency shall be based on the record and evidence presented.
5. The commission may take the matter under consideration or defer action pending further information.
6. The commission shall make a recommendation to the commissioner. The person requesting the declaratory meeting shall be notified in writing of the commissioner’s decision.

E. Judicial review of any declaratory order or ruling of the department shall be as provided by the Administrative Procedure Act.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3203, R.S. 49:962 and R.S. 49:953.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 42:731 (May 2016).

**Chapter 5. Registration of Pesticides**

**§501. Registration Required**

A. No pesticide, including pharmaceuticals administered to livestock used for agricultural purposes, shall be sold, offered for sale, or distributed in this state without being registered by the manufacturer annually with the department. This registration shall expire on December 31 of each year.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3203 and R.S. 3:3221.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:172 (April 1983), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 27:2085 (December 2001), repromulgated by Department of Agriculture and

Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3468 (December 2011).

**§503. Chart of Tolerances**

A. Content of active ingredients on all pesticides should be at the level of guarantee. However, determination of compliance based on assay of a single sample shall be made as follows.

1. A single sample whose assay deviates below the stated guarantee shall be considered in compliance except as noted in Paragraph 2, below, if its active ingredients are found to be within the following ranges.

Active Ingredient Percent Guaranteed	Allowable Deviation below Guarantee
Up to 1.00 percent	15 percent of Guarantee
1.01 percent-19.99 percent	0.1 plus 5 percent of Guarantee
20.00 percent-49.99 percent	0.5 plus 3 percent of Guarantee
50.00 percent-100.00 percent	1.0 plus 2 percent of Guarantee

2. A single sample whose assay deviates below the stated guarantee beyond the above limits may not be considered deficient if special sampling problems such as those associated with fertilizer-pesticide mixtures and granular formulations or if problems associated with accuracy, specificity or reproducibility of the method of analysis can reasonably be expected to have contributed to the lower assay.

3. A single sample whose assay ranges above the stated guarantee shall be judged individually. However, an assay ranging above the stated guarantee shall not be considered violative if:

- a. no illegal residue can be expected to result when product is used according to label directions;
- b. no significant increase in hazard to man or the environment can be expected to result when product is used according to label directions;
- c. stability of the formulation or ingredients thereof require over-formulation to insure that assay over a period stated on the label shall not fall below the minimum provided in Paragraph 1, above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3225 and R.S. 3:3271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission of Pesticides, LR 11:943 (October 1985), repromulgated by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3468 (December 2011).

**§505. Standard Registrations**

A. Application for registration shall consist of two types, namely initial registration and renewal registration. Initial registration application may be filed at any time of the year. Renewal registration application shall be filed by the first day of December each year. Application shall be made on forms or formats prescribed by the commissioner; or on

forms or formats which have the prior, written approval of the commissioner.

1. Each application for the initial registration of a pesticide and for the re-registration of a pesticide for which the label has been changed shall be accompanied by the following information:

- a. the brand of the pesticide;
- b. the name, address and contact person of the manufacturer of the pesticide;
- c. two complete copies of the labeling of the pesticide, containing:
  - i. the specific name of each active ingredient in the pesticide;
  - ii. the percentage of the active ingredients in the pesticide unless the proportion of the active ingredients are expressed in international units, or some other form of scientifically recognized and accepted measurement; in which case the proportion of active ingredients may be reported in that manner;
  - iii. the percentage of the inert ingredients in the pesticide unless the proportion of the active ingredients in the pesticide are expressed in international units, or some other form of scientifically recognized and accepted measurement; in which case the proportion of inert ingredients may be reported in that manner;
  - iv. the net contents of each package in which the pesticide will be sold;
  - v. a statement of claims made for the pesticide;
  - vi. directions for the use of the pesticide, including warnings or caution statements;
- d. the material safety data sheet prepared in accordance with the requirements of the Environmental Protection Agency;
- e. the method for laboratory analysis if the pesticide is a pharmaceutical administered to livestock used for agricultural purposes;
- f. such other information as the commissioner may require.

2. Application for re-registration of a pesticide for which the label has not been changed shall be accompanied by the following information:

- a. the brand of the pesticide;
- b. the name, address and contact person of the manufacturer of the pesticide;
- c. such other information as the commissioner may require.

3. The registration requirements as described in Subsection A shall be resubmitted for any pesticide for which the label has been changed within 60 days of the change.

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B. Any registration may be denied by the commissioner if he determines that:

1. the composition of the pesticide is not sufficient to support the claims made for the pesticide;
2. the label on the pesticide does not comply with state and federal requirements;
3. use of the pesticide may produce unreasonable adverse effects on the environment;
4. information required in Subsection A has not been furnished to the commissioner by the manufacturer.

C. Any pesticide registered in Louisiana must comply with the following.

1. Any pesticide sold or offered for sale or distribution must bear a label consistent with the label submitted in the registration application.
2. Each shipping container must bear the lot or batch number of the pesticide.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3203 and R.S. 3:3221.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:172 (April 1983), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February 1989), LR 23:192 (February 1997), LR 23:853 (July 1997), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 27:2085 (December 2001), repromulgated by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3468 (December 2011).

### **§507. Special Registrations**

A. The commissioner may issue the following registrations.

1. State Experimental Use Permits (5f, FIFRA). If the EPA authorizes the commissioner to issue state experimental use permits, the following terms and conditions shall apply.

a. Each person wishing to accumulate information necessary to register a pesticide for a special local need in this state shall file five copies of an application containing the following information:

- i. the manufacturer's name;
- ii. the name, address and telephone number of the applicant;
- iii. the proposed date of shipment or proposed shipping period not to exceed one year;
- iv. the percentage of the active ingredients in the pesticide;
- v. the percentage of the inert ingredients of the pesticide;
- vi. a statement of the approximate quantity to be tested;

vii. available summary of test results on the acute toxicity of the pesticide;

viii. a statement of the scope of the proposed experimental program, including:

- (a). the type of pests or organisms included in the study;
- (b). the crops, animals or commodities to be included in the study;
- (c). the areas of the state in which the study is to be conducted;
- (d). the results of any previous tests conducted by the applicant of the pesticide in this or any other state;

ix. when the pesticide is to be used on food or feed, a temporary tolerance must be obtained from the EPA or evidence that the proposed experiment will not result in injury to man or animals, or in illegal residues entering the food chain;

x. the proposed labeling which must bear:

(a). the prominent statement "For Distribution and Experimental Use Only Within Louisiana" on each container label and any labeling that accompanies the pesticide;

(b). an adequate caution or warning statement to protect those who may handle or be exposed to the pesticide;

(c). the name and address of the manufacturer;

(d). the point of destination of the pesticide;

(e). directions for use;

(f). a statement listing the name and percentage of each active ingredient and the total percentage of inert ingredients.

b. After an application has been received, the commissioner shall review it for completeness. If the commissioner determines that an application is not complete, the applicant shall be allowed to submit such subsequent data as required by the commissioner for review. If the commissioner determines that an application is complete, he may assign the application to an ad hoc advisory committee consisting of:

i. director, or his designee;

ii. assistant commissioner, Office of Agricultural and Environmental Sciences, department, or his designee;

iii. director, Louisiana Cooperative Extension Service, or his designee;

iv. director, Louisiana Agricultural Experiment Station, or his designee;

v. the member of the commission who represents the Louisiana Wildlife Federation, or his designee (R.S. 3:3211(B)9).

c. The committee shall consider the application based on the following criteria:

i. the applicant's need for the permit in order to accumulate data to support a special local needs registration;

ii. that the labeling is complete and correct as required in §507.A.1.a.x;

iii. that use of the pesticide under the permit will not cause unreasonable adverse effects on the environment;

iv. that either the applicant has supplied evidence that a tolerance or exemption from the requirement of a tolerance has been established for residues of the pesticide on such food or feed under section 408 of the Federal Food, Drug and Cosmetic Act; or that the applicant shall destroy all food or feed crops involved in the project.

d. After receiving the recommendations of the committee, the commissioner may: grant the request, in which event he shall prescribe the terms, conditions, and period of time of the permit; or deny the permit.

e. The commissioner may revoke a permit if he finds that:

i. the terms and conditions of the permit have been violated, or are inadequate to avoid unreasonable adverse effects on the environment;

ii. any required tolerance under the Federal Food, Drug, and Cosmetic Act (12 U.S.C. 301 et seq.) has been revoked by EPA or any exemption from the requirements for tolerance has been withdrawn by EPA;

iii. the permittee or any cooperator has failed to comply with any other federal or state law or regulation concerning state experimental use permits.

## 2. Special Local Needs Registration (24-C FIFRA)

a. Each person wishing to register a pesticide for a special local need in this state shall file five copies of an application containing the following:

i. name and address of the applicant and any other person whose name will appear on the labeling or in the directions for use;

ii. the name of the pesticide product, and, if the application is for an amendment to a federally registered product, the EPA registration number of that product;

iii. a copy of proposed labeling, including all claims made for the product as well as directions for its use to meet the special local need, consisting of:

(a). for a new product, a copy of the complete proposed labeling; or

(b). for an additional use of a federally registered product, a copy of proposed supplemental labeling and a copy of the labeling for the federally registered product;

iv. the active ingredients of the product, if the application is for a new product registration;

v. the appropriate application fees as required by §901 of these regulations.

b. The issuance or denial of a registration of a pesticide under this Section shall be done in accordance with federal regulations. The commissioner may refer this application to an ad hoc committee composed of:

i. director, commission, or his designee;

ii. director, Louisiana Cooperative Extension Service, or his designee;

iii. director, Louisiana Agricultural Experiment Station, or his designee;

iv. one agricultural consultant;

v. one farmer;

vi. such other members appointed by the commissioner as the commissioner deems necessary.

c. The committee shall consider the application based on the following criteria:

i. that the labeling is complete and correct;

ii. that use of the pesticide under the permit will not cause unreasonable adverse effects on the environment;

iii. that there is no other pesticide product registered with EPA for the same use;

iv. that no other pesticide product is registered with EPA which would be as safe and as efficacious, under the conditions of use proposed for a special local need;

v. that there is no EPA registered product available;

vi. that there is an EPA tolerance established for the product, if it is to be used on a food or a feed crop;

vii. that the special local needs application is based on a changed use pattern;

viii. that the product shows promise of efficacy for the condition under which it will be used;

ix. such other considerations as the commissioner deems appropriate.

d. After receiving the recommendation of the committee the commissioner may:

i. grant the registration, in which event he may prescribe the terms and conditions of use; or

ii. deny the registration.

e. The commissioner may amend or revoke a registration if he finds that:

i. the terms and conditions of the registration have been violated, or are inadequate to avoid unreasonably adverse effects on the environment;

ii. any required tolerance under the Federal Food, Drug, and Cosmetic Act (12 U.S.C. 301 et seq.) has been

revoked by EPA or any exemption from the requirements for tolerance has been withdrawn by EPA;

iii. the registrant has failed to comply with any other federal or state law or regulation concerning state experimental use permits.

3. Special Exemptions

a. Specific exemption applications shall be completed in accordance with federal requirements after receiving the recommendations of the director the Louisiana Cooperative Extension Service or his designee and the director of the Louisiana Agricultural Experiment Station, or his designee.

b. Quarantine-Public Health Exemption. The commissioner may apply to EPA for a quarantine and/or public health exemption to allow the application of a pesticide if the commissioner finds that a foreign pest or a pest not previously known to be established in Louisiana threatens to become established. This application will be completed in accordance with federal requirements.

c. Crisis Exemption. The commissioner may issue a crisis exemption in accordance with federal regulations for the use of an unregistered pesticide if he finds that:

i. a situation involving the unpredictable outbreak of pests in the state is occurring;

ii. there is no readily available pesticide registered for the particular use to eradicate or control the pest; and

iii. the time element with respect to the application of the pesticide is so critical that there is no time to request a registration under any other Section of this Subchapter.

d. Pharmaceuticals in Custom Blended Feed(s) Exemption. It shall not be necessary to register a feed as a pesticide that contains a pharmaceutical ingredient if the following conditions are met.

i. The feed blend is prepared to the order of the customer and is not held in inventory by the blender.

ii. The blend is to be used on the customer's property or fed to the customer's livestock.

iii. The pharmaceutical(s) used in the blend bears end-use labeling directions that do not prohibit use of the product in such a blend.

iv. The blend is prepared from a pharmaceutical registered with the department.

v. The blend is delivered to the end-user along with a copy of the end-use labeling of each pharmaceutical used in the blend and a statement specifying the composition of mixture.

e. Commercial feeds, as defined in R.S. 3:1891(1), which are manufactured or distributed as feed to livestock and which contain pharmaceutical ingredients are hereby declared to be pharmaceuticals administered to livestock. Each such commercial feed shall be registered with the

department in accordance with the provisions of these regulations except for the following commercial feeds.

i. Commercial feeds registered with the department in accordance with the requirements of the Commercial Feeds Law found at Chapter 14 of Title 3 of the Louisiana Revised Statutes of 1950, (R.S. 3:1891-1907) as long as those registration and inspection fees and tonnage reports are current.

ii. Commercial feeds that have been manufactured or produced by any person for the purpose of feeding his own livestock.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3221.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:175 (April 1983), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February 1989), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 27:2085 (December 2001), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3469 (December 2011).

**§509. Supervision of Use**

A. The sale, use, storage, distribution, transportation, or disposal of pesticides registered under this Subchapter shall be subject to the supervision by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission Pesticides, LR 9:178 (April 1983), repromulgated by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3471 (December 2011).

**Chapter 7. Examinations, Certification and Licensing**

**Subchapter A. Examinations**

**§701. Examinations of Applicators, Salespersons and Agricultural Consultants**

A The minimum score necessary for successful completion of examinations for certifications under these rules and regulations shall be 70 percent.

B. The director, in cooperation with the director of the Cooperative Extension Service or his designee, shall be responsible for the preparation of all examinations.

C. The director shall be responsible for the administration and grading of all examinations.

D. Each applicant who fails to receive a passing score on any examination in any category or subcategory shall wait a minimum of 10 days before being eligible for re-examination.

E. No person shall be allowed to take an examination in any category more than three times in a 12-month period.

F. An applicant who took and did not pass an examination in this state under these standards shall not be permitted to receive certification in the occupation or category for which the examination was taken under a reciprocal agreement with another state.

G. All applicants for private applicators' certification must be at least 16 years of age or an emancipated minor. All applicants for salesperson certification must be at least 18 years of age or an emancipated minor.

H. An applicant shall be disqualified from completing an examination or taking any other examination administered under these rules and regulations if the applicant is caught or found to be cheating on an examination or using any written materials, electronic devices, or other means during an examination, which have not been authorized or allowed by the director or person administering the examination.

1. Any such applicant shall not be allowed to finish the examination and shall receive a score of zero. If an applicant finished the examination prior to the discovery of the cheating or use of unauthorized written materials, electronic devices, or other means the applicant's examination shall be voided and the applicant shall receive a score of zero.

2. Any applicant who is not allowed under this subsection to finish an examination, or whose examination is voided, or who is disqualified from taking the examination or any other examination administered under these rules and regulations may appeal the action to the commission.

a. The appeal must be in writing, state the grounds for the appeal, and filed with the director within 30 days of the date of the action complained of.

b. The appeal will be placed on the agenda for the next meeting of the commission and the applicant will be notified of the date and place of the next meeting.

c. The appeal will be heard by the commission, which will make a recommendation to the commissioner. The decision of the commissioner shall be the final administrative decision in the matter.

d. An appeal from the decision of the commissioner shall be in accordance with the Administrative Procedure Act.

e. The action or administrative decision shall become final if no appeal is timely filed at any step in the proceedings or if the action is upheld on appeal.

3. During the pendency of any appeal or during the time limit for the filing of any appeal the applicant shall not be allowed to take any examination administered under these rules and regulations.

4. If the action or administrative decision is not appealed or is upheld on appeal then the applicant shall not be allowed to take or re-take the examination or any other examination administered under these rules and regulations for a period of three years from the examination date without

the approval of the commission given at a meeting of the commission.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3203 and R.S. 3:3241 and 3:3249.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:178 (April 1983), amended LR 11:943 (October 1985), amended by the Department of Agriculture and Forestry, amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 15:76 (February 1989), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 28:39 (January 2002), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 35:626 (April 2009), repromulgated by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3471 (December 2011).

## Subchapter B. Certification

### §709. Certification of Private Applicators

A. Certification for private applicators shall be issued only after the applicant has satisfactorily passed an examination or has satisfactorily completed a training course approved by the commissioner.

B. Examinations for certification for private applicators of pesticides will be given during office hours upon request of the applicant, in Baton Rouge, at the division, at any district office of the department, or at any location approved by the director.

C. Each person that has been certified as a private applicator and whose certification has not been revoked, suspended or expired may renew that certification by attending a recertification meeting or passing an examination as approved by the commissioner.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3203, R.S. 3:3249.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:179 (April 1983), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February 1989), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3471 (December 2011), LR 44:2126 (December 2018).

### §711. Certification of Commercial Applicators

A. The commissioner hereby establishes the following standards as qualifications required for certification.

1. Standards applicable to all categories:

a. must be at least 18 years of age or an emancipated minor;

b. must be able to read and write the English language with sufficient proficiency to demonstrate comprehension of label and labeling content and instructions;

c. must submit an application for certification in the form required by the commissioner;

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d. must be able to demonstrate knowledge of the principles and practices of pest control and the safe use of pesticides. Applicants must demonstrate these capabilities by successfully completing the general standards examinations;

e. must be able to successfully complete an examination in the specific category in which certification is sought;

f. all prior certifications, if any, must be in good standing at the time that the application for any examination is filed;

g. aerial applicators shall successfully complete the aerial application of pesticides examination.

2. An individual applying for certification in subcategory 7c (§711.B.2.g.iii) must have two years of experience in the phase of work in which he is making application. Required experience must be substantiated by a notarized statement acceptable to the commissioner.

3. An individual applying for certification in subcategory 8d (§711 B.2.h.iv) must have either:

a. a bachelor's degree with at least 12 hours in entomology; or

b. at least four years of experience in mosquito control working under supervision of a person certified in subcategory 8d. Required experience must be substantiated by a notarized statement acceptable to the commissioner.

4. Commercial aerial pesticide applicators, with the single exception of aerial mosquito pest control applicators, who have been found to have violated a provision of the Louisiana Pesticide Law or any of the rules or regulations adopted pursuant to that law by the commission or the commissioner, or who received a "warning letter" from the department during the past calendar year, shall attend a department-approved off-target training course prior to making any application in the following year, in order to maintain their certification as a commercial aerial applicator.

5. Commercial aerial pesticide applicators who are certifying for the first time or who have not been certified within the past three years, with the single exception of aerial mosquito pest control applicators, must attend a department-approved off-target training course prior to making any application.

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

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

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

NOTE: The classifications in this Subsection reflect national categories established by EPA.

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

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

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

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

i. General Forestry (subcategory 2a). This subcategory includes commercial applicators using or supervising pesticides with restricted use to control pests in the regeneration, management, and production of forest stands.

ii. Forest Tree Seed Orchards and Nurseries (subcategory 2b). This subcategory includes commercial applicators using or supervising the use of restricted use pesticides to control pests and undesirable plants in the production of forest tree seed, seedlings, and cuttings.

iii. Wood Processing (subcategory 2c). This subcategory includes wood or fiber processing firms such as sawmills, veneer plants, plywood plants, wood preservation plants and pulping facilities which use restricted use pesticides in the manufacturing process of wood products.

c. Ornamental and Turf Pest Control (category 3). This category includes commercial applicators using or supervising the use of restricted use pesticides to control pests in the maintenance and production of ornamental trees, shrubs, flowers, and turf.

d. Seed Treatment (category 4). This category includes commercial applicators using or supervising the use of restricted use pesticides on seeds.

e. Aquatic Pest Control (category 5). This category is subdivided into two subcategories.

i. Subcategory 5a includes commercial applicators using or supervising the use of any restricted use pesticide purposefully applied to standing or running water, excluding applicators engaged in public health related activities included in category 8 (Subparagraph B.2.h);

ii. Subcategory 5b includes commercial applicators using, or supervising the use of, any restricted used in paints to be applied to vessel hulls and other marine structures to inhibit the growth of aquatic organisms such as barnacles and algae.

f. Right-of-Way and Industrial Pest Control (category 6). This category includes commercial applicators

using or supervising the use of restricted use pesticides in the maintenance of public roads, electric power lines, pipelines, railway rights-of-way or other similar areas.

g. Industrial, Institutional, Structural, and Health Related Pest Control (category 7). This category includes commercial applicators and nonfee commercial applicators using, or supervising the use of, pesticides with restricted uses in, on, or around food-handling establishments; human dwellings; institutions, such as schools and hospitals; industrial establishments, including warehouses and grain elevators; and any other structures and adjacent area, public or private; and for the protection of stored, processed or manufactured products. This category has been subdivided into four subcategories.

i. Subcategory 7a is for pest control operators who are, or will be, certified and licensed by the Structural Pest Control Commission. The commissioner hereby delegates to the Structural Pest Control Commission the authority to examine and certify all persons in this subcategory. The commissioner hereby delegates to the Structural Pest Control Commission the authority to enforce all federal and state laws and regulations as they apply to persons certified under this subcategory.

ii. Subcategory 7b is for applicators who apply or supervise the application of restricted use pesticides on a nonfee basis in, on or around institutions, motels, hotels, hospitals and like places as the owner or in the employ of the owner and for persons applying or supervising the application of any herbicide, rodenticide, or insecticide for grass and weed control and rodent and general pest control in, on, or around structures or grounds of government subsidized and administered housing and multiplex housing.

iii. Subcategory 7c is for applicators who apply, or supervise the application of, restricted use pesticides on a nonfee basis in, on, or around commercial grain elevators and other grain handling establishments, feed mills, flour mills, food processing plants, and other places where processed or unprocessed foods are stored, as the owner or in the employ of the owner. This subcategory is divided into three separate areas of certification:

- (a). (7c1) general pest control;
- (b). (7c2) vertebrate control;
- (c). (7c3) stored grain pest control.

iv. Subcategory 7d is for employees of a school or school system who apply or supervise the application of pesticides on a nonfee basis for grass and weed control and rodent and general pest control (roaches, wasps, and ants) or restricted use pesticides, in, on, or around structures and grounds of schools that provide education for classes kindergarten through 12. Pesticide applications for wood destroying insects shall be applied by licensed structural pest control operators. Each 7d certified applicator shall annually train all persons applying pesticides under his/her supervision in the proper handling, storage, use, application and disposal of pesticides.

h. Public Health Pest Control (category 8). This category is for commercial applicators and state, federal and other government employees using or supervising the use of pesticides in public health programs for the management and control of pests having medical and public health importance. This category has been subdivided into six subcategories, as follows.

i. Mosquito Control—Applicator (subcategory 8a). This subcategory is for commercial applicators and government employees who are applicators in mosquito control programs.

ii. Rodent Control (Subcategory 8b). This subcategory is for commercial applicators and government employees who are applicators in rodent control programs.

iii. Community Public Health (subcategory 8c). This subcategory is for commercial applicators and government employees who are applicators concerned with the control of all arthropods and rodents of public health importance.

iv. Mosquito Control: Program Supervisor (subcategory 8d). This subcategory is for commercial applicators and government employees who are program supervisors in organized mosquito control programs.

v. Antimicrobial Pest Control (subcategory 8e). This subcategory is for commercial applicators, including those in subcategory 7(a) found at LAC 7:XXIII. §711.B.2.g.i, engaged in antimicrobial pest control using restricted use pesticides.

vi. Sewer Root Control (subcategory 8f). This subcategory is for commercial applicators and government employees who are applicators engaged in root control in sewers using restricted use pesticides.

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

j. Demonstration and Research Pest Control (category 10). This category includes individuals who demonstrate to the public the proper use and techniques of application of pesticides with restricted uses, or supervise such demonstrations and persons conducting field research with pesticides, and in doing so, use or supervise the use of pesticides with restricted uses. This category has been subdivided into eight subcategories:

- i. agricultural pest control;
- ii. forest pest control;
- iii. ornamental and turf pest control;
- iv. seed treatment;
- v. aquatic pest control;
- vi. right-of-way and industrial pest control;
- vii. industrial, institutional, structural and health related pest control;

viii. public health pest control.

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

D. Examinations for certification for commercial applicators will be given upon request of the applicant in Baton Rouge at the division or in any district office of the department during office hours. Request for exams in district offices must be made seven days in advance.

E. Each person that has been certified in any category or subcategory as a commercial applicator, and whose certification has not been revoked or suspended or expired, may renew that certification by attending a recertification meeting or training course for that category as approved by the commissioner.

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:324.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:179 (April 1983), amended LR 10:193 (March 1984), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 18:953 (September 1992), LR 19:735 (June 1993), LR 20:641 (June 1994), LR 21:928 (September 1995), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, Advisory Commission on Pesticides, LR 23:193 (February 1997), LR 24:280 (February 1998), LR 28:39 (January 2002), LR 32:794 (May 2006), repromulgated LR 32:1011 (June 2006), amended LR 35:627 (April 2009), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3471 (December 2011), LR 44:2126 (December 2018).

**§713. Certification of Pesticide Salespersons**

A. Examinations for certification for pesticide salespersons will be given upon request of the applicant in Baton Rouge, at the division, or at any district office of the department. Each person who has been certified as a pesticide salesperson, and whose certification has not been revoked or suspended or expired, may renew that certification by attending a recertification meeting or training course for that category as approved by the commissioner. The commissioner shall issue a certification

card to each pesticide salesperson. This card shall expire on December 31 of each year. Each person wishing to renew a certification card shall do so by submitting an application form and the proper fee, as prescribed by the commissioner.

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

AUTHORITY NOTE: Promulgated In accordance with R.S. 3:3203, R.S. 3:3244 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:184 (April 1983), amended LR 10:194 (March 1984), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 24:280 (February 1998), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3474 (December 2011).

**§715. Certification of Agricultural Consultants**

A. Each application for Agricultural consultant shall be in writing and shall be on forms prescribed by the commissioner.

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

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

D. Each application for an agricultural consultant's examination shall be approved by the commission before an examination is administered. Examinations for agricultural consultants shall be administered only in Baton Rouge at the division or at any district office of the department, during office hours and shall be administered only after payment of the proper fee.

**E. Certification of Agricultural Consultants**

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

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

a. Control of Insects, Mites, Nematodes or Other Invertebrates (category 1)

i. Agricultural Entomology (subcategory 1a). Making recommendations for the control of pests of agronomic crops, especially cotton, rice, soybeans, sugarcane, vegetables, pasture and forage, and grain crops.

ii. Forest Entomology. Making recommendations for the control of forest pests.

iii. Household, Structural and Industrial Entomology. Making recommendations for the control of

household pests, structural and industrial pests (such as termites, in stores, warehouse and transportation facilities).

iv. Medical, Veterinary and Public Health Entomology. Making recommendations for control of arthropods affecting man and animals.

v. Orchard and Nut Tree Entomology. Making recommendations for the control of orchard pests.

vi. Ornamental Entomology. Making recommendations for the control of pests of ornamentals, lawns, turf and shade trees.

vii. Mosquito Control Entomology. Making recommendations for the control of mosquito species.

b. Control of Plant Pathogens (category 2)

i. Agricultural Plant Pathology. Making recommendations for the control of diseases of agronomic crops, especially sugarcane, cotton, rice, soybeans and home garden plants.

ii. Turf, Ornamental, Shade-tree and Floral Plant Pathology. Making recommendations for the control of diseases of turf, ornamentals, shade-trees and floral plants. Also includes greenhouse and nursery plant disease control.

iii. Forest Pathology. Making recommendations for the control of diseases of trees in plantations, nurseries and managed or unmanaged forests wherein the principal value lies in the production of wood fiber.

iv. Orchard Pathology. Making recommendations for the control of diseases of wood vines and trees wherein the principal value lies in the production of fruits or nuts.

c. Control of Weeds (category 3)

i. Agricultural Weed Control. Making recommendations for the control of weeds and grasses in field crops, vegetable crops, pastures and rangeland.

ii. Turf, Ornamental and Shade-Tree Weed Control. Making recommendations for the control of weeds and grasses in ornamentals, turf areas, cemeteries and other similar areas.

iii. Forest Weed Control. Making recommendations for the control of weeds and grasses in forest lands.

iv. Right-of-Way and Industrial Weed Control. Making recommendations for the control of weeds and grasses in and around industrial and commercial sites.

d. Soil Management (category 4)

i. Agricultural Field Soil Management. Knowledgeable in symptoms of soil and/or tissue nutrient problems; sampling techniques for soil and/or tissue analysis; interpretation of laboratory results; and recommendations for soil and/or tissue amendments.

ii. Agricultural Soil, Water and Tissue Laboratory Analysis. Knowledge of all diagnostic procedures pertaining to analysis of soil, water and/or tissue samples.

iii. Agricultural Soil Reclamation. Knowledge of techniques, methods, etc., for restoring or attempting to restore soil productivity as a result of physical and/or chemical disturbance or natural causes such as severe erosion or contaminated soils.

iv. Agricultural Water Management. Knowledge of irrigation scheduling practices and techniques for various enterprises requiring water on a regular or intermittent basis.

F. Each person that has been certified in any category or subcategory as a agricultural consultant, and whose certification has not been revoked or suspended or expired, may renew that certification by attending a recertification meeting or training course for that category as approved by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3246 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:184 (April 1983), amended LR 11:943 (October 1985), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 24:281 (February 1998), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides LR 28:39 (January 2002), LR 35:627 (April 2009), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3474 (December 2011), LR 44:2126 (December 2018).

## Subchapter C. Licensing Requirements

### §723. Owner-Operators

A. Every owner-operator of a pesticide application business must have a current license issued by the commissioner before making any applications of pesticides.

B. No person required by the provisions of R.S. 3:3243 to be licensed by the commissioner shall be licensed as an owner-operator unless such person:

1. has a current commercial applicator certification; or

2. employs a person having a current commercial applicator certification. All persons applying pesticides under an owner-operator license must maintain their commercial applicator certification in current status at all times.

C. No person may apply pesticides under an owner-operator license unless:

1. such person is named on the application for license; or

2. if employed subsequent to issuance of the license or on a temporary basis, the owner-operator has notified the commissioner of such employment prior to the first day of such employment. Initial notification of employment subsequent to issuance of the license may be made by telephone but must be confirmed, in writing, by the owner-operator within three days after the first day of employment.

D. Prior to issuance of the license, the applicant for an owner-operator license shall file proof of financial responsibility with the commissioner, as follows:

1. ground applicators—\$25,000;
2. aerial applicators who do not apply phenoxy herbicides—\$25,000;
3. aerial applicators who apply phenoxy herbicides—\$50,000.

E. Proof of financial responsibility may be made by any of the following means:

1. filing a surety bond in the proper amount, written by a company authorized to do business in Louisiana and conditioned upon the licensee fulfilling his obligations to persons proven to have suffered damages as a result of actions of the owner-operator or any of his employees. Such surety bond shall provide for 90 days written notice to the commissioner prior to cancellation;

2. filing a certificate of insurance, in the form prescribed by the commissioner, in the same amount as required for a surety bond. Such insurance shall be payable to the benefit of persons proven to have suffered damages as a result of the actions of the owner-operator or any of his employees and shall provide for 30 days written notice to the commissioner. Such insurance shall not be applied to damages or injury to agricultural crops, plants, or land being worked upon by the commercial applicator. An owner-operator shall not change the amount of such insurance during the period of the license without the prior written approval of the commissioner;

3. filing a certificate(s) of deposit in the same amount as required for a surety bond. Such certificates of deposit shall be assigned to the commissioner, endorsed, and deposited with the commissioner. Holders of such certificates shall continue to draw all interest thereon. Upon the request of the certificate holder, certificates of deposit may be exchanged at maturity, under procedures acceptable to the commissioner;

4. filing an irrevocable letter of credit, issued by a guarantor and in a form acceptable to the commissioner, which shall be non-cancelable during the term of the license for which the irrevocable letter is offered as security;

5. depositing cash equal to the amount required for the surety bond with the commissioner, which cash shall remain on deposit until replaced by other security acceptable to the commissioner or until expiration, suspension, or revocation of the license.

F. Failure to maintain the required security in full force and effect throughout the license period, as required under Subsection D of this Section, shall subject a licensee to immediate suspension or revocation of his license.

G. Applicants for owner-operator license must satisfactorily complete the application form prescribed by the commissioner and pay the fee.

H. Prior to issuance of the license and/or during the period of licensure, persons applying for owner-operator license under a corporate name must provide proof of compliance with Louisiana's Corporation Laws upon the commissioner's request.

I. Each application for owner-operator license must list all commercial applicators employed on a regular basis when the application is filed. Commercial applicators hired after the license is issued must be certified to the commissioner as required under this Section.

J. All mechanically powered pesticide application equipment used by any person required by the provisions of R.S. 3:3243 to be licensed by the commissioner shall have a department issued decal affixed to the equipment. The equipment shall be registered and decalced annually with the department.

K. Owner-operator licenses shall be valid until December 31 following date of issue and must be renewed annually by filing the application form prescribed by the commissioner, together with the fee, prior to December 31. A late fee of \$50 shall be imposed on any applicant filing application for renewal of an owner-operator license after December 31.

L. Licensed owner-operators who apply any pesticides which, upon disposal, are classified as hazardous wastes must comply with all rules adopted by the commissioner to regulate the handling of such pesticides prior to renewal of the license. If licensed after January 1, the owner-operator must comply with all rules regulating the handling of pesticides, which upon disposal are classified as hazardous wastes, within 30 days after issuance of the license.

M. Any person whose license or required certification has been suspended or revoked may be required to appear before the commission prior to issuance of a new license or certification. No owner-operator license or required certification shall be reinstated after suspension or revocation unless the applicant for reinstatement has complied fully with all requirements of this Rule.

N. The commissioner may deny an owner-operator license or commercial applicator certification to any person who:

1. fails to demonstrate a knowledge of pesticides necessary for the safe and efficacious use thereof;

2. fails or has previously failed to comply with any requirement of these regulations and/or the pesticides statutes;

3. has previously been adjudged, in a properly conducted adjudication procedure, to have violated any provisions of the pesticide statutes and/or these regulations; and/or

4. has failed to apply for and receive a decal for every item of mechanically powered pesticide application equipment used in the operation of the business.

O. Grass-Cutter Exemption. A person, when applying a general use pesticide to the lawn or ornamental plants of an individual residential property owner using pesticides and pesticide application equipment owned and supplied by the property owner, is exempt from licensing provided the person does not advertise for or solicit herbicide (grass or weed control) application business and does not hold oneself out to the public as being engaged in herbicide (grass or weed control) application. The person shall not supply his\her own pesticide application equipment, use pesticide applying power equipment, or use any equipment other than a hand held container when applying the pesticide.

P. Licensed owner-operators and any person working under the license shall not apply any pesticide(s) which is in any way excluded from the coverage required by Subsection E of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3243.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:194 (March 1984), LR 12:187 (February 1986), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 23:194 (February 1997), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3475 (December 2011).

#### **§725. Pesticide Dealers Selling Restricted Use Pesticides**

A. Pesticide dealers must be licensed by the commissioner prior to making any sale of restricted use pesticides.

B. No person shall be licensed as a pesticide dealer unless such person:

1. holds a current pesticide salesperson certification;
2. employs at least one person who holds a current pesticide salesperson certification; or
3. holds a current commercial applicator certification.

C. No person shall sell restricted use pesticides unless:

1. his/her name is listed on the application for pesticide dealer license; or
2. if employed after issuance of the license, the licensed pesticide dealer has notified the commissioner of such employment, in writing, within 30 days after the first day of such employment. Such subsequent notification shall contain the name, address, and certificate number of certified pesticide salespersons who are employed after the license is issued.

D. No licensed pesticide dealer may sell, offer for sale, or hold for distribution any pesticide which has not been registered with the department as required by R.S. 3:3221.

E. Applicants for pesticide dealer license shall satisfactorily complete the application form prescribed by the commissioner and pay the fee prior to issuance of the license.

F.

Each application for pesticide dealer license shall contain the name, address, and certificate number of all certified pesticide salespersons.

G. Within 30 days after the termination of any certified pesticide salesperson listed on the license application form and/or certified to the commissioner after issuance of the pesticide dealer license, the licensee must notify the commissioner, in writing, of such termination.

H. Whenever such termination results in no certified pesticide salesperson at a licensed pesticide dealer's business, the pesticide dealer license shall be revoked 30 days after such termination, unless the licensee employs another certified pesticide salesperson within 30 days after termination of the original employee. In such event, the licensee may request the administration of an examination for pesticide salesperson certification on a priority basis, and the examination shall be immediately administered.

I. Pesticide dealer licenses shall be valid until December 31 following date of issue and must be annually renewed by filing the application form prescribed by the commissioner, together with the fee, prior to December 31. A late fee of \$50 shall be imposed on any applicant filing application for renewal of a pesticide dealer license after December 31.

J. Any person whose license or required certification has been suspended or revoked may be required to appear before the commission prior to issuance of a new license or certification. No pesticide dealer license shall be reinstated after suspension or revocation unless the applicant for reinstatement has complied fully with all requirements of this rule.

K. The commissioner may deny a pesticide dealer license or pesticide salesperson certification to any person who:

1. fails to demonstrate a knowledge of pesticides necessary for the safe and efficacious use thereof;
2. fails or has previously failed to comply with any requirement of these regulations and/or the pesticides statutes; and/or
3. has previously been adjudged, in a properly conducted adjudication procedure, to have violated any provisions of the pesticides statutes and/or these regulations.

L. Pesticide dealers shall maintain sufficient records to comply with the Hazardous Material Information Development, Preparedness, and Response Act (Act), for the required time as specified in the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3245.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:188 (April 1983), amended LR 10:195 (March 1984), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3476 (December 2011).

**§729. Agricultural Consultants**

A. No person shall be licensed as an agricultural consultant unless such person:

- 1. is currently certified as an agricultural consultant; or
- 2. employs a person currently certified as an agricultural consultant.

B. No person shall make pesticide recommendations for a fee unless:

- 1. his/her name is listed on the application for agricultural consultant license; or
- 2. if employed after issuance of the agricultural consultant license, the licensee has notified the commissioner in writing within 30 days after the first day of such employment. Notification of employment after the license is issued shall include the name, address, and certificate number of agricultural consultants employed by the licensee.

C. All applicants for agricultural consultant licenses shall complete the application form prescribed by the commissioner and pay the fee required prior to issuance of the license.

D. Each application for agricultural consultant license shall include the name, address, and certificate number of all certified agricultural consultants and the name and address of all field scouts employed by the applicant when the application for license is filed.

E. Each licensed agricultural consultant shall register every field scout employed under his/her license with the commissioner within 30 days after the first day of the scout's employment.

F. Reserved.

G. Agricultural consultant licenses shall be valid until December 31 following date of issue and shall be renewed annually by filing the application form prescribed by the commissioner, together with the fee required prior to December 31 of each year. A late fee of \$50 shall be imposed on any applicant filing application for renewal of an agricultural consultant license after December 31.

H. Any person whose license or required certification has been suspended or revoked may be required to appear before the commission prior to issuance of a new license or certification. No agricultural consultant license shall be reinstated after suspension or revocation unless the applicant for reinstatement has complied fully with all requirements of this Rule.

I. The commissioner may deny an agricultural consultant license or certification to any person who:

- 1. fails to demonstrate knowledge of pesticides necessary for the safe and efficacious use thereof;

2. fails or has previously failed to comply with any requirement of these regulations and/or the pesticides statutes; and/or

3. has previously been adjudged, in a properly conducted adjudication procedure, to have violated any provisions of the pesticides statutes and/or these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3246.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:188 (April 1983), amended LR 10:195 (March 1984), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3477 (December 2011).

**Chapter 9. Fees**

**§901. Fees**

A. Fees required under the Louisiana Pesticide Law to be adopted by regulation are established as:

Special Local Need Registration Application Fee	\$100
Examination Fees (for each exams' Private Applicator exempt)	
In Baton Rouge	\$25
At Meeting outside Baton Rouge	\$25
At District Offices	\$50
Duplicate Licenses and/or Certification Cards	Same as Original
Requested Lists and Copies	Postage + minimum of \$1 or Postage + \$0.25 /page

B. Fees for licensing shall be paid at the time of application for said license.

C. Fees for registration for field scouts and for equipment inspections shall be paid at the time of application for the appropriate license.

D. Fees for registrations, examinations, and certifications shall be paid at the time the application is submitted.

E. No application shall be processed until all criteria for which the application is made has been met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3221, R.S. 3:3222 and R.S. 3:3251.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:194 (March 1984), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February 1989), LR 24:281 (February 1998), amended by the Department of Agriculture and Forestry, Office of Commissioner, Advisory Commission on Pesticides, LR 30:197 (February 2004), repromulgated by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3477 (December 2011).

**Chapter 11. Regulations Governing Application of Pesticides**

**§1101. General Requirements**

A. No person shall apply pesticides as a commercial applicator unless such person is:

1. licensed as required under §725 hereof;
2. employed by a person licensed as required by §725 hereof;
3. making ground applications of pesticides under the direct supervision of a person certified as a commercial applicator; or
4. certified in demonstration and research.

B. No person shall apply any pesticide which is not registered with the department and the EPA, provided that this restriction shall not apply to:

1. activities conducted by persons certified in demonstration and research; and
2. activities conducted under an approved experimental use permit.

C. No person who is required under the provisions of R.S. 3:3243 to be licensed by the commissioner shall apply pesticides with mechanically powered pesticide application equipment which does not bear a current decal affixed by the commissioner, except as provided under §725.J.

D. No person shall apply any ester compound of phenoxy herbicide containing an aliphatic alcohol radical with less than six carbon atoms at any location within Louisiana.

E. All pesticides shall be applied in accordance with label and labeling requirements.

F. All persons who apply pesticides aerially must be certified as commercial applicators.

G. No person who is required under the provisions of R.S. 3:3243 to be licensed by the commissioner may dispose of any unused portions of pesticides and/or rinsate of pesticides at any location other than a site approved by the commissioner.

H. Commercial pesticide applicators applying any concentrations of agricultural pesticides shall not make applications from a height of greater than 18 feet for aerial applicators and 3 feet for ground applications, above the target field crops.

I. No person shall make an application of any pesticide to a target site in such a manner or under such conditions that drift of the pesticide, which is avoidable through reasonable precautions, infringes on a non-target site.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:189 (April 1983), amended LR 10:196 (March 1984), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3477 (December 2011), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 42:732 (May 2016).

**§1103. Restrictions on Application of Certain Pesticides**

A. In addition to all other pesticides classified by EPA as restricted use pesticides, the pesticides listed in Subsection B of this Section are classified as restricted use pesticides within the state of Louisiana, except:

1. when formulated in concentration of 2 percent or less; or
2. when formulated with fertilizer for use by homeowners; or
3. when formulated in containers of one quart or less or two pounds dry weight or less.

B. The following pesticides may not be applied by commercial applicators during the times set forth in this Rule in the areas listed in §1103.C, D and E.

Chemical Name	Common Name
1. 4-amino-3, 5,6-trichloro-picolinic acid	Picloram
2. Arsenic trioxide	---
3. 3-chlorophenoxy-alpha-propionamide	3-CPA
4. 4-chlorophenoxy acetic acid	4-CPA
5. 2,4-dichlorophenoxy acetic acid (all salts, all formulations)	2,4-D
6. 4-(2,4-dichlorophenoxy) butyric	2,4-DB
7. 2-methoxy-3, 6-dichlorobenzoic acid (all salts, all formulations)	Dicamba
8. 2-methyl-4-chlorophenoxyacetic acid	2, 4-MCPA
9. 4-(2 methyl-4-chlorophenoxy) butyric acid	---
10. 2-(2 methyl-4-chlorophenoxy)	2-MCPP
11. Arsenic acid	Arsenic

C. The pesticides listed in §1103.B shall not be applied by commercial applicators between April 1 and September 15 in the following parishes, unless a waiver has been granted pursuant to §1107:

1. Avoyelles;
2. Bossier;
3. Caddo;
4. Caldwell;
5. Catahoula;
6. Concordia;
7. East Carroll;
8. Evangeline, Wards 1, 3 and 5;
9. Franklin;
10. Grant;
11. Madison;
12. Morehouse;
13. Natchitoches;
14. Ouachita;
15. Pointe Coupee;
16. Rapides;

- 17. Red River;
- 18. Richland;
- 19. St. Landry;
- 20. Tensas;
- 21. West Carroll.

D. The pesticides listed in §1103.B shall not be applied by commercial applicators between March 1 and June 15 in the area between the Mississippi River and Highway 61 in the parishes of St. James and St. John the Baptist.

E. The pesticides listed in §1103.B shall not be applied by commercial applicators in the parish of Plaquemines.

F. No commercial applicator may make application of the products listed in §1103.B and the following pesticides when the wind speed is at 10 miles per hour or above:

- 1. 3<sup>1</sup>4<sup>1</sup>-Dichloropropionanilide—Propanil;
- 2. 1:1-Dimethyl-4, 41-Bipyridinium (cation)—Paraquat;
- 3. Isopropylamine salt of glyphosate—Glyphosate and other salts of glyphosate;
- 4. Glufosinate-ammonium.

G - H. Reserved.

I. Hand injections of pesticides are exempt from the requirements of §1103.C.

J. The commissioner hereby establishes a herbicide application permitting program for the Sabine River Authority, State of Louisiana (SRA) in, on and around the waters of the Louisiana portion of Toledo Bend Reservoir.

1. Any person who applies or uses any herbicide or incorporates the use of any herbicide, for the management, control, eradication or maintenance of Giant Salvinia in, on or around the waters of the Louisiana portion of Toledo Bend Reservoir, shall comply with all of the following requirements, prior to making any applications to Giant Salvinia in SRA waters.

- a. Complete the SRA designated Giant Salvinia applicator training program.
- b. Apply for and receive a herbicide application permit from the SRA which shall be good for the remainder of the calendar year in which issued, but may be renewed annually by contacting the SRA.
- c. Apply, use, or incorporate herbicides to be applied to or used on or for Giant Salvinia only as prescribed by the SRA herbicide application program.
- d. Prepare and maintain records of applications by recording accurate information as required on the Toledo Bend application log sheet provided by the SRA.
- e. Deliver (mail, hand deliver, e-mail, fax, etc.) to the SRA office at Pendleton Bridge Office, 15091 Texas Highway, Many, LA 71449 a completed copy of each Toledo

Bend application log sheet recording the information regarding an application or use of a herbicide on or for Giant Salvinia within 14 days of each application.

- f. Keep a completed copy of the application record for a period of three years after application.
- g. Make application records available, during normal business hours, to any authorized person with the department, Department of Wildlife and Fisheries (LDWF), or the SRA.

2. Any person making applications to the Louisiana portion of Toledo Bend Reservoir under contract with the LDWF or SRA, authorized LDWF employees and any person conducting a research project on the Louisiana portion of Toledo Bend Reservoir with the LSU Agricultural Center, LDWF or SRA is exempted from the provisions of this Subsection, but are not exempted from any other provisions of this Part, except as may be provided therein.

K. The commissioner hereby establishes a herbicide application permitting program for the LDWF in, on and around the waters of Lake Bistineau.

1. Any person who applies or uses any herbicide or incorporates the use of any herbicide, for the management, control, eradication or maintenance of Giant Salvinia in, on or around the waters of Lake Bistineau, shall comply with all of the following requirements, prior to making any applications to Giant Salvinia in Lake Bistineau waters:

- a. Complete the LDWF designated Lake Bistineau spray permit training.
- b. Apply for and receive a herbicide application permit from the LDWF which shall be good for the remainder of the calendar year in which issued, but may be renewed annually by contacting the LDWF.
- c. Apply, use, or incorporate herbicides to be applied to or used on or for Giant Salvinia only as prescribed by the Lake Bistineau private spray training program.
- d. Prepare and maintain records of applications by recording accurate information as required on the Lake Bistineau application log sheet provided by the LDWF.
- e. Deliver (mail, hand deliver, e-mail, fax, etc.) to the Saline Soil and Water Conservation District office at P.O. Box 528, 2263 Hall Street, Ringgold, LA 71068 a completed copy of each Lake Bistineau Application Log Sheet recording the information regarding an application or use of a herbicide on or for Giant Salvinia within 14 days of each application.

- f. Keep a completed copy of the application record for a period of three years after application.
- g. Make application records available, during normal business hours, to any authorized person with the department, or LDWF.

2. Any person making applications to Lake Bistineau under contract with the LDWF, authorized LDWF employees and any person conducting a research project on

Lake Bistineau with a Louisiana University or LDWF is exempted from the provisions of this Subsection, but are not exempted from any other provisions of this Part, except as may be provided therein.

L. No person shall apply, use, or incorporate the use of any herbicide, as defined in §103, including but not limited to, those registered with and/or approved by the U.S. Environmental Protection Agency or the department, for the management, control, eradication or maintenance of weeds, grass, trees, shrubs, foliage, vegetation or other natural growth in any parish right-of-way, ditch, servitude, drainage area, roadside, road shoulder, green area, buffer zone, waterway, neutral ground or median in the unincorporated areas of St. Tammany Parish.

1. Definitions as used in this Subsection

*Ditch*—natural or dedicated area which provides for the containment or flow of water from rain or adjacent drainage areas or waterways such as streams, creeks, ponds, lakes or rivers.

*Drainage Area*—an area maintained for the purpose of channeling or preventing accumulation of water from surrounding land.

*Easement*—a designated right to use the property of another for a specific purpose, i.e., drainage, utility easement.

*Median/Neutral Ground*—the area dividing or separating a roadway and not used for right of passage.

*Right-of-Way*—any public way, street, road, alley, easement, servitude or access, which was dedicated to or acquired by the St. Tammany Parish to provide means of access to abutting properties; whether paved, improved or unimproved, including those areas dedicated for proposed or future uses.

*Roadside/Road Shoulder*—natural or dedicated areas which are parallel, contiguous to, abut, adjoin, border, edge, connect or approach any public right-of-way, road, street or highway.

*Servitude*—a right-of-way through or across property belonging to another.

2. Exemptions are hand held manual pump sprayers up to a maximum three-gallon capacity.

M. An ultra low volume (ULV) malathion and a ULV pyrethroid insecticide (tank mixed) may be applied to control plant bugs in cotton only between sunrise on May 15 through sunrise on September 15 of each year, subject to the following.

1. Applications shall be made at no less than seven day intervals at an application rate not to exceed the individual pesticide product labels and with no other dilutions or tank mixes.

2. Each application shall be reported, in writing and within 24 hours of the application, to the appropriate Boll

Weevil Eradication Program district office by the farmer, agricultural consultant or owner/operator.

3. The report shall include the names and addresses of the farmer, agricultural consultant (if appropriate), owner/operator and applicator; the applicator's number issued by the department; the field name or number; the number of acres treated; the name and EPA registration number of the pesticide product; and the application date and time.

N. Reserved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:189 (April 1983), amended LR 10:196 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), LR 19:1119 (September 1993), LR 21:668 (July 1995), LR 24:281 (February 1998), LR 24:2076 (November 1998), LR 26:1428 (July 2000), LR 26:1966 (September 2000), LR 27:279 (March 2001), LR 27:1672 (October 2001), LR 33:1855 (September 2007), LR 35:628 (April 2009), LR 36:1980 (September 2010), LR 37:269 (January 2011), LR 37:809 (March 2011), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3478 (December 2011), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 38:1556 (July 2012), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 42:732 (May 2016).

**§1105. Fixed Wing Aircraft; Standards for Commercial Aerial Pesticide Applications**

A. Commercial aerial pesticide applicators, with the single exception of aerial mosquito pest control applicators, shall adhere to the following standards for fixed wing aircraft, regarding boom configurations, nozzle angles, and volume of pesticides per acre.

1. The effective spray boom length shall not exceed 75 percent of the length of the wing (wing tip to wing tip) on which the boom is attached.

2. Except as follows, all spray nozzles shall be oriented to discharge straight back toward the rear of the aircraft. When applying insecticides by aircraft, with a maximum flying speed of less than 120 miles per hour, the applicator shall have the option to position nozzles at an angle of 45 degrees down from straight back or 45 degrees back from straight down.

3. The spray boom pressure shall not exceed a maximum of 40 pounds per square inch (40 PSI).

4. When disc and core type nozzles are used for herbicide, desiccant, or defoliant applications, a number 46 or larger core must be used.

5. Unless further restricted by other regulations or labeling herbicides shall be applied in a minimum of five gallons of total spray mix per acre.

6. Unless further provided for by other regulations or labeling all other pesticides shall be applied in a minimum of one gallon of total spray mix per acre. With the following exception:

a. insecticides applied in the Boll Weevil Eradication Program, which shall be applied in accordance with their labels.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), amended LR 21:927 (September 1995), LR 26:1964 (September 2000), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3480 (December 2011).

**§1107. Waiver of Restrictions**

A. No commercial applicator shall apply any of the pesticides listed in §1103.B in the parishes and during the periods specified in §1103.C without written authorization from the commissioner prior to such application, except as described in §1103.P.

B. The commissioner may waive the time restrictions on application of pesticides listed in §1103.B upon written request, as follows.

1. Any commercial applicator desiring a waiver of any restriction contained in §1103 shall apply to the commissioner at least 24 hours prior to the date scheduled for application of the pesticide.

2. The application for waiver shall be submitted on a form provided by the commissioner and shall contain the following information:

- a. the name and address of the person requesting the application;
- b. the name of the applicator who will actually make the application;
- c. the name of the owner-operator, if different from the applicator making the application;
- d. the location where the application will be made, including the crop and name and address of the landowner;
- e. the proposed date and hour when the application is scheduled; and
- f. any other information pertinent to the specific waiver application which may be required by the commissioner.

C. Both the commercial applicator and the person for whom the pesticide application will be made must sign and date the waiver application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:197 (March 1984), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR

27:279 (March 2001), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3480 (December 2011).

**§1109. Special Restrictions on Commercial Aerial Pesticide Applications; Applications in the Rain and Buffer Zones**

A. All aerial pesticide applicators are prohibited from making an application of any pesticide while it is raining. This prohibition shall not apply to a drizzle of rain so light as to not cause puddling or run-off water from the field.

B. Unless further restricted by other regulations or labeling, commercial aerial pesticide applicators, with the single exception of aerial mosquito pest control applicators, are prohibited from making an application of any pesticide within 100 feet from the edge of the swath to any inhabited structure, including but not limited to inhabited dwellings, hospitals, nursing homes and places of business. No aerial applicator, with the single exception of aerial mosquito pest control applicators, shall apply pesticides within 1000 feet of any school grounds during normal school hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), repromulgated by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3481 (December 2011).

**§1111. Special Restrictions on Pesticide Applications in Schools**

A. Any person who applies or supervises the application of pesticides on a nonfee basis for grass and weed control and rodent and general pest control (roaches, wasps, and ants) or restricted use pesticides, in, on, or around school structures and grounds shall be a certified commercial applicator or under the supervision of a certified commercial applicator.

B. School systems with 10 or more schools shall employ a minimum of two certified commercial applicators. School systems with less than 10 schools shall employ a minimum of one certified commercial applicator.

C. The governing authority (including but not limited to superintendents, headmasters, school boards, board of directors, chief executive officer, or principals) shall prepare and submit in writing, for each school under its authority, to the director, an annual integrated pest management (IPM) plan for pest control for grass and weed control and rodent and general pest control (roaches, wasps, and ants) in, on, or around school structures and grounds. The IPM plan shall include all pest control methods employed, including pesticide and non-pesticide methods and strongly recommends the least toxic methods of control. The first IPM plan shall be submitted prior to any application of pesticides beginning March 1, 1995 and shall be submitted on an annual year of August 1 through July 31. The plan shall be available for review, upon request, by the

commissioner and the general public, during normal school hours, at each school, in the business office. The annual IPM plan shall include, but not be limited to the following:

1. school name and mailing address, physical address, telephone number and contact person;
2. name and license or place of business number of company(s) and certification numbers of applicators, if contracted;
3. name and certification number of certified commercial applicator(s) of school system;
4. brand name and EPA registration number of all pesticides to be used;
5. for each pesticide to be used a list of the following:
  - a. pest to be controlled;
  - b. type of application to be used;
  - c. location of application;
  - d. restricted use pesticide or general use pesticide;
6. proposed location and date for non-certified applicator training;
7. other methods of pest control.

D. Any deviation from the integrated pest management plan submitted shall be submitted in writing to the director, within 24 hours after any application.

E. Records of pesticide applications shall be maintained according to §2101 and records of inspections, identification, monitoring, evaluations, and pesticide applications for grass and weed control and general pest control, shall be maintained by the school and submitted with the annual integrated pest management plan to the department annually on a form prescribed by the department in accordance with §2101.

F. No pesticides shall be applied for general pest control inside school buildings and no restricted use pesticides shall be applied in, on or around school grounds when students are present or expected to be present for normal academic instruction or extracurricular activity for at least eight hours after application.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:3249.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 21:928 (September 1995), amended LR 23:194 (February 1997), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3481 (December 2011).

### §1113. Complaints

A. Persons filing complaints shall, at the same time the complaint is filed, execute a consent form granting access to the property for the purpose of inspection.

B. Each person filing a crop injury complaint must notify the commissioner at least 24 hours before the start of harvest of the alleged injured crop.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3203 and R.S. 3:3255.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:197 (March 1984), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3481 (December 2011).

## Chapter 13. Pesticide Containers and Bulk Facilities

### §1301. Pesticide Containers

A. Storage Areas for Full or Partially Full Pesticide Containers

1. Pesticide containers shall be stored in a secure enclosure.

2. Pesticide containers shall be free of leaks.

3. The storage area shall be maintained in good condition, without unnecessary debris.

B. Pesticide containers shall be cleaned and disposed of according to the product label.

C. Pesticide containers, ready for disposal, shall be stored in a secured area and shall be kept for no more than 90 days after the end of the product spraying season or 180 days if held for recycling.

D. Rinsate from pesticide container cleaning shall be used in the following manner:

1. in subsequent applications of the pesticide; or

2. placed in a rinsate collection system dedicated to that pesticide and used according to the label and labeling by the end of that applicable pesticide's spray season; or

3. disposed in a permitted waste facility.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3203.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:197 (March 1984), amended LR 11:943 (October 1985), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3482 (December 2011).

### §1303. Bulk Facilities

A. Bulk facilities:

1. shall be registered with LDAF as a bulk facility and EPA as a producing establishment;

2. shall have a written contract/agreement from each pesticide's registrant prior to repackaging a pesticide. The contract/agreement for each registrant's product shall include but not be limited to the following:

a. the label and labeling; and

b. the residue removal procedure; and

c. a description of acceptable containers;

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3. shall not change the pesticide formulation without an EPA registration for a new pesticide formulation;
4. shall repackage the pesticide into containers that:
  - a. are identified as acceptable by the registrant; and
  - b. meet the specified criteria with respect to continued container integrity, required markings and openings;
5. shall be responsible for:
  - a. the integrity of pesticides repackaged into containers; and
  - b. securely attaching the label containing the net contents and EPA establishment number to the container;
6. can repackage any quantity of pesticide into containers, up to the rated capacity of the container. There are no limits on the size of the containers;
7. shall clean a refillable container, according to the residue removal procedure, if one or more of the following occur:
  - a. each tamper-evident device is not intact; or
  - b. one-way valve (if equipped) is not intact; or
  - c. the container previously held a pesticide product other than the pesticide product being refilled;
8. shall not refill a refillable container with an agricultural pesticide if it fails an inspection or is compromised in at least one of the following ways:
  - a. the container shows signs of rupture or other damage which reduces its structural integrity; or
  - b. the container has visible pitting, significant reduction in material thickness, metal fatigue, damaged threads or closures, or other significant defects; or
  - c. the container has cracks, warpage, corrosion or any other damage which might render it unsafe for transportation; or
  - d. there is damage to the fittings, valves, tamper-evident devices or other appurtenances; or
  - e. the integrity of the container cannot be repaired, reconditioned or remanufactured; or
  - f. The container does not bear a legible and durably marked serial number or other identifying code; or
  - g. The container does not have an intact and functioning one-way valve, if required or tamper-evident device on each opening other than a vent;
9. shall keep and maintain for three years the following records:
  - a. the registrant-bulk facility written contract/agreement; and
  - b. the residue removal procedure; and
  - c. the description of acceptable containers; and
  - d. for each time a refillable container is refilled with an agricultural pesticide:
    - i. the EPA registration number of the pesticide product; and
    - ii. the date of repackaging; and
    - iii. the serial number or other identifying code of the container;
  - e. for containment structures:
    - i. inspection date; and
    - ii. name of person conducting inspection or maintenance; and
    - iii. conditions noted and specific maintenance performed; and
  - f. records of how long non-stationary tanks (with the specified capacities) remain at the facility; and
  - g. construction date of the structure (for as long as the structure is in use and for 3 years afterwards);
10. shall have secondary containment structures for stationary pesticide containers except for the following:
  - a. empty containers; or
  - b. containers holding only rinsate or wash water and so labeled; or
  - c. containers holding pesticides which are gaseous at atmospheric temperature and pressure; or
  - d. containers dedicated to non-pesticide use and so labeled;
11. shall have containment pads for dispensing areas if:
  - a. refillable containers of agricultural pesticide are emptied, cleaned or rinsed; or
  - b. agricultural pesticides are dispensed from any stationary container; or
  - c. agricultural pesticides are dispensed from a transport vehicle into a refillable container; or
  - d. agricultural pesticides are dispensed from any other container for the purpose of refilling a refillable container or filling a non-refillable container for sale or distribution;
12. containment structures shall:
  - a. be constructed of steel, reinforced concrete or other rigid material capable of withstanding the full hydrostatic head and load of any substances, equipment and appurtenances placed on the structure; and
  - b. be compatible with the pesticides stored; and
  - c. be liquid-tight with cracks, seams and joints sealed; and
  - d. not be constructed of Natural earthen material, unfired clay and asphalt;

13. shall protect appurtenances and containers against damage from personnel and moving equipment.

14. shall seal appurtenances, discharge outlets or drains through the base or wall of existing containment structures, except direct connections between containment structures.

15. shall not configure appurtenances, discharge outlets or drains through the base or wall of new containment structures, except direct connections between containment structures.

16. shall control stormwater in all containment structures by constructing with sufficient freeboard to contain precipitation and prevent water and other liquids from seeping into or flowing onto them from adjacent land or structures.

17. shall have the following for new and existing secondary containment:

a. liquid pesticide stationary containers shall be anchored or elevated to prevent flotation.

b. dry pesticide stationary containers shall:

i. be protected from wind and precipitation; and

ii. be on pallets or raised concrete; and have a floor that extends completely beneath the pallets or raised concrete platforms; and

iii. be enclosed by a curb a minimum of 6 inches high that extends at least 2 feet beyond the perimeter of the container;

18. shall have the following for containment pads:

a. for existing pads:

i. intercept leaks and spills; and

ii. have enough surface area to extend under containers on it; and

iii. accommodate at least the portion of the vehicle where the hose or device couples to it, for transport vehicles delivering pesticide; and

iv. allow for removal/recovery of spilled, leaked or discharged material and rainfall; and

v. have no automatic pumps without overflow cutoffs.

b. for new pads be designed and constructed to:

i. intercept leaks and spills; and

ii. have enough surface area to extend under containers on it; and

iii. accommodate at least the portion of the vehicle where the hose or device couples to it, for transport vehicles delivering pesticide; and

iv. allow for removal/recovery of spilled, leaked or discharged material and rainfall;

v. have no automatic pumps without overflow cutoffs; and

vi. have their surface sloped toward an area where liquids can be collected for removal;

19. shall:

a. prevent pesticides from escaping the structure;

b. manage spilled and leaked materials no later than the end of the day of occurrence except in circumstances where a reasonable delay would significantly reduce the likelihood or severity of adverse effects to human health or the environment and according to the label and all regulations;

c. ensure that transfers of pesticides are attended;

d. lock valves on stationary pesticide containers or lock the facility, whenever the facility is unattended;

e. initiate repair to any areas showing damage and seal cracks and gaps no later than the end of the day on which damage is noticed and complete repairs within a reasonable time frame, taking into account factors such as the weather, and the availability of cleanup materials, trained staff and equipment. Additional pesticides cannot be stored until repairs have been made; and Equip stationary containers with suitable sample points for official samples.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3203 and R.S. 3:3243.

**HISTORICAL NOTE:** Promulgated by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3482 (December 2011).

## **Chapter 15. Mechanically Powered Pesticide Application Equipment**

### **§1501. Commercial Applicators**

A. The following systems or controls must be present and in good operating order prior to the issuance of a decal.

#### 1. Aerial and Ground Application Equipment

a. The hopper must be free of leaks and in good working order; and

b. all equipment must include a properly functioning pressure gauge(s).

#### 2. Aerial Application Equipment

a. The booms, nozzles, and hose fittings must be free of leaks;

b. the emergency dump, if present on an aircraft, must be free of leaks when in the closed position;

c. there must be a main fluid filter between the main tank and the boom system; and

d. the distance between the outermost nozzles on the boom of a fixed wing aircraft shall not be more than 75 percent of the wing span of the aircraft. The boom on the rotary-wing aircraft may not exceed the rotor diameter. The

commissioner may waive these requirements for specific aircraft.

3. secondary containment and containment pads are required for dispensing pesticides from stationary containers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3243.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:198 (March 1984), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 24:281 (February 1998), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3483 (December 2011).

## Chapter 17. Monitoring of Commercial Applicator Operations

### §1701. Monitoring of Commercial Applicator Operations

A. Duly authorized representatives of the commissioner may inspect all pesticide applicator operations semi-annually, with or without prior notification, provided that the commissioner may monitor such sites on a more frequent basis whenever, in his sole discretion, he determines that there is a need for more frequent monitoring of any specific commercial applicator.

B. In such monitoring, the authorized representative of the commissioner shall:

1. inspect the physical surroundings of the site to determine that all requirements of these regulations have been complied with;

2. inspect the records required by this Part;

3. take samples, as determined by the commissioner, at any of the following locations:

a. any site where an application of pesticides has been made by the applicator;

b. any base storage;

c. any containment tank for pesticides which, upon disposal, are classified as hazardous wastes;

d. any surface impoundment;

e. any wash pad;

f. any soils or water, flowing or still, at any location on or adjacent to the base operation; or

g. any application equipment (i.e., hopper tanks and connections, mixing tank, etc.).

C. Any samples taken as provided above shall be marked for identification under chain of custody procedures and shall be analyzed in accordance with procedures approved by the Association of Official Analytical Chemists and/or other methods approved by the U.S. Environmental Protection Agency.

D. The owner-operator from whose operations any sample is taken shall be provided with a copy of the analysis results within 30 days after the analysis is completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3201.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:198 (March 1984), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3484 (December 2011).

## Chapter 19. Requirements for Access, Examination and Sampling

### §1901. Pesticide Dealers and Pesticide Salespersons

A. The commissioner, upon reasonable request, shall be permitted access to any premises where restricted use pesticides are sold, offered for sale, or held for distribution.

B. The commissioner may examine the records required under §2105 and may take samples of any restricted use pesticides found on the premises.

C. Such samples shall be marked for identification by accepted chain of custody requirements and shall be analyzed in accordance with procedures approved by the Association of Official Analytical Chemists and/or other methods approved by the U.S. Environmental Protection Agency.

D. The owner of any restricted use pesticide from which such sample is taken shall be provided with a copy of the analysis results within 30 days after the analysis is completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3245.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:198 (March 1984), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3484 (December 2011).

### §1903. Agricultural Consultants

A. The commissioner, upon reasonable request, shall be permitted access to the records required under §2105.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3246.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:199 (March 1984), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR:3484 (December 2011).

## Chapter 21. Record Keeping Requirements

### §2101. Owner-Operators, Non-Fee Commercial Applicators, Private Applicators and Commercial Applicators

A. Any person applying pesticides for a fee, private applicators described in §709, and commercial applicators described in §711, with the single exception of applicators listed in §711.B.2.g Category 7, shall accurately maintain, for a period of two years, records of pesticide applications on a record keeping form or record keeping format approved by the director. Records described herein must be maintained, within three days of the application, at the physical address of the employer or the physical address on the owner/operator license. A copy of these records shall be provided to any employee of department upon request at a reasonable time during normal working hours. The following information shall be included on that form:

1. owner/operator name, address, and license number;
2. certified applicator, name, address, and certification number;
3. customer name and address;
4. product/brand name;
5. EPA registration number;
6. restricted/general use pesticide;
7. application date;
8. crop/type of application;
9. location of application;
10. size of area treated (acres, square feet, or minutes of spraying);
11. rate of application;
12. total amount of product (concentrate) applied;
13. applicator;
14. certification number of applicator (if applicable).

B. Non-fee commercial applicators as described in §711.B.2.g, category 7, shall accurately maintain, for a period of two years, records of applications of all herbicides, insecticides, rodenticide, and fumigants on the appropriate record keeping form as described in LAC 7:XXV.117.I and §2101.A and approved by the director. Records described herein shall be maintained, within seven days of the application, at the physical address of the employer. A copy of these records shall be provided to any employee of the department upon request, at a reasonable time during normal working hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:199

(March 1984), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 21:929 (September 1995), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3484 (December 2011), LR 44:2126 (December 2018).

### §2103. Pesticide Dealers and Salespersons

A. The requirements of this rule apply to sales of:

1. pesticides classified as restricted use pesticides by the commissioner or the EPA;
2. pesticides which, upon disposal, are classified as hazardous wastes; and
3. pesticides listed in §1103.B, except when sales of pesticides listed in §1103.B are:
  - a. sold in concentrations of 2 percent or less; or
  - b. formulated with fertilizers for use by homeowners.

B. Licensed pesticide dealers, certified pesticide salespersons, and/or persons under the direct supervision of a certified dealer or salesperson shall maintain the following records on a current basis for a period of two years:

1. the name and amount of the pesticide purchased and/or sold;
2. the date of all purchase and/or sale transactions;
3. the name, address, and certification number of the purchaser, including the purchaser's name, address, and certification number in all purchases made for cash;
4. the name of the person handling any sales of pesticides covered by this Rule.

C. Whenever any pesticides which, upon disposal, are classified as hazardous wastes are delivered to a purchaser, the records required under this Rule shall include the name of the purchaser, amount of pesticide purchased, date of delivery, and location to which delivered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3245.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:199 (March 1984), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3485 (December 2011).

### §2105. Agricultural Consultants

A. Every recommendation made by an agricultural consultant shall be in duplicate original and shall be dated and signed by the agricultural consultant.

B. Each recommendation made by an agricultural consultant shall include the following:

1. the name and address of person purchasing the consultant's services;
2. the location, including the crop, for which the recommendation is made;

3. the pesticide or pesticides recommended;
4. the recommended rate of application;
5. a brief statement as to the reasons for the recommendation; and
6. the date of when the recommendation is given.

C. The pesticide recommendation shall be given to the purchaser of the consultant services or his designee and a copy shall be maintained in the records of the agricultural consultant.

D. The commissioner, or his duly authorized representative, shall be permitted access to such records upon reasonable request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3246.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:199 (March 1984), repromulgated by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3485 (December 2011).

## Chapter 23. Penalties

### §2301. Penalties for Violation of Pesticide Statutes and These Regulations

A. The commissioner may suspend or revoke any license issued under the provisions of R.S. 3:3241-3257 and/or may assess a civil penalty not to exceed \$5,000 for violation of any provision of R.S. 3:3201 through 3:3257 or any violation of any regulation enacted under the authority of said statutes.

B. Each separate day on which any violation occurs may be considered as a separate violation.

C. No penalty may be assessed by the commissioner prior to the holding of an adjudicatory hearing before the commission. Such adjudicatory hearing shall be conducted in accordance with the requirements of the Administrative Procedure Act; any person alleged to have violated any provision of the pesticide statutes or these regulations shall be accorded all of the rights and privileges guaranteed under said Act.

D. The commission shall recommend penalties to be imposed as a result of findings of fact and/or conclusions of law that a violation occurred.

E. Whenever the commissioner fails to accept the recommendations of the commission for the imposition of penalties following an adjudicatory proceeding, the commissioner shall notify the commission, in writing, of the reasons for his failure to accept the commission's recommendations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3252.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:199 (March 1984), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences,

Advisory Commission on Pesticides, LR 35:628 (April 2009), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3485 (December 2011).

## Chapter 25. General Requirements for Rinsate Water

### §2501. Rinsate Water

A. Rinsate from certified applicator's cleaning pesticide application equipment shall be used in the following manner:

1. in subsequent applications of the pesticide; or
2. placed in a rinsate collection system dedicated to that pesticide and used according to the label and labeling by the end of that applicable pesticide's spray season; or
3. disposed in a permitted waste facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:397 (May 1984), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3485 (December 2011).

## Chapter 27. Handling Pesticide Spills by Applicators

### §2701. Handling Pesticide Spills

A. All uncontained spills of more than one gallon liquid or four pounds dry weight must be reported to the director of Pesticides and Environmental Programs within 24 hours by telephone and by written notice within three days.

B. The costs of cleanup resulting from pesticide spills are the responsibility of the person who spills the pesticide.

C. Cleanup of pesticide spills shall be approved by the director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:397 (May 1984), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3486 (December 2011).

## Chapter 29. Emergency Procedures Related to Pesticides

### §2901. Definitions

A. In addition to the definitions listed below, and unless otherwise provided, the definitions in R.S. 3:3202 and §103 shall apply to this Subchapter of these regulations.

*Complaint*—any information or report of any pesticide-related problem which could adversely affect human health or the environment.

*Emergency*—a situation involving pesticides where there is imminent danger to human health or to the environment.

*Environment*—includes water, air and land and the interrelationship which exists among and between water, air, land and all living things.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203(A).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:247 (March 1992), repromulgated by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3486 (December 2011).

### **§2903. Identification of Emergency**

#### A. Procedure

1. Persons detecting or discovering what they reasonably believe to be an emergency involving the use, misuse or storage of pesticides shall immediately contact the division via the 24-hour telephone hotline at (225) 925-3763.

2. Personnel receiving any complaint related to pesticides shall record the information required on department-approved telephone complaint forms.

3. Personnel receiving any complaint that could constitute an emergency shall immediately notify the director.

4. Upon notification, the commissioner shall make a determination as to whether an emergency exists. This determination shall be made as soon as possible. In determining the gravity of the danger, the commissioner shall consider whether the pesticides have resulted in the death of marine life or wildlife and whether the maximum contaminant levels established by §3103 have been exceeded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203(A).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:247 (March 1992), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3486 (December 2011).

### **§2905. Declaration of Emergency**

A. Upon determining that an emergency exists, the director shall immediately declare in writing that an emergency exists and direct that the following emergency procedures be employed. The director shall notify the appropriate governmental agencies and the media as soon as is practical, and in no case later than eight hours after declaration of emergency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203(A).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:247 (March 1992), repromulgated by Department

of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3486 (December 2011).

### **§2907. Response to Emergency**

A. Containment. At the earliest possible time, the director shall direct and supervise efforts to accomplish the containment of the emergency.

B. Identification of Pesticide. The pesticide or pesticides involved in the emergency shall be identified. Efforts to identify the pesticide(s) shall include, but not be limited to the following:

1. labels of containers of the pesticides or other substances involved shall be consulted;

2. the point source or non-point source shall be investigated and if determined, the relevant records and storage areas of that source examined;

3. all emergency reports shall be reviewed by the director's staff;

4. if indicated, an investigation shall be made relative to any recalled, suspended or canceled pesticides;

5. samples shall be obtained at the earliest possible time and analyzed in accordance with procedures approved by the Association of Official Analytical Chemists and/or other methods approved by the U.S. Environmental Protection Agency.

C. Reporting Requirements. If it is reasonably believed that a pesticide emergency has taken place, all appropriate requirements for reporting to the department shall be complied with, according to §2903.

D. Investigation. In investigating any possible or known pesticide emergencies, the following information shall be sought and recorded:

1. the date, time and location of the incident;

2. the date and time the incident was reported to the department;

3. the department employee receiving the report;

4. from whom the report was received;

5. who initiated the investigation, along with the date, time and place the investigation was initiated;

6. the identity and location of any witness(es);

7. the time, place and circumstances under which each witness' statement was taken and whether such statement was confirmed;

8. the time, description and location of any samples taken;

9. the time, description and location of any other physical evidence; and

10. any information obtained, including that obtained through the inspection of records relevant to causation, identity of pesticide, containment, clean-up, and disposal.

E. Remediation

1. At the earliest possible time, the director shall develop a written plan for clean-up and disposal of pesticide waste as necessary to accomplish remediation of the emergency. In developing said plan, the director shall consider at a minimum, the following information if ascertainable:

- a. the location of the land where the pesticide(s) was applied;
- b. the year, month, date and time the pesticide(s) was applied;
- c. the product name(s) used on the registered label, and the scientific name(s);
- d. the inert ingredients contained in the pesticide(s);
- e. the United States Environmental Protection Agency and state registration numbers of the pesticide(s) that were applied;
- f. the crop and site to which the pesticide(s) was applied;
- g. the amount of pesticide(s) applied per acre, or other appropriate measure;
- h. the concentration of pesticide(s) that was applied as well as concentrations in the soil and water to indicate extent of contamination;
- i. the applicator's business name, if any;
- j. the applicator's name, address, and telephone number;
- k. if applied aerially, the direction and velocity of the wind at the time the pesticide(s) were applied; and
- l. possible hazards to human health that may result from the release considering both direct and indirect effects of the pesticide(s) application.

2. The director shall issue appropriate remedial orders as are necessary to accomplish the plan for clean-up and disposal.

F. Health Related Complaints. Any complaint involving a health-related emergency shall be handled according to the agreement entered into between the department and the Louisiana Department of Health and Hospitals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203(A).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural and Environmental Sciences, LR 18:247 (March 1992), amended LR 20:641 (June 1994), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3486 (December 2011).

**§2909. Declaration of Termination of Emergency**

A. When remediation is complete or there no longer exists a situation involving imminent danger to human health or the environment, the director shall declare in writing that the emergency has ended. The director shall

notify the appropriate governmental agencies and the media as soon as it is practical.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203(A).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:248 (March 1992), repromulgated by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3487 (December 2011).

**Chapter 31. Water Protection**

**§3101. Definitions**

A. In addition to the definitions listed below, and unless otherwise provided, the definitions in R.S. 3:3202 and §103 shall apply to this Subchapter of these regulations.

*Base Line Conditions*—the pesticide level found in the water of a site immediately preceding the pesticide application season.

*Maximum Contaminant Level*—the maximum permissible concentration level of a pesticide in the waters of the state.

*Pesticide Application Season*—that period of time during the year that insecticides, herbicides or other pesticides are normally used on agricultural lands in a given area.

*Reasonable Expectation of a Threat*—a condition that is probable to lead to substantive injury to human health or the environment.

*Threat*—a condition that would lead to substantive injury to human health or the environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3303(B) and R.S. 3:3306(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:248 (March 1992), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3487 (December 2011).

**§3103. Establishment of Standards for Pesticides in Water**

A. The maximum contaminant level standards as published by EPA shall be incorporated as standards for pesticides in waters of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3303(B) and R.S. 3:3306(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:248 (March 1992), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3487 (December 2011).

**§3105. Procedures for the Determination of Threats**

A. The procedures for determining whether pesticide concentrations exceed maximum contaminant level

standards or pose a threat or reasonable expectation of a threat to human health or the environment shall be:

1. the department shall maintain a water monitoring program;

a. water sample collection sites shall be distributed throughout the state. The locations of said sites shall be selected by criteria including, but not limited to:

- i. those areas that have agricultural land use;
- ii. those areas that have water drainage from agricultural lands;
- iii. the propensity for runoff due to topography, soil types and other characteristics;
- iv. data from aquifer potential maps used to locate well sampling sites in a wide spectrum of the state's aquifers; and

v. proximity to pesticide application of irrigation wells or shallow private water wells;

b. the water sampling frequency requirements shall be based upon criteria including, but not limited to:

- i. the pesticide application season in the area of the water collection sample site;
- ii. sampling shall as determined by the commissioner;

c. analytical parameters shall be established for each sampling site and shall be based upon, but not limited to, the following criteria:

- i. the major crop(s) grown in the area of the monitoring site;
- ii. the pesticide(s) most commonly used on the major crop(s) of the monitoring site area; and
- iii. the base line conditions existent prior to the pesticide application season;

d. base line conditions at each water sampling site shall be established by water sampling and analysis prior to the pesticide application season;

e. the analysis of water samples shall be accomplished in accordance with procedures of the Association of Official Analytical Chemists and/or other methods approved by the U.S. Environmental Protection Agency;

2. the commissioner shall consider results of the analysis of the samples, the criteria established in R.S. 3:3306(C), and/or other relevant data and shall promptly determine whether a threat or reasonable expectation of a threat to human health or to the environment exists and whether the standards as adopted herein have been exceeded.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3303(B) and R.S. 3:3306(B).

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:248 (March 1992), amended, LR 35:628 (April

2009), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3487 (December 2011).

### **§3107. Determination of Appropriate Action**

A. Upon determination by the commissioner that a threat or reasonable expectation of a threat to human health or to the environment exists or that the maximum contaminant level standards as adopted herein have been exceeded he shall:

1. promptly direct that thereafter the emergency procedures established by Chapter 29 of this Part be employed;

2. complete sufficient investigation as to permit appropriate action.

B. In determining appropriate action as to the pesticide involved the commissioner shall consider:

1. registration denial;
2. stop orders for use, sales or application;
3. label changes;
4. remedial or protective orders;
5. injunctive relief; and
6. any other relevant remedies.

C. In determining appropriate action as to the responsible party the commissioner shall consider:

1. referral for criminal prosecution;
2. referral to the commission;
3. remedial or protective orders;
4. injunctive relief; and
5. any other relevant remedies.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3303(B) and R.S. 3:3306(B).

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:249 (March 1992), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3488 (December 2011).

## **Chapter 33. Pesticide Wastes**

### **§3301. Listing of Hazardous Pesticide Wastes**

A. The commissioner shall annually, on or before December 31, publish in the *Louisiana Register* a full and complete list of all pesticides which, upon disposal, are classified as hazardous wastes under regulations of EPA and may supplement such listing at any time when any changes in such classifications are made by EPA.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3203 and R.S. 3:3243.

**HISTORICAL NOTE:** Promulgated by Department of Agriculture and Forestry, Office of Agricultural and Environmental

Sciences, Advisory Commission on Pesticides, LR 37:3488 (December 2011).

**§3303. Procedures for Monitoring**

A. In the course of conducting routine monitoring of pesticides, the commissioner shall monitor for the presence of pesticide wastes.

B. Monitoring for the presence of pesticide wastes shall include, but not be limited to, investigations involving canceled or suspended products, spill responses, and citizen complaints.

C. The procedures for monitoring pesticide wastes shall include but not be limited to the following activities:

1. visual or other sensory observations of conditions which may support the probability or actuality of the presence of pesticide wastes;
2. inquiries into the relevant circumstances surrounding the probability or actuality of the presence of pesticide wastes which may include sample taking and analysis; and
3. a preliminary determination as to whether or not there is a presence of pesticide wastes based upon the observations and the inquiries or upon relevant data, shall be made by the director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3271 and R.S. 3:3273.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Science, LR 19:609 (May 1993), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3488 (December 2011).

**§3305. Procedures for Determinations**

A. When the director makes a preliminary determination as a result of monitoring or otherwise, that there is a presence of pesticide wastes as a result of monitoring or otherwise, the procedures for determining whether the concentrations of pesticide wastes exceed promulgated federal or state standards, or that the concentrations of pesticides pose a threat or reasonable expectations of a threat to human health or to the environment are as set out below.

1. The commissioner shall take into consideration the following:
  - a. the results of the analysis of samples, if available;
  - b. the criteria established in R.S. 3:3274; and
  - c. other relevant data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3271 and R.S. 3:3274.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Science, LR 19:609 (May 1993), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3488 (December 2011).

**§3307. Appropriate Actions**

A. When the commissioner has determined that there is a presence of pesticide wastes and that the pesticide wastes do not exceed promulgated federal or state standards, or when the commissioner determines that the concentrations of pesticides do not pose a threat or reasonable expectation of a threat to human health or to the environment, the commissioner may take one or more of the following actions:

1. issue appropriate orders to provide for proper disposal;
2. take such other action as the commissioner deems appropriate under circumstances.

B. When the commissioner has determined that there is a presence of pesticide wastes and that the pesticide wastes exceed promulgated federal or state standards, or when the commissioner determines that the concentrations of pesticides pose a threat or reasonable expectation of a threat to human health or to the environment, the commissioner may take one or more of the following actions:

1. issue appropriate protective orders to mitigate the further contribution to the accumulation of the pesticide or pesticide wastes;
2. issue remedial orders directing prompt remedial action to correct the offending situation;
3. communicate his determination to any appropriate governmental agency;
4. participate in issuing a public communication concerning the determination. Where a cooperative agreement exists, each public communication shall be issued in accordance with same;
5. take such other action as the commissioner deems appropriate under circumstances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Science, LR 19:610 (May 1993), amended LR 19:1120 (September 1993), repromulgated by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3489 (December 2011).

**§3309. Record Keeping**

A. In addition to the record keeping requirements set out in this Part, all persons conducting or having conducted activities of, generating, owning, possessing, storing, transporting, or disposing of pesticide wastes, shall keep copies of all records required by local, state or federal laws or regulations for a period of not less than three years from the receipt of any such record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Science, LR 19:610 (May 1993), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental

Sciences, Advisory Commission on Pesticides, LR 37:3489 (December 2011).

**§3311. Transportation of Pesticide Waste**

A. All persons transporting pesticide wastes shall transport such wastes in a manner that conforms to the procedures and requirements set forth by the Louisiana Department of Environmental Quality and the Louisiana Department of Public Safety, in addition to all other applicable local, state and federal laws and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Science, LR 19:610 (May 1993), repromulgated by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3489 (December 2011).

**Chapter 35. Health Complaints**

**§3501. Notification of Pesticide Poisoning**

A. Each physician who treats a health complaint that is diagnosed as caused by pesticide poisoning shall provide

notice of the poisoning to the director of the division via the 24-hour telephone hotline, (225) 925-3763, within 24 hours of the diagnosis and in writing posted within three days of the diagnosis. Each report shall contain the following:

1. the name, address, and telephone number of the treating physician;
2. the name, address, and telephone number of each patient treated;
3. date of treatment; and
4. the location of the facility where the reporting physician provided treatment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and 3:3208.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences Programs, LR 20:642 (June 1994), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3489 (December 2011).