

NOTICE OF INTENT
Louisiana Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences
Horticulture Commission

Examinations, Administration, Sod Quality and Classification Form
(LAC XXIX.113, 115, and 117)

In accordance with the Administrative Procedure Act, R.S. 49:950, *et seq.*, and pursuant to the authority set forth in R.S. 3:3801(F), notice is hereby given that the Department of Agriculture and Forestry ("Department") and the Horticulture Commission intend to amend LAC 7:XXIX.113 to add language that addresses cheating on professional licensing exams and ensure that persons who cheat on exams know the consequences of their actions.

The Department and the Horticulture Commission further deem it necessary to amend LAC 7:XXIX.115 and 117 to repeal the requirement that licensees or permittees selling sod in quantities of two pallets or 100 square yards or more provide a completed form to the consumer at the time of sale, indicating the type and class of sod. These rules and regulations were originally enacted to provide protections for the consumer when purchasing sod. The Department and the Horticulture Commission have determined that this requirement is no longer necessary to protect the consumer as consumer protections are adequately addressed in LAC 7:XXIX.117(F)(1), which regulates sod quality offered for sale by nursery stock dealers, and by routine inspections performed by the Department pertaining to sod quality.

Title 7
AGRICULTURE AND ANIMALS
Part XXIX. Horticulture Commission

Chapter 1. Horticulture

§113. Examination Schedule and Administration

- A. ...
- B. 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. Cheating consists of:
1. Giving or receiving unauthorized assistance to answer examination questions;
 2. Bringing unauthorized materials into the exam room or using unauthorized materials to answer examination questions;
 3. Using answers from another examinee;
 4. Copying questions or answers to examination questions to take from the examination room;
 5. Removing an examination booklet, answer sheet, or scratch paper from the examination room; or
 6. Any other action which may undermine the integrity of the examination process.
- C. Any applicant caught or found to be cheating 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 the applicant's examination shall be voided and the applicant shall receive a score of zero.
- D. Any applicant who is not allowed under this Subsection C 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.
1. The appeal shall be in writing, state the grounds for the appeal, and filed with the director within 30 days after the date of the examination.
 2. 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.

3. The appeal will be decided by the commission. The decision of the commission shall be the final administrative decision in the matter.

4. An appeal from the decision of the commission shall be in accordance with the Administrative Procedure Act.

5. 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.

E. 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.

F. 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. 3:3807 and R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:8 (January 1988), LR 18:250 (March 1992), LR 20:640 (June 1994), LR 31:1053 (May 2005), LR 35:1227 (July 2009), LR 37:3465 (December 2011), LR 40:759 (April 2014), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Horticulture Commission, LR 44:2127 (December 2018).

§115. General Requirements for All Licenses or Permittee

A. – C. ...

D. Repealed.

E. ...

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

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

§117. Professional and Occupational Standards and Requirements

A. – B.3.c. ...

B.4 Repealed.

B.5. – D.3. ...

D.4. Repealed.

D.5. – F.5. ...

F.6. Repealed.

G. – I.6.e. ...

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185 (April 1982), amended LR 9:410 (June 1983), LR 11:317 (April 1985), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:8 (January 1988), LR 20:640 (June 1994), LR 27:1832 (November 2001), LR 31:1054 (May 2005), LR 32:78 (January 2006), LR 32:1010 (June 2006), LR 33:1854 (September 2007), LR 53:1228 (July 2009), LR 36:2520 (November 2010), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Horticulture Commission, LR 42:1645 (October 2016).

Family Impact Statement

The proposed Rule should not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

- (1) the stability of the family;
- (2) the authority and rights of persons regarding the education and supervision of their children;
- (3) the functioning of the family;
- (4) family earnings and family budget;
- (5) the behavior and personal responsibility of children;
- (6) the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

- (1) the effect on household income, assets, and financial security;
- (2) the effect on early childhood development and preschool through postsecondary education development;
- (3) the effect on employment and workforce development;
- (4) the effect on taxes and tax credits;
- (5) the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Statement

The proposed Rule should have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

- (1) the effect on the staffing level requirements or qualifications required to provide the same level of service;
- (2) the total direct and indirect effect on the cost to the providers to provide the same level of service; or
- (3) the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rule. Written submissions must be directed to Ansel Rankins, Director of the Horticulture Commission, Department of Agriculture & Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806 and must be received no later than 4:00 p.m. on the 10th day of February, 2019.



Mike Strain, DVM
Commissioner of Agriculture and Forestry