

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

Advisory Commission on Pesticides
Examinations, Certifications, Licensing, and Fees (LAC 7:XXIII.701 and 901)

In accordance with the Administrative Procedure Act, R.S. 49:950, *et seq.*, and pursuant to the authority set forth in R.S. 3:3203 and R.S. 3:3251, notice is hereby given that the Department of Agriculture and Forestry (“Department”), through the Office of Agricultural and Environmental Sciences, intends to amend LAC 7:XXIII.701 and 901. The proposed amendment to LAC 7:XXIII.701 removes the requirement that applicants for the private applicator, commercial applicator, or pesticide salespersons examinations who fail to receive a passing score on an exam wait a minimum of 10 days before being eligible for re-examination. The requirement that no person shall be allowed to take a private applicator examination, commercial applicator examination, or pesticide salesperson examination more than three times in a 12-month period is also removed. Louisiana is the only state with restrictions on the time intervals between testing and limitations on the amount of re-testing permitted per year for private applicator, commercial applicator and salesperson examinations. These changes are being made to align with current practices of other states and the industry.

The proposed amendment to LAC 7:XXIII.901 is being made pursuant to the authority set forth in 3:3251, which allows the Commissioner to establish examination fees by rule in an amount not to exceed \$200. The proposed amendment to LAC 7:XXIII.901 increases the examination fees from \$25 to \$50 for commercial applicator examinations, pesticide salesperson examinations, and agricultural consultant examinations taken in Baton Rouge and examinations taken at meetings outside Baton Rouge. The proposed amendment also includes a \$50 fee to take the private applicator examination. Currently, there is no fee for the private applicator examination and Louisiana is the only state that does not charge a fee to take the private applicator examination. The proposed amendments to LAC 7:XXIII.901 ensures consistency of the examinations fees for all areas of Louisiana.

Title 7
AGRICULTURE AND ANIMALS
Part XXIII. Pesticides

Chapter 7. Examinations, Certification and Licensing

Subchapter A. Examinations

§701. Examinations of Private Applicators, Commercial Applicators, Pesticide Salespersons, and Agricultural Consultants

A. – C. ...

D. Each applicant for the agricultural consultant examination who fails to receive a passing score shall wait a minimum of 10 days before being eligible for re-examination.

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

F. Applicants who fail to receive a passing score on the private applicator examination, commercial applicator examination, or pesticide salesperson examination shall be eligible for re-examination after completing and submitting an application for retesting.

G. 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.

H. 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.

I. 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.

I.e. – 4. ...

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 Agriculture 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).

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	
Private Applicator Exam	\$50
Commercial Applicator Exam	\$50 per category
Pesticide Salesperson Exam	\$50
Agricultural Consultant Exam	\$50 per category
Duplicate Licenses and/or Certification Cards	Same as Original
Requested Lists and Copies	Postage + minimum of \$1 or Postage + \$0.25 /page

B. – E. ...

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).

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 Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule. This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

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 Kevin Wofford, Director of the Advisory Commission on Pesticides, 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 January, 2021.

Mike Strain, DVM

Commissioner of Agriculture and Forestry

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not result in any costs or savings to state or local government units. The proposed rule amends LAC 7:XXIII.901 that increases testing fees for commercial pesticide applicators, restricted use pesticide (RUP) salespersons, and agricultural consultants for exams as well as enacts testing fees for private pesticide applicator exams.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is expected to increase state revenue collections by approximately \$26,025 annually. The estimated increase in revenue is based on the average number of pesticide exams administered annually by the Pesticide and Environmental Programs Division within the Louisiana Department of Agriculture and Forestry (LDAF) multiplied by the increased fee for each exam as follows: (1) \$15,100 for commercial applicators & RUP salespersons in Baton Rouge (604 exams x \$25 fee increase); \$10,600 for private applicators (212 exams x \$50 new fee); \$325 for agricultural consultants (13 exams x \$25 fee increase). The proposed rule amends LAC 7:XXIII.701 that is not anticipated to have any effect on revenue collections for state or local government entities.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed rule will increase the cost from \$25 to \$50 for applicants taking the commercial pesticide applicator, RUP salesperson, and agricultural consultant examinations at the Louisiana Department of Agriculture and Forestry (LDAF) headquarters in Baton Rouge. Also, applicants for private pesticide applicator will have a new examination fee of \$50.

The proposed rule may benefit applicants who fail to receive a passing score by removing re-testing waiting periods and limits on taking examinations. Louisiana is the only state with restrictions on the

time intervals between testing and limitations on the amount of re-testing permitted per year for the private applicator, commercial applicator, and salesperson examinations. These changes are being made to align with the current practices of other states and the industry.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendment to LAC 7:XXIII.701 may be beneficial to the applicant and industry in terms of employment by allowing opportunity to retest and pass an exam within a shorter period of time. The proposed amendment to LAC 7:XXIII.901 has no direct effect on competition and employment.