

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

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Rule Title: Registration (LAC 7:XXXV.127)
Meat Labeling (LAC 7:XXXV.135)
Classification and Method of Sale of
Petroleum Products (LAC 7:XXXV.321)

Date Rule Takes Effect: Upon Promulgation

**SUMMARY
(Use complete sentences)**

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. **THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.**

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

Besides the cost of promulgation, the proposed rule change will not result in any costs or savings to the Louisiana Department of Agriculture and Forestry (LDAF). The proposed rule will not result in any costs or savings to local governmental units. The proposed rule clarifies that the owner of the weighing and measuring device is responsible for registering the device and eliminates outdated and conflicting provisions with the USDA in current rules regarding meat labeling. Also, proposed rule adds language that clarifies signage rules for retailers advertising fuel prices.

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

The proposed rule is not anticipated to impact revenue collections of local governmental units. As a result of clarifying the responsible party for registering commercial weighing and measuring devices, the proposed rule changes will result in a nominal increase in revenue collections for the Weights and Measures Division within LDAF. The anticipated revenue increase is \$1,289 in the Statutory Dedicated Weights and Measure Fund.

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

The proposed rule will result in a slight cost increase (weighted average of \$46.70 each) to approximately 28 owners statewide registering commercial weighing and measuring devices with LDAF for an aggregate cost of approximately \$1,289. The proposed rule change is anticipated to eliminate confusion over who shall register the devices. Also, the proposed rule is anticipated to eliminate consumer confusion over fuel prices by clarifying signage rules for retailers that advertise fuel prices.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is not anticipated to effect competition and/or employment.

Signature of Agency Head or Designee

Legislative Fiscal Officer or Designee


Typed Name & Title of Agency Head or Designee
Dave Morgan Asst Comm Insp

9/9/2020
Date of Signature


9/9/20
Date of Signature

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

The proposed rule changes clarify or eliminate current rule as follows:

- The change to: LAC 7:XXXV.127.A clarifies that the owner of a weighing and measuring device is responsible for registering the device with LDAF. As it is written, the section does not specify who shall register the commercial weighing and measuring device.
- The change to LAC 7:XXXV.127.D. eliminates the regulation language that scanning devices be registered by make, model, and serial number.
- The change to LAC 7:XXXV.135. Meat Labeling is an outdated regulation that is no longer being enforced. This rule is in conflict with 7 CFR Part 60 & 65 (USDA Country of Origin Law). Statements of origin are enforced by LDAF's Meat Inspection Division and no longer enforced by Weights and Measures.
- The change to LAC 7:XXXV.321, include the deletion of the words "Automotive Fuel Rating Index (AKI)", which is no longer used and replaces it with "automotive fuel rating". Automotive Fuel Rating is the current terminology used in 16 CFR 306.5 and 306.6. It is also proposed to add a section G to LAC 7:XXXV.321. Section G will clarify signage rules for retailers using street signs for advertising fuel prices. The proposed rule states that the prices advertised must be equal to the highest price for the offered product unless it is clearly specified that conditions apply for a lower price. This eliminates consumer confusion over fuel prices.

B. Summarize the circumstances, which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

The proposed rule change clarifies that the owner of a weighing and measuring device is responsible for registering the device with LDAF. LAC 7:XXXV.127.A. as it is written does not specify who shall register the commercial weighing and measuring device. In some applications, an entity may own a commercial weighing and measuring device and another entity may operate the device in day to day operations. An example of this situation is a pecan warehouse or buyer that owns numerous devices which they distribute to multiple buying sites operated by others. The Weights and Measures inspectors are currently required to search for and go through the registration process for these devices each year. Once found, the device operators do not accept the responsibility of registering the devices. Some other examples are scrap metal buyers, security companies that operate scales for industry, and seafood buyers.

The proposed change to LAC 7:XXXV.127.D. needs to be clarified because, unlike scales and liquid measuring devices, scanners are not routinely moved from one location to another or bought and sold by locations going out of business. An exception to this may be the scanner/scales used in grocery stores. However, they are registered as scales and can be tracked through that means. Also, when a scanning device fails to meet legal requirements for accuracy, it is not the scanner itself that has failed to meet performance standards but, rather, the software system to which the scanner has been attached. If a scanner is moved from one location where it fails to meet the legal standard to a new location, it very well may be in compliance as soon as it is attached to the register at the new location. This fact makes the tracking of specific scanning devices by make, model, and serial number superfluous. Also, since scanning devices are not required to be NTEP certified as other devices are, the devices may not meet the marking requirements of having the make, model, and serial number on each device. Lastly, if a location installs a new scanner, this law would require a placed in service report to be filed with Weights and Measures, and would require an inspector to go out and document the new device as well as inspect it.

The proposed repeal of LAC 7:XXXV.135 is due to the current rule being in conflict with USDA 7 CFR Parts 60 and 65 (USDA Country of Origin Law). Also, LDAF Weights and Measures Division no longer enforces the rule. LDAF Meat Inspection Division enforces statements of origin.

The proposed change to LAC 7:XXXV.321 are due to outdated terminology. The term Anti-Knock Index is no longer used by 16 CFR Parts 306.5 and 306.6. The term automotive fuel rating has replaced anti-knock index. Section G is proposed to clarify retail motor fuels products advertised pricing on street signs. Section G will not mandate the use of street signs, but will require retailers that use these signs advertise the highest price that a consumer would pay at the pump. This should allow the consumer to make informed decisions on purchases of fuel.

C. Compliance with Act 11 of the 1986 First Extraordinary Session

(1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

The proposed rule is not anticipated to result in any increase in the expenditure of funds.

(2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) _____ Yes. If yes, attach documentation.

(b) X NO. If no, provide justification as to why this rule change should be published at this time.

This proposed rule will clarify existing Weights and Measures regulations and enable Weights and Measures inspectors to use their time more effectively and efficiently.

**FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET**

1. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

COSTS	FY 21	FY 22	FY 23
Personal Services	0	0	0
Operating Expenses	0	0	0
Professional Services	0	0	0
Other Charges	0	0	0
Equipment	0	0	0
Major Repairs & Constr.	0	0	0
TOTAL	0	0	0
POSITIONS (#)	0	0	0

2. Provide a narrative explanation of the costs or savings shown in "A. 1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

The proposed rule is not anticipated to have a direct material effect on governmental expenditures.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 21	FY 22	FY 23
State General Fund	0	0	0
Agency Self-Generated	0	0	0
Dedicated	0	0	0
Federal Funds	0	0	0
Other (Specify)	0	0	0
TOTAL	0	0	0

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

The proposed rule is not anticipated to require any funds to implement.

B. COST OR SAVINGS TO LOCAL GOVERNMENT UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local government units, including adjustments in workload and paperwork requirements. Describe all data, assumptions, and methods used in calculating this impact.

The proposed change to LAC 7:XXXV.127.A. should save 15 to 30 minutes in the inspection process because most of the devices will already be registered. A maximum increase of \$1,289 in revenue to LDAF is based on the assumption that less than 5% of all pecan (77 businesses), scrap metal (103), industrial (372) will be affected by this change, and that the weighted average for scale registrations is \$46.70 per registration. The estimated number of businesses this will impact is very low (27.6), and the workload will simply be shifted to the office staff instead of the field personnel.

Weighted average (88% (Category 1) x \$36) + (6% (Category 2) x \$80) + (6% (Category 3) x \$185) = \$46,70.

Possible affected businesses:

Type of Business	Number of Businesses
Pecan Buyers/Sellers/Processors	77
Scrap Metal Buyers	103
Industrial/Chemical	372
Total	552

The proposed changes to LAC 7:XXXV.127.D. could possibly save some time on registering new businesses. Currently, we are not registering scanning devices by make, model, and serial number. The proposed change will ease registration for companies that use barcode scanners.

The proposed repeal of LAC 7:XXXV.135 should have no effect on any government agencies because the Weights and Measures Division does not enforce the current regulation because another division within LDAF enforces similar regulations.

2. Indicate the sources of funding of the local government unit, which will be affected by these costs or savings.

The proposed rule is not anticipated to have an impact on local governmental units.

**FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET**

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENT UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

REVENUE INCREASE/DECREASE	FY 21	FY 22	FY 23
State General Fund	0	0	0
Agency Self-Generated	0	0	0
Dedicated Funds*	\$1,289	\$1,289	\$1,289
Federal Funds	0	0	0
Local Funds	0	0	0
TOTAL	\$1,289	\$1,289	\$1,289

*Specify the particular fund being impacted. Weights and Measures Fund

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

The proposed changes to LAC 7:XXXV.127.A. should save 15 to 30 minutes in the inspection process because most of the devices will already be registered. A maximum increase of \$1,289 in revenue to LDAF is based on the assumption that less than 5% of all pecan (77 businesses), scrap metal (103), industrial (372) will be affected by this change, and that the weighted average for scale registrations is \$46.70 per registration. The estimated number of businesses this will impact is very low (27.6), and the workload will simply be shifted to the office staff instead of the field personnel.

Weighted average (88% (Category 1) x \$35) + (6% (Category 2) x \$80) + (6% (Category 3) x \$185) = \$46.70.

Possible affected businesses

Type of Business	Number of Businesses
Pecan Buyers/Sellers/Processors	77
Scrap Metal Buyers	103
Industrial/Chemical	372
Total	552

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS

- A. What persons, small businesses, or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

For the proposed change to LAC 7:XXXV.127.A., the companies affected by this rule change are companies who loan out weighing devices to other businesses to buy commodities directly from the producer (such as pecans) or individuals (such as scrap metal). The goal of this change is to clarify the responsibility of the device owner to register these devices. Currently it is not clear who shall register commercial weighing and measuring devices just that these devices are to be registered with the Department. Less than 5% of 552 businesses are anticipated to pay a weighted average of \$46.70 to register commercial weighing and measuring devices ($552 \times 5\% \times \$46.70 = \$1,289$, statewide aggregate cost).

For the proposed change to LAC 7:XXXV.127.D, the companies affected by this rule change are those that submit Placed in Service Reports to the Weights and Measures Division for new or repaired barcode scanning devices. These businesses are typically licensed Service Agencies or business owners. The proposed rule change makes it easier to register these devices by eliminating the need to register by make, model, and serial number.

For the proposed repeal of LAC 7:XXXV.135, no persons or non-governmental groups will be affected. The repeal is to remove outdated and conflicting regulations.

For the proposed change to LAC 7:XXXV.321, only businesses that utilize signage to advertise prices for motor fuels in addition to the pump price. Businesses are not required to purchase or use additional signage.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

The proposed rule change is not anticipated to have an impact on receipts and/or income to these groups.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions, and methods used in making these estimates.

The proposed rule change will ensure that equity prevails in the marketplace by ensuring that all commercial weighing and measuring devices are licensed and inspected by the Division of Weights and Measures.