

NOTICE OF INTENT
Department of Agriculture and Forestry
Office of Agro-Consumer Services

Chapter 1. Weights and Measures
(LAC 7:XXXV.127, 135)

Chapter 3. Petroleum Products
(LAC 7:XXXV.321)

In accordance with the Administrative Procedure Act, R.S. 49:950, *et seq.*, and pursuant to the authority set forth in R.S. 3:4741 *et seq.*, notice is hereby given that the Department of Agriculture and Forestry (“Department”) intends to adopt the rules set forth below by revising LAC 7:XXXV.127 and 321 and repealing 135. These revisions are authorized by R.S. 3:4603 through 4622 and R.S. 3:4671, 4672, 4673, 4680, and 4681.

The proposed 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. LAC 7:XXXV.127.A. As it is written, the section does not specify who shall register the commercial weighing and measuring device. The proposed change to LAC 7:XXXV.127.D eliminates the regulation language that scanning devices be registered by make, model, and serial number. The repeal of LAC 7:XXXV.135 is necessary because the existing 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 are no longer enforced by Weights and Measures. The proposed changes to LAC 7:XXXV.321, include the deletion of the words Anti-Knock 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.

Title 7
AGRICULTURE AND ANIMALS
Part XXXV. Office of Agro-Consumer Services

Chapter 1. Weights and Measures

§127. Registration

A. Each commercial weighing and measuring device in use in Louisiana shall be registered to the device owner annually with the division insofar as is specified in this regulation.

B. – C. ...

D. Scanning devices shall be registered according to the following criteria: greatest number of scanning devices in use at a location at any given time during the calendar year.

1. —make;

2. —model;

3. —serial number; and

4. —number of point-of-sale devices.

E. – R. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4603 (formerly R.S. 55:3), 3:4607, 4608, and 3:4622.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Commission of Weights and Measures, LR 13:158 (March 1987), amended LR 15:78 (February 1989), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1534 (December 1993), LR 23:857 (July 1997), LR 41:2098 (October 2015), LR 42:1649 (October 2016); LR 46:

§135.—Meat Labeling

~~A.—As used in this Section the following terms are defined.~~

~~1.—*American*—any meat that is produced in the United States.~~

~~2.—*Blend*—any combination of American and foreign meat.~~

~~3.—*Imported*—any meat produced in a foreign country.~~

~~B.—Unless otherwise provided in this Section, all processed or unprocessed meat sold in Louisiana, whether fresh or frozen, shall indicate the meat's country of origin.~~

~~1.—The country of origin or designations "American," "imported" or "blend of imported and American meats" shall be indicated in clear and conspicuous letters in English.~~

~~2.—All meat shall be labeled with one of the following designations, "American," "imported" or "blend of imported and American meats" or shall contain the name of the country of origin preceded by the "product of." Example: Meat produced in the United States would be labeled "American" or "Product of U.S.A."~~

~~3.—Meat displayed for sale or sold unwrapped shall contain the proper designation as to the country of origin on the meat, or on the immediate container or wrapping, or on a sign included with the display.~~

~~4.—If an establishment sells only American meat, then a placard indicating that only American meat is sold will be sufficient to meet the requirements of these regulations.~~

~~C.—The provisions of this Section shall not apply to prepared meat that is sold at retail for consumption on the premises and fully cooked meat as defined by the United States Department of Agriculture Food Safety Inspection Service rules and regulations.~~

~~D.—The Commissioner of Agriculture and Forestry, the Weights and Measures Commission and the Department of Agriculture and Forestry shall have the power and authority granted under the Weights and Measures Law to enforce the provisions of this Section.~~

~~E.—The penalty for any violation of this Section shall be as provided in R. S. 51:614.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4607 and R.S. 51:614.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 27:1672 (October 2001); LR 46:

Chapter 3. Petroleum Products

§321. Classification and Method of Sale of Petroleum Products

A. When gasoline, gasoline-oxygenate blends, reformulated gasoline, M85 and M100 fuel methanol, ~~E85 and E100 fuel~~ ethanol flex fuels, biodiesel, biomass-based diesel, biomass-based diesel blend, diesel fuel, kerosene, aviation gasoline, aviation turbine fuels, or fuel oils are sold, an invoice, bill of lading, shipping paper, or other documentation must accompany each delivery other than a retail sale. This documentation must identify the quantity, the name of the product, the particular grade of the product, the applicable automotive fuel rating, oxygenate type and content (if applicable), the name and address of the seller and buyer, and the date and time of the sale. This documentation must be retained at the retail establishment for a period not less than one year. The sale of any product under any grade name that indicates to the purchaser that it is of a certain ~~Antiknock Index or ASTM grade~~ automotive fuel rating shall not be permitted unless the ~~Antiknock Index~~ automotive fuel rating or ASTM grade indicated in the grade name is consistent with the value and meets the requirements of 16 CFR 306.5 and 306.6 for transfers to anyone who is not a consumer, 16 CFR 306.12 for automotive fuel sold to consumers, and this Subchapter.

B. All retail dispensing devices must identify conspicuously the type of product, the particular grade of the product, and the applicable ~~Antiknock Index (AKI)~~Automotive Fuel Rating. The device shall automatically show on its face the initial zero condition and the quantity delivered (up to the nominal capacity). However, the first 0.03 L (or 0.009 gal.) of a delivery and its associated total sales price need not be indicated. In the event of a power loss, the information needed to complete any transaction in progress at the time of the power loss (such as the quantity and unit price, or sales price) shall be determinable for at least 15 minutes at the dispenser or at the console if the console is accessible

to the customer. The device memory shall retain information on the quantity of fuel dispensed and the sales price totals during power loss. The primary indicating elements, and primary recording elements if the device is equipped to record, shall be readily returnable to a definite zero indication. However, a key-lock operated or other self-operated device may be equipped with cumulative indicating or recording elements, provided that it is also equipped with a zero-return indicating element. It shall not be possible to return primary indicating elements or primary recording elements beyond the correct zero position.

C.-F. ...

G. A retailer is not required to have a street sign or billboard to advertise available motor fuels and their prices or to advertise every grade of motor fuel available at the retail location. However, if a retailer chooses to use a street sign and/or billboard to advertise the retail location's available motor fuels, then the street sign and/or billboard shall conspicuously display the following:

1. Type(s) or Grade(s) of motor fuel being advertised; and
2. The highest price(s) for the advertised grade(s) of motor fuel(s). In the event that the same grade of motor fuel is sold at different prices at the same retail location, a lower price for that grade of motor fuel may be displayed as long as the conditions under which the lower price may be obtained are clearly posted on the sign and available to everyone who qualifies for that lower price. If the sign or billboard displays a flashing sign with multiple prices for each grade of motor fuel, each price displayed with the conditions under which it may be obtained shall be visible for a period of at least three seconds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4672, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:31 (January 2005), amended LR 41:2099 (October 2015); LR 46:

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 Bobby Fletcher, Ph.D., Director of Weights and Measures Division, 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 October, 2020.

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

These proposed rule changes are not anticipated to have a cost or savings to the Louisiana Department of Agriculture and Forestry (LDAF) other than the cost of promulgation for FY20. The proposed rule changes are intended to clarify current rules and regulations and eliminate outdated and conflicting provisions of current rules.

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

The proposed rule changes may cause a very small increase in revenue collection for the Weights and Measures Division by clarifying the responsible party for registering commercial weighing and measuring devices (LAC 7:XXXV.127) with LDAF. The estimated revenue increase is \$1288.00. None of the other proposed rule changes are expected to affect revenue collections.

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

The proposed rule changes are not anticipated to increase costs to the market.

- The change to LAC 7:XXXV.127.A will transfer the responsibility of registration to the owner of the device rather than the user of the device in most applications.
- The change to LAC 7:XXXV.127.D. eliminates the need for scanning devices to be registered by make, model, and serial number.
- The elimination of LAC 7:XXXV.135 is needed because the section is outdated and in conflict with USDA Country of Origin Law.(COOL) (7 CFR Part 60 & 65).
- The change in LAC 7:XXXV.321 clarifies how a retailer must display a price for fuel if they advertise with a “street” sign. Retailers will not be required to purchase or have a street sign.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes are not anticipated to have an effect on competition and/or employment. These proposed changes are modified to provide clarity to existing rules and regulations.