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Title 7
AGRICULTURE AND ANIMALS
Part I. Administration

Chapter 1. Administration Procedure

§101. Market Bulletin Subscriber Fee

A. The fee for a yearly subscription to the *Louisiana Market Bulletin* shall not exceed the annual cost of publication and distribution.

B. The subscription fee shall be paid by the subscriber to the Department of Agriculture and Forestry annually at the time the subscription is ordered or renewed. Upon payment of the subscription fee, the subscriber shall be entitled to 26 issues of the *Louisiana Market Bulletin*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 43:31.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 15:75 (February 1989), amended LR 31:26 (January 2005), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 35:632 (April 2009).

§103. Agriculture Chemistry Lab Fees

A. There is hereby established and henceforth shall be a fee paid by the users of the Louisiana Agricultural Chemistry Laboratory, which fees shall be known as laboratory fees and they shall be as follows.

Pesticide Residue Samples	Up to $100 per analysis
Pesticide Formulation Samples	Up to $ 50 per analysis
Water Samples	Up to $ 35 per analysis
Feed, Fertilizer and Lime Samples	Up to $ 40 per analysis
All Other Samples	Up to $ 50 per analysis

1. Each laboratory procedure will be, for purposes of this regulation, considered a separate analysis.

B. The laboratory fees shall be paid by the party requesting analysis and shall be payable to the Louisiana Agricultural Chemistry Laboratory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:16.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 15:77 (February 1989), amended 37:809 (March 2011).

§105. Petitions for Adoption, Amendment or Repeal of Rules; Form and Procedure

A. Petitions for the adoption, amendment or repeal of rules or regulations shall be submitted to the commissioner of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806.

B. Petitions must be in writing and shall state the name and address of an individual who may be contacted relative to the contents of the petition.

C. Petitions shall fairly state the action sought. If the petitioner seeks to amend or repeal an existing rule or regulation, the petitions shall cite said rule or regulation.

D. In the case of adoption of wholly new rules and regulations, petitions shall state the law granting the authority for the adoption of the proposed rules and regulations.

E. Petitions for the adoption, amendment or repeal of rules or regulations shall be considered within the time period provided for in the Administrative Procedure Act. Petitions shall either be denied in writing, stating reasons for the denial, or rule-making proceedings initiated in accordance with said Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:953.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, LR 18:144 (February 1992).

§107. Emergency Airstrip for Agricultural Purposes Program

A. Creation. There is hereby established within the Department of Agriculture and Forestry a program to designate certain roads as emergency airstrips to aid in the use of aircraft for agricultural purposes to be known as the "Emergency Airstrip for Agricultural Purposes Program."

B. Declaration of Emergency

1. The department may declare an agricultural emergency to exist which requires the use of portions of designated roads as airstrips for agricultural purposes when conditions are such that agricultural turf airstrips are rendered unavailable for safe use.

2. Each declaration of agricultural emergency shall be in writing and contain a declaration number, the date, and a list of the portions of designated roads which may be utilized as airstrips during the agricultural emergency.

3. The department shall provide a copy of the declaration to the sheriff and police jury for the parish in which each of the designated roads is located, and the aviation division of the State Department of Transportation and Development (hereinafter referred to as "DOTD") prior to utilization of the emergency airstrip. If the designated road is a state road, a copy of the declaration should also be provided to the communications center at State Police Headquarters and to the secretary of DOTD. If a designated road is located on the parish line, a copy of the declaration must be provided to the sheriff and police jury for both parishes.

4. The appropriate law enforcement entity as set forth in Paragraph B.3 above shall be responsible for implementing security and safety requirements for road

traffic during periods when a road designated for use as an emergency airstrip to aid in the use of aircraft for agricultural purposes is actually utilized for that purpose. At a minimum, the appropriate law enforcement entity shall have at least one officer at the site and signs shall be placed at each end and at all approach ramps of a designated road to notify persons that the road is designated for use as an emergency airstrip to aid in the use of aircraft for agricultural purposes. The officer will insure that whenever aircraft are in the process of landing, taking off, or taxiing, there shall be no movement of vehicles on the emergency airstrip or within 500 feet of each landing threshold of the emergency airstrip. The enforcement entity providing said officer shall have the option of cost recovery for services from the party requesting use of the emergency airstrip.

C. Designation of Roads

1. Upon declaration by the department that an agricultural emergency exists, certain roads, including but not limited to dead-end roads and strategically placed parish roads, may be designated by the department for use as airstrips to aid in the use of aircraft for agricultural purposes.

2. Whenever possible, the department shall pre-designate a portion of a road for use as an emergency agricultural airstrip for use in the event a declaration of an agricultural emergency is made by the department. The request for pre-designation must be made by mail or facsimile to the department and include the following information:

a. location of the road marked on a topography map;

b. reason for designation; and

c. a statement that the road meets all the criteria set forth in Paragraph C.3 or a statement setting forth the reasons why a waiver under Paragraph C.4 should be issued.

3. Predesignated emergency agricultural airstrips shall be inspected and registered by DOTD Aviation using similar criteria as utilized by DOTD in the registration of an agricultural use permanent airstrip. The registration certificate shall be issued to and held by the department. The registered and designated airstrip shall be marked and signed as such. Persons seeking predesignation must contact the aviation division of DOTD for specifications regarding the appropriate marking and signage required for the registered and designated emergency airstrip.

4. The department may authorize use of airstrips which have not been pre-designated and registered with the aviation division of DOTD, on a case-by-case basis, when safety and aircraft performance would not be compromised by such waiver and the use of said road as an emergency agricultural airstrip is deemed necessary by the department. Any such airstrip authorized shall, at a minimum, meet all of the following:

a. the surface must be flat and straight for a minimum distance to 2,000 feet;

b. the width shall be a minimum of 20 feet for the full length of the landing area. Sufficient wing tip clearance shall be provided as required for the aircraft utilizing the emergency agricultural airstrip;

c. there shall be no potholes or depressions greater than 3 inches in depth over the entire landing surface;

d. there shall be no vertical obstructions such as utility poles, trees, buildings, road signs, mail boxes, etc., on more than one longitudinal side of the landing surface;

e. there shall be no overhead obstructions such as utility lines, overpasses, bridges, etc., for the full length of the landing area and within 500 feet of each landing area threshold;

f. each landing area threshold shall be marked in such a way as to be readily identified from an aircraft in flight (e.g., white or orange cones, buckets, or painted tires); and

g. threshold markers shall be placed on either side of the landing area at the thresholds and shall be no taller than 24 inches.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:18.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:703 (June 1997).

Chapter 2. Rebates of Registration Fees

§201. Findings

A. The commissioner of Agriculture and Forestry has the duty and authority to promote, protect, and advance Louisiana agriculture and to promote the building of Louisiana using Louisiana products. The constitution and laws of Louisiana grant the commissioner this authority both generally and particularly. Among the particular subject matters entrusted to the commissioner for the foregoing objectives is the regulation of pesticides. The preservation of a safe supply of pesticides and of the local capacity to manufacture pesticides is essential to maintain agricultural production year after year while some pestilences subside as new ones arise. Although registering labels of pesticides serves the above stated objectives, the pesticide registration fees the Department of Agriculture and Forestry charges for such registration may in some cases impose a burden that impairs the above stated objectives. The commissioner finds that in order to promote and protect Louisiana agriculture and Louisiana products it is appropriate and expedient to permit pesticide manufacturers to apply for a rebate of the pesticide registration fee and to receive such rebate under those circumstances provided for in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with La. Const. Art. 4 §10; and R.S. 3:2(A), 3(B), 14(B), 1652, 1732, and 3203 (A).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:626 (April 1998).

§203. Application

A. A pesticide manufacturer having paid the pesticide registration fee required by R.S. 3:3221(A) may make written application to the Department of Agriculture and Forestry on a form provided by said department for a rebate of not more than 50 percent of each pesticide registration fee paid by the pesticide manufacturer. This application must be submitted:

1. at the time of registration; or

2. at any time on or before December 31 of the year of registration; or

3. prior to July 1, 1998 where the application is for a rebate of a pesticide registration fee paid in 1997.

AUTHORITY NOTE: Promulgated in accordance with La. Const. Art. 4 §10; and R.S. 3:2(A), 3(B), 14(B), 1652, 1732, and 3203(A).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 24:627 (April 1998).

§205. Issuance of Rebates

A. Upon receipt of a written application for a rebate of the pesticide registration fee, the commissioner may grant a rebate of not more than 50 percent of each pesticide registration fee and thereafter may rebate same to the pesticide manufacturer if the commissioner finds, based upon the application submitted by the pesticide manufacturer, public records and facts subject to official notice, that:

1. the pesticide registration fee is likely to impose a hardship or undue burden on the pesticide manufacturer; and

2. the operations of the pesticide manufacturer substantially benefit the economy of Louisiana and employment therein; and

3. the pesticide manufacturer maintains and utilizes an active Environmental Protection Administration pesticide producer establishment number which shall be exhibited on each label of pesticide for which a rebate is being requested; and

4. the pesticide manufacturer registered 20 or more products in the current year or registered the same number of products as in the previous year plus two or more new registrations.

AUTHORITY NOTE: Promulgated in accordance with La. Const. Art. 4 §10; and R.S. 3:2(A), 3(B), 14(B), 1652, 1732, and 3203(A).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 24:627 (April 1998).

Title 7
AGRICULTURE AND ANIMALS
Part III. Agricultural Finance

Chapter 1. Agricultural Finance Authority

§101. Definitions

A. The words and terms defined in R.S. 3:263 are applicable to this Part.

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

Act—the Louisiana Agricultural Finance Act found in Chapter 3-B of Title 3 of the Louisiana Revised Statutes of 1950, (R.S. 3:261 et seq.).

Agricultural—the adjective form of *agriculture* as defined in R.S. 3:263(6).

Farm—the total of all areas of land, water, or both in Louisiana, used by an agricultural producer to produce or harvest one or more agricultural products, regardless of whether the area or areas are located in more than one parish.

LAFA—the Louisiana Agricultural Finance Authority.

C. The following words and terms are defined for the purposes of the Louisiana Direct Placement Agricultural Revenue Bond Program (§§105-141) only.

Bond or *Bonds*—LAFA Direct Placement Agricultural Revenue Bonds which are exempt from federal taxation. Such bonds are issued from time to time throughout the year, and each issue will be identified by a letter designation, e.g., Series 1984-A, Series 1984-B, etc. The letter designation merely identifies the date of issue of each series of bonds. The proceeds of such bonds are used to purchase loans and pay the costs of issuance of the bonds.

Bond Resolution—the resolution adopted by LAFA to authorize the issuance of a bond to be sold to a lender.

Borrower—an individual, partnership, firm, corporation, company, cooperative, association, society, trust or any other business unit or entity, including any state or federal agency, which uses proceeds of a loan for any project which meets the requirements of these regulations.

Borrower's Certificate—the certified statement which each borrower must execute, prior to submission of the offer, setting forth the borrower's eligibility to participate in the program.

Closing—the date on which a loan is originated by a lender, which shall be mutually agreed upon between lender and borrower and sold to LAFA.

Code—the Federal Internal Revenue Code of 1954 as amended. In these regulations, the term Code may have specific reference to section 103(b)(6) of the Internal Revenue Code and/or to regulations enacted by the Internal Revenue Service pursuant thereunder.

Default or *In Default*—with respect to any loan, any payment of principal or interest which is more than 30 days in arrears.

Farm—includes stock, dairy, poultry, fruit, fur-bearing animal and truck farms; plantations; ranches; nurseries; ranges; greenhouses or similar structures used primarily for the raising of agricultural or horticultural commodities; and orchards.

Fee or *Fees*—any and all of the following:

a. *Application Fee*—a set fee based on the total value of the loan which is paid by the borrower and transmitted by the lender to LAFA for LAFA processing of the application for a loan.

b. *Commitment Fee*—a percentage of the total value of the loan which is paid by the borrower to the lender prior to submission of the offer to cover the costs of issuing the bond to support the loan granted to the borrower. This fee is refundable to the borrower under the conditions set forth in §121.B hereof.

c. *Cost of Issue Fee*—a percentage of the total value of the loan which is paid by the borrower to cover the costs of issuing the bond to support the loan granted to the borrower. The fee is paid in the form of a discount from the original principal amount of the loan when purchased by a LAFA from lender.

d. *Origination Fee*—a percentage of the total value of the loan which is paid by the borrower to the lender to cover the costs of processing, originating, and disbursing the proceeds of the loan granted to the borrower.

e. *Program Participation Fee*—a percentage of the remaining principal balance of the loan granted to borrower which is paid by the borrower to the lender on the due date of the annual payment directed by trustee. The lender transmits to the trustee along with the loan payment, and the proceeds thereof are used to cover the administrative costs of trustee and LAFA.

First-Time Farmer—an individual who has never had any direct or indirect ownership interest in substantial farmland in the operation of which such individual materially participated. Ownership or participation by a spouse or child is treated as ownership or participation by the individual. Substantial farmland means any parcel of land unless:

a. such parcel is smaller than 15 percent of the median farm size in the parish in which such parcel is located; and

b. the fair market value of the land does not at any time while held by the individual exceed $125,000.

Intent Resolution—the resolution adopted by LAFA stating its intent to accept the offer and to issue a bond, the proceeds of which will be used to purchase an agricultural loan originated by the lender and accepting the offer.

Interest Rate—one of the following when applied to a loan:

a. *Fixed Interest Rate*—a rate of interest which does not change throughout the term of the loan.

b. *Variable Interest Rate*—a rate of interest which may change from time to time at stated intervals throughout the term of the loan.

c. *Prime Interest Rate*—the base rate on corporate loans at large U.S. money center commercial banks as published in The Wall Street Journal as the prime rate. When the prime rate is published in The Wall Street Journal as a range in the form of a low and high rate, then in that event, LAFA may designate a rate within the published range which shall be the prime interest rate. When LAFA does not designate a rate within the published range the prime interest rate shall be the high of the range.

IRS—the Internal Revenue Service of the United States.

LAFA—the Louisiana Agricultural Finance Authority, an agency of state government under the jurisdiction of the Department of Agriculture and Forestry, and any of its duly authorized agents; the term also means the issuer of Direct Placement Agricultural Revenue Bonds.

Lender—any of the following, when participating in the program: a bank, bank or trust company, federal land bank, production credit association, bank for cooperatives, building and loan association, homestead, insurance company, investing banker, mortgage banker or company, pension or retirement fund, savings bank or savings and loan association, small business investment company, credit union, any other financial institution authorized to do business in Louisiana or operating under the supervision of any federal agency or any Edge Act Corporation or agreement, or a corporation organized or operating pursuant to Section 25 of the Federal Reserve Act.

Loan or *Loans*—an interest-bearing agricultural loan, described by an offer, originated by a lender participating in the LAFA Program to an eligible borrower, and evidenced by a loan note.

Loan File—the loan documents pertaining to a particular loan, which consist of the following, all in the form provided by LAFA:

a. loan purchase agreement;

b. loan submission voucher;

c. opinion of lender's counsel;

d. officer's closing certificate;

e. loan note;

f. mortgage or any other evidence of security securing the borrower's obligations under the loan note;

g. certificate of economic life; and

h. assignment of loan note.

Loan Note—a promissory note or other evidence of indebtedness executed by a borrower to evidence the borrower's obligation to repay the loan.

Loan Purchase Agreement—an agreement between LAFA and a lender under which, among other required provisions, LAFA agrees to purchase a loan after it is originated by the lender and the lender agrees to repurchase the loan in the event of default by the borrower.

Loan Submission Voucher—a document provided by LAFA and submitted by the lender to the trustee requesting the purchase of the loan by LAFA at a price equal to a specified percentage of the principal amount of the loan and which also contains substantially the same terms and conditions set forth in the loan terms schedule contained in the offer.

Loan Terms Schedule—a loan description form, to be attached to the offer, which describes the terms and conditions of the proposed loan and the project to be financed with loan proceeds.

Offer—the written document entitled Offer to Originate and Sell Agricultural Loans executed by a lender setting forth the terms and conditions whereby the lender agrees to originate and sell a loan to LAFA and to purchase a bond in the same principal amount as the loan.

Origination Period—a six-month period beginning with the date of issuance of a bond by LAFA.

Principal User—a person or company who uses more than 10 percent of a project, measured by the value paid by such user for the project. All capital expenditures for the project, must be taken into account to determine which are principal users of the project. For example, A, B, and C own Farm X in Parish X, each owning individually and not as a partner, respectively, 55 percent, 40 percent, and 5 percent by value, of the farm. A and B are principal users of Farm X (i.e., each owns more than 10 percent, by value), but C is not a principal user of Farm X because C only owns 5 percent by value. If A or B seek to acquire another Farm Y in Parish X, to be financed by a bond, the capital expenditures of A or B on Farm X will be deducted from the maximum principal amount of the bond (either $1,000,000 or $10,000,000; see §111). Since C is not a principal user of Farm X, if he acquired Farm Y with bond financing, he would not be required to deduct his capital expenditures on Farm X from the loan proceeds for the purchase of Farm Y.

Program—the Direct Placement Agricultural Revenue Bond Program administered by LAFA.

Project—the property to be financed with loan proceeds, pursuant to the terms and conditions contained in the offer and in the loan purchase agreement.

Rehabilitation Expenditures—any costs associated with renovation or modernization of an existing building or the equipment located within an existing building which can be properly charged to a capital account; the term does not include expenditures for enlargement of an existing building.

Related Person—

a. the following are related persons if borrower is an individual:

i. borrower's spouse or a spouse's ancestors or lineal descendants;

ii. borrower's siblings (i.e., brothers and sisters);

iii. borrower's ancestors and/or lineal descendants;

iv. a corporation in which more than 50 percent in value of the outstanding stock is owned, directly or indirectly, by or for borrower;

v. a trust of which borrower is the grantor or the beneficiary; and

vi. a partnership of which borrower owns, directly or indirectly, more than 50 percent of the capital or profits interest;

b. the following are related persons if borrower is a corporation:

i. an individual who owns, directly or indirectly, more than 50 percent in value of the outstanding stock of the corporation;

ii. a trust which owns, directly or indirectly, more than 50 percent in value of the outstanding stock of the corporation;

iii. a corporation that is a member of the same parent-subsidiary controlled group, a brother-sister controlled group, or a combined group of corporations;

iv. a partnership which owns, directly or indirectly, more than 50 percent of the outstanding stock of the corporation; and

v. for purposes of these regulations, stock owned, directly or indirectly, by or for a corporation, partnership, estate or trust is considered to be owned proportionately by or for its shareholders, partners or beneficiaries. In addition, an individual is considered to be the owner of stock owned, directly or indirectly, by or for his family;

c. the following are related persons if borrower is a partnership:

i. a partner who owns, directly or indirectly, more than 50 percent of the capital or profits interest of the partnership;

ii. another partnership in which the same persons own, directly or indirectly, more than 50 percent of the capital or profits interest;

iii. if an individual owns stock in a corporation, other than constructively though his family, he is considered as owning the stock owned, directly or indirectly, by or for his partner; and

iv. a partner is considered as the owner of partnership interests:

(a). owned by a corporation, partnership, estate or trust, proportionately, if he is a shareholder, partner, or beneficiary; and

(b). owned by his brothers, sisters, spouse, ancestors or lineal descendants;

d. the following are related persons if borrower is a trust:

i. its grantor;

ii. another trust, if the same person is the grantor of both trusts;

iii. a beneficiary of the trust;

iv. a beneficiary of another trust, if the same person is the grantor of both trusts; and

v. a corporation of which more than 50 percent in value of the outstanding stock is owned, directly or indirectly, by or for the trust or by or for a grantor of the trust.

TEFRA—the Tax Equity and Fiscal Responsibility Act of 1982 (federal).

Trustee—Capital Bank and Trust Company of Baton Rouge, Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agricultural Finance Authority, LR 10:866 (November 1984), amended LR 36:464 (March 2010).

§103. Administration of LAFA's Affairs

A. LAFA officers shall be a chairman, vice-chairman, and secretary who shall serve terms of one year but may be elected for an indefinite number of terms.

B. After the initial election of officers, the officers shall be elected at LAFA's regular meeting during the first quarter of the year.

C. In the absence of the chairman at any LAFA meeting, the vice-chairman shall preside.

D. LAFA shall hold at least one meeting during each quarter of the year but may meet more frequently upon the call of the chairman.

E. LAFA meetings shall normally be held at its domicile but may be held at other locations upon the determination of the chairman or the will of the members.

F. There shall be no voting by proxy.

G.. The chairman shall designate a hearing officer, who may or may not be a LAFA member, to preside at all

adjudicatory proceedings. The chairman may, if he so desires, serve as hearing officer at any such proceeding. All adjudicatory proceedings held by LAFA shall be conducted in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agricultural Finance Authority, LR 10:867 (November 1984), amended LR 36:466 (March 2010).

§105. Program Authorization; Applicability of Federal Law

A. State Statutes. The Louisiana Direct Placement Agricultural Revenue Bond Program is authorized by Louisiana Revised Statutes of 1950, Title 3, Chapter 3-B, Sections 261-283. These statutes permit funding by Agricultural Revenue Bonds of a wide range of agricultural loans.

B. Federal Statutes. However, Federal income tax law contains provisions which restrict the type of projects which may be financed through the Louisiana program. In order for LAFA's bonds to qualify as tax-exempt bonds under the code, each bond and each loan is subject to the restrictions contained in the code, particularly the provisions of Section 103(b)(6) and regulations promulgated by IRS pursuant thereto.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:262, R.S. 3:266, R.S. 3:270 and Section 103(b)(6) of the Internal Revenue Code of 1954, as amended.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agricultural Finance Authority, LR 10:868 (November 1984).

§107. Projects Eligible for Loans Funded with LAFA Bond Proceeds

A. Loan proceeds may be used for acquisition, construction, reconstruction, equipping or installation of any property which, under the code, is eligible for a depreciation allowance or chargeable, for federal income tax purposes, to a capital account (or that would be chargeable to a capital account either with a proper election by the borrower or but for a proper election by the borrower), including but not limited to the following.

1. Improvements to real estate such as land clearing, fencing, land forming, land leveling, terracing, wells and water impoundment, subject to an approving opinion of nationally recognized bond counsel.

2. Acquisition of depreciable personal property used in:

a. a farmer's or rancher's trade or business, including but not limited to:

i. new equipment, such as tractors, combines, plows, rakes, cultivators and related equipment; trucks and pickups;

ii. irrigation systems, including center pivot operations and equipment for ditch operations;

iii. buildings used to shelter livestock, store equipment, store and preserve grain, such as cribs, bins; and equipment used to dry grain, such as grain dryers and seed cleaners; and

iv. breeding stock, such as bulls, heifers, dairy cows, boars and sows;

b. an individual's or company's agribusiness, including but not limited to cotton gins, grain elevators, sugar mills and equipment contained therein; meat or crawfish processing plants; and related equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266, R.S. 3:270 and Section 103(b)(6) of the Internal Revenue Code of 1954, as amended.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agricultural Finance Authority, LR 10:868 (November 1984).

§109. Projects Ineligible for Loans Funded with LAFA Bond Proceeds; Exceptions

A. LAFA bonds may not be used for the following purposes, except as provided under this rule:

1. land acquisition, except that:

a. 25 percent of a loan may be used to acquire non-farm land; and

b. first-time farmers may utilize a maximum of $250,000 in loan proceeds to purchase land to be used for farming; if

i. the borrower meets the definition of *first-time farmers* contained in §101;

ii. the borrower will be the *principal user* (as defined in §101) of the land; and

iii. the borrower will materially and substantially participate in the operation of the farm of which the land is a part;

2. acquisition of existing agribusiness facilities (used buildings or equipment), except that, the restriction against use of loan proceeds to purchase existing facilities does not apply to any building, and the equipment therein if at least 15 percent of the cost of acquiring the building and equipment are used for rehabilitation expenditures;

3. working capital;

4. production expenses;

5. refinancing of existing indebtedness;

6. financing of residential housing;

7. purchase of any property from any *related person* (as defined in §101 of these regulations); or

8. purchase of property from a partner of the borrower, when the borrower is a partnership, regardless of the degree of the partner's interest in the borrower.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266, R.S. 3:270 and Section 103(b)(6) of the Internal Revenue Code of 1954, as amended.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agricultural Finance Authority, LR 10:868 (November 1984).

§111. Maximum Amount of Agricultural Loans for Capital Expenditures

A. Section 103(b)(6) of the code restricts use of tax-exempt bonds to small issues, which thereby limits the principal amount of the corresponding loans. To determine whether a bond is eligible under the established limits, the code requires that certain sums be added to the principal amount of the bond. Therefore, the following amounts must be subtracted from the established limit to determine the maximum principal amount of bonds and corresponding loans:

1. $1,000,000 Limit. If:

a. the facilities to be financed with proceeds of LAFA bonds are located in the same incorporated municipality or in unincorporated areas of the same parish (i.e., the same political subdivision); and

b. the *principal user* as defined in §101 of the property financed by a prior bond issue was the borrower or a related person, the sum of the following may not exceed $1,000,000 (but see also §111.A.2):

i. the face amount of the bond to be issued; plus

ii. the remaining principal balance(s) of any loan(s) granted to the borrower or a related person of the borrower with proceeds of earlier bond issues (regardless of the issuer) which were exempt from taxation under Section 103(b)(6) of the code.

2. $10,000,000 Limit. If LAFA files the proper election with IRS, the maximum amount of LAFA bonds and corresponding loans may be increased to $10,000,000. In such event, the same qualifying factors (i.e., location of the property to be financed and identity of the principal user of bond proceeds) will apply, and the sum of the following may not exceed $10,000,000:

a. the face amount of the bond to be issued; plus

b. the remaining principal balance(s) of any loan(s) granted to the borrower or a related person of the borrower with proceeds of earlier bond issues (regardless of the issuer) which were exempt from taxation under Section 103(b)(6) of the code; plus

c. all capital expenditures on the property to be financed with bond proceeds which were paid or incurred during the six-year period beginning three years before and ending three years after the date of issuance of the bond, as follows:

i. capital expenditures which were financed other than out of the proceeds of a tax-exempt bond; and

ii. capital expenditures which are properly chargeable to the capital account of any person or state or local government unit (whether or not such person is the principal user or a related person), in which event capital expenditures are determined without regard to any rule of the code which permits expenditures properly chargeable to capital accounts to be treated as current expenses; plus

d. all other capital expenditures of any principal user in the political subdivision for which the bonds were issued.

3. The requirements of the code, as effective on the date of issuance of the bond and/or origination of the loan, shall determine the procedures to be followed with respect to all loans exceeding $1,000,000 in principal amount. If the requirements of the code are different from the requirements stated in this rule, the requirements of the code shall supersede this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266, R.S. 3:270 and Section 103(b)(6) of the Internal Revenue Code of 1954, as amended.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agricultural Finance Authority, LR 10:868 (November 1984).

§113. Minimum Amount of Bonds/Agricultural Loans

A. The minimum amount of loans originated by any one lender shall be $10,000.

B. The minimum amount of a loan shall be $10,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266, R.S. 3:270 and Section 103(b)(6) of the Internal Revenue Code of 1954, as amended.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agricultural Finance Authority, LR 10:869 (November 1984).

§115. Lenders

A. Eligibility Requirements

1. The lender must be an entity listed in §101 and must be experienced in originating and servicing agricultural loans.

2. The lender must be qualified and in good standing under all state and federal laws applicable to lenders.

3. Within the past three years, the lender cannot have been listed on the federal comptroller's Supervised or Watch List, or any substantially similar listing of any state or federal regulatory agency responsible for regulating banks and financial institutions.

4. Each lender must be approved by LAFA prior to participating in the program; LAFA retains the right to reject any lender, even though that lender meets the minimum requirements established by these regulations, or to accept a lender which does not meet these minimum requirements.

B. The lender must collect all payments required under the terms and conditions of a loan note and pay such amounts to the trustee. All such payments must be accompanied by a certification of the lending officer, in a form acceptable to trustee, stating that the computation of interest on the loan is in accordance with terms as approved by LAFA, and affirming correctness of the amount being submitted.

C. The lender must notify the trustee in no more than five days after any default in any loan and upon LAFA's request, declare all payments on such loan to be due and owing and take such action as may be required by LAFA to obtain the amounts owed thereunder, which amounts shall be paid to the trustee.

D. Whenever any loan is in default (see §101), the lender shall, on or before the twenty-fifth day of each month (or, if such day is not a business day, the next business day thereafter), submit a report to the trustee, containing, as of the twentieth day of the month (or, if such day is not a business day, the next business day after the twentieth of the month), the following information:

1. the principal balance due under the loan note;

2. a statement of the procedures undertaken by the lender to collect such amount and the result of such procedures; and

3. a statement as to the overall status of the loan. This report is not due in any month when there are no delinquencies or defaults in any loan serviced by the lender.

E. Each lender must administer and service loans originated by the lender and must maintain the loan file for each loan for three years following the date when the loan is fully paid or otherwise terminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266, R.S. 3:270 and Section 103(b)(6) of the Internal Revenue Code of 1954, as amended.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agricultural Finance Authority, LR 10:869 (November 1984).

§117. Borrowers

A. Each borrower must be eligible to receive a loan with proceeds of LAFA bonds. See in particular definitions of principal user and related person contained in §101 hereof in order to make a determination as to each borrower's eligibility.

B. Each borrower must be approved by the lender to whom the borrower makes application for a loan; lenders shall apply the same criteria for approval of borrowers applying for loans to be funded with proceeds of LAFA bonds as they apply to borrowers in the lenders' conventional agricultural loan program.

C. The borrower must expend the proceeds of loan solely to finance the project described in the offer and the loan terms schedule and not for any other purpose.

D. The borrower or a related person of the borrower must be the *principal user* (as defined in §101 hereof) of the project.

E. A borrower will not be eligible for a loan if prior to LAFA's written acceptance of the offer and adoption of an intent resolution, the borrower or any related person of the borrower has taken any of the following actions:

1. commenced acquisition or construction to be financed with loan proceeds;

2. entered into any building agreement or purchase agreement covering the facilities to be constructed with loan proceeds;

3. commenced the installation or acquisition of any property to be acquired with loan proceeds;

4. commenced any on-site work in connection with construction of the project to be financed with loan proceeds; or

5. commenced any off-site fabrication or acquisition of any portion of the project to be financed with loan proceeds.

F. Each borrower must execute a borrower's certificate, in the form required by LAFA, setting forth the borrower's compliance with the requirements of Section 103(b)(6) of the code. When the original principal amount of a loan exceeds $1,000,000, the principal amount of the bond must be aggregated with certain capital expenditures of the borrower in accordance with regulations applicable under Section 103(b)(6) of the code to determine the total loan proceeds for which the borrower is eligible. In such circumstances, the borrower must execute, in addition to the borrower's certificate required in the first sentence of this rule, an additional borrower's certificate setting forth the assurances required under the code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266, R.S. 3:270 and Section 103(b)(6) of the Internal Revenue Code of 1954, as amended.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agricultural Finance Authority, LR 10:869 (November 1984).

§119. Required Terms and Conditions for Loans Funded with Proceeds of LAFA Bonds

A. The terms and conditions of each loan, except as required under this rule, shall be determined by the lender and the borrower, but are subject to LAFA approval prior to acceptance of the offer.

B. Each loan must be secured by a promissory note (the loan note) in the full principal amount of the loan and such other security as may be required by the lender.

C. The maximum loan term shall be the lesser of 30 years or 100 percent of the average reasonably expected economic life of personal property to be financed with the proceeds of the LAFA bond, using IRS Asset Depreciation Guidelines provided by LAFA in the loan terms schedule. The minimum average life of the bonds shall not be less than five years.

D. The agreement between lender and borrower must require payments sufficient to meet the debt service requirements of the bond (i.e., in principal and interest). The loan repayment schedule (amount and due date of each payment) must be approved by LAFA prior to acceptance of the offer.

E. The lender and the borrower will determine the rate of interest to be charged on the agricultural loan subject to §119.F, but such rate of interest must be approved by LAFA

prior to acceptance of the offer. The interest rate agreed on by the lender and the borrower must be stated in the offer.

F. Interest rates on loans may be either fixed or variable.

1. A variable interest rate may not exceed 85 percent of the prime *interest rate*, as defined in §101:

a. on the date of disbursement of loan proceeds; or

b. on any subsequent date when the interest rate for the loan is established for a subsequent period.

2. Loans with fixed interest rates are subject to LAFA review and approval on a case-by-case basis and must comply with the goals of the program.

3. If a borrower defaults on a loan and the loan is repurchased by the lender, the interest rate for the loan may be increased in accordance with the terms and provisions of the loan note executed at origination of the loan.

4. The lender may impose interest on payments which are not timely made by the borrower, but only if the loan note provides therefor and only in accordance with provisions relative to late payments expressed in the loan note.

G. All loans must be prepayable in whole, without a prepayment penalty.

H. Loans may be assumed by a third party, with the prior approval of the lender, if:

1. in the opinion of nationally recognized bond counsel or special tax counsel, such assumption does not adversely affect the tax-exempt status of the LAFA bond; and

2. the third party assuming the loan meets the qualifications of a borrower as set forth in these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266, R.S. 3:270 and Section 103(b)(6) of the Internal Revenue Code of 1954, as amended.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agricultural Finance Authority, LR 10:870 (November 1984).

§121. Fees Required

A. Application Fee

1. Each borrower must pay an application fee to cover LAFA's cost of processing the loan application. The application fee is non-refundable.

2. The application fee shall be paid by the borrower to the lender and transmitted to LAFA by the lender when the offer is submitted.

3. The amount of the application fee is determined by the total principal amount of the loan requested, as follows.

a.	Loans of $25,000 or less	$ 50
b.	Loans of $25,001 to $200,000	$100
c.	Loans of more than $200,001	$200

B. Fees Imposed by Lender

1. Commitment Fee

a. The lender may impose a borrower commitment fee in an amount not to exceed 2 1/2 percent of the original principal amount of the loan which the lender intends to originate to cover the cost of issuing the bond.

b. The commitment fee is paid by the borrower to the lender on or before the loan closing.

c. The commitment fee will be refunded by the lender as follows:

i. in whole if the bonds are not issued by LAFA within one year after acceptance of an offer;

ii. in whole if the loan is not closed during the origination period specified in the offer and accepted by LAFA, if the failure to close the loan is due to any action or inaction by the lender for which the borrower is not responsible;

iii. in whole if the lender cannot finance the loan without exceeding the lender's aggregate authorization for sale and repurchase of loans under the program; and

iv. in whole when the loan is funded by the lender.

2. Origination Fee

a. The lender may impose an origination fee to defray expenses incurred by the lender in processing, originating, and disbursing the proceeds of the loan granted to the borrower in an amount not to exceed 1 percent of the original principal amount of the loan.

b. The origination fee is paid by the borrower to the lender at the loan closing.

3. The lender may impose lender's reasonable and customary charges for insurance premiums, surveys, and other similar closing costs.

C. Fees Imposed by LAFA

1. Cost of Issue Fee

a. LAFA will impose a cost of issue fee to defray expenses incurred in issuance of the bond in an amount not to exceed 2 1/2 percent of the original principal amount of the loan.

b. The cost of issue fee is paid by the borrower to LAFA in the form of a discount of 2 1/2 percent from the original principal amount of the loan when the loan is purchased by LAFA from the lender.

2. Program Participation Fee

a. LAFA shall charge a program participation fee in an amount not to exceed 1/8 of 1 percent per annum on the outstanding principal amount of the loan.

b. The program participation fee shall be paid by the borrower to the lender on each required loan payment date and transmitted by the lender to the trustee to be used to cover the administrative costs of the trustee and LAFA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266, R.S. 3:270 and Section 103(b)(6) of the Internal Revenue Code of 1954, as amended.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agricultural Finance Authority, LR 10:870 (November 1984).

§123. Program Description; Procedures Required for Funding of Loans with LAFA Bond Proceeds

A. Loan applicants (i.e., borrowers) will initially apply for a loan to a participating lender and must be approved by the lender. Borrowers must meet all eligibility criteria established by these regulations and by individual lenders for conventional agricultural loans.

B. After a lender approves a borrower for a loan, the lender will apply to LAFA for a determination of the project's eligibility for tax-exempt bond proceeds and, if the project is approved by LAFA, for issuance of a bond. To apply for LAFA approval of a loan, the lender shall submit the following documents to LAFA, each to be submitted on the form provided by LAFA in fully-executed form:

1. the offer, to be executed by the lender, which must contain the lender's commitment to originate a loan to each eligible borrower;

2. the loan terms schedule, which must specify the principal amount, the interest rate, and the amortization schedule of the loan to be funded;

3. the borrower's certificate, to be executed by the borrower;

4. a letter from lender's credit or loan committee or an authorized officer that lender has completed a satisfactory review of each borrower's credit-worthiness; and

5. the borrower's application fee, payable to LAFA.

C. After submission of the above documents to LAFA, the lender may issue a commitment to fund the loan, but lender's commitment shall in no way represent a commitment by LAFA to issue bonds or cause any specific loan to be funded.

D. Upon receipt of the lender's offer, LAFA will officially accept or reject the offer. Upon acceptance of the offer, LAFA will adopt a resolution stating its intention to issue the bond (the intent resolution), a copy of which shall be provided to lender and conduct the hearing required under TEFRA prior to issuing the bond.

E. No lender may permit interim financing prior to receipt of written notification of LAFA's acceptance of the offer and adoption of the intent resolution. Funding a loan prior to LAFA approval of the offer and adoption of the intent resolution may disqualify the borrower and jeopardize the tax-exempt status of the bonds.

F. LAFA will signify acceptance of the offer by signature of an authorized LAFA representative in the acceptance section of the offer. Upon receipt of written notification of LAFA's approval of the offer and adoption of the intent resolution, the lender may originate the loan. However, any funding of a loan by a lender prior to delivery of the bond is strictly at lender's risk, there being no assurance by LAFA that bond proceeds will be sufficient to fund any or all such loans.

G. From time to time, as the demand warrants and at LAFA's sole discretion, LAFA will issue and deliver bonds, pursuant to a bond resolution, to the lender. The proceeds from sale of the bond will be deposited with and invested by the trustee in accordance with the bond resolution prior to the purchase of the loan from the lender.

H. During the origination period after delivery of the bond, the lender shall:

1. originate the loan; and

2. sell the loan to LAFA. To help defray the costs of issuing the bonds, each loan will be funded to the borrower and purchased by LAFA in an amount equal to 97.5 percent of the original principal amount of the loan (i.e., principal amount less the cost of issue fee). If the lender fails to originate and sell the loan prior to expiration of the origination period, LAFA will redeem the bond held by lender at 97.5 percent of the outstanding principal amount of the bond plus any accrued interest thereon.

I. Prior to the loan closing, the lender must enter into a loan purchase agreement with LAFA, whereby the lender must agree in addition to other provisions to repurchase the loan in the event of default on the loan by the borrower.

J. No later than 15 days prior to the date scheduled for each loan closing, the lender must deliver the loan file to the trustee consisting of the following instruments in the form required by LAFA:

1. the loan purchase agreement, executed by the lender;

2. a copy of the executed loan submission voucher (Exhibit A attached to agreement), which shall request the purchase of the loan by LAFA at a price equal to 97.5 percent of the principal amount of the loan;

3. an executed opinion of lender's counsel (Exhibit B attached to the agreement), to be dated the date of the bond closing;

4. a copy of the executed officer's closing certificate (Exhibit C attached to agreement), to be dated the date of the loan closing;

5. a copy of the executed loan note, post-dated to loan closing date;

6. a certified or other copy of the mortgage or other evidence of security (the mortgage) securing the borrower's obligations under the loan note, if any, showing recordation information;

7. an executed certificate of economic life; and

8. an executed assignment of loan note (Exhibit D attached to the agreement), to be dated the date of loan closing.

K. The trustee shall review the loan file solely to determine:

1. whether the loan file contains all required documents; and

2. whether such documents relate to the loan identified in the offer. The trustee is not required to make any further examination of any document in any loan file. The trustee shall notify LAFA and the lender of its approval of the documents in the loan file prior to the date scheduled for closing the loan.

L. Subsequent to issuance of a bond, the loan purchase agreement may not be amended, changed, modified, altered, or terminated without the written consent of LAFA and the bondholder.

M. If any provisions of the loan purchase agreement is breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other provisions of the loan purchase agreement.

N. Simultaneously with the closing of the loan, or at such other time as the trustee and the lender may mutually agree upon, the lender shall sell and LAFA shall purchase the loan. Under the required loan purchase agreement, the lender will service the loan.

O. If a lender fails to maintain its eligibility under the program after the issue and delivery of the bond, but before sale of the loan to LAFA, LAFA will redeem the bond held by the lender in an amount equal to 97.5 percent of the aggregate principal amount of the bond plus any accrued interest thereon.

P. Upon default on a loan and repurchase of the loan pursuant to the provisions of the loan purchase agreement, the corresponding bond shall be redeemed by LAFA at 100 percent of the outstanding principal amount thereof together with any accrued interest thereon.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266, R.S. 3:270 and Section 103(b)(6) of the Internal Revenue Code of 1954, as amended.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agricultural Finance Authority, LR 10:870 (November 1984).

§125. Causes for Termination of Loan Purchase Agreement

A. LAFA may terminate a loan purchase agreement with any lender in any of the following circumstances:

1. lenders failure to pay loan note repayments over to the trustee if such failure continues for a period of five days;

2. lenders failure to observe or perform in any material respect any other covenant or condition of a loan purchase agreement for more than 30 days after receipt of written notice thereof from LAFA or the trustee. Prior to the expiration of such period, LAFA may extend the period by written authorization. If the failure stated in the notice cannot be corrected within 30 days, LAFA will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the lender within the applicable period;

3. if any representation of or warranty by lender to LAFA is false in any material respect and LAFA has notice thereof;

4. the issuance of an order against the lender by any court or other supervisory authority having jurisdiction in the premises for the appointment of a conservator, receiver, or liquidator in any insolvency, readjustment of debt, marshaling of assets and liabilities, or liquidation of lender's affairs which remains in force undischarged or unstated for a period of 60 days;

5. lender's consent to the appointment of a conservator, receiver, or liquidator in any insolvency, readjustment of debt, marshaling of assets and liabilities, or similar proceedings relating to lender or all or substantially all of its property;

6. lender's admission, in writing, of its inability to pay its debts generally as they become due, filing of a petition to take advantage of any applicable insolvency or reorganization statute, making an assignment for the benefit of its creditors, or voluntarily suspending payment of its obligations.

B. In any of the circumstances enumerated in §125.A, LAFA or the trustee, on LAFA's behalf, may take one or both of the following steps:

1. make written demand on the lender for lender's repurchase of the unpaid portion of the loan note at a price equal to the unpaid principal plus any interest which has accrued and is unpaid as of the date of repurchase. Such demand shall be made when the lender fails for more than five days to pay over to the trustee the proceeds of loan note repayments;

2. take whatever other action at law or in equity may appear necessary or desirable to collect any amounts due or to become due under the loan purchase agreement or to enforce performance and observance of a loan purchase agreement, including actions for costs of legal fees and other expenses incurred in such actions. Any amounts collected pursuant to action taken under this rule shall be deposited in the bond fund.

C. No delay or omission in exercising the remedies set forth above shall impair any right or be construed to be a waiver thereof; such remedies may be exercised from time to time, as often as may be deemed expedient, without any notice other than the notice required by this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266, R.S. 3:270 and Section 103(b)(6) of the Internal Revenue Code of 1954, as amended.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agricultural Finance Authority, LR 10:871 (November 1984).

§127. Definitions

A. The following definitions shall apply to §§127-137, which are sections pertaining to the Louisiana Agricultural

Finance Authority Securitized Agricultural Revenue Bond Program.

Act—the Louisiana Agricultural Finance Act, Chapter 3-B of Title 3 of the Louisiana Revised Statutes of 1950, as amended (R.S. 3:261-R.S. 3:284).

Agreements—agreements by which the issuer agrees to purchase from lenders certain agricultural loans.

Agricultural Loan—a loan made by a lender to any person for the purpose of financing land acquisition or improvement, soil conservation; irrigation; construction, renovation, or expansion of buildings and facilities; purchase of farm fixtures, livestock, poultry and fish of any kind; seeds; fertilizers; pesticides; feeds; machinery; equipment; containers or supplies employed in the production, cultivation, harvesting, storage, marketing, distribution, or export of agricultural products.

Borrower—any person engaged in agricultural production or exportation who has entered into an agricultural loan with a lender.

Co-Trustee—Premier Bank, formerly known as the Louisiana National Bank of Baton Rouge.

Indenture—the Trust Indenture and its exhibits by and among the Louisiana Agricultural Finance Authority and Capitol Bank and Trust Company now known as Sunburst Bank, as Trustee and Louisiana National Bank of Baton Rouge, now known as Premier Bank, as Co-Trustee dated as of September 15, 1986. This document is identified as Exhibit A and may be obtained in its entirety from the Department of Agriculture and Forestry, Agriculture Finance Authority, 5825 Florida Boulevard, Baton Rouge, LA 70806.

Issuer—the Louisiana Agricultural Finance Authority (LAFA).

Lenders—any leading institution as defined in the Act which institution either:

a. sells an agricultural loan to the trustee; or

b. enters into a repurchase obligation with the trustee.

Trustee—Sunburst Bank, formerly known as Capitol Bank and Trust Company.

B. All capitalized, undefined terms used herein shall have the meanings ascribed thereto in the *indenture* and its exhibits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266(4).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 17:165 (February 1991).

§129. Definition of Program

A. Under the Act, the issuer is authorized to issue revenue bonds to alleviate the serious shortage of capital and credit available for investment in agriculture, for domestic and export purposes, at interest rates within the financial means of persons engaged in agricultural production and agricultural exports. The Act also authorizes the issuer:

1. to purchase or make contracts to purchase agricultural loans made by lenders to borrowers; and

2. to make loans or contract to make loans to and deposits with certain lending institutions, who will in turn make agricultural loans to borrowers with the proceeds.

B. The issuer, pursuant to its powers under the Act has authorized the issuance of bonds and intends to use a portion of the proceeds of the bonds:

1. to purchase without recourse from lenders certain agricultural loans, which are to be originated by the lenders and purchased by the issuer pursuant to agreements and which shall be secured by mortgages and with either a letter of credit or a guaranty; and

2. to enter into repurchase obligations with certain banks to enable such banks to in turn make agricultural loans to borrowers. Under the Act, the issuer, prior to the purchase or contract to purchase agricultural loans from lenders, and prior to making or contracting to make agricultural loans to certain national banks who will in turn make loans to borrowers, is required to promulgate certain rules and regulations with regard to its loan program. These rules and regulations are intended to comply with this requirement of the Act and with the Administrative Procedure Act, Louisiana Revised Statutes of 1950, as amended, Section 49:950 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266(4).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 17:165 (February 1991).

§131. Types of Loans to be Purchased or Made

A. The issuer shall only purchase agricultural loans made by lenders or enter into repurchase obligations with certain national banks who will in turn make agricultural loans to borrowers.

B. Acquisition of Eligible Loans

1. Moneys in the loan fund shall be used only for the acquisition of eligible loans pursuant to agreements or to enter into repurchase obligations, as described below. No eligible loan shall be purchased unless such eligible loan bears interest, payable semiannually on April 1 and October 1 of each year, at a rate no less than 9.10 percent, and matures no later than October 1, 1996. No repurchase obligation shall be entered into unless such repurchase obligation carries with it an interest component as a part of the resale price of 9.10 percent, and matures no later than October 1, 1996. No eligible loan or repurchase obligation shall be purchased unless it requires that any principal amounts prepaid under such eligible loan or repurchase obligation, for whatever reason, shall be paid to the trustee in accordance with Section 4.14 of the Indenture, and in no event shall any prepayment (including prepayments due to casualty or condemnation) be in an amount less than

$100,000. Prior to the disbursement of any funds from the loan fund to acquire an eligible loan or enter into a repurchase obligation, the trustee shall complete a program checklist and submit the same to the issuer and to Standard and Poor's Corporation.

2. Moneys in the loan fund shall be used to acquire any eligible loans presented to the issuer and the trustee by a lender in accordance with the provisions set forth herein, pursuant to an agreement at a price described below upon receipt by the trustee of all documents, opinions and certificates required in the agreement and the program checklist. Each eligible loan shall be purchased at a purchase price of 99.78 percent of the outstanding principal amount of such eligible loan, less a surrender charge (as that term is defined in the investment agreement and which shall be payable to the insurance company), in the amount determined by the investment agreement provided that the purchase price of an eligible loan shall not be in an amount less than $100,000 and shall not exceed $5,000,000. The average principal amount of eligible loans must be at least $500,000. Eligible loans may not be acquired after September 30, 1991, and the total amount of withdrawals (as such term is defined in the investment agreement) at any point in time shall not exceed the applicable maximum cumulative withdrawal amounts (as defined in the investment agreement). Payments made by a credit provider under a letter of credit or guaranty shall be applied as a credit against amounts owing by a borrower under a financed eligible loan with respect to which such letter of credit or guaranty was issued.

3. The issuer will cooperate with each lender, and shall require each lender to cooperate with the issuer, such that all accrued interest through the date on which the eligible loan is acquired by the issuer is paid directly or reimbursed to each lender.

4. Each eligible loan shall be secured by an irrevocable letter of credit, a guaranty, or a comparable instrument which shall effectively guarantee payment of all principal and interest on such eligible loan, such letter of credit, guaranty or comparable instrument being issued by a credit provider whose long-term unsecured debt rating is rated at least as high as the initial rating on the bonds, as confirmed in writing by Standard and Poor's Corporation, or, if not so rated (and then only in the case of a letter of credit delivered by a savings and loan association insured by FSLIC or a state-chartered banking association insured by FDIC such credit provider shall pledge securities sufficient to maintain the initial rating on the bonds; the types of eligible collateral securities, and the level of collateralization required for each type of collateral security in order to obtain such a rating from Standard and Poor's Corporation, are set forth in Exhibit F; provided that if any such securities to be pledged consist of FHA/VA Mortgage Notes, Conventional Mortgage Notes, FHA/VA Mortgage Notes—ARMS and Conventional Mortgage Notes—ARMS (as those terms are used in the Collateral Pledge Agreement FSLIC), then prior to the acquisition of the eligible loan the trustee shall receive notice from Standard and Poor's Corporation (at the expense of the respective borrower) to the effect that the delivery of FHA/VA Mortgage Notes, Conventional Mortgage Notes, FHA/VA Mortgage Notes—ARMS and Conventional Mortgage Notes—ARMS by such credit provider will not adversely affect the rating on the bonds. In the event that an eligible loan is to be secured by an instrument other than a letter of credit or a guaranty in precisely the forms attached to the Indenture, such eligible loan shall not be purchased with bond proceeds until such time as the trustee receives written confirmation from Standard and Poor's Corporation (at the expense of the respective borrower) that such purchase will not adversely affect the rating of the bonds.

C. Repurchase Obligations. Moneys in the loan fund shall also be used by the issuer to enter into any repurchase obligation presented to it by a credit provider in accordance with the provisions set forth herein (to enable such credit provider to in turn finance an eligible loan). Securities purchased under a repurchase obligation shall be purchased at a price of 99.78 percent of the purchase price, less a surrender charge (as that term is defined in the investment agreement and which shall be payable to the insurance company) in the amount determined by the investment agreement. The purchase price of a repurchase obligation shall not be in an amount less than $100,000 and shall not exceed $5,000,000. The average principal amount of repurchase obligations must be at least $500,000. Repurchase obligations may not be acquired after September 30, 1991, and the total amount of withdrawals (as such term is defined in the investment agreement) at any point in time shall not exceed the applicable maximum cumulative withdrawal amounts (as defined in the investment agreement).

D. There shall be included as a provision to every loan note, the agreement of the maker thereof to the effect that the loan note shall continue to bear interest until such time as the trustee has on deposit available moneys representing sufficient funds for the payment of such loan note.

E. No eligible loan shall be purchased by the trustee, and no repurchase obligation shall be entered into by the trustee, during any period commencing with the date which would (if such eligible loan were otherwise purchased) constitute a draw date for such eligible loan and ending on the immediately succeeding interest payment date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266(4).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 17:165 (February 1991).

§133. The Credit Provider

A. The following financial institutions shall qualify as credit providers and shall meet the following conditions.

1. A savings and loan association insured by FSLIC may act as credit provider and shall deliver a letter of credit and in the event such savings and loan association does not have a long-term unsecured debt rating by Standard and Poor's Corporation at least equal to the initial rating on the bonds, such letter of credit shall be collateralized in

accordance with a Collateral Pledge Agreement (FSLIC) which shall be delivered to the Trustee.

2. A national bank may act as a credit provider and if it does not have a long-term credit rating at least equal to the initial rating on the bonds, shall enter into a repurchase obligation which shall be delivered to the trustee.

3. Any national bank which has an unsecured long-term debt rating by Standard and Poor's Corporation at least equal to the initial rating on the bonds may act as a credit provider and shall deliver an unsecured letter of credit.

4. A state chartered bank insured by FDIC may act as a credit provider and shall deliver a letter of credit, and in the event such state-chartered bank does not have a long-term unsecured debt rating by Standard and Poor's Corporation at least equal to the initial rating on the bonds, such letter of credit shall be collateralized in accordance with a Collateral Pledge Agreement (FDIC) which shall be delivered to the trustee.

5. Any other legal entity may act as a credit provider which has a long-term unsecured debt rating (or, in the case of an insurance company, a claims-paying ability rating) by Standard and Poor's Corporation at least equal to the initial rating on the bonds and may only deliver a guaranty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266(4).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 17:166 (February 1991).

§135. Procedure Required for Funding Agricultural Loans with Proceeds of the Bonds

A. Initiation of Eligible Loan Purchase. A lender may submit to the issuer, the trustee and the co-trustee a proposal to sell agricultural loans in substantially the form attached as Exhibit B hereto. Such form shall include a description of the rates, fees and terms of the loans made by the lender to the borrower and a description of the project financed, including its location and characteristics The lender shall also describe the security for the loan. Upon receipt of a proposal to sell agricultural loans, the issuer, the trustee and the co-trustee, on behalf of the issuer, shall review such proposal. If the issuer determines that the loans to be purchased are agricultural loans and that the loans to be purchased are eligible loans meeting the requirements of the Act, the issuer shall be empowered to send a conditional approval, in substantially the form attached as Exhibit C hereto, to the lender. The form of agreement shall be enclosed with the conditional approval.

B. Initiation of Repurchase Obligation. A national bank may submit to the issuer, the trustee and the co-trustee a proposal to enter into repurchase obligation in substantially the form attached as Exhibit D hereto. Such form shall include a description of the rates, fees, and terms of the loans to be made by the national bank to the borrower and a description of the project financed, including its location and characteristics. The national bank shall also describe the security for the loan. Upon receipt of a proposal to enter into repurchase obligation, the issuer, the trustee and the co-trustee, on behalf of the issuer, shall review such proposal. If the issuer determines that the loans to be made by the national bank are agricultural loans and determines that the loans to be made by the national bank are eligible loans meeting the requirements of the Act, the issuer shall be empowered to send a conditional approval, in substantially the form attached as Exhibit E hereto, to the national bank. The form of the repurchase obligation shall be enclosed with the conditional approval.

C. Procedure to Purchase Eligible Loan. Upon execution of the agricultural loan purchase agreement by the lender, the lender shall return and the trustee, on behalf of the issuer, shall receive the agreement, which must be signed by the lender within 14 days of postmark date of the conditional approval. The issuer shall then sign the agreement and notify the trustee. The trustee shall establish a loan closing date. The trustee shall, by date telephonic notice, inform the issuer and the lender of such date. Such date is referred to herein as the "Loan Purchase Date". On the loan purchase date, and upon completion of the program checklist by the trustee, which shall be forwarded to the issuer and Standard and Poor's Corporation, the issuer shall direct the trustee to disburse moneys from the loan fund for loan purchase.

D. Procedure to Enter into Repurchase Obligation. Upon execution of the repurchase obligation by the national bank, the national bank shall return and the trustee, on behalf of the issuer, shall receive the repurchase obligation which must be signed by the national bank with 14 days of postmark date of the conditional approval. The issuer shall then sign the repurchase obligation and notify trustee. The trustee shall establish a loan closing date. The trustee shall, by telephonic notice, inform the issuer and the national bank of such purchase date, and upon completion of the program checklist by the trustee, which shall be forwarded to the issuer and Standard and Poor's Corporation, the issuer shall direct the trustee to disburse moneys from the loan fund for the purpose of making a loan to the national bank.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266(4).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 17:166 (February 1991).

§137. Amendment to Program Guidelines

A. The Program Guidelines, Exhibit B of the indenture, may not be amended by the issuer, trustee, or co-trustee at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266(4).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 17:167 (February 1991).

§138. Funding Forms

Exhibit A

TRUST INDENTURE

EDITOR'S NOTE: This exhibit may be obtained in its entirety from the Department of Agriculture and Forestry,

Agricultural Finance Authority, 5825 Florida Boulevard, Baton Rouge, LA 70806.

Exhibit B

FORM OF PROPOSAL TO SELL

AGRICULTURAL LOANS

LOUISIANA AGRICULTURAL
FINANCE AUTHORITY

SECURITIZED AGRICULTURAL
REVENUEBOND PROGRAM

Louisiana Agricultural Finance Authority
12055 Airline Highway
Baton Rouge, Louisiana 70816

Sir:

The (Name of Lender) (the "Lender") hereby requests to participate in the Securitized Agricultural Revenue Bond Program of the Louisiana Agricultural Finance Authority (the "Authority").

1. Name of Lender

2. Jurisdiction of Organization and Date of Incorporation

3. Address and Telephone Number of Principal Officer

4. Name and Title of Person to whom correspondence with regard to this Program should be addressed.

5. Description of Loans. Please provide the following information with respect to each existing or proposed loan which the lender desires to sell.

a. Total amount of loan

b. Date of loan

c. Eligible loan

i. When does the loan mature?

ii. How is principal payable (e.g., monthly, quarterly, semiannually, annually, at maturity)?

iii. How is interest payable (e.g., monthly, quarterly, semiannually, annually, at maturity)?

iv. What is the interest rate on the loan?

d. Please attach the amortization schedule of the loan, showing when principal is payable (e.g., monthly, quarterly, semiannually, annually, at maturity), when the principal comes due and on what dates.

e. Project financed

i. location

ii. description of project

6. Dollar amount of loan to be financed by the Authority.

7. If existing, does lender which to refinance loans to be sold?

8. If yes, please give desired length and terms of refinanced loans.

Exhibit C

CONDITIONAL APPROVAL

(Lender)

Sir:

You are hereby notified that your proposal to sell agricultural loans to the Louisiana Agricultural Finance Authority ("Authority") has been tentatively approved pending completion of and signing an agricultural loan purchase agreement, a form of which is enclosed. This approval is based upon the information and representations provided by you in your proposal to sell agricultural loans application and is expressly conditional upon the accuracy of such information and timely completion of the agricultural loan purchase agreement.

Pursuant to our earlier correspondence, the terms of the loan following the purchase by the authority shall be as follows:

(Terms of Refinanced Loan)

Please execute and return the enclosed agricultural loan purchase agreement within fourteen days of the postmark of this conditional approval to the offices of the Louisiana Agricultural Finance Authority, Department of Agriculture, 12055 Airline Highway, Baton Rouge, LA 70816, Attention: Director. If the agricultural loan purchase agreement is not received by the authority within fourteen days of the postmark on the letter delivering the conditional approval, the authority may discontinue consideration of the applicant's loan purchase.

Sincerely,

LOUISIANA AGRICULTURAL
FINANCE AUTHORITY

Exhibit D

FORM OF PROPOSAL TO ENTER INTO REPURCHASE OBLIGATION

LOUISIANA AGRICULTURAL
FINANCE AUTHORITY

SECURITIZED AGRICULTURAL
REVENUE BOND PROGRAM

Louisiana Agricultural Finance Authority
12055 Airline Highway
Baton Rouge, LA 70816

Sir:

The (Name of National Bank), a national banking association organized and existing under the laws of the United States, (the "Bank") hereby requests to participate in the securitized agricultural revenue bond program of the Louisiana Agricultural Finance Authority (the "Authority").

1. Name of bank.

2. Date of incorporation.

3. Address and telephone number of principal office.

4. Name and title of person to whom correspondence with regard to this program should be addressed.

5. Description of loans. Please provide the following information with respect to each proposed loan which the bank desires to make.

a. Total amount of loan

b. Date of loan

c. Eligible loan

i. When will the loan mature?

ii. How is principal payable (e.g. monthly, quarterly, semiannually, annually, at maturity)?

iii. How is interest payable (e.g. monthly, quarterly, semiannually, annually, at maturity)?

d. Please attach the amortization schedule of the loan, showing when principal is payable (e.g. monthly, quarterly, semiannually, annually, at maturity), when the principal comes due and on what dates.

e. Project financed

i. Location

ii. Description of project

6. Dollar amount of loan to be financed by the authority

Exhibit E

CONDITIONAL APPROVAL

(National Bank)

Sir:

You are hereby notified that your proposal to enter into repurchase obligation to the Louisiana Agricultural Finance Authority ("Authority") has been tentatively approved pending completion of and signing a repurchase obligation, a form of which is enclosed. This approval is based upon the information and representations provided by you in your proposal to enter into repurchase obligation application and is expressly conditioned upon the accuracy of such information and timely completion of the repurchase obligation.

Pursuant to our earlier correspondence, the terms of the loan shall be as follows:

(Terms of Refinanced Loan)

Please execute and return the enclosed repurchase obligation within fourteen days of the postmark of this conditional approval to the offices of the Louisiana Agricultural Finance Authority, Department of Agriculture, 12055 Airline Highway, Baton Rouge, LA 70816, Attention: Director. If the Repurchase Obligation is not received by the Authority within fourteen days of the postmark on the letter delivering this Conditional Approval, the Authority may discontinue consideration of the applicant's loan.

Sincerely,

LOUISIANA AGRICULTURAL FINANCE AUTHORITY

Exhibit F

ELIGIBLE COLLATERAL AND COLLATERAL LEVELS

REPURCHASE OBLIGATIONS

Type of Collateral Security	Percentage of Market Value to be Sold
FHLMC Participation Certificates[1]	158.0%
GNMA Pass-Through Certificates[1]	147.0%
FNMA Pass-Through Certificates[1]	158.0%
Cash and Federal Funds	100.0%
Government Securities[2] with a remaining term to Maturity of up to and including:	
one year	108.0%
five years	128.0%
ten years	135.0%
fifteen years	140.0%
thirty years	150.0%

LETTERS OF CREDIT/GUARANTIES

Type of Collateral Security	Percentage of Market Value to be Pledged
FHLMC Participation Certificates[1]	158.0%
GNMA Pass-Through Certificates[1]	147.0%
FNMA Pass-Through Certificates[1]	158.0%
Cash and Federal Funds	100.0%
Government Securities[2] with a remaining term to Maturity of up to and including:	
one year	108.0%
five years	128.0%
ten years	135.0%
fifteen years	140.0%
thirty years	150.0%
FHA/VA Mortgage Notes[3]	150.0%
Conventional Mortgage Notes[3]	150.0%
Conventional Mortgage Notes—ARMS[3]	170.0%
FHA/VA Mortgage Notes—ARMS[3]	170.0%

[1]Assumptions:
1. Certificates represent undivided interest in pool of fixed-rate single family mortgage loans with no further negative amortization.
2. Registered in name of, and held by, bond trustee.
3. Collateral cash flow released to collateral provider so long as requisite collateral level maintained.
4. Collateral levels assume collateral proceeds will cover up to six months of accrued interest at maximum rate of 12 percent/annum.
5. Collateral securities marked to market on a monthly basis.
6. Collateral provider has two business days to cause any deficiency in collateral level requirement.
7. Collateral cannot be valued in an amount greater then the lesser of
   a. 100 percent of its redemption value of
   b. 100 percent of its maturity value.

[2]Assumptions:
1. "Government Securities" are obligations which are direct obligations or which are fully guaranteed by the full faith and credit, of the United States of America which pay periodic interest and pay principal at maturity or call.
2. The assumptions in 3, 4, 5, 6, and 7 in Footnote 1 above apply to Government Securities.

[3]Assumptions:
1. Mortgage loans meet the requirements of a prime collateral pool.
2. The assumptions in 3, 4, 5, 6, and 7 in Footnote 1 above apply to Conventional/FHA/VA Mortgages.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266(4).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 17:167 (February 1991).

§139. Meaning of National Bank

A. For any and all programs and regulations that Louisiana Agricultural Finance Authority (LAFA) has implemented or will implement, LAFA hereby deems the term "national bank" to include banks of foreign nations which are national in scope of operations in their domicile nation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266(4).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 17:249 (March 1991).

§141. Construction of Maximum Amounts of Loans

A. Wherever regulations adopted or to be adopted by Louisiana Agricultural Finance Authority (LAFA) establish a maximum dollar amount of a transaction or loan that LAFA may purchase or sell or contract to purchase or sell but do not expressly place a restriction on the number of transactions or loans that any one borrower may receive or be involved with, the maximum dollar amount shall apply only to each transactions or loan and shall not restrict the number of transactions or loans per borrower. Accordingly, all regulations that are intended to prohibit multiple

transactions or loans to or with borrowers shall expressly limit the number of transactions or loans per borrower.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:266(4).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 17:249 (March 1991).

Chapter 3. Farm and Agribusiness Recovery and Loan Program

§301. Farm and Agribusiness Recovery and Loan Program; Establishment of; Purpose; Limitations; Terms

A. The Farm and Agribusiness Recovery and Loan Program is hereby established.

B. The Farm and Agribusiness Recovery and Loan Program provides loans, grants, or a combination thereof to agricultural producers or agribusinesses for the purpose of aiding in the recovery from the 2008 hurricanes, Gustav and Ike, and to subsequently provide Louisiana agricultural producers and agribusinesses additional financial resources for recovery from any future disasters and for the maintenance and growth of agriculture in Louisiana.

C. The limits on loans and grants from the Farm and Agribusiness Recovery and Loan Program are as follows:

1. Agricultural producers may receive a minimum of $10,000 and up to a maximum of $100,000. The amount provided shall be a combination of an 80 percent loan and 20 percent grant.

2. Agribusinesses may receive a minimum of $10,000 and up to a maximum of $250,000 in the form of a direct loan.

D. The general terms under which disbursements will be made are as follows.

1. Interest at the rate of 1 ½ percent interest per annum will be charged on the unpaid balance of all loans made under this program.

2. The maximum term of any loan shall be 10 years.

3. Any grant given in combination with a loan shall be subject to being repaid if the loan plus interest is not paid in full or if the loan goes into default.

4. Normal and customary terms of loans regarding notices, defaults, late fees, attorney fees, and other matters customarily spelled out in a promissory note or other negotiable instrument. Such terms, as authorized by LAFA, shall be in the negotiable instrument approved by LAFA.

AUTHORITY NOTE: Promulgated in accordance with R. S. 3:266.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 36:466 (March 2010).

§303. Eligibility of Applicant

A. An agricultural producer experiencing a 2008 storm related loss shall be eligible to receive money from the Farm and Agribusiness Recovery and Loan Program upon meeting the following requirements:

1. the farm upon which a loss occurred must be located in Louisiana;

2. active agricultural operations must have been ongoing before the 2008 storms occurred and continue to be ongoing thereafter;

3. a minimum annual gross revenue of $25,000 from the agricultural operations must have been received in 2007 or in 2008 prior to the storms;

4. suffered a minimum storm related loss of $10,000;

5. employed one or more person (including owner) full time during the previous year.

B. An agribusiness experiencing a 2008 storm related loss shall be eligible to receive money from the Louisiana Farm and Agribusiness Recovery and Loan Program upon meeting the following requirements.

1. The agribusiness must be physically located in Louisiana.

2. Active agribusiness operations must have been ongoing before the 2008 storms occurred and continue to be ongoing from the time active agribusiness operations could resume after the storms up to the date of application.

3. A minimum annual gross revenue of $25,000 from the agribusiness operations must have been received in 2007 or in 2008 prior to the storms.

4. Employed at least 2 full time employees (including owner) in 2008, prior to the storms and support at least two other indirect jobs in this state.

5. Experienced a 20 percent decline in gross agribusiness revenue for the period of time in 2008 after the storms occurred as compared to gross agribusiness revenue for the same time period in 2007 or experienced a combined tangible property loss and revenue loss of $10,000 or more.

AUTHORITY NOTE: Promulgated in accordance with R. S. 3:266.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 36:467 (March 2010).

§305. Application Procedure and Forms

A. The application period shall be publicly announced or published in a manner that will fairly put agricultural producers and agribusinesses on notice of the Farm and Agribusiness Recovery and Loan Program and the start and end of the application period.

B. Only application forms prepared by LAFA for this purpose may be used.

C. Every applicant for a loan or grant shall submit the following documents to LAFA.

1. The completed application form signed by the agricultural producer or agribusiness, if a sole proprietorship. If the agricultural producer or agribusiness is not a sole proprietorship then the application form must be signed by all owners or by a duly authorized representative. The authorization of a representative to sign on behalf of an agricultural producer or agribusiness must be shown by a power of attorney, corporate resolution or other expression of authority that is consistent with the legal form of the agricultural producer or agribusiness.

2. Proof of identity of the signer of the application. One or more of the following may be used as proof of identity:

a. birth certificate;

b. government issued photo identification or other documentation acceptable to the agricultural loan committee.

3. Proof of address of the farm or agribusiness. One or more of the following may be used as proof of address: copy of utility bill, Louisiana tax return from the previous year, lease agreement, business license, USDA Farm Service Administration (FSA) certification, or other documentation acceptable to the agricultural loan committee.

4. Proof of Ownership of the Farm or Agribusiness. One or more of the following may be used as proof of ownership: tax returns with appropriate schedules, stock certificates with proof of total number of shares, or other documentation acceptable to the agricultural loan committee.

5. Proof of Employees. One or more of the following may be used as proof of employees: Federal form 941, Louisiana unemployment tax records, internal payroll register, or other documentation acceptable to the agricultural loan committee.

6. Proof of Revenue. One or more of the following may be used as proof of gross revenues: Federal tax returns with appropriate schedules, actual revenue receipts, or other documentation acceptable to the agricultural loan committee.

7. The agricultural loan committee may require an applicant to supply; tax returns with appropriate schedules, insurance claim forms, settlement sheets, FSA declarations, receipts for replacement, or other documentation when such documentation is needed by the agricultural loan committee in deciding whether to approve or deny an application.

AUTHORITY NOTE: Promulgated in accordance with R. S. 3:266.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 36:467 (March 2010).

§307. Approval of Application

A. The applicant must provide all required information at least 10 working days prior to the meeting of the agricultural loan committee where the application will be considered, unless partial submission is allowed by LAFA's staff or the agricultural loan committee.

B. The agricultural loan committee may require terms and conditions that are not included in other loan/grants to be in a particular loan/grant based on the circumstances of each individual loan/grant so long as such terms and conditions are consistent with these regulations.

C. The agricultural loan committee may authorize LAFA's director to negotiate additional terms and conditions for a specific loan/grant within the parameters established by these regulations and the instructions of the agricultural loan committee.

D. The agricultural loan committee shall review each loan application and approve or deny the application, after consideration of the application, supporting documentation, comments of the applicant, and staff recommendations. However, the agricultural loan committee may defer action on an application to obtain additional information.

E. Within three business days after an application has been acted upon by the agricultural loan committee notice of the decision shall be sent to the applicant. Notification may be by U.S. mail, private commercial courier, hand delivery by an employee of the department, fax, e-mail, or other electronic means. However, whatever the means of notification used must be designed to verify receipt of the notification by the applicant.

AUTHORITY NOTE: Promulgated in accordance with R. S. 3:266.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 36:467 (March 2010).

§309. Agricultural Loan Committee; Establishment of; Purpose; Membership; Quorum

A. The agricultural loan committee is hereby established to consider and act on applications for loans or grants, or a combination of both made pursuant to this Part.

B. The agricultural loan committee shall consist of the following seven members:

1. the Commissioner of Agriculture and Forestry or his designee;

2. the Chancellor of the LSU AgCenter or his designee;

3. the Chancellor of the Southern University AgCenter or his designee;

4. the President of the Louisiana Farm Bureau Federation or his designee;

5. the Assistant Commissioner of Agriculture and Forestry, Office of Management and Finance or his designee;

6. one member at large appointed by the Commissioner of Agriculture and Forestry;

7. the Director of LAFA or his designee.

C. Four members of the agriculture loan committee shall constitute a quorum.

AUTHORITY NOTE: Promulgated in accordance with R. S. 3:266.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 36:468 (March 2010).

§311. Disbursement of Funds

A. After the agricultural loan committee has approved an application the proceeds of the loan/grant shall be disbursed by LAFA's staff upon the signing of the loan or grant documents by the applicant and LAFA's director.

B. If the total amount of proceeds to be disbursed under the Louisiana Farm and Agribusiness Recovery and Loan Program exceeds the amount of money available for the program then the amount received by each approved applicant shall be reduced on a pro-rata basis.

AUTHORITY NOTE: Promulgated in accordance with R. S. 3:266.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 36:468 (March 2010).

§313. Use of Loan and Grant Proceeds

A. Loan and grant proceeds may be used to:

1. pay current year expenses that are related to the preparation, planting, management and harvesting the current year crop as specified;

2. pay down or pay off existing crop production loans, if a financial institution has committed itself to furnish sufficient funding for preparing, planting, managing and harvesting the current year crop;

3. pay operating expenses (rent, insurance, utilities, etc.);

4. purchase inventory;

5. pay or refinance more expensive business-related debt to improve cash flow.

B. Loan and grant proceeds may not be used for:

1. acquisition of buildings or land;

2. new construction or reconstruction;

3. refinancing of State Bridge Loans or Community Development Block Grant loans;

4. payments of tax arrearages, government fines or penalties;

5. political or religious activities;

6. buying out any stockholder or equity holder in a business;

7. buying out or reimbursing any family member;

8. investing in instruments or investments for the sole purpose of a return on Investment; or

9. a loss or expense for which insurance benefits has been or is to paid or for which financial assistance has been or is to be provided from any other source, whether public or private.

AUTHORITY NOTE: Promulgated in accordance with R. S. 3:266.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 36:468 (March 2010).

§315. Delinquencies and Defaults

A. A loan shall become delinquent if the full monthly or periodic payment is not received within 10 calendar days following the due date or the loan is otherwise in default for non-compliance with any other provision of the loan.

1. Written notification of a delinquency shall be sent to the borrower giving the borrower the opportunity to cure the cause for the delinquency within 30 days from the date of the notice plus payment of any late fee .

2. If the delinquency is due to late payment, the director of LAFA, when he determines that such payment arrangements are justified by the circumstances, may make payment arrangements with the borrower to cure the delinquency before reporting the loan to the LAFA Board as a delinquent loan.

3. If the delinquency is not timely cured, the delinquent loan shall be reported to the LAFA Board, which may review and take action on the delinquent loan at any meeting of the board.

B. Upon review, the LAFA Board may direct that the loan be maintained in delinquent status and set the terms and time by which the borrower may bring the payments up to date or otherwise cure the delinquency or the board may declare the loan to be in default and that the entire amount due on the loan accelerated in accordance with the terms of the loan.

1. If a loan is continued as delinquent the LAFA Board shall establish the terms and time by which the borrower may bring the loan out of delinquency and into good standing and the borrower shall be notified of such terms and time.

2. If a loan is declared to be in default, notice of the default and a demand for full payment of all sums due, including the amount of any portion of the loan that may be forgiven as a grant, shall be sent to the borrower along with a request for full payment within 10 business days from the sending of the notice.

C. If a loan is continued as delinquent and the borrower does not accept the terms and time set by the board of if the borrower does not timely comply with the terms, the loan shall automatically go into default without further action of the board. Upon default, a demand for payment shall be made and if payment is not timely made the loan shall be turned over for collection, as provided for in these regulations.

D. If full payment is not received by the deadline given in the notice of default the loan, including the amount of any portion of the loan that may be forgiven as a grant, shall be

turned over to an attorney for collection in accordance with the terms of the loan.

E. Any notice required by these regulations or by the terms of any loan may be sent by certified United States mail, return receipt requested; by any commercial courier who requires a receipt of delivery; or by hand delivery.

AUTHORITY NOTE: Promulgated in accordance with R. S. 3:266.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Agricultural Finance Authority, LR 36:468 (March 2010).

Title 7
AGRICULTURE AND ANIMALS
Part V. Advertising, Marketing and Processing

Chapter 1. Market Commission—Loans and Loan Guarantees

Subchapter A. Procedures for Authorization and Administration of Market Commission Loans and Loan Guarantees

§101. Eligibility

A. Any person, firm, corporation, partnership, or association engaged in the marketing, processing, and/or storage of Louisiana farm products shall be eligible for a State Market Commission loan or loan guaranty, upon proper application and approval therefore, as set forth herein.

B. Farm products means any agronomic, horticultural, silvacultural, or aquacultural crop, any commercially raised livestock or raw product derived therefrom; or any final derivative resulting from a combination or breakdown of raw farm products.

C. Costs associated with the purchase, construction, or necessary improvement of any agricultural plant shall be eligible for a State Market Commission loan.

D. The State Market Commission shall give priority to persons, firms, corporations, partnerships, and associations which utilize Louisiana agricultural products to the maximum extent possible.

E. The State Market Commission shall also give preference to those persons, firms, partnerships, corporations, and associations which, at the time of the loan application, provide, or expect to provide upon completion of a facility, new or expanded job opportunities for the Louisiana work force.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:407 and R.S. 3:404.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 6:252 (June 1980).

§103. Time for Filing Applications

A. Applications may be filed at any time throughout the year and may be personally delivered to the State Market Commission Office in Baton Rouge or forwarded through the United States Mail.

B. An application will be considered filed only upon provision of all information required in §105.

C. A complete application, consisting of all information required in §105 must be physically on hand in the State Market Commission office at least 20 working days prior to the State Market Commission meeting at which the application will be considered by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:404.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 6:252 (June 1980).

§105. Contents of Application

A. Every applicant for a market commission loan, whether for a direct or participation loan, or for a loan guaranty, shall submit the following information to the State Market Commission:

1. names and addresses of all principals;

2. a statement of the nature and amount of the interest held by each principal;

3. sworn statement of the relationship, if any, of any of the principals with any state official and/or with any employee of the State Department of Agriculture;

4. location and legal description of the property to be offered as security;

5. evidence that title is or can be vested in the name of the applicant;

6. personal financial statements of every principal of the firm, corporation, partnership, or association, prepared in accordance with generally accepted accounting principles. In the case of corporations and cooperative associations, every member of the board of directors, by whatever name known, must provide personal financial statements;

7. credit analyses of the principals, to be provided by an independent source, such as a bank or other lending institution;

8. a property appraisal, prepared in accordance with §107 hereof, of all movable and immovable property to be offered as security;

9. listing of all equipment and furnishings, both movable and immovable by destination, with amortization tables as appropriate, if equipment and furnishings will be offered as part of the security;

10. evidence of rejection, with written reasons therefor, from at least two private lending institutions in the area or at least two public lending institutions other than the State Market Commission;

11. evidence of satisfactory interim financing;

12. a three-year projected cash flow statement;

13. an evaluation of the professional management capability of the individual(s) primarily responsible for the operation of the facility, to be provided by an independent, reputable source not involved in the firm, partnership, corporation, or association;

14. an explanation of how the marketing facility for which the loan is sought will benefit the community in which the facility is to be located;

15. written authorization for the State Market Commission to perform any credit check(s) which the commission may, in its discretion, deem advisable.

B. Every applicant for a loan for new construction shall provide, in addition to the information required by §105.A the following information:

1. blueprints and construction specifications, if available at date of application. In the absence of blueprints and construction specifications, the applicant shall provide a written description of the planned construction at the time of application, to be followed by blueprints and construction specifications as set forth herein. It is not the intent of the market commission to require unnecessary expenditure of the applicant's funds; however, in the event that blueprints and construction specifications cannot be provided at the time of application, any applicant receiving approval for a loan shall be required to provide, within 90 days after approval of the loan, either copies of blueprints and construction specifications, or a written statement of the reasons for delay in provision of such blueprints and construction specifications. Reasons acceptable to the market commission shall include, but not be limited to, failure of the architect to timely provide all drawings and specifications;

2. a statement of the number of jobs to be made available upon completion of the facility;

3. evidence of adequate operating funds for a period of at least one year following completion of the facility;

4. a projected construction schedule, with anticipated completion date.

C. Every applicant for a loan for the purchase or expansion of existing facilities shall provide, in addition to the information required by §105.A, the following information:

1. profit and loss statements for the three years immediately preceding date of the application;

2. balance sheets for the three years immediately preceding date of the application;

3. statement demonstrating the marketability of the product or process for which the funds are sought;

4. such additional market data as will enable the State Market Commission to determine the advisability of loan approval;

5. a statement of the number of jobs existing at the time of the application and the number of additional jobs to be created as a result of the proposed purchase and/or expansion of the facility;

6. blueprints of the existing facility, if purchase is contemplated, and, in the case of proposed expansions, blueprints of the existing and proposed facility. The applicant shall provide a detailed statement of reasons when prints cannot be provided. In the event that blueprints and specifications cannot be provided at the time of the application, any applicant receiving approval for a market commission loan will be required to provide blueprints and construction specifications within 90 days after approval of the loan. The market commission may, however, at its discretion, waive the requirements for provision of blueprints and construction specifications for simple additions, but shall waive such requirement only in open session with adequate explanation for its actions.

D. Any applicant for a loan guarantee shall provide, in addition to the information required by §105.A, a letter of commitment from a lending institution setting forth the terms and conditions upon which the loan sought to be guaranteed will be made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:404 and R.S. 3:408.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 6:253 (June 1980).

§107. Appraisal

A. The State Market Commission shall develop and maintain for public examination at any time a listing of approved appraisers and a file of the credentials of such approved appraisers.

B. In order to have his or her name included on the State Market Commission Listing of Approved Appraisers, an applicant shall submit the following information:

1. at least three written statements of his or her competence as an appraiser from organizations such as banks or other financial institutions, real estate boards or licensed real estate brokers, mortgage loan institutions, and so forth;

2. a written statement of his or her areas of expertise in appraising property;

3. a written statement of his or her years of experience in appraising property;

4. evidence of inclusion on the approved appraisers listing of any state or federally chartered banks, or such public agencies as the Small Business Administration, the Farmers Home Administration, the Production Credit Association, the Federal Housing Authority, or other similar institutions;

5. a written statement containing any additional information which the applicant thinks would be beneficial to the market commission's determination of qualifications.

C. Applicants for inclusion of the State Market Commission Listing of Approved Appraisers shall pay a fee of $25 at the time of filing request for inclusion on the list, which fee shall be deposited in the general fund of the state of Louisiana and shall be non-refundable to the applicant regardless of the decision of the market commission with respect to the listing.

D. Any applicant for listing on the State Market Commission Listing of Approved Appraisers who is denied a listing may appeal the decision of the State Market Commission under the general appeals procedures of the State Department of Agriculture.

E. Pending development of a comprehensive Listing of Approved Appraisers, the market commission may approve appraisers on an individual basis, but the market commission shall not approve appraisers in the absence of all information required under §107.B after November 1, 1980.

F. Applicants for inclusion on the State Market Commission Listing of Approved Appraisers may make application at any time throughout the calendar year, and the names of approved applicants shall be added to the listing immediately upon approval action by the market commission.

G. All applicants for a market commission direct or participation loan, or loan guaranty, must submit, as a part of the application package, an appraisal performed by an appraiser selected as follows from the State Market Commission Listing of Approved Appraisers.

1. The applicant may review the file of credentials of approved appraisers, except for personal financial statements, and shall select from the Listing of Approved Appraisers three appraisers who are acceptable to the applicant.

2. The applicant shall notify the market commission in writing the names of the three appraisers selected by the applicant.

3. The market commission staff shall select one appraiser from the list of three appraisers submitted by the applicant and shall notify the applicant in writing of the appraiser selected by the staff to perform the appraisal.

4. The applicant and the State Market Commission staff shall meet with the appraiser selected and negotiate a fee satisfactory to the applicant and the appraiser.

5. The agreement for performance of the appraisal shall be in writing for the protection of all parties, the agreement to be prepared by the State Market Commission staff unless the applicant wishes to secure private legal counsel.

6. Failure to agree upon a fee shall result in selection of another appraiser. In such circumstance, the applicant shall be permitted to add one additional name, selected from the Listing of Approved Appraisers, to the list and the market commission staff shall again select from the list and follow procedures outlined in §107.G.

H. The applicant shall be responsible for payment of the agreed-upon appraisal fee.

I. The market commission may, at its discretion, directly employ an appraiser listed on the Listing of Approved Appraisers to conduct any appraisal.

1. When the market commission directly employs an appraiser, such appraisal shall be performed at the cost of the market commission.

2. The applicant shall cooperate fully with any appraiser employed directly by the market commission.

3. The market commission shall give weight to the appraisal performed by the appraiser selected by the applicant as well as to the appraisal performed by the appraiser employed by the commission.

J. The listing of any appraiser on the State Market Commission Listing of Approved Appraisers shall be valid for a period of two years from the date of the commission's approval.

1. Thirty days prior to the second anniversary of each listing, the market commission staff shall notify the appraiser, at the last address furnished by the appraiser, of the date on which approval for listing will terminate.

2. The appraiser so notified may renew his or her listing for an additional two-year period upon payment of a $5 renewal fee, without the necessity for submission of the information required in §107.B.

K. The market commission staff may recommend to the market commission at any time the removal from the Listing of Approved Appraisers the name of any appraiser who, in their judgment, should be removed.

L. Any appraiser so removed from the Listing of Approved Appraisers shall be immediately notified in writing of the removal and may appeal such removal under the general appeals procedures of the State Department of Agriculture.

M. Upon request, the market commission shall furnish any applicant or interested citizen a copy of the Listing of Approved Appraisers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:404.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 6:253 (June 1980), amended LR 7:260 (May 1981).

§109. Approval of Application for Market Commission Loan

A. The applicant must provide all required information at least 20 working days prior to the meeting at which the application will be considered. The market commission shall not consider any incomplete application.

B. The applicant must appear in person at the meeting at which the application will be considered, in order to provide any additional information which may be required by the market commission.

C. Approval of the loan must not result in encumbrance(s) on the property offered as security in excess of 75 percent of the appraised value of the property.

D. The period for which the loan is requested must not exceed five years, provided, however, that the State Market Commission may, under conditions hereinafter set forth, extend the period of the loan for an additional period not to exceed a total of 15 years from the date of the original loan, as required under R.S. 3:407(G).

E. Approval of a direct loan application shall be limited to 75 percent of the value of the property offered as security when covered by a first mortgage to the State Market Commission.

F. Approval of a direct loan application shall be limited to 50 percent of the value of the property offered as security when covered by a second mortgage to the State Market Commission.

G. Approval of a loan guaranty application shall be limited to 75 percent of the total amount required by the borrower.

H. Approval of a direct loan or 75 percent of the amount expended for purchase, construction, or necessary improvement to facilities that manufacture containers for farm products must be secured by a first mortgage to the market commission if the amount loaned is in excess of 50 percent of the value of the property offered as security, but may be secured by a second mortgage to the market commission if the amount loaned is 50 percent or less than the value of the property offered as security, as provided in R.S. 3:407(C)(3).

I. A market assessment and/or feasibility study conducted or secured by the market commission staff must support the advisability of the loan.

J. The loan application must satisfy all legal requirements, as evidenced by the written approval of the department attorney.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:407 and R.S. 3:404.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 6:254 (June 1980).

§111. Disbursement of Market Commission Loan Proceeds and Market Commission Concurrence in Loan Guarantees

A. Prior to the setting of a date for the loan closing, the applicant must submit satisfactory proof that the facility, if new construction and/or additions to the existing facilities, has been completed in accordance with the plans submitted to the commission for its consideration of the loan application.

B. Prior to the setting of a date for the loan closing, the applicant must provide a copy of the note and the mortgage to be executed at the closing for examination and approval by the department attorney.

C. Prior to the setting of a date for the loan closing, the applicant must provide a copy of a plat survey by a registered surveyor, provided, however, that the department attorney is authorized to waive, in writing, provision of the survey, at his discretion.

D. Prior to the setting of a date for the loan closing, the applicant must provide evidence of adequate title insurance.

E. Prior to the setting of a date for the loan closing, the applicant must carry and provide evidence of the following insurance coverage:

1. public liability insurance of $500,000, naming the market commission as additional insured. The applicant must also provide a certificate evidencing such insurance, which certificate must provide that the insurance cannot be cancelled without 30 days prior notice to the State Market Commission;

2. fire and extended coverage and vandalism insurance to the full extent of the amount loaned or guaranteed by the market commission, naming the market commission as loss payee, the total amount of the insurance to meet the 80 percent co-insurance requirements. The applicant must also provide a certificate evidencing such insurance, which certificate must provide that the insurance cannot be cancelled without 30 days prior notice to the State Market Commission.

F. Prior to the setting of a date for the loan closing, the applicant must provide satisfactory proof that all materials suppliers and workmen have been fully paid.

G. Prior to the setting of a date for the loan closing, all legal instruments must be examined and approved by the department attorney.

H. On or before the loan closing date, the applicant must provide a title opinion by a title attorney selected in accordance with §113, which title opinion shall provide evidence of clear title and shall include, but not be limited to, the following:

1. a property description;

2. identification of the property owner, with pertinent recordation data;

3. satisfactory evidence that all taxes due on the property have been paid;

4. a full and complete list of all mortgages, liens, encumbrances, and/or servitudes on the property; and

5. such other information as may be necessary for a full recital of the facts surrounding such property.

I. On or before the loan closing date, the applicant must provide a mortgage certificate from the clerk of court for the parish in which the property is located.

J. On the loan closing date, in the case of direct loans or participation loans paid direct to the borrower, the borrower must execute a note secured by a first or second mortgage payable to the market commission setting forth in full the terms and conditions under which the loan will be repaid, and containing such endorsements as the market commission shall require.

K. On the loan closing date, in the case of direct loans or participation loans paid direct to the borrower, the borrower must execute a first or second mortgage payable to the market commission, which mortgage shall contain, but not necessarily be limited to, the following:

1. the amount loaned;

2. the rate of interest;

3. the repayment schedule;

4. description of real property and all equipment and/or furnishings to be included in the security;

5. provision for executory process;

6. provision for payment of all costs of foreclosure, including attorney's fees at 25 percent of the principal balance and interest accrued at foreclosure;

7. authorization for the addition to the principal balance of the amount of any taxes and/or insurance premiums paid by the market commission, upon failure of the mortgagee to pay such amounts when due, to protect the security position of the market commission.

L. On the loan closing date, in the case of participation loans the proceeds for which are paid direct to the bank or other lending institution, the borrower shall provide a participation certificate executed by the bank or other lending institution, payable to the State Market Commission, setting forth in full the terms and conditions under which the commission agrees to such participation, the security pledged for repayment, and the time within which the loan shall be liquidated.

M. On or before the loan closing date, in the case of a loan guaranty, the borrower must pay to the State Market Commission an amount equal to 1 percent of the amount guaranteed by the State Market Commission, which payment shall be deposited in the Market Loss Fund.

N. In the case of all direct loans and participation loans paid directly to the borrower, the individual borrower and/or all partners of a partnership shall personally endorse the note securing the first or second mortgage.

O. In the case of all direct loans and participation loans paid directly to the borrower, all members of the board of directors, by whatever name known, of the corporation or cooperative association shall personally endorse the note, in solido, securing the first or second mortgage.

P. In the case of a loan guaranty, the borrower must provide for the market commission file record a copy of the note and the mortgage payable to the lending institution and any other data deemed necessary by the market commission staff.

Q. The State Market Commission shall authorize the setting of a loan closing date and the disbursement of loan proceeds upon presentation of all information required in §111.

R. The commissioner of agriculture, or his designee, as official representative of the State Market Commission, shall execute all necessary legal instruments at the loan closing.

S. The loan guaranty agreement shall be executed by the borrower, the lending institution, and the commissioner of agriculture, or his designee, as official representative of the State Market Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:407, R.S. 3:413 and R.S. 3:404.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 6:254 (June 1980).

§113. Title Opinion

A. The State Market Commission shall develop and maintain for public examination at any time a listing of attorneys whose title opinions will be acceptable to the market commission.

B. In order to have his or her name included on the State Market Commission Listing of Approved Attorneys, an applicant shall submit the following information:

1. a résumé of his or her experience in the practice of real estate law;

2. a list of three or more attorneys who are familiar with his or her practice in real estate law who may be contacted for reference.

C. Minimum requirements for approval of attorneys providing title opinions shall be as follows:

1. one or more years since admission to the bar;

2. a minimum of 25 percent of the attorney's practice devoted to real estate matters;

3. at least 25 prior real estate closings and/or title opinions;

4. a favorable recommendation from the attorneys given as reference;

5. favorable recommendation from three or more lending institutions, savings and loan associations, finance companies, the Small Business Administration, the Farmers Home Administration, the Production Credit Association, the Federal Housing Authority, and other similar organizations to whom the attorney has rendered title opinion letters on property.

D. The attorney may also provide evidence of prior approval to write title insurance for any title insurance company.

E. Applicants for inclusion on the State Market Commission Listing of Approved Attorneys shall pay a fee of $25 at the time of filing request for inclusion on the list, which fee shall be deposited in the general fund of the state of Louisiana and shall be non-refundable to the applicant regardless of the decision of the market commission with respect to the listing.

F. Any applicant for listing on the State Market Commission Listing of Approved Attorneys who is denied a listing may appeal the decision of the State Market Commission under the general appeals procedures of the State Department of Agriculture.

G. Pending development of a comprehensive Listing of Approved Attorneys, the market commission may approve attorneys on an individual basis, but the market commission shall not approve attorneys for title opinions in the absence of all information required under §113.B after November l, 1980.

H. Applicants for inclusion on the State Market Commission Listing of Approved Attorneys may make application at any time throughout the calendar year, and the names of approved applicants shall be added to the listing immediately upon approval action by the market commission.

I. The applicant for a market commission loan shall be responsible for the payment of any fee for the required title opinion.

J. The listing of any attorney on the State Market Commission Listing of Approved Attorneys shall be valid for a period of two years from the date of the commission's approval.

1. Thirty days prior to the second anniversary of each listing, the market commission staff shall notify the attorney, at the last address furnished by the attorney, of the date on which approval for the listing will terminate.

2. The attorney so notified may renew his or her listing for an additional two year period upon payment of a $5 renewal fee without the necessity for submission of the information required in §113.B.

K. The market commission staff may recommend to the market commission at any time the removal from the listing of approved attorneys any attorney who, in their judgment, should be removed.

L. Any attorney so removed from the State Market Commission Listing of Approved Attorneys shall be immediately notified in writing of the removal and may appeal such removal under the general appeals procedures of the Department of Agriculture.

M. Upon request, the State Market Commission shall furnish any applicant or interested citizen a copy of the listing of approved attorneys.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:404.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 6:255 (June 1980), amended LR 7:261 (May 1981).

§115. Termination of Approval for Loan

A. Loan proceeds shall remain committed, after approval of the loan, for the following periods, which shall begin to run from the date of the State Market Commission approval for the loan:

1. for new construction and/or expansion of existing facilities ranging from 0 to 50,000 square feet—450 days;

2. for new construction and/or expansion of existing facilities ranging from 50,001 to 100,000 square feet—720 days;

3. for new construction and/or expansion of existing facilities in excess of 100,001 square feet—860 days.

B. At the expiration of the period of commitment as indicated in §115.A, and in the absence of evidence of completion of all work, approval for the loan shall be terminated by the market commission, provided, however, that approval may be extended on a month-to-month basis by the market commission upon submission of reasons acceptable to the commission for the delay in completion. In the event that the market commission extends the period of time for finalization of the loan beyond the period indicated in §115.A, the market commission shall do so only in open session with adequate explanation for its actions.

C. If approval for any loan is terminated as provided in §115.B, the applicant shall be required to provide a complete current loan application in order to be again considered for approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:407 and R.S. 3:404.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 6:256 (June 1980).

§117. Interest on Market Commission Loans

A. The State Market Commission shall, at its first regularly scheduled meeting in each calendar year, establish its interest rate for that calendar year.

B. The interest rate established by the market commission shall be not less than the average of the rates charged by the Small Business Administration, the Farmers Home Administration, and the Bank of Cooperatives, as required under the provisions of R.S. 3:407(H).

C. The interest rate in effect at the time of the loan approval shall govern the interest to be paid on the loan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:407 and R.S. 3:404.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 6:256 (June 1980).

§119. Requirements Subsequent to Disbursement of Loan Proceeds

A. Each year, on the anniversary of the disbursement of loan proceeds, each loan recipient, whether a direct or participation loan or a loan guaranty, shall provide the following:

1. a listing of all stockholders, with the number of shares held by each, at any time during the previous year;

2. a statement of its operations, including an analysis of profits and losses;

3. a statement of financial condition, including but not limited to a balance sheet for the most recently completed fiscal year of the firm, partnership, corporation, or association;

4. a personal financial statement of all principals, including all members of the boards of directors of corporations and cooperatives, who have endorsed in solido on the note or are liable for repayment of the loan.

B. Each recipient of a loan guaranty shall authorize the bank or other lending institution holding the loan record to file quarterly statements with the market commission showing the principal balance remaining outstanding and any defaults in payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:404.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 6:256 (June 1980).

§121. Balloon Notes and Rescheduling of Payments

A. The market commission shall not approve a final balloon note payment in excess of 75 percent of the total amount of the original loan.

B. If the State Market Commission votes in open session to approve rescheduling of a balloon note, such re-scheduled payments shall be financed at the interest rate prevailing at the time of renewal.

C. No payment schedule shall be extended to more than a total of 15 years from date of the final loan disbursement to date of the final payment under the loan.

D. Any balloon note shall be personally endorsed by the individual, by all partners if the note is for a partnership, and/or by all members of the board of directors if the note is for a cooperative association or a corporation.

E. Any request for a renewal of a balloon payment shall be accompanied by:

1. a statement of current financial condition, including profit and loss statement and balance sheet for the most recent full year of operation, prepared in accordance with generally accepted accounting principles;

2. names and addresses of all stockholders, and the number of shares held by each;

3. detailed explanation of the reason for the requested renewal.

F. Regularly scheduled payments of principal and/or interest shall not be deferred for more than three months; such unpaid payments shall not be added to an existing balloon note if such increase will result in a balloon payment amounting to more than 75 percent of the original amount of the loan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:407 and R.S. 3:404.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 6:256 (June 1980).

§123. Delinquency and Foreclosure

A. Any unpaid principal and/or interest shall be considered delinquent on the tenth day following the due date.

B. After the tenth day following the due date, a $15 delinquency fee shall be levied. Interest at the same rate as applied to the loan shall be charged on any unpaid delinquency fee from the date of the assessment until paid. No loan shall be closed out if there are any outstanding unpaid delinquency fees. All moneys collected as delinquency fees shall be deposited into the market commission revolving fund.

C. Routine written notification of delinquency shall be sent to the borrower on the thirtieth day following the due date.

D. In the absence of response to the 30-day notification, the market commission staff shall send a specific written notification concerning the delinquency on the sixtieth day following the due date, which notification shall be sent by certified mail, return receipt requested.

E. In the absence of response to the 60-day notification, the delinquency shall be reported to the market commission at the next regularly scheduled commission meeting, and the market commission shall officially place the borrower on the list of delinquent loans.

F. Subsequent to notification to the market commission, the staff, unless otherwise directed by the commission, shall forward a demand letter, again by certified mail with return receipt requested, informing the borrower that the remaining balance is advanced, together with all interest accrued, and the full sum of the obligation is due and payable to the market commission.

G. In the absence of satisfactory arrangements for repayment of the delinquency thereafter, the market commission shall initiate foreclosure proceedings on the ninetieth day following the due date of the unpaid principal and interest.

H. The market commission shall secure a judgement and foreclosure on the collateral securing the loan and, if deemed in the best interest of the market commission, the assets of all personal endorsers.

I. The market commission staff shall select an appraiser from the State Market Commission Listing of Approved Appraisers to do any appraisal necessary for foreclosure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:413 and R.S. 3:404.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 6:256 (June 1980).

§125. Prohibitions

A. The market commission shall not approve any loan or loan guaranty for any applicant who fails to submit all required information.

B. The market commission shall not approve any loan or loan guaranty for any person, firm, corporation, partnership, or association which is not domiciled in Louisiana.

C. The market commission shall not approve any loan or loan guaranty if the amount so loaned shall result in the property offered as security thereunder having an indebtedness in excess of 75 percent of the appraised value of such property.

D. The market commission shall not approve any loan or loan guaranty for any person, firm, corporation, partnership, or association with any pending or outstanding charge or liability relating to failure or inability to pay promissory notes or other evidence of indebtedness.

E. The market commission shall not approve any loan or loan guaranty for any person, firm, partnership, corporation, or association, which has presently pending, at the federal, state, or local level, any proceeding concerning the denial or revocation of a necessary license or permit.

F. The market commission shall not approve any loan or loan guaranty when the security offered for the loan consists of livestock and/or commodities.

G. The market commission shall not approve any loan or loan guaranty the proceeds of which are to be, or may be, used for the consolidation of existing, previous financial obligations.

H. The market commission shall not approve any loan or combination of loans to a single person, firm, partnership, corporation or association which is in excess of 10 percent of the commission's total assets (net of loan guarantees).

I. The market commission shall not approve any loan or loan guaranty for any facility constructed or to be constructed on leased land except as follows.

1. The lease is for a term extending five years beyond the period of the loan.

2. The market commission receives an assignment on the lease and the right of re-assignment.

3. If the loan repayment schedule includes a balloon note, the market commission, at its discretion, may require a lease running for 20 years from the date of the approval of the loan.

4. A waiver of landlord's lien and privilege on movables must be provided.

J. The market commission shall not make any loan or loan guarantee on equipment unless the property on which it is located is secured by a first mortgage to the market commission. The market commission shall give a low priority on loans secured by a mortgage on specialized equipment.

K. The terms or conditions imposed and made part of any loan or guaranty agreement authorized by vote of the market commission shall not be amended or altered by any member of the commission or employee of the Department of Agriculture except by subsequent vote of approval by the market commission in open session with full explanation for such action.

L. The market commission shall not subordinate its interests if such subordination will result in any risk to its security position.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:408 and R.S. 3:404.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 6:257 (June 1980).

Chapter 3. Market Commission—Agricultural Products Processing Development Law—Loans and Loan Guaranties

Subchapter A. Authorization and Administration of Market Commission Loans and Loan Guaranties and Cooperative Endeavor Agreements under the Agricultural Products Processing Development Law

§301. Definitions

Agricultural Plant—any facility which receives raw agricultural products for the purpose of rendering them suitable for wholesale or retail marketing.

Agricultural Product—any farm product or seafood product.

Aquacultural Crop—catfish, crawfish, crabs, oysters, shrimp, prawns, alligators, turtles and other species of fish that are spawned, grown, managed and harvested as a cultivated crop within artificial reservoirs, tanks, cages or other impoundments so as to prevent at all times the ingress and egress of fish life from public waters including natural streams or lakes.

Cooperative Endeavor Agreements—agreements for a public purpose entered into by the State Market Commission with the United States government or any of its agencies, or with a public or private association, corporation or individual.

Farm Product—any agronomic, horticultural, silvacultural or aquacultural crop; any commercially raised livestock or raw product derived therefrom; or any final derivative resulting from a combination or breakdown of raw farm products.

Final Derivative—any agricultural product that is ready to be passed on to a marketing level.

Lender—any bank, savings bank, mutual savings bank, building and loan association, and savings and loan association organized under the laws of Louisiana or the United States, trust companies acting as fiduciaries, and other financial institutions subject to the supervision of the commissioner of financial institutions.

Necessary Improvement—any improvement to an existing agricultural plant mandated by local, state or federal law, or an improvement thereto which will form an economically justifiable basis and, in the judgment of the market commission, improve the quality or quantity of service, or both.

Person—any individual, firm, corporation, partnership or association domiciled in this state.

Process or *Processing*—any action that will enhance any raw agricultural product's value or render a raw agricultural product suitable for further refinement or introduction at a marketing level.

Property—in the broad sense, any movable and immovable property, corporeal and incorporeal and includes, but is not limited to, land, buildings, equipment, inventory, accounts receivable, credits, stocks, bonds, notes, patents, copyrights, royalties and other intangibles of value.

Seafood Product—any type of seafood species caught in privately owned waters or public waters, including streams and lakes, or any final derivative resulting from a combination or breakdown of raw seafood products.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:450.2 and R.S. 3:450.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 13:78 (February 1987).

§303. Eligibility of Applicant

A. Any person engaged or to be engaged in the processing of agricultural products shall be eligible for a market commission loan or loan guaranty upon proper application and approval, as set forth herein, under the Agricultural Products Processing Development Program.

B. The market commission shall give priority to those persons who utilize Louisiana agricultural products to the maximum extent possible.

C. The market commission shall only participate in cooperative endeavors which involve the creation of a significant number of new jobs in relation to the amount of participation by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:450.3 and R.S. 3:450.5.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 13:78 (February 1987).

§305. Loan and Loan Guaranty Authorization

A. The market commission may loan to any person funds to be actually expended to acquire, construct, furnish, equip, make necessary improvement to or purchase land for any agricultural plant which will be occupied by the person, which loan shall not exceed 75 percent of the value of the property offered as security pursuant to a first mortgage, but requiring at a minimum the execution by the borrower of a note secured by a first mortgage on the property being acquired or constructed and payable to the commission within such time and under such terms and conditions together with such additional endorsements or other security as may be required by the commission.

B. The market commission may loan to any person funds for operating capital, market development and product inventories, which loan shall not exceed 75 percent of the value of the property offered as security pursuant to a first mortgage, but requiring as a minimum the execution by the borrower of a note or notes secured by a first mortgage on property, including but not limited to product inventories and accounts receivable from the sale of inventories, under such terms and conditions together with such additional endorsements or other security as may be required by the commission.

C. The market commission may guarantee, on an interim or long-term basis, all or part of loans for an amount to be actually expended to acquire, construct, furnish, equip, make necessary improvement to or purchase land for any agricultural plant made by any lender to any person approved by the commission, provided that whenever the commission guarantees the payment of such loan, the commission shall make and enter into a guarantee agreement with the lender and the borrower setting forth the terms and conditions under which the commission is obligated and the extent to which repayment of the loan is guaranteed and secured. Each loan which is guaranteed by the commission shall require as a minimum the execution of a note or notes secured by a first mortgage on property. Whenever the commission enters into such a loan guarantee agreement, the commission may impose and collect an origination fee not to exceed 1 percent of the amount of the loan guaranteed.

D. The market commission may guarantee, on an interim or long-term basis, all or part of loans for an amount to be actually expended for operating capital, market development and product inventories made by any lender to any person approved by the commission, provided that whenever the commission guarantees the payment of such loan, the commission shall make and enter into a guarantee agreement with the lender and the borrower setting forth the terms and conditions under which the commission is obligated and the extent to which repayment of the loan is guaranteed and secured. Each loan which is guaranteed by the commission shall require as a minimum the execution by the borrower of a note or notes secured by a first mortgage on property, including product inventories and accounts receivable from the sale of inventories, under such terms and conditions together with such additional endorsements or other security as may be required by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:450.3 and R.S. 3:450.5.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 13:78 (February 1987).

§307. Time for Filing Applications

A. Applications may be filed at any time throughout the year and may be personally delivered to the Market Commission Office in Baton Rouge or forwarded through the United States mail.

B. An application will be considered filed only upon provision of all information required in §309.A, B and C.

C. A complete application, consisting of all information required in §309.A, B and C, must be physically on hand in the market commission office at least 20 working days prior to the commission meeting at which the application will be considered by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:450.3 and R.S. 3:450.5.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 13:78 (February 1987).

§309. Contents of Application

A. Every applicant for a market commission loan or for a loan guaranty shall submit the following information to the commission:

1. name and address of applicant including all principals by name and address;

2. a statement of the nature and amount of the interest held by each principal;

3. sworn statement of the relationship, if any, of any of the principals with any state official and/or with any employee of the Department of Agriculture and Forestry;

4. location and legal description of all property to be offered as security;

5. evidence that good title is or can be vested in the name of the applicant;

6. personal financial statements of every principal of the firm, corporation, partnership or association, prepared in accordance with generally accepted accounting principles. In the case of corporations and cooperative associations, every member of the board of directors, by whatever name known, must provide personal financial statements;

7. credit analyses of the principals, to be provided by an independent source, such as a bank or other lending institution;

8. a property appraisal by a market commission approved appraiser of all property to be offered as security;

9. listing of all equipment and furnishings, both movable and immovable by destination, with amortization tables as appropriate, if equipment and furnishings will be offered as part of the security;

10. evidence of satisfactory interim financing, where applicable;

11. a three-year projected cash flow statement;

12. an evaluation of the professional management capability of the individual(s) primarily responsible for the operation of the processing business to be provided by an independent, reputable source not involved in the firm, partnership, corporation or association;

13. an explanation of how the processing business for which the loan or loan guaranty is sought will benefit the community in which the business is located or is to be located including projection of new jobs created by the loan or loan guaranty, if granted;

14. written authorization for the market commission to perform any credit check(s) which the commission may, in its discretion, deem advisable.

B. Every applicant for a loan or loan guaranty for new construction shall provide, in addition to the information required in §309.A, the following information:

1. blueprints and construction specifications, if available at date of application. In the absence of blueprints and construction specifications, the applicant shall provide a written description of the planned construction at the time of application, to be followed by blueprints and construction specifications as set forth herein. It is not the intent of the market commission to require unnecessary expenditure of the applicant's funds; however, in the event that blueprints and construction specifications cannot be provided at the time of application, any applicant receiving approval for a loan or loan guaranty shall be required to provide, within 90 days after approval, either (a) copies of blueprints and construction specifications, or (b) a written statement of the reasons for delay in provision of such blueprints and construction specifications. Reasons acceptable to the commission shall include, but not be limited to, failure of the architect to timely provide all drawings and specifications;

2. a projected construction schedule, with anticipated completion date;

3. a statement of the number of jobs to be made available upon completion of the agricultural plant;

4. evidence of adequate operating funds for a period of at least one year following completion of the plant;

5. copies of available construction contracts, including prices and identities of the principals of the contractors.

C. Every applicant for a loan or loan guaranty for the purchase, improvement to or expansion of an existing agricultural plant shall provide, in addition to the information required in §309.A, the following information:

1. profit and loss statements for the three fiscal years immediately preceding the date of application;

2. balance sheets for the three fiscal years immediately preceding the date of application;

3. statement demonstrating the marketability of the product or process for which the funds are sought;

4. such additional market data which will enable the market commission to determine the advisability of loan or loan guaranty approval;

5. a statement of the number of jobs existing at the time of the application and the number of additional jobs to be created as a result of the proposed purchase, improvement to or expansion of the plant;

6. blueprints of the existing plant, if purchase is contemplated, and, in the case of proposed improvements or expansions, blueprints of the existing and proposed plant. The applicant shall provide a detailed statement of reasons when prints cannot be provided. In the event that blueprints and specifications cannot be provided at the time of the application, any applicant receiving approval for a market commission loan or loan guaranty will be required to provide blueprints and construction specifications within 90 days after approval;

7. copies of available construction or renovation contracts including prices and identities of the principals of the contractors.

D. Any applicant for a loan guaranty shall provide, in addition to the information required in §309.A, B and C, a letter of commitment from a lender setting forth the terms and conditions upon which the loan sought to be guaranteed will be made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:450.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 13:79 (February 1987).

§311. Approval of Application for a Loan or Loan Guaranty

A. The applicant must provide all required information at least 20 working days prior to the meeting at which the application will be considered. The commission shall not consider any incomplete application.

B. The applicant or its representative must appear in person at the meeting at which the application will be considered, in order to provide any additional information which may be required by the commission.

C. Approval of the loan or loan guaranty must not result in encumbrance(s) on the property offered as security in excess of 75 percent of the aggregate appraised value of all property offered as security. Moreover, no loan or loan guaranty may be approved unless the security therefore is at a minimum a first mortgage on all property offered as security. The commission may reject any appraisal which it feels would result in a violation of this limitation.

D. The period for which the loan or loan guaranty is requested must not exceed five years, provided, however, that the market commission may, under conditions hereinafter set forth, extend the period of the loan for an additional period not to exceed a total of 20 years from the date of the original loan.

E. A market assessment and/or feasibility study conducted or secured by the applicant or the market commission staff must support the advisability of the loan or loan guaranty.

F. The loan or loan guaranty application must satisfy all legal requirements, as evidenced by the written approval of the department's attorney.

G. In the event of extreme urgency affecting the continuation of existing jobs or the loss of a business opportunity to create new jobs, the market commission may either in open session or by telephone poll suspend the full requirements of the loan or loan guaranty application information and require the immediate submission of information sufficient to demonstrate the urgency, the advisability of the loan or loan guaranty and the adequacy of the security to be provided for the loan. In this event, however, the applicant shall provide the full information within such time as the commission fixes in conjunction with the granting of the suspension. Such suspension may be granted only when the amount of the loan or loan guaranty does not exceed the sum of $100,000 and the loan or loan guaranty is fully secured by first mortgages on immovables and personal liability of sufficient solvent individuals. The granting of and justification for a suspension, as provided herein, shall be documented and made a matter of permanent public record.

H. In the event the land upon which a new agricultural plant will be constructed or an existing plant which will be expanded is already subject to a lien, mortgage or encumbrance which the applicant proposes to pay off with loan proceeds from the market commission or any other lender, such application can be approved only if the amount of the loan does not exceed 75 percent of the value of all security to be provided, the amount of the loan left after satisfying the encumbrances will finance the construction or improvements proposed and the applicant does not realize any cash from the loan except for operating capital, market development or product inventories. If the amount of the lien, mortgage or encumbrance to be satisfied out of the loan proceeds is disproportionate to the amount to be used for new construction, improvement or expansion, then the commission may reject the application on the grounds that it is a refinancing and is prohibited by the law creating the program. The commission considers disproportionate to be an amount in excess of 25 percent of the loan amount sought in the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:450.3 and R.S. 3:450.5.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 13:79 (February 1987).

§313. Disbursement of Market Commission Loan Proceeds and Commission Concurrence in Loan Guaranties

A. Prior to the setting of a date for the loan closing, the applicant must submit the following:

1. satisfactory proof that the agricultural plant, if new construction, improvement to or expansion of an existing plant has been completed in accordance with the plans submitted to the market commission for its consideration of the loan or loan guarantee application;

2. a copy of the note and the mortgages and/or other security instruments to be executed at the closing for examination and approval by the department's attorney;

3. a copy of a plat survey by a registered surveyor;

4. evidence of adequate title insurance;

5. carry and provide evidence of the following insurance coverage:

a. public liability insurance of $500,000, naming the market commission as additional insured. The applicant must also provide a certificate evidencing such insurance, which certificate must provide that the insurance cannot be canceled without 30 days prior notice to the market commission;

b. fire and extended coverage and vandalism insurance to the full extent of the amount loaned or guaranteed by the market commission, naming the commission as a loss payee, the total amount of the insurance to meet the 80 percent co-insurance requirements. The applicant must also provide a certificate evidencing such insurance, which certificate must provide that the insurance cannot be canceled without 30 days prior notice to the commission.

6. Satisfactory proof that all laborers and material men have been fully paid.

7. All legal instruments must be examined and approved by the department's attorney.

B. On or before the loan closing date, the applicant must:

1. provide a title opinion by a title attorney approved by the market commission, which title opinion shall provide evidence of clear title and shall include, but not be limited to, the following:

a. a property description;

b. identification of the property owner, with pertinent recordation data;

c. satisfactory evidence that all taxes due on the property have been paid;

d. a full and complete list of all mortgages, liens, encumbrances and/or servitudes on the property; and

e. such other information as may be necessary for a full recital of the facts surrounding such property;

2. provide a mortgage certificate from the clerk of court for the parish in which the property is located;

3. in the case of market commission loans paid directly to the borrower and/or the source of interim financing, the borrower must execute a note secured by a first mortgage payable to the commission setting forth in full the terms and conditions under which the loan will be repaid, and containing such additional endorsements or other security as may be required by the commission;

4. in the case of market commission loans paid directly to the borrower and/or the source of interim financing, the borrower must execute a first mortgage payable to the commission, which mortgage shall contain, but not necessarily be limited to, the following:

a. the amount loaned;

b. the rate of interest;

c. the repayment schedule;

d. description and listing of all property to be included in the security;

e. provision for executory process;

f. provision for payment of all costs of foreclosure, including attorney's fees at 25 percent of the principal balance and interest accrued at foreclosure; and

g. authorization for the addition to the principal balance the amount of any taxes and/or insurance premiums paid by the commission, upon failure of the mortgagee to pay such amounts when due, to protect the security position of the commission.

C. In the case of all market commission loans paid directly to the borrower, the individual borrower and/or all partners of a partnership may be required personally to endorse the note secured by the first mortgage or shall provide other security at the commission's discretion.

D. In the case of all market commission loans paid directly to the borrower, all members of the boards of directors, by whatever name known, of the corporation or cooperative association may be required personally to endorse the note secured by the first mortgage or shall provide other security at the commission's discretion.

E. In the case of a loan guaranty, the borrower must provide for the market commission to file and record a copy of the note and the mortgage payable to the lender and any other data deemed necessary by the commission or commission staff.

F. The market commission shall authorize the setting of a loan closing date and the disbursement of loan proceeds upon presentation of all information required in §313.A-E.

G. The commissioner of agriculture and forestry, or his designee, as official representative of the market commission, shall execute all necessary legal instruments at the loan closing.

H. The loan guarantee agreement shall be executed by the borrower, the lender and the commissioner of agriculture and forestry, or his designee, as the official representative of the market commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:450.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 13:80 (February 1987).

§315. Interest and Loan Guaranties

A. The market commission shall fix the rate of interest to be charged on every commission loan on a case by case basis, however, in no case shall the rate be less than the base federal reserve discount rate at the time the loan is approved.

B. The market commission may approve a fixed or variable rate of interest on commission loans. If a fixed rate is approved, the interest rate in effect at the time of loan approval shall govern the interest to be paid on the loan for the term of the loan. If a variable rate is approved, the interest rate shall not, at any time, be less than the base federal reserve discount rate.

C. The market commission may approve any fixed or variable interest rate on any loan guaranteed by the commission provided the interest rate is a fair market rate as determined by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:450.3 and R.S. 3:450.5.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 13:81 (February 1987).

§317. Requirements Subsequent to Disbursement of Loan Proceeds

A. Each year, on the anniversary of the disbursement of loan proceeds, each recipient of a loan or a loan guaranty shall provide the following:

1. a listing of all stockholders, with the number of shares held by each, at any time during the previous year;

2. a current statement of its operations, including an analysis of profits and losses;

3. a statement of financial condition, including but not limited to a balance sheet and profit and loss statement for the most recently completed fiscal year;

4. a current personal financial statement of all principals who have endorsed the note or are liable for repayment of the loan or any part thereof.

B. Each recipient of a loan guaranty shall authorize the lender holding the loan record to file quarterly statements with the market commission showing the principal balance remaining outstanding and any defaults in payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:450.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 13:81 (February 1987).

§319. Balloon Notes and Re-Scheduling of Payments

A. The market commission may approve a note providing for a final balloon payment, but shall not approve a final balloon payment in excess of 75 percent of the total amount of the original loan.

B. If the market commission votes in open session to approve rescheduling of a balloon payment, such re-scheduled payments shall be financed at an interest rate determined by the commission at the time of renewal in accordance with §315.A-C.

C. No payment schedule shall be extended to more than a total of 20 years from date of the final loan disbursement to date of the final payment under the loan.

D. Any request for a renewal of a balloon note shall be accompanied by:

1. a statement of current financial condition, including balance sheet and profit and loss statement for the most recent fiscal year of operation, prepared in accordance with generally accepted accounting principles;

2. names and addresses of all stockholders and the number of shares held by each;

3. detailed explanation of the reason for the requested renewal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:450.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 13:81 (February 1987).

§321. Cooperative Endeavor Agreements

A. The market commission may enter into cooperative endeavor agreements.

B. All cooperative endeavor agreements shall be written and shall be approved by the market commission.

C. Cooperative endeavor agreements shall not exceed a term of five years, but may be renewed for any additional term by the market commission.

D. Cooperative endeavors may be entered into with persons who have received or are negotiating for loans or loan guarantees from the market commission.

E. The market commission shall not enter into any cooperative endeavor unless it involves the creation of a significant number of new jobs in relation to the amount of participation by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:450.1 and R.S. 3:450.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 13:81 (February 1987).

§323. Delinquency and Foreclosure on Market Commission Loans

A. Any unpaid principal and/or interest shall be considered delinquent on the tenth day following the due date.

B. Routine written notification of delinquency shall be sent to the borrower on the thirtieth day following the due date.

C. In the absence of response to the 30-day notification, the market commission staff shall send a specific written notification concerning the delinquency on the sixtieth day following the due date, which notification shall be sent by certified mail, return receipt requested.

D. In the absence of response to the 60-day notification, the delinquency shall be reported to the market commission.

E. Subsequent to notification to the market commission, the staff, unless otherwise directed by the commission, shall forward a demand letter, again by certified mail with return receipt requested, informing the borrower that the remaining balance is accelerated, together with all interest accrued, and the full sum of the obligation is due and payable to the commission.

F. In the absence of satisfactory arrangements for repayment of the delinquency thereafter, the market commission shall initiate foreclosure proceedings no sooner than the ninetieth day following the due date of the unpaid principal and interest.

G. The market commission shall secure a judgment and foreclose on the collateral securing the loan and, if deemed in the best interest of the commission, secure deficiency judgments against all personal endorsers or other persons liable on the loan in whole or part.

H. The market commission staff shall select an appraiser to do any appraisal necessary for foreclosure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:450.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 13:81 (February 1987).

§325. Prohibitions

A. The market commission shall not approve any loan or loan guaranty for any applicant who fails to submit all required information.

B. The market commission shall not approve any loan or loan guaranty for any person which is not domiciled in Louisiana.

C. The market commission shall not approve any loan or loan guaranty in the amount exceeding 75 percent of the appraised value of all property offered as security for the loan or any loan or loan guaranty not secured by a first mortgage on the property offered as security.

D. The market commission shall not approve any loan or loan guaranty for any person with any pending or outstanding charge or liability relating to failure or inability to pay promissory notes or any other evidence of indebtedness.

E. The market commission shall not approve any loan or loan guaranty for any person, which has presently pending, at the federal, state or local level, any proceeding concerning the denial or revocation of a necessary license or permit.

F. The market commission shall not approve any loan or loan guaranty the proceeds of which are to be, or may be, used for the consolidation of existing, previous financial obligations.

G. The market commission shall not approve any loan or combination of loans to a single person, which is in excess of 50 percent of the total funds for loans or guaranties under this program.

H. The market commission shall not approve any loan or loan guaranty for any facility constructed or to be constructed on leased land except as follows:

1. the lease is for a term extending at least five years beyond the period of the loan;

2. the market commission receives an assignment on the lease and the right of reassignment;

3. if the loan repayment schedule includes a balloon note, the market commission, at its discretion, may require a lease running for 20 years from the date of the approval of the loan;

4. a waiver of landlord's lien and privilege on movables must be provided.

I. The market commission shall not make any loan or loan guaranty on immovable equipment, building improvements and/or additions unless the property on which it is located is secured by a first mortgage to the commission or other lender.

J. The terms or conditions imposed and made part of any loan or loan guaranty authorized by vote of the market commission shall not be amended or altered by any member of the commission or employee of the Department of Agriculture and Forestry except by subsequent vote of approval by the commission in open session with full explanation for such action.

K. The market commission shall not subordinate its interests if such subordination will result in any risk to its security position.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:450.2, R.S. 3:450.3 and R.S. 3:450.5.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 13:82 (February 1987).

Chapter 5. Market Commission—Meat Grading and Certification

§501. Establishment of Official State Grades for Meat and Meat Products

A. Standards established in *Official United States Standards for Grades of Carcass Beef*, U.S. Department of Agriculture, Food Safety and Quality Service (CFR, Title 7, Chapter XXVIII, Pt. 2853, Sec. 2853.102-2853.107) shall apply to all Louisiana grades of beef.

B. Standards established in *Official United States Standards for Grades of Carcass Pork*, USDA, FSQS (CFR, Title 7, Chapter XXVIII, Pt. 2853, Sec. 2853.132-2853.137) shall apply to all Louisiana grades of pork.

C. Standards established in *Official United States Standards for Grades of Lamb, Yearling Mutton, and Mutton Carcasses*, USDA, FSQS (CFR, Title 7, Chapter XXVIII, Pt. 2853, Sec. 2853.122-2853.127) shall apply to all Louisiana grades of mutton and lamb.

D. Standards established in *Official United States Standards for Grades of Veal and Calf Carcasses*, USDA, Agricultural Marketing Service (CFR, Title 7, Chapter I, Pt. 53, Sec. 53.107-53.111) shall apply to all Louisiana grades of veal and calf.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405 and R.S. 3:410.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 7:261 (May 1981).

§503. Certification of Meat and Meat Products

A. The examination, acceptance and certification of meat, prepared meat, meat food products, and edible meat by-products shall be in accordance with U.S. Department of Agriculture Meat Grading Requirements.

B. Packaging, packing, closure, sealing, and marking requirements for Louisiana grades of meat and meat products shall be the same as those established in *General Requirements for Institutional Meat Purchase Specifications*, U.S. Department of Agriculture, Consumer and Marketing Service, Livestock Division.

C. All meats, prepared meats, meat food products and edible meat by-products must originate from animals which were slaughtered or from product items which were manufactured or processed in establishments regularly operated under the supervision of the USDA, Meat and Poultry Inspection Program, or the Louisiana Department of Agriculture Meat and Poultry Inspection Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 7:261 (May 1981).

§505. Certification of State Grades of Specific Meats and Meat Products

A. All beef products shall be certified in accordance with the standards established in *Institutional Meat Purchase Specifications for Fresh Beef,* U.S. Department of Agriculture, Agricultural Marketing Service, Livestock Division.

B. All lamb and mutton products shall be certified in accordance with the standards established in *Institutional Meat Purchase Specifications for Fresh Lamb and Mutton,* USDA, AMS, Livestock Division.

C. All veal and calf products shall be certified in accordance with the standards established in *Institutional Meat Purchase Specifications for Fresh Veal and Calf,* USDA, AMS, Livestock Division.

D. All fresh pork products shall be certified in accordance with the standards established in *Institutional Meat Purchase Specifications for Fresh Pork,* USDA, AMS, Livestock Division.

E. All cured, cured and smoked, and fully-cooked pork products shall be certified in accordance with the standards established in *Institutional Meat Purchase Specifications for Cured, Cured and Smoked, and Full-Cooked Pork Products,* USDA, Food Safety and Quality Service, Meat Quality Division.

F. All cured, dried, and smoked beef products shall be certified in accordance with the standards established in *Institutional Meat Purchase Specifications for Cured, Dried, and Smoked Beef Products,* USDA, AMS, Livestock Division.

G. All edible meat by-products shall be certified in accordance with the standards established in *Institutional Meat Purchase Specifications for Edible By-Products, Series 700,* USDA, Consumer and Marketing Service, Livestock Division.

H. All sausage products shall be certified in accordance with the standards established in *Institutional Meat Purchase Specifications for Sausage Products,* USDA, Agricultural and Marketing Service, Livestock Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 7:261 (May 1981).

§507. Time Limitation for Issuance of Certificate

A. Products prepared for delivery under a purchase order shall not be offered to the Department of Agriculture and Forestry, Meat Grading and Certification Program, for examination, acceptance and certification more than 72 hours before shipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 7:262 (May 1981).

§509. Waiver of Specification Requirements

A. Waivers and amendments to specification requirements may be made only with concurrence of purchaser and contractor.

B. A written statement of the precise nature of the changes in the specifications must be provided to the Louisiana Department of Agriculture meat grader prior to grading, examination, acceptance and certification of the product.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 7:262 (May 1981).

§511. Final Delivery of Product

A. Final acceptance of the product will be the responsibility of the purchaser (consignee).

B. Products may be rejected for the following reasons:

1. no certification affixed;

2. obvious deviations from specification requirements, without appropriate written notice of changes in specification requirements.

C. Purchaser (consignee) may accept product with minor deviations from specification requirements without written statement of agreed upon changes, but shall do so at purchaser's risk.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 7:262 (May 1981).

§513. Contractor's Obligation

A. Contractors furnishing products under these regulations must furnish such assistance as may be necessary to expedite the grading, examination, and acceptance of products.

B. Contractors desiring grading/certification services must notify the Department of Agriculture and Forestry at least 24 hours in advance of need. Contractors who fail to give at least 24 hours notice in advance of need will be subject to a penalty of $50, regardless of the time required for the service or the fee assessed on a poundage basis.

C. The costs of all grading, examination, acceptance, and certification of meat and meat products, poultry and poultry products, and seafood shall be paid by the contractor at the

rate of $0.04 per pound of meat or meat products, poultry and poultry products and seafood graded, examined, or certified, which amount shall be due and payable to the Department of Agriculture and Forestry upon presentation of statement(s) for services rendered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405 and R.S. 3:412.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 7:262 (May 1981), amended by the Department of Agriculture and Forestry, State Market Commission, LR 31:1227 (June 2005).

Chapter 7. Market Commission—Agricultural Production Linked Deposit Loan Program

Subchapter A. Authorization and Administration of Agricultural Products Processing Linked Deposit Loan Program

§701. Definitions

Agricultural Plant—any facility which receives raw agricultural products for the purpose of rendering them suitable for wholesale or retail marketing.

Agricultural Product—any farm product or seafood product.

Aquacultural Crop—catfish, crawfish, crabs, oysters, shrimp, prawns, alligators, turtles and other species of fish.

Commissioner—the Commissioner of the Louisiana Department of Agriculture and Forestry.

Eligible Agricultural Products Processing Business—any person, partnership, corporation, or cooperative which owns, leases or operates or seeks to own, lease or operate and possesses all of the following characteristics:

1. is headquartered in this state;

2. maintains offices and operating facilities in this state and transacts business in this state;

3. employs fewer than 150 full-time employees, 80 percent of whom are residents of this state;

4. is organized for profit;

5. is engaged in the processing or marketing of any agricultural, agronomic, horticultural, silvicultural, or aquacultural crop, or raw product derived therefrom, or any final derivative resulting from a combination or breakdown of raw farm materials.

Eligible Lending Institution—any bank located in this state and organized under the laws of this state which is authorized to make commercial or agricultural loans and which agrees to participate in the linked deposit program as defined herein.

Farm Product—any agronomic, horticultural, silvicultural or aquacultural crop; any commercially raised livestock or raw product and derived therefrom, or any final derivative resulting from a combination or breakdown of raw farm products.

Final Derivative—any agricultural product that is ready to be passed on to a marketing level.

Linked Deposit—a certificate of deposit placed by the treasurer (as defined herein) with an eligible lending institution at 3 percent below existing investment rates, as determined and calculated by the treasurer, provided the institution agrees to lend the value of such deposit, according to the deposit agreement required by this Chapter, to eligible agricultural products processing businesses at 3 percent below the existing borrowing rate applicable to each specific business at the time of the deposit of state funds in the lending institution.

Necessary Improvement—any improvement to an existing agricultural plant mandated by local, state or federal law, or an improvement thereto which will form an economically justifiable basis and, in the judgment of the commissioner of agriculture and forestry, improve the quality or quantity of service, or both.

Person—any individual, firm, corporation, partnership or association domiciled in this state.

Process or *Processing*—any action that will enhance any raw agricultural product's value or render a raw agricultural product suitable for further refinement or introduction at a marketing level.

Substantial Stockholder—any person (as defined herein) who owns more than 20 percent of a business applying for a loan or currently participating in the Linked Deposit Loan Program outlined in this Chapter.

Treasurer—the treasurer of the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:446.3 and R.S. 49:327.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 19:1304 (October 1993).

§703. Eligibility of Applicant

A. Any person engaged or to be engaged in the processing of agricultural products shall be eligible for a low-interest agricultural loan, under the Louisiana Agricultural Products Processing Linked Deposit Program. However, the applicant must also meet all the required characteristics as outlined under *eligible agricultural products processing business*, in §701 herein.

B. The commissioner and treasurer shall give priority to those persons who utilize Louisiana agricultural products to the maximum extent possible.

C. The lending institution shall give priority to the:

1. economic needs of the area of the state in which the business is located;

2. the number of jobs created or preserved in the state;

3. the financial need of the agricultural products processing business relative thereto;

4. the order in which the linked deposit loan packages were received and whenever possible give priority based on this chronological order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:446.3 and R.S. 49:327.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 19:1305 (October 1993).

§705. Linked Deposit Loan Program Authorization; Lending Institution Requirements; Applicants Requirements and Conditions for Approval

A. The treasurer may invest in linked deposits, as provided and defined by R.S. 49:327.2, and, also defined herein, provided that at the time of placement of any linked deposit the total amount of such investments at any one time shall not exceed, in the aggregate, $10,000,000. When deciding whether to invest in linked deposits, the treasurer shall give priority to the investment, liquidity, and cash flow needs of the state and a determination of the financial soundness of the eligible lending institution.

B. An eligible lending institution that desires to receive a linked deposit shall accept and review applications for loans from eligible agricultural products processing businesses. The eligible lending institution shall apply all usual lending standards to determine the credit worthiness of each eligible agricultural products processing business. The eligible lending institution shall not charge, levy or collect any loan application fee, processing fee, or other charges other than its normal loan application fee, processing fee, or other charges when handling a linked deposit application.

C.1. Only one loan through the linked deposit program shall be made and shall be outstanding at any one time to any eligible agricultural products processing business.

2. The maximum amount available to any eligible agricultural products processing business, under this program, at any one time shall be $200,000.

3. No loan shall be made to any officer or director of the lending institution making the loan.

D. An eligible agricultural products processing business shall certify on its loan application that the reduced rate loan will be used exclusively to create new jobs or preserve existing jobs and employment opportunities in the state. Whoever knowingly files a false statement concerning such application shall be guilty of the offense of filing false public records and shall be subject to penalty provided for in R.S. 14:133.

E. In considering which eligible agricultural products processing business to include in the linked deposit loan package for reduced rate loans, the eligible lending institution shall give priority to the economic needs of the area of the state in which the business is located, the number of jobs to be created or preserved in the state by the receipt of such loans, and such other factors as the eligible lending institution considers appropriate to determine the relative financial need of the eligible agricultural products processing business.

F. The eligible lending institution shall forward to the commissioner and the treasurer for review a linked deposit loan package. The package shall include such information as required by the commissioner including the amount of the loan requester, the number of jobs to be created or sustained in the state by each eligible agricultural products processing business, the ratio of state funds to be deposited to jobs sustained or created, and any reports, statements, or plans applicable to the business, the overall financial need of the business, and such other factors as the commissioner considers appropriate. The eligible financial institution shall certify that each applicant is an eligible agricultural products processing business as defined herein and shall, for each eligible agricultural products processing business, certify the present borrowing rate applicable to each specific eligible agricultural products processing business. Within 45 days after receipt, the commissioner shall provide written recommendations to the treasurer on each linked deposit loan package received from eligible financial institutions.

G. The treasurer may accept or reject a linked deposit loan package or any portion thereof, based on the treasurer's review of the recommendations of the commissioner, the availability and amount of state funds to be deposited, and a determination of the financial soundness of the financial institution in which the deposit is to be made. The treasurer shall notify the commissioner and the eligible lending institution of acceptance or rejection of a linked deposit loan package within 15 days of receipt of the recommendations of the commissioner.

H. Upon acceptance of the linked deposit loan package or any portion thereof, the treasurer may place certificates of deposit with the eligible lending institution at 3 percent below the current investment rates, as determined and calculated by the treasurer. When necessary, the treasurer may place certificates of deposit prior to acceptance of a linked deposit loan package.

I. The eligible lending institution shall enter into a deposit agreement with the treasurer, which shall include the requirements necessary to carry out the purposes of this Chapter. The requirements shall reflect the market conditions prevailing in the eligible lending institution's lending area. The agreement may specify the period of time in which the lending institution is to loan funds upon the placement of a linked deposit, and shall include provisions for the certificates of deposit to mature within a period not to exceed one year. The treasurer may renew a certificate of deposit in one-year increments but in no event shall the total period of time that a certificate of deposit is placed with any lending institution exceed three consecutive years. Interest shall be paid at the times determined by the treasurer. However, upon placement of a linked deposit, the treasurer will give priority to renewal of existing linked deposits prior to placement of new linked deposits. Prior to renewal of linked deposits, the treasurer shall continue to give priority

to the investment, liquidity cash flow needs of the state and a determination of the financial soundness of the eligible lending institution.

J. The period of time for which each certificate of deposit is placed with an eligible lending institution shall be neither longer nor shorter than the period of time for which the linked deposit shall be used to provide loans at reduced interest rates. The agreement shall further provide that the state shall receive investment interest rates on any certificate of deposit or any portion thereof for any period of time for which there shall be no corresponding linked deposit loan outstanding to an eligible agricultural products processing business.

K. Upon placement of a linked deposit with an eligible lending institution, the institution shall lend such funds to each approved eligible agricultural products processing business listed in the linked deposit loan package. Each loan shall be at a fixed rate of interest for a period of one year which shall be 3 percent below the current borrowing rate applicable to each eligible agricultural products processing business. All records and documents pertaining to the linked deposit program shall be segregated by each lending institution for ease of identification and examination. A certification of compliance with this Section in the form and manner prescribed by the treasurer shall be completed by the leading institution and filed with the treasurer and the commissioner.

L.1. If it is discovered that there is a linked deposit made for any purpose not authorized, the certificate may be matured and/or rewritten, if appropriate, without penalty to the state treasurer.

2. If the eligible lending institution fails to pledge securities to the treasurer as required under R.S. 49:321 or if such securities shall be unsatisfactory to secure the deposit, in his sole discretion, the treasurer may declare the deposit and interest earned thereon, or any part thereof, to become immediately due and payable, notwithstanding any agreement or contract to the contrary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:327.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 19:1305 (October 1993).

§707. Prohibitions

A. No linked deposit loan shall be approved if the agricultural products processing business' headquarters is not located in Louisiana.

B. No linked deposit loan shall be approved if the agricultural products processing business' principal officers and operating facilities are not in Louisiana.

C. No linked deposit loan shall be approved if the agricultural products processing business employs over 150 full-time employees.

D. No linked deposit loan shall be approved if the agricultural products processing business employs less than 80 percent Louisiana residents.

E. No linked deposit loan shall be approved if the agricultural products processing business is not operated for profit.

F. No linked deposit shall be approved if the agricultural products processing business does not process agricultural products as defined in these rules.

G. No linked deposit loan shall be approved if the agricultural products processing business does not either create new jobs or contribute to preserving existing jobs.

H. No linked deposit loan shall be approved if the agricultural products processing business benefits directly any officer or director of the lending institution making the loan.

I. No linked deposit loan shall be approved if it involves loan fees by the lending institution other than would be normally charged on this type of application.

J. No linked deposit shall be approved if it requires liability, other than the 3 percent interest, by the state, the commissioner or the treasurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:327.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 19:1306 (October 1993).

Subchapter B. Authorization and Administration of Agricultural Production Linked Deposit Loan Program

§711. Definitions

Agricultural Production Loan—any loan made by a lending institution to a farmer under the linked deposit program. An agricultural production loan may only be made and used for one or more of the following purposes:

1. if necessary for the continuance of the operation of the farm through the crop or production year, repair of agricultural equipment or machinery, or purchase of used replacement equipment or machinery;

2. operating capital including, but not limited to, capital necessary for the rental of equipment or machinery and the purchase of seed, feed, fertilizer, chemical, crop insurance, livestock, and production-related energy, labor, or veterinarian fees;

3. refinancing all or a portion of a loan entered into before the effective date of this Section for a purpose set forth in Paragraphs 1 or 2.

Commissioner—the Commissioner of the Louisiana Department of Agriculture and Forestry.

Farmer—any person who:

1. is an owner and operator of a farm engaged in the production of agricultural goods, and if incorporated, has all of the stock owned by persons operating the farm for which the loan is sought;

2. is headquartered in this state;

3. conducts agricultural operations exclusively in this state;

4. employs less than ten employees;

5. is a resident of this state, or if a corporation or multi-member entity, the majority of the stockholders or members are residents of this state;

6. is organized for profit;

7. has gross income from the agricultural operation which is at least 50 percent of his total income;

8. has a positive net worth.

Lending Institution—any state bank organized under the laws of this state and any national bank having its principal office in this state which is authorized to make agricultural production loans and agrees to participate in the linked deposit program.

Linked Deposit—a certificate of deposit placed by the state treasurer with a lending institution at 3 percent below existing market rates, as determined and calculated by the state treasurer, provided the institution agrees to lend the value of such deposit, according to the deposit agreement required by this Section, to farmers at 3 percent below the existing borrowing rate applicable to each specific farmer at the time of the deposit of state funds in the lending institution.

Treasurer—the treasurer of the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:446.3 and R.S. 49:327.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 19:1306 (October 1993).

§713. Eligibility of Applicant

A. Any person engaged or to be engaged in the agricultural production of products shall be eligible for a low-interest agricultural loan, under the Louisiana Agricultural Production Linked Deposit Program. However, the applicant must also meet all the required characteristics as outlined under *farmer* in §711.

B. The commissioner and treasurer shall consider agricultural conditions prevailing in the lending institution's lending area, in the order in which the linked deposit loan packages were received and whenever possible give priority based on this chronological order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:446.3 and R.S. 49:327.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 19:1307 (October 1993).

§715. Linked Deposit Loan Program Authorization; Lending Institution Requirements; Applicants Requirements and Conditions for Approval

A. The treasurer may invest in linked deposits, as provided and defined by R.S. 49:327.1, and, also defined herein, provided that at the time of placement of any linked deposit the total amount of such investments at any one time shall not exceed, in the aggregate, $10,000,000. When deciding whether to invest in linked deposits, the treasurer shall give priority to the investment, liquidity, and cash flow needs of the state and a determination of the financial soundness of the eligible lending institution.

B. An eligible lending institution that desires to receive a linked deposit shall accept and review applications for loans from eligible farmers. The eligible lending institution shall apply all usual lending standards to determine the credit worthiness of each eligible farmer. The eligible lending institution shall not charge, levy or collect any loan application fee, processing fee, or other charges other than its normal loan application fee, processing fee, or other charges when handling a linked deposit application.

C.1. Only one loan through the linked deposit program shall be made and shall be outstanding at any one time to any eligible farmer.

2. The maximum amount available to any eligible farmer, under this program, at any one time shall be $100,000.

3. No loan shall be made to any officer or director of the lending institution making the loan.

D. An eligible farmer shall certify on his loan application that the reduced rate loan will be used exclusively in accordance with §711. Whoever knowingly files a false statement concerning such application shall be guilty of the offense of filing false public records and shall be subject to penalty provided for in R.S. 14:133.

E. In considering which farmer to include in the linked deposit loan package for reduced rate loans, the eligible lending institution shall give priority to the economic needs of the area of the state in which the business is located, the prevailing agricultural conditions, and such other factors as the eligible lending institution considers appropriate to determine the relative financial need of the eligible farmer.

F. The eligible lending institution shall forward to the commissioner and the treasurer for review a linked deposit loan package. The package shall include such information as required by the commissioner including the amount of the loan requested, and any reports, statements, or plans applicable to the business, the overall financial need of the business, and such other factors as the commissioner considers appropriate. The eligible financial institution shall certify that each applicant is an eligible farmer as defined herein and shall, for each eligible farmer, certify the present borrowing rate applicable to each specific eligible farmer. Within 45 days after receipt, the commissioner shall provide written recommendations to the treasurer on each linked deposit loan package received from eligible financial institutions.

G. The treasurer may accept or reject a linked deposit loan package or any portion thereof, based on the treasurer's review of the recommendations of the commissioner, the availability and amount of state funds to be deposited, and a determination of the financial soundness of the financial institution in which the deposit is to be made. The treasurer shall notify the commissioner and the eligible lending institution of acceptance or rejection of a linked deposit loan package within 15 days of receipt of the recommendations of the commissioner.

H. Upon acceptance of the linked deposit loan package or any portion thereof, the treasurer may place certificates of deposit with the eligible lending institution at 3 percent below the current investment rates, as determined and calculated by the treasurer. When necessary, the treasurer may place certificates of deposit prior to acceptance of a linked deposit loan package.

I. The eligible lending institution shall enter into a deposit agreement with the treasurer, which shall include the requirements necessary to carry out the purposes of this Chapter. The requirements shall reflect the market conditions prevailing in the eligible lending institution's lending area. The agreement may specify the period of time in which the lending institution is to loan funds upon the placement of a linked deposit, and shall include provisions for the certificates of deposit to mature within a period not to exceed one year. The treasurer may renew a certificate of deposit in one-year increments. Interest shall be paid at the times determined by the treasurer. However, upon placement of a linked deposit, the treasurer will give priority for a period of two more years to renewal of existing linked deposits prior to placement of new linked deposits. Prior to renewal of linked deposits, the treasurer shall continue to give priority to the investment, liquidity cash flow needs of the state and a determination of the financial soundness of the eligible lending institution.

J. The period of time for which each certificate of deposit is placed with an eligible lending institution shall be neither longer nor shorter than the period of time for which the linked deposit shall be used to provide loans at reduced interest rates. The agreement shall further provide that the state shall receive investment interest rates on any certificate of deposit or any portion thereof for any period of time for which there shall be no corresponding linked deposit loan outstanding to an eligible agricultural products processing business.

K. Upon placement of a linked deposit with an eligible lending institution, the institution shall lend such funds to each approved eligible farmer listed in the linked deposit loan package. Each loan shall be at a fixed rate of interest for a period of one year which shall be 3 percent below the current borrowing rate applicable to each eligible farmer. All records and documents pertaining to the linked deposit program shall be segregated by each lending institution for ease of identification and examination. A certification of compliance with this Section in the form and manner prescribed by the treasurer shall be completed by the leading institution and filed with the treasurer and the commissioner.

L.1. If it is discovered that there is a linked deposit made for any purpose not authorized, the certificate may be matured and/or rewritten, if appropriate, without penalty to the state treasurer.

2. If the eligible lending institution fails to pledge securities to the treasurer as required under R.S. 49:321 or if such securities shall be unsatisfactory to secure the deposit, in his sole discretion, the treasurer may declare the deposit and interest earned thereon, or any part thereof, to become immediately due and payable, notwithstanding any agreement or contract to the contrary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:327.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 19:1307 (October 1993).

§717. Prohibitions

A. No linked deposit loan shall be approved if the farmer's headquarters are not located in Louisiana.

B. No linked deposit loan shall be approved if the farmer's principal officers and operating facilities are not in Louisiana.

C. No linked deposit loan shall be approved if the farmer employs over 10 full-time employees.

D. No linked deposit loan shall be approved if the farmer employs less than 80 percent Louisiana residents.

E. No linked deposit loan shall be approved if the agricultural products processing business is not operated for profit.

F. No linked deposit shall be approved if gross income from the agricultural operation is less than 50 percent of the farmer's income.

G. No linked deposit loan shall be approved if the farmer has a negative net worth.

H. No linked deposit loan shall be approved if the agricultural products processing business benefits directly any officer or director of the lending institution making the loan.

I. No linked deposit loan shall be approved if it involves loan fees by the lending institution other than would be normally charged on this type of application.

J. No linked deposit shall be approved if it requires liability, other than the 3 percent interest, by the state, the commissioner or the treasurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:327.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 19:1308 (October 1993).

Chapter 9. Market Commission—Poultry and Eggs

Subchapter A. Certification of Official State Grades of Poultry, Poultry Products and Shell Eggs

§901. Establishment of Official State Grades of Poultry, Poultry Products, and Shell Eggs

A. Standards established in Regulations Governing the Voluntary Grading of Poultry Products and Rabbit Products and U.S. Classes, Standards, and Grades with Respect Thereto (7 CFR Part 2870) shall apply to all Louisiana state grades for poultry and poultry products.

B. Standards established in Regulations Governing the Grading of Shell Eggs and U.S. Standards, Grades, and Weight Classes for Shell Eggs (7 CFR Part 2856) shall apply to all Louisiana grades for shell eggs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405 and R.S. 3:410.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 8:271 (June 1982).

§903. Certification of Poultry, Poultry Products, and Shell Eggs

A. The examination, acceptance and certification of poultry, poultry products, and shell eggs shall be in accordance with U.S. Department of Agriculture, A.M.S. (Agricultural Marketing Service), Poultry Grading Branch poultry and egg grading and inspection requirements.

B. Each master or shipping container of poultry and egg products shall be legibly labeled to show the net weight, U.S. grade (if applicable), inspection mark, plant name and address, kind, class, and weight range.

C. A Louisiana certificate of condition and origin must be issued no more than seven days prior to delivery and must accompany each delivery of product to a state agency or political subdivision of the state. The certificate of condition examination and origin must contain:

1. the origin of the product, except as provided in §903.D;

2. the purchase order number of the purchasing agency;

3. verification of:

a. condition of the product, i.e., no change in the product since initial inspection; and

b. compliance with the specifications of the purchase order.

D. The purchase order of the purchasing agency must indicate whether or not a vendor has claimed a preference based on provision of Louisiana agricultural products. When the purchase order of the purchasing agency does not indicate that the vendor has claimed a Louisiana agricultural products preference, no certification as to origin of the product will be made.

E. Each master or shipping container of poultry, poultry products, and shell eggs meeting the specifications of the purchase order shall be stripped on the outside of the container with non-glossy filament tape or equivalent. All tape used for sealing purposes must be approved by the Department of Agriculture and Forestry. The tape shall be placed so that it must be torn to open the container.

F. Each master or shipping container must be stamped with the U.S.D.A. contract compliance stamp and certificate number or U.S.D.A. Sample Grade stamp and date or bear the U.S.D.A. shield. The stamp imprint must be legible and placed partially on the container and partially on the tape on the end of the container.

G. All containers of Louisiana agricultural products must be stamped with a Louisiana agricultural products stamp.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 8:271 (June 1982), amended by the Department of Agriculture and Forestry, Market Commission, LR 19:1120 (September 1993).

§905. Time Limitation for Issuance of Certificate

A. A state of Louisiana condition examination and origin certificate must be issued not more than seven days prior to the scheduled delivery of the product to the purchasing agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 8:272 (June 1982), amended by the Department of Agriculture and Forestry, Market Commission, LR 19:1121 (September 1993).

§907. Waiver of Specification Requirements

A. The purchasing agency may waive the requirements for sealing of the container when the contents are ice-packed rather than frozen, but may do so only at purchasing agency's risk. When the purchasing agency waives the requirement for sealing of the container, a written statement of waiver must be provided to the Department of Agriculture and Forestry.

B. Waivers and amendments to specification requirements may be made only with concurrence of the purchasing agency and the vendor.

C. A written statement of the precise nature of the changes in the specifications must be provided to the Department of Agriculture and Forestry representative prior to any examination of the product.

D. Failure to include information concerning the Louisiana agricultural products preference of the vendor on the purchase order shall constitute a waiver of the vendor's right for a certificate of origin.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 8:272 (June 1982).

§909. Final Delivery of Product

A. Final acceptance of the product will be the responsibility of the purchasing agency.

B. Products may be rejected for the following reasons:

1. no certificate affixed;

2. sealing tape on container broken;

3. no official stamp affixed;

4. obvious deviations from specification requirements without appropriate written notice of changes in specification requirements.

C. Purchasing agency may accept product with minor deviations from specification requirements without written statement of agreed-upon changes, but shall do so at purchasing agency's risk.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 8:272 (June 1982).

§911. Contractor's Obligations

A. Vendors requesting certification services under these regulations must provide such assistance as may be necessary to expedite the examination and certification of products and the taping of containers, including the provision of the necessary tape.

B. Vendors desiring certification services must notify the Department of Agriculture and Forestry at least 24 hours in advance of need. Vendors who fail to give at least 24 hours advance notice of need shall be subject to a penalty of $50, regardless of the time required for the services or the fees assessed.

C. The cost of all examination and certification services shall be paid by the vendor at the current U.S.D.A. rate for each hour required to conduct the examination, provided that no specific charge shall be made for certification of product when inspection is simultaneously performed. The cost of all examination and certification services on all eggs and poultry that does not require a federal grade certificate to b e written by a Louisiana Department of Agriculture and Forestry employee shall be charged at a rate of $0.025 per pound for each hour required to conduct the examination, provided that no specific charge shall be made for certification of product when inspection is simultaneously performed.

D. Vendor must reimburse the Department of Agriculture and Forestry for travel expenses of the inspector providing services, at the rate specified in state travel regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:412 and R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 8:272 (June 1982), amended LR 9:411 (June 1983), LR 16:393 (May 1990), amended by the Department of Agriculture and Forestry, Market Commission, LR 19:1121 (September 1993), LR 25:236 (February 1999).

Subchapter B. Egg Grading and Marketing

§915. Definitions

A. For the purpose of these regulations the following words, terms and phrases shall be construed to mean:

Ambient Temperature—the atmospheric temperature surrounding or encircling shell eggs.

Boiled Eggs—eggs that are hard or soft boiled, that are pickled, frozen, or by any other means preserved and sold commercially.

Broker—a person who never assumes ownership or possession of eggs, nor changes the grade or pack of eggs, but is engaged in the business of acting as agent, for a fee or commission, in the sale or transfer of eggs between producers, or dealer-wholesalers as sellers and dealer-wholesalers, processors, or retailers as buyers.

Candling—the practice of examining the interior of an egg by use of transmitted light for determining whether it is inedible, and for determining quality in grading edible eggs.

Case—30 dozen per case of shell eggs.

Commissioner—the Commissioner of Agriculture and Forestry of the State of Louisiana.

Consumer—any person using eggs for food, and shall include restaurants, hotels, cafeterias, hospitals, state institutions, schools, other places not specifically named such as bakeries, day care centers, nursing homes, etc. or any other establishment serving food to be consumed or produced on the premises, but shall not include the Armed Forces or any other federal agency or institution.

Dealer-Wholesaler—any person engaged in the business of buying eggs from producers or other persons on his own account and selling or transferring eggs to other dealer-wholesalers, processors, retailers, or other persons and consumers. A *dealer-wholesaler* further means a person engaged in producing eggs from his own flock and disposing of any portion of the production on a graded basis.

Denatured—rendering unfit for human consumption by treatment or the addition of a foreign substance such as lamp black, methylene dye, powdered charcoal or kerosene, in addition to crushing of the egg shells.

Department—the Louisiana Department of Agriculture and Forestry.

Egg Producer—any person, farm, corporation, or other entity that produces eggs.

Egg Products—any other products made from whole eggs, egg whites, egg yolks or any combination thereof that is not included in the above definitions.

Egg Products Inspection Act—Public Law 91-597, Egg Products Inspection Act, dated 12/29/70.

Eggs—the product of the domesticated chicken offered for sale for human consumption.

Federal Standards—the quality and weight requirements for grades as defined in the United States Standards for Shell Eggs that are now or may hereafter be established by the United States Department of Agriculture.

Frozen Egg Products—frozen whole eggs, frozen whites, or frozen yolks or any combination thereof to which have been added salt, sugar, or other food or noninjurious food additive.

Frozen Eggs, Frozen Egg Yolks, or Frozen Mixed Eggs—the food prepared by freezing liquid eggs.

Inedible and Unfit for Human Consumption—for eggs, this shall mean eggs described as black rots, white rots, mixed rots (addled eggs), sour eggs, eggs with green whites, eggs with stuck yolks, moldy eggs, musty eggs, eggs showing blood rings, eggs containing embryo chicks (at or beyond the blood ring stage), leakers, and any eggs that are adulterated as such term is defined pursuant to the Food, Drug and Cosmetic Act.

Offered for Sale—eggs that are housed within any wholesale or retail place of business, or on or alongside of any loading or unloading platform in the state of Louisiana, or within a truck or other carrier that has come to rest within the state of Louisiana.

Packer—any person who grades, sizes, candles, and packs eggs for the purpose of resale.

Person—any individual, partnership, association, business trust, corporation or any organized group of persons, whether incorporated or not.

Possession—the fact of possession by any person engaged in the sale of a commodity is prima facie evidence that such commodity is for sale.

Processor—a person who operates a plant for the purpose of breaking or boiling eggs for freezing, drying, or commercial food manufacturing.

Producer—any person engaged in the business of producing eggs in Louisiana, either as an owner or as an officer or stockholder of a business engaged in producing eggs in Louisiana, or any person deriving a profit from such business or a person who further processes boiled, frozen or other egg products derived from fresh shell eggs.

Retailer—any person who sells eggs to a consumer.

Sell—to "offer for sale," "expose for sale," "have in possession for sale," "exchange," "barter," or "trade."

Standard—the quality specifications for a single egg, and a group of standards is combined to make a grade.

U.S.D.A.—the United States Department of Agriculture.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.
HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, May 1969, amended by the Department of Agriculture and Forestry, Market Commission, LR 19:1121 (September 1993), LR 23:293 (March 1997).

§917. Temperature Requirements

A. The temperature of shell eggs shall be held at an ambient temperature of 45° F or below at all times when being transported, stored, or displayed for sale except for brief periods of loading or unloading.

1. No shell egg handler shall possess any shell eggs that are packed into containers for the purpose of resale to the consumer unless they are labeled with the following statement: "keep refrigerated at or below 45° F."

2. Every person, firm, or corporation selling shell eggs for the purpose of resale to the consumer must store and transport shell eggs under refrigeration at an ambient temperature no greater than 45° F, and all containers of eggs must be labeled "Keep refrigerated at or below 45° F." The requirements of this Section include, but are not limited to, retailers, institutional users, restaurants, nursing homes, dealer-wholesalers, food handlers, transportation firms, or any person who delivers to the retail or consuming trade. Eggs found which do not meet refrigeration requirements, either in transit, storage, or display, can be seized and destroyed by Department of Agriculture and Forestry inspectors.

B. Packers shall not be responsible for the interior quality of eggs if all recommended handling procedures in this Section are not followed by all parties following point of sale by packer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 19:1122 (September 1993), amended LR 23:293 (March 1997).

§919. Sale or Offering for Sale of Eggs within Louisiana

A. No person, firm, or corporation shall sell, traffic in, or deliver to the retail or consuming trade, any eggs unfit for human consumption or any eggs that do not meet Grade B requirements. A store may repackage eggs located in the store as long as the following requirements are met.

1. All boxes have the necessary labeling requirements which will include:

a. grade and size (repackaged eggs must be labeled as Grade B);

b. date when repackaged;

c. statement saying that the eggs have been repackaged by the store where the eggs are located;

d. contains the phrase "Keep refrigerated at or below 45° F."

2. Eggs must meet B Grade requirements.

3. Eggs cannot be repackaged more than once.

4. Eggs older than 10 days from the date of repackage cannot be sold and must be destroyed on premises.

5. Any store found postdating repackaged eggs will lose the right to repackage eggs.

6. Stores may lose the right to repackage eggs if the repackaged eggs do not meet Grade B standards.

B. All shell eggs and egg products offered for sale in Louisiana are subject to inspection by personnel of the Louisiana Department of Agriculture and Forestry before being placed in retail outlets. If a particular lot of eggs does not meet the Louisiana grade standards the said lot may be seized or be retained for shipment back to the producer. All packer/producers and retailers must maintain records showing the disposition of all eggs retained and returned to the packer/producer.

C. This Chapter shall be applicable to all retailers of eggs, except that retailers shall be permitted to sell eggs, identified as unclassified, when such eggs are purchased directly from producers who own less than 500 hens; however, eggs sold as unclassified must meet Grade B standards.

D. Invoices

1. Every person, firm, or corporation selling eggs or egg products to a retailer or manufacturer shall furnish an invoice showing the size, quality, and date of transaction of such eggs according to the standards prescribed by this Section together with the name and address of the person by whom the eggs were sold. This invoice shall be retained for two years.

2. Retailers shall be required to produce an invoice showing origin of eggs. These invoices must be kept for a period of two years. These invoices shall also show the name and address of the vendor, producer, packer, dealer-wholesaler or broker.

E. Containers

1. All containers shall show the name and address of the producer.

2. Any and all shell eggs offered for sale at retail shall be prepackaged, and shall be plainly marked as to grade and size with letters not less than 3/8 inch in height.

3. Containers must contain the phrase "Keep refrigerated at or below 45° F."

F. Licenses

1. Every person, firm, or corporation engaged in selling shell eggs, frozen eggs, liquid eggs, or any egg product to a retailer or manufacturer shall secure a license. The license shall be issued by the commissioner, after application made to and approval granted by the Louisiana Egg Commission.

2. All packers/producers/processors are subject to yearly plant inspections by the department. Travel expenses incurred in conducting such inspections shall be reimbursed to the Department of Agriculture and Forestry by the licensee.

3. Application forms for license shall be furnished by the Department of Agriculture and Forestry. Each license application shall be accompanied by a fee of $10 payable to the Louisiana Egg Commission. Upon approval of the application, a license will be issued to the applicant. A license will be valid for a period of one year-September 1 through August 31.

4. Any packer/producer/processor/dealer-wholesaler/broker that does not apply for a license, after being informed that such business requires a license or having received the necessary applications from the department, shall have all eggs sold by such business put off-sale until such time as the business obtains a license.

G. Inspection Requirements for Packing Plants and Egg Products/Boiling Plants

1. Packing plants and egg products/boiling plants shall meet minimum requirements of state health regulations, USDA regulations, and Food and Drug Administration regulations and practice good sanitation practices. If minimum sanitation requirements for food handling are not met, the department has the right to stop operation until such time as the plant is in compliance.

2. All eggs used in boiling operations must meet Grade B requirements. Boiling operations will provide the Department of Agriculture and Forestry with a schedule stating the hours of operation. Boiling operations will be checked for sanitation and egg quality on a regular basis. Eggs boiled which do not meet minimum Grade B requirements will be destroyed by the licensee upon request of and in the presence of department personnel.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.
HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, May 1969, promulgated by the Department of Agriculture and Forestry, Market Commission, LR 19:1122 (September 1993), amended LR 23:293 (March 1997).

§921. Louisiana Standards, Grades and Weight Classes for Shell Eggs

A. Louisiana standards, grades and weight classes for shell eggs shall be as defined in the United States Standards that are now or may hereafter be established by the United States Department of Agriculture.

B. Louisiana Consumer Grades. The official Louisiana consumer grades for shell eggs are as follows.

Grade AA
Grade A
Grade B

C. Louisiana Weight Classes

Jumbo	Medium
Extra Large	Small
Large	Peewee

D. These grades are applicable to edible shell eggs in lot quantities rather than on an individual egg basis. A lot may contain any quantity of two or more eggs.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405 and R.S. 4:10.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, May 1969, amended by the Department of Agriculture and Forestry, Market Commission, LR 19:1122 (September 1993).

§923. Inspections; Fees; Failure to Meet Standards

A. All eggs and egg products offered for sale in Louisiana are subject to inspection by personnel of the Louisiana Department of Agriculture and Forestry.

B. There shall be a $0.02 per case assessment for all shell eggs graded or processed in the state of Louisiana. In addition, any plant outside of the state of Louisiana shipping eggs into Louisiana, for wholesale or retail, shall be charged the same assessment. This assessment shall be dedicated to the Louisiana Egg Commission.

C. An additional $0.16 per case inspection fee for all graded or processed shell eggs or egg products sold in the state of Louisiana, if the sale is to the consumer or if the purchase by the buyer is for the purpose of resale at the consumer level, or if by the dealer/wholesaler for the purpose of resale.

D. Producers/brokers selling nest run eggs in Louisiana will not be responsible for the $0.02 assessment nor the $0.16 inspection fee. The assessment or fee shall be paid by the packer packaging the eggs.

E. All egg products will be inspected for condition only. All egg products plants shall be responsible for the fees and assessments due on all products entering Louisiana. Additionally, at the discretion of the department, a dealer/wholesaler selling egg products in Louisiana could be held liable for fees due in lieu of an egg product plant based on the following formula:

1. 36 pounds of frozen or liquid eggs shall represent a 30 dozen case of shell eggs;

2. nine pounds of dried eggs shall represent a 30 dozen case of shell eggs;

3. two containers of boiled eggs weighing 20 to 25 pounds each shall represent a 30 dozen case of shell eggs;

4. 50 pounds of cooked or diced eggs shall represent a 30 dozen case of shell eggs;

5. boiled/pickled eggs: case equivalent shall be determined by dividing the number of eggs in a container by 360.

F. Packers/producers, processors, and wholesalers shall be required to report and pay assessments and inspection fees on reported volume on a monthly basis. Reports are due on a monthly basis from all egg handlers regardless of who is responsible for paying the assessments and fees. The assessments and fees shall be paid/reported no later than the fifteenth of the following month. If a report is not received by the due date, a letter shall be sent to the egg handler reminding them of the past due report. If the handler does not report within 10 days from date of the past due notice, the egg handler's license may be suspended and all eggs or egg products found sold, packaged, or processed shall be put off sale and the packer/producer's eggs shall not be sold in Louisiana until such time when all assessments and fees are paid in full.

G. Report forms shall be supplied by the Department of Agriculture and Forestry, Poultry and Egg Division. It shall be the responsibility of the packer to request these forms as they are needed.

H. Dealers-wholesalers shall be required to furnish evidence of origin by invoice on eggs which they handle. Dealers/wholesalers shall report volume of sales monthly on forms furnished by the department. On sale of eggs and egg products produced out-of-state, the last dealer/wholesaler/processor that handles the eggs or egg products before they enter the retail market shall be responsible for paying all fees, if the out-of-state producer/packer/processor has not paid such fees. Any fees collected from the out-of-state producer/packer that have been paid by the dealer/wholesaler shall be refunded to said dealer/wholesaler. The packer/producer/processor is ultimately responsible for paying all assessments and fees. In-state producers/packers/processors are responsible for all fees of eggs or egg products they have sold in this state. Fees shall be paid not later than the fifteenth of the following month.

I. Brokers shall be required to furnish evidence of origin by invoice on eggs and egg products which they handle and sell in Louisiana. If shell eggs are nest run, then the packer buying such eggs shall be responsible for fees. If the eggs have been graded, then the packer who graded the eggs shall be responsible. However, if the state is not able to collect the fees from the out-of-state packer then the in-state packer shall be responsible for all fees. No fees shall be charged to place of origin on nest-run eggs; the packer buying the eggs shall be responsible for all fees.

J. Underpayment or overpayment found during audits are to be reported on the next monthly egg inspection report to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405 and 3:412.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 19:1122 (September 1993), amended LR 23:294 (March 1997).

§925. Ownership

A. All eggs shall be considered the property of the person in whose possession they are found except those in the custody of common carriers or public warehouses where the owner is identified by record.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, May 1969.

§927. Destination Tolerances; Additional Inspection Fees

A. No eggs shall be sold for resale to the consumers below U.S. Grade B, nor shall any eggs be sold as fresh eggs if the eggs are over 45 days of age. Eggs 45-60 days of age

after package date may be returned to the processor or sent to a breaker. Eggs older than 60 days from date of package will be destroyed on the premises in the presence of the inspector/grader.

B. Eggs not meeting destination tolerances of the grade designated on the container shall be subject to an additional inspection fee and shall have a stop sale place on them.

C. Eggs not meeting Grade B standards shall have a stop sale issued, pay an additional inspection fee as set forth below, and be retained under U.S.D.A. provisions.

	Grade A Standards**	Grade B Standards*
1-10 cases	$ 5	$15
11-30 cases	20	30
31-99 cases	30	60
over 100 cases	40	80
*Eggs failing to meet Grade B standards may be retained with a U.S.D.A. tag and a PY 518 Alleged Violations and Detention Notice.		
**Eggs failing to meet Grade A standards, but which meet Grade B standards shall be returned under a Louisiana stop sale, and shall be subject to an additional inspection fee.		

D. If an appeal grading is asked for and the inspector's decision is upheld, the party asking for the appeal grading shall pay all expenses incurred at the current federal rate. If the inspector's decision is reversed, the state shall absorb all expenses. Appeal grading shall be performed by the director or assistant director of the Poultry and Egg Division.

E. Any egg handler that fails to pay the additional inspection fee shall have a stop sale placed on this product and any other egg or egg product found in the state until such time as all fees are paid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405 and 3:412.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 19:1123 (September 1993), amended LR 23:295 (March 1997), LR 28:1171 (June 2002).

§929. Labeling, Advertising and Displaying of Eggs

A. Terms, words, phrases, symbols, etc. used in the labeling and advertising of eggs such as fresh, newly laid, and yard eggs shall be applied only to eggs having not less than the minimum quality requirements of U.S.D.A. consumer Grade A or better and which have been so labeled as to grade and size.

B. Each carton or sleeve shall have on each individual container the following:

1. the grade and size;

2. the date when packed;

3. the name and address of packer/producer;

4. the Louisiana license number issued by the Louisiana Egg Commission (example: La000);

5. the phrase "keep refrigerated at 45° F or below";

C. Each case, regardless of size, of loose eggs shall have marked on one end:

1. the grade and size;

2. the name and address of packer/producer;

3. the date when packed;

4. the Louisiana license number (example: La000);

5. the phrase "keep refrigerated at 45° F or below" (this may be placed on the side or top of the case).

D. Eggs that are packed on flats (cartons that do not have tops or lids) and are shrink wrapped shall have the above information on a place card no smaller than 5 x 8 inches displayed immediately above the eggs so packed that are being offered for sale to the consumer. It is the responsibility of the retailer to see that such signs are posted.

E. License numbers shall have "La" preceding the number (example: La001).

F. All eggs advertised or displayed for sale for human consumption shall designate the correct grade and size, and such designation shall also appear on the exterior of the container in which eggs are offered for sale.

G. Restaurants, hotels, and other dining places using eggs below Grade A quality shall be required to display a placard of heavy cardboard of not less than 8 x 11 inches, stating the quality and weight of the eggs used by the establishment, in a location where it can easily be seen by the customers, or in lieu thereof, place this information on the menu. If packers, jobbers, or dealer-wholesalers sell eggs below Grade A quality to restaurants, hotels, and other eating establishments, it shall be their responsibility to inform them to post such notices.

H. Grade and size of eggs must be identified in ads, papers, circulars, and point-of-sale materials.

I. All cartons and containers containing shell eggs that have not been specifically processed to destroy all live *Salmonellae* prior to distribution for sale to the ultimate consumer shall contain the following statement on each such carton or container:

> "SAFE HANDLING INSTRUCTIONS: To prevent illness from bacteria: keep eggs refrigerated, cook eggs until yolks are firm and cook foods containing eggs thoroughly."

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.

HISTORICAL NOTE: Adopted by the Department of Agriculture, State Market Commission, May 1969, amended by the Department of Agriculture and Forestry, Market Commission, LR 19:1123 (September 1993), LR 28:1171 (June 2002).

§931. Exemption

A. Producers selling eggs of their own production on their own premises to individuals are exempt from the provisions of these regulations. No more than 30 dozen can be sold to one person at one time.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, May 1969, amended by the Department of Agriculture and Forestry, Market Commission, LR 19:1124 (September 1993).

§933. Stop Sale Notices

A. Any enforcement officer may, while enforcing the provisions of the regulations, issue and enforce a written, printed or stamped *Stop Sale* order on any eggs held to be in violation of these regulations which shall prohibit further sales of any such eggs. In case of a dispute the egg vendor shall have the right of prompt re-inspection by a licensed federal or state grader. If upon re-inspection the eggs fail to meet the specifications for grade as advertised they shall be re-marked as to their proper grade and weight classification or they shall be re-packaged.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.
HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, May 1969.

§935. Audits

A. All license holders are subject to yearly audits and must be audited at least once every two years to insure proper reporting of egg and egg product inspection fees and egg assessments to the Louisiana Egg Commission. Audits shall be performed by employees of the Department of Agriculture and Forestry. Travel expenses and per diem incurred in conducting out-of-state audits are to be reimbursed to the Department of Agriculture and Forestry by out-of-state license holders. Failure or refusal to pay travel expenses and/or per diem will result in immediate suspension of license and all products found in the state shall have a "STOP SALE" placed on the product and no further sales will be allowed in the state until such time as all expenses are paid.

B. The out-of-state daily allowance for meals and lodging, plus travel expense to and from locations of license holders shall be the maximum amount reimbursable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 19:1124 (September 1993), amended LR 23:295 (March 1997).

§937. Prohibited Acts

A. It is prohibited to:

1. prepare, pack, place, deliver for shipment, deliver for sale, load, ship, transport, sale in bulk or containers or advertise by sign, placard or otherwise any eggs for human consumption which are mislabeled, that are, or contain inedible eggs not denatured, or eggs that have been incubated;

2. use descriptive terminology for eggs that have not been graded and sized according to the standards set forth by the Louisiana Department of Agriculture and Forestry;

3. use descriptive terminology such as "fresh," "farm," "country," etc., or to represent the same to be "fresh" any eggs excepting those eggs that meet the minimum requirements of Grade A destination standards and are less than 30 days of age;

4. sell to the consumer eggs that are over 30 days of age.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.
HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, May 1969, amended by the Department of Agriculture and Forestry, LR 19:1124 (September 1993).

Subchapter C. Identification of Graded Dressed and Drawn (Ready-to-Cook) Poultry

§939. Definitions

Further Processing—when referring to poultry, a poultry plant engaged in further processing of poultry—i.e., nuggets, patties, breaded products, etc.

Poultry—any domesticated fowl, including chickens, turkeys, ducks, and geese.

Poultry Plant—a plant engaged in the business of slaughter or processing poultry for sale, either fresh or frozen.

R.T.C.—when referring to poultry, *ready-to-cook*, no further processing is necessary.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.
HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, June 1954, amended by the Department of Agriculture and Forestry, Market Commission, LR 19:1124 (September 1993).

§941. Application

A. No poultry may be offered for sale to the consumer unless it was slaughtered in a federally inspected plant or in a Louisiana plant that is state inspected to insure sanitation and to insure that the product is wholesome.

B. The specifications for poultry grade shall, at all times, be based upon *THE UNITED STATES QUALITY STANDARDS FOR POULTRY* formulated by the United States Department of Agriculture.

C. The Department of Agriculture and Forestry shall cooperate with the United States Department of Agriculture and Forestry or any other agency in formulating cooperative programs for the furtherance of these regulations.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.
HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, June 1954, amended by the Department of Agriculture and Forestry, Market Commission, LR 19:1124 (September 1993).

§943. Labeling, Advertising and Displaying of Poultry

A. No poultry can be advertised for sale in newspapers, radio, store ads, or other means as Grade A, U.S. Grade A, or U.S.D.A. Grade A unless the product bears the U.S.D.A. Grade A shield. A store may advertise "cut-from Grade A poultry" only if it is able to prove that the product was cut from Grade A whole poultry. It may not advertise "cut-from Grade A poultry" if it has in its place of business any like product that is not Grade A. (Example: it cannot advertise "8 piece cut chicken, cut from Grade A birds" if it has invoices, or whole product that was not Grade A.)

B. No retailer may mark product as Grade A, A Grade, or U.S. Grade A, either on the product or in placards above the product, or elsewhere in the store unless it has been graded and has a U.S.D.A. Grade Shield on the packaging, if individually wrapped. If the product was bulk packed, then the retailer must have the label from the original master container and sales invoice to prove the product is A Grade.

C. Wholesale. Whole birds, cut-up, and parts must be labeled or have imprinted or stamped on the individual wrappers the grade (if graded, the U.S.D.A. shield must also be on each container), part name or whole bird statement, name and address of the plant (including plant number except in the case of whole birds, the plant number may be on the clip), and U.S.D.A. legend.

D. Retail (not packaged, bulk). In refrigerated cases with open displays of R.T.C. poultry, placards declaring the grade (if any) and part name or whole bird statement must be displayed immediately adjacent thereto. The size of the print used on such placard shall be large enough to be easily read.

E. Retail (packaged). Packaged R.T.C. poultry offered for sale at retail must be labeled to show grade (if graded), part name or whole bird statement, net weight, and name and address of plant where produced. If packaged by the store, package must show store name.

F. All master containers in which dressed R.T.C. poultry, either loose or in smaller containers or individual wrappers, must also be labeled to show grade if any, part name, or whole bird statement, name and address of plant or dealer, and U.S.D.A. Legend (if from out-of-state).

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405.
HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, June 1954, amended LR 19:1125 (September 1993).

§945. Penalties

A. Any person, corporation or other organization violating the provisions of the Chapter may be fined not less than $25 or more than $500, as provided by Louisiana Revised Statutes of 1950, Title 3, Section 3:413.

B. Product mislabeled shall have a stop sale placed on it until it is properly labeled, as determined by an employee of the state Poultry and Egg Division.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:405 and R.S. 3:413.
HISTORICAL NOTE: Adopted by the Department of Agriculture, Market Commission, June 1954, amended by the Department of Agriculture and Forestry, LR 19:1125 (September 1993).

§949. Authority to Enter Premises

A. Employees or agents of the Department of Agriculture and Forestry are authorized to enter any store, vehicle, market, restaurant, state institution, school, nursing home, or any other business or place where eggs or poultry are bought, stored, sold, offered for sale or processed, or served as food to the public, and to make such inspections as needed of eggs to determine if the grades of such eggs conform to grades as labeled on the exterior of the container. If such inspection determines that the eggs in the container do not conform to the grade as labeled on the exterior of the container, the Department of Agriculture and Forestry employees or agents are authorized to examine the invoices and such other records needed to determine the cause and place of the violation of the regulation of this Chapter. The said agents or employees shall have the power to stop sale, and impound for evidence, any containers of eggs offered for sale which are in conflict with any provisions of this Act. The party having possession of the eggs has the right to ask for an appeal grading.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Market Commission, LR 19:1125 (September 1993).

Chapter 11. Market Commission—Fruits and Vegetables

Subchapter A. Fruits and Vegetables

§1101. General Authority of Market Commission

A. The State Market Commission (hereinafter referred to as commission) shall be responsible for enforcing the provisions of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:404.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 11:248 (March 1985).

§1103. Establishment of Official State Grades for Fresh Fruits, Vegetables, Nuts and Other Special Products

A. Standards established in *United States Standards for Fresh Fruits, Vegetables, Nuts and Other Special Products* which were promulgated by the U.S. Department of Agriculture in accordance with 7 U.S.C. 1622 and 1624 shall apply to all Louisiana state grades for fresh fruits, vegetables, nuts, and other special products.

B. All inspections which shall be performed shall be in accordance with *Market Inspection Instruction, Combined Market and Shipping Point Inspection Instructions*, and *Shipping Point Inspection Instructions* which were promulgated by the U.S. Department of Agriculture in accordance with 7 U.S.C. 1622 and 1624.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405 and R.S. 3:410.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 11:248 (March 1985).

§1105. Certification of Fresh Fruits, Vegetables, Nuts and Other Special Products

A. The examination, acceptance, and certification of fresh fruits, vegetables, nuts, and other special products shall be in accordance with U.S. Department of Agriculture, Agricultural Marketing Service, Fruit and Vegetable Division grading and inspection requirements.

B. Each container shall be legibly labeled, stamped, or written on the side or end showing the name and address of the grower or the name and address of the packing house or company or contract number, showing the U.S. grade, inspection stamp or tag, and name of produce in container. In the instance of sacks, a tag shall be securely attached to the outside, giving the above information.

C. Required Certificates

1. For inspection of fruits and vegetables entering state institutions, federal Form FVQ 459 and state Form A1 1583 will be required.

2. For shipping point inspections of fruits and vegetables, federal Form FVQ 184 will be required.

3. For terminal market inspections of fruits and vegetables by collaborators, Form FVQ 303 will be required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 11:248 (March 1985).

§1107. Time Limitation for Issuance of Certificate

A. A state of Louisiana condition examination and origin certificate must be issued not more than 72 hours prior to the scheduled delivery of the product to the purchasing agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 11:248 (March 1985).

§1109. Waiver of Specification Requirements

A. Waivers and amendments to specification requirements may be made only with concurrence of purchaser and contractor.

B. A written statement of the precise nature of the changes in the specifications must be provided to the Louisiana Department of Agriculture representative prior to any examination of the product.

C. Failure to include information concerning the Louisiana agricultural products preference of the vendor on the purchase order shall constitute a waiver of the vendor's right for a certificate of origin.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 11:248 (March 1985).

§1111. Final Delivery Product

A. Final acceptance of the product will be the responsibility of the purchaser (consignee).

B. Products may be rejected for the following reasons:

1. no certificate affixed;

2. sealing tape on container broken; or

3. obvious deviations from specification requirements without appropriate written notice of changes in specification requirements.

C. Purchaser (consignee) may accept product with minor deviations from specification requirements without written statement of agreed upon changes, but shall do so at purchaser's risk.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 11:248 (March 1985).

§1113. Contractor's Obligation

A. Contractors furnishing products under these regulations must furnish such assistance as may be necessary to expedite the grading, examination, and acceptance of products.

B. Contractors desiring certification services must notify the Department of Agriculture at least 24 hours in advance of need. Vendors who fail to give at least 24 hours advance notice of need will be subject to a penalty of $50.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 11:248 (March 1985).

§1115. Citrus Regulations

A. In addition to regulations stipulated in §1103, the following regulations and definitions are prescribed governing the marketing and/or sale of citrus in Louisiana.

1. Definitions

Broker—a person who assumes neither ownership nor possession of citrus, nor washes, packs, sizes, or grades citrus, but is engaged in the business of acting as an agent, for a fee or commission, in the sale or transfer of citrus between producers or packers as sellers and other packers, wholesalers, or retailers as buyers.

Citrus—shall include the following: lemons, satsumas, mandarins, navels, grapefruit, tangerines, and all Valencia varieties of citrus.

Citrus Container—any container used to sell field-run citrus. Boxes shall have volume or weight labeled on the side and the name and address of the producer/packer.

Commission—the Louisiana Department of Agriculture and Forestry, Market Commission.

Department—the Louisiana Department of Agriculture and Forestry.

Field-Run Citrus—unwashed and unsized citrus sold by the producer to a packer for further processing.

Louisiana Citrus Producer—any person engaged in growing citrus in Louisiana for wholesale or retail sale.

Packer—any person who washes, sizes, and packs citrus for wholesale/retail sales.

Producer—any person engaged in growing citrus for the purpose of wholesale or retail sale.

Retailer—any person who sells citrus to a consumer.

Small Louisiana Citrus Producer—any person who grows and markets his own citrus, for retail sales only, either at his fruit stand, store, or farm.

Standard Citrus Receptacle or Flexible Covering or Binding—any container used for the purpose of packing fruit for wholesale or retail trade.

Washed Citrus—citrus that is free from dirt, adhering foreign material, or residue that materially detracts from the appearance, the edible or the marketing quality of the fruit.

Wholesaler—any person engaged in the business of buying citrus from producers, packers, brokers, wholesalers, or other persons on his own account, and selling or transferring citrus to other wholesalers, packers, retailers, or other persons and consumers. A wholesaler includes a person engaged in producing citrus from his own farm and disposing of any portion of his production in any manner other than retail sales at his fruit stand, store or on his farm.

2. Citrus sold in Louisiana shall be required to meet the minimum maturity test of soluble solids in relation to percentage of anhydrous citric acid. Citrus fruit shall include the following: lemons, satsumas, mandarins, navels, grapefruit, tangerines, and all Valencia varieties of citrus.

a. Satsumas, mandarins, navels, tangerines, tangelos, Valencia and other round oranges must meet a maturity test of 10 percent soluble solids to 1 percent anhydrous citric acid.

b. Grapefruit must meet a maturity test of 6 percent soluble solids to 1 percent anhydrous citric acid.

c. Citrus fruit not meeting maturity tests standards will be put off sale, and the product will be seized by the Louisiana Department of Agriculture and Forestry in accordance with provisions in §1115.A.10 to prevent the citrus from again entering the wholesale or retail markets. The packer, or the producer or the wholesaler, or any combination of the three may be charged the costs that are involved in seizing and destroying the product.

3. Citrus for wholesale will be marketed only in new standard citrus containers which are sound, clean, and free of weather stains and discolorations. All containers must have the following on the outside of the container:

a. name of fruit, unless the fruit is in a see-through sack or a container that is not covered, such as a 1/2 bushel basket;

b. volume, net weight or count;

c. name of producer and/or packer;

d. if the fruit is being packed for someone other than the packer, then the label can read "Packed For:" and give the person's name and address.

4. All citrus sold in Louisiana shall be washed and sold by weight, volume, or count for wholesale marketing purposes with the following exceptions:

a. if fruit offered for wholesale is not sized, all fruit within a container shall be of uniform size;

b. producers who sell only their own citrus retail are exempt from washing and sizing fruit; however, the citrus must be clean and sold by either weight, volume, or count;

c. producers who sell their citrus to a packer for processing and packing. Producers must invoice all such sales as field-run citrus. The packer buying field-run citrus is responsible for washing, sizing, and labeling of the citrus.

5. Products labeled as Louisiana citrus (Louisiana oranges, tangerines, etc.) shall have proof of origin. If the origin of the product cannot be proven, then all signs referring to the product as Louisiana citrus must be removed.

6. All producers, producer-packers, packers, and wholesalers shall furnish an invoice stating the type of citrus, volume or weight sold, and origin. All retail outlets must have a copy of the invoice showing the origin of the citrus before the citrus can be advertised or sold as "LOUISIANA CITRUS." If the seller cannot prove the citrus was grown in Louisiana, then all advertising stating such must be removed.

7. All citrus leaving the state must comply with all of the above regulations. No citrus shall be allowed to leave the state that has not been cleaned, properly labeled and packed in standard citrus containers.

8. Employees or agents of the Louisiana Department of Agriculture and Forestry are authorized to enter any store, vehicle, roadside stand, market, or any other business or place where citrus is packed, processed or sold to determine if the citrus is in compliance with these rules and regulations. In addition, any agent or employee of the Louisiana Department of Agriculture and Forestry may take necessary quantities of citrus fruits to conduct maturity tests. A receipt for such fruit will be issued upon request.

9. Penalties. Any person, corporation or other organization violating the provisions of this Chapter may be levied of civil penalty of not less than $25 or more than $500. In addition, any person, corporation or other organization violating the provisions of this Chapter or part of Chapter 5 of R.S. 3:401-414 shall be fined not less than $25 nor more than $500 or imprisoned for not less than 10 days nor more than six months, or both.

10. If any authorized inspector, in the discharge of his duties, has reason to believe that any lot of citrus being sold is not in compliance with these rules and regulations, he shall issue a stop-sale for such lot. If there is a question as to whether or not the lot meets maturity requirements, then the inspector will take a sample of the fruit to run a maturity test. A stop-sale may be issued for up to 24 hours while the maturity tests are being performed. If the citrus does not meet minimum maturity requirements, the lot will have a permanent stop-sale issued and may be removed by the department to a proper cold storage until such time as the wholesaler or the packer can be contacted and inform the department of how he will dispose of the citrus.

a. Citrus that has a stop-sale issued for reasons other than failing to meet maturity requirements may be reworked and offered for reinspection. The inspector who

issued the stop-sale shall serve the person in possession of the lot with notice of noncompliance. Such notice shall be served in person before the inspector leaves the premises. The person in possession shall notify the owner of the lot, or every other person that has an interest in it, of the serving of such notice of noncompliance. The notice of noncompliance shall include all of the following:

i. description of the lot;

ii. location of the lot;

iii. reasons for which the lot is held.

b. The owner of the lot shall have 48 hours from the time of serving of such notice of noncompliance for reconditioning or for the correction of the deficiencies which are noted in the notice of noncompliance. If such lot is reconditioned or the deficiencies are corrected, the inspector shall remove the stop-sale tags and release the lot for marketing or may, with the consent of the owner of such, divert the lot to other lawful uses or destroy it.

c. If the owner of the lot fails or refuses to give such consent, or if the lot has been reconditioned or the deficiencies otherwise corrected so as to bring it into compliance within 48 hours, the inspector shall proceed as provided in Chapter 5 of R.S. 3:3552.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 11:248 (March 1985), amended by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 23:1286 (October 1997).

§1117. Sweet Potato Regulations

A. In addition to regulations stipulated in §1103, the following regulation is prescribed governing the marketing and/or sale of sweet potatoes in Louisiana.

1. The U.S. Standards for U.S. Number 1 and 2 Grades of Sweet Potatoes as stipulated by the U.S. Department of Agriculture, shall be adopted as official state grades except that not more than 10 percent tolerance will be allowed for each grade.

2. The grade *Louisiana Commercial* is hereby established, the standards of which are not less than those of U.S. Number 2, except that not more than 10 percent tolerance for grade defects will be allowed.

3. The grade *Louisiana Jumbo* is hereby established, the standards of which are the same as U.S. Number 2, except that not more than 10 percent tolerance will be allowed and the minimum weight shall not be less than 16 ounces. There are no maximum weight requirements.

4. It shall be unlawful for any person, firm, or corporation to sell, offer for sale, ship, or move any sweet potatoes into the channels of fresh trade except U.S. Number 1, U.S. Number 2, *Louisiana Commercial, and Louisiana Jumbo* grades.

5. The movement of sweet potatoes into channels of fresh trade is prohibited unless in conformance with this regulation and is accompanied by proper grade certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 11:249 (March 1985).

§1119. Cabbage Solidity Regulation

A. In addition to the regulations stipulated in §1103, the following regulation is prescribed governing the marketing and/or sale of cabbage in Louisiana:

1. cabbage placed on the market that are soft or immature and fail to meet the requirement of U.S. Number 1 standards as to solidity is undesirable and has a tendency to demoralize the market;

2. all lots of cabbage offered for sale for shipment or movement shall meet the standard requirements of U.S. Number 1 Grade as to solidity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 11:249 (March 1985).

§1121. Shallot Regulation

A. In addition to the regulations stipulated in §1103, the following regulation is prescribed governing the marketing and/or sale of bunched shallots in Louisiana.

1. The weight of the bunches shall not be less than 4 pounds per dozen bunches with a tolerance of one bunch per dozen weighing less than 1/3 pound.

2. It shall be unlawful for any person, firm or corporation to offer for sale or shipment bunched shallots unless in conformance with this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 11:249 (March 1985).

§1123. Stemmed Berries for Processing Purposes

A. In addition to the regulations stipulated in §1103, the following regulation is prescribed governing the inspection and certification of strawberries of processing plants.

1. Strawberries shall be submitted for inspection in quart or pint containers that are well filled.

2. In the case of flats and hand carriers, the strawberries shall not overflow from the individual well-filled cup containers.

3. It shall be the responsibility of the seller or the seller's representative to segregate each individual lot, and make each lot accessible for inspection. Strawberries inspected at points of assembly shall be accompanied by a certificate of inspection. Strawberries passing inspection at processing plants shall be considered as being accompanied by a certificate of inspection.

4. Strawberries shall be well colored and firm with the stem removed without bruising, free from decay and mold or evidence of decay having been removed from the strawberry. Unless otherwise specified, the minimum diameter shall be 1/2 inch. A tolerance of 10 percent for soft, undercolored, badly misshapen, stems, leaking and undersized berries, including 2 percent decay shall be allowed.

5. Strawberries for processing purposes shall not be held at assembly points for a processing plant more than three hours after having passed inspection and certificate issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 11:249 (March 1985).

§1125. Sweet Pepper Maturity Regulation

A. In addition to the regulations stipulated in §1103, the following regulation is prescribed governing the marketing and/or sale of sweet peppers in Louisiana.

1. Sweet peppers placed on the market that are not mature and firm causes a demoralization of the market in that immature peppers will not insure a proper completion of the ripening process.

2. All lots of sweet peppers offered for sale or shipment must meet the standard requirements of the U.S. Number 1 Grade as to maturity and firmness. Immature means that the seeds are not fully developed and that the pepper has not reached the stage of maturity which will insure a proper completion of ripening process. Firm means that the pepper is not soft, shriveled, limp, or pliable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 11:249 (March 1985).

§1127. Mislabeling of Fresh Fruits and Vegetables Prohibited

A. No person or firm shall mislabel any fresh fruit or vegetable, or place or have any false or misleading statement or designation of quality, grade, trademarks, trade name, area of production of place of origin on any fruit or vegetable, or on any placard used in connection with or having reference to any fresh fruit or vegetable or container, bulk lot, bulk load, load, arrangement, or display of fresh fruits or vegetables. Any fruits and/or vegetables found mislabeled shall have a stop-sale placed on the product and may be seized by the department.

B. Fruits or vegetables labeled as a Louisiana-grown or produced product must have proof of origin of that product, such as sale invoices that give the producers or producer-packer's name and address. Any product labeled, "Louisiana Fruit," "Louisiana Vegetables," or has the name of a town (such as "Ruston Peaches," "Hammond Strawberries," etc.) attached to said product, that implies it was produced in that region, must have proof that the product is a Louisiana product and was produced in that region.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 11:249 (March 1985), amended by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 23:1287 (October 1997).

§1129. Transportation of Fresh Fruits and Vegetables

A. It shall be unlawful for any common carrier, whether railroad, boat, truck, or any other vehicle to transport, carry, or deliver fresh fruits and vegetables unless accompanied by a proper grade certificate(s), except when being trucked by a farmer of his own product or being assembled for delivery to an assembly or packing shed where a duly authorized inspector is stationed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 11:249 (March 1985).

§1131. Shipment of Product into Louisiana

A. All fruits and vegetables which are shipped into Louisiana and will be offered for sale in the state will be required to meet the provisions of these regulations with regard to grade, inspection, and marking requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 11:249 (March 1985).

§1133. Penalty for Violations; Injunctive Relief; Costs

A. Whenever the commission has any reason to believe that a violation of these regulations has occurred, an adjudicatory hearing will be held to make a determination with respect to the suspected violation.

B. The commission shall give written notice to the person suspected of the violation, such notice to comply with the requirements of the Administrative Procedure Act, at least five days prior to the date set for such adjudicatory hearing.

C. As chairman of the State Market Commission, the commissioner shall designate a hearing officer to preside at all adjudicatory proceedings.

D. At any such adjudicatory hearing, the person suspected of a violation of these regulations shall be accorded all of the rights set forth in the Administrative Procedure Act.

E. Whenever the commission makes a determination from the proceedings of the adjudicatory hearing that any violation of these regulations has occurred, the commission may impose a monetary fine.

F. The commission may impose a penalty of not less than $25 nor more than $500, or have the person suspected of a violation imprisoned for not less than 10 days nor more than six months, or both for each violation of these rules and regulations which is proven in any adjudicatory hearing.

G. Each separate day on which a violation occurs shall be considered a separate violation.

H. Any person may appeal any action taken by the commissioner to impose a monetary penalty by:

1. applying for a rehearing under the procedures provided in the Administrative Procedure Act; or

2. applying for judicial review of the commissioner's determination, under either the Administrative Procedure Act or other applicable laws.

I. In addition to the penalties authorized in this Section, the commission may apply for injunctive relief restraining violations of these regulations. The person condemned in any such proceeding shall be liable for the costs of court and for any additional costs incurred by the commission in gathering the necessary evidence, including reasonable attorney fees and expert witness fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:413 and R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 11:249 (March 1985).

Subchapter B. Fruits and Vegetables Rules and Regulations

§1135. Red River Valley Tomatoes

A. Definitions

Red River Valley Tomatoes—tomatoes that are produced by farms in Louisiana that have been certified by the Red River Valley Research Station of Louisiana State University as being certified Red River Valley Tomato Producers, and which meet all horticulture practices prescribed by the Red River Valley Research station. No tomatoes that have been gassed to achieve ripeness or that do not meet the Louisiana Number 1 Grading Standard can qualify as a Red River Valley Tomato.

B. In addition to the standards referred to in §1103, the following provisions govern the marketing and sale of tomatoes in Louisiana that are labeled as Red River Valley Tomatoes.

1. The U.S. Standards for Combination, 2, and 3 as stipulated by the United States Department of Agriculture (hereinafter "U.S.D.A."), shall be adopted as official State Grades.

2. The grade Louisiana Number 1 is hereby established, the standards of which are not less than those of the U.S. combination, except that not more than 15 percent tolerance for grade defects will be allowed.

3. The grades Louisiana Number 2 and Louisiana Number 3 are hereby established, these standards of which are not less than the U.S. Standards for Number 2 and Number 3.

4. Color classification shall be the same as U.S. Standards.

5. Size

a. The size of tomatoes packed in any standard type shipping container shall be specified and marked according to one of the size designations set forth in Table 1. Individual containers shall not be marked with more than one size designation. Consumer packages and their master container are exempt; however, if they are marked, the same requirements apply.

b. Table 1

Louisiana Sizes		
Size Designations	**Minimum Diameter***	**Maximum Diameter†**
LA Small	2 4/32 in.	2 9/32 in.
LA Medium	2 8/32 in.	2 17/32 in.
LA Large	2 16/32 in.	2 25/32 in.
LA Extra Large	2 24/32 in.	
LA Colossal	3 9/16 in. or Larger	

*Will not pass through a round opening of the designated diameter when tomato is placed with the greatest transverse diameter across the opening.

†Will pass through a round opening of the designated diameter in any position.

6. It shall be unlawful for any person, firm, or corporation to sell, offer for sale, ship, or move any tomato labeled as "Red River Valley Tomatoes" into the channels of fresh trade unless it meets Louisiana Number 1 Grade.

7. All tomatoes offered for sale as "Red River Valley Tomatoes" are subject to inspection by U.S.D.A. licensed personnel of the Louisiana Department of Agriculture and Forestry. If a particular lot of tomatoes does not meet the Louisiana grade standards, a stop sale order will be issued on the entire lot, and the lot will be removed from retail sales until the lot has been reworked or relabeled.

8. The movement of tomatoes labeled as "Red River Valley Tomatoes" into channels of fresh trade is prohibited unless in conformance with this regulation.

9. The Louisiana Department of Agriculture and Forestry has the option of charging fees in accordance with federal rates for shipping point inspections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405, 3:411 and 3:412.

HISTORICAL NOTE: Adopted by the Department of Agriculture, State Market Commission, September 1949, repealed LR 12:826 (December 1986), promulgated by the Department of Agriculture and Forestry, Office of Marketing, LR 20:782 (July 1994).

Chapter 13. Produce Assembly Center

§1301. Operation of Center

A. The produce assembly center will be operated by the Department of Agriculture and Forestry; the center manager will be a state employee.

B. Only produce for consignment will be marketed through the produce assembly center.

C. Official grading services will be available through the produce assembly center.

D. The produce assembly center will arrange for transportation of the produce from the produce assembly center.

E. The produce assembly center will not operate during months when no produce is available for consignment. At least 15 days' advance notice of closure of the center will be given by publication in a newspaper of general circulation in the area in which the produce assembly center is located.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:406 and R.S. 3:404.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 7:406 (August 1981), repromulgated LR 8:272 (June 1982).

§1303. Produce to be Marketed through the Produce Assembly Center

A. All produce must be graded by official graders at the produce assembly center.

B. Only USDA #1 and USDA #2 grades will be accepted for consignment.

C. All produce must be packaged in containers which are acceptable in the produce trade. Containers will be available at cost at the produce assembly center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:406 and R.S. 3:404.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 7:406 (August 1981), repromulgated LR 8:272 (June 1982).

§1305. Consignment of Produce and Payment Policy

A. A commission of percent of the selling price will be charged on all produce marketed through the produce assembly center. Fees will be used to defray the operating expenses of the center.

B. The percent commission will be due and payable upon receipt by the seller of the purchase price of the produce.

C. The produce assembly center manager will deduct the commission of percent from the sales revenues received from the buyer and pay over the remainder to the seller.

D. The revenues from sales of produce will be paid over to the seller by the produce assembly center manager immediately upon receipt of the sales revenues from the buyer, but no later than 30 days after delivery of the produce to the produce assembly center.

E. In any circumstances where the sales revenues are not received by the produce assembly center manager within 30 days after delivery of the produce to the center, the produce assembly center reserves the right to pay over only 75 percent of the agreed-upon selling price, subject to correction upon receipt of revenues from the sale of the produce.

F. Separate accounting records will be maintained on transactions for each seller, and any seller may examine the accounting records for his account at any time during regular business hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:406 and R.S. 3:404.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 7:406 (August 1981), repromulgated LR 8:272 (June 1982).

§1307. Marketing Advisory Service

A. The produce assembly center manager will establish and maintain contact with major produce buyers throughout the country to determine the most advantageous crops for marketing.

B. Results of the produce assembly center manager's surveys of produce buyers will be posted at the center and will be made available to producers in the area.

C. At least once each year, prior to planting season, the State Department of Agriculture and the Cooperative Extension Service will conduct an informational forum to disseminate information on potential markets for produce. General information meetings may be held at other times throughout the year as deemed appropriate by the Department of Agriculture and Forestry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:406 and R.S. 3:404.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 7:406 (August 1981), repromulgated LR 8:273 (June 1982).

§1309. Right of Refusal

A. The produce assembly center will not accept any produce for consignment which does not meet USDA #1 or USDA #2 grade standards, according to the findings of official graders.

B. The produce assembly center will not accept any produce for which no markets are available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:406 and R.S. 3:404.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 7:406 (August 1981), repromulgated LR 8:273 (June 1982).

Chapter 15. Farm Youth Loan Program

Subchapter A. Authorization and Administration of Farm Youth Loans and Loan Guarantees

§1501. Definitions

Applicant—a natural person applying for a farm youth loan or for a farm youth loan guarantee who is a resident of Louisiana and between 10 and 20 years of age.

Borrower—anyone who is granted a farm youth loan.

Commission—the State Market Commission.

Commissioner—the Commissioner of Agriculture.

Compromise Agreement—any agreement between the borrower and the commission or lender, in the case of a guaranteed loan, to satisfy the loan obligation incurred by the borrower.

Department—the Department of Agriculture.

Farm Youth Loan—a loan which shall be used for the purpose of raising, growing, and selling of livestock, poultry, eggs, or agronomic, horticultural, silvacultural, or aquacultural crops.

Farm Youth Loan Guarantee—an agreement that, in the event of default, the state shall pay the lender 75 percent of the principal and interest due and payable under a farm youth loan secured by a chattel mortgage, crop lien or other security.

Lender—any bank, financial institution or federal agency making loans to any borrower who is eligible for a farm youth loan guarantee.

Supervisor—any vocational agriculture teacher, home economics teacher, county agent, home demonstration agent or any other person who has responsibility for direct supervision of the project for which the loan funds are used.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:542 and R.S. 3:543.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 8:269 (June 1982).

§1503. Applicant Eligibility Requirements

A. The applicant must be a resident of Louisiana and between 10 and 20 years of age, i.e., already having had a tenth birthday but not yet having a twentieth birthday.

B. The applicant must be a member in good standing of any 4-H Club, Future Farmers of America, Future Homemakers of America organization, or any other farm youth organization functioning within the state school system.

C. The applicant must present a signed statement from the recommending supervisor of the project and/or the school principal, that the applicant's scholastic work is satisfactory.

D. The applicant must present a signed statement by the recommending supervisor of the project that in his opinion the applicant has a need for the loan.

E. The applicant must present a signed statement by the recommending supervisor that he is a member in good standing of a farm youth organization recognized by the commission and that:

1. the project for which the loan will be used will be closely supervised by the recommending supervisor;

2. the applicant is eligible for the loan; and

3. the loan is recommended.

F. The applicant must present a signed statement by his parents or guardian that they approve of his participation in the Farm Youth Loan Program and will fully cooperate with the supervisor of the project and the market commission.

G. The applicant must clearly demonstrate to the commission that the project for which the loan will be used will generate adequate funds to pay back the loan according to the terms of the loan.

H. The applicant must establish a checking or savings account at a bank of his choice for the purpose of receiving and disbursing loan funds to be used for the purposes of the loan.

I. The checking or savings account must require joint signatures of the applicant and project supervisor or parent/guardian for the withdrawal of funds to be used to pay expenses incurred by the project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:545, R.S. 3:546 and R.S. 3:543.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 8:270 (June 1982).

§1505. Time and Manner of Filing Application

A. Applications may be filed at any time throughout the year and may be personally delivered to the State Market Commission Office in Baton Rouge or forwarded through the U.S. mail.

B. An application will be considered filed only upon provision of all information required in §1507.

C. A complete application must be physically on hand in the State Market Commission Office at least 10 working days prior to the meeting at which the application will be considered by the commission.

D. In the case of an application for a loan guaranty, the application must be jointly executed by the applicant and the lender on forms provided by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:547, R.S. 3:549 and R.S. 3:543.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 8:270 (June 1982).

§1507. Contents of the Application

A. Name and addresses of the applicant and applicant's parents or guardian.

B. Name and address of recommending supervisor of the project.

C. Personal financial statement of the applicant, signed by the applicant and parents or guardian, on forms provided by the commission.

D. A budget reflecting estimated expenses, income and repayment of the loan for the term of the loan.

E. Signed statements requested of the recommending supervisor and parents or guardian as required in §1503.

F. The name of the bank and the account number to which loan funds shall be deposited and authorized signatures for the withdrawal of funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:547, R.S. 3:549 and R.S. 3:543.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 8:270 (June 1982).

§1509. Application for Farm Youth Loans and Loan Guarantees

A. The applicant must meet all criteria for eligibility set forth in §1503.

B. The loan shall have a maximum term of five years.

C. The loan shall not exceed a maximum of $3,000.

D. In the case of a guaranteed loan, the guarantee shall not exceed 75 percent of the sums, in principal and interest, due and payable under the mortgage or crop lien securing the loan.

E. The interest rate on any direct loan shall not exceed the interest rate charged by the Farmer's Home Administration on youth project loans.

F. The interest rate on any guaranteed loan shall not exceed the average prevailing rate of interest on farm loans made by banks, financial institutions or federal agencies in the community where the loan is made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:548, R.S. 3:549 and R.S. 3:543.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 8:270 (June 1982).

§1511. Approval or Denial of Loan Applications and Notification of Commission Action

A. An application for a farm youth loan or loan guarantee shall be submitted for market commission consideration at the first commission meeting occurring at least 10 working days following submission of the completed application.

B. The commission shall approve/deny such application in accordance with the criteria set forth in applicant eligibility requirements, time and manner of filing applications, contents of application, and conditions for approval of applications for loans and loan guarantees.

C. Upon approval of an application for a direct loan, the commission shall immediately notify the applicant by letter of the approval along with procedures for disbursement of funds to the applicant.

D. Upon approval of an application for a guaranteed loan, the commission shall immediately notify the lender and applicant by letter of the approval along with procedures for execution of the loan guarantee agreement.

E. Upon denial of an application for a direct loan or loan guarantee the commission shall immediately notify the applicant, and lender if applicable, by letter stating the reason(s) for such disapproval by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:547, R.S. 3:549 and R.S. 3:543.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 8:270 (June 1982).

§1513. Re-Application; Review of Determination

A. An applicant whose application has been denied by the commission may re-apply at any time whenever his circumstances change whereby the reasons for denial have been corrected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:547 and R.S. 3:549.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 8:270 (June 1982).

§1515. Disbursement of Loan Proceeds to the Borrower

A. Prior to disbursement of loan funds all legal instruments must be examined and approved by the department attorney.

B. On the date of disbursement of loan proceeds the borrower must execute a note secured by a chattel mortgage or crop lien payable to the market commission setting forth the terms and conditions under which the loan will be repaid.

C. On the date of disbursement of loan proceeds the borrower must execute a chattel mortgage or crop lien payable to the market commission, which instrument shall contain, but not be limited to, the following:

1. the amount loaned;

2. the rate of interest;

3. the repayment schedule;

4. description of items offered as security;

5. provision for executory process;

6. provision for payment of all costs of foreclosure, including attorney's fees at 25 percent of the principal balance and interest accrued at foreclosure.

D. The commissioner of agriculture or his designee, as official representative of the State Market Commission, shall execute all necessary legal instruments at the time of the disbursement of loan proceeds.

E. The disbursement of loan proceeds shall be by check and shall be deposited into the bank account number on behalf of the borrower as designated on the loan application.

F. No loan for the purchase of livestock shall be funded until issuance of a health certificate from a licensed veterinarian certifying that the livestock to be purchased is sound, healthy, and free from all diseases.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:548 and R.S. 3:543.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 8:270 (June 1982).

§1517. Concurrence in Loan Guarantees

A. The borrower must provide for the market commission file record a copy of the note and the chattel mortgage or crop lien payable to the lender and any other data deemed necessary by the market commission staff.

B. The loan guaranty agreement shall be executed by the borrower, the lender, and the commissioner of agriculture, or his designee, as official representative for the State Market Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:549 and R.S. 3:543.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 8:271 (June 1982).

§1519. Procedure upon Default for Non-Payment

A. The commission shall send written notice within 30 days to any borrower of a direct loan after any default on any payment of principal and/or interest and shall request an explanation or reason for delinquency of payment.

B. Within 60 days of default to any payment of principal and/or interest on a direct loan the commission shall enter into such compromise agreements as it deems necessary to recover the sums due and payable on the loan unless prior arrangements have been made with the borrower to fulfill his loan obligation.

C. Any lender who receives a loan guarantee from the commission on a farm youth loan shall notify the borrower and the commission by letter within 30 days of any default on any payment of principal and/or interest and shall request of the borrower an explanation or reason for delinquency of payment.

D. Within 60 days of default of any payment of principal and/or interest on a guaranteed loan, the lender shall notify the commission by registered letter of any compromise agreement entered into between the borrower and the lender to recover the sums due and payable on the loan or of arrangements made between the borrower and lender to fulfill his loan obligation.

E. The commission may, by formal vote, offer to pay off the mortgage or the interest of the lender on any defaulted loan covered by a loan guaranty agreement and become subrogated to the interest of the lending agency if the commission determines that this action will protect the interest of the state in any property mortgaged to secure the loan guarantee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:547, R.S. 3:549 and R.S. 3:543.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Market Commission, LR 8:271 (June 1982).

Chapter 16. Meat, Poultry and Seafood Grading and Certification Program

§1601. Authority

A. The market commission adopts the following regulations under the authority of R.S. 3:405 and R.S. 3:410 for the purpose of implementing the provisions of R.S. 39:2101 enacted by Act 749 of the Louisiana Legislature, 1997 Regular Session.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405, R.S. 3:410 and R.S. 39:2101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:627 (April 1998).

§1603. Definitions

A. The terms defined in §1603 have the meaning given to them herein, for purposes of these regulations, except where the context expressly indicates otherwise.

Certification—a document or a stamp applied to any package containing any meat, poultry or seafood food product, which verifies that the food product meets the specification requirements established by the department.

Commission—the State Market Commission.

Commissioner—Commissioner of the Department of Agriculture and Forestry.

Department—the Department of Agriculture and Forestry.

Food Product—any edible item which includes, 3 percent or more by weight, meat, poultry or seafood, and, regardless of whether it is raw, precooked or fully cooked, is capable of use as human food.

Food Service Facility—any place where a food product is prepared, packaged or served in portions designed for individual consumption by people. The term includes any such place regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food.

Grade—the combined group of standards that a food product must meet to be in accordance with the appropriate certification requirements.

Local School District—any elementary or secondary school system operated by any parish, city or other public school board and any public charter school or any other independent public school authorized by the Louisiana Department of Education.

Meat—any part of any cattle or other bovine, swine, sheep, or goat capable of use as human food.

Person—any individual, corporation, partnership, association, or any other legal entity, whether for profit or nonprofit, who, through contract with the state of Louisiana, any state agency, any state institution or local school district operates a food service facility that supplies, provides or serves food products available for consumption by any student, resident, patient or inmate of any state agency, state institution or local school district.

Poultry—any part of any chicken, turkey, duck, goose or other domesticated fowl, quail, pheasant, ostrich, emu, or other ratites, or any other type of bird, eggs and domesticated rabbits capable of use as human food.

Public Entity—any state agency, state institution, local school district or person operating one or more food service facility that supplies, provides or serves food products available for consumption by any student, resident, patient or inmate of any state agency, state institution or local school district.

Seafood—any fresh or salt water finfish, farm-raised catfish, shrimp, crawfish, lobsters, oysters and all other edible shellfish, crustaceans, and mollusks, alligators, frogs,

turtles and any other form of edible aquatic animal life regardless of whether farm raised or caught in privately owned waters or public waters including the sea, streams and lakes.

State Agency—any board, commission, department, agency, special district, authority or other entity performing a state function.

State Institution—any university, college or center of higher learning, hospital, clinic, veterans or geriatric home, mental institution, juvenile facility, prison or any other facility operated by a state agency, or through a contract with the state of Louisiana or any state agency, by any private, whether for profit or nonprofit, individual, corporation, association or other legal entity for the purpose of teaching, treating, incarcerating, maintaining or housing students, residents, patients or inmates.

Vendor—any individual, corporation, partnership, association or other legal entity that sells any type of food product to any state agency, state institution, local school district or person operating a food service facility, as defined herein, that supplies, provides or serves food products available for consumption by any student, resident, patient or inmate of any state agency, state institution or local school district.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405, R.S. 3:410 and R.S. 39:2101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:627 (April 1998).

§1605. Use of Certified Food Products; Issuance of Certification; Exemptions

A. All public entities shall utilize only the following food products:

1. meat and meat products governed by the grading and certification requirements set out in Chapter 5 of this Part;

2. poultry and eggs governed by the grading and certification requirements set out in Chapter 9 of this Part;

3. all other food products that meet the certification standards set out in these regulations.

B. Any public entity may request from the department the authority to conduct the inspection and certification (self-certification) required by these regulations of food products received by that public entity.

C. The department shall inspect and certify food products subject to these regulations purchased or received by a public entity unless that public entity has authorization from the department to conduct self-certification.

D. Neither the department nor any public entity shall certify any food product unless and until the food product meets all the requirements for certification under these regulations.

E. Meat and meat products governed by the grading and certification requirements set out in Chapter 5 of this Part and poultry and eggs governed by the grading and certification requirements set out in Chapter 9 of this Part are exempt from the provisions of these regulations.

F. These regulations shall not affect or change any other grading or certification program operated by the department under any other provision of law or any other regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405, R.S. 3:410 and R.S. 39:2101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:628 (April 1998).

§1607. Grading and Certification Standards and Specifications

A. Meat and meat food products, other than those governed by the grading and certification requirements set out in Chapter 5 of this Part shall meet the following grading and certification standards and specifications:

1. fresh meat should not have any offensive odor or be slick to the touch;

2. frozen meat should be hard frozen at the time of delivery; and

3. the bid specifications or purchase order issued by the public entity.

B. Eggs shall meet the following grading and certification standards and specifications.

1. The following information must be on all egg cases if eggs are packed loose and on all cartons when eggs are packed in cartons:

a. name of producer or packer;

b. grade and size;

c. date of pack;

e. Louisiana license number [La001];

f. keep refrigerated 45° F or below.

2. Eggs cannot be used if more than 30 days of age from pack date. Pack date can be either Julian or calendar date.

3. Eggs must be delivered in refrigerated trucks capable of maintaining an ambient temperature of 45° F stored in coolers that maintain an ambient temperature of 45° F.

4. If eggs are not USDA or state graded, or if more than 10 days have elapsed between the time of inspection and delivery, the public entity must ascertain that the eggs meet all requirements set forth Chapter 9 of this Part.

C. Poultry and poultry food products, other than those governed by the grading and certification requirements set in Chapter 9 of this Part shall meet following grading and certification standards and specifications:

1. frozen poultry must be hard frozen at time of delivery;

2. fresh poultry should not have any offensive odors and should not be slick to the touch;

3. if grade is implied or stated, the USDA shield must be used; and

4. the bid specifications or purchase order issued by the public entity.

D. Seafood food products shall meet one or more of the following grading and certification standards and specifications:

1. United States Department of Commerce standards for any type of aquatic animal life defined as seafood in these regulations;

2. State of Louisiana, Division of Administration, State Purchasing general requirements for fish and fishery product;

3. standards and specifications set by the appropriate division of the department's grading and certification service for the particular seafood product;

4. the bid specifications or purchase order issued by the public entity;

5. fresh seafood shall not have any offensive odors or be slick to the touch.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405, R.S. 3:410 and R.S. 39:2101.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:628 (April 1998).

§1609. Procurement of Food Products

A. No public entity shall procure any food products unless and until it has fully complied with the provisions of R.S. 38:2184 and R.S. 38:2251-2261.

B. Neither the department nor any public entity shall issue a certification for any food product purchased by such public entity unless and until the public entity provides proof of full compliance with the provisions of R.S. 38:2184 and R.S. 38:2251-2261.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405, R.S. 3:410 and R.S. 39:2101.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:629 (April 1998).

§1611. Inspection and Certification by a Public Entity; Procedures

A. Any public entity that has authorization from the department to conduct self-certifications under these regulations shall do so in the following manner.

1. All food products shall be inspected and certified by the public entity at the time of delivery.

2. The public entity shall provide sufficient trained or experienced personnel to ensure that all products are inspected and certified in accordance with these regulations.

3. The public entity shall maintain certification logs, in a form acceptable to the department, showing the self-certification of all food products received by the public entity. Each delivery of a food product shall be logged at the time of self-certification. Each log book shall be made available for inspection when requested by authorized representatives of the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405, R.S. 3:410 and R.S. 39:2101.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:629 (April 1998).

§1613. Inspection and Certification by the Department; Procedures

A. Inspections and certifications performed by the department under these regulations shall proceed in the following manner.

1. Vendors, both in state and out of state, shall make all food products available to the department's grading and certification service in an approved facility for certification prior to shipment to the place of final destination, except for out-of-state shipments made directly to a storage facility owned and operated by a public entity. Such direct out-of-state shipments shall be inspected at the receiving storage facility before distribution to any food service facility.

2. Any vendor, public entity needing certification services shall notify the department at least 24 hours in advance of need and shall provide such services as necessary to expedite the examination and certification of the food product and the taping of containers, including providing the necessary tape.

3. The department shall receive a purchase order at least seven working days prior to the department's inspection for the purposes of issuing a final certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405, R.S. 3:410 and R.S. 39:2101.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:629 (April 1998).

§1615. Fees and Costs

A. The commission may collect fees for the inspection and certification of food products. The fees shall not exceed the actual cost necessary to provide for the proper inspection, grading, classification and certification of the food products.

B. Any vendor delivering a food product inspected and certified by the department, under these regulations, shall pay an inspection fee of $0.025 per pound for each such meat, poultry or seafood product, or in the case of eggs, a fee of $0.025 per dozen. All fees and costs shall be immediately due and payable to the department upon presentation to the vendor by the department of the statement for services rendered.

C. If any product received by the public entity is in noncompliance with these regulations or purchase order requirements, but is accepted by the public entity because the product is needed for immediate consumption by either students, residents, patients or inmates then the vendor

delivering such products shall pay to the department an inspection fee of $0.025 per pound for each such meat, poultry or seafood product, or in the case of eggs, a fee of $0.025 per dozen. Any public entity accepting a product that is in noncompliance with these regulations or purchase order requirements will immediately notify the department of any such acceptance and will provide the department with all necessary information to allow the department to bill the vendor for payment under this Subsection.

D. Any vendor, state agency, state institution, local school district or person needing certification services from the department and failing to notify the department at least 24 hours in advance of need shall be subject to a penalty of $50, regardless of the time required for the services or the fees assessed by the department.

E. Fees charged and collected by the department under any other grading or certification program operated by the department shall not be affected by these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405, R.S. 3:410 and R.S. 39:2101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:629 (April 1998), amended LR 25:2160 (November 1999).

§1617. Enforcement

A. The department or its authorized representative shall have the right to enter any place where any food product is kept to inspect the food product and to inspect any records pertaining to the sale, procurement, movement, distribution, preparation or serving of any food product subject to self-certification under these regulations.

B. If the department finds that a public entity authorized to inspect and certify food products under these regulations is not inspecting and certifying each delivery of food products received by the public entity or if the department finds that the public entity has, on three or more occasions, improperly inspected or certified food products then the department may, by written order, take over inspection and certification duties from the public entity until the department determines that the public entity will properly inspect and certify food products in accordance with these regulations.

C. If a vendor is found to be out-of-compliance more than three times during a given quarter, then that vendor's products must be inspected for compliance by the Louisiana Department of Agriculture before delivery of any product. Once the vendor has proven to the satisfaction of the department that his product will be in compliance, then the vendor may deliver directly to the institution for certification by the institution.

D. The department or its authorized representative may, while enforcing the provisions of these regulations, issue and enforce a written, printed or stamped stop order to prevent the purchase, procurement, movement, distribution, preparation or serving of any food product if:

1. authorized representative of the department has been refused the right to enter the premises where the food product is kept or the right to inspect the food product or records;

2. the food product does not meet the grading and certification standards established by these regulations; or

3. the food product was procured in violation of §1609.A.

E. Upon issuance of a stop order the department may cause the food product to:

1. remain where it is located at the time the stop order is issued; or

2. be returned to the distributor or vendor of the food product.

F. The stop order may be released by the commissioner when:

1. the food product is found to meet the certification standards set out in these rules if the stop order was issued because the department had not certified the food product;

2. proof of compliance with §1609.A is furnished to the department if the stop order was issued because of noncompliance or failure to produce proof of compliance;

3. authorized representative of the department has been allowed to enter the premises where the food product is stored and inspect the food product or the records if the stop order was issued based on refusal to allow entry or inspection;

4. written proof acceptable to the department is supplied showing that the food product has been returned to the distributor or seller and that the full purchase price of the food product has been refunded to the purchaser; or

5. the department determines that circumstances warrant the release of the stop order, upon such terms and conditions that the department deems necessary or proper.

G. Nothing in these regulations shall prevent the commissioner or the department from seizing, selling or destroying the food product if the department finds that the food product violates any other state law or regulation allowing any such action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405, 410, 413 and R.S. 39:2101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:630 (April 1998).

§1619. Penalty for Violations; Injunctive Relief; Costs; Notification

A. Whoever violates R.S. 39:2101 or the regulations promulgated thereunder shall be fined not less than $25 nor more than $500 or imprisoned for not less than 10 days nor more than six months, or both as provided by R.S. 3:419.

B. Each violation of these rules and regulations, any stop order or other orders issued by the commissioner in the enforcement of these rules and regulations and every day of

a continuing violation shall be considered a separate and distinct violation chargeable under these rules and regulations.

C. The commission, through the commissioner, may apply for injunctive relief restraining violations of R.S. 39:2101 or the regulations promulgated thereunder or institute necessary actions for failure to pay accounts due the commission. The person condemned in any such proceeding shall be liable for the costs of court and for any additional costs incurred by the commission in gathering the necessary evidence, including reasonable attorney fees and expert witness fees.

D. In addition to the penalties stated in §1619.A and B the commission may withhold certification services from any vendor, or the right of a public entity to conduct self-certification based on an adjudicatory hearing held in accordance with the Administrative Procedure Act and presided over by a hearing officer appointed by the commissioner.

E. If any food product cannot be certified by the department for any reason or if certification services are withheld then notification of the noncertification or withholding of the services and the reasons therefor shall be sent by the department to all appropriate entities including, but not limited to, the affected public entity, the purchasing agent, appointing authority, Division of Administration, inspector general, legislative auditor or district attorney.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405, 410, 413 and R.S. 39:2101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:630 (April 1998).

Chapter 17. Louisiana Egg Commission

§1701. Definitions

Act—the Louisiana Egg Commission Act, being Act #441 of 1968 found in R.S. 3:551.1-551.11.

Case—a standard 30 dozen egg case.

Commission—the Louisiana Egg Commission.

Commissioner—Commissioner of Agriculture of the state of Louisiana.

Eggs—pullet and hen eggs only.

Handler and/or Dealer—any person engaged within the state as a distributor in the business of distributing eggs produced in Louisiana, or distributing in Louisiana eggs which are produced elsewhere.

Licensee—a person who holds a license issued pursuant to these rules and regulations.

Person—every person, partnership, firm, company, association, corporation or legal entity engaged in the production or the sale of eggs in Louisiana.

Producer—any person engaged in the business of producing eggs in Louisiana, either as an owner or as an officer or stockholder of a business engaged in producing eggs in Louisiana, or any person deriving a profit from such business.

Ship or *Shipping*—to move or cause to be moved, eggs intra-state or inter-state or foreign commerce by rail, truck, boat, airplane, or any other means.

Shipper—any person engaged in shipping or causing to be shipped, eggs intrastate or interstate or foreign commerce, whether owner, agent or otherwise.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:551.1 and R.S. 3:551.3.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Egg Commission, November 1972.

§1703. The Commission

A. Establishment and Membership. The commission shall be composed of 12 members, 10 of said members to be appointed by the governor upon the joint recommendation of the Poultry Industry of Louisiana, Inc. and/or the Louisiana Egg Council and the commissioner of agriculture. Six of the members shall be practical egg producers; four shall be actively engaged in the marketing of eggs. Not more than two members shall be employed by the same person. The remaining two members shall consist of one member of the House of Representatives and one member of the Senate, with each being appointed by the presiding officer of his respective legislative body. The commissioner of agriculture shall be an ex-officio member and shall have voting privileges.

B. Terms of Office

1. In making the initial appointments, two producers shall be appointed for terms of two years; two producers and two persons actively engaged in the marketing of eggs shall be appointed for terms of four years; two producers and two persons actively engaged in marketing eggs shall be appointed for terms of six years; thereafter, appointments shall be made for terms of six years. The members from the House of Representatives and Senate shall be appointed for terms of four years.

2. Vacancies in the membership occurring for any cause prior to the expiration of the term shall be filled by appointment of the governor, and such appointee shall have the same qualifications as provided for in the Act.

3. Each member shall subscribe to the oath of office prescribed for state officers.

C. Quorum. A majority of the members of the commission shall constitute a quorum for the transaction of all business and the carrying out of the duties of the commission. The commissioner shall have voting privileges.

D. Remuneration. No member of the commission shall receive a salary, but each member shall receive a sum of $15 per day for each day spent in actual attendance of meetings of the commission, and shall be given travel expenses for attending the meetings of the commission, such expenses not to exceed, however, the sum of $0.10 per mile.

E. Corporate Form. As provided in the Act, the commission shall be deemed a corporate body and shall have the power to contract, and be contracted with, and shall have and possess all of the powers of a body corporate for all purposes necessary for fully carrying out the provisions of these rules and regulations. Official acts of the commission when properly certified by the chairman of the commission, shall be deemed prima facie evidence thereof in all courts of the state.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:551.2 and R.S. 3:551.3.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Egg Commission, November 1972.

§1705. Powers and Duties of the Commission

A. Officers. The commission shall elect a chairman and vice-chairman and such other officers as it may deem advisable. Such officers shall possess the authority and shall bear the responsibilities as set forth in §1707 hereinafter.

B. Executive Committee. The commission shall have an executive committee comprised of the chairman, vice-chairman and treasurer, and the commission may delegate to such executive committee, such duties and responsibilities as the commission deems necessary and expedient, in order to more efficiently conduct the business of the commission. The executive committee shall have authority to authorize the expenditures of money without further leave or authority from the commission as a whole, but only up to $500 for any one item of such expense.

C. Rules and Regulations. The commission shall adopt rules and regulations and modify and amend same in accordance with these rules and regulations.

D. Personnel. The commission shall employ such personnel and engage such professional persons and services as it deems necessary to carry out the purposes of this part, and to fix and pay salaries to such personnel and the fees presented by such professional persons or for such professional services.

E. Operations of the Commission. The operations of this commission pursuant to the Act and pursuant to these rules and regulations, shall be conducted by the commission as a whole, except that the commission may delegate such authority as set forth in these rules and regulations.

F. Contracts. The commission, through its chairman, may enter into cooperative agreements with the Louisiana Department of Agriculture and Forestry and the Research and Marketing Administration of the United States Department of Agriculture for conducting consumer, producer and dealer information service in order to promote the food value of eggs, and also for instructions on grades and packs and how to evaluate their merits, in order to expand the market for Louisiana eggs. In this regard, the commission may utilize its funds made available by the Act and by these rules and regulations, and may also share expenses with the United States Department of Agriculture.

G. Books and Records. The commission shall keep books, records and accounts of all of its proceedings, and shall be open to inspection and audit by the state auditor at all times.

H. Purchase of Equipment and Supplies. The commission may purchase all office equipment and supplies necessary to conduct its operations, and it may incur all other reasonable and necessary expenses and obligations necessary to carry out the purposes of the commission as set forth in the Act and in these rules and regulations.

I. Investigations and Prosecutions. The commission shall be authorized to investigate and institute prosecution proceedings against any person for violations of the Act or of these rules and regulations.

J. License. The commission is authorized to pass upon licenses in accordance with the Act and these rules and regulations, and to suspend or revoke same as provided herein.

K. Annual Meeting. The annual meeting of the commission shall be held in conjunction with the annual convention of the Louisiana Poultry Industries, Inc., the specific time and place of such meeting to be determined by the chairman, and due notice being given thereof.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:551.3 and R.S. 3:551.4.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Egg Commission, November 1972.

§1707. Officers

A. The commission shall be authorized to elect the following officers, who in turn will have the following authority and duties.

1. Chairman. The commission shall elect a chairman, who shall be one of its members, and who shall be elected at the annual meeting of the commission. The chairman shall be the chief executive officer of the commission and shall preside at all meetings thereof. He shall have general and active management of the business of the commission, and shall see that all orders and resolutions of the commission are carried into effect. He shall execute all contracts and other documents on behalf of the commission.

2. Vice-Chairman. The vice-chairman shall serve in the absence of the chairman, and shall be elected at the annual meeting of the commission.

3. Treasurer. The treasurer of the commission shall be elected at the annual meeting and shall keep a record of all monies received and paid out, making a report of same to the commission at each regular or special meeting at the pleasure of the commission.

4. Secretary. The secretary of the commission shall be elected by the commission at the annual meeting, but he or she need not be a member of the commission. The secretary shall attend all meetings of the commission and shall record all votes and the minutes of all proceedings, which recordings shall be permanently preserved. The secretary shall give or cause to be given notice of all meetings, and shall perform such other duties ordinarily attendant to a secretary of a corporation.

5. Other Officers. The commission may elect such other officers which may be necessary to carry out the duties of the commission in accordance with these rules and regulations.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:551.4 and R.S. 3:551.3.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Egg Commission, November 1972.

§1709. Adoption of Rules and Regulations

A. The commission shall adhere to the following procedure in the adoption of rules and regulations, or the amendments thereto.

1. Notice. Prior to the adoption of any rule or regulation, each commission member shall be given at least 10 days' notice of the intended action. Such notice shall include a detailed description of the rules and regulations to be adopted, and the time and place where the meeting shall be held in order to adopt same. The notice shall also be published at least once in the official *Louisiana Journal*.

2. Hearing. Prior to the adoption of any such rules or regulations, the commission shall permit any interested person to submit data, views or arguments, orally or in writing, in support of or in opposition to the proposed rules and regulations. The commission shall consider fully, all written and oral submissions respecting the proposed rules or regulations, and upon request of any such interested person, the commission shall, prior to the adoption of such rules or regulations, issue a concise statement of the principal reasons for and against the adoption of same.

3. Emergency Rules. If the commission deems that an imminent peril to the public health, safety or welfare requires adoption of a rule within fewer than 10 days' notice, it may proceed without prior notice or hearing based upon any such abbreviated notice that the commission deems appropriate and necessary and, accordingly, may adopt an emergency rule. Such a rule shall not be effective for a period longer than 120 days. However, the commission may concomitantly proceed to adopt such rule or regulation in accordance with Paragraph 1 and 2 above.

4. Filing. A copy of the rules and regulations or amendments thereof adopted by the commission shall be forwarded to the office of the Secretary of State, who shall maintain a permanent register of such rules and regulations, which shall be open to public inspection.

5. Effective Date. Each rule and regulation adopted pursuant hereto shall be effective 10 days after the filing with the Secretary of State, unless the rules and regulations provide for a later date. an emergency rule, however, shall be effective immediately upon filing with the Secretary of State, provided that the commission submits with the emergency rule or regulation, a brief statement of the reasons why the rule or regulation must be adopted immediately.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:551.3 and R.S. 3:551.4.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Egg Commission, November 1972.

§1711. Collection and Disbursement of Assessments

A. Collection. The $0.02 per case assessment on all eggs produced in Louisiana, and eggs produced elsewhere and distributed in Louisiana, as provided for in R.S. 3:551.6 shall be collected by the commissioner in such manner and method as shall be prescribed by the commissioner.

B. Disposition of Funds. Funds derived from assessments described in Subsection A shall be deposited in a special account in the state treasury which shall be designated a Louisiana Egg Commission account. These funds shall be used by the commission in payment of all costs, expenses and obligations incurred in carrying out the business of the commission.

C. Withdrawals. Withdrawals from the special Louisiana Egg Commission account shall be made by check, signed by any two of the following: chairman, treasurer or the secretary.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:551.6 and R.S. 3:551.3.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Egg Commission, November 1972.

§1713. Books and Records

A. General. All producers, handlers and/or dealers shall maintain books and records reflecting their operations, and shall furnish to the commission, or its duly authorized and designated representative, such information as may from time to time be requested by the commission, relating to their operations affected by these rules and regulations. They shall permit the inspection during normal business hours, by the commission or its duly authorized and designated representative, such portions of their books and records as related to operations hereunder.

B. Records. Records maintained by the producers, handlers and/or dealers shall include the number of eggs produced and/or distributed each month.

C. Reports. Reports containing the above information and whatever other relevant information desired by the commissioner shall be submitted to the commissioner in such form and at such times as prescribed by the commissioner. The commission may request copies of such reports from producers, handlers and/or dealers at any reasonable time.

D. Confidential Information. Any information obtained by any person pursuant to the provisions of this Section shall be confidential and shall not be disclosed by him to any other person, save to a person with like right to obtain same, or any attorney employed by the commission to give legal advice thereon, or by court order.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:551.7 and R.S. 3:551.3.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Egg Commission, November 1972.

§1715. Licenses

A. General. Every person engaged, or who engages in the business of selling eggs to a retailer who retails eggs in Louisiana shall secure a license, which license shall be issued by the commissioner, but the application for which must first be approved by the commission.

B. Applications. Applications for licenses shall be on forms furnished by the Department of Agriculture and Forestry, which shall be submitted to the commission in duplicate original, together with the necessary application fee. Upon approval of the application, a duplicate original shall be forwarded by the commission to the commissioner, who in turn will issue the license.

C. Fee. Each license application shall be accompanied by a fee of $10 payable to the commission.

D. Term. All licenses shall be valid for an indefinite period, or until suspended or revoked as provided hereinafter, or until canceled by the licensee.

E. Disposition of Fees. Proceeds from the license fees collected hereunder shall be transferred to the state treasurer, and credited to the special Louisiana Egg Commission Fund.

F. Suspension or Revocation. The commission shall have authority to suspend or revoke a license issued pursuant hereto for violations of the Act, these rules and regulations, and violations of the Louisiana Egg Grading and Marketing Regulations, in accordance with the procedure set forth hereinafter.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:551.7, R.S. 3:551.6 and R.S. 3:551.3.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Egg Commission, November 1972.

§1717. Adjudication of Violations

A. General. Any licensee subject to these rules and regulations, who violates any provision of the Act, these rules and regulations or Louisiana Egg Grading and Marketing Regulations, may pursuant to the procedure set forth herein below have his license suspended or revoked by the commission.

B. Notice. If the commission has reason to believe that a licensee is guilty of a violation, then unless such is waived in writing, the licensee shall be afforded a hearing after reasonable notice, which notice shall include:

1. a statement of the time, place and nature of the hearing;

2. a statement of the legal authority and jurisdiction under which the hearing is to be held;

3. a factual description of the alleged violation or violations, with reference being made to the particular law, rule or regulation allegedly violated;

4. if the specific violation or violations are known at the time of the notice, or if the hearing is to be merely investigative in nature, the notice shall then recite the issues involved.

C. Hearings. Unless waived by the licensee, there shall be a hearing before the commission, presided over by the chairman or such other special chairman as the commission may choose, wherein licensee shall be given the opportunity to respond and to present evidence on all issues of fact involved and argument on all issues of law and policy involved, and to conduct such cross examination that may be required for a full and true disclosure of the facts. The hearing shall be conducted according to the following.

1. Evidence

a. Except as provided hereinafter, evidence shall be admitted at the hearing in accordance with the Rules of Civil Procedure utilized by the civil courts of the state of Louisiana. When a hearing will be expedited and the interests of the parties will not be prejudiced substantially thereby, any part of the evidence may be received in written form.

b. All evidence, including records and documents in the possession of the commission shall be offered and made a part of the record, and all such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. In case of incorporation by reference, the material so incorporated shall be available for examination by the parties before receiving same into evidence.

2. Judicial Notice. The commission may take notice of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the commission's specialized knowledge. The parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material notice, including any staff memoranda or data, and they shall be afforded an opportunity to contest the materials so noticed. The commission's experience, technical competence and specialized knowledge may be utilized in the evaluation of the evidence.

3. Presiding Officer. The presiding officer of the hearing shall be the chairman of the commission, or such other member of the commission as the commission may designate. The presiding officer shall have the power to administer oaths, affirmations, regulate the course of the hearings, set the time and place for continued hearings, fix the time for filing of briefs and other documents, and direct the parties to appear and confer to consider the simplification of the issues.

4. Subpoenas. The presiding officer shall have the power to sign and issue subpoenas in the name of the commission, requiring attendance and giving testimony by witnesses and the production of books, papers and other documentary evidence.

5. Witness Fees. No subpoena shall be issued until the party who wishes to subpoena the witness first deposits with the commission a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled, pursuant to R.S. 13:3661 and R.S. 13:3671. The presiding officer may fix additional compensation for those witnesses giving expert testimony at the hearing or by deposition.

6. Depositions. The commission and any party to a hearing under this Part may take the depositions of witnesses within or without the state in the same manner as provided by law for the taking of depositions in civil actions in courts of record. The depositions so taken shall be admissible in any proceedings affected by this Chapter. The admission of

such depositions may be objected to at the time of hearing, and may be received in evidence or excluded from the evidence by the commission or presiding officer, in accordance with the rules of evidence provided herein.

7. Contempt. Whenever any person summoned under this Section neglects or refuses to obey such summons, or to produce books, papers, records, or other data, or to give testimony as required, the commission may apply to the judge of the district court for the district within which the person so summoned resides or is found, for an attachment against him as for a contempt. Said contempt proceedings shall be conducted in accordance with R.S. 49:956(5)(c).

D. Record of the Hearing

1. With reference to any hearing conducted in accordance with this Section, the commission shall compile and maintain a record of the case, which record shall include the following:

a. all pleadings, motions and intermediate rulings;

b. evidence received or considered, or a résumé thereof if not transcribed;

c. a statement of matters officially noticed except in matters so obvious that a statement of them would serve no useful purpose;

d. offers of proof, objections and rulings thereon;

e. proposed findings and exceptions;

f. any decision, opinion or report by the presiding officer;

g. the commission, upon the request of any party or person, shall have prepared and furnish to that requesting party or person, a copy of the transcript or any part thereof, upon the payment of costs for same by the person so requesting it.

E. Proceedings When There Is a Lack of a Quorum

1. In the event there is a lack of a quorum of the commission at any hearing, pursuant to this Section, the proceedings shall be conducted in accordance with the rules set forth hereinabove, and shall further be subject to the following:

a. under no circumstances shall a hearing be conducted with less than three commission members being present at the hearing;

b. the commission members actually present at the hearing shall render a decision, and if same is adverse to the licensee, then such decision shall not be made final until a proposed order is served upon the licensee and an opportunity is afforded to the licensee adversely affected to file exceptions and present briefs, and oral argument, to the commission at a subsequent meeting. The proposed order sent to the licensee shall be accompanied by a statement of the reasons therefor, and the disposition of each issue of fact or law necessary to the proposed order prepared by the presiding officer, or by one who has read the record;

c. if the licensee files exceptions to the proposed order or ruling of the commission, then the order shall not be made final until concurred in by at least four members of the commission;

d. the licensee, by written stipulation, may waive the provisions of this Section, and the commission itself may choose not to apply the provisions of this Section, if the licensee fails to contest the proceedings.

F. Decisions and Orders

1. A final decision or order adverse to a licensee shall be in writing or transcribed in the record. The final decision shall include findings of fact, set forth in a concise and explicit statement of the underlying facts, supporting the findings. The decision shall also include conclusions of law.

2. Upon request, a copy of the decision or order shall be delivered or mailed forthwith to the licensee, and to his attorney of record.

3. Any case may be disposed of informally by stipulation, agreed settlement, consent order or default.

G. Rehearings

1. The licensee adversely affected by a ruling or decision of the commission, may apply to the commission for a rehearing within 10 days from the date that the ruling or decision is mailed to the licensee. A rehearing may be granted by the commission for the following reasons:

a. the decision or order is clearly contrary to the law and the evidence;

b. the licensee has discovered, since the hearing, evidence important to the issues which he could not have, with due diligence, obtained before or during the hearing;

c. there is a showing that issues not previously considered ought to be examined in order to properly dispose of the matter; or

d. there is other good ground for further consideration of the issues and the evidence in the public interest:

i. the licensee, in applying for a rehearing, shall petition the commission and shall set forth the grounds which justify such action;

ii. nothing in this Section shall prevent a rehearing, reopening or reconsideration of a matter by the commission on the ground of fraud practiced by the prevailing party or the procurement of the order by perjured testimony or fictitious evidence;

iii. on reconsideration, reopening, or rehearing, the matter may be heard by the commission, or it may be referred to any one or more members of the commission for decision;

iv. once a rehearing is granted, the rehearing shall be confined to those grounds upon which the reconsideration, reopening, or rehearing was ordered;

v. if an application for rehearing shall be timely filed, the period within which judicial review, under the applicable statute, must be sought, shall run from the final disposition of such application.

H. Ex Parte Consultations and Recusations

1. In the event there are multiple parties to any proceedings under this Section, no member of the commission nor employee thereof shall communicate directly or indirectly with any licensee or his representative, except upon giving notice to all parties in the proceedings, and allowing them to have the opportunity to participate.

2. No member of the commission shall sit at a hearing as provided for in this Section, if for any reason he cannot accord a fair and impartial consideration of the facts and issues involved. Such a member may recuse himself or be recused on motion by an adverse party after due hearing.

I. Suspension or Revocation

1. If, after due proceedings had as set forth hereinabove, the commission determines that there has been a violation of any provision of the Act, these rules and regulations, or the Louisiana Egg Grading and Marketing Regulations, then the license may be suspended or revoked as follows:

a. for the first offense, suspension for not more than 30 days;

b. for the second offense, suspension for not more than 60 days;

c. for the third offense, revocation of the license for not less than one year.

2. It is understood, however, that for purposes of this Section, that in order to be considered a second or third offense, the said offense must have occurred within 12 months from the previous offense.

J. Reinstatement. Once a license has been revoked as provided in Subsection I hereinabove, the licensee may make application for reinstatement of the revoked license after the expiration of the period for which the license had been revoked. The application for reinstatement shall be on the same form as the application for the initial license as set forth hereinabove, and shall be on a form provided by the commissioner. The reinstatement application shall be accompanied by a reinstatement fee of $10.

K. Judicial Review of Adjudication. Any licensee who is aggrieved by a decision or final order of the commission as set forth hereinabove, may institute a petition for judicial review of same in accordance with R.S. 49:964-965.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:551.7 and R.S. 3:551.3.
HISTORICAL NOTE: Adopted by the Department of Agriculture, Egg Commission, November 1972.

§1719. Separability

A. If any provision of these rules and regulations is declared invalid, or the applicability thereof to any person, circumstance or thing is held to be invalid, the validity of the remainder hereof, or their applicability thereof to any other person, circumstance or thing, shall not be affected thereby.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:551.3.
HISTORICAL NOTE: Adopted by the Department of Agriculture, Egg Commission, November 1972.

Chapter 19. Louisiana Strawberries

Subchapter A. General Provisions

§1901. Definitions

A. The words and terms defined in R.S. 3:730.2 are applicable to this Chapter.

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

Container or Package—the receptacle in which strawberries are placed or held for retail sale.

Farm of Origin—the tract of land on which the strawberries in a container were raised.

Handler of Strawberries—a person, except for a producer and an ultimate purchaser, who, for a profit, processes, packs, distributes, markets, or sells strawberries in this state.

Louisiana Grown Strawberries—strawberries that are raised, processed, and packed entirely in Louisiana.

Producer—a person who commercially raises and harvests strawberries for sale.

Ultimate Purchaser—the person or consumer who will eat the strawberries and the last person in the chain of distribution who removes the strawberries from the container and prepares them to be eaten by a consumer. A restaurant shall be considered to be an ultimate purchaser.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:730.4.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, State Market Commission, LR 17:249 (March 1991), amended by the Office of the Commissioner, LR 37:70 (January 2011).

§1903. Records Required; Inspections and Audits

A. Each Louisiana producer and each handler of fresh or frozen strawberries in this state shall maintain complete, separate and correct records and accounts pertaining to all lots of strawberries produced, processed, packed, distributed, marketed or sold in this state, including, but not limited to, bills of lading, warehouse receipts, invoices, sales receipts, the person the strawberries were received from, the person the strawberries were delivered to, the number or amount of strawberries, whether kept by weight, measure, or count, and any Louisiana strawberry assessment paid or collected.

B. Each producer and handler of strawberries in Louisiana shall permit any authorized officer, employee, or representative of the department or the board to enter and inspect all locations where strawberries or records are kept

and to examine and audit all records, books, and accounts relating to the producing and handling of strawberries in this state.

C. Any such inspection, examination or audit may be made on any business day, during normal working hours and the producer or handler shall provide the necessary assistance and cooperation required for the completion of the inspection, examination, or audit.

D. No person shall in any way interfere with an authorized officer, employee, or representative who is entering or inspecting, or attempting to do so, a location where strawberries or records relating to strawberries are kept or is examining or auditing, or attempting to do so, records, books, and accounts relating to the producing and handling of strawberries in this state.

E. All required records shall be kept for a period of three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:730.4.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 37:271 (January 2011).

Subchapter B. The Strawberry Marketing Board

§1921. Compensation of Board Members

A. The board may waive the compensation provided by law for members by unanimous consent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:730.4.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 37:271 (January 2011).

§1923. Board Meetings

A. The board shall meet at least once in every quarter of the year, but a meeting may be cancelled by the chairman if there is no business to consider at the meeting.

B. The board shall meet upon the call of the chairman or the commissioner or upon the written request of at least three board members.

C. The board shall not meet more than 12 times in any one year.

D. The meetings shall be conducted in accordance with Roberts Rules of Order, Newly Revised, Tenth Edition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:730.4.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 37:271 (January 2011).

Subchapter C. Farm of Origin Labeling

§1931. Labeling of Strawberries

A. Each container of fresh or frozen strawberries sold or offered for sale in this state to the ultimate purchaser shall have a stamp or label containing sufficient information from which the farm of origin may be identified, except as otherwise provided by these regulations.

B. The identifying information may be provided by one of the following methods.

1. Identification of the name and address of the producer, processor, or distributor pursuant to Section 101.5 of Title 21 the Code of Federal Regulations.

2. Placement of the name and address of the farm of origin on a stamp or label on the top or side of the container.

3. Use of a brand name along with a recordkeeping or traceability system that permits the identification of the farm of origin.

4. Providing a bar code on the stamp or label that permits the strawberries to be traced back to the farm of origin.

5. Any other method that provides a reasonable means of tracing the strawberries back to the farm of origin.

C. The identifying information shall be provided in indelible ink or print and in a form that is legible to a reasonable person and that will remain affixed to the container or covering until removed by the ultimate purchaser.

D. The stamp or label may also state "Louisiana Strawberries," "Product of Louisiana" or other words or phrases that indicate that the strawberries are Louisiana grown strawberries unless the use of the name or phrase would constitute a prohibited use of a logo of the department, or use a logo provided by the department if such use is authorized by these regulations.

E. Strawberries may be sold in open or unwrapped containers at a roadside stand, farmer's market, fair or festival, or other similar location without the identifying information being on each container only if:

1. a sign that is readable by a reasonable person, without strain, is posted with the strawberries stating the name and address of the farm of origin; and

2. a bill of sale, invoice, or some other document that would allow the strawberries to be traced back to the farm of origin is at the location and available for inspection by an authorized office, employee, or representative of the board or the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:730.4 and 3:730.8.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 37:271 (January 2011).

§1933. Louisiana Grown Strawberries; Use of Department Logos

A. Louisiana grown strawberries may be eligible for labeling with a logo developed by the department for use on strawberries or other agricultural products raised, processed, and packed in this state.

B. Any producer, processor, packer, wholesaler, or distributor who desires to have a logo of the department placed on containers of Louisiana grown strawberries may register with the department for participation in a logo use program.

C. All farms of origin that provide the strawberries sold or offered for sale by the participating producer, processor, packer, wholesaler, or distributor shall be registered with the department before approval to use the logo is given by the department.

D. The application for participation shall be submitted in writing to the department on a form approved by the department.

E. Upon approval, the applicant shall have the right to affix a logo of the department on all containers of strawberries.

F. A logo of the department may not be placed on any container of strawberries that holds any strawberries that are raised, processed, or packed in another country or another state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:730.4 and 3:730.8.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 37:272 (January 2011).

§1935. Use of Containers Ordered Prior to the Effective Date of these Regulations

A. Any person who prior to the effective date of these regulations ordered strawberry containers that do not meet the requirements of these regulations may use those containers for the 2011 strawberry season up to July 1, 2011 if documentation allowing the farm of origin to be determined is available for inspection by an authorized officer, employee, or representative of the board or the department.

B. In no event shall any container that does not comply with the labeling requirements of this Subchapter be used after July 1, 2011, except as allowed by §1931.E of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:730.4 and 3:730.8.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 37:272 (January 2011).

Chapter 21. Louisiana Sweet Potato Logo

§2101. Statement of Authority and Purpose

A. The State Market Commission hereby adopts LAC 7:V.Chapter 21 under the authority of R.S. 3:415 for the purpose of advertising, publicizing and promoting the increased production and packaging of Louisiana sweet potatoes, in the state of Louisiana, through the creation, licensing and use of a Louisiana sweet potato logo.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:415.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:1081 (June 1998).

§2103. Definitions

A. The terms defined in this Section have the meaning given to them herein, for purposes of this Chapter, except where the context expressly indicates otherwise.

Commission—the Louisiana State Market Commission.

Commissioner—Commissioner of the Louisiana Department of Agriculture and Forestry.

Department—the Louisiana Department of Agriculture and Forestry.

Farm—any area of land used to grow and package Louisiana sweet potatoes.

Louisiana Sweet Potato—any sweet potato grown and packaged in the state of Louisiana.

Louisiana Sweet Potato Logo—a distinctive mark, motto, device, symbol or emblem which may be affixed to Louisiana sweet potatoes or the shipping crates, boxes or other packaging containing the Louisiana sweet potatoes so that Louisiana sweet potatoes may be identified as such in the market, and their origin vouched for.

Person—any individual, corporation, partnership, association or other legal entity.

Producer—any person who grows or packs Louisiana sweet potatoes.

Promote—includes the use of the Louisiana sweet potato logo on packages, documents, promotional materials and business correspondence to further enhance the marketability of Louisiana sweet potatoes.

Stop Order—a written, printed or stamped order issued by the department preventing a person from shipping or selling sweet potatoes under the Louisiana sweet potato logo or removing them from the premises where they are found in crates, boxes or other packaging marked with the Louisiana sweet potato logo.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:415.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:1081 (June 1998).

§2105. Development, Adoption and Registration of an Official Logo for Louisiana Sweet Potatoes

A. The commission may develop and adopt a Louisiana sweet potato logo to be placed on boxes, crates, or other packages to certify that the sweet potatoes in the boxes, crates or other packages are Louisiana sweet potatoes.

B. Upon adoption of a Louisiana sweet potato logo the commission may register the logo as a trademark or a certification mark with the state of Louisiana, U.S. Government or any other governmental or private entity where necessary or proper to protect the logo's status as a trademark or as a certification mark.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:415.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:1082 (June 1998).

§2107. Licensing Eligibility for Use of Logo

A. The commission may license a producer to use the Louisiana sweet potato logo if the producer meets the following requirements:

1. the producer makes written application to the commission for a license, on a form provided by the department;

2. the producer pays the license fee;

3. the producer agrees in writing to abide by this Chapter regarding the use of the Louisiana sweet potato logo;

4. the producer agrees in writing to apply the Louisiana sweet potato logo only on crates, cartons or other forms of packaging containing sweet potatoes grown and packed entirely in the state of Louisiana.

B. No sweet potatoes grown in any other state shall qualify for packing and shipping under the Louisiana sweet potato logo.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:415.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:1082 (June 1998).

§2109. Use and Transferability of Logo

A. The Louisiana sweet potato logo shall be reserved for the exclusive use of the department in promoting, advertising and marketing Louisiana sweet potatoes and for each producer licensed to use the logo.

B. The Louisiana sweet potato logo shall not be placed on any box, crate or other package containing sweet potatoes unless the box, crate or other package contains only Louisiana sweet potatoes.

C. No producer licensed to use the Louisiana sweet potato logo shall sell, assign or transfer the use of the Louisiana sweet potato logo to any other person without the specific written permission of the commission.

D. No person shall use the Louisiana sweet potato logo for any purpose unless that person is authorized in writing by the commission to do so or unless that person is a producer licensed by the commission to use the logo.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:415.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:1082 (June 1998).

§2111. Fees and Costs

A. Each producer applying for and receiving an initial license to use the logo shall pay a fee of $25 before being licensed.

B. Each producer, thereafter, shall pay an annual renewal fee of $25 on or before June 30 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:415.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:1082 (June 1998).

§2113. Enforcement

A. The department or its authorized representative shall have the right to enter any Louisiana sweet potato farm and any packaging plant to inspect that facility and any records pertaining to the growing, packaging or sale of any Louisiana sweet potato by any producer licensed under this Chapter.

B. The department or its authorized representative may, while enforcing the provisions of this Chapter, issue and enforce a written, printed or stamped stop order to prevent the use of the Louisiana sweet potato logo on any sweet potatoes to be sold, shipped or removed from the premises where they are found if:

1. the authorized representative of the department has been refused the right to enter the premises where the sweet potatoes are being grown and packaged;

2. the sweet potatoes do not meet the department's inspection and grading standards;

3. the licensed sweet potato producer is in violation of this Chapter;

4. the sweet potatoes in any box, crate or package carrying the Louisiana sweet potato logo are not entirely Louisiana sweet potatoes; or

5. any person is found to be using the Louisiana sweet potato logo either without being a licensed producer or without written authorization from the commission to use the logo.

C. Upon issuance of a stop order the department may:

1. order that the sweet potatoes may not be sold, shipped or removed from the premises at the time the stop order is issued; or

2. prohibit the use of the Louisiana sweet potato logo on any sweet potato subject to the stop order, or on any

crate, box or package containing such sweet potatoes when the sweet potatoes are sold, shipped or moved from the premises.

D. The stop order may be released by the department when:

1. proof of compliance with this Chapter is furnished to the department if the stop order was issued because of a violation of this Chapter;

2. the authorized representative of the department has been allowed to enter the premises where the sweet potatoes are grown or packaged and inspect those sweet potatoes or the records if the stop order was issued based on refusal to allow entry or inspection;

3. the department determines that circumstances warrant the release of the stop order, upon such terms and conditions that the department deems necessary or proper.

E. Any person aggrieved by the issuance of a stop order by the department may request an administrative adjudicatory hearing to contest the validity of the stop order by making a written request, within five calendar days, to the department for such a hearing. Within 10 calendar days after the department receives the written request an administrative adjudicatory hearing shall be held by the department in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:415.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:1082 (June 1998).

§2115. Penalty for Violations; Injunctive Relief; Costs; Notification

A. Whoever violates the use of the Louisiana sweet potato logo adopted pursuant to R.S. 3:415 or this Chapter may be fined not less than $25 nor more than $500 for each violation or may have his license to use the Louisiana sweet potato logo suspended, revoked or placed on probation or both.

B. Each violation of this Chapter, any stop order or other orders issued by the department or the commission in the enforcement of this Chapter and every day of a continuing violation shall be considered a separate and distinct violation chargeable under this Chapter.

C. The commission may impose any or all of the penalties stated in §2115.A and B after an adjudicatory hearing held in accordance with the Louisiana Administrative Procedure Act. Any such adjudicatory hearing may be presided over by a hearing officer appointed by the commissioner. The commission may delegate to the Louisiana Sweet Potato Advertising and Development Commission the authority to conduct any such adjudicatory hearing, to make findings of fact and conclusions of law and to impose penalties for any violation.

D. The commission, through the commissioner, may apply for injunctive relief restraining violations of the Louisiana sweet potato logo or violations of this Chapter or institute necessary actions for failure to pay accounts due the commission. The person condemned in any such proceeding shall be liable for the costs of court and for any additional costs incurred by the department or the commission in gathering the necessary evidence, including reasonable attorney fees and expert witness fees.

E. If any Louisiana sweet potatoes inspected by the department are the subject of a stop order or if any producer's license to use the Louisiana sweet potato logo has been suspended, revoked or placed on probation then notification of such action and the reasons therefore shall be sent, by the department, to any and all appropriate public entities or agencies who may be affected by the stop order or by the suspension, revocation or probation of the producer's license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:413 and 415.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:1083 (June 1998).

Chapter 23. Market Commission—Acquisition of Facilities

§2301. Definitions

Acquire—to gain possession or control of land, buildings, machinery, equipments, and other property by purchase, donation, rent, lease, sub-lease, or by any other lawful manner.

Commission—State Market Commission.

Commissioner—Commissioner of Agriculture and Forestry.

Department—Louisiana Department of Agriculture and Forestry.

Facility—land, buildings, or other structures and any combination thereof.

Farm Product—any agronomic, horticultural, silvicultural, or aquacultural crop; livestock; any raw product derived from any crop or livestock; and any item produced from the further processing of the crop, livestock, or raw agricultural product.

Livestock—any animal except dogs and cats, bred, kept, maintained, raised, or used for profit, used in agriculture, aquaculture, or silviculture, or for other related purposes or used in the production of crops, animals, or plant or animal products for market. This definition includes but is not limited to cattle, buffalo, bison, oxen, and other bovine; horses, mules, donkeys, and other equine; goats; sheep; swine; chickens, turkeys, and other poultry; domestic rabbits; imported exotic deer and antelope, elk, farm-raised white-tailed deer, farm-raised ratites, and other farm-raised exotic animals; 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; any commercial

crawfish from any crawfish pond; and any hybrid, mixture, or mutation of any such animal.

Person—any association, business, corporation, firm, individual, joint venture, limited liability company, partnership, and any body of persons, whether incorporated or not.

Rent—an agreement or contract, including a lease or sub-lease, whereby a person acquires the right to use and occupy the machinery, equipment, or facility acquired by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, State Market Commission, LR 33:422 (March 2007).

§2303. Criteria for Acquiring Machinery, Equipment, and Facilities

A. The commission shall determine whether the acquisition of any machinery, equipment, or facility is necessary to aid in the proper and efficient assembling, processing, storing, grading, distributing, or marketing of farm products.

B. The commission shall also consider the following criteria in determining whether to acquire any machinery, equipment, or facility:

1. the economic needs of the areas of the state in which the machinery, equipment, or facility will be located;

2. the number of jobs created or preserved in the state;

3. the amount of farm products produced in the state that will be utilized;

4. the degree of diversification that the machinery, equipment, or facility will bring to the state's agricultural economy;

5. the economic stimulus that the use of the machinery, equipment, or facility will provide to the local economy or to the state's agricultural economy as a whole.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, State Market Commission, LR 33:422 (March 2007).

§2305. Persons Eligible to Use, Rent, or Purchase Acquired Machinery, Equipment, or Facility

A. Any person who meets the criteria in this Section is eligible to apply to rent or purchase machinery, equipment, or facilities acquired by the commission.

B. The criteria for eligibility are as follows:

1. be authorized to do business in this state;

2. maintain or agree to maintain an operating facility in this state;

3. employ at least 20 full time employees or the equivalent thereof;

4. be engaged in the assembling, processing, storing, grading, distributing, or marketing of farm products of this state;

5. have, or be able to obtain, financial resources including operating capital sufficient to show an ability to operate under normal condition for a period of at least one year;

6. be able to provide the commission with a first mortgage, primary lien, or other first or primary security for the rent or purchase of the machinery, equipment or facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, State Market Commission, LR 33:422 (March 2007).

§2307. Contents of Application

A. Every applicant seeking to rent or purchase machinery, equipment or a facility from the commission shall submit the following information to the commission:

1. name and address of applicant including all principals by name and address;

2. a statement of the nature and amount of the interest held by each principal;

3. sworn statement of the relationship, if any, of any of the principals with any state official and/or with any employee of the Department of Agriculture and Forestry;

4. location and legal description of all property to be offered as security;

5. personal financial statements of every principal of the applicant unless the commission's staff finds that the applicant is a publicly traded company or other business enterprise whose financial statements are sufficient to show the solvency of the applicant;

6. an appraisal by a qualified appraiser of the property being offered as security or information sufficient to show the approximate value of the property;

7. a listing of all equipment and furnishings, both movable and immovable by destination, with the expected life of the equipment and furnishings, if equipment and furnishings will be offered as part of the security;

8. evidence of satisfactory interim and long term financing, where applicable;

9. a business plan/feasibility sturdy for the proposed enterprise which includes a three year projected cash flow statement, together with an explanation of how the enterprise meets the criteria set out in 2303.B and 2305.B;

10. written authorization for the commission or its staff to perform any credit check(s) which the commission or staff may deem advisable;

11. a designation by the applicant, if any, of what records, writings, accounts, or other documents and information that pertain to the business of the applicant and are in their nature confidential;

12. any other documentation or information the commission or its staff deems necessary for a determination as to whether to approve or deny the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, State Market Commission, LR 33:423 (March 2007).

§2309. Approval of Application

A. The applicant must provide all required information at least 10 working days prior to the meeting at which the applications will be considered, unless partial submission is allowed by the commission's staff or by the commission.

B. The applicant or its representative must appear in person at the meeting at which the applications will be considered.

C. The commission may approve an application even if all the criteria set out in this Chapter have not been met by an applicant if the commission determines that under the circumstances the applicant's rent or purchase of the machinery, equipment, or facility is necessary to aid in the proper and efficient assembling, processing, storing, grading, distributing, or marketing of farm products of the state. The commission may refuse to approve an application even if all the criteria set out in this Chapter have been met by an applicant if the commission determines that under the circumstances the applicant's rent or purchase of the machinery, equipment, or facility is not necessary to aid in the proper and efficient assembling, processing, storing, grading, distributing, or marketing of farm products of the state.

D. If there is more than one applicant for the rent or purchase of machinery, equipment, or facilities acquired by the commission then the commission maintains the discretion to decide which, if any, applicant will be approved.

E. The commission may establish terms and provisions to be included in any written rental or purchase agreement or act of sale in addition to the terms and provisions submitted to the commission, or authorize the commissioner or the commission's staff to negotiate additional terms and conditions within the parameters established by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, State Market Commission, LR 33:423 (March 2007).

Chapter 25. Louisiana Crawfish Promotion and Research Program

§2501. Administration of the Crawfish Promotion and Research Board

A. The officers of the board shall be the chairman, vice-chairman, and secretary treasurer.

B. The officers shall be elected at the board's regular meeting in the first quarter of each year.

C. In the absence of the chairman at any meeting of the board, the vice-chairman shall preside.

D. Members shall not receive a per diem for attending a meeting, but shall receive a mileage allowance equal to the mileage rate for state employees.

E. Meeting of the board shall normally be held at the place of its domicile, but may be held at other locations within the state as determined by the chairman or the board.

F. An affirmative vote of a majority of the members present and constituting a quorum shall be required for the adoption of any motion or resolution involving the disbursement or withdrawal of funds or the granting of any contract or grant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:556.5.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Crawfish Promotion and Research Board, LR 35:406 (March 2009).

§2503. Disbursement and Withdrawal of Funds

A. Disposition of Funds. The proceeds of assessments delivered by the department to the board shall be deposited in a special account which shall be designated as the Louisiana Crawfish Promotion and Research Board account.

B. Funds that are in the account shall be authorized by the board to be used only for the purposes stated in R.S. 3:556.12.

C. Withdrawals from the Louisiana Crawfish Promotion and Research Board account shall be made by check, signed by any two of the following officers, the chairman, the vice-chairman, or the secretary-treasurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:556.5.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Crawfish Promotion and Research Board, LR 35:407 (March 2009).

§2505. Contracts and Grants

A. The award of contracts and grants shall be made by the board in accordance with state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:556.5.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Crawfish Promotion and Research Board, LR 35:407 (March 2009).

Title 7
AGRICULTURE AND ANIMALS
Part VII. Dealers in Farm Products

Chapter 1. Milk Buyers

§101. Authority

A. In accordance with the provisions of Section 641 et seq., of Chapter 6, Title 3 of the Louisiana Revised Statutes of 1950 as amended by Act 128 of 1954, the following regulation is promulgated governing the posting of bonds or other security required of milk buyers.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:642.
HISTORICAL NOTE: Adopted by the Department of Agriculture, October 1964.

§103. Bonds and Other Securities

A. Any person, firm or corporation, who shall engage in the business of purchasing milk from producers or cooperative associations for the purpose of manufacturing, pasteurizing or distributing milk or milk products shall post, with the commissioner, a surety bond signed by a surety company authorized to do business in Louisiana, or other security, in a form and substance acceptable to and approved by the commissioner. Said other security may include, but not limited to, the following:

1. a certified check; or

2. negotiable bonds or securities; or

3. a first mortgage on real estate and/or plant equipment; or

4. irrevocable letter of credit; or

5. certificate of deposit.

B. The amount of such bond or other security shall be computed by adding the total payments made to producers and cooperative associations for milk during the preceding six months, dividing by the number of days in the period and then multiplying the results by twice the number of days in the normal or customary day period. The bond or other securities shall be sufficient to cover a minimum of seven days' purchases from producers and cooperative associations and the maximum amount required shall not be more than an amount sufficient to cover 25 days' purchases from producers and cooperative associations. The correct amount of bond or other security shall be computed semi-annually or annually, at the discretion of the commissioner, and the amount shall be adjusted accordingly.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:641 and R.S. 3:642.
HISTORICAL NOTE: Adopted by the Department of Agriculture, August 1967, amended by the Department of Agriculture and Forestry, Dairy Division, LR 13:739 (December 1987).

§107. Injunctive Procedures

A. Upon the failure of any person, firm or corporation, engaged in the business of purchasing milk from producers and cooperative associations for the purpose of manufacturing, pasteurizing or distributing milk or milk products, to post the bond as required herein, the commissioner of agriculture may file injunctive proceedings in any court of competent jurisdiction to restrain and enjoin such person, firm or corporation from purchasing milk from producers and cooperative associations until such time as the bond required herein is posted. The injunctive relief as provided for herein shall be in addition to the penalty provided by R.S. 3:643.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:642 and R.S. 3:643.
HISTORICAL NOTE: Adopted by the Department of Agriculture, August 1967.

§109. Authority to Promulgate Regulations and Effective Date

A. The above regulation is hereby promulgated by the commissioner of agriculture under authority of R.S. 3:641 et seq., and shall be effective on and after October 1, 1964.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:642.
HISTORICAL NOTE: Adopted by the Department of Agriculture, August 1967.

Title 7
AGRICULTURE AND ANIMALS
Part IX. Brands, Grades and Inspections—Reserved.
Part XI. Fertilizers

Chapter 1. Sale of Fertilizers

§101. Definitions

Additive—any substance added to fertilizer in small amounts.

Adulteration—any situation:

1. where a commercial fertilizer contains any material which is not specifically declared to be a component of the fertilizer;

2. where materials which are likely to cause injury or damage to crop plants are present;

3. where materials containing nitrogen in a form which is but slightly available to plants is added to make up a part of the required nitrogen content; or

4. where the actual analysis is lower than the guaranteed analysis.

Basic Slag—a by-product from the manufacturing of steel by the Bessemer or open-hearth process.

Commission—the Feed, Fertilizer, and Agricultural Liming Commission.

Commissioner—the Commissioner of the Department of Agriculture and Forestry or his duly authorized representatives acting at his discretion.

Composite Sample—a collection of samples taken from a given lot or load of fertilizer, and these aggregated samples are treated as one representative sample of the total lot or load.

Custom-Mixed Fertilizer—a fertilizer product which has been produced to the customer's specifications and promotes plant growth or exerts beneficial action on the soil.

Deficiency—any condition where the required primary plant nutrients constitute less than the percent, by weight, guaranteed.

Fertilizer—all materials sold for the purpose of promoting the growth of plants or exerting beneficial action on the soil. *Fertilizer* does not include: lime, limestone, marl, gypsum, sulphur, unground bones when not mixed with any other substances, and manure or excrement from any domestic animal which has not been dried or otherwise treated.

Fertilizer Blend—a mixture of two or more components containing different plant nutrients and mixed together to give a predetermined percentage of each of the nutrients in the final product.

Fertilizer Grade—the specific percentage of nitrogen (N), available phosphoric acid (P_2O_5), and soluble potash (K_2O) or any two of these components.

Guarantor—a person who manufactures, sells or offers fertilizer for sale under his name or brand.

Micronutrients—those listed in §107.E herein.

Mixed Fertilizer—a fertilizer product that contains a minimum of 20 percent by weight of the primary nutrients which promotes plant growth or exerts beneficial action on the soil.

Package—any parcel, bag, or other container in which fertilizer is stored and/or offered for sale.

Pesticide—any substance or mixture of substances intended to be used for defoliating or desiccating plants, for destroying or repelling pests, or preventing or mitigating the effects of pests.

Premise—any place, warehouse, store, truck, railroad car, boat, etc., where fertilizer may be kept by a guarantor.

Primary Plant Nutrients—nitrogen (N), available phosphoric acid (P_2O_5), and soluble potash (K_2O).

Purchase Invoice—delivery, scale or meter ticket to identify the fertilizer in the trade channel.

Registrant—a person who has been registered by the commission as required by R.S. 3:1413(A).

Sampling—the process of taking a portion or a specimen of fertilizer.

Small Packages—less than 5 gallons of liquid fertilizer and less than 50 pounds of dry material.

Specialty Fertilizer—any commercial fertilizer distributed in packages containing 16 fluid ounces or less and designed primarily for use on household plants grown for noncommercial purposes.

State Chemist—the director of the Louisiana Agricultural Experiment Station of the Louisiana State University Agricultural Center, or his designee.

Superphosphate—the product obtained when ground bones or phosphate rock is treated with sulfuric acid. The available phosphoric acid (P_2O_5) will be 18 to 20 percent.

Value of Deficiency—the dollar value attributable to a penalty calculated in accordance with these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1382.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Fertilizer Commission, LR 7:164 (April 1981), amended LR 12:493 (August 1986), amended by the Department of Agriculture and Forestry, Feed, Fertilizer, and Agricultural Liming Commission, LR 37:809 (March 2011), LR 38:2521 (October 2012).

§103. Registration Requirements

A. Every guarantor who manufactures, sells, or offers fertilizer for sale under his brand or company name within the state of Louisiana shall be registered with the commission. Fertilizer processed or manufactured in Louisiana and offered for sale or distributed solely outside the state of Louisiana is not required to be registered.

B. Applicants for registration may request application forms, verbally or in writing, from the commission.

C. Each registration shall be valid until December 31 of each year. To remain valid, each registration shall be renewed on or before January 1 of each year.

D. Applications for annual renewal of registration shall be mailed by the commission to all registrants, at the last address provided by the registrant, on or before November 15 of each year and shall be returned on or before January 1 of each year.

E. The record of all registrations shall be maintained by the commission and the director of Agricultural Chemistry Programs in the Agricultural Chemistry Building, Louisiana State University in Baton Rouge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1382.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Fertilizer Commission, LR 7:164 (April 1981), amended LR 12:494 (August 1986), amended by the Department of Agriculture and Forestry, Feed, Fertilizer, and Agricultural Liming Commission, LR 38:2521 (October 2012).

§105. Labeling Requirements

A. When minor elements, pesticides, and/or seeds are added, the label, tag, or printed invoice shall contain the following:

1. guarantee of the fertilizer (percent by weight) before the addition of minor elements, pesticides and/or seeds;

2. amount per ton of minor elements, pesticides and/or seeds added; and

3. percent by weight of the active ingredients added.

B. All additives shall be clearly labeled as such.

C. The validity of claims on the label, tag or printed invoice will be verified by the director of Agricultural Chemistry Programs. No false or misleading statements indicating that additives possess fertilizer properties will be permitted.

D. When two or more fertilizer materials are mixed or blended together, the guarantor shall indicate on the label, tag, or printed invoice, the percent by weight of nitrogen (N), available phosphoric acid (P_2O_5), and soluble potash (K_2O) in the final mixture.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1382.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Fertilizer Commission, LR 7:164 (April 1981), amended LR 12:494 (August 1986), amended by the amended by the Department of Agriculture and Forestry, Feed, Fertilizer, and Agricultural Liming Commission, LR 38:2521 (October 2012).

§107. Required Guarantees

A. Guarantees of the plant nutrients shall be expressed as percent by weight.

B. Guarantees on the basis of weight per unit of area (i.e., units/acres) will not be permitted.

C. Every mixed fertilizer shall contain a minimum of 20 percent by weight of the primary nutrients, nitrogen (N), available phosphoric acid (P_2O_5), and soluble potash (K_2O), except those products whose primary purpose is to supply minor nutrients.

D. All plant nutrients other than nitrogen (N), available phosphoric acid (P_2O_5), and soluble potash (K_2O), if listed on the label or invoice, shall be guaranteed on an elemental basis.

E. Other plant nutrients when mentioned in any form or manner shall be registered and shall be guaranteed. Guarantees shall be made on the elemental basis. Sources of the elements guaranteed and proof of availability shall be provided the commissioner upon request. The minimum percentages which will be accepted for registration are as follows.

Element	Percentage
Calcium (Ca)	1.00
Magnesium (Mg)	0.50
Sulphur (S)	1.00
Boron (B)	0.02
Chlorine (Cl)	0.10
Cobalt (Co)	0.0005
Copper (Cu)	0.05
Iron (Fe)	0.10
Manganese (Mn)	0.05
Molybdenum (Mo)	0.0005
Sodium (Na)	0.10
Zinc (Zn)	0.05

F. Guarantees will be based on primary plant nutrients and will be calculated on the basis of primary plant nutrients before the addition, if any, of any minor elements, pesticides, and/or seeds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1382.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Fertilizer Commission, LR 7:164 (April 1981), amended LR 12:494 (August 1986), amended by the Department of Agriculture and Forestry, Feed, Fertilizer, and Agricultural Liming Commission, LR 38:2521 (October 2012).

§109. Custom Mixed Fertilizers and Fertilizer Blends

A. The guarantor may add minor elements, pesticides, and/or seeds at the request of the purchaser. When such

additions are made, the guarantor shall provide information to the Department of Agriculture and Forestry on the types and amounts of materials added. This information is to appear on the purchase invoice and the inspection report which accompanies the sample to the laboratory.

B. Whenever two or more fertilizer materials are blended, the composition of the final product shall be expressed as the percentage by weight of nitrogen (N), available phosphoric acid (P_2O_5), soluble potash (K_2O), and micronutrients, when guaranteed. This information shall appear on the purchase invoice to identify the fertilizer, the guarantor, and the consumer.

C. When fertilizer blends contain pesticides, the final product shall be treated as two separate products. Fertilizer shall be registered in accordance with these regulations and pesticides shall be registered in accordance with the Louisiana Pesticide Law.

D. When fertilizer blends contain seeds, the final product shall be treated as two separate products. Fertilizer shall be registered in accordance with these regulations and seeds shall be subject to the regulations of the Louisiana Seed Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1382.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Fertilizer Commission, LR 7:164 (April 1981), amended LR 12:495 (August 1986).

§111. Sampling Procedures

A. Sampling of fertilizer is the responsibility of the director of Agricultural Chemistry Programs of the Department of Agriculture and Forestry.

B. All samples of fertilizer that are shipped or stored in bulk shall be composite samples.

C. When taking a composite sample, the inspector will follow the procedures accepted by the Association of Official Analytical Chemists (A.O.A.C.) and/or American Association of Plant Food Control Officials (A.A.P.F.C.O.). No less than 10 probe samples shall constitute a composite sample from any killebrew, truck or pull type trailer. No less than 10 probe samples shall be taken to secure a composite sample in bulk warehouse storage area. When a composite sample is taken directly from a blender, prior to loading or storage, then the inspector shall cut the stream of flow according to A.O.A.C./A.A.P.F.C.O. standards and guidelines. If no sample splitter is provided by the guarantor, the inspector shall take a sample of approximately five pounds. This entire sample will be transported to the laboratory for analysis. A fertilizer blender may request a sample of not less than 20 pounds, nor more than 50 pounds provided the fertilizer company furnishes the inspector with a sample splitter and containers. The inspector will then split the sample to approximately five pounds. This portion will be properly labeled and transported to the laboratory for analysis. The remainder of the sample will be returned to the original lot from which the sample was taken.

D. When prepackaged fertilizer is sampled, the composite sample shall be taken in the following amounts:

1. lots containing 10 packages or less, every package shall be sampled;

2. lots containing less than 1,000 packages, 5 percent of the packages shall be sampled, but not less than 10 packages will be sampled from the lot; and

3. lots containing 1,000 or more packages, 50 different packages shall be sampled.

E. When the fertilizer is in liquid form, and stored in quantities other than small packages, one sample is to be taken from each storage container in accordance with the procedures accepted by the A.O.A.C. and/or A.A.P.F.C.O. When the fertilizer is in liquid form and prepackaged for sale in small containers, a single package may be taken.

F. Each official sample shall be placed in a suitable container and clearly marked for identification while the inspector taking the sample is still on the premises of the guarantor, and the guarantor or his agent shall be permitted to examine the marking. The identification so affixed to the sample shall contain all information called for on the official fertilizer inspection form of the Department of Agriculture and Forestry.

G. All samples shall be forwarded by the inspector to the state chemist within two working days, and the inspector shall record the date of mailing or delivering of said sample.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1382.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Fertilizer Commission, LR 7:164 (April 1981), amended LR 12:495 (August 1986).

§113. Chemical Analysis of Fertilizer

A. The state chemist is responsible for chemical analysis of all samples of fertilizer.

B. All samples received in the laboratory shall be reduced to approximately 0.5 pounds for chemical analysis by splitting the sample in accordance with A.O.A.C. procedures.

C. In analysis of fertilizers, the state chemist shall follow the procedures set forth in the current edition of Official Methods of Analysis of the Association of Official Analytical Chemists (A.O.A.C.) or the procedures recognized by the American Association of Plant Food Control Officials (A.A.P.F.C.O.).

D. In any situation which is not expressly covered by the authorities cited in §113.B above, the state chemist shall select the method of analysis to be followed and shall document the rationale for his selection.

E. Results of the fertilizer analysis shall be mailed to the guarantor within 30 days after the sample is taken. If the test results are not mailed to the guarantor within 30 days after the sample was taken, the guarantor may request in writing, within 10 days of receipt of notice of deficiency, a hearing before the commission for a determination of the validity of any penalties assessed.

F. When analysis indicates a deficiency, then an additional analysis shall be made from the unground portion of that sample being held in the laboratory. If the results of the two analyses differ, then the official results shall be the analysis that indicates the higher percentage of plant nutrients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1382.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Fertilizer Commission, LR 7:164 (April 1981), amended LR 12:495 (August 1986), amended by the Department of Agriculture and Forestry, Feed, Fertilizer, and Agricultural Liming Commission, LR 38:2522 (October 2012).

§117. Penalties; Deficiencies; Curing of Deficiencies

A. The commission shall levy penalties as set forth in R.S. 3:1419, against the guarantor of any lot or package of fertilizer found by chemical analysis to be deficient in the primary plant nutrients, as follows.

Element	Percent by Weight Guaranteed	Deficiency	Penalty
Nitrogen	0.0 percent-8.0 percent	0.4 percent	4 x Value of Deficiency
	8.1 percent-20.9 percent	0.5 percent	Same
	21.0 percent and above	0.8 percent	Same
Phosphorus	0.0 percent-10.0 percent	0.4 percent	Same
	10.1 percent-25.9 percent	0.5 percent	Same
	26.0 percent and above	0.8 percent	Same
Potassium	0.0 percent-8.0 percent	0.5 percent	Same
	8.1 percent-20.9 percent	0.6 percent	Same
	21.0 percent and above	1.0 percent	Same

B. The value of the deficiency shall be calculated as follows:

(Guaranteed Analysis - Actual Analysis) x
Value of Element/Unit x Tons in Shipment x 4

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1382.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Fertilizer Commission, LR 7:164 (April 1981), amended LR 12:496 (August 1986), amended by the Department of Agriculture and Forestry, Feed, Fertilizer, and Agricultural Liming Commission, LR 38:2522 (October 2012).

§121. Payment of Penalties

A. When the penalty is paid by the guarantor to the purchaser, the guarantor shall provide proof of such payment to the commission within 30 days of the date on which the notice of the penalty is mailed to the guarantor. A copy of the check payable to the purchaser shall constitute proof.

B. The face and/or the stub of all checks for penalty payments shall contain the laboratory number which appears on the report of the analysis.

C. Penalties paid to the commission shall be deposited into the Feed and Fertilizer Fund as provided for in R.S. 3:1421.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1382.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Fertilizer Commission, LR 7:164 (April 1981), amended LR 12:496 (August 1986), amended by the Department of Agriculture and Forestry, Feed, Fertilizer, and Agricultural Liming Commission, LR 38:2522 (October 2012).

§123. Recall of Deficient Fertilizer; Cancellation of Penalties upon Proof of Recall

A. Fertilizers which are found to be deficient may be recalled from the stream of commerce by the guarantor subject to the following provisions.

1. Prior to action to retrieve the deficient product, the guarantor shall notify the director of Agricultural Chemistry Programs and secure his approval for the recall.

2. Prior to action to retrieve the deficient product, the purchaser shall agree to the recall.

3. An agricultural inspector shall be present when the product is picked up from the purchaser.

4. The guarantor shall reimburse the purchaser the full purchase price of the product.

5. The guarantor shall furnish the director of Agricultural Chemistry Programs with a copy of the refund check and/or credit memo covering the full purchase price of the product. The purchaser and inspector shall certify in writing to the commissioner that the deficient fertilizer was returned to the guarantor and that a refund check or credit memo was issued.

B. When some, but not all, of a product which is found to be deficient is recalled as provided in §123.A, the guarantor shall pay the required penalty on any portion which cannot be recalled. In this circumstance, the penalty shall be paid to the purchaser, if known, subject to the requirements of §121, or to the commission, within 30 days of the date of the notice of the penalty.

C. Penalties levied for deficient products may be canceled by the commissioner upon acceptable proof of the recall, as required by §123. The commissioner is authorized, but not required, to waive the requirement for the physical presence of the agricultural inspector upon provision of proof satisfactory to the commissioner that the deficient product has in fact been taken out of the stream of commerce and the purchaser properly recompensed for the purchase of the deficient product.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1382.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Fertilizer Commission, LR 7:164 (April 1981), amended LR 12:496 (August 1986), amended by the Department of Agriculture and Forestry, Feed, Fertilizer, and Agricultural Liming Commission, LR 38:2522 (October 2012).

§125. Stop Sale Orders

A. The commissioner shall issue a stop sale order to prevent the sale of any fertilizer which is not registered as required herein.

B. In case of a violation of these rules, the commissioner shall issue a stop sale order to prevent any further sale, movement or disturbance of the lot of fertilizer involved until settlement of all actions.

C. The commissioner shall issue a stop sale order to prevent any further sale or movement of any fertilizer manufactured or sold by a guarantor whose registration has been revoked, after an adjudicatory hearing, or whose application for renewal of registration has been denied.

D. Upon the termination of a stop sale order, the commissioner may exercise any of the following options:

1. release the fertilizer for sale;

2. require the guarantor to take up the fertilizer and reimburse the purchaser;

3. sell the fertilizer at public auction; and

4. destroy the fertilizer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1382.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Fertilizer Commission, LR 7:164 (April 1981), amended LR 12:496 (August 1986).

§127. Probationary Status of Registrants

A. A registrant shall be placed on probation by the commission when 25 percent of the official samples taken from a single registrant during one year are found to be deficient; provided that a minimum of four samples and at least 2 percent of the total tonnage sold during that year is sampled.

B. A registrant located within the state of Louisiana who is placed on probation shall be subject to an increase of sampling up to 20 percent of the total product offered for sale until the probation is terminated by the commission.

C. A registrant located outside the state of Louisiana who is placed on probation shall not unload any shipment of fertilizer until the lot has been sampled by a department inspector.

D. Notification shall be given, in writing, to any registrant placed on probation within 30 days of the date on which the commission took action to place the registrant on probationary status. Notification shall not be required for any registrant already on probation at the effective date of these regulations.

E. After the first year of probationary status, the probation may be terminated by the commission when chemical analysis of samples representing up to 20 percent of the registrant's total sales reflects an overall deficiency rate of less than 20 percent.

F. If a registrant continues to introduce products of which the official samples' deficiency exceeds 25 percent into the stream of commerce for one year, the registrant shall be summoned before the commission at its next meeting after the end of the year of probationary status, to determine whether registration shall be canceled or renewal of registration shall be denied for cause.

G. The registrant shall be notified, in writing, by the commissioner when probationary status is terminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1382.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Fertilizer Commission, LR 7:164 (April 1981), amended LR 12:496 (August 1986), amended by the Department of Agriculture and Forestry, Feed, Fertilizer, and Agricultural Liming Commission, LR 38:2523 (October 2012).

§129. Cancellation of Registration and/or Denial of Application for Renewal of Registration

A. Subject to an adjudicatory hearing, the commission may cancel the registration of any guarantor who fails to reduce the overall deficiency of his product to less than 20 percent by the end of the year of probation.

B. Upon proper hearing, the commission may cancel the registration and/or deny the registrant's application for renewal of registration for repeated failure of a registrant to meet the guaranteed weight or analysis of a fertilizer, or failure to make payment of the inspection fee, or failure to pay penalties assessed.

C. No registration will be canceled nor application for renewal of registration denied until the guarantor has been afforded the right of an adjudicatory hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1382.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Fertilizer Commission, LR 7:164 (April 1981), amended LR 12:497 (August 1986).

§131. Appeals from Action of the Commission/Department of Agriculture and Forestry

A. Appeals Concerning Method of Taking Samples

1. If the guarantor, or his agent, objects to the manner in which an agricultural inspector takes a sample, the guarantor or his agent shall make his objections known immediately to the inspector.

2. If the guarantor, or his agent, and the agricultural inspector who is taking the sample cannot resolve their differences, the guarantor shall immediately telephone his complaint to the director of Agricultural Chemistry Programs. The guarantor or his agent shall confirm the telephone complaint in writing to the same official.

3. If the difference concerning the manner of taking the sample cannot thus be resolved, the guarantor may place his complaint on the agenda at the next meeting of the commission. Routine procedures for submission and analysis

of the sample shall be followed pending the resolution of the differences at such hearing.

B. Appeals Concerning Results of Chemical Analysis

1. When a guarantor, or his agent, disagrees with a finding of deficiency or a calculation of a penalty resulting from a finding of deficiency, he shall register his complaint, in writing, with the director of Agricultural Chemistry Programs within 10 days of the date of the report of chemical analysis.

2. When questions concerning the accuracy of the analysis made by the director of Agricultural Chemistry Program cannot be amicably resolved, the guarantor may place his complaint on the agenda at the next meeting of the commission for a final determination.

3. When a disagreement on a fertilizer deficiency arises, the sample may be analyzed by an independent laboratory agreeable to the commissioner.

C. Appeals Concerning Probationary Status

1. Any guarantor who is placed on probationary status may appeal his probation at any time by submitting to the commission a written statement on the basis of his appeal and a written request for a hearing on the matter. A request for a hearing on appeal from probationary status shall not be delayed but shall be placed on the agenda for the next meeting of the commission following receipt of the request for a hearing.

D. Public Hearing on Cancellation of Registration/Denial of Application for Renewal of Registration

1. The commission shall not cancel a registrant nor deny a renewal of registration without an adjudicatory hearing.

2. When the commission determines that just cause may exist to cancel or deny renewal of registration, the commission shall give written notice to the registrant of intent to conduct adjudicatory hearing on the matter. The notice shall be given at least 15 days prior to the date on which the hearing shall be held and shall contain all of the facts required under R.S. 49:950 et seq. The notice shall be sent by certified mail, return receipt requested, to the registrant at the last address provided by the registrant.

3. An adjudicatory hearing on the cancellation of a registration and/or denial of renewal of a registration shall be conducted in accordance with the requirements of R.S. 49:950 et seq., specifically the rules of evidence set forth in R.S. 49:956. The guarantor shall have the right to counsel of his own choosing at any such public hearing.

4. If a controversy still exists at the conclusion of any such adjudicatory hearing called for cancellation of registration and/or denial of renewal of registration, the guarantor may appeal the matter in accordance with the Administrative Procedure Act, provided that all such matters shall be lodged in the parish in which the commission is domiciled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1382.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Fertilizer Commission, LR 7:164 (April 1981), amended LR 12:497 (August 1986), amended by the Department of Agriculture and Forestry, Feed, Fertilizer, and Agricultural Liming Commission, LR 38:2523 (October 2012).

§133. Confidentiality of Records

A. Information concerning the amount of fertilizer sold and the business practices of registrants which is obtained from tonnage reports shall be kept confidential and shall not be revealed to the public or to other registrants by the commission, the commissioner, nor any employee of the Department of Agriculture and Forestry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1382.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Fertilizer Commission, LR 7:164 (April 1981), amended LR 12:497 (August 1986), amended by the Department of Agriculture and Forestry, Feed, Fertilizer, and Agricultural Liming Commission, LR 38:2523 (October 2012).

Title 7
AGRICULTURE AND ANIMALS
Part XIII. Seeds

Chapter 1. General Provisions

Subchapter A. Definitions; Administrative Matters

§101. Definitions

A. The following terms are defined in addition to those in the Act.

Coated Seed—any seed unit covered with any substance that changes the size, shape, or weight of the original seed. Seeds coated with ingredients such as, but not limited to, rhizobia, dyes, and pesticides that do not significantly change the size, shape, or weight of the original seed are excluded.

Declaration—a written statement of a grower, shipper, processor, dealer, or importer, given for any lot of seed the kind, variety, type, origin, or the use for which the seed is intended.

Hybrid Seed Corn (as applied to field corn, sweet corn, or popcorn)—the first generation seed of a cross produced by controlling the pollination, and by combining two, three, or four inbred lines, or by combining one inbred or a single cross with an open pollinated variety. Hybrid designations shall be treated as variety names.

LAES—Louisiana Agricultural Experiment Station.

LDAF—Louisiana Department of Agriculture and Forestry.

Processing—cleaning, scarifying or blending to obtain uniform quality and other operations which would change the purity or germination of the seed and, therefore require retesting to determine the quality of the seed, but does not include operations such as packaging, labeling, blending together of uniform lots of the same kind or variety without cleaning, any of which would not require retesting to determine the quality of the seed.

Prohibited Noxious Weed Seed—the seeds of perennial weeds such as not only reproduce seed, but also spread underground roots or stems, and which, when established, are highly destructive and difficult to control in the state by ordinary good cultural practices.

Registered Seed Technologist—as applied in these regulations, means a seed technologist who has attained registered membership in the Society of Commercial Seed Technologists (society) through qualifying tests and experiences as required by the society.

Restricted Noxious Weed Seed—seeds of such weeds as are very objectionable in fields, lawns or gardens of this state, but can be controlled by good cultural practices.

Seed Gathered in Elevators—*seed gathered in elevators* or other establishments to be sold for planting purposes by farmers or others that are subject to the provisions of the law.

Treated—given an application of a substance or subjected to a process designed to reduce, control or repel disease organisms, insects or other pests which attack seeds or seedlings growing therefrom.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1431 and R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:104 (April 1978), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 36:1220 (June 2010), LR 37:270 (January 2011), LR 39:1757 (July 2013), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2702 (October 2013).

§103. Request for Adoption, Amendment, or Repeal of a Rule (Formerly §239)

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

B. A request for a rule change shall be in writing and shall contain the following information:

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

2. the name, address, telephone number, fax number and e-mail address of the requesting party.

C. The request for a rule change shall be addressed to the commission and shall be mailed or delivered to 5825 Florida Boulevard, Baton Rouge, LA 70806.

D. The commission shall consider the request as follows:

1. a request for rule change shall be considered by the commission within a reasonable time, not to exceed 90 days:

a. notice of the meeting at which the request is to be considered shall be provided to the person submitting the request;

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 by the commission;

c. the request, with the consent of the requesting party, may be taken under consideration or action deferred 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 commission or at a special meeting.

E. Any decision by the commission shall be in writing and shall state the reasons for the denial or action. Such notice may be delivered by hand, mail, electronically or by any other means reasonably assured to provide notice to the requesting party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and R.S. 49:953(C).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 39:1763 (July 2013), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2703 (October 2013).

§105. Procedure for Declaratory Orders and Rulings (Formerly §241)

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

B. A request for a declaratory order or ruling shall be in writing 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 concise statement of why the declaratory order or ruling is being requested;

3. 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 a hearing is called to take evidence;

4. the name, address, telephone number, fax number and e-mail address of the requesting party, either printed or written in legible form.

C. The request for a declaratory order or ruling shall be addressed to the commission and shall be mailed or delivered to 5825 Florida Boulevard, Baton Rouge, LA 70806.

D. The commission shall consider the request as follows.

1. The request shall be considered by the commission within a reasonable time, not to exceed 90 days.

2. Notice of the meeting at which the request is to be considered shall be provided to the person submitting the request.

E. The commission's decision shall be sent to the requesting party either by certified mail, return receipt requested; hand delivery; or commercial courier.

F. Failure of the requesting party, after notice, to attend any hearing or meeting regarding the request may be cause for the request to be denied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433, R.S. 49:962 and R.S. 49:963(D).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 39:1763 (July 2013), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2703 (October 2013).

§107. Repeal of Prior Rules and Regulations of the Seed Commission (Formerly §237)

A. Upon promulgation of these rules and regulations, all rules and regulations previously adopted and/or promulgated by the seed commission are hereby repealed in their entirety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Seed Commission August 1961, amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2703 (October 2013).

§109. List and Limitations of Noxious Weed Seed

A. List and Limitations of Noxious Seed

List and Limitations of Noxious Seed	
Name	**Limitations**
1. Tropical Soda Apple (Solanum viarum)	Prohibited
2. Field Bindweed (Convulvulus arvensis)	Prohibited
3. Hedge Bindweed (Convulvulus sepium)	Prohibited
4. Nutgrass (Cyperus esculentus, C. rotundus)	Prohibited
5. Itchgrass (Rottboellia exaltata, L., R. cochinchinersis)	Prohibited
6. Balloon Vine (Cardiospermum halicacabum)	Prohibited
7. Cocklebur (Xanthium spp.)	5 per lb.
8. Spearhead (Rhynchospora spp.)	5 per lb.
9. Purple Moonflower (Ipomoea turbinata)	9 per lb.
10. Red Rice (Oryza sativa var.)	9 per lb.
11. Wild Onion and/or Wild Garlic (Allium spp.)	9 per lb.
12. Canada Thistle (Cirsium arvense)	100 per lb.
13. Dodder (Cuscuta spp.)	100 per lb.
14. Johnsongrass (Sorghum halepense)	100 per lb.
15. Quackgrass (Agropyron repens)	100 per lb.
16. Russian Knapweed (Centaurea repens)	100 per lb.
17. Blueweed, Texas (Helianthus ciliaris)	200 per lb.
18. Grass, Bermuda (Cynodon dactylon)	300 per lb.
19. Bracted Plantain (Plantago aristata)	300 per lb.
20. Buckhorn Plantain (Plantago lanceolata)	300 per lb.
21. Cheat (Bromus secalinus)	300 per lb.
22. Hairy Chess (Bromus commutatus)	300 per lb.
23. Corncockle (Agrostemma githago)	300 per lb.
24. Darnel (Lolium temulentum)	300 per lb.
25. Dock (Rumex spp.)	300 per lb.
26. Horsenettle (Solanum carolinense)	300 per lb.
27. Purple Nightshade (Solanum elaeagnifolium)	300 per lb.

List and Limitations of Noxious Seed	
Name	**Limitations**
28. Sheep Sorrel (Rumex acetosella)	300 per lb.
29. Morning Glory (Ipomoea spp.)	18 per lb.
30. Wild Poinsettia (Euphorbia heterophylla, E. dentata)	18 per lb.
31. Wild Mustard and Wild Turnips (Brassica spp.)	300 per lb.
32. Hemp Sesbania, Coffeebean, Tall Indigo (Sesbania exaltata)	300 per lb.
33. Curly Indigo (Aeschynomene virginica)	300 per lb.
34. Mexican Weed (Caperonia castaneaefolia)	300 per lb.
Sum of Total Noxious Weed (Subject to limitations above)	500 per lb.

B. Limitations on noxious and prohibited weeds are listed on individual certified crop seed regulations. Noxious weed seed tolerance of one for regulatory action on certified seed being offered for sale in Louisiana for those noxious weed seed which are prohibited by the Louisiana certified seed regulations for the specific seed kind in question.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1431 and R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:105 (April 1978), amended LR 5:96 (May 1979), LR 7:285 (June 1981), LR 8:563 (November 1982), LR 9:197, 206 (April 1983), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 14:605 (September 1988), LR 23:1282 (October 1997), amended by the Department of Agriculture and Forestry, Office of the Commissioner, Seed Commission, LR 30:199 (February 2004), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2704 (October 2013).

§§111-119. Reserved.

Subchapter B. Fees

§121. License Fee; Laboratory and Sampling Fees (Formerly §113)

A. The annual fee for a seed dealer's license shall be $100.

B. The following laboratory and sampling fees shall be applicable to all seed testing conducted by this department:

1. standard germination test only, purity test only or noxious weed examination only: $10 each (except grasses and seed containing high inert: $20 each);

2. complete test (purity and germination): $17.50 each (except grasses and seed containing higher inert: $30 each);

3. accelerated aging: $15 each;

4. Texas cool test: $20 each;

5. tetrazolium: $20 each;

6. examination of 4-pound rice seed sample for presence of red rice: $10;

7. varietal purity $12;

8. herbicide bioassay: $25;

9. seed mixtures:

a. purity only: $10 for first two components; $5 for each additional component;

b. germination only: $10 for first two components; $5 for each additional component;

c. complete test (purity, germination, noxious weed exam): $10 per component;

10. seed count per pound: $5;

11. service sample taken by departmental inspector: $15 per sample; and

12. priority sample: $25.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:105 (April 1978), amended LR 7:164 (April 1981), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 14:603 (September 1988), LR 29:2632 (December 2003), LR 36:1220 (June 2010), LR 37:1373 (May 2011), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2704 (October 2013).

§123. Inspection Fee on Agricultural Seed (Formerly §115)

A. In addition to the requirements of the Act, any person who sells, distributes, or offers or handles for sale agricultural and vegetable seed within this state for planting purposes shall pay an inspection fee thereon in accordance with the following.

1. All seed dealers shall pay an inspection fee of $0.20 for each 100 pounds of agricultural and vegetable seed sold, offered for sale, exposed for sale, or otherwise distributed for sale for planting purposes within this state. The inspection fee shall be due on the total pounds of first point of sales distributions in Louisiana by the seller of the seed.

Exception: The payment of an inspection fee is not required for a person who offers for sale, sells, or distributes Louisiana certified tagged seed upon which inspection fees have already been paid.

2. Records must be kept by the seed dealer showing the total pounds of each lot identified as to the kind and variety (when applicable). In addition, for auditing purposes, records must be kept by the seed dealer showing the invoice number for each distribution of seed, identified with the name of the kind and variety (when applicable), the lot number, pounds of seed, and number of containers of seed, and the person, to whom the seed was distributed.

3. Each seed dealer shall file with the department a quarterly report (supplied by the department) covering the following periods: 1st quarter—July, August, September; 2nd quarter—October, November, December; 3rd quarter—January, February, March; 4th quarter—April, May, June. Reports and fees shall be filed with the department no later than 30 days following the end of each quarter. The department may assess a 10 percent additional charge for late reports. If a seed dealer has no sales during

the quarterly reporting period the department must be notified accordingly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Seed Commission, LR 14:603 (September 1988), amended LR 29:2632 (December 2003), LR 38:1558 (July 2012), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2704 (October 2013).

§125. Fees
(Formerly §143)

A. All fees shall be paid before the requested work is performed, as follows.

1. All application fees and fees for inspections, re-inspections, sampling and re-sampling shall be paid at the time the application or request for work is submitted to the department, except for those crop kinds where the fee is based on an hourly rate and mileage.

2. Fees for certification of seeds by laboratory analysis shall be paid prior to submission of the certified sample to the State Seed Testing Laboratory.

3. Requests for different payment arrangements shall be made to and must be approved by the director or assistant director.

B. Application Fees

1. The application fee for certification for each producer shall be $28 for each variety with only one variety per application if the application is timely submitted.

2. The application fee for certification shall be $100 for each application submitted after the deadline shown in §509 of this Part.

C. Field inspection fees shall be charged as follows:

1. all crop, grass, and other seeds not listed in this Section—$1.15 per acre;

2. for the following species, California bulrush, sea oats, and smooth cordgrass:

a. an hourly fee of $25 per hour, per inspector shall be charged for each inspection of native plants; and

b. mileage for travel to and from inspection location shall be charged at the mileage reimbursement rate established by the Division of Administration's state travel regulations;

3. rice—$1.15 per acre;

4. small grains—$1.15 per acre;

5. sugarcane—$3 per acre;

6. sweet potato:

a. field inspection—$2.25 per acre;

b. greenhouse and seedbed inspections—$62.50 per crop year;

c. seed storage inspection:

i. a fee of $25 per hour, per inspector shall be charged for each seed sweet potato storage inspection; and

ii. mileage for travel to and from the inspection location shall be charged at the rate set by the Division of Administration for state employees pursuant to R.S. 39:231;

7. turf and pasture grass—$31.25 per acre.

D. Reinspection fees—$50 for each re-inspection.

E. Fees for phytosanitary inspections—$1.15 per acre.

F. Fees for resampling certified seed—$30 for each re-sample.

G. Fees for bulk sampling—$30 for each bulk sample by vacuum probe.

H. Seed Certification Fees

1. Fees for certified seed shall be 16 cents per weight unit and be calculated on the total weight units in the certifiable lot. The number of weight units for a particular lot of seed shall be reported when the certified sample is taken.

a. The weight unit for all seeds is 50 pounds except for rice which has a weight unit of 100 pounds.

b. A person who sells, distributes, or offers for sale certified seed in Louisiana and who has paid certification fees for a particular lot of seed may request a partial refund, not to exceed 70 percent on the unsold portion of the certified lot.

c. A person requesting a refund must submit a written request, along with all unused tags from the certified lot, within nine months of the certified test date, stating:

i. the lot number for the seed that the request is being made;

ii. the number of weight units sold from the certified lot; and

iii. the number of weight units partitioned for refund from the certified lot.

d. A request for a refund shall be approved upon verification of the unused tags and information submitted with the request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:566 (November 1982), amended LR 10:495 (July, 1984), amended by the Department of Agriculture and Forestry, Seed Commission, LR 12:825 (December 1986), LR 14:604 (September 1988), LR 16:847 (October 1990), LR 25:1617 (September 1999), LR 26:235 (February 2000), LR 29:2632 (December 2003), LR 31:420 (February 2005), LR 31:1511 (July 2005), LR 34:2339 (November 2008), LR 37:2979 (October 2011), LR 38:1558 (July 2012), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and

Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2705 (October 2013).

§§127-129. Reserved.

Subchapter C. Labels; Records; Samples; Tolerances; Standards; Noxious Weed Seed

§131. Labeling of Seed (Formerly §121)

A. Every person whose name appears on the label of seed, except persons exempt pursuant to the authority of R.S. 3:1445, who sells, transports, distributes, or offers for sale agricultural, vegetable, or flower seeds or other propagating stock in Louisiana for planting purposes shall have a complete analysis test performed on the seed by a registered seed technologist or an official state seed analyst prior to the seed being sold, distributed or offered for sale in Louisiana.

B. Information required to be shown on the label:

1. a word or statement in type no smaller than eight points indicating that the seed has been treated;

2. the commonly accepted coined, chemical (generic) or abbreviated chemical name or a description of any process (other than application of a substance) used in such treatment in type no smaller than eight points;

3. a caution statement if the substance used in such treatment in the amount remaining with the seed is harmful to humans or other vertebrate animals;

a. seed treated with a mercurial or similarly toxic substance, if any amount remains with the seed, shall be labeled to show a statement such as "poison," "poison treated" or "treated with poison." The word "poison" shall be in type no smaller than eight points and shall be in red letters on a distinctly contrasting background. In addition, the label shall show a representation of a skull and crossbones at least twice the size of the type used for the name of the substance and the statement indicating that the seed has been treated;

b. seed treated with other harmful substances (other than mercurials or similarly toxic substances). If the amount remaining with the seed is harmful to humans or other vertebrate animals, it shall be labeled to show a caution statement, in type no smaller than eight points, such as "Do not use for food, feed or oil," except:

i. seed treated with substances other than mercurials or similarly toxic substances and in containers of four ounces or less need not be labeled to show caution statement; and

ii. the following substances shall not be deemed harmful if present at a rate less than the number of parts per million (ppm) indicated:

(a). Allethrin, 2ppm;

(b). Malathion, 8ppm;

(c). Methoxychlor, 2ppm: Piperonyl butoxide, 8ppm on oat and sorghum and 20ppm on all other seeds; and

(d). Pyrethrins, 1ppm on oat and sorghum and 3ppm on all other seeds.

C. It shall be unlawful for any person to sell or offer for sale within the state any seed labeled "foundation seed," "registered seed" or "certified seed," unless it has been produced and labeled in compliance with the rules and regulations of a seed certifying agency approved by the commissioner.

D. When more than one component is required to be named on the label, the word "mixture" or the word "mixed" shall be shown conspicuously on the label.

E. The label on hybrid corn shall show the state where grown.

F. Abbreviation of Names. The name and kind of variety of seed shall not be abbreviated, but shall be written out in full.

G. Trucks and other carriers transporting seed for delivery or sale, or to be sold or delivered to consumers in this state, on the public highways, or at public auctions shall have available for examination at any time a bill of lading, waybill or a delivery receipt showing:

1. the name of the shipper or party from whom purchased;

2. the name and address of the party to whom the seed is to be delivered;

3. the kind and amount of each separate lot of seed; and

4. the name of the truck line or owner and driver of the truck or other carrier making delivery or transporting the seed.

H. No seed shall be sold or offered for sale from any bag or container bearing a germination label more than nine months prior to the time such seed is offered for sale. For all vegetable seed packaged in hermetically sealed containers, this period shall be extended to 24 months. The owner shall be responsible for the relabeling after expiration of the germination test date period. Under the provisions of this regulation, any person, firm or corporation possessing a seedsman's permit shall have the right to label such seed after it has been retested, stating the true germination thereof. A new tag or label shall be used to bring the germination up-to-date. The original tag shall not be changed in any way.

I. After December 31, 2011 each package of coated seed shall have the following additional information on the front of the package which shall be set forth in a clear and conspicuous manner so that the ultimate purchaser is able to read the information easily and without strain:

1. the words “coated seed;”

2. a statement giving the maximum amount of coating material contained within the package;

3. a statement referring purchaser to the product label for additional information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and 3:1436.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:105 (April 1978), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 16:492 (June 1990), LR 37:270 (January 2011), LR 37:2979 (October 2011), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2705 (October 2013).

§133. Tag Requirements (Formerly §111)

A. analysis tag shall be a Number 6 standard shipping tag, minimum size, and shall carry the information required by the Louisiana Seed Law, arranged as follows:

Kind and Variety _____

Where Grown _____Net Wt._____Lot No._____

Pure Seed _____Percent Germination _____ Percent

Inert Matter _____Percent Hard Seed _____ Percent

Crop Seed __Percent Total Germ and Hard Seed__ Percent

Weed Seed _____ Percent Date of Test _____

Name and No. of Noxious Weed Seed per lb._____

_____

_____

Name _____

Address _____

B. Tags for certified seed, foundation seed or registered seed shall be adopted by the certifying agency, approved by the commissioner and meet the requirements of the Louisiana Seed Law.

C. All information required on the seed analysis tag or label shall be placed on one side of the tag or label without intervening matter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1436 and R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:105 (April 1978), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2706 (October 2013).

§135. Invoices and Records (Formerly §119)

A. Each person handling agricultural seed subject to this Act shall keep for a period of three years complete records of each lot of agricultural seed handled. When there is evidence of a violation of this Act, invoices, records of purchases and sales, and any other records pertaining to the lot or lots involved shall be accessible for inspection by the commissioner or his authorized agent in connection with the administration of this Act at any time during customary business hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1435 and R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:105 (April 1978), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2707 (October 2013).

§137. Sampling (Formerly §103)

A. The manner of sampling and handling seed in the field and analyzing and testing seed in the laboratory, greenhouse and trial plots shall be the same as that recommended in the latest rules for testing seed adopted by the Association of Official Seed Analysts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1434 and R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:104 (April 1978), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2707 (October 2013).

§139. Tolerances (Formerly §105)

A. Except as otherwise provided in this Section, the tolerances published in the latest rules and regulations for testing seed by the Association of Official Seed Analysts shall be applicable in the administration of the Louisiana Seed Law.

B. Germination Tolerances. The following tolerances, which are recognized by the Federal Seed Act, 7 USC 1551-1611, are adopted and are applicable to the percentage of germination and also to the sum of the germination plus the hard seed. Maximum tolerance values for comparing two 400-seed germination tests of the same or different submitted samples tested in the same or different laboratories.

Average Percent Germination		Tolerance*
A	B	C
99	2	2
97 - 98	3 - 4	3
94 - 96	5 - 7	4
91 - 93	8 - 10	5
87 - 90	11 - 14	6
82 - 86	15 - 19	7
76 - 81	20 - 25	8
70 - 75	26 - 31	9
60 - 69	32 - 41	10

51 - 59	42 - 50	11

*When only 200 seeds of mixtures are tested, 2 percent shall be added to the above germination tolerances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:104 (April 1978), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 33:1609 (August 2007), LR 34:2338 (November 2008), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2707 (October 2013).

§141. Germination Standards for Vegetable Seed (Formerly §107)

A. Germination standards for vegetable seed shall be the same as those published under *United States Department of Agriculture Service and Regulatory Announcements Number 156* and subsequent amendments. Minimum germination of vegetable or garden seed shall be as follows.

	Percent
Artichoke	60
Asparagus (including hard seed)	70
Beans (except lima)	75
Beans (lima)	70
Beets	65
Broccoli	75
Brussels sprouts	70
Cabbage	75
Cardoon	60
Carrot	55
Cauliflower	75
Celery or celeriac	55
Chicory	65
Citron	65
Collards	80
Corn	75
Cress, garden	40
Cucumber	80
Dandelion	45
Eggplant	60
Endive	70
Fetticus (cornsalad)	70
Kale	75
Kohlrabi	75
Leek	60
Lettuce	80
Muskmelon	75
Mustard	75
Mustard, spinach	75
Mustard, vegetable	75
Okra (including hard seed)	50
Onion	70
Pak-choi	75
Parsley	60
Parsnip	60
Peas	80
Pepper	55
Pe-tsai or Chinese cabbage	75
Pumpkin	75
Radish	75
Rhubarb	60
Rutabaga	75
Salsify	75
Sorrel	60
Spinach (except New Zealand)	60
Spinach, New Zealand	40
Squash	75
Swiss chard	65
Tomato	65
Tomato, husk	50
Turnip	80
Watermelon	70
Watercress	35

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:104 (April 1978), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2707 (October 2013).

§143. Standards for Agricultural Seed (Formerly §117)

A. No agricultural seed shall be offered for sale if the germination percentage, including hard seed, is below 60 percent, except Dallisgrass. Dallisgrass shall not be offered for sale if the pure live seed percentage (purity times germination) is below 10 percent.

B. No agricultural and vegetable seed shall be sold, offered for sale or exposed for sale containing in excess of 2 1/2 percent of total weed seed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1444 and R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:105 (April 1978), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2708 (October 2013).

§145. Noxious Weeds

A. The following weeds, together with the specific limitation shown for each weed, are designated as noxious weeds.

Limitations on Weed Seed in Certified Seed	(By Pounds)
1. Tropical Soda Apple (Solanum viarum Dunal)	Prohibited
2. Field Bindweed (Convulvulus arvensis)	Prohibited
3. Hedge Bindweed (Convulvulus sepium)	Prohibited
4. Nutgrass (Cyperus esculentus, C. rotundus)	Prohibited
5. Itchgrass (Rottboellia exaltata L., R. cochinchinensis)	Prohibited
6. Balloonvine (Cardiospermum halicacabum)	Prohibited
7. Cocklebur (Xanthium spp.)	5 per lb.
8. Spearhead (Rhynchospora spp.)	5 per lb.
9. Purple Moonflower (Ipomoea turbinate)	9 per lb.
10. Red Rice (Oryza sativa var.)	9 per lb.
11. Wild Onion and/or Wild Garlic (Allium spp.)	9 per lb.
12. Canada Thistle (Cirsium arvense)	100 per lb.
13. Dodder (Cuscuta spp.)	100 per lb.
14. Johnsongrass (Sorghum halepense)	100 per lb.

Limitations on Weed Seed in Certified Seed	(By Pounds)
15. Quackgrass (Agropyron repens)	100 per lb.
16. Russian Knapweed (Centaurea repens)	100 per lb.
17. Blueweed, Texas (Helianthus ciliari)	200 per lb.
18. Bermuda Grass (Cynodon dactylon)	300 per lb.
19. Bracted Plantain (Plantago aristata)	300 per lb.
20. Buckhorn Plantain (Plantago lanceolata)	300 per lb.
21. Cheat (Bromus secalinus)	300 per lb.
22. Hairy Chess (Bromus commutatus)	300 per lb.
23. Corncockle (Agrostemma githago)	300 per lb.
24. Darnel (Lolium temulentum)	300 per lb.
25. Dock (Rumex spp.)	300 per lb.
26. Horsenettle (Solanum carolinense)	300 per lb.
27. Purple Nightshade (Solanum elaeagnifolium)	300 per lb.
28. Sheep Sorrel (Rumex acetosella)	300 per lb.
29. Morning Glory (Ipomoea spp.)	18 per lb.
30. Wild Poinsettia (Euphorbia heterophylla, E. dentate)	18 per lb.
31. Wild Mustard and Wild Turnips (Brassica spp.)	300 per lb.
32. Hemp Sesbania, Coffee Bean, Tall Indigo (Sesbania exaltata)	300 per lb.
33. Curly Indigo (Aeschynomene virginica)	300 per lb.
34. Mexican Weed (Caperonia castaneaefolia)	300 per lb.
Sum of Total Noxious Weed Seed (Subject to limitation above)	500 per lb.

B. Noxious weed seeds are permitted in seed to be certified, within the limitations specified in §145.A, unless prohibited or otherwise limited under the specific rules for the crop or variety entered for certification. (See §§701-725, 741-765, 781-793, and 811 for limitations on each noxious weed for each crop or variety.)

C. Limitations on noxious weeds (in the field or in seed to be certified), may be more restrictive for a particular crop or variety to be certified than the limitations shown in §145.A above. The limitation on noxious weeds stated in §§701-725, 741-765, 781-793, and 811 shall supersede the limitations shown in §145.A whenever a more restrictive limitation is stated in the specific requirements for the crop or variety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1431 and R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:566 (November 1982), amended LR 9:197 (April 1983), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 14:605 (September 1988), LR 23:1283 (October 1997), amended by the Department of Agriculture and Forestry, Office of the Commissioner, Seed Commission, LR 30:199 (February 2004), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:3059 (November 2013).

Chapter 3. Enforcement of Law and Regulations

§301. Acts which Constitute Violations (Formerly §151)

A. Any of the following acts shall be considered as violations:

1. failure to comply with the requirements of the Seed Law (R.S. 3:1431-1447) or these rules and regulations;

2. any sale or offer for sale of any agricultural seeds that are not properly labeled in accordance with the rules and regulations of the seed commission;

3. any attempt to mislead or defraud by altering, erasing, destroying, forging, disfiguring, reusing, or substituting in any manner any labels, tags, tape, or certificates which pertain to quality, quantity, or condition of agricultural seeds. This prohibition applies for labels, tags, tape or certificates issued by any duly constituted seed certifying agency;

4. any damage or breaking of official seals on containers of certified seeds;

5. failure to keep accurate records and maintain lot identity;

6. adding any seed of any kind, whether certified or not, to any lot of certified seed (except as permitted under §513.D).

B. Each day on which any of the activities listed above occurs shall be considered a separate offense.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1444 and R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:567 (November 1982), amended LR 9:197 (April 1983), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2708 (October 2013).

§303. Penalties; Adjudicatory Hearing Required (Formerly §153)

A. Whenever the chairman of the Seed Commission has reason to believe that there has been a violation of the Seed Law or any of these rules and regulations, he shall notify the person believed to have committed the violation, the notice to be in accordance with the requirements of the Administrative Procedure Act.

B. No penalty shall be imposed on any individual, firm, corporation or other legal entity regulated under the Seed Law until such time as an adjudicatory hearing is conducted, such hearing to be conducted in accordance with the requirements of the Administrative Procedure Act.

C. Whenever the Seed Commission determines that a violation has occurred, the Seed Commission may impose any of the following penalties:

1. withdraw from the offender the right to have seed certified under these procedures;

2. destroy any seed which is not in compliance with the requirements of the Seed Law or the requirements of these regulations; or

3. impose a penalty not to exceed $500 for each offense.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1446 and R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:567 (November 1982), amended LR 9:197 (April 1983), amended by the Department of Agriculture and Forestry, Seed Commission LR 12:825 (December 1986), LR 29:2633 (December 2003). HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:567 (November 1982), amended LR 9:197 (April 1983), amended by the Department of Agriculture and Forestry, Seed Commission LR 12:825 (December 1986), LR 29:2633 (December 2003), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2709 (October 2013).

Chapter 5. General Seed Certification Requirements

§501. Definitions (Formerly §125)

Certification—the process by which official recognition is given to seeds produced under a limited generation system which ensures genetic purity and identity and a given minimum level of quality.

Clonally Propagated Plant—a plant that is duplicated or propagated as a plant clone from vegetative cuttings or plant divisions using one or more of an aerial stem, rhizome, stolon, leave, or root.

Germination—the percentage of seeds capable of producing normal seedlings under ordinarily favorable growing conditions.

Hybrid—one or more crosses of inbred lines of the same kind of seed.

Inbred Line—a relatively true-breeding strain resulting from at least five successive generations of controlled self-fertilization or of backcrossing to a recurrent parent with selection, or its equivalent for specific characteristics.

Inert Matter—all matter not seeds, including pieces of broken and damaged seeds one-half or less than the original size, sterile florets, fungus bodies, stones and all matter considered as inert by the Association of Official Seed Analysts Rules for Testing Seeds.

Inseparable Seeds—seeds that are similar in size, shape and weight to the seed offered for certification, which are difficult to remove.

Isolation—the distance required between a crop or variety entered for certification and other plantings of the same crop or variety, not entered for certification, which are pollinating at the same time.

Kind—one or more related species singly or collectively known by one common name (examples: corn, beans, wheat).

Land Requirement—the period of time during which a field entered for certification cannot have grown or been seeded to the same species or variety except a certified class of the same species or variety which was equal to or superior to that of the species or variety entered for certification. If a field(s) is(are) entered for certification in the foundation class, only the foundation class of seeds could have been grown in that field during the time period specified.

Lot of Seed—a definite quantity of seeds identified by a lot number or mark, every portion or bag of which is uniform, within permitted tolerances, relative to the factors which appear in the labeling.

Noxious Weeds—all weeds designated as noxious weeds under §145 of these regulations.

Off-Type (Mutations)—plants or seeds which deviate in one or more characteristics from the breeder description filed with the Department of Agriculture and Forestry.

Open-Pollination—pollination that occurs naturally as opposed to controlled pollination such as by detasseling cytoplasmic male sterility, self-incompatibility or similar processes.

Originator—a person, company, agent or institution developing a new variety of seed.

Other Weeds/Weed Seeds—all weeds and/or weed seeds which have not been designated as noxious weeds by the Seed Commission.

Plant Clone—a genetically identical plant or plant material derived originally from a single ancestor individual over one or more vegetative generations.

Recertification—the official approval of a second or subsequent generation of a certified class of seed.

Roguing—the removal from the field of noxious weeds, off-type plants, varietal mixtures and any other plants producing seeds which are inseparable from seeds of the crop to be certified.

Species—plants designated by a common name and having common characteristics.

Unit of Certification—any clearly defined field(s) or portion(s) of a field entered for certification.

Variety—a subdivision of a kind, characterized by growth, plant, fruit, seed or other characteristics by which it can be differentiated from other seeds of the same kind.

Volunteer Plants—plants of a crop kind or species other than the crop being certified that are present in a field.

Weight Unit—unit of measure, designated by the Louisiana Seed Commission, based on the most common industry accepted packaging weight in pounds for a specific commodity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and 3:1436.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:564 (November 1982), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 20:642 (June 1994), LR 31:420 (February 2005), LR 37:2979 (October 2011), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural

and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2709 (October 2013).

§503. Classes of Seed (Formerly §123)

Breeder Seed (White Tag)—seed directly controlled by the originating or sponsoring plant breeding institution, firm or individual which is the source for the production of seed of the certified classes.

Foundation Seed (White Tag)—progeny of breeder or foundation seed, handled so as to maintain specific genetic purity and identity, production of which must be acceptable to the Department of Agriculture and Forestry.

Registered Seed (Purple Tag)—progeny of breeder or foundation seed, handled under procedures acceptable to the Department of Agriculture and Forestry to maintain satisfactory genetic purity and identity.

Certified Seed (Blue Tag)—progeny of breeder, foundation or registered seed, handled under procedures acceptable to the Department of Agriculture and Forestry to maintain satisfactory genetic purity and identity.

Tree Seed—

1. *Certified Tree Seed (Blue Tag)*—seed from trees of proven genetic superiority, produced so as to assure genetic identity. Seeds from interspecific hybrids of forest trees may be included.

2. *Selected Tree Seed (Green Tag)*—progeny of rigidly selected trees or stands of untested parentage that have promise but not proof of genetic superiority and for which geographic source and elevation is stated on the label.

3. Source-Identified Tree Seed (Yellow Tag)—seed from:

a. natural stands with known geographic source and elevation, or plantations of known geographic origin and which is acceptable to the Department of Agriculture and Forestry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:564 (November 1982), amended by the Department of Agriculture and Forestry, Seed Commission, LR 12:825 (December 1986), LR 31:1510 (July 2005), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2710 (October 2013).

§505. General Requirements for Certification (Formerly §127)

A. The crop or variety to be certified must have been approved for certification by the Louisiana Department of Agriculture and Forestry. Also, the originator, developer, owner or agent shall provide the following to the Department of Agriculture and Forestry:

1. the name of the variety;

2. a statement concerning the variety's origin and the breeding procedure used in its development;

3. a detailed description of the morphological, physiological and other characteristics of the plants and seed that distinguish it from other varieties;

4. evidence supporting the identity of the variety, such as comparative yield data, insect and disease resistance, or other factors supporting the identity of the variety;

5. a statement delineating the geographic area or areas of adaptation of the variety;

6. a statement on the plans and procedures for the maintenance of seed classes, including the number of generations through which the variety may be multiplied;

7. a description of the manner in which the variety is constituted when a particular cycle of reproduction or multiplication is specified;

8. any additional restrictions on the variety specified by the breeder, with respect to geographic area of seed production, age of stand or other factors affecting genetic purity;

9. a sample of seed representative of the variety as marketed.

B. To be certified, all crops and/or varieties must conform to:

1. all general requirements for certification; and

2. all specific requirements for certification of a particular crop or variety. (See §§707-725 for specific requirements. In §§707-725, the percentages shown for pure seed and germination are the minimum acceptable levels of performance required for certification; the percentages shown for all other factors are maximum allowable percentages.)

C. The grower must submit the application described in §507 hereof on or before the date specified in §509 for the crop or variety to be certified. (See §507.B and §125.B for provisions concerning late applications.)

D. The crop or variety to be certified must be of breeder, foundation or registered seed, or seed approved by the seed commission.

E. The grower must maintain genetic purity during seeding, production, harvesting, storage, conditioning and labeling.

F. The grower must hand-rogue all off-type plants, varietal mixtures, noxious weeds or any other plants producing seed that are inseparable from seed of the crop or variety to be certified.

G. Other varieties or crops, volunteer plants and/or off-type plants cannot be present in the field, and seeds thereof cannot be present in seed to be certified, unless permitted under the specific certification standards for the crop or variety entered for certification. Noxious weeds are permitted in the field and seed thereof are permitted in seed

to be certified, within the limitations specified in §145 hereof, unless a specific limitation on noxious weeds is contained in the specific requirements for the crop or variety entered for certification. (See §§707-725 for specific requirements.)

H. One or more field inspections will be made to determine genetic identity and purity. The crop or variety to be certified must be standing, reasonably free of weeds and of relatively uniform maturity at the time of field inspection(s). A copy of the field inspection report will be furnished to the grower.

I. All planting, harvesting, bin storage and cleaning equipment must be free of contamination by other seeds, insects, or plant diseases.

J. Storage facilities must be:

1. suitable for maintaining germination and varietal purity;

2. constructed so that a representative sample can be drawn; and

3. all such facilities are subject to approval by the Department of Agriculture and Forestry.

K. The grower must maintain complete records accounting for all production and final disposition of all certified seeds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:565 (November 1982), amended LR 9:197 (April 1983), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 20:642 (June 1994), LR 20:1257 (November 1994), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2710 (October 2013).

§507. Application for Field Certification (Formerly §129)

A. The grower must apply for certification on or before the application deadline shown in §509 for seed stock to be certified by the Department of Agriculture and Forestry. The grower must submit a completed application on the form provided by the department.

B. Applications for certification of seed stock for a crop or variety listed in §509 which are submitted after the deadline specified in §509 will not be approved unless field inspection(s) can be completed prior to harvest.

C. Information to accompany application:

1. name of variety;

2. GPS coordinates at or about the center point of each field presented for certification;

3. copy of the purchase invoice, or statement showing class of seed purchased;

4. one sample tag from each lot number (If the grower plants seed of his own production, the class of seed and lot number shall be identified by documentation acceptable to the Department of Agriculture and Forestry); and

5. a map of each field presented for certification.

D. It is the duty of the grower to notify the department at least two weeks prior to harvest of the anticipated harvest date for each field presented for certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and R.S. 1434.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:565 (November 1982), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 34:863 (May 2008), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2711 (October 2013).

§509. Application Deadlines (Formerly §131)

A. Onion bulbs and seed, and shallots—March 1.

B. Tissue Culture Sugarcane—April 1.

C. Clover (crimson, red, white), rescue grass, harding grass, vetch, and Irish potatoes—April 1.

D. Oats, wheat, ryegrass, singletary peas—April 15.

E. Watermelon—May 1.

F. Sweet potatoes and sweet potato plants:

1. greenhouse plantings (virus-tested)—45 days prior to planting;

2. field plantings—June 1.

G. Okra—June 15.

H. Rice—July 1.

I. Cotton, millet, sesame, sunflower, tree—July 15.

J. Tomatoes (Spring)—June 1, (Fall)—July 15.

K. Soybeans—August 1.

L. Corn—a minimum of 30 days prior to pollination.

M. Cowpeas—a minimum of 30 days prior to harvest.

N. Grasses:

1. Bermuda grasses:

a. new plantings—minimum of 30 days prior to harvest;

b. established stands (fields certified the previous year)—June 1. Renewal application must be submitted;

2. turf and pasture grass:

a. new plantings—at least 15 days prior to land preparation for planting;

b. established stands (fields certified the previous year)—June 1. Renewal application must be submitted.

O. Clonally propagated plant species, except for plant species for which a deadline is specifically provided in this Section:

1. new plantings-submit application at least 15 days prior to land preparation for planting;

2. established stands (fields certified the previous year)- submit renewal application by April 15.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:565 (November 1982), amended LR 9:195 (April 1983), amended by the Department of Agriculture and Forestry, Seed Commission, LR 12:825 (December 1986), LR 13:155 (March 1987), LR 13:232 (April 1987), LR 14:603 (September 1988), LR 23:1283 (October 1997), LR 25:1617 (September 1999), LR 34:863 (May 2008), LR 37:2979 (October 2011), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2711 (October 2013).

§511. Limitations on Generations (Formerly §133)

A. The originator of the variety may specify the number of generations through which a variety may be multiplied.

B. No variety may be multiplied more than two generations beyond the foundation class, except as follows:

1. older varieties of certified seed may be recertified when foundation seed is not being maintained;

2. one additional generation of certified seed may be permitted on a one-year basis when, prior to planting season, the Seed Commission declares that there are insufficient supplies of foundation and registered seed to plant the needed acreage of the certified variety. Permission of the variety's originator, if existent, must be obtained. In this situation, the additional generation will not be eligible for recertification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:565 (November 1982), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2712 (October 2013).

§513. Lot of Seed (Formerly §135)

A. The applicant shall assign a specific, unique number or other mark when the seed is conditioned and bagged.

B. Each container in a given lot of seed shall be marked with the number or other mark assigned to that lot.

C. Seed lots may be blended if the variety and class are the same.

D. All seed must be bagged in new bags, unless other types of containers are approved by the Department of Agriculture and Forestry prior to bagging.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1431 and R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:565 (November 1982), amended LR 9:195 (April 1983), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2712 (October 2013).

§515. Seed Sampling (Formerly §137)

A. Seed sampling will be performed at the request of the grower.

B. Except as provided by §515.D.2, official samples to determine eligibility for certification shall be drawn only after the seed is conditioned.

C. Sampling of Bagged Seed

1. Each lot of seed must be stacked so as to facilitate sampling.

2. A Department of Agriculture and Forestry inspector will sample at random, by probing, a specific number of bags from each lot. The number of bags to be sampled from each lot is as follows: five bags, plus 10 percent of the total number, not to exceed 30 bags per lot. In lots containing six bags or less, every bag will be sampled.

D. Sampling of Bulk Seed

1. Cleaned Seed in Bulk. A Department of Agriculture and Forestry inspector will collect a minimum of four samples, at intervals of 4 feet, by probing the entire depth of the bin or storage area. All samples will be blended into one representative sample for each bin or storage area.

2. Uncleaned Seed in Bulk

a. A Department of Agriculture and Forestry inspector will collect a minimum of four samples, at intervals of 4 feet, by probing the entire depth of the bin or storage area. All samples will be blended into one representative sample for each bin or storage area. The initial sample will be done only for purposes of determining moisture content and germination. Results of the germination test will be invalid after 60 days in the absence of a second sample.

b. A second representative sample will be drawn within 60 days after the first sample, after conditioning, for determining purity.

E. Analysis of samples shall be performed according to the current rules of the Association of Official Seed Analysts.

F. Resampling Policy

1. Except in special instances, as described below, only one sample shall be obtained from each certified lot.

a. When a certified seed lot fails certification requirements due to physical or mechanical purity factors, such as excess inert matter or weed seed, the seed may be reconditioned if the contaminants are separable. A complete purity analysis and germination test will be required on the reconditioned lot of seed. Certified seed rice which fails certification due to the presence of red rice seed in the sample shall be subject to the terms of Subparagraph e below.

b. Should a seed lot fail certified seed germination standards on the first laboratory test, a re-sample for germination test only for that seed lot will be permitted. Only one re-sample per seed lot will be permitted.

c. Whenever a certified seed lot is divided into sub-lots, both a purity and a germination test will be required for all sub-lots.

d. The last and most recent laboratory test report for a seed lot shall be the final analysis used to establish the eligibility for certification and will determine the information to be placed on the tag.

e. When a certified seed rice lot fails certification requirements due to the presence of one red rice seed in the original four pound sample, then a second 8 pound sample may be drawn from the lot. If one or more red rice seeds are found in the second sample, the lot will be disqualified on the basis of red rice content. If no red rice seed is found in the second sample, the lot would meet certification requirements. Certified seed rice whose original sample contains the presence of more than one red rice seed may not be re-sampled.

2. A fee of $15 will be charged for each re-sample, which fee shall be due and payable when the request for re-sample is initially made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and R.S. 3:1434.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:565 (November 1982), amended LR 9:195 (April 1983), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 19:888 (July 1993), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2712 (October 2013).

§517. Listing of Certified Seed Conditioning Plants (Formerly §139)

A. Seed conditioning plants desiring to be listed in the Department of Agriculture and Forestry's roster of seed conditioning plants must make a written application for inclusion on the list.

B. The Department of Agriculture and Forestry will issue certificates to all seed conditioning plants making application for inclusion on the listing, on an annual basis, each such certificate to expire on June 30 following date of issue.

C. The following requirements must be met by processors of all classes of certified seed.

1. Facilities shall be available to perform processing without introducing admixtures.

2. Identity of the seed must be maintained at all times.

3. Records of all operations relating to certification shall be completed and adequate to account for all incoming seed and final disposition of seed.

4. Processors shall permit inspection by the certifying agency of all records, equipment, storage and processing facilities pertaining to all classes of certified seed.

5. Processors shall designate an individual who shall be responsible to the certifying agency for performing such duties as may be required by the certifying agency.

6. Seed lots of the same variety and class may be blended and the class retained. If lots of different classes are blended, the lowest class shall be applied to the resultant blend. Such blending can only be done when authorized by the certifying agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and R.S. 3:1434.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:566 (November 1982), amended LR 9:196 (April 1983), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 20:642 (June 1994), LR 31:35 (January 2005), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2713 (October 2013).

§519. Processing of Certified Seed (Formerly §141)

A. Bagging

1. All seed approved for certification must be packaged in new 100 pound containers or less, except as provided by §141.A.1-2.

2. Registered Class of rice and small grains (wheat and oats):

a. new super-bags or Q-Bit bulk containers (or its equivalent as determined by the Louisiana Department of Agriculture and Forestry);

b. each super-bag or Q-Bit container of registered seed must be sealed in an LDAF approved manner that prevents removal and re-attachment without tampering being obvious. Seals shall be attached after filling and/or sampling is completed.

3. Certified class of rice and small grains (wheat and oats):

a. new or reusable super-bags or Q-Bit bulk containers (or its equivalent as determined by the Louisiana Department of Agriculture and Forestry).

NOTE: Reusable containers must be cleaned in a manner approved by the Louisiana Department of Agriculture and Forestry.

B. General Labeling Requirements

1. Each container, regardless of size, of all classes of certified seed offered for sale must bear an official certification label issued by the Louisiana Department of Agriculture and Forestry.

2. Labeling requirements may vary with the crop and methods of handling, but, in all instances, labels shall be attached to the containers in a secure manner.

3. The lot number of the label attached to each container must be the same as the lot number marked on the container.

4. The label shall contain the following information:

a. kind and variety;

b. where grown;

c. percentage of pure seed, crop seed, weed seed and inert matter;

d. name and number of noxious weed seeds per pound;

e. grower's name and address or code number;

f. germination percentage;

g. hard seed;

h. total germination and hard seed percentage;

i. net weight;

j. lot number; and

k. date of test.

5. Labels will be issued only for seed proven by laboratory analysis to meet required germination and purity standards.

6. The number of labels issued will be determined by the inspector's estimate of the quantity of seed at the time of sampling. All unused labels must be returned to the Louisiana Department of Agriculture and Forestry.

7. Prelabeling

a. In order to permit seedsmen to bag and label seed in advance of final laboratory reports, certification labels may be issued in advance. Such labels can be pre-issued upon receipt of completed field inspection reports showing that field production standards have been met. The state may grant a waiver on the movement of seed if an acceptable preliminary test is made on the seed lot. If prelabeled lots fail laboratory analysis standards, all labels shall be destroyed or returned to the Louisiana Department of Agriculture and Forestry. Failure to comply with this regulation will result in suspension of future prelabeling privileges.

8. The official certification label may be printed directly on the container with prior approval of the Louisiana Department of Agriculture and Forestry.

9. When separate seed analysis labels containing warranties, treatment information, etc., are attached to containers they shall be positioned so as not to obscure certification labels.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and R.S. 3:1434.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:566 (November l982), amended LR 9:196 (April l983), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December l986), LR 20:643 (June 1994), LR 31:35 (January 2005), LR 31:1510 (July 2005), LR 39:1758 (July 2013), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2713 (October 2013).

§521. Bulk Certification Requirements (Formerly §147)

A. Limitations

1. Bulk certification shall be limited to the certified class of the following commodities:

a. small grains (wheat and oats);

b. rice.

2. Seed eligible for bulk certification shall meet all field and laboratory standards established for certified seed as specified in these regulations.

3. Seed certified in bulk shall not be eligible for recertification.

4. Seed certified in bulk shall only be sold by the applicant producer or by an approved retail facility. Each retail outlet must have an acceptable procedure for handling bulk certified seed to assure genetic purity and identity are maintained.

B. Application for Bulk Certification. The seed owner is responsible for making application for bulk certification and for securing prior approval of the Department of Agriculture and Forestry for the facility in which the seed will be stored.

C. Storage Requirements

1. A separate storage bin must be available for each variety that will be sold in bulk.

2. Storage bins must be constructed so that all bin openings can be sealed to prevent contamination and maintain genetic purity.

3. All bins must be clearly and prominently marked to show crop and variety, until disposal of the entire lot.

D. Sampling of Seed to Be Certified in Bulk. Seed sampling shall be conducted as provided in §515.D, except that, at the option of the applicant, the sample to determine germination is drawn.

E. Certification

1. No certified seed tags will be issued for seed certified in bulk, except as provided by §521.F.

2. For sales to an approved retail facility within the state, a Bulk Certified Seed Transfer Form will be issued to cover all bulk certified seed which meets the general requirements for seed certification and the specific requirements for the crop/variety being certified.

a. The seller shall provide a copy of the Bulk Certified Seed Transfer Form to each purchaser at time of delivery.

b. The seller shall provide a copy of each issued Bulk Certified Seed Transfer Form to the Department of Agriculture and Forestry.

c. The seller shall maintain a copy of each issued Bulk Certified Seed Transfer Form in his file, which shall be available for examination by the Department of Agriculture and Forestry upon reasonable request.

3. For sales to its final disposition, a Bulk Certified Seed Sales Certificate will be issued to cover all bulk certified seed which meets the general requirements for seed certification and the requirements for the crop/variety being certified.

a. The seller shall provide a copy of the Bulk Certified Seed Sales Certificate to each purchaser at the time of delivery.

b. The seller shall provide a copy of each issued Bulk Certified Seed Sales Certificate to the Department of Agriculture and Forestry.

c. The seller shall maintain a copy of each issued Bulk Certified Seed Sales Certificate in his file, which shall be available for examination by the Department of Agriculture and Forestry upon reasonable request.

F. Subsequent Packaging of Seed Certified in Bulk

1. If the owner of seed certified in bulk later elects to package any remaining portion of the lot, the owner must give prior notification of his intention to package the seed to the Department of Agriculture and Forestry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and R.S. 3:1434.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:567 (November 1982), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 23:1283 (October 1997), LR 26:235 (February 2000), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2714 (October 2013).

§523. Interagency Certification (Out-of-State Seed) (Formerly §149)

A. Seed to be certified by interagency action must meet the Louisiana Seed Certification Standards or comparable standards of a seed certifying agency recognized by the Louisiana Commissioner of Agriculture and Forestry.

B. Seed to be certified by interagency action must contain, on the package, evidence from another recognized certifying agency that the seed is eligible for certification.

C. The following information must accompany each lot of seed:

1. kind and variety;

2. quantity (pounds);

3. class; and

4. lot number issued by previous certifying agency.

D. Seed to be certified by interagency action must be sequentially numbered.

E. A Louisiana tag for the appropriate class of seed must be attached to all seed to be certified by interagency action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:566 (November 1982), amended LR 9:196 (April 1983), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 23:1283 (October 1997), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2714 (October 2013).

Chapter 7. Certification of Specific Crops/Varieties

Subchapter A. Grasses and Clovers

§701. Crimson Clover Seed Certification Standards (Formerly §159)

A. Field Standards

Factor	Breeder	Foundation	Required	Certified
Land Requirement	5 yrs.	5 yrs.	3 yrs.	2 yrs.
Isolation	1,000 ft.	1,000 ft.	1,000 ft.	600 ft.
Other Varieties	None	None	0.20%	0.50%
Noxious Weeds	None	None	None	None

B. Seed Standards

Factor	Breeder	Foundation	Registered	Certified
Pure Seed	98.00%	98.00%	98.00%	98.00%
Inert Matter	2.00%	2.00%	2.00%	2.00%
Other Varieties	None	0.10%	0.25%	1.00%
Other Crops	None	None	45 seed/lb.	90 seed/lb.
Noxious Weeds	None	None	None	None
Other Weeds	25 seed/lb.	50 seed/lb.	180 seed/lb.	360 seed/lb
Germination	None	85.00%	85.00%	85.00%

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:569 (November 1982), amended LR 9:198 (April 1983), LR 10:737 (October 1984),

amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2715 (October 2013).

§703. Louisiana White; Louisiana White S 1, Ladino and Other White Clover Seed Certification Standards (Formerly §161)

A. Field Standards

Factor	Breeder	Foundation	Registered	Certified
Land Requirement	5 yrs.[1]	5 yrs.[1]	3 yrs.[1]	2 yrs.[2]
Isolation	1,320 ft.	1,320 ft.	660 ft.	330 ft.
Other Varieties and/or Species that can be differentiated from the variety being certified	None	None	None	None
Other Crops (inseparable)	10 Plants per Acre	10 Plants per Acre	50 Plants per Acre	100 Plants per Acre

[1]A foundation and/or registered field may produce only two successive seed crops following seeding except that each may be reclassified to the next lower class after being harvested for seed for two years. A stand will not be eligible to produce any class of seed after four successive seed crops.

[2]A certified field on which a stand of perennial plants is maintained may produce a maximum of four successive seed crops following seeding.

B. Seed Standards

Factor	Breeder	Foundation	Registered	Certified
Pure Seed	99.00%	98.00%	98.00%	98.00%
Inert Matter	1.00%	2.00%	2.00%	2.00%
Other Crops	None	None	45 seed/lb.	100 seed/lb.
Other Varieties	None	None	None	10 seed/lb.
Other Kinds	None	None	45 seed/lb.	90 seed/lb.
Sweet Clover	None	None	45 seed/lb.	80 seed/lb.
Other Clovers	None	None	None	None
Noxious Weeds: Bracted plantain Buckhorn plantain	None	None	None	None
Other Weeds	0.04%	0.04%	0.07%	0.14%
Wild Carrot	None	None	None	None
Germination	None	85.00%	85.00%	85.00%

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:569 (November 1982), amended LR 9:198 (April 1983), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2715 (October 2013).

§705. Red Clover Seed Certification Standards (Formerly §163)

A. Field Standards

Factor	Foundation	Registered	Certified
*Land Requirement	5 yrs.	3 yrs.	2 yrs.
Isolation	1,320 ft.	660 ft.	330 ft.
Other Varieties	None	0.20%	0.50%

*No stand of red clover will be eligible to produce any class of certified seed after two successive seed crops. These seed crops may be produced in the same or consecutive years.

B. Seed Standards

Factor	Breeder	Foundation	Registered	Certified
Pure Seed	99.00%	99.00%	99.00%	99.00%
Inert Matter	1.00%	1.00%	1.00%	1.00%
Other Varieties	None	0.10%	0.25%	1.00%
Other Crops	None	18 seed/lb.	90 seed/lb.	180 seed/lb.
Noxious Weeds: Dock, Cheat, Darnel, Johnsongrass, Wild Mustard	None	45 seed/lb.	90 seed/lb.	100 seed/lb.
Dodder	None	None	None	None
Other Weeds	0.05%	0.15%	0.15%	0.25%
Germination	None	85.00%	85.00%	85.00%

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:570 (November 1982), amended LR 9:199 (April 1983), LR 10:737 (October 1984), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2715 (October 2013).

§707. Bahia Grass Seed Certification Standards (Formerly §155)

A. Field Standards

Factor	Foundation	Registered	Certified
Land Requirement	5 yrs.	1 yr.	1 yr.
Isolation	1,320 ft.	660 ft.	330 ft.
Other Varieties	None	None	5 Plants per Acre
Other Grass with Inseparable Seed	10 Plants per Acre	10 Plants per Acre	25 Plants per Acre
Other Crops	Other crops with seed that can be separated will be permitted in the field.		

B. Seed Standards

Factor	Foundation	Registered	Certified
Pure Seed	98.00%	98.00%	98.00%
Inert Matter	2.00%	2.00%	2.00%
Other Varieties	0.10%	0.10%	0.25%
Noxious Weeds	None	None	None
Other Weeds	0.50%	0.50%	1.00%
Germination	80.00%	80.00%	80.00%

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:568 (November 1982), amended LR 9:197 (April 1983), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry,

Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2716 (October 2013).

§709. Bermuda and Zoysia Grass Seed Certification Standards (Formerly §157)

A. Field Standards

Factor	Foundation	Registered	Certified
Land Requirement	5 yrs.	1 yr.	1 yr.
Isolation	33 ft.	33 ft.	33 ft.
*Other Varieties (per 1,000 plants)	None	1 plant	3 plants
Noxious Weeds: Johnsongrass, Cheat and Nutgrass	None	None	None
*Including all other Bermuda and Zoysia grass that can be differentiated from the variety to be certified			

B. Planting Stock Standards

Factor	Foundation	Registered	Certified
Pure Live Sprigs containing roots (minimum by count)	90.00%	90.00%	90.00%
Other Living Plants (maximum by count)	2.00%	2.00%	2.00%
Noxious Weeds: Johnsongrass, Cheat and Nutgrass	None	None	None

C. Seed Standards

Factor	Breeder	Foundation	Registered	Certified
Pure Seed	None	98.00%	98.00%	98.00%
Inert Matter	None	2.00%	2.00%	2.00%
Other Crops	None	0.01%	0.01%	0.25%
Noxious Weeds	None	None	None	None
Other Weeds	None	0.01%	0.01%	0.05%
Germination	None	85.00%	85.00%	85.00%

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:568 (November 1982), amended LR 9:197 (April 1983), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2716 (October 2013).

§711. Dallis Grass Seed Certification Standards (Formerly §167)

A. Field Standards

Factor	Foundation	Registered	Certified
Land Requirement	5 yrs.	3 yrs.	3 yrs.
Isolation	60 ft.	50 ft.	50 ft.
Other Crops	10 Plants per Acre	10 Plants per Acre	100 Plants per Acre

B. Seed Standards

Factor	Foundation	Registered	Certified
Pure Seed	40.00%	40.00%	40.00%
Inert Matter	60.00%	60.00%	60.00%
Other Varieties	0.10%	1.00%	2.00%
Other Crops	None	None	10 seed/lb.
Noxious Weeds	None	None	None
Germination	50.00%	50.0%	50.00%

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, LR 8:571 (November 1982), amended LR 9:200 (April 1983), LR 10:737 (October 1984), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2716 (October 2013).

§713. Annual Ryegrass Seed Certification Standards (Formerly §169)

A. Field Standards

Factor	Foundation	Registered	Certified
Land Requirement	5 yrs	1 yr.	1 yr.
Isolation	900 ft.	900 ft.	350 ft.
Other Varieties	None	1.00%	2.00%
Other Crops	0.10%	0.20%	0.30%

B. Seed Standards

Factor	Foundation	Registered	Certified
Pure Seed	97.00%	97.00%	96.00%
Inert Matter	3.00%	3.00%	4.00%
Other Varieties	0.10%	1.00%	2.00%
Other Crops	0.10%	0.25%	0.25%
Noxious Weeds	None	None	None
Other Weeds	0.25%	0.25%	0.25%
Germination	85.00%	85.00%	85.00%

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, LR 8:572 (November 1982), amended LR 9:197 (April 1983), LR 10:737 (October 1984), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2717 (October 2013).

§715. California Bulrush (*Schoenoplectus californicus*) Clonally Propagated Plant Certification Standards (Formerly §171)

A. The department shall issue numbered certified bulk sales certificates when requested to do so by a grower who has met the requirements and standards set forth in this Section. The numbered certified certificates shall accompany each shipment of certified material.

B. Definition of Classes. For the purpose of this Section, the word *material* refers to clonally propagated plants with identical genotypes.

1. Breeder *material* shall be maintained by the plant breeder, or their respective authorized agent(s).

2. Foundation *material* shall be the vegetative increase of breeder *material*.

3. Registered *material* shall be the vegetative increase of either breeder or foundation *material*.

4. Certified *material* shall be the vegetative increase of breeder, foundation, or registered *material*.

C. DNA Fingerprinting Requirements

1. DNA fingerprinting samples shall be taken by Louisiana Department of Agriculture and Forestry (LDAF) inspectors and submitted to an LDAF approved laboratory for testing, according to the following guidelines:

a. foundation material:

i. fingerprinting is required at year of transplant and every other year thereafter;

ii. ponds—one sample/1000 sq. ft., with a minimum of 10 samples, regardless of size;

iii. containers—ten percent or 190 random plants, whichever is smaller;

b. registered material:

i. fingerprinting is required at year of transplant and every three years thereafter;

ii. ponds—one sample/1000 sq. ft., with a minimum of 10 samples, regardless of size;

iii. containers—five percent or 94 random plants, whichever is smaller;

c. certified material:

i. fingerprinting is required at year of transplant and every five years thereafter;

ii. ponds—one sample/1000 sq. ft., with a minimum of 10 samples, regardless of size;

iii. containers—five percent or 94 random plants, whichever is smaller.

2. The LDAF shall have the right to re-inspect, re-sample and re-test production fields, ponds and containers/tanks that are out-of-tolerance for DNA fingerprinting prior to final certification.

a. Resampling of fields that are out-of-tolerance for DNA fingerprinting shall be at the request of the producer.

3. Additional DNA fingerprinting samples shall be required of a certified grower when the integrity of the genetic purity of a production field, pond or container/tank has been jeopardized by any means prior to final certification.

D. Production Requirements

1. General production requirements for all classes and production methods:

a. only one variety of California bulrush shall be grown per production field, pond or container/tank;

b. all seed heads shall be routinely removed from plants after flowering begins, to ensure that viable seed are not produced;

c. production fields, ponds, container/tanks shall meet the minimum isolation distance at all points;

d. pond requirements:

i. ponds shall be contained by levees;

ii. ponds of different varieties shall be separated by the minimum required isolation distance and must have individual water supplies and water drainage capabilities for each produced variety;

e. container/tank requirements:

i. soil used for container/tank production shall:

(a). come from an area that has not produced California bulrush for a minimum of one year; and

(b). be free of visible California bulrush rhizomes and stems prior to transplanting.

2. Certified Class

a. Production fields of the certified class may be located within natural tidal influenced areas.

E. Land Requirements

1. In order to be eligible for the production of all certified classes, production fields, ponds and containers/tanks of *Schoenoplectus californicus* shall:

a. be left undisturbed for a minimum of four weeks prior to planting; and

b. be found to be free of California bulrush and noxious and objectionable weeds.

F. Grower Inspections

1. Production fields, ponds and containers/tanks shall be inspected by the grower to ensure that all requirements of this Section are met prior to each inspection by the LDAF.

G. LDAF Inspections

1. Production fields, ponds and containers/tanks shall be made accessible for inspection by the grower.

2. First Year (year of transplant)

a. Production fields, ponds and containers/tanks shall be inspected by LDAF inspectors within four weeks prior to transplanting to ensure production fields, ponds and containers/tanks are free of volunteer California bulrush plants.

b. Production fields, ponds and containers/tanks shall be non-flooded at time of inspection.

c. Production fields, ponds and containers/tanks shall be inspected between 60 and 120 days from date of establishment for the purpose of collecting DNA fingerprinting samples.

d. Production fields, ponds and containers/tanks shall be inspected by the LDAF inspectors a minimum of once a year to ensure that all requirements of this Section are being met.

e. The LDAF shall have the right to re-inspect, re-sample, and re-test production fields, ponds and containers/tanks that are out-of-tolerance for DNA fingerprinting prior to final certification.

f. Additional inspections may be performed at the discretion of the LDAF at any time without prior notice.

3. Subsequent Years

a. Production fields, ponds and containers/tanks shall be inspected by the LDAF inspectors a minimum of once a year to ensure that all requirements of this Section are being met.

b. The LDAF shall have the right to re-inspect, re-sample and re-test production fields, ponds and containers/tanks that are out-of-tolerance for DNA fingerprinting prior to final certification.

c. Additional inspections may be performed at the discretion of the LDAF at any time without prior notice.

H. Field Standards

Factor	Foundation	Registered	Certified
Maximum Age: Production Unit Life From Transplant Date[1]	4 years	6 years	Unlimited
Isolation: Minimum Clonal/Seed Separation Between Production Units			
Pond Production	Clonal - 20 ft.: Seed - 150 ft.	Clonal - 20 ft.: Seed - 150 ft.	Clonal - 20 ft.: Seed - 150 ft.
Tank Production	Clonal - 1 variety per tank: Seed - 150 ft.	Clonal - 1 variety per tank: Seed - 150 ft.	Clonal - 1 variety per tank: Seed - 150 ft.
Field Production	N/A	N/A	200 ft.
Plant Variants: Maximum Variants Allowed.			
DNA Fingerprints	1 percent	2 percent	25 percent
Visual Inspections	3 plants per 5,400 sq. ft.	5 plants per 5,400 sq. ft.	10 plants per 5,400 sq. ft.
Harmful Diseases[2]	None	None	None
Noxious or Objectionable Weeds[3]	None	None	≤ 5 plants per 5,400 sq. ft.
Land Requirements	1 year	1 year	1 year
Other Crops[4]	None	None	None

[1] No maximum age for a certified class production unit so long as the unit continues to meet all requirements of this Section

[2] Diseases seriously affecting quality of seed and transmissible by planting stock

[3] Cyperus spp. (Sedge), Eleocharis spp. (Spikerush), Phragmites australis (Roseau cane), Typha spp. (Cattail)

[4] Spartina alterniflora (Smooth cordgrass), Spartina patens (Marshhay cordgrass), Spartina cynosuroides (Big cordgrass), Spartina spartinae (Gulf cordgrass), Distichlis spicata (Saltgrass), Paspalum vaginatum (Seashore paspalum)

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 37:2980 (October 2011), LR 39:1759 (July 2013), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2717 (October 2013).

§717. Sea Oats (*Uniola paniculata*) Clonally Propagated Plant Certification Standards (Formerly §183)

A. The department shall issue numbered certified bulk sales certificates when requested to do so by a grower who has met the requirements and standards set forth in this Section. The numbered certified certificates shall accompany each shipment of certified material.

B. Definition of Classes. For the purpose of this Section, the word *material* refers to clonally propagated plants with identical genotypes.

1. Breeder *material* shall be maintained by the plant breeder, or their respective authorized agent(s).

2. Foundation *material* shall be the vegetative increase of breeder *material*.

3. Registered *material* shall be the vegetative increase of either breeder or foundation *material*.

4. Certified *material* shall be the vegetative increase of breeder, foundation, or registered *material*.

C. DNA Fingerprinting Requirements

1. DNA fingerprinting samples shall be taken by (LDAF) inspectors and submitted to an LDAF approved laboratory for testing, in accordance with the following guidelines:

a. foundation material:

i. fingerprinting is required at year of transplant and every other year thereafter;

ii. plots—one sample/1000 sq. ft., with a minimum of 10 samples, regardless of size;

iii. containers—10 percent or 190 random plants, whichever is smaller;

b. registered material:

i. fingerprinting is required at year of transplant and every three years thereafter;

ii. plots—one sample/1000 sq. ft., with a minimum of 10 samples, regardless of size;

iii. containers—5 percent or 94 random plants, whichever is smaller;

c. certified material:

i. fingerprinting is required at year of transplant and every five years thereafter;

ii. plots—one sample/1000 sq. ft., with a minimum of 10 samples, regardless of size;

iii. containers—5 percent or 94 random plants, whichever is smaller.

2. The LDAF shall have the right to re-inspect, re-sample and re-test production plots and containers that are out-of-tolerance for DNA fingerprinting prior to final certification.

a. Resampling of production plots and container production units that are out-of-tolerance for DNA fingerprinting shall be at the request of the producer.

3. Additional DNA fingerprinting samples shall be required of a certified grower when the integrity of the genetic purity of a production plot or container production unit has been jeopardized by any means prior to final certification.

D. Production Requirements

1. General requirements for all classes and production methods:

a. only one variety of sea oats shall be grown per production plot or container production unit;

b. all seed heads shall be routinely removed from plants after flowering begins, to ensure that viable seed are not produced.

2. Plot requirements:

a. production plots shall be free of sea oats plants for a minimum of four weeks prior to transplanting;

b. production plots and container production units shall meet the minimum isolation distance at all points.

3. Container requirements:

a. soil used for container production shall:

i. come from an area that has not produced sea oats for a minimum of one year; and

ii. be free of visible sea oats rhizomes and stems prior to transplanting.

E. Land Requirements

1. To be eligible for the production of all certified classes of seed; production plots and containers of *Uniola paniculata* shall:

a. be left undisturbed for a minimum of four weeks prior to planting; and

b. found to be free of sea oats and noxious and objectionable weeds.

F. Grower Inspections

1. Production plots and containers shall be inspected by grower to ensure that all requirements of this Section are met prior to each inspection by the LDAF.

G. LDAF Inspections

1. Plots and containers shall be made accessible for inspection by the grower.

2. First Year (year of transplant)

a. Production plots and containers shall be inspected by LDAF inspectors within four weeks prior to transplanting to ensure they are free of volunteer sea oats plants.

b. Production plots and containers shall be inspected between 60 and 120 days from date of establishment for the purpose of collecting DNA fingerprinting samples.

c. Production plots and containers shall be inspected by the LDAF inspectors a minimum of once a year to ensure that all requirements of this Section are being met.

d. The LDAF shall have the right to re-inspect, re-sample, and re-test production plots and containers that are out-of-tolerance for DNA fingerprinting prior to final certification.

e. Additional inspections may be performed at the discretion of the LDAF at any time without prior notice.

3. Subsequent Years

a. Production plots and containers shall be inspected by the LDAF inspectors a minimum of once a year to ensure that all requirements of this Section are being met.

b. The LDAF shall have the right to re-inspect, re-sample and re-test production plots and containers that are out-of-tolerance for DNA fingerprinting prior to final certification.

c. Additional inspections may be performed at the discretion of the LDAF at any time without prior notice.

H. Field Standards

Factor	Foundation	Registered	Certified
Maximum Age: Production Unit Life From Transplant Date[1]	4 years	6 years	Unlimited
Isolation: Minimum Clonal/Seed Separation Between Production Units			
Plot Production	Clonal-20 ft.: Seed-150 ft.	Clonal-20 ft.: Seed-150 ft.	Clonal-20 ft.: Seed-150 ft.
Container Production Unit	Clonal-1 variety per unit: Seed-150 ft.	Clonal - 1 variety per unit: Seed-150 ft.	Clonal-1 variety per unit: Seed-150 ft.
Plant Variants: Maximum Variants Allowed.			
DNA Fingerprints	1 percent	2 percent	25 percent

Factor	Foundation	Registered	Certified
Visual Inspections	3 plants per 5,400 sq. ft.	5 plants per 5,400 sq. ft.	10 plants per 5,400 sq. ft.
Harmful Diseases[2]	None	None	None
Noxious or Objectionable Weeds[3]	None	None	≤ 5 plants per 5,400 sq. ft.
Land Requirements	1 year	1 year	1 year
Other Crops[4]	None	None	None

[1] No maximum age for a certified class production unit so long as the unit continues to meet all requirements of this Section

[2] Diseases seriously affecting quality of seed or vegetatively propagated stock and transmissible by planting stock

[3] *Cyperus* spp. (Sedges), *Panicum repens* (Torpedograss), *Phragmites australis* (Roseau cane), *Fimbristylis* spp. (Fimbristylis), *Tamarix* spp. (Salt cedar), *Cenchrus* spp. (Sandbur), *Suaeda linearis* (Sea-blite), *Acacia farnesiana* (Sweet acacia)

[4] *Spartina patens* (Marshhay cordgrass), *Spartina spartinae* (Gulf cordgrass), *Sporobolus virginicus* (Dropseed), *Distichlis spicata* (Saltgrass), *Schizachyrium maritimum* (Seacoast bluestem), *Paspalum vaginatum* (Seashore paspalum), *Panicum amarum* (Beach panicgrass)

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 37:2982 (October 2011), LR 39:1760 (July 2013), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2718 (October 2013).

§719. Smooth Cordgrass (*Spartina alterniflora*) Certification Standards (Formerly §193)

A. The department shall issue numbered certified bulk sales certificates when requested to do so by a grower who has met the requirements and standards set forth in this Section. The numbered certified certificates shall accompany each shipment of certified material.

B. Definition of Classes. For the purpose of this Section, the word *material* refers to clonally propagated plants with identical genotypes.

1. Breeder *material* shall be maintained by the plant breeder, or their respective authorized agent(s).

2. Foundation *material* shall be the vegetative increase of breeder *material*.

3. Registered *material* shall be the vegetative increase of either breeder or foundation *material*.

4. Certified *material* shall be the vegetative increase of breeder, foundation, or registered *material*.

C. DNA Fingerprinting Requirements

1. DNA fingerprinting samples shall be taken by LDAF inspectors and submitted to an LDAF approved laboratory for testing, in accordance with the following guidelines:

a. foundation material:

i. fingerprinting is required at year of transplant and every other year thereafter;

ii. ponds—one sample/1000 sq. ft., with a minimum of 10 samples, regardless of size;

iii. containers—10 percent or 190 random plants, whichever is smaller;

b. registered material:

i. fingerprinting is required at year of transplant and every three years thereafter;

ii. ponds—one sample/1000 sq. ft., with a minimum of 10 samples, regardless of size;

iii. containers—5 percent or 94 random plants, whichever is smaller;

c. certified material:

i. fingerprinting is required at year of transplant and every five years thereafter;

ii. ponds—one sample/1000 sq. ft., with a minimum of 10 samples, regardless of size;

iii. containers—5 percent or 94 random plants, whichever is smaller.

2. The LDAF shall have the right to re-inspect, re-sample and re-test production fields, ponds and containers/tanks that are out-of-tolerance for DNA fingerprinting prior to final certification.

3. Resampling of fields that are out-of-tolerance for DNA fingerprinting shall be at the request of the producer.

4. Additional DNA fingerprinting samples shall be required of a certified grower when the integrity of the genetic purity of a production field, pond or container/tank has been jeopardized by any means prior to final certification.

D. Production Requirements

1. General production requirements for all classes and production methods:

a. only one variety of smooth cordgrass shall be grown per production field, pond or container/tank;

b. all seed heads shall be routinely removed from plants after flowering begins, to ensure that viable seed are not produced.;

c. production fields, ponds, container/tanks shall meet the minimum isolation distance at all points;

d. pond requirements:

i. ponds shall be contained by levees;

ii. ponds of different varieties shall be separated by the minimum required isolation distance, and must have individual water supplies and water drainage capabilities for each produced variety;

e. container/tank requirements:

i. soil used for container/tank production shall:

(a). come from an area that has not produced smooth cordgrass for a minimum of one year; and

(b). be free of visible smooth cordgrass rhizomes and stems prior to transplanting.

2. Certified Class

a. Production fields of the certified class may be located within natural tidal influenced areas.

E. Land Requirements. In order to be eligible for the production of all certified classes; production fields, ponds and containers/tanks of *Spartina alterniflora* shall:

1. be left undisturbed for a minimum of four weeks prior to planting; and

2. found to be free of smooth cordgrass and noxious and objectionable weeds.

F. Grower Inspections

1. Production fields, ponds and containers/tanks shall be inspected by grower to ensure that all requirements of this Section are met prior to each inspection by the LDAF.

G. LDAF Inspections

1. Production fields, ponds and containers/tanks shall be made accessible for inspection by the grower.

2. First Year (year of transplant)

a. Production fields, ponds and containers/tanks shall be inspected by LDAF inspectors within four weeks prior to transplanting to ensure production fields, ponds and containers/tanks are free of volunteer smooth cordgrass plants.

i. Production fields, ponds and containers/tanks shall be non-flooded at time of inspection.

b. Production fields, ponds and containers/tanks shall be inspected between 60 and 120 days from date of establishment for the purpose of collecting DNA fingerprinting samples.

c. Production fields, ponds and containers/tanks shall be inspected by the LDAF inspectors a minimum of once a year to ensure that all requirements of this Section are being met.

d. The LDAF shall have the right to re-inspect, re-sample, and re-test production fields, ponds and containers/tanks that are out-of-tolerance for DNA fingerprinting prior to final certification.

e. Additional inspections may be performed at the discretion of the LDAF at any time without prior notice.

3. Subsequent Years

a. Production fields, ponds and containers/tanks shall be inspected by the LDAF inspectors a minimum of once a year to ensure that all requirements of this Section are being met.

b. The LDAF shall have the right to re-inspect, re-sample and re-test production fields, ponds and containers/tanks that are out-of-tolerance for DNA fingerprinting prior to final certification.

c. Additional inspections may be performed at the discretion of the LDAF at any time without prior notice.

H. Field Standards

Factor	Foundation	Registered	Certified
Maximum Age: Production Unit Life From Transplant Date[1]	4 years	6 years	Unlimited
Isolation: Minimum Clonal/Seed Separation Between Production Units			
Pond Production	Clonal - 20 ft.: Seed - 150 ft.	Clonal - 20 ft.: Seed - 150 ft.	Clonal - 20 ft.: Seed - 150 ft.
Tank Production	Clonal - 1 variety per tank: Seed - 150 ft.	Clonal - 1 variety per tank: Seed - 150 ft.	Clonal - 1 variety per tank: Seed - 150 ft.
Field Production	N/A	N/A	200 ft.
Plant Variants: Maximum Variants Allowed.			
DNA Fingerprints	1 percent	2 percent	25 percent
Visual Inspections	3 plants per 5,400 sq. ft.	5 plants per 5,400 sq. ft.	10 plants per 5,400 sq. ft.
Harmful Diseases[2]	None	None	None
Noxious or Objectionable Weeds[3]	None	None	≤ 5 plants per 5,400 sq. ft.
Land Requirements	1 year	1 year	1 year
Other Crops[4]	None	None	None

[1] No maximum age for a certified class production unit so long as the unit continues to meet all requirements of this Section

[2] Diseases seriously affecting quality of seed and transmissible by planting stock

[3] Salvinia spp. (Salvinia), Cyperus spp. (Sedge), Eleocharis spp. (Spike rush), Phragmites australis (Roseau cane), Typha spp. (Cattail)

[4] Spartina patens (Marshhay cordgrass), Spartina cynosuroides (Big cordgrass), Spartina spartinae (Gulf cordgrass), Distichlis spicata (Saltgrass), Schoenoplectus californicus (California bulrush), Paspalum vaginatum (Seashore paspalum)

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 37:2983 (October 2011), LR 39:1761 (July 2013), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2720 (October 2013).

§721. Tall and Meadow Fescue Seed Certification Standards (Formerly §211)

A. Field Standards

Factor	Foundation	Registered	Certified
Land Requirement	5 yrs.	2 yrs.	2 yrs.
Isolation	900 ft.	330 ft.	330 ft.
Other Varieties	10 Plants per Acre	10 Plants per Acre	100 Plants per Acre

B. Seed Standards

Factor	Foundation	Registered	Certified
Pure Seed	98.00%	98.00%	95.00%
Inert Matter	2.00%	2.00%	5.00%
Other Varieties	0.01%	1.00%	2.00%
Other Crops	None	None	10 seed/lb.
Noxious Weeds	None	None	None
Other Weeds	50 seed/lb.	50 seed/lb.	360 seed/lb.
Germination	80.00%	80.00%	80.00%

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:586 (November 1982) amended LR 9:197 (April 1983), LR 10:737 (October 1984), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2721 (October 2013).

§723. Turf and Pasture Grass Certification Standards (Formerly §219)

A. Classes of Seed. The word *seed* shall be understood to include all propagated materials in this Section.

1. Foundation shall be the vegetative increase of Breeder seed.

2. *Registered shall be the vegetative increase of Foundation seed.

3. Certified shall be the vegetative increase of Registered seed.

*A grower may increase his acreage on his own farm on a limited basis with the approval of the Louisiana Department of Agriculture and Forestry.

B. Land Requirements

1. Sod and Sprigs (pre-planting inspections)

a. A field to be eligible for the production of all certified classes of sod shall be left undisturbed for a minimum of four weeks prior to planting and found to be free of noxious and objectionable weeds.

b. A recommended soil fumigation may be applied by a licensed applicator, followed by an inspection by the Louisiana Department of Agriculture and Forestry a minimum of four weeks after the application, to ensure no emergence of noxious and objectionable weeds prior to planting.

C. Field Inspections. Turf Grasses and Pasture Grasses entered into the certification program shall be inspected at least three times a year: first (April-May); second (August-September); third (December-January) to ensure the quality of the grasses has met or exceeded the minimum standards set forth in these regulations. If a field is found to be deficient in meeting the standards then the producer has the option of spot roguing the undesirable, if the Louisiana Department of Agriculture and Forestry deems possible, and call for a reinspection of the crop.

D. Field Standards

Factor	Foundation	Registered	Certified
Turf Grasses (Sprigs and Sod)			
Other Varieties	None	None	1 Plant/ 1000 sq. ft.
Other Crops	None	None	1 Plant/ 1000 sq. ft.
Noxious and Objectionable Weeds	None	None	None
Harmful Diseases	None	None	None
Isolation	6 ft.	6 ft.	6 ft.
Pasture Grass (Sprigs)			
Other Varieties	None	1 Plant/ 1000 sq.ft.	3 Plants/ 1000 sq.ft.
Other Crops	None	None	3 Plants/ 1000 sq. ft.
Noxious and Objectionable Weeds	None	None	None
Harmful Diseases	None	None	None
Isolation	30 ft.	30 ft.	30 ft.

1. Other varieties consist of other strains of the species that can be differentiated from the variety or varieties that are being inspected.

2. Noxious and objectionable weeds. Noxious and objectionable weeds are with the inclusions of, but not limited to, the following plants: Virginia button weed (*Diodia virginiana*); dallisgrass (*Paspalum dilatatum*); crabgrass (*Digitaria spp.*); goosegrass (*Eleusine indica*); bahiagrass (*Paspalum notatum*); torpedograss (*Panicum repens*); nutgrass (*Cyperus esculentus, C. rotundus*).

3. Harmful Diseases. Harmful diseases are diseases that seriously affect the quality of grasses and are transmitted by planting stock.

4. Isolation. Isolation shall be a barren strip or an approved crop to maintain purity without the risk of contamination.

E. Planting Stock Standards

Factor	Foundation	Registered	Certified
Turf Grass			
Pure Live Plants	90.00%	90.00%	90.00%
Noxious and Objectionable Weeds	None	None	None
Other Varieties	None	0.05%	0.05%
Other Crop	None	None	0.05%
Harmful Diseases	None	None	None
Pasture Grass			
Pure Live Sprigs containing roots (minimum by count)	90.00%	90.00%	90.00%

Factor	Foundation	Registered	Certified
Other Live Plants (maximum by count)	2.00%	2.00%	2.00%
Noxious Weeds	None	None	None

F. Reporting System

1. Issuing Certificates

a. The grower will be issued numbered certificates of certification and tags by the Louisiana Department of Agriculture and Forestry upon request that must accompany each load of certified grass sold.

b. The grower is responsible for completing the forms and returning the appropriate copies to the Louisiana Department of Agriculture and Forestry within 10 working days of issuance.

2. Tagging System

a. Upon meeting the standards set forth in these regulations the certified crop must have attached to the invoice two tags: A) one from the seed certification division; and B) one from the horticulture division of the Department of Agriculture and Forestry.

b. This two-tag system shall distinguish the crop to have met or exceeded the requirements set by both divisions of the Department of Agriculture and Forestry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 9:204 (April 1983), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 16:847 (October 1990), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2721 (October 2013).

§725. Vetch Seed Certification Standards (Formerly §221)

A. Classes of Vetch Seed

1. Non-Reseeding Varieties. Recognized certified seed classes shall be breeder, foundation, registered and certified vetch seed.

2. Hard-Seeded Varieties. Whenever a field of hard-seeded vetch has been established to produce either breeder, foundation, registered or certified seed, the same certified seed class can be produced from that field as long as it remains in production and meets minimum seed certification standards.

B. Field Inspection. Field inspection shall be made at flowering time or before harvest when off-types and varietal mixtures can best be identified.

C. Field Standards

Factor	Foundation	Registered	Certified
Land Requirement	5 yrs.	3 yrs.	2 yrs.
Isolation	10 ft.	10 ft.	10 ft.
Self-Pollinating Varieties Cross-Pollinating Varieties	400 ft.	400 ft.	400 ft.
Other Varieties and Off-Types	1 per 1,000	1 per 400	1 per 100
Other Crops	1 per 4,000	1 per 2,000	1 per 400
Noxious Weeds (inseparable)	None	None	None

D. Seed Standards

Factor	Foundation	Registered	Certified
Pure Seed	98.00%	98.00%	98.00%
Inert Matter	2.00%	2.00%	2.00%
Total Other Crops	0.35%	0.75%	1.50%
Other Varieties	0.10%	0.25%	1.00%
Noxious Weeds	None	None	None
Other Weeds	0.10%	0.25%	0.25%
Germination	80.00%	80.00%	80.00%

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 9:205 (April 1983), amended LR 10:737 (October 1984), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986, repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2722 (October 2013).

§§727.-739. Reserved.

Subchapter B. Grain and Row Crop Seeds

§741. Cottonseed Seed Certification Standards (Formerly §165)

A. Field Standards

Factor	Breeder	Foundation	Registered	Certified
Isolation**		15 ft.	15 ft.	15 ft.
Other Varieties and Off-Type Plants	None	None	1 Plant per Acre	5 Plants per Acre
Noxious Weeds: Cocklebur	None	5 Plants per Acre	8 Plants per Acre	10 Plants per Acre

**Fields entered for certification must be isolated at least 600 feet from Sea Island cotton, red leaf cotton, or other cottons which vary greatly in plant characteristics from the variety entered for certification, and at least one-half mile from G. barbadense and interspecific hybrids involving G. barbadense.

B. Handling and Storage Requirements

1. Ginning. Cottonseed entered in all classes of certification shall be ginned on a thoroughly cleaned, one-variety gin approved by the Department of Agriculture and Forestry prior to ginning seed to be certified. With special permission of the Department of Agriculture and Forestry.

a. Cottonseed for all classes of certification may be ginned on thoroughly cleaned, mixed variety gins either with a notarized ginner's agreement provided by the Louisiana Department of Agriculture and Forestry or an inspector of the Louisiana Department of Agriculture and Forestry shall be present if cottonseed for certification is ginned.

b. Cottonseed produced for only the certified class may be ginned on a mixed-variety gin if a minimum of three

bales are "blown" through the gin prior to catching of the cottonseed to be certified. An inspector of the Louisiana Department of Agriculture and Forestry may be present if cottonseed for certification is ginned under special permission.

2. Delinting. Delinters must conform to the same requirements set forth for ginners. No cottonseed entered for certification may be delinted outside the state of Louisiana except by special permission of the Department of Agriculture and Forestry.

C. Seed Standards

Factor	Breeder	Foundation	Registered	Certified
Pure Seed	99.00%	99.00%	99.00%	99.00%
Inert Matter	1.00%	1.00%	1.00%	1.00%
Other Varieties	None	0.03%	0.05%	0.10%
Other Crops	None	None	3 seed/lb.	5 seed/lb.
Noxious Weeds: Cocklebur	None	None	1 seed/2 lbs.	1 seed/2 lbs.
Germination	None	70.00%	70.00%	70.00%

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, LR 8:570 (November 1982), amended LR 9:199 (April 1983), LR 10:737 (October 1984), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 13:156 (March 1987), repromulgated LR 13:232 (April 1987), amended LR 18:954 (September 1992), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:3060 (November 2013).

§743. Hybrid Seed Corn Certification Standards (Formerly §173)

A. Eligibility Requirements. Hybrid corn may be one of the following.

1. *Single Cross*—the first generation hybrid between two inbred lines.

2. *Double Cross*—the first generation hybrid between two single crosses.

3. *Three-Way Cross*—a first generation hybrid between a single cross and an inbred line.

4. *Top Cross*—the first generation hybrid of a cross between an inbred line and an open-pollinated variety or the first generation hybrid between a single cross and an open-pollinated variety.

5. *Foundation Single Cross*—a single cross used in the production of a double cross, a three-way, or a top cross.

B. Field Inspection

1. Seed fields shall be inspected at least once prior to the pollination period for purity as to plant type. Any off-type or doubtful plants must be destroyed before they shed pollen.

2. At least three field inspections shall be made during the pollinating period, said inspections to be made without previous notification to the grower.

C. Field Standards

1. Unit of Certification. The entire acreage of any one specific commercial hybrid must be entered for certification.

2. Isolation Requirements. Fields in which commercial hybrid corn is being produced must be so located that the female parent is not less than 660 feet in all directions from other corn of a different kernel color or type (sweet, pop, flint, white, red, etc.).

3. Border Rows. When the kernel type and color of the corn in the contaminating field are the same as those of the parent in the crossing field, the isolation distance may be modified by the planting of border rows of the pollen parent. The following table indicates the minimum number of border rows required for fields of various sizes when located at different distances from other corn.

Minimum Distance from Other Corn	Field Size	
	1 to 20 acres	20 acres or more
Feet	(Minimum) Border Rows	
410	0	0
370	2	1
330	4	2
290	6	3
245	8	4
205	10	5
165	12	6
125	14	7
85	16	8
0		10

a. The above isolation requirements do not apply to crossing fields when the same male or pollen parent is used in each. In such cases the two fields must be clearly divided by use of an area not less than 14 feet or a natural boundary which is permanent and distinctive (e.g., ditch, road, headland, etc.).

4. Detasseling

a. A commercial hybrid will be disqualified for certification when 5 percent or more of the female seed parent plants have receptive silk:

i. if more than 1 percent of the female seed parent plants have shed pollen on one inspection; or

ii. if a total of 2 percent of the female seed parent plants have shed pollen on three inspections.

b. Sucker tassels, portions of tassels or tassels on main plants will be counted as shedding pollen when 2 inches or more of the central stem, the side branches, or a combination of the two have anthers extended from the glumes. In cases where a few silks are out and tassels of the seed parent have begun to shed pollen, the field can be approved by immediate and complete detasseling of the seed parent and removal of the ear shoots with exposed silks, if done to the satisfaction of the Department of Agriculture and Forestry.

D. Seed Standards

Factor	Certified Class
Pure Seed	98.00%
Inert Matter	2.00%
Other Varieties	0.50%
Noxious and Other Weeds	None
Off-Color, Off-Type Kernels	0.10%
Germination	90.00%

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:572 (November l982), amended LR 9:197 (April l983), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December l986), LR 13:156 (March 1987), repromulgated LR 13:232 (April l987), amended LR 15:613 (August 1989), LR 20:643 (June 1994), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2723 (October 2013).

§745. Seed Corn (Open-Pollinated) Seed Certification Standards (Formerly §175)

A. Field Standards

Factor	Foundation	Registered	Certified
*Isolation	1,200 ft.	1,200 ft.	1,200 ft.
Other Varieties	None	None	0.50%
Off-type Plants	0.20%	0.20%	0.50%
*Does not apply to other corn with different maturity dates.			

B. Seed Standards

Factor	Foundation	Registered	Certified
Pure Seed	98.00%	98.00%	98.00%
Inert Matter	2.00%	2.00%	2.00%
Other Crops	None	None	5 seed/lb.
Other Varieties	None	None	3 seed/lb.
Noxious and Other Weeds	None	None	None
Germination	80.00%	80.00%	80.00%

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:574 (November l982), amended LR 9:197 (April l983), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:200 (December l986), LR 23:1284 (October 1997), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2724 (October 2013).

§747. Millet Seed Certification Standards (Formerly §177)

A. Field Standards

Factor	Foundation	Registered	Certified
Land Requirement	1 yr.	1 yr.	1 yr.
Isolation	1,320 ft.	1,320 ft.	825 ft.
Other Varieties	None	1 Plant per Acre	10 Plants per Acre

B. Seed Standards

Factor	Foundation	Registered	Certified
Pure Seed	98.00%	98.00%	98.00%
Inert Matter	2.00%	2.00%	2.00%
Other Crops	None	None	None
Other Varieties	None	5 seed/lb.	10 seed/lb.
Noxious Weeds	None	None	None
Other Weeds	5 seed/lb.	5 seed/lb.	5 seed/lb.
Germination	75.00%	75.00%	75.00%

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:575 (November l982), amended LR 9:197 (April l983), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December l986), LR 23:1284 (October 1997), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2724 (October 2013).

§749. Rice Seed Certification Standards (Formerly §185)

A. Isolation Requirements

1. Fields offered for certification must be clearly separated from other fields by a ditch, levee, roadway, fence, or barren strip a minimum of 10 feet if the adjoining crop is the same variety and class.

2. In addition to the preceding regulations, the following isolation distances will pertain if the adjoining crop is a different class or different variety.

Number of Feet from Same Variety/Different Class Planted by			
Ground		Air	
Drill	Broadcast	Right Angle	Parallel
10	10	1,320	10
Number of Feet from Other Varieties/All Classes Planted by			
Ground		**Air**	
Drill	Broadcast	Right Angle	Parallel
20	100	1,320	100

3. Any part of the applicant's field or fields which are closer than these distances must be harvested prior to final inspection or plowed up. Failure to comply with this requirement will disqualify the entire field.

B. Field Standards

Factor	Breeder	Foundation	Registered	Certified
Land Requirement	1 yr.	1 yr.	1 yr.	1 yr.
Other Varieties	None	None	10 Plants per Acre	25 Plants per Acre
*Harmful Diseases	None	None	None	None
Noxious Weeds: Red Rice (including Black Hull Rice)	None	None	None	1 Plant per 10 Acres
Spearhead	None	None	None	2 Plants per Acre

Curly Indigo	None	None	4 Plants per Acre	4 Plants per Acre
*Diseases seriously affecting quality of seed and transmissible by planting stock.				

C. Seed Standards

Factor	Breeder	Foundation	Registered	Certified
Pure Seed	98.00%	98.00%	98.00%	98.00%
Inert Matter	2.00%	2.00%	2.00%	2.00%
Other Crops, including Other Varieties	None	None	None	2 seed/lb.
Off-Color Grains, if of similar size, quality and maturity	None	5 seed/lb.	10 seed/lb.	20 seed/lb.
Noxious Weeds: Red Rice (including Black Hull Rice)	None	None	None	None**
Spearhead, Curly Indigo and Mexican Weed	None	None	None	None
Other Weeds	0.05%	0.05%	0.05%	0.10%
Germination		80.00%	80.00%	80.00%
**Four pounds shall be hulled from each lot to determine red rice content.				

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:576 (November 1982), amended LR 9:201 (April 1983), LR 9:754 (November 1983), LR 10:495 (July 1984), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 13:157 (March 1987), LR 13:233 (April 1987), LR 14:606 (September 1988), LR 14:694 (October 1988), LR 15:613 (August 1989), LR 19:888 (July 1993), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2724 (October 2013).

§751. Seed Irish Potato Certification Standards (Formerly §187)

A. Inspections

1. At least two field inspections shall be made.

2. An inspection shall be made of the tubers at the time of shipment.

B. Field Standards

Factor	Foundation	Registered	Certified
Land Requirement	1 yr.	1 yr.	1 yr.
Isolation	10 ft.	10 ft.	10 ft.
Other Varieties and Off-type Plants	None	None	0.10%
Diseases*	0.20%	0.20%	0.20%
Mild Mosaic	0.50%	0.50%	5.00%
Sclerotium Rolfsii Wilt	0.50%	0.50%	1.00%
Potato Wart, Ring Rot, Late Blight	1.00%	1.00%	1.00%
Total Diseases	0.30%	0.30%	0.30%
Harmful Insects: Tuber Moth	None	None	None
*Rugose mosaic, leafroll, spindle tuber, yellow dwarf, witches' broom, haywire, giant hill, rosette, spinach leaf, curly dwarf.			

C. Tuber Standards

Factor	Foundation	Registered	Certified
Stem End Discoloration	2.50%	2.50%	5.00%
Hair Sprout	0.50%	0.50%	5.00 %
Spindle Tuber	0.20%	0.20%	1.00%
Scab and Rhizoctonia*	6.00%	6.00%	6.00%
Net Necrosis	0.50%	0.50%	5.00%
Late Blight, Golden and Potato Rot, Potato Wart and Ring Rot	1.00%	1.00%	1.00%
Tuber Moth	None	None	None
Sclerotium Rolfsii Wilt	0.50%	0.50%	1.00%
Nematodes (Root-Knot)**	1.00%	1.00%	1.00%
*6 percent of tubers by weight have more than 5 percent of the surface covered by scab or rhizoctonia. **1 percent of tubers by weight showing nematode (root-knot) infection.			

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:577 (November l982), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December l986), LR 20:643 (June 1994), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2725 (October 2013).

§753. Seed Irish Potato Certification Standards (Out-of-State) (Formerly §189)

A. Conditions governing shipment or movement of seed Irish potatoes into Louisiana shall conform to the following.

1. Seed Irish potatoes must have passed field and storage seed certification requirements of the proper certifying agency. The tolerances for insects and diseases shall be the same as those set forth in the certified seed regulation for seed Irish potatoes (§751).

2. Each container of seed moved into, offered for sale, or sold in Louisiana shall have attached thereto an official foundation, registered, or certified seed tag issued by the proper certifying agency in the state of origin.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:578 (November 1982, amended LR 9:201 (April 1983), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December l986), LR 14:606 (September 1988), LR 15:78 (February 1989), LR 20:644 (June 1994), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2725 (October 2013).

§755. Sweet Potato Certification Standards (Virus and Non Virus-Tested) (Formerly §191)

A. The standards for certification of virus-tested and non virus-tested sweet potatoes are the general seed certification

standards for roots, plants and cuttings as adopted in Subchapter B of this Part and the following specific standards.

B. The following definitions apply to this Section only.

Certified G0 Plant—a plant grown in a greenhouse and which has been produced by a certified greenhouse grower from a foundation plant.

Daughter Plant—a plant produced by cuttings from a mother plant.

Foundation Plant—a plant that has been produced by the LAES from a virus-tested nuclear stock plant recognized by LDAF if the plant is grown in a greenhouse under strict isolation in a screen cage in which only plants that are virus-tested are grown.

Mericlone—plants clonally propagated from a single meristem tip. For example, *mericlone* B-63 includes all plants descended from the sixty-third meristem-tip culture derived from the variety Beauregard.

Micropropagated—plant multiplication in vitro. The process includes many steps; stock plant care, explant selection and sterilization, media manipulation to obtain proliferation, rooting, acclimation, and growing on. Sweet potato is most commonly micropropagated in tissue culture by aseptic transfer of stem segments containing 1-3 nodes to sterile tissue culture medium.

Mini-Roots—storage roots produced on plants grown in certified G0 greenhouses that may be used to establish certified G2 field plantings.

Mother Plant—a plant obtained from LAES.

Nuclear Stock Plant—plant that is derived from Source Seed and which has been micropropagated, virus-tested, is apparently free of other pests, and has been evaluated in field test for trueness to variety.

Source Seed—material entering the LAES seed program obtained by methods acceptable to DAF.

Symptomatic Plant—a plant that shows an indication or symptom of a disease, mutation, pest, virus, or other problem that may affect sweet potato production.

Vine Cutting—a section of a vine, preferably 10-12 inches in length, capable of being transplanted.

Virus-Tested—a plant that has been previously tested for the presence of viruses by grafting a sweet potato shoot to the Brazilian morning glory (*Ipomoea setosa*) on at least three separate occasions and by at least one negative assay by the DNA and PCR assay for sweet potato geminiviruses using the Li et al. method (Li, R., Salih, S., and Hurtt, S. 2004. Detection of geminiviruses in sweet potato by polymerase chain reaction. Plant Dis. 88:1347-1351).

C. Plant Generations

1. Mother plants may be cut repeatedly for no more than five months and the cuttings propagated to produce daughter plants.

2. Daughter plants may be cut repeatedly for no more than five months and the cuttings propagated to produce additional daughter plants. All daughter plants shall be designated as certified G0 and may be used to establish certified Gl field plantings.

3. All plants, vine cuttings and roots produced from mini-roots shall be designated as certified G2.

4. Certified G1 (field generation 1) plantings will be established from certified G0 plants. Vine cuttings may be taken repeatedly from this original G1 planting, to establish a second G1 planting. Vine cuttings may be taken repeatedly from the second G1 planting to establish a third G1 planting. No additional plantings may be established from this third G1 planting. All vine cuttings and roots produced during this first year of field production shall be designated as certified G1.

5. Certified G2 (field generation 2) plantings will be established from certified G1 stocks. Vine cuttings may be taken repeatedly from this original G2 planting, to establish a second G2 planting. Vine cuttings may be taken repeatedly from the second G2 planting, to establish a third G2 planting. No additional plantings may be established from this third G2 planting. All vine cuttings and roots produced during this second year of field production shall be designated as certified G2.

6. Certified G3 (field generation 3) plantings will be established from certified G2 stocks. Vine cuttings may be taken repeatedly from this original G3 planting, to establish a second G3 planting. Vine cuttings may be taken repeatedly from the second G3 planting to establish a third G3 planting. No additional plantings may be established from this third G3 planting. All vine cuttings and roots produced during this third year of field production shall be designated as certified G3.

D. Greenhouse Requirements for Certification of Virus-Tested Sweet Potatoes

1. LDAF must approve greenhouses before mother plants are released to the grower.

2. Mother plants grown in a greenhouse shall be kept isolated in screen cages.

3. Greenhouses used for production of mother plants shall meet the following requirements.

a. The entry points shall use a set of double doors.

b. A system for sanitizing hands and feet prior to entry into the growing areas of the greenhouse.

c. Yellow sticky traps shall be used to monitor aphids and other insects.

d. Screens of such mesh as to prevent entry of aphids shall cover all openings (vents, fans, windows, etc.).

e. A legible signs shall be prominently placed in front of every entrance to each greenhouse so as to be clearly visible by workers and other persons warning them that they

shall not enter, if they are coming from the field or from non-certified greenhouses.

f. An integrated pest management program shall be in place to control aphids, whiteflies or other insects with sucking, mouthparts.

g. Cutting tools used in a greenhouse shall be decontaminated on a regular basis and shall always be decontaminated prior to being used on another group of stock plants or plant lots.

h. All growing medium, including benches, containers, etc. used in the greenhouse shall be cleaned by a method approved by LDAF.

i. All plants shall be removed from the greenhouse and the greenhouse kept free of plants for a minimum of six weeks between crop years.

j. No plants shall be allowed to grow within 10 feet of the greenhouse, except for turf grass used for stabilization of the soil.

k. No plants other than mother plants shall be allowed in the greenhouse.

l. Greenhouses shall be a minimum of 200 feet away from sweet potato storage sheds, cull piles or other potential sources of sweet potato viruses unless LDAF approves a closer distance.

m. Different varieties or mericlones must be clearly identified and separated.

4. Producer shall inspect vines twice weekly. If symptomatic plants are found, they shall be removed and destroyed and parent plants shall be inspected for disease symptoms. The grower shall keep a log showing that inspections were made and if plants were removed.

5. Producers shall inspect each greenhouse and its perimeter at least once weekly to ensure that the greenhouse isolation requirements are being met. LDAF shall be immediately notified if an inspection indicates that one or more of the isolation requirements have been breached.

6. LDAF shall inspect certified greenhouses at least once prior to cuttings going to the field and as needed if problems are observed. If symptomatic plants are found during these inspections the grower must rogue and dispose of these plants properly.

7. Once shipping of plants begins, final certification will not be allowed if symptomatic plants are found.

8. A unit of certification shall be the entire greenhouse and such unit cannot be divided for the purpose for certification.

9. Specific Greenhouse Requirements for the Certification of Virus-tested Sweet Potatoes

Maximum Tolerance Allowed		
Certified	Foundation Plants (LAES)	
Presence or symptoms of:		
Bacterial Stem Rot (Erwinia chrysanthemi)*	0	0
Black Rot (Ceratocystis fimbriata)*	0	0
Scurf (Monilochaetes infuscans)*	0	0
Root-Knot Nematode (Meloidogyne spp.)	0	0
Feathery Mottle (sweet potato feathery mottle virus [SPFMV])*	0	0
Russet Crack (a strain of SPFMV)*	0	0
Internal Cork (a virus)*	0	0
Wilt (Fusarium oxysporum f. sp. batatas)*	0	0
Sweetpotato Weevil (Cylas formicarius)	0	0
Exotic or hazardous pests	0	0
Variety mixture	0	0
Off-types (mutations)	0	0

*Plants or mini-roots exhibiting symptoms

E. Field Requirements for Certification of Virus-Tested and Non-Virus-tested Sweet Potatoes

1. Seed Bed Inspections and Standards

a. A seed bed field shall contain only certified sweet potato plants.

b. Prior to planting, seed sweet potatoes shall be treated with an approved pesticide approved by LDAF and in accordance with recommendations from the LAES.

c. Seed beds shall be located at least 100 feet from where sweet potatoes were grown or bedded in the previous two years, and in such manner that there will be no wash from the previous two years' seed beds or fields; or treated in a manner satisfactory to LDAF.

d. At least one seed bed inspection shall be made by LDAF to determine that quality plants are being produced and that the plants are apparently free of injurious insects and harmful diseases. Additional seed bed inspection may be made by LDAF when deemed appropriate by LDAF.

2. Field Production for Certification of Virus-Tested and Non-Virus-Tested Sweet Potatoes

a. Sweet potato seed shall not be eligible for certification if produced on land which:

i. has produced sweet potatoes in the last two years;

ii. has received manure or sweet potato residue in the last two years;

iii. is subject to drainage from fields in which sweet potatoes have been grown in the last two years.

b. Isolation

i. Non virus-tested sweet potato seed production fields shall have a minimum isolation distance of 20 feet.

ii. Virus-tested sweet potato seed production fields shall be isolated by a minimum of 20 feet from sweet potato fields that contain certified but non virus-tested sweet potatoes, and by a minimum of 750 feet from non-certified and non virus-tested sweet potatoes.

iii. If the seed of two virus-tested varieties are grown in the same field, they must be clearly identified and separated by at least 20 feet.

iv. Nuclear stock plants shall be maintained under strict isolation in laboratory facilities approved by LDAF and maintained by LAES and/or any contracted micropropagation provider. The facilities shall be in a clean, dust-free building that is at least 250 feet from any sweet potato field or greenhouse.

c. An LDAF approved program shall be in place to control perennial morning glories (e.g. lpomoea andurata, Bigroot Morning Glory, Ipomoea cordatotriloba sharp-pod or cotton Morning Glory), and volunteer sweet potato plants.

d. Different varieties or mericlones will be clearly identified and separated from each other by a minimum of 20 feet.

e. Each unit of sweet potatoes that has passed field inspection shall be marked or labeled at harvest to correspond with the field unit.

3. Inspections for Certification of Virus-Tested and Non-Virus-Tested Sweet Potatoes

a. The grower shall inspect fields weekly during the growing season and rogue any symptomatic plants that are found. LDAF shall be informed if any problems concerning certification requirements are found.

b. LDAF shall make a minimum of two inspections of each sweet potato seed production field during each growing season.

i. The first field inspection shall be made before vines have covered the ground so that symptomatic plants may be easily identified.

ii. The second inspection shall be made prior to harvest, but as close to harvest as is practical.

c. The unit of certification for production is a field and cannot be divided for the purpose for certification.

d. Specific Field Tolerance Requirements (Vine Inspection)

Maximum Tolerance Allowed						
	G1 Plants		G2 Plants		G3 Plants	
Factor†	Virus-Tested	Certified	Virus-Tested	Certified	Virus-Tested	Certified
Bacterial Stem Rot	None	None	None	5 plants/ acre	None	5 plants/ acre
Fusarium Wilt	None	None	None	5 plants/ acre	None	5 plants/ acre
Sweetpotato Weevil	None	None	None	None	None	None
Exotic/ Hazardous Pests	None	None	None	None	None	None
Off-Types (Mutations)	0.05%	0.05%	0.05%	0.05%	0.10%	10 plants/ acre
Variety Mixture	None	None	None	10 plants/ acre	None	10 plants/ acre

† If other severe factors are observed at time of inspection, rejection of all or a portion of a field may occur.

Maximum Tolerance Allowed						
	G1 Plants		G2 Plants		G3 Plants	
Factor†	Virus-Tested	Certified	Virus-Tested	Certified	Virus-Tested	Certified
Bacterial Stem Rot	None	None	None	5 plants/ acre	None	5 plants/ acre
Fusarium Wilt	None	None	None	5 plants/ acre	None	5 plants/ acre
Sweetpotato Weevil	None	None	None	None	None	None
Exotic/ Hazardous Pests	None	None	None	None	None	None
Off-Types (Mutations)	0.05%	0.05%	0.05%	0.05%	0.10%	10 plants/ acre
Variety Mixture	None	None	None	10 plants/ acre	None	10 plants/ acre

† If other severe factors are observed at time of inspection, rejection of all or a portion of a field may occur.

F. Storage Requirement for Certification of Virus-Tested and Non-Virus-Tested Sweet Potatoes

1. The procedures for cleaning and sanitizing the structure where sweet potatoes grown for certification are to be stored shall be in accordance with recommendations from the LAES and approved by LDAF and before any such sweet potatoes are stored in the structure.

2. Sweet potatoes grown for certification shall be stored in new containers (crates, pallet boxes, etc.) or used containers that have been cleaned according to sanitation guidelines approved by LDAF.

3. Certified seed roots shall be stored in a separate room from any non-certified roots.

4. Sweet potatoes from different field units shall be separated in storage by an aisle at least two feet wide.

5. LDAF shall inspect a minimum of 20 percent of each lot of sweet potatoes entered for certification during the storage inspection.

G. General Standards for Plants and Seed Roots of Virus-tested and Non-Virus-tested Sweet Potatoes

1. Plants shall be:

a. apparently free of injurious insects, harmful diseases or other significant pests;

b. true to variety characteristics;

c. of good color, fresh, firm, and strong; and

d. of satisfactory size for commercial planting (cuttings approximately 10"-12" long).

2. All such cuttings will be made at least one inch above the surface of the soil or growing medium. Slips that have been pulled are not to be used to avoid the possibility of carrying pathogens or insects that can be present on stems below the soil surface.

3. Cuttings shall be loosely packed, shipped in an upright position in boxes, and shall not be shipped with non-certified sweet potato plants.

4. Seed Roots

a. LDAF shall make one seed root storage inspection after harvest and before shipment.

b. The minimum size shall be one inch in diameter, four inches in length and 30 ounces maximum weight.

c. Specific Seed Root Tolerance Standards of Virus-Tested and Non-Virus-Tested Sweet Potatoes

Maximum Tolerance Allowed for Virus-tested and Non Virus-tested Sweet Potatoes		
Presence or symptoms of:	**G1 (Foundation) G2 (Certified) Seed Roots**	**G3 (Certified) Seed Roots**
Surface rots (Fusarium spp.) and Soft Rots (Rhizopus spp.)	5%	5%
Bacterial Root Rot (Erwinia spp.)	none	None
Black Rot (Ceratocystis fimbriata)	none	None
Scurf (Monilochaetes infuscans)	1.0%	2.0%
Streptomyces soil rot (Streptomyces ipomoeae)	2.5%	5.0%
Root-Knot Nematode (Meloidogyne spp.)	1.0%	2.0%
Russet Crack (a strain of SPFMV)	None	None
Wilt (Fusarium oxysporum f. sp. batatas)	None	None
Sweetpotato Weevil (Cylas formicarius)	None	None
Exotic or hazardous pests	None	None
Variety Mixture	None	None
Off-types (mutations)	0.20%	0.50%

H. Tagging and Certificate Reporting System

1. An official numbered certificate or tag provided by LDAF shall accompany each sale of certified sweet potato cuttings and seed roots.

a. When issuing official certificates the grower shall:

i. send a copy of each completed certificate to LDAF within 10 days after each sale; and

ii. maintain a copy of each issued certificate on file.

b. A complete record of certified sweet potato cuttings and seed roots sales shall be maintained and made available to LDAF. The record shall include the purchaser's name, the kind and variety/cultivar, the class, the date of shipment, and the number of plants or bushels shipped.

I. Quarantine of Areas Used for Certification

1. If a Sweetpotato weevil is found in any field, greenhouse, seed bed, storage or packing shed, or other structure or area affiliated with the production of certified sweet potatoes or sweet potato plants or within 300 yards of any such structure or area, then the entire area and all structures affiliated with the certification process shall be immediately quarantined in accordance with the Sweetpotato weevil quarantine regulations found in Subchapter C of Part XV of Title 7 of the *Louisiana Administrative Code* (LAC 7:XV.133 et seq.).

2. If any plant pest or disease subject to regulation or quarantine under Part II or Part III of Chapter 12 of Title 3 of the *Louisiana Revised Statutes* of 1950, (R.S. 3:1651 et seq.) that may affect sweet potato production is found in any field, greenhouse, seed bed, storage or packing shed, or other structure or area affiliated with the production of certified sweet potatoes or sweet potato plants then the entire area and all structures affiliated with the certification process may be subject to quarantine in accordance with applicable law and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:579 (November 1982), amended LR 9:202 (April 1983), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 22:1210 (December 1996), LR 36:1220 (June 2010), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2725 (October 2013).

§757. Small Grain (Oats, Wheat, Rye) Seed Certification Standards (Formerly §195)

A. Field Standards

Factor	Breeder	Foundation	Registered	Certified
Land Requirement	1 yr.	1 yr.	1 yr.	1 yr.
Isolation	None	10 ft.	10 ft.	10 ft.
Rye	660 ft.	660 ft.	660 ft.	660 ft.
Other Crops	None	None	10 Plants per Acre	30 Plants per Acre
Other Varieties	None	None	10 Plants per Acre	30 Plants per Acre
Diseases: Loose Smut	None	1.00%	1.00%	1.00%

B. Seed Standards

Factor	Breeder	Foundation	Registered	Certified
Pure Seed	98.00%	98.00%	98.00%	97.00%
Inert Matter	2.00%	2.00%	2.00%	3.00%
Other Crops	None	5 seed/lb.	5 seed/lb.	10 seed/lb.
Other Varieties	None	1 seed/lb.	5 seed/lb.	10 seed/lb.
Noxious Weeds:				
Johnsongrass	None	None	None	None
Cheat and Darnel	None	6 seed/lb.	6 seed/lb.	12 seed/lb.
Other Weeds	None	0.01%	0.02%	0.03%
Oats	None	0.02%	0.05%	0.10%
Germination	None	85.00%	85.00%	85.00%

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:582 (November 1982), amended LR 9:203 (April 1983), LR 10:737 (October 1984), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2728 (October 2013).

§759. Sorghum Seed Certification Standards (Formerly §201)

A. Field Standards

Factor	Foundation	Registered	Certified
*Land Requirement	1 yr.	1 yr.	1 yr.
Isolation	1,300 ft.	1,300 ft.	1,300 ft.

Other Varieties	None	1 Head per 5 Acres	1 Head per 2 Acres
Head Smut	None	1 Head per Acre	1 Head per Acre
Kernel Smut	None	None	1 Head per 2,500 Heads
*No field will be eligible for certification if it grew sudan grass, broomcorn, or sorghum of another variety the previous year.			

B. Seed Standards

Factor	Foundation	Registered	Certified
Pure Seed	98.00%	98.00%	98.00%
Inert Matter	2.00%	2.00%	2.00%
Other Varieties	None	None	9 seed/lb.
Other Crops	None	5 seed/lb.	5 seed/lb.
Noxious Weeds	None	None	None
Germination	80.00%	80.00%	80.00%

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:583 (November 1982), amended LR 9:197 (April 1983), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2729 (October 2013).

§761. Soybean Seed Certification Standards (Formerly §203)

A. Field Standards

Factor	Breeder	Foundation	Registered	Certified
*Land Requirement	1 yr.	1 yr.	1 yr.	1 yr.
Isolation		10 ft.	10 ft.	10 ft.
Other Varieties	None	None	3 Plants per Acre	10 Plants per Acre
Noxious Weeds: Purple Moonflower (Ipomoea turbinata)	None	None	2 Plants per Acre	5 Plants per Acre
Balloonvine (Cardiospermum halicacabum)	None	None	None	None
*Land requirement will be waived if the previous crop was grown from certified seed of the same variety, or of a variety having different plant pubescence or hilum color from the variety to be certified.				

B. Seed Standards

Factor	Breeder	Foundation	Registered	Certified
Pure Seed	98.00%	98.00%	98.00%	98.00%
Inert Matter	2.00%	2.00%	2.00%	2.00%
Other Crops	None	2 seed/lb.	2 seed/lb.	5 seed/lb.
Other Varieties	None	2 seed/lb.	2 seed/lb.	5 seed/lb.
Noxious Weeds	None	None	None	None
Other Weeds	0.05%	10 seed/lb.	10 seed/lb.	10 seed/lb.
Germination	None	80.00%	80.00%	80.00%

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:585 (November 1982), amended LR 9:203 (April 1983), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 15:613 (August 1989), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2729 (October 2013).

§763. Sugarcane (Tissue Culture) Certification Standards (Formerly §207)

A. Limitation of Stand Eligibility

1. Source of foundation stock is limited only to material obtained from the Louisiana State University Agricultural Center (LSUAC) or USDA-ARS Sugarcane Research Unit sugarcane variety selection programs that has been processed through the LSUAC sugarcane quarantine program.

2. Additional propagation of original foundation stock shall be according to procedures determined by the American Sugar Cane League, the Louisiana Department of Agriculture and Forestry, the LSUAC, and the USDA-ARS Sugarcane Research Unit.

3. Source of registered stock is limited to plantlets produced through tissue culture of foundation material or the first ratoon. Stock that meets all standards except insect and/or weeds standards be maintained in the program as seed increase fields only, but may not be marketed to producers. Such stocks are eligible for re-certification once they come in compliance with applicable regulations.

4. Source of certified stock is limited to:

a. three consecutive years from planting of registered stock; and

b. two consecutive harvests of certified stock.

B. Greenhouse Requirements

1. Foundation plants and plantlets shall be kept in certified greenhouses.

2. Certified greenhouses shall comply with the following requirements:

a. all sugarcane plants within the certified greenhouse must have been processed through the LSUAC sugarcane quarantine program;

b. greenhouses shall be clearly marked to warn workers that they shall not enter if they are coming from the field or from other non-certified greenhouses;

c. doors shall be kept locked when the greenhouse is not in use;

d. sticky traps or other monitoring devices shall be used to monitor aphids and other insects;

e. screens of such mesh as to prevent entry of aphids and other insects shall be placed over all openings (vents, fans, windows, etc.);

f. aphids, whiteflies or other harmful insects shall be controlled within the greenhouse;

g. cutting tools shall be decontaminated on a regular basis and always when moving to another group of foundation plants or plantlets;

h. different varieties must be clearly identified and separated.

3. Foundation stock shall be tested on a yearly basis for sugarcane ratoon stunting disease (RSD) and sugarcane yellowleaf virus.

a. Tissue sample testing and protocol shall be provided by the LSU Ag Center Sugarcane Disease Detection Lab. The certifier shall provide to the Louisiana Department of Agriculture and Forestry verification that foundation stock has been tested for sugarcane ratoon stunting disease (RSD) and sugarcane yellowleaf virus.

4. LDAF must approve greenhouses before foundation plants can be entered into the certification program.

5. Inspections

a. Producer shall inspect and/or sample the greenhouse on a regular basis for harmful diseases and insects. If symptomatic plants are found either visually or by sample test results, they will be removed and destroyed. The grower will keep a log showing that inspections were made and if plants were removed.

b. If problems are observed during these inspections the producer should notify LDAF.

c. LDAF may inspect certified greenhouses several times during the year as needed. If symptomatic plants are found during these inspections they must be rogued and disposed of properly.

C. Field Inspections and Sampling

1. At least three field inspections by Louisiana Department of Agriculture and Forestry inspectors shall be made each year to determine if certified seedcane is being produced that apparently meets field standards.

2. The second inspection to be conducted in June by Louisiana Department of Agriculture and Forestry inspectors will include the collection of leaf samples for the detection of sugarcane yellow leaf virus.

3. Individual fields shall be sampled by Louisiana Department of Agriculture and Forestry inspectors for the detection of sugarcane yellow leaf virus according to the following guidelines.

Field Size in Acres	# Leaf Tissue Samples per Field
Less than 5 Acres *	25
5 - 10 Acres	50
Greater than 10 Acres	75
*Minimum of 25 Leaf Tissue Samples per Field	

4. Tissue samples shall be submitted to the LSU Ag Center Sugarcane Disease Detection Lab for analysis.

5. The department shall have the right to re-inspect, re-sample and re-test fields that are out of tolerance for Sugarcane Yellow Leaf Virus prior to certification.

D. Land Requirements. The land shall be fallowed one summer from the previous crop.

E. Field Standards

Factor	Foundation	Registered	Certified
Isolation	10 ft.	10 ft.	10 ft.
Other Varieties (obvious)	None	1.00%	1.00%
Off-Type (definite)	None	1.00%	1.00%
Noxious Weeds:			
Johnsongrass	None	5 Plants/Acre	5 Plants/ Acre
Itchgrass	None	1 Plant/Acre	1 Plant/ Acre
Other Weeds: Browntop panicum (Panicum fasciculatum)	None	20 Plants/Acre	20 Plants/ Acre
Harmful Diseases:			
*Sugarcane Yellow Leaf Virus	None	10.00%	10.00%
**Sugarcane Mosaic Virus	None	10.00%	10.00%
**Sugarcane Smut	None	0.50%	0.50%
Harmful Insects: Mexican Rice Borer ***Sugarcane Borer	None None	None 5.00%	None 5.00%
*Determined by lab analysis for the LSU Sugarcane Disease Detection Lab			
**Plants exhibiting symptoms			
***Determined by percentage of internodes bored			

F. Stock Handling

1. General Requirements

a. During harvest, constant care should be taken in the handling of certified seed to ensure genetic identity and purity.

b. Stock shall be labeled or identified in a manner such as to represent a lot or field.

c. Planting stock shall be subject to inspection by the Louisiana Department of Agriculture and Forestry at any time during the harvest season.

G. Reporting System

1. No certified seed tags will be issued for certified sugarcane stock.

2. The certifier shall be furnished certification forms by the Louisiana Department of Agriculture and Forestry and shall:

a. issue a copy of the certification form to the purchaser for each load;

b. send a copy of each issued certification form to the Louisiana Department of Agriculture and Forestry within 10 days after each sale; and

c. maintain a copy of each issued certification form on file, which shall be available for examination by the Louisiana Department of Agriculture and Forestry upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

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

Sciences, Seed Commission, LR 12:825 (December 1986), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 23:1284 (October 1997), amended by the Department of Agriculture and Forestry, Office of the Commissioner, Seed Commission, LR 30:1143 (June 2004), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:1609 (August 2007), LR 36:1223 (June 2010), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2729 (October 2013).

§765. Sunflower Seed Certification Standards (Formerly §209)

A. Field Inspections. Two inspections shall be made of the growing crop, the first at early blooming stage and the second just before harvest. Only one inspection shall be required in the case of open-pollinated varieties.

B. Field Standards

1. Sunflower seed grown for certification shall not be on land that was planted the previous year to sunflower of another variety.

2. The isolation distance between varieties for all classes shall be at least 2,640 feet.

3. Flowering. In a crossing field for the production of hybrid sunflower seeds, the male parent must be in bloom and producing pollen at the time the female parent is in bloom. If the female sunflower heads produce pollen before the male parent heads, then the female pollen must be removed to prevent cross-pollination.

4. Maximum Impurity Tolerances (maximum limits per 1,000 plants)

Hybrid Production Foundation and Certified	Female Seed Parent	Male Pollinating Parent
Maximum (including Off-Types)	1	1
Wild-Type Branching	1	1
Purple Plants	1	1
White Seeded	1	0
Obvious Off-Types	4	4

C. Seed Standards

Factor	Foundation	Registered	Certified
Pure Seed	99.00%	99.00%	98.00%
Inert Matter	1.00%	1.00%	2.00%
Other Crops	None	None	1 seed/lb.
Other Varieties	1 seed/lb.	1 seed/lb.	1 seed/lb.
Weed Seeds	None	None	None
Germination	90.00%	90.00%	90.00%

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:586 (November 1982), amended LR 9:197 (April 1983), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2731 (October 2013).

§§767-779. Reserved.

Subchapter C. Fruits and Vegetables

§781. Okra Seed Certification Standards (Formerly §179)

A. Field Standards

Factor	Foundation	Registered	Certified
*Land Requirement	1 yr.	1 yr.	1 yr.
Isolation	1,320 ft.	1,320 ft.	825 ft.
Other Varieties	None	None	1 per 1,250 Plants
Off-Type Plants	None	1.25%	1.25%
*Requirement can be waived if previous crop was grown from certified seed of the same variety.			

B. Seed Standards

Factor	Foundation	Registered	Certified
Pure Seed	98.00%	98.00%	98.00%
Inert Matter	2.00%	2.00%	2.00%
Other Varieties	None	None	None
Other Crops	None	5 seed/lb.	10 seed/lb.
Noxious Weeds	None	None	None
Other Weeds	5 seed/lb.	5 seed/lb.	5 seed/lb.
Germination	75.00%	75.00%	75.00%

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:575 (November l982), amended LR 9:200 (April l983), LR 10:737 (October 1984), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December l986), LR 15:613 (August 1989), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2731 (October 2013).

§783. Onion Bulb Seed Certification Standards (Formerly §181)

A. Field Standards

Factor	Foundation	Registered	Certified
Land Requirement	1 yr.	1 yr.	1 yr.
Isolation	5,280 ft.	2,640 ft.	1,320 ft.
Varietal Mixtures and Off-Type Plants	0.50%	0.50%	0.50%
Diseases:			
Onion Mosaic	1.00%	1.00%	1.00%
Pink Root	10.00%	10.00%	10.00%
Onion Smut	2.00%	2.00%	2.00%
Mildew	5.00%	5.00%	5.00%

B. Field Inspections. Two field inspections shall be made, one after seed heads are formed and one at harvest.

C. Handling and Storage of Bulbs

1. Bulbs must be inspected once at harvest and once in a storage house prior to planting, except that when a grower follows a seed-to-seed system, no bulb inspection shall be necessary.

2. Bulbs of any class must be free from decay; uniform in size, shape, and color; and not to exceed one-half of 1 percent varietal mixture.

D. Seed Standards

Factor	Foundation	Registered	Certified
Pure Seed	99.50%	99.50%	98.00%
Inert Matter	0.50%	0.50%	2.00%
Other Varieties	None	None	None
Other Crops	0.20%	0.20%	0.20%
Noxious Weeds	None	None	None
Germination	80.00%	80.00%	80.00%

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:575 (November l982), amended LR 9:200 (April l983), LR 10:737 (October 1984), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December l986), LR 15:613 (August 1989), LR 23:1284 (October 1997), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2731 (October 2013).

§785. Shallot Seed Certification Standards (Formerly §197)

A. Land Requirement. The unit of certification shall be a field, which must be at least 300 feet from garlic, onions, or uncertified shallots and shall not have been planted to shallots for two previous years.

B. Field Inspections. Three or more inspections shall be made of the shallots while growing.

1. The first inspection shall be in the seed bed, between November 15 and December 15. On first inspection, more than 5 percent severe yellow dwarf shall cause the shallots in the entire plot to be ineligible for certification.

2. The second inspection shall be after transplanting, during March or April. On second inspection, yellow dwarf infection shall not exceed 1 percent in any area of a unit plot.

3. The third inspection shall be just prior to or at harvest time, generally around May 1 through May 15. A field having in excess of 3 percent plants or irregular growth and maturity and/or more than 3 percent pink root infection shall be ineligible for certification.

C. Storage Requirements

1. There shall be at least one inspection of the seed while in storage between June 15 and July 15.

2. The identity of shallot seed produced in each unit plot must be maintained by the grower.

3. Shallot seed with more than 3 percent storage rot and/or pink root infection shall not be eligible for certification.

4. Seed severely infested with bulb mites shall not be eligible for certification. Seed lightly infested with bulb mites must be treated in a manner prescribed by the Department of Agriculture and Forestry before certified permit tags will be issued.

D. Use of Certified Tags for Shallots. Shallot certificate permit tags shall be valid only during the season (June 1 of one year through May 31 of the succeeding year) in which issued and shall be invalid after being used one time only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:583 (November 1982), amended LR 9:197 (April 1983), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2732 (October 2013).

§787. Singletary Pea Seed Certification Standards (Formerly §199)

A. Field Standards

Factor	Foundation	Registered	Certified
*Land Requirement	1 yr.	1 yr.	1 yr.
Isolation	12 ft.	12 ft.	12 ft.
Other Varieties	3 Plants per Acre	3 Plants per Acre	6 Plants per Acre
*Land must be free from vetch.			

B. Seed Standards

Factor	Foundation	Registered	Certified
Pure Seed	97.00%	97.00%	97.00%
Inert Matter	3.00%	3.00%	3.00%
Other Crops	2 seed/lb.	2 seed/lb.	3 seed/lb.
Other Varieties	2 seed/lb.	2 seed/lb.	5 seed/lb.
Noxious Weeds	None	None	None
Other Weeds	10 seed/lb.	10 seed/lb.	10 seed/lb.
Germination	80.00%	80.00%	80.00%

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:583 (November 1982), amended LR 9:197 (April 1983), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2732 (October 2013).

§789. Southern Field Pea (Cowpea) Seed Certification Standards (Formerly §205)

A. Field Standards

Factor	Breeder	Foundation	Registered	Certified
Land Requirement	1 yr.	1 yr.	1 yr.	1 yr.
Isolation	None	10 ft.	10 ft.	10 ft.
Other Varieties and Off-type Plants	None	3 plants per acre	3 plants per acre	3 plants per acre

B. Seed Standards

Factor	Breeder	Foundation	Registered	Certified

Factor	Breeder	Foundation	Registered	Certified
Pure Seed	99.00%	98.00%	98.00%	98.00%
Inert Matter	1.00%	2.00%	2.00%	2.00%
Other Crops	None	None	None	1 seed/lb.
Other Varieties	None	None	None	1 seed/lb.
Noxious Weeds	None	None	None	None
Other Weeds	None	None	None	1 seed/lb.
Germination	80.00%	80.00%	80.00%	80.00%

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:585 (November 1982), amended LR 9:204 (April 1983), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 23:1284 (October 1997), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2732 (October 2013).

§791. Tomato Seed Certification Standards (Formerly §213)

A. Inspections

1. At least two field inspections shall be made.

2. One inspection shall be made when crop is at or near full fruit.

B. Field Standards

Factor	Foundation	Registered	Certified
Land Requirement	2 yrs.	2 yrs.	2 yrs.
Isolation	200 ft.	100 ft.	30 ft.
Other Varieties and Off-type Plants	None	0.05%	0.10%
Tomato Mosaic Virus	0.20%	0.20%	0.50%
Bacterial Spot	0.50%	1.00%	1.00%
Bacterial Speck	0.50%	1.00%	1.00%
Bacterial Canker	None	None	0.10%
Early Blight	0.50%	1.00%	1.00%
Phytophthora Foot Rot	1.00%	1.00%	1.00%
Septoria Foliage Blight	0.50%	1.00%	1.00%
Nailhead Spot	0.50%	1.00%	1.00%
Phoma Rot	0.50%	1.00%	1.00%
Fusarium Wilt	1.00%	1.00%	1.00%
Late Blight	1.00%	1.00%	1.00%

C. Management. Fields designated for production of any certified class of seed shall have no fruits removed for marketing purposes.

D. Seed Standards

Factor	Foundation	Registered	Certified
Pure Seed	99.00%	98.00%	98.00%
Inert Matter	1.00%	2.00%	2.00%
Other Crops	None	None	0.01%
Other Varieties	None	0.10%	0.20%
Noxious Weeds	None	None	None
Other Weeds	None	0.01%	0.03%
Germination	75.00%	75.00%	75.00%

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Seed Commission, LR 14:604 (September 1988), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013).

§793. Watermelon Seed Certification Standards (Formerly §217)

A. Field Inspection

1. The initial inspection will be made before the first blooms are open. At this time, volunteer plants and citron must be removed from the field to be certified and the isolation zone by the grower.

2. The second inspection will be made when the melons are ready to harvest. The presence of any citron plants within 2,640 feet of a unit entered for foundation or registered classes or within 1,320 feet of a unit entered for certified class will disqualify the unit for certification.

B. Field Standards

Factor	Foundation	Registered	Certified
Land Requirement	1 yr.	1 yr.	1 yr.
Isolation	2,640 ft.	2,640 ft.	1,320 ft.
At Harvest Time:			
Citron	None	None	None
White Heart Fruits	None	2.00%	5.00%
Total Off-Type Plants or Varietal Mixtures	None	None	2 Plants per Acre
*Plants Free from Fusarium Wilt	93.00%	93.00%	90.00%
Plants Free from Anthracnose	95.00%	95.00%	90.00%
*Applies to wilt-resistant varieties only			

C. Seed Standards

Factor	Foundation	Registered	Certified
Pure Seed	98.00%	98.00%	98.00%
Inert Matter	2.00%	2.00%	2.00%
Other Crops	None	2 seed/lb.	5 seed/lb.
Other Varieties	None	None	4 seed/lb.
Citron	None	None	None
Weed Seeds	None	None	0.05%
Germination	80.00%	80.00%	80.00%

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:588 (November 1982), amended LR 9:197 (April 1983), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013).

§§795-809. Reserved.

Subchapter D. Tree Seed

§811. Tree Seed Certification Standards (Formerly §215)

A. Classes of Seed

1. Only the following classes of tree seed shall be recognized in tree seed certification:

a. certified (blue tag);

b. selected (green tag); and

c. source-identified (yellow tag).

2. For all classes of forest tree seed, the exact geographic source of the parent trees and the stand must be known. Location of the source shall be given at least down to the section or comparable land survey unit. (Alternatively, in the case of seed from seed orchards containing selected stocks from a number of separate sections, the location of the orchard shall be given and the exact source of its individual components shall be kept on file and furnished on request.)

B. Land Requirements. Elevation to the nearest 500 feet of the original geographic source and the average height and age of the trees from which seed has been collected shall be shown on the tag for all forest tree seed. If available, site index (the capacity of a given site to produce trees as measured by the height of the trees at a specified age) may be recorded instead of tree height and age.

C. Field Inspection. A field inspection must be made prior to flowering.

D. Field Standards

1. Unit of Certification. An individual tree, clone or stand of trees may be certified in producing certified or selected seed.

2. Isolation. For certified or selected seed, an adequate isolation zone shall be maintained free of off-type plants and other species which might crosspollinate producing trees. There shall be no isolation requirements for source-identified trees.

3. Progeny Testing. All clones used in seed orchards shall be progeny tested.

E. Seed Standards

Factor	Certified	Select	Source Identified
Pure Seed	98.00%	98.00%	98.00%
Inert Matter	2.00%	2.00%	2.00%
Other Species	0.01%	0.01%	0.50%
Germination	85.00%	85.00%	85.00%

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:587 (November 1982), amended LR 9:197 (April 1983), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013).

Chapter 9. Approved Plant Breeders

§901. Authority (Formerly §223)

A. In accordance with the provisions of part I of chapter II of title 3 of the *Louisiana Revised Statutes* of 1950, the following qualifications herein are prescribed for approving plant breeders for growing and/or supervising the growing of breeder, foundation and/or registered agricultural seeds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Seed Commission August 1961, amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2734 (October 2013).

§903. Definition of Terms Used (Formerly §225)

Agricultural Seeds—the seeds and/or propagation materials of grain, forage, cereal, fibre and nut crops and any other crops commonly recognized within the state as horticultural and agricultural field crops.

Approved Plant Breeder—a person qualified in accordance with the requirements set forth herein and approved by the commission.

Breeder Seed—the limited amount of seed used by the plant breeder in actually breeding or maintaining a strain or variety. Breeder seed is always under the direct supervision and control of the plant breeder and is never available for sale and use by the general public. Breeder seed is used for the production of foundation seed. Breeder seed must be tagged with a tag labeled Breeder Seed.

Certificate—an official document signed by the commissioner certifying that the holder is an approved plant breeder.

Commission—the Seed Commission as created in R.S. 3:14.32.

Commissioner—the Commissioner of Agriculture and Forestry of the State of Louisiana.

Entomologist—the entomologist of the Louisiana Department of Agriculture and Forestry.

Foundation Seed—the first generation progeny from breeder seed that has been tested for at least three years by the Louisiana Experiment Station, or similar institutions in other states and has proven its merit and has been released for commercial use.

Registered Seed—the first generation progeny from foundation seed that is so handled as to maintain satisfactory genetic identity and purity and has been approved and certified by the certifying agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1431 and R.S. 3:1433.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Seed Commission August 1961, amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2734 (October 2013).

§905. Professional Services for Which an Approved Plant Breeder is Required (Formerly §227)

A. The supervision of an approved plant breeder is required for the growing of breeder seed according to the requirements of the rules and regulations of the Association of Seed Certifying Agencies.

B. Any individual, firm or corporation desiring to be granted the status of a commercial plant breeding firm must submit to the Louisiana Seed Commission a general outline of their proposed methods of seed production for the breeder class of seed. This outline of methods of production must be approved by the Louisiana Seed Commission. This firm must also have an approved plant breeder who has qualified under §907 of these regulations. Production of all breeder seed must be under the direct and active supervision of the plant breeder. This firm's complete plant breeding and seed increase setup must be open to inspection by personnel of the state seed certifying agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Seed Commission August 1961, amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2734 (October 2013).

§907. Qualifications for Approved Plant Breeders (Formerly §229)

A. To be recognized officially by the Louisiana Department of Agriculture and Forestry as an approved plant breeder, a person must either:

1. hold an advanced degree with plant breeding as a major subject;

2. hold an advanced degree in agronomy or horticulture and show evidence of having at least one year's experience assisting a plant breeder at an experiment station or private seed farm;

3. hold a bachelor's degree in agronomy or horticulture with at least one course in plant breeding and show evidence of at least two years' experience as in Paragraph 2;

4. hold a bachelor's degree in general agriculture, but not qualified under either Paragraphs 1, 2 or 3 above, must pass an examination at the direction of the state entomologist to indicate his knowledge of the subject (especially developing new varieties, variety testing, and increasing pure seed) and must show evidence of two years' experience as under Paragraph 2 (applicants qualifying under this Subsection may supervise the production of the class registered seed only); or

5. must show evidence of competence in the form of the development of a distinct new variety of a crop and produced pure seed of it meeting the requirements for breeder seed. (The person may supervise the production of breeder and/or foundation and/or registered only of the crop variety or varieties developed by him.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Seed Commission August 1961, amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2734 (October 2013).

§909. Conditions Governing the Approval of Plant Breeders (Formerly §231)

A. Persons desiring to obtain a certificate as an approved plant breeder shall make application to the commission on a form supplied by the state entomologist.

B. Applicants must qualify under the eligibility requirements set forth in §907.

C. Applicants for a certificate qualifying under Paragraphs 1, 2, 3 and 4 of §907 shall supply with their application a copy of his college or university transcript; and in the cases of Paragraphs 2, 3 and 4, affidavits supporting the experience requirements indicated under Paragraph 2; and under Paragraph 5, supply affidavits and/or other documentary evidence supporting the requirements set forth herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Seed Commission August 1961, amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2735 (October 2013).

§911. Plant Breeder Examination (Formerly §233)

A. Applicants to qualify for certification as plant breeders under §907.A.4, must pass a satisfactory examination, which may be either written or oral, or both, on the principles of plant breeding with special emphasis on the development of new varieties or strains of horticultural and agricultural crops and the handling of them thereafter.

B. Examinations will be given by the state entomologist, or his designee, in his office in Baton Rouge, 10 days or

later, at the convenience of the applicant, after the application has been approved by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Seed Commission August 1961, amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2735 (October 2013).

§913. Issuance and Duration of Certificates (Formerly §235)

A. The issuance of certificates of approved plant breeders shall be by the commission after reviewing evidence of the commissioner that the requirements set forth in §909 have been complied with, or by the commissioner with the approval of the commission.

B. Certificates of recognition of plant breeders shall be valid indefinitely, but may be canceled at any time for cause.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Seed Commission August 1961, amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2735 (October 2013).

Chapter 11. Adulterated Seed Stock and other Propagating Stock

Subchapter A. Rice Seed Stocks Containing the Presence of LibertyLink Traits

§1101. Planting of Rice Seed Stock with LL Traits (Formerly §301)

A. The following seeds may not be sold, offered for sale, or planted in Louisiana as seed for purposes of producing a new plant, except as otherwise provided by this Chapter.

1. Any portion of any variety of rice that tests positive, according to tolerances established by the department, for LL traits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:2592 ((December 2007), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2735 (October 2013).

§1103. Planting of all Rice Seed Stocks (Formerly §303)

A. Rice seed stocks, where the variety as a whole is found to test positive, according to tolerances established by the department, for LL traits may be sold, offered for sale or planted in Louisiana only for the purpose of seed stock increase, subject to the sampling and testing requirements set out in this Chapter.

B. If a portion of a variety of rice seed stock is found to test positive for LL traits, according to tolerances established by the department, the portion found to test positive shall be placed under a "stop-sale" order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:2592 ((December 2007), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2735 (October 2013).

§1105. Sampling of Rice Seed Stock to Detect LL Traits (Formerly §305)

A. Samples of all rice seed stocks shall be taken by the Louisiana Department of Agriculture and Forestry (department) for testing. The department shall conduct the testing or cause the testing to be done in laboratories approved by the department. The department shall determine the method and manner of sampling and the number of samples that are needed.

B. Each sample must test negative for LL traits according to tolerances established by the department.

C. All costs incurred by the department in regard to sampling, including but not limited to the taking, transportation, testing, and disposal of samples, shall be paid by the person or entity requesting the sampling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:2592 (December 2007), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2736 (October 2013).

§1107. Rice Seed Stock Originating from Out-of-State (Formerly §307)

A. All rice seed stocks originating from out-of-state must meet the requirements for sampling, testing, and handling, as established by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:2592 (December 2007), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2736 (October 2013).

§1109. Carry-Over Rice Seed Stock (Formerly §309)

A. Any carry-over rice seed stocks that have been processed, repackaged, or otherwise adulterated in any manner that would jeopardize the integrity of the seed lot are subject to the sampling and testing requirements set out in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:2592 ((December 2007), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2736 (October 2013).

§1111. Stop-Sale (Formerly §311)

A. Any lot of rice seed that is subject to the requirements of this Chapter that tests positive for LL traits, according to tolerances established by the department, shall be placed under a "stop-sale" order and moved, handled or disposed of only with the express permission of the commissioner or his designate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:2593 (December 2007), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2736 (October 2013).

§§1113-1119.Reserved.

Title 7
AGRICULTURE AND ANIMALS
Part XV. Plant Protection and Quarantine

Chapter 1. Crop Pests and Diseases

Subchapter A. General Plant Quarantine Provisions

§101. Applicability of Regulations

A. The regulations contained in this Subchapter apply to quarantine of all plants, plant products, parts thereof and all regulated materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:317 (April 1985).

§103. Definitions

Agent or *Inspector*—any designee of the state entomologist who is qualified by training and/or experience to identify plant pests or diseases.

Certificate—a document issued by the state entomologist evidencing apparent freedom of plants, plant products or parts thereof or regulated articles from infestation.

Certificate Permit—a written document, stamp, or other form of identification approved by the department, which authorizes the movement, sale or offer for sale or storage of plants, plant products or parts thereof or regulated materials.

Certificate Permit Tag—a tag which authorizes the movement, sale or offer for sale or storage of plants, plant products or parts thereof, or regulated materials.

Commissioner—the commissioner of Agriculture and Forestry.

Container—a crate, box, basket, sack, bag or any other kind of container used for the shipment or storage of plants, plant products, parts thereof, or equipment used in the propagation, production or harvesting of plants subject to regulation.

Department—the Louisiana Department of Agriculture and Forestry.

Eradication Area—any area within a quarantine area in which plants or host material or other equipment are to be eradicated.

Fumigation Certificate—a document evidencing fumigation of plants, plant products or parts thereof or regulated materials.

Host—any plant on or in which any plant pest or plant disease lives for nourishment or protection.

Host Material—any substance which harbors any plant pest or disease.

Infested Property—any property where infested plants, plant products or parts thereof or host material has been found, or any property onto which host material from an infested property has been moved for any purpose.

Limited Permit—a document authorizing the movement of regulated articles to a restricted area for limited handling, utilization, processing or for treatment.

Move, *Movement* or *Moved*—shipment, deposit for transmission in the mail, offer for shipment, receive for transportation, carry, otherwise transport or move, or allow to be moved, by mail or otherwise, interstate or intrastate, directly or indirectly.

Person—any individual, firm, company, corporation, partnership, society or association engaged in growing, harvesting, storing, shipping or processing any plants subject to inspection and/or regulation by the state entomologist.

Pest—any insect known to be destructive of specific plant life in any stage of development, i.e., egg, larva, pupa or adult.

Pest-Free Area—any location where there is no known incidence of a specific plant pest or disease. (Note: Any given location may be designated as pest-free for one pest but restricted and/or quarantined for another pest.)

Premises—any parcel of land, including any buildings located thereon, irrigation systems and any other similar locations where plant pests or diseases may be supported.

Property—any equipment of any kind, containers for crops, vehicles and other similar properties where plant pests and/or diseases may be found.

Quarantine—an official Act of the state entomologist to prohibit or limit planting, production, harvesting, movement, sale or offer for sale, or storage of plants subject to infestation and/or any host material of such plants.

Quarantined Area—any property within or outside of the state of Louisiana which has been officially designated as a quarantine area because such area is suspected of being or is found to be infested with any plant pest or plant disease which is detrimental to any crop grown in Louisiana.

Regulated Area or *Restricted Area*—any property under quarantine or within a 1-mile radius of any property under quarantine.

Regulated Materials or *Restricted Materials*—any plants, plant products or parts thereof subject to regulation under this Subchapter, or any host material for any plant pest or disease.

State Entomologist—the official within the department, or his designee, who is authorized to impose and supervise plant quarantines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:317 (April 1985), amended LR 27:1175 (August 2001).

§105. Authority of State Entomologist to Conduct Inspections

A. Whenever the state entomologist has reason to believe or suspect that any plant pest or plant disease subject to regulation may be present at any location within the state of Louisiana, he may cause an inspection of such premises and/or property to be made. Such inspection shall be made at a reasonable time during the normal work day and may be made with or without warrant.

B. Whenever the state entomologist has reason to believe or suspect that any plant pest or disease has been and/or may be transported into Louisiana and/or transported between two or more locations within Louisiana, by any means, he may establish inspection stations and cause an inspection to be made of any vehicle known or suspected to be transporting any materials known to be hosts for such plant pest or disease. In lieu of establishing inspection stations, the state entomologist may utilize existing inspection stations operated by law enforcement personnel of the state of Louisiana.

C. Whenever the state entomologist determines that materials being shipped into or within the state of Louisiana are infested, the state entomologist may order such materials to be destroyed at the inspection point, or to be shipped back to the point of origin. If shipped back to the point of origin, the owner of such materials shall be responsible for payment of all costs associated with the return shipment. Shipments being returned to the point of origin by order of the state entomologist must be sealed in a manner approved by the state entomologist and cannot stop until reaching the point of origin.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:318 (April 1985).

§107. Authority of State Entomologist to Impose Quarantines

A. Whenever the state entomologist's inspection of properties or premises indicates any presence of an infestation of any plant pest or disease, the state entomologist may declare such properties or premises to be under quarantine.

B. The state entomologist may place any premises or properties under quarantine by the following procedures:

1. he must give notice, in writing, to the owner of the properties to be quarantined; and

2. he must publish notice of the quarantine in the *Louisiana Register* as required by §109 hereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1654 and R.S. 3:1652.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:318 (April 1985).

§109. Procedure for Imposition of Quarantine

A. In addition to giving written notice to the owner of properties to be placed under quarantine, the state entomologist shall annually, no later than November 30 of each year, publish in the *Louisiana Register* a list of all areas of Louisiana and the nation which are under quarantine, such publication to specify the plant pest or plant disease for which each such area is quarantined.

B. All areas contained on the state entomologist's annual listing of quarantined areas shall remain under quarantine for a period of one year following the date of publication, except as provided in §109.C hereof.

C. The state entomologist may, at his discretion, remove the quarantine from any specific area listed in his annual quarantine listing when it is proven to his satisfaction that the plant pest or disease for which the area was quarantined is no longer present in the area from which the quarantine is to be removed. Whenever the state entomologist removes a quarantine prior to the expiration of one year following publication of the annual quarantine listing, he shall publish a report of his action in the *Louisiana Register*.

D. The state entomologist may, at his discretion, supplement his annual quarantine listing whenever any plant pest or disease is detected in any area which is not under quarantine for such plant pest or disease. The state entomologist shall, in such event, supplement his annual quarantine listing by publishing a "Supplement to the (Year of Quarantine) Quarantine Listing for (Name of Plant Pest or Disease)" in the *Louisiana Register*. The quarantine placed on any area by such supplemental action shall expire at the same time as the quarantines contained in his annual quarantine listing for such plant pests and diseases.

E. Upon publication of the state entomologist's annual quarantine listing, all previously published annual and supplementary quarantine listings shall automatically be repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1654 and R.S. 3:1652.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:318 (April 1985).

§111. Effect of Quarantine

A. Regulated materials may not be grown, harvested, sold, stored or moved out of or within a quarantined area except under special permit issued by the state entomologist.

B. Regulated materials grown, harvested, sold, stored or transported within a quarantined area in the absence of a special permit issued by the state entomologist are subject to destruction at the discretion of the state entomologist.

C. Regulated materials may not be moved from a quarantined area into a pest-free area within Louisiana unless accompanied by a fumigation certificate issued by the

state entomologist or by the appropriate official within the state of origin.

D. Regulated materials located within a quarantined area may, at the sole discretion of the state entomologist, be destroyed or disposed of to protect the plant life of the quarantined area. Whenever the state entomologist determines that restricted materials must be destroyed, such destruction shall be performed in a manner approved by the state entomologist. The cost of destruction of such materials shall be borne by the owner of such materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:318 (April 1985).

§113. Movement, Sale, Offer for Sale and/or Storage of Host Materials

A. No host materials may be transported out of Louisiana unless:

1. a valid certificate permit issued by the department accompanies each shipment; and

2. if required by the state of destination, a valid certificate permit tag and/or a fumigation certificate accompanies each shipment.

B. No host materials may be transported into or within Louisiana unless:

1. a valid certificate permit issued by the department or the state of origin accompanies each shipment; and

2. a valid certificate permit tag issued by the department or the state of origin is attached to each container in the shipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:318 (April 1985).

§115. Issuance of Certificate Permits, Certificate Permit Tags and Fumigation Certificates

A. Certificate permits, certificate permit tags and fumigation certificates may be obtained by application, in writing, to the state entomologist or a local inspector.

B. Certificate permits and certificate permit tags for movement or sale of restricted materials will be issued whenever an inspection reveals that such materials are free of any infestation of the specific plant pest or disease subject to regulation. No certificate permit or certificate permit tag will be issued when such materials are found on inspection to be infested with the plant pest or disease.

C. Container certificate permit tags must be attached to each container of a shipment prior to issuance of a certificate permit.

D. Certificate permits, certificate permit tags and/or fumigation certificates may be canceled by the state entomologist whenever, in his sole judgment, such cancellation is necessary to prevent the spread of any plant pest or plant disease within Louisiana.

E. Certificate permits, certificate permit tags and fumigation certificates become invalid after one shipment and/or one sale.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:318 (April 1985).

§117. Responsibility

A. The owner of any property on which restricted material is stored, planted, cultivated or grown, and any tenant leasing such land, shall be jointly responsible for compliance with these rules and regulations and any other requirements imposed by the state entomologist to eradicate, control and prevent the spread of any plant pest or disease.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:319 (April 1985).

§119. Shipments for Scientific Purposes

A. These regulations do not apply to shipments of regulated materials, under proper safeguards, to the United States Department of Agriculture, or to recognized state institutions for scientific purposes, except that a special permit issued by a duly authorized state or federal plant quarantine inspector must be attached to the outside of the container.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:319 (April 1985).

§121. Prohibitions

A. No person shall in any way interfere with any agent or inspector representing the state entomologist during the performance of an inspection of premises or other property, the application of suppressive measures for the control or eradication of any plant pest or disease, or the destruction of any plants, plant products or parts, host materials or any other regulated materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:319 (April 1985).

§123. Host Materials

A. The following materials are declared to be host materials for the plant pests or diseases indicated.

Plant pest/disease	Host materials
A. Sweetpotato weevil *Cylas formicarius, elegantulus,* (Sum.)	Dehydrated sweet potatoes; sweet potato roots, plants, vines or parts thereof; all other *Ipomoea* spp.; and containers used for transportation or storage of all such hosts.
B. Pink bollworm *Pectinophora gossypiella,* (Saunders)	All parts of cotton and wild cotton plants of the genus Gossypium, seed cotton, cottonseed, cotton lint, cotton linters, okra, kanef, cotton waste, gin trash, cottonseed hulls, cottonseed cake, cottonseed meal, used bagging and other wrappers for cotton, used cotton harvesting equipment, used picking sacks and any other farm products, equipment, household goods, ginning and oil mill equipment, means of conveyance and any other articles which may serve as host materials.
C. Phytophagus Snails *Helix aspersa* European Brown Garden Snail *Thebia pisana* White Garden Snail *Megalobulimus oblongus* Giant South American Snail *Otala lactea* Milk Snail *Achatina spp.* (e.g., Giant African Snail); and any other plant-feeding snail considered injurious to agriculture)	Ornamental, horticultural and nursery stock.
D. Leaf scald *Xanthomonas albilineans*	Sugar cane plants, stalks, cuttings and seed; maize.
E. Lethal yellowing	1. *Cocos nucifera* L. (Coconut palm)—all varieties, including Malayan dwarf 2. *Veitchia* spp. 3. *Pritchardia* spp. 4. *Arikuryroba schizophylla* (Mart.) Bailey (Arikury palm) 5. *Corypha elata* Roxb. (Buri palm, Gebang palm) 6. *Phoenix reclinata* Jacq. (Senegal date palm) 7. *Phoenix canariensis* Hort. ex Chab. (Canary Island date palm) 8. *Phoenix dactylifera* L. (Date palm) 9. *Phoenix sylvestris* (L.) Roxb. (Sylvester date palm) 10. *Trachycarpus fortunei* (Hook.) Wendl. (Chinese windmill palm) 11. *Hyophorbe (Mascarena) verschaffeltii* H. Wendl. (Spindle palm) 12. *Caryota mitis* Lour. (Cluster fishtail palm) 13. *Borassus flabellifer* L. (Palmyra palm) 14. *Chrysalidocarpus cabadae* H.E. Moore (Cabada palm) 15. *Dictyosperma album* (Bory) H. Wendl. & Drude (Hurricane or princess palm) 16. *Aiphanes lindeniana* (H. Wendl.) H. Wendl. 17. *Allagoptera arenaria* (Gomes) Kuntze 18. *Arenga engleri* Becc. 19. *Ravenea hildebrandti* Wendl. ex Bouche 20. *Gaussia attenuata* (O. F. Cook) Beccari (Puerto Rican Gaussia) 21. *Howeia belmoreana* (C. Moore & F. Muell.) Becc. (Sentry palm) 22. *Lantania* spp. (all species) 23. *Livistona chinensis* (N.J. Jacquin) R. Br. ex Mart. (Chinese fan palm) 24. *Nannorrhops ritchiana* (W. Griffith) J. E. T. Aitchison (Mazari palm) 25. *Neodypsis decaryi* Jumelle (Triangle palm).
F. Sweet potato mosaic	Sweet potato tubers, plants, vines, cuttings, draws and slips; morning glory plants.
G. Tristeza, xyloporosis, psorosis, exocortis	Citrus nursery stock, scions and budwood.
H. Burrowing nematode *Radopholus similes*	All plants with roots; all earth; all sand; and all parts of plants produced below soil level Exceptions: 1. aquatic plants if free from soil; 2. air plants, including certain orchids, grown in soil-free media; 3. air layered plants if roots are still established in the original soil-free moss wrappings; 4. dormant bulbs and corms if free from roots and soil; 5. fleshy, roots, corms, tubers and rhizomes for edible or medicinal purposes if washed or otherwise freed of soil; and 6. industrial sand and clay.
I. Oak wilt *Ceratocystis fagacearum*	Rooted trees, seedlings and\or propagative parts of oak (*Quercus* spp.), Chinese chestnuts (*Castanea mollissima*), tanoak (*Lithocarpus deniflorus*) and bush chinquapin (*Castanopsis sempervirens*), but not including seeds thereof.
J. Phony peach	All peach, plum, apricot, nectarine and almond stock.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:319 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 16:294 (April 1990), LR 18:701 (July 1992).

Subchapter B. Nursery Stock Quarantines

§125. Applicability of General Quarantine Regulations

A. Nursery stock is subject to all pertinent provisions of the general quarantine regulations and to the regulations contained in this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:319 (April 1985).

§126. Nursery Certificate Permit Fees

A. There is hereby established and henceforth there shall be an annual fee paid by nursery permittees as follows.

1. Any nursery which consists of acreage greater than 2,500 square feet or greenhouse area greater that 200 square feet shall be $100 per location per year and all other nursery certificate permittees shall pay a fee of $25 per location per year.

2. There is hereby established and henceforth there shall be a fee of $0.10 per nursery certificate permit tag issued by the Louisiana Department of Agriculture and Forestry to the nursery certificate permittee.

B. The aforementioned fees shall be paid by the permittee to the Louisiana Department of Agriculture and Forestry at the time of application for nursery certificate permits, which permits shall expire on January 31 of each year and shall be renewed annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655 and R.S. 3:1652.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 15:78 (February 1989), amended LR 29:2297 (November 2003).

§127. Citrus Nursery Stock, Scions and Budwood

A. The purchaser in Louisiana of out-of-state nursery stock will be held responsible for proof of origin of citrus trees in his possession. Purchase receipts will be considered adequate proof of origin, but citrus invoice reports will not be considered adequate proof.

B. Citrus nursery stock, scions and/or budwood may move into Louisiana from areas where tristeza is not known to occur, provided the certifying official in the state of origin states on the certificate of inspection that the nursery is located in an area of the state of origin in which tristeza is not known to occur.

C. Citrus nursery stock, scions and/or budwood may move into Louisiana from areas in which tristeza is known to occur, provided it has been grown under a citrus budwood registration program against tristeza, xyloporosis, psorosis and exocortis, and provided that under this registration program the following are required.

1. The nursery stock, scions and/or budwood is from parent stock that has been tested on trifoliata rootstock at least three years and shows no indication of exocortis.

2. The nursery stock, scions and/or budwood is from parent stock which has been indexed and found free of tristeza within 12 months before shipment.

3. The nursery stock, scions and/or budwood is from parent stock that has been indexed and found free of xyloporosis and psorosis.

4. The grower has filed a copy of his nursery certificate of inspection with the state entomologist.

5. Each shipment is accompanied by a Louisiana citrus permit tag and a budwood registration tag issued by the appropriate certifying official in the state of origin.

6. Each shipment is accompanied by a citrus invoice report issued by the certifying official of the state of origin, showing the name of the grower; name of consignee; number of trees, scions and/or buds; registered number of parent trees; variety of bud and kind of rootstock. If shipment includes budwood, it must be accompanied by a bud cutting report. A copy of the invoice and bud cutting report, when required, must be mailed to the state entomologist prior to shipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:319 (April 1985).

§129. Phony Peach

A. Permit certificates shall be issued for nursery stock originating in an area known to be infested with phony peach only on the following conditions:

1. that each nursery in the infested areas shall apply to the state entomologist for approval of the proposed nursery-growing site on or before August 15 of each year;

2. that nursery sites shall be at least 300 yards from wild plum, 1/2 mile from phony infested commercial orchards and 1/2 mile from urban areas;

3. that all area within a 1/2 mile radius of the nursery site shall be inspected prior to October l of each year, and all phony trees found within such environs removed prior to November l of the year in which phony infested trees are found; and

4. that all budding shall be restricted to the slipbud method.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:320 (April 1985).

§131. Phytophagous Snails

A. From Non-Infested States. Regulated material, including ornamental, horticultural and nursery stock, moved into or within Louisiana directly from any state not

infested with European Brown Garden Snail or other Phytophagous Snails injurious to live plants, must be accompanied by a certificate of nursery inspection (tag).

B. From Infested States or Areas. Regulated material, including ornamental, horticultural and nursery stock, originating from any state or area of any state known to be infested with European Brown Snail or other Phytophagous Snails injurious to live plants, and moved into or within Louisiana must be accompanied by a certificate of nursery inspection (tag) and shall be certified snail-free in a manner approved by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:320 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:702 (July 1992).

§132. Conifer and Hardwood Seedlings Used for Forestation Purposes

A. The premises of nurseries growing seedlings for afforestation or reforestation purposes must be inspected and found to be apparently free of pests, diseases, and noxious plants.

B. Any shipment of conifer or hardwood seedlings into or within the state for afforestation or reforestation purposes must be accompanied by a valid certificate issued by the department or the state of origin evidencing that the seedlings are apparently free of pests, diseases, and noxious plants.

C. To aid in obtaining seedlings that are free of pests, diseases, and noxious plants, the preferred method of treatment is fumigation using methyl bromide in seedling plant beds prior to seeding. All such treatments shall be accomplished by utilizing state and federally registered pesticides in accordance with the label.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 33:34 (January 2007).

Subchapter C. Sweetpotato Weevil Quarantine

§133. Applicability of General Quarantine Regulations

A. Sweet potato plants, plant products and parts thereof and host materials for the sweetpotato weevil are subject to all pertinent provisions of the general quarantine regulations contained in Subchapter A and to the regulations contained in this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655 and R.S. 3:1732.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:320 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:702 (July 1992), LR 27:1175 (August 2001).

§135. Definitions Applicable to this Subchapter

A. In addition to definitions found in §103, the following definitions shall also be applicable to this Subchapter.

Commercial Kiln and Storage Houses—any buildings where sweet potatoes produced by different farmers or growers are assembled and stored.

Compliance Agreement—a written agreement between the department and a Sweet Potato Dealer in which the dealer agrees to comply with the General Plant Quarantine Regulations, the provisions of this Subchapter and any conditions specified in the agreement.

Farm Kiln or *Storage House*—a building or enclosed structure located on a farm in which sweet potatoes grown solely on said farm are stored.

Non-Sweet Potato Area—any area in which the planting, bedding, growing, or storing of any material which acts as a host for the sweetpotato weevil is prohibited.

Platform Inspection—a visual examination by an inspector of sweet potatoes that have been cleaned and packed or containerized prior to the issuance of a certificate permit.

Processing Plants—canning, freezing and dehydrating plants.

Sweet Potato Dealer—a person engaged in the growing for sale, offering for sale, moving or brokering of sweet potatoes, except as noted in §147.C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655 and R.S. 3:1732.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:320 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:702 (July 1992), LR 27:1175 (August 2001).

§137. Issuance and Use of Certificate Permits, Certificate Permit Tags, and Fumigation Certificates for the Movement of Regulated Material

A. From Sweetpotato Weevil-Free Designations

1. Green certificate permit tags will, upon request to the department, be issued to any person whose growing, packing and storage facilities are designated by the department as sweetpotato weevil-free and who meet the following conditions.

a. The person has a valid sweet potato dealer's permit as required by these regulations.

b. The properties or premises of the person, where regulated materials are grown or stored, have been trapped or surveyed for sweetpotato weevil during the growing season in a manner approved by the department and have been found by the department to be free from sweetpotato weevil.

2. Certificate permits authorizing the movement of regulated material from sweetpotato weevil-free areas or properties or premises to points within and outside of Louisiana will be issued by the department under the following conditions.

a. The person moving the regulated material has a valid sweet potato dealer's permit as required under these regulations.

b. The person has signed a compliance agreement with the department specifying the handling of the regulated material to be moved and the proper use of the certificate permits.

3. Green certificate permit tags shall be attached to or placed within each container in a load or shipment of sweet potatoes, if moved within Louisiana or to any other state which may require such. Green certificate permit tags shall not be reused.

4. Regulated material moving into areas or properties or premises of Louisiana or into a portion of any other state designated as sweetpotato weevil-infested, unless moving under the provisions set forth in §139.D.2.c, shall not be moved back into any Louisiana sweetpotato weevil-free designated area and shall lose its sweetpotato weevil-free status.

B. From Sweetpotato Weevil-infested Designations

1. Pink certificate permit tags will, upon request to the department, be issued to any person whose growing, packing and storage facilities are designated by the department as sweetpotato weevil-infested and who possess a valid sweet potato dealer's permit as required under the provisions of these regulations.

2. Certificate permits authorizing the movement of regulated material from or within sweetpotato weevil-infested areas or properties or premises will be issued by the department under the following conditions.

a. The person has a valid sweet potato dealer's permit as required under the provisions of these regulations.

b. The person has signed a compliance agreement with the department specifying the handling of the regulated material to be moved and the proper use of the certificate permits.

c. The regulated material shall not be moved from a sweetpotato weevil infested designated area into a sweetpotato weevil-free designated area, or to any state which may prohibit entry of such regulated material, unless fumigated under the provisions set forth in §138.

d. If regulated materials are moved, then the regulated materials shall be completely enclosed in the vehicle body or covered tightly by tarpaulins or other means approved by the department in advance of movement.

e. Certificate permits attesting to regulated material fumigation and authorizing the movement of regulated material from areas or properties or premises designated as sweetpotato weevil-infested will be issued when such regulated material is inspected, found apparently free of the sweetpotato weevil and fumigated under the provisions set forth in §138 hereof.

3. Pink certificate permit tags shall be attached to or placed within each container in a load or shipment of sweet potatoes, if moved within Louisiana or to any other state which may require such tags. Pink certificate permit tags shall not be reused.

C. No regulated material may be moved or shipped within or out of Louisiana unless accompanied by a valid certificate permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655 and R.S. 3:1732.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:320 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 14:527 (August 1988), LR 16:600 (July 1990), LR 18:702 (July 1992), LR 27:1175 (August 2001).

§138. Fumigation and Maintenance of Weevil-Free Status of Regulated Materials Originating from Designated Sweetpotato Weevil-Infested Areas or Properties or Premises

A. Fumigation Measures. Persons operating storage houses and/or packing sheds who desire to move regulated materials from areas or properties or premises designated by the department as sweetpotato weevil infested into areas or properties or premises designated as sweetpotato weevil-free, or to any state which may prohibit entry of such regulated material, shall:

1. enlist the services of a certified fumigator to perform the fumigation;

2. possess a valid fumigation certificate issued by a certified fumigator, indicating that the fumigation was done in accordance with all fumigant label requirements and in a manner approved by the department. Each fumigation certificate shall state the conditions and dates of fumigation;

3. fumigate with fumigants labeled for use on the regulated material and formulated and used in a manner and at a concentration approved by the department.

B. Maintenance of Weevil-Free Status. Regulated materials shall be maintained in such a manner that the integrity of their weevil-free status following fumigation is retained.

1. *Fumigation Chamber*—fumigated regulated materials may be stored in a fumigation chamber approved by the department, designed specifically for fumigating and storing regulated materials. The chamber shall be airtight with a self contained, screened exhaust system in place; shall possess doors that seal; shall contain a minimum of 1,000 cubic feet of space, and larger chambers must be designed to contain an even multiple of 1,000 cubic feet; shall be cleaned of all sweet potatoes, parts, and any other regulated materials between periods of fumigation and storage.

2. Tractor trailer rigs designed and constructed for use in fumigations may be used in place of a fumigation chamber provided the truck body meets the fumigation chamber requirements outlined above, with the exception of the cubic feet requirement. A variation in truck body cubic feet shall be allowed provided the variation allows adequate volume to fumigate according to the fumigant label. All entrances or openings on the truck body shall be sealed in a manner approved by the department, prior to shipment, by the use of not more than two seals.

3. If an approved fumigation chamber or tractor-trailer rig is not used then fumigation and storage of regulated materials shall be conducted as follows.

a. Regulated materials shall be placed in a storage area separate from and in no way connected to any other storage or packing areas containing non-fumigated regulated materials. Storage area must be cleaned of all sweet potatoes, parts, and any other regulated materials between periods of storage.

b. The storage area shall have been treated with an appropriately labeled chemical and in a manner approved by the department prior to initial storage of sweet potatoes harvested and fumigated that season and the storage area shall not be used to store any non-fumigated regulated materials.

c. Fumigation shall be accomplished by tenting the regulated material with a sealed tarpaulin or other suitable sealable material of adequate thickness and construction for use in fumigation with commercial fumigants.

d. Regulated materials shall be completely enclosed with nylon, fiberglass, plastic or other synthetic screen material prior to, during and following fumigation. The screen mesh must be of a size sufficient to prevent entry of sweetpotato weevil and shall be free from tears, rips and holes.

4. Packing House or Shed—sweet potatoes fumigated, screened and stored according to these regulations may be washed and packed in the same packing house or shed as non-fumigated sweet potatoes, provided:

a. the packing house or shed and all packing equipment is cleaned of all sweet potatoes, parts, and any other regulated materials prior to washing and packing of fumigated sweet potatoes;

b. the packing house or shed is treated with an appropriately labeled chemical and in a manner approved by the department prior to each packing period involving fumigated sweet potatoes.

5. All packing boxes and other packing and shipping materials shall be held in a storage area separate from and in no way connected to any other non-fumigated materials, or be fumigated and stored according to these regulations.

6. Fumigated sweet potatoes washed and packed under approved conditions must be shipped within seven days of packing. Washed and packed sweet potatoes shall be completely enclosed with nylon, fiberglass, plastic or other synthetic screen material immediately following packing and must remain enclosed until shipment. The screen mesh must be of a size sufficient to prevent entry of sweetpotato weevil and shall be free from tears, rips and holes. Fumigated, screened sweet potatoes awaiting shipment shall be labeled with the dates of fumigation.

7. Trucks or other vehicles used to ship fumigated sweet potatoes from sweetpotato weevil infested areas or properties or premises shall be cleaned of all sweet potatoes, parts, and any other regulated materials prior to hauling fumigated sweet potatoes. Vehicle compartments previously containing shipments of non-fumigated regulated materials that were moved from or within designated sweetpotato weevil infested areas or properties or premises must be treated with an appropriately labeled chemical and in a manner approved by the department prior to loading fumigated sweet potatoes for shipment.

8. No non-fumigated sweet potatoes shall be stored, loaded or shipped with fumigated sweet potatoes.

C. Issuance of Certificate Permit Tags. Manila certificate permit tags will be issued by the department to persons meeting all sweetpotato weevil quarantine regulation and compliance agreement requirements and who desire to ship regulated materials that have been properly fumigated from areas or properties or premises designated by the department as sweetpotato weevil infested into areas or properties or premises designated as sweetpotato weevil-free, or to any state which may prohibit entry of such regulated material. Permit tags shall be attached to or within each container in a load or shipment of fumigated sweet potatoes and shall not be reused.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655 and R.S. 3:1732.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 16:600 (July 1990), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:703 (July 1992), LR 27:1176 (August 2001).

§139. Effect of Quarantine for Sweetpotato Weevil

A. Sweetpotato Weevil-Free Designations of Louisiana

1. The growing or storing of regulated material, including seed beds and field plantings of sweet potatoes is prohibited in areas or properties or premises declared to be non-sweet potato areas, except under special permit issued by the department. Non-sweet potato areas may include but are not limited to sweetpotato weevil-infested properties or premises, as determined by survey or trapping procedures conducted in a manner approved by the department, located in those areas of the state designated by the department as sweetpotato weevil-free.

2. Any regulated material found in non-sweet potato areas shall be disposed of in a manner approved by the department.

3. Regulated materials, properties or premises found to contain sweetpotato weevil may be subject to required treatments, handling restrictions, or destruction as determined by the department.

B. Sweetpotato Weevil-Infested Designations of Louisiana

1. Owners or persons in charge of properties or premises supporting active infestations of sweetpotato weevil within those areas or properties or premises of the state designated as sweetpotato weevil-infested may save their own seed sweet potatoes, provided that:

a. such seed sweet potatoes are graded in a manner sufficient to render them apparently free of the sweetpotato weevil;

b. such seed sweet potatoes are properly treated in a manner approved by the department at the time of storage;

c. no seed sweet potatoes, plants, vines and/or cuttings shall be sold, offered for sale or moved except those which have been inspected by the department and found to be apparently free of the sweetpotato weevil.

2. Regulated materials, properties or premises supporting active infestations of sweetpotato weevil within those areas of the state designated as sweetpotato weevil-infested may be subject to required treatments, handling restrictions, or destruction as determined by the department.

C. Statewide

1. Sweet potatoes in seedbeds shall be destroyed within 15 days after such potatoes have served their purpose, and not later than July 15 of each year. Destruction shall be in such a manner that all sweet potatoes, plants and parts are brought to the soil surface and exposed, or in such other manner as may be prescribed by the department.

2. All sweet potato fields shall be harvested by December 1 of each year by the owner of the crop. Such fields shall be destroyed within 15 days after harvesting, and not later than December 15 of each year. Destruction shall be in such a manner that all remaining sweet potatoes, plants and parts are brought to the soil surface and exposed, or in such other manner as may be prescribed by the department.

3. Sanitary Measures. Persons operating packing sheds, assembly points, processing plants and/or storage houses shall:

a. not permit loose sweet potatoes or parts of sweet potatoes to accumulate in or around any structure in which sweet potatoes are cleaned, packed, processed or stored;

b. render waste sweet potatoes and sweet potato parts unsuitable for or unavailable to the sweetpotato weevil by processing or disposal in a manner approved by the department. If it is necessary to haul host material from the place of accumulation for processing or disposal, such hauling shall be done in an approved tight-body truck or container and covered with a tarpaulin when necessary;

c. not allow sweet potatoes, sweet potato crowns and roots or parts thereof to be carried away from storage houses, processing plants, packing sheds or assembly points in water used in washing sweet potatoes;

d. not permit the sale, offer for sale or movement to any person or farm of culled sweet potatoes or sweet potato parts, except under special permit issued by the department; and

e. not move empty containers or equipment used in the handling of sweet potatoes from packing sheds or processing plants unless cleaned free of all host materials.

D. Regulated Material from Other States

1. Sweet potatoes, sweet potato plants, plant products and parts thereof, host materials, and containers and equipment used in handling sweet potatoes may not enter Louisiana unless accompanied by valid certification from the state of origin.

2. A valid state-of-origin certificate permit tag shall be attached to or placed within each container in a load of sweet potatoes entering Louisiana.

a. Only regulated material certified as grown, stored and inspected in a portion of the state of origin designated as sweetpotato weevil-free, or fumigated in accordance with these regulations, shall enter those areas or properties or premises of Louisiana designated sweetpotato weevil-free unless moving under the provisions of this Section.

b. Regulated material grown, stored or inspected in a portion of the state of origin designated sweetpotato weevil-infested or sweetpotato weevil regulated, and inspected and found apparently free of sweetpotato weevil, shall enter only those areas or properties or premises of Louisiana designated sweetpotato weevil-infested unless moving under the provisions of this Section.

c. Movement of regulated material from sweetpotato weevil-infested or sweetpotato weevil regulated areas or properties or premises through those areas or properties or premises of Louisiana designated sweetpotato weevil-free is prohibited, except when moved by common carrier with a through bill of lading; or, if moved by truck or any other conveyance, said conveyance shall be sealed by the state of origin, shall have no additional regulated material added to the shipment, and shall not be unloaded within designated weevil-free areas or properties or premises of Louisiana.

d. Regulated material originating in areas or properties or premises designated sweetpotato weevil-free that is moved into any area or property or premise designated sweetpotato weevil-infested or sweetpotato weevil regulated, except under the provisions of this Section, shall not be moved back into any designated sweetpotato weevil-free area or property or premise and shall lose its sweetpotato weevil-free status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655 and R.S. 3:1732.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:320 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:704 (July 1992), LR 27:1177 (August 2001).

§141. Handling, Storage and Processing of Sweet Potatoes within Those Areas or Properties or Premises of the State Designated Sweetpotato Weevil-Infested

A. Sweet Potatoes Treated with Approved Chemicals. There shall be no date limit on the shipment of sweet potatoes from those areas or properties or premises of the state designated sweetpotato weevil-infested, provided:

1. sweet potatoes to be marketed after April 1 following the year of production must be treated before February 28 with a chemical or chemicals labeled for sweet potato use and approved by the department; and

2. sweet potato packing sheds, processing plants and/or storage houses, and all containers and equipment used in handling sweet potatoes must be cleaned and treated in a manner prescribed by the department as soon as possible after final disposal of a crop of sweet potatoes.

B. Sweet Potatoes Not Treated with Approved Chemicals and/or Heavily Infested with Sweetpotato Weevil. Unprocessed sweet potatoes shall not:

1. be held in processing plants, warehouses or other storage houses on properties or premises supporting active infestations of sweetpotato weevils;

2. be moved in any manner except as provided for in §139.C.3.b;

3. be sold or offered for sale after April 1 following the year of production, except seed sweet potatoes that are apparently free of sweetpotato weevils and have been properly treated as prescribed in this Section.

C. This provision shall apply to all sweet potatoes even though previously inspected and certified for sale and movement.

D. Sweet potato packing sheds, processing plants and/or storage houses, and all containers and equipment used in handling sweet potatoes must be cleaned and treated in a manner prescribed by the department unless a special permit extending the deadline is issued by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655 and R.S. 3:1732.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:321 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:705 (July 1992), LR 27:1178 (August 2001).

§143. Fees

A. A fee of $0.06 per bushel shall be charged for each bushel of sweet potatoes moved or shipped within or out of Louisiana.

B. The fee charged for sweet potatoes moving to processing plants shall be collected on the basis of the amount of purchase less 10 percent for breakdown and shrinkage while in storage.

C. A fee of $0.10 per thousand shall be charged for vines, plants, slips or cuttings moved or shipped within or out of Louisiana.

D. Method of assessing fees and time when fees are to be assessed.

1. Fresh Market

a. Fees will be assessed based on average marketable yield per acre for each acre of sweet potatoes planted. The Louisiana Sweet Potato Advertising and Development Commission will determine the average yield.

b. The total acres planted by each producer will be officially determined through the use of global positioning technology or other, similarly technical means, under departmental oversight. Each producer will be provided a mapped copy of his production fields and the acres of each field.

c. One-half of the total fee assessment shall be paid on or before October 15 of each year and the remaining balance shall be paid on or before December 15 of each year.

2. Processing Plants—assessed at the time the sweet potatoes are moved into a plant for processing or packed to be shipped as non-processed potatoes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655, R.S. 3:1732 and R.S. 3:1734.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:321 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 15:77 (February 1989), LR 18:705 (July 1992), LR 27:1178 (August 2001), LR 29:2298 (November 2003).

§145. Penalties for Violation of Sweetpotato Weevil Quarantine

A. Any person violating any portion of the sweetpotato weevil quarantine regulations, or any portion of a signed compliance agreement with the department, may be called to an adjudicatory hearing held in accordance with the Administrative Procedure Act and may be subject to a civil penalty of not more than $5,000 per each violation per day. Proportionate costs of the hearing may be assessed against the violator. The amount of these costs shall be limited to attorneys' fees as charged to the department for the actual hearing and preparation for the hearing; and actual cost of departmental personnel time in processing violations.

B. A sweet potato dealer's permit may be suspended, revoked or placed on probation if the holder thereof fails to comply with the provisions of these regulations or with the provisions of a signed compliance agreement with the department, subject to a finding in support of such action in a properly conducted adjudicatory hearing.

C. Sweet potato plantings found in a non-sweet potato area may be destroyed at the expense of the person or persons responsible for the plantings.

D. Regulated material found in violation of these regulations or in violation of a signed compliance agreement with the department may be destroyed and/or disposed of in a manner approved by the department at the expense of the person or persons responsible for the regulated material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655 and R.S. 3:1732.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:321 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:705 (July 1992), LR 27:1179 (August 2001).

§147. Sweet Potato Dealer's Permit

A. All persons, including sweet potato growers and farmers, commercially growing, selling or offering for sale sweet potatoes shall not grow, move, clean, grade, pack or repack for sale, or process in any manner sweet potatoes without a valid Sweet Potato Dealer's Permit.

B. Applicants for Sweet Potato Dealer's Certificate Permit shall complete and file the application required by the department, which shall set forth the following conditions:

1. a guarantee to reimburse any purchase price of sweet potatoes which are confiscated because of sweetpotato weevil infestation or unauthorized sale, offer for sale or movement;

2. an agreement to permit, at the dealer's cost, the disposal or destruction by an inspector of the department or the return to point of origin of any sweet potatoes sold, offered for sale, moved or moving without authorization, or infested with sweetpotato weevil;

3. a signed agreement to comply with any and all sweet potato quarantine regulations and any conditions specified in the agreement.

C. The provisions of this Section do not apply to retail grocers and other retail outlets selling or offering for sale sweet potatoes possessing a valid certificate permit and/or certificate permit tags indicating that the sweet potatoes have been inspected, and that are sold or offered for sale directly to the consumer from a permanent building at a permanent location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1653, R.S. 3:1655, R.S. 3:1732 and R.S. 3:1735.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:322 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:705 (July 1992), LR 27:1179 (August 2001).

Subchapter D. Pink Bollworm Quarantine Regulations

§149. Applicability of General Quarantine Regulations

A. Cotton plants, plant products and parts thereof and host materials for the pink bollworm are subject to all pertinent provisions of the general quarantine regulations and to the regulations contained in this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:322 (April 1985).

§151. Definitions Applicable to Pink Bollworm

Approved Gin—a gin with a pink bollworm kill efficiency rating of 90 percent or better.

Disinfected or *Disinfested Seed*—cottonseed treated in a manner and by a method approved by the state entomologist to kill pink bollworm present in any stage of development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:322 (April 1985).

§153. Articles Restricted or Prohibited for Intrastate Movement

A. Regulated articles may not be moved from a regulated area to a pest-free area except under certification.

B. Untreated and/or unmanufactured regulated articles may not be moved within a regulated area except under permit.

C. The following articles are exempt from the prohibition contained in this Section under conditions as shown for each article:

1. compressed baled cotton lint, linters and lint cleaner waste when such products have been given standard or equivalent compressions;

2. samples of cotton lint and cotton linters of the usual trade size;

3. cottonseed cake;

4. cottonseed meal; and

5. edible okra grown within a locality in which no pink bollworm is known to be present.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:322 (April 1985).

§155. Certificates for Intrastate Movement

A. In addition to pertinent requirements contained in the general quarantine regulations (Subchapter A of this Chapter), the following conditions apply to issuance of certificates.

1. Cottonseed. A certificate for intrastate movement of cottonseed will be issued only when the cottonseed are ginned in an approved gin with an approved treatment under the supervision of a department inspector.

2. Cottonseed Hulls Produced from Treated Cottonseed. Certificates for intrastate movement of treated cottonseed hulls from a regulated area may be issued when such hulls are:

a. produced from sterilized seed originating in a regulated area;

b. processed in an authorized cotton oil mill under the supervision of an inspector; and

c. subsequently protected from infestation.

3. Cottonseed Hulls Produced from Untreated Cottonseed. Certificates for intrastate movement of untreated cottonseed hulls from a regulated area may be issued when the hulls are produced from unsterilized seed processed in a designated oil mill and treated by passing through an approved fan.

4. Okra

a. Certificates for the intrastate movement of edible okra originating in a regulated area outside the state of

Louisiana may be issued when the shipment is inspected and found to be free of pink bollworm infestation.

b. Dried okra seed originating in a regulated area shall be disinfected in an approved manner before being permitted to move within or outside of the regulated area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:322 (April 1985).

§157. Limited Permits for Intrastate Movement

A. In addition to pertinent requirements contained in the general quarantine regulation (Subchapter A of this Chapter), the following conditions apply to issuance of limited permits.

1. Cotton Lint and Linters. Cotton lint or linters, either baled or unbaled, may be moved intrastate to designated cotton compresses or approved processing plants with a limited permit.

2. Non-Certified Regulated Articles. Non-certified regulated articles may be moved intrastate under a limited permit only to authorized and designated cotton gins, cottonseed oil mills or processing and manufacturing plants and only for treatment incidental to preparing such products for certification. In such event, operators of cotton gins, cottonseed oil mills and other manufacturing plants must agree in writing to the following:

a. to segregate processed regulated articles from non-processed regulated article;

b. to assure efficient functioning of processing equipment;

c. to dispose of gin trash and/or waste on a daily basis;

d. to use uncontaminated containers for processed products to prevent contamination;

e. to maintain the identity of regulated and non-regulated products;

f. to maintain such other sanitary safeguards against the establishment and spread of infestation as may be required by the state entomologist; and

g. to comply with any other restrictions as to handling and subsequent movement of regulated articles as may be required by the state entomologist.

3. Untreated Cottonseed. A limited permit may be issued for the intrastate movement of untreated cottonseed from an approved cotton gin to a designated oil mill or other authorized processing plant under such conditions as may be stipulated in the dealer-carrier agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:322 (April 1985).

§159. Treatment Required for Materials Originating in Regulated Areas

A. When contaminated with cotton products originating from states other than Louisiana which are infested with pink bollworm or from a regulated area within Louisiana, the following shall not be moved interstate or intrastate until freed from contamination to the satisfaction of an inspector:

1. railway cars, trucks or other vehicles;
2. cotton bagging or other containers of cotton;
3. cotton processing machinery;
4. farm household goods;
5. farm equipment;
6. used picking sacks;
7. personal belongings of transient pickers;
8. farm products; and
9. any other contaminated articles.

B. When contaminated articles listed in §159.A hereof are cleaned to the satisfaction of the inspector, no certificate or limited permit will be required except for cotton bagging or other containers of cotton and cotton processing machinery.

C. Cotton processing equipment originating in a regulated area outside of Louisiana must be dismantled and cleaned in an approved manner to the satisfaction of an inspector, or fumigated before a permit will be issued for its movement into a pest-free area.

D. Mechanical cotton pickers and used picking sacks must be accompanied by an official fumigation certificate and sealed by the appropriate official of the state of origin.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:322 (April 1985).

§161. Cultural and Other Requirements in Regulated Areas

A. Destruction of Cotton Plants

1. Immediately after harvesting a commercial crop, and not later than December 31 in any year, all cotton plants and parts thereof shall be plowed under and thoroughly covered to expedite decay of this material, provided that the state entomologist may approve other methods of destruction under conditions as shown in this Section.

2. The state entomologist may approve close grazing of cotton fields, in lieu of plowing, under conditions stipulated in the dealer-carrier agreement. Application for approval for close grazing in lieu of plowing must be made, in writing, to the department no later than November 1 in any given year.

3. The state entomologist may issue a special permit to allow shredding of cotton stalks with a conventional

rotary shredder prior to December 31, in lieu of plowing, for fields which have been planted to leguminous cover crops prior to harvest of the cotton crop. Application for this permit must be made to the state entomologist prior to November 1 in any given year.

B. Handling of Seed Cotton and Cottonseed

1. No seed cotton shall be held over on any farm, or at any cotton gin, warehouse or any other place for any purpose whatsoever after January 31 in any year.

2. Seed cotton moving from farm to gin shall be covered in such a manner as to prevent spillage.

3. Cottonseed may be returned without treatment from an approved gin to the farm of origin within a regulated area.

4. Cottonseed may move to farms other than the farm of origin within the regulated area provided it is gained at an approved gin and delinted at an approved delinting plant.

5. Cottonseed may be moved outside a regulated area only after approved treatment under an inspector's supervision, except when moved to designated oil mills for processing.

C. Gin Trash Disposal

1. In addition to other normal gin sanitation measures, gin trash must be disposed of daily to avoid harboring the pink bollworm.

2. Gins shall provide a reasonable means for inspection of gin trash disposal procedures.

3. All gins in a regulated area must be thoroughly cleaned by February 10 in any given year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:323 (April 1985).

§163. Dealer-Carrier Agreement

A. As a condition for the issuance of certificates or limited permits for intrastate movement of regulated articles by persons engaged in purchasing, assembling, ginning, processing, transporting or storing such regulated articles, such persons must have a dealer-carrier agreement with the department. Holders of dealer-carrier permits must agree to:

1. maintain an accurate record of receipts and sales, shipments or services and such record shall be available at all times for examination by an inspector; and

2. carry out any and all conditions, treatments, precautions and sanitary measures which may be required by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:323 (April 1985).

Subchapter E. Repeal of Prior Rules and Regulations

§165. Repeal of Prior Rules and Regulations

A. All prior rules and regulations adopted and approved in accordance with R.S. 3:1651 through 1805 are hereby repealed in their entirety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:323 (April 1985).

Chapter 3. Boll Weevil

§301. Applicability of Regulations

A. These regulations are adopted pursuant to the authority granted in and for the purposes as stated in the Louisiana Boll Weevil Eradication Law, R.S. 3:1601-1617.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1608.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:17 (January 1995).

§303. Definitions Applicable to Boll Weevil

A. The words and terms defined in R.S. 3:1603 are applicable to this Chapter.

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

APHIS—the Animal and Plant Health Inspection Service of the United States Department of Agriculture.

ASCS—the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture, now known as FSA (Farm Service Agency).

Compliance Agreement—a written agreement between the department and any person engaged in growing, dealing in or moving regulated articles wherein the latter agrees to comply with specified provisions to prevent dissemination of the boll weevil.

Cotton Acre—any acre of land devoted to the growing of cotton, regardless of row width or planting pattern.

FSA—the Farm Service Agency of the United States Department of Agriculture (formerly ASCS).

Gin Trash—all material produced during the cleaning and ginning of seed cotton, bollies or snapped cotton, except lint, cottonseed or gin waste.

Penalty Fee—the fee assessed against a cotton producer for late reporting of acreage, underreporting of acreage or late payment of assessments. It does not refer to the assessment fee itself nor to any penalty assessed for any violation of the regulations.

Premises—any parcel of land, including any buildings located thereon, irrigation systems and any other similar

locations where the boll weevil is, may be, or where conditions are conducive to supporting the boll weevil.

Seed Cotton—cotton as it comes from the field prior to ginning.

Used Cotton Equipment—any equipment used previously to harvest, strip, transport or process cotton.

Waiver—a written authorization which exempts a person from compliance with one or more requirements of these regulations and the Boll Weevil Eradication Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1604.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:17 (January 1995), amended LR 23:195 (February 1997), LR 37:2583 (September 2011).

§305. Regulated Articles

A. The following articles shall be regulated:

1. the boll weevil;

2. cotton plants and bolls;

3. gin trash;

4. seed cotton;

5. used cotton equipment;

6. any other products, articles, means of conveyance, or any other item or thing whatsoever which presents the possibility of spreading the boll weevil.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:18 (January 1995).

§307. Conditions Governing Movement and Handling of Regulated Articles

A. Certificate, Permit or Written Waiver Required

1. Regulated articles moving into, within or from the state of Louisiana shall be accompanied by a certificate or permit issued by an authorized regulatory official in the state where such articles originated, if such state is other than Louisiana, or by the commissioner.

2. Regulated articles may be moved into, within or from the state of Louisiana without a certificate or permit, if accompanied by documentation confirming the point of origin and a written waiver from the commissioner indicating that such movement is consistent with the boll weevil eradication program.

3. The certificate, permit or a written waiver shall be attached securely to the outside of the container in which the regulated articles are moved; or the certificate, permit or written waiver shall be attached to the shipping document, provided the document adequately describes the regulated articles being moved. Copies of all certificates, permits or written waivers shall be furnished by the carrier to the consignee at the final destination.

B. Issuance of Certificates and Permits

1. Certificates for movement of regulated articles may be issued by the commissioner when such articles:

a. originated in noninfested premises in an eradication zone and have not been otherwise exposed to infestation; or

b. have been treated to destroy infestation in accordance with procedures approved by the commissioner; or

c. have been grown, manufactured, stored or handled in such a manner that, in the judgement of the commissioner, no infestation would be transmitted; or

d. have been examined by the commissioner and found free from infestation.

2. Permits for movement of noncertified regulated articles may be issued by the commissioner allowing movement of such articles into, within or from the state of Louisiana in accordance with procedures approved by the commissioner, when the commissioner has determined that movement will not result in the spread of the boll weevil.

C. Granting, Cancellation and Proof of Certificates, Permits and Written Waivers

1. The granting of certificates, permits or written waivers by the commissioner is purely discretionary and any person claiming movement under the terms of a certificate, permit or written waiver shall have the burden of proof as to the issuance of any such certificate, permit or written waiver and any other related matter.

2. Any certificate, permit or written waiver may be canceled by the commissioner for good cause, including but not limited to, a determination that the holder thereof has failed to comply with any condition for the use of such certificate, permit, written waiver or with any terms or conditions of a compliance agreement or has obtained a certificate, permit or written waiver on falsified information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:18 (January 1995).

§309. Compliance Agreements

A. The commissioner may, as a condition of issuance of certificates, permits or written waivers, require a compliance agreement stipulating expressed conditions of the certificate, permit or written waiver as required by the commissioner which may include but are not limited to:

1. safeguards against the establishment and spread of the boll weevil;

2. maintenance of identity, handling and subsequent movement of regulated articles;

3. requirements for cleaning and treating all means of conveyance and all containers used for transporting regulated articles;

4. any other condition deemed consistent with the purposes of the boll weevil eradication program.

B. Any compliance agreement may be canceled by the commissioner for good cause, including but not limited to a finding that the holder has failed to comply with any conditions of the agreement, and the commissioner may do so summarily and *ex parte* if he finds that public health, safety or welfare requires emergency action. Any compliance agreement may be canceled or voided by the commissioner upon a determination that the compliance agreement is no longer consistent with the purposes of the boll weevil eradication program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:18 (January 1995).

§311. Inspection, Movement and Enforcement

A. The commissioner is authorized to stop any person and inspect any regulated article or means of conveyance moving into, within or from the state of Louisiana when he has reason to believe that such regulated article or means of conveyance is infested with the boll weevil. The commissioner is authorized to issue a stop order on, seize or treat any regulated article found to be infested with the boll weevil moving in violation of the Boll Weevil Eradication Law or these regulations and may destroy or otherwise dispose of any infested cotton where the destruction of said cotton is necessary to effectuate the purposes of the boll weevil eradication program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:18 (January 1995).

§313. Purchase and Destruction of Cotton to Effectuate Program Objectives

A. When the commissioner deems the purchase of cotton necessary to effectuate the purposes of the boll weevil eradication program he shall make a written determination to purchase.

1. The written determination to purchase shall contain the reasons for the determination, the purchase price, and shall be mailed to or served upon the cotton producer.

2. The cotton producer shall promptly take all steps necessary to convey title to the commissioner. In the event the cotton producer fails to take all steps necessary to convey title to the commissioner within 10 days of receipt of determination to purchase, the commissioner may destroy the cotton, compensating the cotton producer for the purchase price less the loss of the resale price and cost of destruction. The purchase price shall be determined by appraisal, the appraisal shall have been completed within 72 hours of the mailing or issuance for service of the written determination to purchase, and the appraisal shall, to the extent practical, utilize the ASCS farm-established yield for the current year.

3. If the cotton producer does not accept the purchase price contained in the written determination to purchase, the purchase shall, nevertheless, be concluded as described herein but the cotton producer shall have the right to an appeal in the form of a hearing on the decision of price before the commission in accordance with the Louisiana Administrative Procedure Act provided the appeal is perfected in writing to the commissioner within 30 days of the receipt by the cotton producer of the written determination to purchase. The appeal shall contain a concise statement of the basis for the appeal, shall have attached a clear and readable copy of the written determination to purchase, and shall be mailed to or served upon the commissioner within the aforesaid prescribed time limit of 30 days.

B. Whenever the commissioner has reason to believe that the destruction of cotton is necessary to effectuate the purposes of the boll weevil eradication program he shall make a written determination of destruction.

1. The written determination of destruction shall contain the reason for the destruction, the payment to the cotton producer, if applicable, and shall be mailed to or served upon the cotton producer. The cotton producer shall take all steps necessary to cooperate with the commissioner in the destruction of the cotton. In the event the cotton producer fails to take all steps necessary to cooperate in the destruction of the cotton, the cotton producer shall be in violation of these regulations.

2. In those cases where payment to the cotton producer shall be due by the commissioner, the amount of payment shall be determined by appraisal, the appraisal shall have been completed within 72 hours of the mailing or issuance for service of the written determination of destruction, and the appraisal shall, to the extent practical, utilize the ASCS farm-established yield for the current year. If the cotton producer does not accept the payment contained in the written determination of destruction, the payment shall, nevertheless, be made as stated but the cotton producer shall have the right to an appeal in the form of a hearing on the amount of the payment before the commission in accordance with the Louisiana Administrative Procedure Act provided the appeal is perfected in writing to the commissioner within 30 days of the receipt by the cotton producer of the written determination of destruction. The appeal shall contain a concise statement of the basis for the appeal, shall have attached a clear and readable copy of the written determination of destruction, and shall be mailed to or served upon the commissioner within the aforesaid prescribed time limit of 30 days.

3. The notice provisions contained herein are in addition to those notice provisions contained in R.S. 3:1609(E).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1610.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:19 (January 1995).

§314. Boll Weevil Eradication Zone: Creation

A. One boll weevil eradication zone is hereby created within the state of Louisiana consisting of all the territory within the state of Louisiana.

B. This boll weevil eradication zone shall be known as the Louisiana Eradication Zone.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1609.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 23:195 (February 1997), amended LR 24:2231 (December 1998), LR 30:2443 (November 2004).

§315. Quarantine: Authority and Procedures

A. The commissioner is hereby authorized to issue Quarantine Orders to affected parties whenever he determines that a quarantine is necessary to effectuate the purposes of the boll weevil eradication program.

B. Quarantine Orders shall be written and shall describe with particularity the regulated articles or premises being quarantined, the nature of the restrictions on the regulated articles or premises, the reasons for the issuance of the Quarantine Order and the method for affected parties to seek a review of the order.

C. A Quarantine Order shall be issued for the purpose of preventing the movement, disturbance, or noncontainment of an actual or suspected boll weevil infestation or the prevention of a boll weevil infestation.

D. Any affected party may request and receive a hearing on the issuance and maintenance of a Quarantine Order before the commission in accordance with the Louisiana Administrative Procedure Act provided the affected party requests the hearing within 30 days of receipt by the affected party of notice of the Quarantine Order.

E. The notice provisions contained in this Section are in addition to those notice provisions contained in R.S. 3:1609(E).

F. All persons and all parties affected by a quarantine shall cooperate in the affectation of the quarantine and shall do nothing to cause a breech of the terms of the Quarantine Order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:19 (January 1995).

§317. Aiding and Abetting

A. Any person who aids and abets another person in any act or omission which constitutes a violation of the Boll Weevil Eradication Law or these regulations shall be in violation of the Boll Weevil Eradication Law and these regulations. Each act or omission of aiding and abetting shall be a separate offense and each day on which the underlying violation which was aided and abetted occurs shall also be a separate offense, but two violations may not result from one act or omission which occurred on a single day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1612.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:20 (January 1995).

§319. Reporting of Cotton Acreage

A. All cotton producers growing cotton in the state of Louisiana shall certify their planted cotton acreage by the later of July 1 or at final certification of the current growing season at the FSA office responsible for the parish or parishes in which they produce cotton. The certification shall be filed for each year of the program and shall include the actual acreage and location of cotton planted during the current growing season.

B. All cotton producers growing cotton in the state of Louisiana shall, for each year of the program, also complete and sign a cotton acreage reporting and payment form provided by the commissioner and return the signed and completed form to the department along with FSA form 578 at the time the assessment is paid to the department.

C. Noncommercial cotton shall not be planted in the Louisiana Eradication Zone unless an application for a written waiver has been submitted in writing to the commissioner stating the conditions under which such written waiver is requested, and unless such written waiver is granted by the commissioner. The commissioner's decision to grant or deny a written waiver for noncommercial cotton shall include consideration of the location, size, pest conditions, accessibility of the growing area, any stipulations set forth in any compliance agreement between the applicant and the commissioner, and any other factors deemed relevant to effectuate the boll weevil eradication program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1604.1, 1607, 1609.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:20 (January 1995), amended LR 23:195 (February 1997), LR 37:2583 (September 2011).

§321. Assessments, Payment and Penalties

A. The September 2003 referendum set the maximum annual assessment at $6 per acre of cotton planted in the state. The annual assessment on cotton producers in the Louisiana Eradication Zone shall be $6 per acre for each acre of cotton planted in the state. Each cotton producer shall pay his annual assessment directly to the department no later than July 1 or final certification by the FSA of the growing season, whichever is later. The signed and completed cotton acreage reporting and payment form with FSA Form 578

attached shall be submitted with the annual payment of the assessment.

B. A cotton producer may request a waiver of all or part of the assessment for any crop year in which he plants cotton in accordance with the following procedure. The granting of a waiver of all or part of any assessment for a crop year is within the discretion of the commission.

1. A cotton producer requesting a waiver of the assessment for a crop year must submit a written request for a waiver to the commission.

2. The commission must receive the written request, through mail, fax or other form of actual delivery, on or before 4:30 p.m. on August 1 of the crop year for which the waiver is requested. A written request for a waiver will be deemed to be timely when the papers are mailed on or before the due date. Timeliness of the mailing shall be shown only by an official United States postmark or by official receipt or certificate from the United States Postal Service made at the time of mailing which indicates the date thereof. A fax shall be considered timely only upon proof of actual receipt of the transmission.

3. The written request for a waiver must show the name of the cotton producer, the field number, the number of acres for which a waiver is requested, the date the acres were failed, the reasons the waiver is being requested and a certification that all living cotton plants and cotton stalks were destroyed prior to July 15 of the crop year and that the acreage will remain void of all living cotton plants through December 31 of the same crop year.

4. Each cotton producer who has timely filed a request for a waiver with the commission shall be notified of the date, time and place the commission is scheduled to consider the request for a waiver at least 10 days prior to the commission meeting. The commission shall not consider a written request that is not timely.

5. A cotton producer, whose timely request for a waiver is denied by the commission, shall be entitled to pay his assessment without imposition of a per acre penalty fee if he pays the assessment within 30 days after receiving written notification of the commission's decision.

6. The commission has the authority to inspect any cotton field in which a cotton producer has claimed to have destroyed the cotton crop. Failure of the cotton producer to allow inspection shall be a violation of these regulations.

C. Any cotton producer planting a fraction of an acre shall be assessed at a prorated assessment rate for that fractional acre.

D. Any cotton producer failing to certify his planted cotton acreage by the later of July 1 or final certification of the current growing season shall, in addition to the assessment fee and other penalties provided in the Boll Weevil Eradication Law and these regulations, be subject to a penalty fee of $2 per acre.

E. Any cotton producer failing to pay all assessments by the later of July 1 or final certification of the current growing season shall, in addition to the assessment fee and other penalties provided in the Boll Weevil Eradication Law and these regulations, be subject to a penalty fee of $1.50 per acre.

F. Reserved.

G. Failure to pay all program costs, including assessments and penalty fees shall be a violation of these regulations. Any cotton growing on a cotton producer's acreage which is subject to the assessment shall be subject to destruction by the commissioner should said cotton producer fail to pay all program costs, including assessments and penalty fees, within 30 days of notification of the default.

H. The commission shall have the right to collect some or all of the program costs, including assessments and penalty fees, by contracting with another entity, public or private, for assessment collection. All cotton producers in an eradication zone shall be notified of such a decision by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1609, 1612, and 1613.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:20 (January 1995), amended LR 21:669 (July 1995), LR 23:195 (February 1997), LR 24:2231 (December 1998), LR 25:829 (May 1999), LR 29:859 (June 2003), LR 30:1142 (June 2004), LR 30:2443 (November 2004), LR 37:2583 (September 2011).

§323. Expenditures

A. Expenditures, by the commissioner and the commission, for any and all costs related to the eradication of boll weevils shall be accomplished employing the procedures authorized and granted to the Louisiana Agricultural Finance Authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1614, 1615.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:21 (January 1995).

§325. Voter Eligibility

A. A person shall be considered eligible to vote in a referendum if that individual shared in the cotton crop, or in the proceeds of the cotton crop, actually produced during the crop year in which the referendum is held. When in compliance with the above requirements the following shall be eligible to vote in a referendum:

1. farm operator;
2. owner-operator;
3. cash tenant;
4. landlord of a share tenant;
5. share tenant;
6. landlord of a cash tenant;
7. sharecropper.

B. A person shall not be eligible to vote in a referendum if that individual is under 18 years of age.

C. Voting by proxy, agent, or power of attorney is prohibited.

D. Each eligible voter shall be entitled to only one vote in each referendum.

E. The commission shall determine any questions of eligibility to vote.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1613.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:21 (January 1995).

§327. Program Participation

A. All cotton producers growing cotton in Louisiana are required to participate in the boll weevil eradication program in accordance with the Louisiana Boll Weevil Eradication Law and these regulations.

B. Cotton producers shall destroy cotton stalks in every field planted in cotton, on or before December 31 of each crop year. Cotton stalk destruction shall consist of shredding or disking in a manner that destroys standing cotton stalks. Cotton stalks that come up in a failed field must also be destroyed by December 31 of the crop year. Failure to destroy stalks by December 31 of each crop year shall be a violation of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1609, 1612, 1613.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 27:280 (March 2001), amended LR 30:2444 (November 2004).

Title 7
AGRICULTURE AND ANIMALS
Part XVII. Feed

Chapter 1. Commercial Feeds
Subchapter A. Official Feed

§101. Definitions and Terms

A. The names and definitions for commercial feeds shall be the Official Definition of Feed Ingredients adopted by the Association of American Feed Control Officials (AAFCO), except as the commission designates otherwise in specific cases.

B. The terms used in reference to commercial feeds shall be the official feed terms adopted by the AAFCO, except as the commission designates otherwise in specific cases.

C. The following commodities are hereby declared exempt from the definition of commercial feed, under the provisions of R.S. 3:1391(3): raw meat, and hay, straw, stover, silages, cobs, husks and hulls when unground and when not mixed or intermixed with other materials; provided that these commodities are not adulterated within the meaning of R.S. 3:1396.

D. Individual chemical compounds and substances are hereby declared exempt from the definition of commercial feed under the provisions of R.S. 3:1391(3). It has been determined that these products meet the following criteria.

1. There is an adopted AAFCO definition for the product.

2. The product is either generally recognized as safe (GRAS) or is not covered by a specific FDA regulation.

3. The product is either a natural occurring product of relatively uniform chemical composition or is manufactured to meet the AAFCO definition of the product.

4. The use of the product in the feed industry constitutes a minor portion of its total industrial use.

5. Small quantities of additives, which are intended to impart special desirable characteristics shall be permitted.

6. There is no need or problem of control of this product.

E. Exempted under §101.D is loose salt.

F. Definitions

Animal Waste Products—processed animal excrets which have been made safe to use as a feed ingredient. For those products the commission adopts the quality standards and definitions listed under Section 74 (Recycled Animal Waste Products) of the AAFCO official publication.

Brand Name or *Brand*—any word, name, symbol or device, or any combination thereof, identifying the commercial feed of a registrant and distinguishing it from that of others.

By-Products—secondary products produced in addition to the principal product except ingredients which are a primary source of protein.

Commercial Feed—all materials including vitamin and mineral mixes, except whole seeds unmixed or physically altered entire unmixed seeds, which are distributed for use as pet food or as feed for livestock or for mixing in pet food or in feed for livestock.

Commission—the Louisiana Feed, Fertilizer, and Agricultural Liming Commission.

Commissioner—the commissioner of agriculture and forestry or his duly authorized representatives acting at his direction.

Crude Fat—the percent ether extract (or other appropriate fat solvent extract) determined by the appropriate official method outlined in *AOAC Official Methods of Analysis*.

Crude Fiber—the portion of a feed or ration which is determined by using the appropriate official method as outlined in the *AOAC Official Methods of Analysis*.

Crude Protein—the percent nitrogen times 6.25 where the percent nitrogen is determined by the appropriate official method outlined in *AOAC Official Methods of Analysis*.

Customer Formula Feed—commercial feed which consists of a mixture of commercial feeds or feed ingredients, each batch of which is manufactured according to the specific instructions of the final purchaser.

Distribute—to sell, offer for sale or expose for sale or trading.

Distributor—a person who distributes.

Guaranteed Feeding Units—the minimum crude protein, minimum crude fat, maximum crude fiber and minimum or maximum minerals expressed as percentages and indicated on the label as being contained in the commercial feed.

Ingredient or *Ingredients*—any of the constituent materials making up a commercial feed.

Invert Sugar—a mixture of glucose and fructose resulting from the hydrolysis of sucrose. The value of invert sugars are determined by official methods outlined in *AOAC Official Methods of Analysis*. The method varies with the type of material being analyzed.

Label—a display of written, printed or graphic matter upon or affixed to the container in which a commercial feed is distributed or on the invoice or delivery slip with which a commercial feed is distributed.

Labeling—all labels and other written, printed or graphic matter (1) upon a commercial feed or any of its containers or wrapper or (2) accompanying such commercial feed.

Livestock—cattle, buffalo, bison, oxen, and other bovine; horses, mules, donkeys, and other equine; sheep; goats; swine; domestic rabbits; fish, turtles, and other animals identified with aquaculture that 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; and animals placed under the jurisdiction of the commissioner of agriculture and forestry and any hybrid, mixture, or mutation of any such animal.

Manufacture—to grind, mix, blend or further process a commercial feed for distribution.

Manufacturer—a person who manufactures a commercial feed or a customer-formula feed.

Medication—any drug, antibiotic or other substance intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in animals other than feed ingredients intended to affect the structure or any function of the animal body.

Minerals—naturally occurring, homogeneous, inorganic chemical elements having definite chemical and physical characteristics. These elements are essential for proper growth, development, milk production and maintenance of body tissue.

Official Sample—a sample of feed taken by the commissioner or his agent in accordance with provisions of R.S. 3:1398.

Package—a parcel, bag or other container.

Percent or *Percentages*—percentages by weights.

Person—includes individual, partnership, corporation and association, or other legal entity.

Pet—any domesticated animal normally maintained in or near the household of the owner thereof.

Pet Food—any commercial feed prepared and distributed for consumption by pets.

Premises—any place such as, but not exclusively, warehouses, factories, stores, trucks, railroad cars, boats, etc.

Products Sold Primarily for Sugar Content—include beet molasses, citrus molasses, hemicellulose extract, starch molasses, cane molasses and beet molasses, dried product. Each of these ingredients are defined in the *Official Publication of the Association of American Feed Control Officials*.

Protein from Nonprotein Nitrogen (NPN)—the percent nitrogen times 6.25 where the nitrogen is determined by the appropriate official method as outlined in the *AOAC Official Methods of Analysis (1984)* Sections 7.010-7.059. The nitrogen from NPN is derived from chemical compounds other than proteins.

Registrant—the person registering a feed with the commission.

Rule, Rules, Regulation, Regulations or *Rules and Regulations*—those of the commission adopted initially and from time to time to achieve the intent and purposes of R.S. 3:1391 et seq. or to facilitate its administration.

State Chemist—the director of the Louisiana Agricultural Experiment Station of the Louisiana State University Agricultural Center, or his designee.

Sugars—any of the class of water-soluble crystalline carbohydrates including sucrose and lactose having a characteristically sweet taste.

Ton—a net weight of 2,000 pounds avoirdupois.

Value of the Protein Deficiency—the value of the crude protein as set by the state chemist times the difference between the guaranteed protein analysis and the actual protein analysis of the feed sample.

Vitamins—organic compounds that function as parts of enzyme systems essential for the transmission of energy and the regulation of metabolisms of the body.

Whole Seeds—seeds of a single type, completely intact, and which have not been mechanically or chemically altered or processed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1391 and R.S. 3:1392.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:219 (March 1985), amended by the Department of Agriculture and Forestry, Feed, Fertilizer, and Agricultural Liming Commission, LR 38:2524 (October 2012).

§103. Label Format

A. Commercial feed, other than customer-formula feed, shall be labeled with the information prescribed in this regulation on the principal display panel of the product and in the following general format:

1. net weight;

2. product name and brand name if any;

3. if a drug is used:

a. the word *medicated* shall appear directly following and below the product name in type size, no smaller than one-half the type size of the product name;

b. the purpose of medication (claim statement);

c. an active drug ingredient statement listing the active drug ingredients by their established name and the amounts in accordance with §107.D;

d. the required directions for use and precautionary statements or reference to their location if the detailed feeding directions and precautionary statements required by §§111 and 113 appear elsewhere on the label;

4. the guaranteed analysis of the feed as required under the provisions of R.S. 3:1394(A)(3) include the following items, unless exempted in §103.A.4.h, and in the order listed:

a. minimum percentage of crude protein;

b. maximum or minimum percentage of equivalent protein from nonprotein nitrogen as required in §107.E;

c. minimum percentage of crude fat;

d. maximum percentage of crude fiber;

e. minerals, to include, in the following order:

i. minimum and maximum percentages of calcium (Ca);

ii. minimum percentage of phosphorus (P);

iii. minimum and maximum percentages of salt (NaCl); and

iv. other minerals;

f. vitamins in such terms as specified in §107.C;

g. total sugars as invert on dried molasses products or products being sold primarily for their sugar content;

h. exemptions:

i. guarantees for minerals are not required when there are no specific label claims and when the commercial feed contains less than 6 1/2 percent of the total of calcium, phosphorus, sodium and chloride. Except that all commercial feeds for dairy use sold in bulk shall be accompanied by a label stating the content of these minerals;

ii. guarantees for vitamins are not required when the commercial feed is neither formulated for nor represented in any manner as a vitamin supplement;

iii. guarantees for crude protein, crude fat and crude fiber are not required when the commercial feed is intended for purposes other than to furnish these substances or they are of minor significance relating to the primary purpose of the product, such as drug premixes, mineral or vitamin supplements and molasses;

5. feed ingredients, collective terms for the grouping of feed ingredients, as provided under the provisions of R.S. 3:1394(A)(6):

a. the name of each ingredient as defined in the *Official Publication of the Association of American Feed Control Officials*, common or usual name, or one approved by the commission;

b. collective terms for the grouping of feed ingredients as defined in the official definitions of feed ingredients published in the *Official Publication of the Association of American Feed Control Officials* in lieu of the individual ingredients; provided that:

i. when a collective term for a group of ingredients is used on the label, individual ingredients within that group shall not be listed on the label;

ii. the manufacturer shall provide the feed control official, upon request, with a list of individual ingredients, within a defined group, that are or have been used at manufacturing facilities distributing in or into the state;

6. name and principal mailing address of the manufacturer or person responsible for distributing the feed. The principal mailing address shall include the street address, city, state and zip code;

7. the information required in R.S. 3:1394(A)(1) through R.S. 3:1394 (A)(7) must appear in its entirety on one side of the label or on one side of the container. The information required by R.S. 3:1394 (A)(8) and R.S. 3:1394 (A)(9) shall be displayed in a prominent place on the label or container but not necessarily on the same side as the above information. When the information required by R.S. 3:1394 (A)(8) and R.S. 3: 1394 (A)(9) is placed on a different side of the label or container, it must be referenced on the front side with a statement such as See back of label for directions for use. None of the information required by R.S. 3:1394 shall be subordinated or obscured by other statements or designs.

8. If the feed contains protein derived from mammalian tissues, a statement that the feed shall not be fed to ruminants.

B. Customer-formula feed shall be accompanied with the information prescribed in this regulation using labels, invoice, delivery ticket or other shipping document bearing the following information:

1. the name and address of the manufacturer;

2. the name and address of the purchaser;

3. the date of sale or delivery;

4. the customer-formula feed name and brand name if any;

5. the product name and net weight of each registered commercial feed and each other ingredient used in the mixture;

6. the direction for use and precautionary statements as required by §§111 and 113;

7. if a drug containing product is used:

a. the purpose of the medication (claim statement);

b. the established name of each active drug ingredient and the level of each drug used in the final mixture expressed in accordance with §107.D.

8. If the feed contains protein derived from mammalian tissues, a statement that the feed shall not be fed to ruminants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1394, R.S. 3:1393 and R.S. 3:1392.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:220 (March 1985), amended LR 11:943 (October 1985), amended by the Department of Agriculture and Forestry, Feed, Fertilizer, and Agricultural Liming Commission, LR 38:2524 (October 2012).

§105. Brand and Product Names

A. The brand or product name must be appropriate for the intended use of the feed and must not be misleading. If the name indicates the feed is made for a specific use, the character of the feed must conform therewith. A mixture labeled *dairy feed*, for example, must be suitable for that purpose.

B. Commercial, registered brand or trade names are not permitted in guarantees or ingredient listings and only in the product name of feeds produced by or for the firm holding the rights to such a name.

C. The name of a commercial feed shall not be derived from one or more ingredients of a mixture to the exclusion of other ingredients and shall not be one representing any components of a mixture unless all components are included in the name: provided, that if any ingredient or combination of ingredients is intended to impart a distinctive characteristic to the product which is of significance to the purchaser, the name of that ingredient or combination of ingredients may be used as a part of the brand name or product name if the ingredients or combination of ingredients is quantitatively guaranteed in the guaranteed analysis, and the brand or product name is not otherwise false or misleading.

D. The word *protein* shall not be permitted in the product name of a feed that contains added nonprotein nitrogen.

E. When the name carries a percentage value, it shall be understood to signify protein and/or equivalent protein content only, even though it may not explicitly modify the percentage with the word protein: provided, that other percentage values may be permitted if they are followed by the proper description and conform to good labeling practice. Digital numbers shall not be used in such a manner as to be misleading or confusing to the customer.

F. Single ingredient feeds shall have a product name in accordance with the designated definition of feed ingredients as recognized by the Association of American Feed Control Officials unless the commission designates otherwise.

G. The word *vitamin*, or a contraction thereof, or any word suggesting vitamin can be used only in the name of a feed which is represented to be a vitamin supplement, and which is labeled with the minimum content of each vitamin declared, as specified in §107.C.

H. The term *mineralized* shall not be used in the name of a feed except for *trace mineralized salt*. When so used, the product must contain significant amounts of trace minerals which are recognized as essential for animal nutrition.

I. The term *meat* and *meat by-products* shall be qualified to designate the animal from which the meat and meat by-products is derived unless the meat and meat by-products are made from cattle, swine, sheep and goats.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1392, 1393, and 1394.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:221 (March 1985).

§107. Expression of Guarantees

A. The guarantees for crude protein, equivalent protein from nonprotein nitrogen, crude fat, crude fiber and mineral guarantees (when required) will be in terms of percentage.

B. Commercial feeds containing 6 1/2 percent or more calcium, phosphorus, sodium and chloride shall include in the guaranteed analysis the minimum and maximum percentages of calcium (Ca), the minimum percentage of phosphorus (P) and if salt is added, the minimum and maximum percentage of salt (NaCl). Except that all dairy rations sold in bulk shall be accompanied by a label stating the content of these minerals. Minerals, except salt (NaCl), shall be guaranteed in terms of percentage of the element. When calcium and/or salt guarantees are given in the guaranteed analysis such shall be stated and conform to the following.

1. When the minimum is 5 percent or less, the maximum shall not exceed the minimum by more than 1 percentage point.

2. When the minimum is above 5 percent, the maximum shall not exceed the minimum by more than 20 percent and in no case shall the maximum exceed the minimum by more than 5 percentage points.

C. Guarantees for minimum vitamin content of commercial feeds and feed supplements, when made, shall be stated on the label in milligrams per pound of feed except that:

1. vitamin A, other than precursors of Vitamin A, shall be stated in International or USP Units per pound;

2. vitamin D, in products offered for poultry feeding, shall be stated in International Chick Units per pound;

3. vitamin D for other uses shall be stated in International or USP Units per pound;

4. vitamin E shall be stated in International or USP Units per pound;

5. guarantees for vitamin content on the label of a commercial feed shall state the guarantee as true vitamins, not compounds, with the exception of the compounds, Pyridoxine Hydrochloride, Choline Chloride, Thiamine Hydrochloride and Mononitrate and d-Pantothenic Acid;

6. oils and premixes containing vitamin A or vitamin D or both may be labeled to show vitamin content in terms of units per gram.

D. Guarantees for drugs shall be stated in terms of percent by weight, except:

1. antibiotics present at less than 2,000 grams per ton (total, of commercial feed) shall be stated in grams per ton of commercial feed;

2. antibiotics present at 2,000 or more grams per ton (total, of commercial feed) shall be stated in grams per pound of commercial feed;

3. labels for commercial feeds containing growth promotion and/or feed efficiency levels of antibiotics, which are to be fed continuously as the sole ration, are not required to make quantitative guarantees except as specifically noted in the Federal Food Additive Regulations for certain antibiotics, wherein, quantitative guarantees are required regardless of the level or purpose of the antibiotic;

4. the term *milligrams per pound* may be used for drugs or antibiotics in those cases where a dosage is given in milligrams in the feeding directions.

E. Commercial feeds containing any added nonprotein nitrogen shall be labeled as follows.

1. For Ruminants

a. Complete feeds, supplements and concentrates containing added nonprotein nitrogen and containing more than 5 percent protein from natural sources shall be guaranteed as follows: Crude Protein, minimum, _____ percent. (This includes, not more than __ percent equivalent protein from nonprotein nitrogen.)

b. Mixed feed concentrates and supplements containing less than 5 percent protein from natural sources may be guaranteed as follows: Equivalent Crude Protein from Nonprotein Nitrogen, minimum, ____ percent.

c. Ingredient sources of nonprotein nitrogen such as urea, di-ammonium phosphate, ammonium polyphosphate solution, ammoniated rice hulls or other basic nonprotein nitrogen ingredients defined by the Association of American Feed Control Officials shall be guaranteed as follows: Nitrogen, minimum ____ percent: Equivalent Crude Protein from Nonprotein Nitrogen, minimum, ____ percent.

2. For Non-Ruminants

a. Complete feeds, supplements and concentrates containing crude protein from all forms of nonprotein nitrogen, added as such, shall be labeled as follows: Crude Protein, minimum _____ percent. (This includes not more _____ than percent equivalent crude protein which is not nutritionally available to species of animal for which feed is intended.)

b. Premixes, concentrates or supplements intended for non-ruminants containing more than 1.25 percent equivalent crude protein from all forms of nonprotein nitrogen, added as such, must contain adequate directions for use and a prominent statement:

> WARNING: This feed must be used only in accordance with directions furnished on the label.

F. Mineral phosphatic materials for feeding purposes shall be labeled with the guarantee for minimum and maximum percentage of calcium (when present), the minimum percentage of phosphorus, and the maximum percentage of fluorine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1392, 1393, and 1394.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:222 (March 1985).

§109. Ingredients

A. The name of each ingredient or collective term for the grouping of ingredients, when required to be listed, shall be the name as defined in the Official Definitions of Feed Ingredients as published in the *Official Publication of American Feed Control Officials*, the common or usual name, or one approved by the commission.

B. The name of each ingredient must be shown in letters or type of the same size.

C. No reference to quality or grade of an ingredient shall appear in the ingredient statement of a feed.

D. The term *dehydrated* may precede the name of any product that has been artificially dried.

E. A single ingredient product defined by the Association of American Feed Control Officials is not required to have an ingredient statement.

F. Tentative definitions for ingredients shall not be used until adopted as official, unless no official definition exists or the ingredient has a common accepted name that requires no definition, (i.e., sugar).

G. When the word *iodized* is used in connection with a feed ingredient, the feed ingredient shall contain not less than 0.007 percent iodine, uniformly distributed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1392, 1393, and 1394.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:222 (March 1985).

§111. Directions for Use and Precautionary Statements

A. Directions for use and precautionary statements on the labeling of all commercial feeds and customer-formula feeds containing additives (including drugs, special purpose additives or non-nutritive additives) shall:

1. be adequate to enable safe and effective use for the intended purposes by users with no special knowledge of the purpose and use of such articles; and

2. include, but not be limited to, all information described by all applicable regulations under the Federal Food, Drug and Cosmetic Act.

B. Adequate directions for use and precautionary statements are required for feeds containing nonprotein nitrogen as specified in §113.

C. Adequate directions for use and precautionary statements necessary for safe and effective use are required on commercial feeds distributed to supply particular dietary needs or for supplementing or fortifying the usual diet or ration with any vitamin, mineral or other dietary nutrient or compound.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1392, 1393, and 1394.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:223 (March 1985).

§113. Nonprotein Nitrogen

A. Urea and other nonprotein nitrogen products defined in the *Official Publication of the Association of American Feed Control Officials* are acceptable ingredients only in commercial feeds for ruminant animals as a source of equivalent crude protein. If the commercial feed contains more than 8.75 percent of equivalent crude protein from all forms of nonprotein nitrogen, added as such, or the equivalent crude protein from all forms of nonprotein nitrogen, added as such, exceeds one-third of the total crude protein, the label shall bear adequate directions for the safe use of feeds and a precautionary statement: *CAUTION: USE AS DIRECTED.* The directions for use and the caution statement shall be in type of such size, and so placed on the label that they will be read and understood by ordinary persons under customary conditions of purchase and use.

B. Nonprotein nitrogen defined in the *Official Publication of the Association of American Feed Control Officials*, when so indicated, are acceptable ingredients in commercial feeds distributed to non-ruminant animals as a source of nutrients other than equivalent crude protein. The maximum equivalent crude protein from nonprotein nitrogen sources when used in non-ruminant rations shall not exceed 1.25 percent of the total daily ration.

C. On labels such as those for medicated feeds which bear adequate feeding directions and/or warning statements, the presence of added nonprotein nitrogen shall not require a duplication of the feeding directions or the precautionary statements as long as those statements include sufficient information to ensure the safe and effective use of this product due to the presence of nonprotein nitrogen.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1392, 1393, and 1394..

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:223 (March 1985).

§115. Drug and Feed Additives

A. Prior to approval of a registration application and/or approval of a label for commercial feed which contains additives (including drugs, other special purpose additives, or non-nutritive additives), the distributor may be required to submit evidence to prove the safety and efficacy of the commercial feed when used according to the directions furnished on the label.

B. Satisfactory evidence of safety and efficacy of a commercial feed may be:

1. when the commercial feed contains such additives, the use of which conforms to the requirements of the applicable regulation in the *Code of Federal Regulations*, Title 21, or which are prior *sanctioned* or *informal review sanctioned* or *generally recognized as safe* for such use; or

2. when the commercial feed is itself a drug as defined in R.S. 3:1391(3) and is generally recognized as safe and effective for the labeled use or is marketed subject to an application approved by the Food and Drug Administration under Title 21 U.S.C. 360(b).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1394 and R.S. 3:1392.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:223 (March 1985), amended by the Department of Agriculture and Forestry, Feed, Fertilizer, and Agricultural Liming Commission, LR 38:2524 (October 2012).

§117. Adulterants

A. For the purpose of R.S. 3:1396(1), the terms poisonous or deleterious substances include but are not limited to the following:

1. fluorine and any mineral or mineral mixture which is to be used directly for the feeding of domestic animals and in which the fluorine exceeds 0.20 percent for breeding and dairy cattle; 0.30 percent for slaughter cattle; 0.30 percent for sheep; 0.35 percent for lambs; 0.45 percent for swine and 0.60 percent for poultry;

2. fluorine bearing ingredients when used in such amounts that they raise the fluorine content of the total ration (exclusive of roughage) above the following amounts: 0.004 percent for breeding and dairy cattle; 0.009 percent for slaughter cattle; 0.006 percent for sheep; 0.01 percent for lambs; 0.015 percent for swine and 0.03 percent for poultry;

3. fluorine bearing ingredients incorporated in any feed that is fed directly to cattle, sheep or goats consuming roughage (with or without) limited amounts of grain, that results in a daily fluorine intake in excess of 50 milligrams of fluorine per 100 pounds of body weight;

4. soybean meal, flakes or pellets or other vegetable meals, flakes or pellets, which have been extracted with trichlorethylene or other chlorinated solvents;

5. sulfur dioxide, sulfurous acid, and salts of sulfurous acid when used in or on feeds or feed ingredients which are considered or reported to be a significant source of vitamin B1 (Thiamine).

B. All screenings or by-products of grains and seeds containing weed seeds, when used in commercial feed or sold as such to the ultimate consumer, shall be ground fine enough or otherwise treated to destroy the viability of such weed seeds so that the finished product contains no more than four viable prohibited weed seeds per pound and not more than 200 viable restricted weed seeds per pound.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1392 and R.S. 3:1396.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:223 (March 1985), amended by the Department of Agriculture and Forestry, Feed, Fertilizer, and Agricultural Liming Commission, LR 38:2525 (October 2012).

§119. Good Manufacturing Practices

A. For the purposes of enforcement of R.S. 3:1396 (8), the commission adopts the following as current good manufacturing practices:

1. the regulations prescribing good manufacturing practices for medicated feeds as published in the *Code of Federal Regulations*, Title 21, Part 225, Sections 225.1-225.115;

2. the regulations prescribing good manufacturing practices for medicated premixes as published in the *Code of Federal Regulations*, Title 21, Part 226, Sections 226.1-226.115.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1392 and R.S. 3:1396.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:223 (March 1985), amended by the Department of Agriculture and Forestry, Feed, Fertilizer, and Agricultural Liming Commission, LR 38:2525 (October 2012).

§121. Fees

A. Each application for registration with the commission shall be accompanied by a registration fee of $40.

B. Each registrant filing a label with the commission shall pay to the commission a labeling fee of $10 per label for one to 50 products, $8 per label for 51 to 200 products, $6 per label for 201 or more products.

C. Registration shall expire on the last day of June of each year. An additional $50 late fee will be charged for renewal registrations filed after the last day of June. A late fee will not be charged on initial registrations or registrations of new products filed after the last day of June.

D. If a registrant had no sales in a given quarter, he must still file a tonnage report and pay a minimum tonnage fee of $10 for that quarter. A registrant shall keep all records necessary to accurately indicate the tonnage and kind of commercial feed sold and shall permit the commissioner or his authorized representative to examine these records and to verify the statement of tonnage. Tonnage reports shall be made on forms supplied by the commissioner and suitable for providing the necessary tonnage and statistical information. The tonnage reports and inspection fees shall be due and payable on the first day of October, the first day of January, the first day of April and the first day of July. If the report is not filed and payment made within 30 days after the date due, a penalty of 25 percent of the amount due shall be assessed against the registrant. If payment is not made within 30 days after the due date, the amount of fees due, plus the penalty, shall constitute a debt and become the basis of a judgment against the registrant. All information as to the amount of feed sold and business practices of the registrant obtained from tonnage reports or from inspection of records and books shall remain confidential and shall not be revealed by the commissioner or his employees to the public or to any other person.

E. The inspection fee shall be collected only once on each lot of ingredients. To achieve this end, the following provisions shall apply.

1. No fee shall be paid on a commercial feed if a previous manufacturer has paid the fee.

2. No fee shall be paid on customer-formula feeds if the inspection fee has been paid on the commercial feeds, which are used as ingredients therein.

3. No fee shall be paid on commercial feeds, which are used as ingredients for the manufacture of registered commercial feeds. If the fee has already been paid, credit shall be given for that payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1401 and 3:1392.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:223 (March 1985), amended LR 11:944 (October 1985), amended by the Department of Agriculture and Forestry, Office of the Commissioner, Feed Commission, LR 30:198 (February 2004).

§123. Protein Value

A. For the purpose of assessing penalties for protein deficiencies in feeds, as provided for in R.S. 3:1400(A)(1), the value of crude protein will be updated each quarter.

B. The value of crude protein will be calculated as follows.

1. The quarterly average price of four protein supplements shall be used. These are 44 percent soybean meal, 41 percent cottonseed meal, 50 percent meat and bone meal and 60 percent corn gluten meal. This average price will be determined using Memphis market quotations as published in Feedstuffs (Miller Publishing Company). The first week of each month of the preceding quarter will be used for calculation purposes. If there is no quotation for the Memphis market on an ingredient, the Kansas City price or a local source market shall be used. If a quotation is not available the first week, the quotation in a subsequent week shall be used.

C. Penalties shall be assessed as provided for in R.S. 3:1400. If an official sample shows that feed ingredients bought by a feed manufacturer is deficient, any penalties from this deficiency shall be paid by the supplier of the ingredients to the manufacturer that bought the ingredients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1391 and R.S. 3:1392.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:224 (March 1985), amended LR 11:944 (October 1985), amended by the Department of Agriculture and Forestry, Feed, Fertilizer, and Agricultural Liming Commission, LR 38:2525 (October 2012).

Subchapter B. Official Pet Food

§125. Definitions and Terms

Immediate Container—the unit, can, box, tin, bag or other receptacle or covering in which a pet food is displayed for sale to retail purchasers, but does not include containers used as shipping containers.

Ingredient Statements—a collective and contiguous listing on the label of the ingredients of which the pet food is composed.

Principal Display Panel—the part of a label that is most likely to be displayed, presented, shown or examined under normal and customary conditions of display for retail sale.

NOTE: The commission adopts all definitions of R.S. 3:1391 and those that appear in §101.F of the official feed rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1392.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:224 (March 1985).

§127. Label Format and Labeling

A. The statement of net content and product name must be shown on the principal display panel. All other required information may be placed elsewhere on the label but shall be sufficiently conspicuous as to render it easily read by the average purchaser under ordinary conditions of purchase and sale.

B. The declaration of the net content shall be made in conformity with the United States *Fair Packaging and Labeling Act* and the regulations promulgated thereunder.

C. The information which is required to appear in the *Guaranteed Analysis* shall be listed in the following order:

1. crude protein (minimum amount);
2. crude fat (minimum amount);
3. crude fiber (maximum amount);
4. moisture (maximum amount);
5. additional guarantees shall follow moisture.

D. The label of a pet food shall specify the name and address of the manufacturer, packer or distributor of the pet food. The statement of the place of business should include the street address, if any, of such place.

E. If a person manufactures, packages or distributes a pet food in a place other than his principal place of business, the label may state the principal place of business in lieu of the actual place where each package of such pet food was manufactured or packaged or is to be distributed, if such statement is not misleading in any particular.

F. A vignette, graphic or pictorial representation of a product on a pet food label shall not misrepresent the contents of the package.

G. The use of the word *proven* in connection with label claims for a pet food is improper unless scientific or other empirical evidence establishing the claim represented as *proven* is available.

H. No statement shall appear upon the label of a pet food which makes false or misleading comparisons between that pet food and any other pet food.

I. Personal or commercial endorsements are permitted on pet food labels where said endorsements are factual and not otherwise misleading.

J. When a pet food is enclosed in any outer container or wrapper which is intended for retail sale, all required label information must appear on such outside container or wrapper.

K. The words *dog food*, *cat food* or similar designations must appear conspicuously upon the principal display panels of the pet food labels.

L. The label of a pet food shall not contain an unqualified representation or claim, directly or indirectly, that the pet food therein contained or a recommended feeding thereof, is or meets the requisites of a complete, perfect, scientific or balanced ration for dogs or cats unless such product or feeding:

1. contains ingredients in quantities sufficient to provide the estimated nutrient requirements for all stages of the life of a dog or cat, as the case may be, which have been established by a recognized authority on animal nutrition, such as the Committee on Animal Nutrition of the National Research Council of the National Academy of Sciences (to the extent that the product's ingredients provide nutrients in amounts which substantially deviate from those nutrient requirements estimated by such a recognized authority on animal nutrition, or in the event that no estimation has been made by a recognized authority on animal nutrition of the requirements of animals for one or more stages of said animals' lives, the product's represented capabilities in this regard must have been demonstrated by adequate testing); or

2. contains a combination of ingredients which when fed to a normal animal as the only source of nourishment will provide satisfactorily for fertility of females, gestation and lactation, normal growth from weaning to maturity without supplementary feeding, will maintain the normal weight of an adult animal whether working or at rest and has had its capabilities in this regard demonstrated by adequate testing.

M. Labels for products which are compounded for or which are suitable for only a limited purpose (i. e., a product designed for the feeding of puppies) may contain representations that said pet food product or recommended feeding thereof, is or meets the requisites of a complete, perfect, scientific or balanced ration for dogs or cats only:

1. in conjunction with a statement of a limited purpose for which the product is intended or suitable (as, for example, in the statement a *complete food for puppies*). Such representations and such required qualification therefor shall be juxtaposed on the same panel and in the same size, style and color print; and

2. such qualified representations may appear on pet food labels only if:

a. the pet food contains ingredients in quantities sufficient to satisfy the estimated nutrient requirements established by a recognized authority on animal nutrition, such as the Committee on Animal Nutrition of the National Research Council of the National Academy of Sciences for such limited or qualified purpose; or

b. the pet food product contains a combination of ingredients which when fed for such limited purpose will satisfy the nutrient requirements for such limited purpose and has had its capabilities in this regard demonstrated by adequate testing.

N. Except as specified by §129.A, the name of any ingredient which appears on the label other than in the product name shall not be given undue emphasis so as to create the impression that such an ingredient is present in the product in a larger amount than is the fact, and if the names of more than one such ingredient are shown, they shall appear in the order of their respective predominance by weight in the product.

O. The label of a dog or cat food (other than one prominently identified as a snack or treat as part of the designation required upon the principal display panel under §127.K) shall bear, on either the principal display panel or the information panel (as those terms are defined in 21 C.F.R. 501.1 and 501.2 respectively), in type of a size reasonably related to the largest type on the panel, a statement of the nutritional adequacy or purpose of the product. Such statement shall consist of one of the following:

1. a claim that the pet food meets or exceeds the requirements of one or more of the recognized categories of nutritional adequacy, gestation, lactation, growth, maintenance and complete for all life stages, as those categories are set forth in §127.L and M;

2. a nutrition or dietary claim for purposes other than those listed in §127.L and M if the claim is scientifically substantiated;

3. the statement: *Use only as directed by your veterinarian*, if it is a dietary animal food product intended for use by, or under the supervision or direction of, a veterinarian;

4. the statement: *This product is intended for intermittent or supplemental feeding only*, if a product does not meet either the requirements of §127.L and M or any other special nutritional or dietary need and so is suitable only for limited or intermittent or supplementary feeding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1392, 1393, and 1394.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:224 (March 1985).

§129. Brand and Product Names

A. No flavor designation shall be used on a pet food label unless the designated flavor is detectable by a recognized test method or is one the presence of which provides a characteristic distinguishable by the pet. Any flavor designation on a pet food label must either conform to the name of its source as shown in the ingredient statement or the ingredient statement shall show the source of the flavor. The word flavor shall be printed in the same size type and with an equal degree of conspicuousness as the ingredient term(s) from which the flavor designation is derived.

1. Distributors of pet food employing such flavor designation or claims on the labels of the product distributed by them shall, upon request, supply verification of the designated or claimed flavor to the appropriate control official.

B. The designation *100 percent* or *all* or words of similar connotation shall not be used in the brand or product name of a pet food if it contains more than one ingredient. However, for the purpose of this provision, water sufficient for processing, required decharacterizing agents and trace amounts of preservatives and condiments shall not be considered ingredients.

C. The term *meat* and *meat by-products* shall be qualified to designate the animal from which the meat and meat by-products are derived unless the meat and meat by-products are from cattle, swine, sheep and goats. For example, *horse-meat* and *horse-meat by-products*.

D. The name of the pet food shall not be derived from one or more ingredients of a mixture of a pet food product unless all components or ingredients are included in the name except as specified by §129.A, E, or F; provided that the name of an ingredient or combination of ingredients may be used as a part of the product name if:

1. the ingredient or combination of ingredients is present in sufficient quantity to impart a distinctive characteristic to the product or is present in amounts which have a material bearing upon the price of the product or upon acceptance of the product by the purchaser thereof; or

2. it does not constitute a representation that the ingredient or combination of ingredients is present to the exclusion of other ingredients; or

3. it is not otherwise false or misleading.

E. When an ingredient or a combination of ingredients derived from animals, poultry or fish constitutes 95 percent or more of the total weight of all ingredients of a pet food mixture, the name or names of such ingredient(s) may form a part of the product name of the pet food; provided that where more than one ingredient is part of such product name, then all such ingredient names shall be in the same size, style and color print. For the purpose of this provision, water sufficient for processing shall be excluded when calculating the percentage of the named ingredient(s). However, such named ingredient(s) shall constitute at least 70 percent of the total product.

F. When an ingredient or a combination of ingredients derived from animals, poultry or fish constitutes at least 25 percent but less than 95 percent of the total weight of all ingredients of a pet food mixture, the name or names of such ingredient or ingredients may form a part of the product name of the pet food only if the product name also includes a primary descriptive term such as *meatballs* or *fish cakes* so that the product name describes the contents of the product in accordance with an established law, custom or usage or so that the product name is not misleading. All such ingredient names and the primary descriptive term shall be in the same size, style and color print. For the purpose of this provision, water sufficient for processing shall be excluded when calculating the percentage of the named ingredient(s). However, such named ingredient(s) shall constitute at least 10 percent of the total product.

G. Contractions or coined names referring to ingredients shall not be used in the brand name of a pet food unless it is in compliance with §129.A, D, E, or F.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1392, 1393, and 1394.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:225 (March 1985).

§131. Expression of Guarantees

A. The sliding scale method of expressing a guaranteed analysis (for example, *protein 15-18 percent*) is prohibited.

B. Pursuant to R.S. 3:1394(A)(3), the label of a pet food which is formulated as and represented to be a mineral additive supplement, shall include in the guaranteed analysis the maximum and minimum percentages of calcium, the minimum percentage of phosphorus and the maximum and minimum percentages of salt. The minimum content of all other essential nutrient elements recognized by NRC from sources declared in the ingredient statement shall be expressed as the element and in units of measurement established by a recognized authority of animal nutrition, such as the National Research Council.

C. Pursuant to R.S. 3:1394 (A)(3), the label of pet food which is formulated as and represented to be a vitamin supplement, shall include a guarantee of the minimum content of each vitamin declared in the ingredient statement. Such guarantees shall be stated in units of measurements established by a recognized authority on animal nutrition such as the National Research Council.

D. The vitamin potency of pet food products distributed in containers smaller than one pound may be guaranteed in approved units per ounce.

E. If the label of a pet food does not represent the pet food to be either a vitamin or a mineral supplement, but does include a table of comparison of a typical analysis of the vitamin, mineral or nutrient content of the pet food with levels recommended by recognized animal nutrition authority, such comparison may be stated in the units of measurement used by the recognized authority on animal nutrition such as the National Research Council. The statement in a table of comparison of the vitamin, mineral or nutrient content shall constitute a guarantee, but need not be repeated in the guaranteed analysis. Such table of comparison may appear on the label separate and apart from the guaranteed analysis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1392, R.S. 3:1393 and R.S. 3:1394.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:226 (March 1985), amended by the Department of Agriculture and Forestry, Feed, Fertilizer, and Agricultural Liming Commission, LR 38:2525 (October 2012).

§133. Ingredients

A. The maximum moisture in all pet foods shall be guaranteed and shall not exceed 78 percent or the natural moisture content of the constituent ingredients of the product, whichever is greater. Pet foods such as those consisting principally of stew, gravy, sauce, broth, juice or a milk replacer which are so labeled, may contain moisture in excess of 78 percent.

B. Each ingredient of the pet food shall be listed in the ingredient statement, and names of all ingredients in the ingredient statement must be shown in letters or type of the same size. The failure to list the ingredients of a pet food in descending order by their predominance by weight in nonquantitative terms may be misleading. Any ingredient for which the Association of American Feed Control Officials has established a name and definition shall be identified by the name so established. Any ingredient for which no name and definition has been so established shall be identified by the common or usual name of the ingredient. Brand or trade names shall not be used in the ingredient statement.

C. The term *dehydrated* may precede the name of any ingredient in the ingredient list that has been artificially dried.

D. No reference to quality or grade of an ingredient shall appear in the ingredient statement of a pet food.

E. A reference to the quality, nature, form or other attribute of an ingredient shall not be made unless such designation is accurate and unless the ingredient imparts a distinctive characteristic to the pet food because it possesses that attribute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1392, 1393, and 1394.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:226 (March 1985).

§135. Drugs and Pet Food Additives

A. An artificial color may be used in a pet food only if it has been shown to be harmless to pets. The permanent or provisional listing of an artificial color in the United States Food and Drug Regulations as safe for use, together with the conditions, limitations and tolerance, if any, incorporated therein, shall be deemed to be satisfactory evidence that the color is, when used pursuant to such regulations, harmless to pets.

B. Prior to approval of a registration application and/or approval of a label for pet food, which contains additives, (including drugs, other special purpose additives, or non-nutritive additives) the distributor may be required to submit evidence to prove the safety and efficacy of the pet food, when used according to directions furnished on the label. Satisfactory evidence of the safety and efficacy of a pet food may be:

1. when the pet food contains such additives, the use of which conforms to the requirements of the applicable regulation in the *Code of Federal Regulations*, Title 21, or which are *prior sanctioned* or *generally recognized as safe* for such use; or

2. when the pet food itself is a drug as defined in R.S. 3:1391(3) and is generally recognized as safe and effective for label use or is marketed subject to an application approved by the Food and Drug Administration under Title 21, U.S.C. 360(b).

C. The medicated labeling format recommended by Association of American Feed Control Officials shall be used to assure that adequate labeling is provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1392 and R.S. 3:1394.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:226 (March 1985), amended by the Department of Agriculture and Forestry, Feed, Fertilizer, and Agricultural Liming Commission, LR 38:2525 (October 2012).

§137. Fees

A. Fees for pet foods shall be the same as for other animal feeds as set forth in R.S. 3:1401 and §121 of the official feed rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1392 and R.S. 3:1401.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:226 (March 1985), amended by the Department of Agriculture and Forestry, Feed, Fertilizer, and Agricultural Liming Commission, LR 38:2525 (October 2012).

§139. Penalties

A. Penalties for pet food will be the same as penalties for other animal feeds as set forth in R.S. 3:1400 and §123 of the official feed rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1392 and R.S. 3:1400.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:226 (March 1985), amended by the Department of Agriculture and Forestry, Feed, Fertilizer, and Agricultural Liming Commission, LR 38:2525 (October 2012).

Subchapter C. Processed Animal Waste Products as Animal Feed Ingredients

§141. Definitions and Quality Standards

A. The commission adopts the definitions of R.S. 3:1381 and 1391 and those that appear in §101.F of the official feed rules and regulations.

B. The commission adopts the definitions and quality standards for recycled animal waste products as printed in Section 74 of the *Official Publication of the Association of American Feed Control Officials*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1392.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:226 (March 1985), amended by the Department of Agriculture and Forestry, Feed, Fertilizer, and Agricultural Liming Commission, LR 38:2525 (October 2012).

§143. Registration Required

A. No person shall sell, offer or expose for sale or distribute, in this state, any processed animal waste product intended, promoted, represented, advertised or distributed for use as a commercial feed unless he has registered with the commissioner, as specified in R.S. 3:1393.

B. Application for registration shall be made to the commission on forms provided by the commissioner and shall be accompanied by payment of the registration fees as set forth in §121 of the official feed rules and regulations adopted by the commission.

C. Applications for registration shall be accompanied by the following:

1. a copy of the label or tag which the applicant proposes to use for the processed animal waste product;

2. a detailed description of the facilities, equipment and method of manufacture to be used in processing, manufacturing and testing of the processed animal waste product;

3. a sampling schedule, a full description of all tests made and the results, thereby purporting to show the processed animal waste product meets the standards of the Louisiana Department of Agriculture and Forestry and the Office of the Louisiana State Livestock Sanitary Board and these rules and regulations for registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1392 and R.S. 3:1393.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:226 (March 1985), amended by the Department of Agriculture and Forestry, Feed, Fertilizer, and Agricultural Liming Commission, LR 38:2525 (October 2012).

§145. Registration Refused or Canceled

A. General registration of a processed animal waste product shall be refused if:

1. applicant or the processed animal waste product is determined to be in violation of any state or federal statute or state agency rule or regulation affecting or relating to the sale of commercial feeds;

2. the processed animals waste product contains any pathogenic organisms, drug residues, pesticide residues, harmful parasites or other toxic or deleterious substance above levels permitted by state regulations, Federal Food, Drug and Cosmetic Act, Section 406, 408, 409 and 706, or which could be harmful to animals, or which could result in residue in the tissue or by-products of animals above levels determined to be harmful;

3. the processed animal waste product does not meet the quality standards set forth in §143 of these regulations and in R.S. 3:1396;

4. the processed waste product is not labeled in compliance with law and agency rules and regulations, including §147 of these rules;

5. applicant or registrant fails to perform the testing as specified in §149 of these rules, or to accurately maintain and display to the commissioner or his designee, upon demand, the records required.

B. Registration may be refused pursuant to and in compliance with any statutory provisions authorizing the commissioner to refuse registration.

C. Registration may be canceled by the commission if the product or registrant is found to be in violation of any statutory provisions or provisions of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1392 and R.S. 3:1393.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:227 (March 1985), amended LR 11:944 (October 1985), amended by the Department of Agriculture and Forestry, Feed, Fertilizer, and Agricultural Liming Commission, LR 38:2526 (October 2012).

§147. Labeling Requirements

A. The label, tag or label invoice accompanying shipments of animal waste products shall contain all information as required by the official feed rules and regulations.

B. In addition, it shall include the following information, in the list of guarantees, in the following order, in percentages:

1. maximum moisture, following fiber guarantee;

2. maximum ash, following moisture guarantees.

C. Special labeling or warnings required, as appropriate:

1. if the product contains drug residues, then the label shall contain the following statement in boldface type:

WARNING: THIS PRODUCT CONTAINS DRUG RESIDUES. DO NOT USE WITHIN 15 DAYS OF SLAUGHTER AND DO NOT USE 15 DAYS PRIOR TO OR DURING THE FOOD PRODUCTION PERIOD OF DAIRY ANIMALS AND LAYING HENS.

2. if the product contains high levels (25 ppm or greater) of copper, a maximum guarantee of copper and the following statement is required:

WARNING: CONTAINS HIGH LEVELS OF COPPER: DO NOT FEED TO SHEEP.

3. if the product derives one-third or more of the guaranteed total crude protein from nonprotein nitrogen sources, the label shall provide adequate directions for safe use of the product and the precautionary statement:

CAUTION: USE ONLY AS DIRECTED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1392, 1393, and 1394.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:227 (March 1985).

§149. Testing Required

A. The purpose of the sampling and testing requirements of this Section shall be to determine the presence of harmful materials or biological contaminants and to assure compliance with the quality standards in §143 of these regulations and R.S. 3:1396.

B. Any person seeking or receiving registration of any processed animal waste product shall test, by representative sampling and assaying of such samples and keep accurate records thereof, the processed animal waste product for which the registration is sought or received. The sample shall be of sufficient size so as to provide meaningful data, statistically reliable in carrying out the purpose of such sampling and analysis. For example, 10 1-pound samples taken randomly from one day's production run or other identifiable lot, should be packaged in sealed air-tight bags for prompt shipment to the analytical laboratory.

C. The registrant, manufacturer or producer of any such processed animal waste product ingredient shall conform to the following sample and analyses requirements.

1. Analyses specified by the commissioner to meet the requirements of the quality standards of §143 and R.S. 3:1396 and these regulations shall be conducted on three sequential production runs to establish that the feed ingredient is consistently within the limitations specified prior to registration and/or sale of the processed animal waste product. In addition to quality standards, testing on the same production runs or lots should include potential hazardous substances such as the following:

a. drugs suspected or known to be used in the feed or as a therapeutic treatment of the animals;

b. pesticides used on the animal, facilities and waste for pest control;

c. pathogenic organisms at least to include *Salmonella* and *E. Coli*;

d. heavy metals: arsenic, cadmium, copper, lead, mercury and selenium, at least;

e. parasitic larva or ova;

f. mycotoxins, such as aflatoxins.

2. Following the initial sequential testing, periodic analyses shall be conducted on production runs no less than one each calendar quarter. Less frequent testing may be allowed where the analytical results show continued uniformity and a consistent margin of compliance. More frequent tests shall be required where the analytical results show a wide range, or show levels close to the established quality standards. Any processed animal waste product that does not meet quality standards for the product shall be further processed until standards are met, shall be diverted to non-feed uses, or destroyed.

3. Sequential testing shall again be required when the periodic analyses required by §149.C.2 of this Section or other information available to the manufacturer of the ingredient indicates that:

a. the ingredients are not within the limitations established in these regulations;

b. changes are made in the manufacturing process;

c. new or expanded sources of the raw ingredients are used;

d. changes occur in the drugs or pesticides used by the supplier(s) of the raw ingredient(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1392 and R.S. 3:1398.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:227 (March 1985), amended by the Department of Agriculture and Forestry, Feed, Fertilizer, and Agricultural Liming Commission, LR 38:2526 (October 2012).

§151. Records Required

A. Any person seeking or receiving registration of any processed animal waste product shall keep for a period of two years, accurate records of:

1. all sources of raw materials and date acquired, including information on drugs and pesticide usage;

2. all production output, including a code or other method to identify the date of production;

3. all sales and distribution, including the name and address of the purchaser or to whom distributed, date, quantity and production code;

4. sampling and assay records of the testing required by §149 of this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1401 and 139.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:227 (March 1985).

§153. Fees

A. Fees for processed animal waste products shall be the same as for other animal feeds as set forth in R.S. 3:1401 and §121 of the official feed rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1392 and R.S. 3:1401.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:227 (March 1985), amended by the Department of Agriculture and Forestry, Feed, Fertilizer, and Agricultural Liming Commission, LR 38:2526 (October 2012).

§155. Penalties

A. Penalties for processed animal waste products will be the same as penalties for other animal feeds as set forth in R.S. 3:1400 and §123 of the official feed rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1392 and R.S. 3:1400.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:228 (March 1985), amended by the Feed, Fertilizer, and Agricultural Liming Commission, LR 38:2526 (October 2012).

Subchapter D. Probation of Registrants

§157. Probationary Status of Registrants

A. A registrant shall be placed on probation by the commission when 25 percent of the official samples taken from a single registrant during one complete fiscal year are found to be deficient, provided that a minimum of six samples and at least 2 percent of the total tonnage sold for that fiscal year is sampled.

B. Notification shall be given, in writing, to any registrant placed on probation within 30 days of the date on which the commission took action to place the registrant on probation.

C. The commission may assess a civil penalty of not more than $1,000 for any violation other than those found in R.S. 3:1400(A). Each day on which a violation occurs shall be considered a separate offense.

D. The commission shall not waive any penalty imposed under the provisions of R.S. 3:1391 et seq.

E.1. A registrant who is placed on probation shall be subject to an increase of sampling up to 20 percent of the total tonnage of products offered for sale during the fiscal year of probation, or until probation is terminated by the commission.

2. In order to be removed from probation, a minimum of nine samples and 3 percent of the total tonnage sold must be taken and analyzed during the year of probation. The deficiency rate of samples taken must be less than 20 percent.

F. If a registrant continues to introduce products, of which the official samples' deficiency rate exceeds 20 percent, into the stream of commerce for one year, the registrant shall be summoned before the commission at its next meeting following the end of the year of probationary status to determine whether registration shall be canceled or renewal of registration shall be denied for cause.

G. The registrant shall be notified, in writing, by the commission when probationary status is terminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1392 and R.S. 3:1400.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:228 (March 1985), amended by the Department of Agriculture and Forestry, Feed Commission, LR 14:348 (June 1988), amended by the Feed, Fertilizer, and Agricultural Liming Commission, LR 38:2526 (October 2012).

§159. Cancellation of Registration and/or Denial of Application for Renewal of Registration

A. Subject to an adjudicatory hearing, the commission may cancel the registration of any registrant who fails to reduce the overall deficiency of his product to less than 20 percent by the end of the year of probation.

B. Upon proper hearing, the commission may cancel the registration and/or deny the registrant's application for renewal of registration when any registrant fails to comply with the requirements of R.S. 3:1391 et seq., and/or these regulations promulgated under the authority therein, unless the registrant can show just cause.

C. No registration will be canceled nor application for renewal of registration denied until the registrant has been afforded the right to an adjudicatory hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1392 and R.S. 3:1400.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:228 (March 1985), amended by the Department of Agriculture and Forestry, Feed, Fertilizer, and Agricultural Liming Commission, LR 38:2526 (October 2012).

§161. Appeals from Action of the Commission; Department of Agriculture and Forestry Appeals Concerning Method of Taking Samples

A. If the registrant, or his agent, objects to the manner in which an agricultural inspector takes a sample, the registrant or his agent shall make his objections known immediately to the inspector.

B. If the registrant, or his agent, and the agricultural inspector who is taking the sample cannot resolve their differences, the registrant shall immediately telephone his complaint to the director of Agricultural Chemistry Programs. The registrant or his agent shall confirm the telephone complaint in writing to the same official.

C. If the difference concerning the manner of taking the sample cannot thus be resolved, the registrant may place his complaint on the agenda at the next meeting of the commission. Routine procedures for submission and analysis of the sample shall be followed pending the resolution of the differences at such hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1392 and R.S. 3:1400.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:228 (March 1985), amended by the Department of Agriculture and Forestry, Feed, Fertilizer, and Agricultural Liming Commission, LR 38:2526 (October 2012).

§163. Appeals Concerning Results of Chemical Analysis

A. When a registrant, or his agent, disagrees with a finding of deficiency or a calculation of a penalty resulting from a finding of deficiency, he shall register his complaint, in writing, with the director of Agricultural Chemistry Programs within 10 days of the date of the report of chemical analysis.

B. When questions concerning the accuracy of the analysis made by the director of Agricultural Chemistry Programs cannot be amicably resolved, the registrant may place his complaint on the agenda at the next meeting of the commission for a final determination.

C. When a disagreement on a feed deficiency arises, the sample may be analyzed by an independent laboratory agreeable to the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1392 and R.S. 3:1400.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:228 (March 1985), amended by the Department of Agriculture and Forestry, Feed, Fertilizer, and Agricultural Liming Commission, LR 38:2527 (October 2012).

§165. Appeals Concerning Probationary Status

A. Any registrant who is placed on probationary status may appeal his probation at any time by submitting to the commission a written statement on the basis of his appeal and a written request for a hearing on the matter.

B. A request for a hearing on appeal from probationary status shall not be delayed but shall be placed on the agenda for the next meeting of the commission following receipt of the request for a hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1392 and R.S. 3:1400.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:228 (March 1985), amended by the Department of Agriculture and Forestry, Feed, Fertilizer, and Agricultural Liming Commission, LR 38:2527 (October 2012).

§167. Public Hearing on Cancellation of Registration/Denial of Application for Renewal of Registration

A. The commission shall not cancel a registrant nor deny a renewal of registration without an adjudicatory hearing.

B. When the commission determines that just cause may exist to cancel or deny renewal or registration, the commission shall give written notice to the registrant of intent to conduct adjudicatory hearing on the matter. The notice shall be given at least 15 days prior to the date on which the hearing shall be held and shall contain all of the facts required under R.S. 49:950 et seq. The notice shall be sent by certified mail, return receipt requested, to the registrant at the last address provided by the registrant.

C. An adjudicatory hearing on the cancellation of a registration and/or denial of renewal of registration shall be conducted in accordance with the requirements of R.S. 49:950 et seq., specifically the rules of evidence set forth in R.S. 49:956. The registrant shall have the right to counsel of his own choosing at any such public hearing.

D. If a controversy still exists at the conclusion of any such adjudicatory hearing called for cancellation of registration and/or denial of renewal of registration, the registrant may appeal the matter in accordance with the Administrative Procedure Act, provided that all such matters shall be lodged in the parish in which the commission is domiciled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1392, R.S. 3:1393 and R.S. 3:1400.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:228 (March 1985), amended by the Department of Agriculture and Forestry, Feed, Fertilizer, and Agricultural Liming Commission, LR 38:2527 (October 2012).

§169. Confidentiality of Records

A. Information concerning the amount of feed sold and the business practices of registrants which is obtained from tonnage reports shall be kept confidential and shall not be revealed to the public or to other registrants by the commission, the commissioner, nor any employee of the Department of Agriculture and Forestry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1392 and R.S. 3:1401.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:228 (March 1985), amended by the Department of Agriculture and Forestry, Feed, Fertilizer, and Agricultural Liming Commission, LR 38:2527 (October 2012).

Title 7
AGRICULTURE AND ANIMALS
Part XIX. Agriculture Liming Materials

Chapter 1. General Provisions

§101. Analysis and Deficiencies

A. Analysis of lime samples shall be conducted in accordance with methods published by the Association of Official Analytical Chemists or in accordance with other generally recognized methods.

B. Liming material that, upon official analysis, is found to be deficient by 5 percent or more shall be considered as having failed to meet the standard set forth in R.S. 3:1430.8.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1430.8(I).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Feed, Fertilizer, and Agricultural Liming Commission, LR 38:2527 (October 2012).

Title 7
AGRICULTURE AND ANIMALS
Part XXI. Diseases of Animals

Chapter 1. General Provisions

§101. Definitions

Accredited Herd—a herd which has passed at least two consecutive annual tuberculin tests and no other evidence of bovine tuberculosis has been disclosed.

Accredited Veterinarian—a veterinarian approved by the United States Department of Agriculture (USDA) to perform functions stated in part 161, Title 9, *Code of Federal Regulations* (CFR).

Annual Test—tests conducted at intervals of not less than 10 months nor more than 14 months.

APHIS—the Animal and Plant Health Inspection Service of the United States Department of Agriculture.

Approved Slaughter Establishment—any slaughter establishment that is under state or federal meat inspection.

Aquaculture—producing, raising, managing, harvesting, or marketing of aquatic livestock under controlled conditions.

Aquatic Livestock—finfish species and crawfish produced, raised, managed, or harvested within or from a constructed impoundment in compliance with rules and regulations adopted pursuant to this Part. "Aquatic livestock" shall not include those species of fish excluded from this Part by R.S. 3:559.14.

Auction Operator—a person responsible for the operation of a livestock auction market.

Auction Veterinarian—an accredited veterinarian employed at an auction market and authorized to carry out the provisions of the livestock auction market regulations.

Authorized Agent of the Livestock Sanitary Board—an employee of the Livestock Sanitary Board or the USDA.

Authorized Buyer—

1. an employee of a USDA approved slaughtering establishment who buys livestock that move from the auction market directly to the slaughtering establishment with no period of time spent in a holding area of any kind;

2. a buyer who has a permit issued by the Livestock Sanitary Board to operate a quarantine holding area for EIA positive and "S" branded horses; or

3. a permitted livestock dealer.

Board—the Livestock Sanitary Board.

Bovine Tuberculosis—a disease in cattle, bison, or dairy goats caused by *Mycobacterium bovis*.

Breeding Purpose—all cattle, purebred or grade, that are sold for stocker, feeding, grazing, dairy and/or reproductive purposes.

Breeding-Type Cattle—all cattle 20 months of age and over for dairy breeds and 24 months of age and over for beef breeds as evidenced by the presence of the first pair of permanent incisor teeth, including animals under these ages which are parturient or post-parturient, other than steers and spayed heifers offered for sale for any purpose other than immediate slaughter. This includes dairy, stocker, feeder-grazer and purebred animals.

Brucellosis—a disease of livestock capable of being transmitted to man and caused by Brucella organisms, commonly called "Bang's Disease" in cattle and "Undulant Fever" in man.

Brucellosis Exposed Herd—a herd of cattle that has intermingled with Brucellosis infected cattle or otherwise been exposed to *Brucellosis* infected animals which includes:

1. cattle whose premises are adjacent to that of known infected cattle even though a roadway, waterway, or any right of-way or servitude is between the premises and if deemed necessary by the state veterinarian and the designated epidemiologist, the premises are considered to be adjacent;

2. cattle herds where there is direct drainage from *Brucellosis* quarantined premises; or

3. cattle herds in common range with *Brucellosis* infected herds.

NOTE: All herds, other than dairies, negative to the *Brucellosis* ring test (BRT) and certified *Brucellosis* free herds, tested within the past 12 months, owned by an individual, partnership, corporation, or association, that are within 50 miles of an infected herd owned by such individual, partnership, corporation, or association.

Brucellosis Herd Test—a *Brucellosis* test of all cattle in a herd over six months of age, except:

1. steers;

2. spayed heifers;

3. dairy animals that are official *Brucellosis* calfhood vaccinates under 20 months of age, which are not parturient or preparturient (springers);

4. beef animals that are official *Brucellosis* calfhood vaccinates under 24 months of age which are not parturient or preparturient (springers).

Brucellosis Infected Herd—

1. a herd will be considered infected if an official *Brucellosis* blood test of the herd reveals one or more reactors;

2. a herd to which one or more *Brucellosis* reactors in a consignment, tested in the market cattle testing program, (tested on the physical premises of the auction market or slaughter establishment), has been traced. The herd shall be considered infected and under quarantine until the entire herd of origin has had two official negative blood tests, the second test being not less than 180 days from the date the last reactor was removed from the herd and the premises. The second test may be dispensed with upon concurrence by the state veterinarian, the designated epidemiologist and the state/federal area veterinarian, based on the history and epidemiology of the herd;

3. a dairy herd that has had a positive milk ring test. The herd shall be considered infected and handled as such until the entire herd has been officially blood tested. The status of the herd will then be determined by the results of the herd blood test.

Brucellosis Qualified Herd—a herd located in a *Brucellosis* quarantined area that has been tested and found negative to *Brucellosis* within the last 12 months.

Brucellosis Quarantined Area—an area or state that is under USDA *Brucellosis* quarantine.

Brucellosis Quarantined Herd—a *Brucellosis* infected herd that has not successfully completed the testing requirements for negative status; or an exposed herd that has been placed under quarantine to be tested until such time as it has been declared *Brucellosis* negative.

Brucellosis Reactor—any animal which is positive to one or more *Brucellosis* tests which indicate the animal is infected with *Brucellosis*.

Brucellosis Test Eligible—all cattle which are one year of age and older except:

1. steers;

2. spayed heifers;

3. dairy cattle that are official *Brucellosis* calfhood vaccinates less than 20 months of age which are not parturient or preparturient (springers);

4. beef cattle that are official *Brucellosis* calfhood vaccinates less than 24 months of age which are not parturient or preparturient (springers).

Bull—an uncastrated male of domestic cattle.

1. *Breeding Bull*—a bull less than 24 months of age in which there is no presence of both permanent central incisor teeth in wear if the bull has been commingled with breeding females; a bull less than 24 months of age in which there is the presence of both permanent central incisor teeth in wear; and a bull that is 24 months of age or older.

2. *Virgin Bull*—a bull less than 24 months of age in which both permanent central incisor teeth in wear are not present and that has never been commingled with breeding females.

Buyer—any individual, partnership, corporation or association which handles EIA positive and/or "S" branded horses.

Certificate of Approval—a certificate issued to a commercial poultry producer by the Livestock Sanitary Board approving a specific method of disposing of dead poultry to be used by the commercial poultry producer.

Certified Brucellosis Free Herd—a herd that meets the requirements as outlined in the federal uniform methods and rules (*Brucellosis* eradication).

Commercial Poultry Producer—any person, firm or corporation engaged in the production of broilers, pullets, turkeys, game birds, commercial eggs or hatching eggs for wholesale or retail purposes.

Commissioner—the commissioner of agriculture and forestry.

Complete Negative Brucellosis Herd Test—a negative *Brucellosis* test of all cattle, as defined in *Brucellosis herd test.* Such tests must be accompanied by a statement signed by the herd owner, or his representative, certifying that the provisions constituting a herd and *Brucellosis* herd test, as defined in §101, have been met prior to the sale of non-Brucellosis vaccinated female cattle from such herds other than to slaughter or to a quarantined feedlot.

Delinquent Herd—any infected herd not tested within a period of 120 days is considered delinquent.

Department—the Department of Agriculture and Forestry.

Depopulation—the removal of all animals in a herd, flock or group by extermination and proper disposal of the carcasses.

Destroyed—condemned under state or federal authority and destroyed by slaughter or by death.

Digester—a specially designed water tight system which is buried in the ground below the frost line and has the ability and strength to hold liquid, without leakage or seepage, and is used to dispose of dead poultry through use of bacteria.

Direct to Slaughter—the shipment of cattle from the premises of origin directly to a slaughter establishment without diversion to assembly points, such as auctions, public stockyards and feedlots.

Equipment—capable of delivering required temperature as a unit designed by Floyd Rush Corporation patent or comparable equipment.

Executive Secretary and/or *State Veterinarian*—an appointee representing the board to serve in said capacity.

Federal Inspector—an inspector or veterinary medical officer of the Animal and Plant Health Inspection Service, United States Department of Agriculture.

Flock Plan—a written agreement, between the owner of the flock and a veterinarian employed by the LDAF or USDA, APHIS, VS, approved by the State Veterinarian to control scrapie in sheep and goats.

Form VS 1-27—a form which must be secured from state or federal personnel before cattle may be moved from the premises. This document will be valid for 15 days from the date of issuance.

Garbage—all animal and vegetable waste resulting from the handling, preparation and cooking of food; unconsumed food in all public and private establishments and residences; and the offal and carcasses of dead animals and poultry.

Herd—such animals of the same species (such as cattle, swine, or bison), which have been on a farm or ranch for 120 days or longer. If a farm or ranch has animals of the same species, which have been on the farm or ranch less than 120 days, none of the animals of that species, can be considered a herd or part of a herd.

Herd Depopulation—the removal of all cattle in the herd direct to slaughter prior to any restocking of the premises with cattle.

Hog Cholera—the contagious, infectious, and communicable disease of swine.

Individually Identified—cattle identified with an official ear tag, as defined in the *Brucellosis* uniform methods and rules, individual animal registration tattoo, or individual animal registration brand.

Infectious or *Contagious Disease*—any disease capable of being transmitted from one animal to another, either directly or indirectly.

Livestock—cattle, sheep, swine, goats, horses, mules, burros, asses or other livestock of all ages.

Livestock Auction Market—a livestock auction in which sales are held at regular intervals. This does not apply to breeders' association sales, livestock show sales and livestock owners' sales, which are governed by other regulations.

Livestock Auction Market Permit—an official document issued by the board annually authorizing a person to operate a livestock auction.

Livestock Dealer—any person engaged in the buying and selling of livestock. Any person who buys and sells the same livestock within 30 days and has engaged in five or more purchases and/or sales of the same livestock within any 12-month period, is said to be engaged in the business of buying and selling livestock.

Mexican Cattle—cattle that were born in Mexico or have been in Mexico at some time in their lives.

Modified Accredited Area—a state or portion thereof which is actively participating in the eradication of tuberculosis and maintains its status.

Mortgage—any *mortgage*, lien or other security or beneficial interest held by any person other than the one claiming indemnity.

Moved—shipped, transported or otherwise *moved*, or delivered or received for movement, by any person, via land, water or air.

Negative Herd—

1. a herd not under quarantine in which, on the initial test, no reactors were revealed;

2. a commercial dairy herd that has passed four consecutive negative milk ring tests within the last 12 months, the tests being no less than two months or more than four months apart;

3. infected herds that have passed one completely negative test no less than 30 days following the date the last reactor was removed from the herd and the premises, and in addition, passed a second negative herd test no less than 90 days from the date of the first *negative herd* test;

4. a herd to which one *Brucellosis* reactor in a consignment tested in market cattle testing program (tested on the physical premises of the auction market or slaughter establishment) has been traced, and the herd of origin has been blood tested not less than 30 days from the date the reactor was detected and found negative;

5. an exposed herd which on initial test reveals no reactors and where there has been no direct contact (including across-fence contact) with the infected herd within 120 days. If contact has occurred within 120 days of the negative test (including across-fence contact) such herd must pass a second negative test no less than 90 days from the date of the first negative test.

No Gross Lesion (NGL) Animal—an animal in which a lesion(s) of tuberculosis is not found during slaughter inspection. (An animal with skin lesions only will be considered in the same category as an NGL.)

Official Brucellosis Vaccinates—calfhood or adult vaccinates as outlined in §319.E and F.

Official Calf Vaccinates—female cattle that have been vaccinated with *Brucella abortus* vaccine at the proper age, by an accredited veterinarian, and properly reported to the state or federal office.

Official Health Certificate—a legible record of an animal's health recorded on an official form. These certificates are valid for 30 days only.

Official Identification for Scrapie—an electronic identification, state or federally approved tamper-resistant ear tag, or a flank or ear tattoo, which has been recorded in a book of record of a sheep or goat registry or association. When an animal is identified by an ear or flank tattoo either a registration certificate or a certificate of veterinary

inspection shall accompany the animal. In the case of goats registered with the American Dairy Goat Association, the tattoo may be applied at the tail web.

Official Pseudorabies Serological Test—a test conducted at an approved laboratory and shall include the enzyme-linked immunosorbent assay (ELISA) test, the latex agglutination test (LAT), and the micro titration serum-virus neutralization test (SN).

Official Random Sample Test—a sample test of swine in a herd which provides a 95 percent probability of detecting infection in a herd. Each segregated group of swine on an individual premises is considered a separate herd and sampled as follows.

Less than 100 head	Test 25
100-200 head	Test 27
201-999 head	Test 28
1000- and over	Test 29

Official Test for Equine Infectious Anemia—any test approved by the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, for testing equidae for equine infectious anemia.

Official Tuberculin Test—a tuberculin test which has been applied by a veterinarian employed in a full-time capacity by the state, USDA (Animal and Plant Health Inspection Service), or by an accredited veterinarian. All tuberculin tests are official tests. A report of all tuberculin tests, including a record of all responses, shall be submitted in accordance with the requirements of the cooperating state and federal authorities. These officials reserve the right to supervise any tests conducted by an accredited veterinarian.

Passed Herd—a herd in which no animals were classified as reactors or suspects on the herd test.

Permit—a license issued annually by the Livestock Sanitary Board.

Person—any natural person and/or persons, partnership, corporation, unincorporated association and/or any legal entity whatsoever.

Poultry—chickens, ducks, turkeys, pigeons, guinea fowl, geese, peafowl and pheasants and other domestic feathered life, including hatched eggs.

Quarantined Feedlot—a confined area under the direct supervision and control of the state livestock official who shall establish procedures for accounting of all animals entering or leaving such *quarantined feedlot*. The quarantined feedlot shall be maintained for finish feeding of animals in dry lot with no provision for pasturing and grazing. All animals leaving such feedlot must move only to slaughter in accordance with established procedures for handling quarantined animals.

Quarantined Holding Area—an area where EIA positive and/or "S" branded horses are kept and where such horses are separated by at least 440 yards from all other horses.

Recognized Slaughter Establishment—a slaughter establishment maintaining state or federal meat inspection.

Rendering Plant—any establishment equipped to render by heat, steam or dry method any animal or fowl dead from any cause. This shall also include rendering offal from slaughtering establishments or butcher shops.

Scrapie Affected Animal—any animal that tests positive for scrapie on an APHIS-approved live animal screening test is considered an affected animal.

Screwworms—the communicable disease (myiasis) of livestock caused by the presence of the screwworms (*Cochliomyio hominivorax*).

Slaughter Permit—an official document issued by an authorized agent of the department, a representative of APHIS veterinary services, or an accredited veterinarian that is required to accompany any animal that is a reactor, or suspect or exposed to a disease, and the animal is required to be taken to slaughter. The *slaughter permit* shall list the tag number of all reactors, the official ear tag number of all suspect or exposed animals, the owner's name and address, the origin and destination locations, number of animals covered, and the purpose of the movement. If a change in destination becomes necessary, a new permit shall be issued by authorized personnel. No diversion from the destination on the permit is allowed.

Source Flock—a flock in which one animal diagnosed as scrapie positive at the age of 72 months or less was born.

State Inspector—an inspector regularly employed by the Livestock Sanitary Board and authorized to perform the function involved in connection with the inspections and certification of animals.

State Veterinarian—the executive secretary of the Livestock Sanitary Board.

State-Federal Quarantined Feedlot—a feedlot that has obtained a permit from the Livestock Sanitary Board to operate as outlined in §325.

Sterilized and Dehydrated Foods—waste food which has been subjected to sufficient dry heat, 325°F minimum, for the purpose of extraction of fluids, 12 percent moisture or below permissible, and for the destruction of any organism from such matter.

Surveillance—all measures used to detect the presence of tuberculosis in the cattle population.

Trichomoniasis—a venereal disease of cattle caused by *Tritrichomonas foetus*, a protozoal parasite

Tuberculosis Exposed Herd—a herd of cattle that are intermingled with tuberculosis infected cattle or otherwise been exposed to tuberculosis infected animals which include:

1. cattle separated from known infected cattle by a single fence;

2. cattle herds on common range with tuberculosis infected herds; and

3. all herds owned by an individual, partnership, corporation or association that are within 50 miles of an infected herd owned by such individual, partnership, corporation or association.

Tuberculosis Infected Herds—a herd in which one or more *Mycobacterium bovis* infected animals are found. Cattle will be considered infected with *Mycobacterium bovis* when compatible pathologic lesions are found and confirmed to be infected with *Mycobacterium bovis* organisms by bacteriological culturing at the National Animal Disease Laboratory.

Tuberculosis Quarantined Herd—a tuberculosis infected herd that has not successfully completed the testing requirements for negative status; or a tuberculosis exposed herd that has been placed under quarantine to be tested until such time as it has been declared tuberculosis negative.

U.S. Pullorum-Typhoid Clean Flock—a flock in which freedom from pullorum and typhoid has been demonstrated by one of the following;

1. all breeding age birds have been blood tested negative within the past 12 months;

2. it is a flock composed entirely of birds that originated from *U.S. pullorum-typhoid clean breeding flocks*;

3. 25 percent of the birds have been tested negative within the past 12 months, provided the percentage of birds tested may be reduced 5 percentage points following each year there is no evidence of infection and provided that testing shall include at least 500 birds the first year, 400 birds the second year, 300 birds the third year, 200 birds the fourth year, and 100 birds the fifth year.

Valid 30-Day Negative Brucellosis Test—an official *Brucellosis* negative card test.

Valid 30-Day Negative Brucellosis Test Certificate—a certificate on which the official test has been recorded. This may be an official health certificate completed by an accredited veterinarian; the official *Brucellosis* test charts from the state-federal laboratory; an individual *Brucellosis* test certificate issued at the auction market; or a special certificate issued by the state-federal laboratory at the request of the owner.

Veterinary Medical Officer and/or *Supervisory Veterinary Medical Officer* (also referred to as *area veterinarian*)—a veterinarian employed by the Livestock Sanitary Board or the United States Department of Agriculture, Animal and Plant Health Inspection Service.

Veterinary Services—the Animal and Plant Health Inspection Service, United States Department of Agriculture.

Waste Food Processor—any person, partnership, firm, corporation, institution or entity processing waste food for livestock feed. This includes all state and private institutions and commercial establishments manufacturing waste foods into livestock feed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:230 (March 1985), amended LR 11:615 (June 1985), LR 12:289 (May 1986), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 12:498 (August 1986), LR 14:217 (April 1988), LR 15:811 (October 1989), LR 16:391 (May 1990), LR 17:29 (January 1991), LR 18:840 (August 1992), LR 23:949 (August 1997), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1677 (September 1998), LR 28:1170 (June 2002), amended by the Department of Agriculture and Forestry, Board of Animal Health, LR 34:2336 (November 2008), LR 35:1465 (August 2009), amended by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 39:3246 (December 2013).

§103. Official Permanent Animal Identification

A. Official, permanent animal identification consists of any Department of Agriculture and Forestry or United States Department of Agriculture, Veterinary Services approved identification ear tag that conforms to the nine-character or seven-character alphanumeric National Uniform Ear Tagging System. This includes, but is not limited to, the official metal identification ear tag, the special orange-colored metal ear tag used to identify Brucellosis calfhood vaccinates, and the special plastic bangle ear tag used to identify Brucellosis adult vaccinates.

B. It shall be a violation of this regulation for anyone to remove official, permanent animal identification from any animal and it will be a separate violation for each animal that has had its official, permanent animal identification removed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 15:812 (October 1989).

§105. Administration of the Affairs of the Board

A. The members of the board shall elect a chairman, vice-chairman and a secretary-treasurer from the membership of the board, who shall serve for terms of one year, but may be elected for an indefinite number of terms. After the initial election the officers shall be elected at the board's regular meeting during the first quarter of each year. In the absence of the chairman at any meeting of the board, the vice-chairman shall preside.

B. The board shall meet quarterly and may meet on the call of the chairman or upon the request of any three members. The board shall not meet more than 12 times in any calendar year.

C. Meetings of the board shall normally be held in its domicile, but may be held at other locations upon the determination of the chairman or the will of the commission.

D. For the transaction of business, the quorum of the board shall be seven members.

E. An affirmative vote of a minimum of seven members shall be required for the adoption of any motion.

F. Members of the board may designate representatives to attend meetings of the board. Members who appoint representatives shall provide notice to the board of such action. Representatives shall present written authorization, signed by a member, to the board prior to attending a meeting. Representatives shall not have voting rights.

G. Rules and regulations of the board, and amendments thereto, shall be noticed, adopted, and promulgated as required by the Louisiana Administrative Procedure Act.

H. The chairman shall designate a hearing officer, who may or may not be a member of the board, to preside at all adjudicatory proceedings of the board. The chairman may, if he so desires, serve as hearing officer at any adjudicatory proceedings.

I. The board shall serve as the hearing body in all adjudicatory proceedings and shall make the final determination with regard to the disposition of all matters coming to adjudication.

J. No member of the board shall participate in any discussion or vote concerning any matter before the board in which such member has a personal or commercial interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2091 and R.S. 3:2093.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:615 (June 1985).

§107. General Health Requirements Governing Admission of Livestock and Poultry

A. All livestock brought into the state shall be accompanied by an official health certificate stating that the animals are healthy, free from signs of infectious or contagious diseases and signs of internal and/or external parasites, and meet the specific requirements stated in this regulation. Health certificates are valid for 30 days only. Livestock consigned to an approved slaughter establishment or an approved livestock auction market are exempt from this requirement. No livestock affected with, or carrying the contagion of, screwworms shall be moved into Louisiana for any purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:232 (March 1985) amended LR 11:615 (June 1985).

§109. Admittance of Livestock to Fairs, Livestock Shows, Breeders' Association Sales, Rodeos and Racetracks

A. All interstate movements of livestock consigned to Louisiana fairs, livestock shows, breeders' association sales, rodeos and racetracks must meet federal interstate requirements and the requirements of §107.

B. All livestock to be admitted to fair grounds, livestock show grounds, breeders' association sale grounds, rodeos or racetracks must be accompanied by an official health certificate, issued by an accredited veterinarian, asserting that the animals are showing no evidence of infectious, contagious or parasitic disease and are apparently healthy and have met all the specific requirements of this regulation. However, horses not congregated overnight are exempt from being accompanied by a health certificate, but must meet the requirements as stipulated in equine requirements §503).

C. Upon inspection, all livestock revealing symptoms of infectious, contagious or parasitic diseases, including external parasites such as mange mites, lice, etc., shall (at the discretion of the board's representative) be either separated and held in isolation or removed from the fair ground, livestock show grounds, breeders' association sale grounds, rodeos or racetracks and returned to the owner's premises under quarantine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:233 (March 1985) amended LR 11:615 (June 1985).

§111. Livestock Auction Market Requirements

A. No person shall operate a livestock auction without first obtaining a livestock auction market permit from the board. Any person operating a livestock auction market without a valid livestock auction permit will be in violation of this regulation and subject to prosecution.

B. Conditions for Issuing a Livestock Auction Market Permit

1. That proper bond has been posted with the board as required by R.S. 3:565, or it is properly bonded under the U.S. Packers and Stockyards Act.

2. The livestock auction market must provide the following:

a. adequate and sanitary housing for use of state-federal personnel to conduct tests, including the rivanol test for Brucellosis. This will include running water, adequate lighting, sanitary plumbing facilities, heating and cooling when necessary and refrigeration for biologics if the quantity to be kept on hand will warrant it. Otherwise, state or federal personnel will furnish his own portable refrigeration;

b. separate pens for holding Brucellosis reactors;

c. adequate facilities and personnel to separate and restrain livestock to enable the auction veterinarian and/or representatives of the Livestock Sanitary Board to carry out the requirements of this regulation.

3. The auction operator agrees to operate the sale in conformity with the requirements of this regulation.

4. The day of the week approved by the board for the conduct of the sale must be established prior to the issuance of the charter.

a. In the application for charter, the applicant shall specify the day(s) of the week on which he desires to conduct sales.

b. No requested sales day shall be approved for any applicant if any established, chartered auction market(s)

located within a 50-mile radius of the applicant has received prior board approval for the conduct of a sale on the same day of the week, provided that the board may approve more than one sale on the same day of the week within 50 miles of each other if the board finds that the types of livestock being sold at each sale are substantially different and neither sale would adversely affect the other.

c. Whenever any established, previously chartered auction market desires to change the day of the week approved by the board for the conduct of his sale, the operator shall submit a request for a change of approved sales days at least 15 days prior to the desired change, which request shall include, but not be limited to, the following information:

i. day of the week previously approved for the sale;

ii. day of the week for which approval is sought; and

iii. statement identifying reasons for the requested change, specific benefits which are expected to accrue to producers and buyers, and proposed allocation of board personnel to handle the change of sales day. If the established market desires to change the approved sales day to the same day previously approved for another established auction market within a 50-mile radius, the operator shall submit the same statement as required by §111.B.4.b.

d. In any case where two or more chartered markets located within a 50-mile radius desire to conduct sales on the same day of the week, and the statement required under §111.B.4.b is not filed by all such chartered operators, the board shall establish the day of the week on which each operator shall conduct his sale.

C. Duration of Livestock Auction Market Permit. A livestock auction market permit shall be renewable on January 1 of each year, provided proper and adjusted bonds are kept in full force and effect and the livestock auction market is being operated in full compliance with the provisions of §115, as determined by the board.

D. Cancellation of Livestock Auction Market Permit. A livestock auction market permit may be canceled upon notice from the board if the operation does not meet the requirements of §115.

E. Duties of an Auction Veterinarian and/or State-Federal Personnel

1. To represent the board in the enforcement of §115.

2. To observe all livestock being offered for sale and to detect any showing or visible symptoms of disease so that these animals may be observed by a veterinarian and could be rejected and returned to the owner's premises.

3. To draw blood samples on all cattle for testing by state-federal personnel for Brucellosis as provided for in this regulation.

4. To vaccinate all livestock as provided for in this regulation.

5. To examine certificates covering livestock to be sold or exchanged through the livestock auctions when such certificates are required.

6. To make such reports as may be required by the state veterinarian to the board.

7. It will be the responsibility of the auction market to employ an accredited veterinarian to issue health certificates as required.

8. The auction veterinarian and/or state-federal personnel may determine the age of cattle tested for Brucellosis and sold through livestock auctions and auction market personnel will indicate by paint mark on the hip, as follows:

a. 1 through 5;

b. F (Full Mouth) or FM;

c. S (Smooth Mouth);

d. O (Broken Mouth).

F. Sanitary Requirements

1. After the occurrence of an infectious or contagious disease in a livestock auction market, it must be cleaned and disinfected in an approved manner with a disinfectant before livestock will be permitted to enter the establishment for any purpose.

2. Representatives of the board shall have full authority to require auction operators to make specific changes to improve sanitation.

3. Floors of all swine pens and runs must be of concrete and properly drained and must be thoroughly cleaned and disinfected with an approved disinfectant after each sale.

G. General Livestock Health Requirements

1. All livestock auction markets shall be prohibited from selling or offering for sale any animal that manifests symptoms of illness unless such animal is to be sold for immediate slaughter. These diseased and exposed animals, except Brucellosis reactors which are specifically governed by §111.G.2, shall be immediately isolated, and identified and returned, under quarantine, directly to the premises of the original owner at the owner's expense; consigned directly to a recognized slaughter establishment maintaining meat inspection; or consigned directly to a rendering plant.

2. All brucellosis reactor cattle shall be branded with the letter B on the left jaw and all brucellosis exposed cattle shall be identified with a 3 inch hot brand on the tail head with the letter S. All reactor and exposed cattle shall be separated from other cattle, placed in separate quarantine pens or stalls identified by quarantine sign. Reactor cattle shall be sold to an approved slaughter establishment for immediate slaughter only. Exposed cattle may be sold to state-federal approved quarantined feedlots or to an approved slaughter establishment for immediate slaughter.

3. The Livestock Sanitary Board, U.S. Department of Agriculture, auction operator and auction veterinarian are not responsible for losses or injury incurred by livestock while carrying out the requirements of this regulation at livestock auction markets.

4. Livestock purchased for immediate slaughter only, and thereby exempted from one or more health requirements of this regulation cannot be diverted for any other purpose. Any person who violates this provision is subject to prosecution.

5. Auction operators will be in violation of the board's regulations if livestock that is to be sold for immediate slaughter is sold to anyone other than authorized buyers.

H. Livestock auction markets must maintain complete records of all transactions for a period of 12 months. The records must be kept in such a manner that all livestock can be traced from the seller to the purchaser, and include the name and complete address of the seller and purchaser. The records must also include the weight, backtag number, and price of the livestock. These records shall be made available to representatives of the Livestock Sanitary Board upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:662, R.S. 3:665, R.S. 3:2221, and R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:233 (March 1985), amended LR 11:615 (June 1985), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 17:30 (January 1991), LR 31:419 (February 2005), amended by the Department of Agriculture and Forestry, Board of Animal Health, LR 34:2336 (November 2008).

§113. Livestock Video Auction Market Requirements

A. No person, partnership, corporation, or other legal entity, shall operate a market agency (livestock video auction) in Louisiana, without first obtaining a permit from the Livestock Sanitary Board. Any legal entity selling Louisiana livestock on a livestock video auction, without a valid livestock video auction permit, will be in violation of this regulation and subject to adjudication by the Livestock Sanitary Board.

B. Any applicant applying for a permit to conduct video sales of Louisiana livestock must submit an application to the Livestock Sanitary Board which must include the following information:

1. the name and complete address of the applicant;

2. a financial statement of assets and liabilities;

3. proof that the registration requirements of the Packers and Stockyards Administration, United States Department of Agriculture, have been met;

4. a statement, in writing, assuring the Livestock Sanitary Board that the livestock video auction will be operated in compliance with the Livestock Sanitary Board's laws, rules and regulations;

5. a statement, in writing, telling how the Louisiana livestock industry will benefit from the proposed sale of livestock by the applicant;

6. an application fee of $250, which will be retained by the Department of Agriculture and Forestry, whether or not the permit is granted;

7. the livestock video auction applicant must agree to establish a custodial account for seller's proceeds, which must meet the following requirements:

a. Accounts. Each market agency shall establish and maintain a separate bank account designated as "Custodial Account for Shipper's Proceeds," or by some similar identifying designation, under terms and conditions with the bank where established, to disclose that the depositor is acting as a fiduciary with respect thereto and that the funds in the account are trust funds;

b. Trust Funds. Each payment made by a livestock buyer to a market agency, is a trust fund until the market agency's custodial account has been paid in full in connection with such purchase. Funds deposited in a custodial account are also trust funds, under both the gross proceeds and net proceeds methods of maintaining the custodial account. The market agency is a fiduciary with respect to the custodial account;

c. Deposits

i. Gross Proceeds Method. Under the gross proceeds method, before the close of the next banking day, after livestock is sold, the market agency shall deposit in its custodial account, the proceeds from sale of livestock that are collected and received on the day of sale, and an amount equal to the proceeds receivable from the sale of livestock that are due from:

(a). the market agency;

(b). any owner, officer, or employee of the market agency; or

(c). any buyer to whom the market agency has extended credit;

NOTE: On or before the seventh day following the sale of livestock, the market agency shall deposit in the custodial account, an amount equal to all the proceeds receivable from the sale of livestock, whether or not such proceeds have been collected or received by the market agency.

ii. Net Proceeds Method. In lieu of the gross proceeds method, any market agency may adopt, and thereafter continuously follow, a net proceeds method for making deposits in its custodial account. Under the net proceeds method, the market agency shall make the same deposits, at the same time as required under the gross proceeds method, but shall retain and not deposit the marketing charges, which are due the market agency;

d. Withdrawals. The custodial account shall be drawn on only for payment of the net proceeds to the consignor or shipper, or such other person or persons who the market agency has knowledge is entitled thereto, to pay all legal charges against the consignment of livestock which the market agency may, in its capacity as agent, be required to pay for, and on behalf of the consignor or shipper, and when the account is not kept on a net proceeds basis, to

obtain therefrom, the sums due the market agency as compensation for its services;

e. Accounts and Records. Every market agency shall keep such accounts and records as will, at all times, disclose the handling of the funds in the custodial account referred to in this Section, including without limitations, such accounts and records as will, at all times, disclose the names' of the consignors and the amount due and payable to each, from funds in the Custodial Account for Shipper's Proceeds. These records shall be made available to the Livestock Sanitary Board under such rules and regulations as the board may provide;

f. Insured Banks. Custodial accounts required by this Section, shall be established and maintained in banks whose deposits are insured by the Federal Deposit Insurance Corporation;

g. Certificates of Deposit. Any market agency which has established and maintains the separate custodial account referred to in this Section, may invest in certificates of deposits issued by the bank in which such an account is kept, such portion of the custodial funds as will not impair the market agency's ability to meet its obligations to its consignors. Such certificates of deposit shall be made payable to the market agency in its fiduciary capacity as trustee of the custodial funds;

h. custodial accounts required by the Livestock Sanitary Board will be subject to periodic audits by representatives of the Livestock Sanitary Board.

C. The Livestock Sanitary Board, at a public hearing, is to consider the following factors when considering whether a permit should or should not be granted to an applicant wishing to receive a permit to sell Louisiana livestock on livestock video auctions:

1. the financial stability, business integrity and fiduciary responsibility of the applicant;

2. the present market services available in the state;

3. whether the proposed livestock video market would be permanent and continuous;

4. the benefits to be derived by the livestock Industry from the establishment and operation of the proposed livestock video auction;

5. the economic feasibility of the proposed livestock video auction.

D. Livestock video auction companies must maintain complete records of all transactions for a period of 12 months. The records must he kept in such a manner that all livestock can be traced from the seller to the purchaser and include the name and complete address of the seller and purchaser. The record must also include the weight, number, and price of the livestock. These records shall be made available at the request of representatives of the Livestock Sanitary Board, any time during normal working hours.

E. All sales of cattle by livestock video auctions must meet the requirements of §309.

F. The livestock video auction company must notify the Louisiana Livestock Brand Commission of all delivery dates, as soon as the dates are established.

G. The Livestock Sanitary Board may cancel the permit of a livestock video auction after an adjudicatory hearing, for any one or more of the following reasons:

1. fraudulently misrepresenting the ownership, brands, or weights of livestock, the charges at a sale, the proceeds of a sale, or any other information with respect to a sale;

2. the applicant is unable to meet the registration requirements of the Packers and Stockyards Administration;

3. the applicant has violated the provisions with respect to the custodial account;

4. the applicant has violated any state or federal law or regulation governing livestock video auctions;

5. the applicant has not conducted any sales for a period of one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 3:2221, and R.S. 3:2228.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 15:813 (October 1989).

§115. Livestock Dealer General Requirements

A. Louisiana livestock dealers may become permitted, provided the following requirements are met:

1. the facilities are adequate and maintained in a satisfactory condition;

2. the dealer agrees to clean and disinfect the facilities at least once each month with an approved disinfectant;

3. records of all sales and purchases must be maintained for at least 12 months. The records shall contain the complete name and address of the seller, the permanent identification number of any Brucellosis test eligible animals, the weight and price of the animals, and the complete name and address of the purchaser. These records shall be made available to representatives of the Livestock Sanitary Board upon request. Livestock dealers who are not permitted will be governed by §311 for cattle.

B. Livestock dealers shall furnish the purchaser with the appropriate documents (health certificate, herd test, negative 30-day test record, negative Equine Infectious Anemia test), which indicate the animals meet the specific requirements stated in the regulations of the Livestock Sanitary Board.

C. All livestock moving into the state of Louisiana must meet federal interstate requirements, the requirements of §107, governing the admission of livestock into the state; and the requirements of the state of destination.

D. Failure of a permitted livestock dealer to meet the requirements of this and other regulations of the board, will result in the revoking of his permit and he will be subject to prosecution, as provided in R.S. 3:2096.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:562, R.S. 3:563 and R.S. 3:564.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:234 (March 1985), amended LR 11:615 (June 1985), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 14:219 (April 1988), LR 17:30 (January 1991), LR 17:873 (September 1991).

§117. Disposal of Garbage

A. It is unlawful for any person, firm, corporation or partnership, or agent or employee thereof, to feed or allow to be fed garbage to swine.

B. All public and private establishments from which garbage is produced shall be required to furnish the board with information as to the manner by which garbage is disposed of, and must furnish names and addresses of those persons, firms and corporations collecting and/or disposing of the garbage.

C. All garbage disposal operations must be operated in a sanitary manner and in a way that will not place animal or human health in jeopardy, nor shall it create a public nuisance. Such operations must be in full compliance with other regulations of the board and State Department of Health requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:234 (March 1985), amended LR 11:615 (June 1985).

§119. Rendering Plant

A. Permit

1. No person shall operate a rendering plant without first obtaining a permit to operate from the board.

2. Upon receipt of application for permit, the board shall make a thorough inspection of the rendering plant, its equipment and general sanitation. If found satisfactory, the board shall issue to the applicant a permit to operate.

3. The permit shall be issued to the person responsible for the operation of the rendering plant and shall not be transferable.

4. The management shall furnish, upon request, to the board an up-to-date list of establishments from which dead animals or animal by-products are regularly collected.

B. Vehicles and Containers

1. Vehicles and containers used in the transportation of dead animals or offal used in a rendering plant shall meet the following requirements.

a. The body of the vehicle used to transport carcasses must be constructed of, or lined with, metal in such a way it is water-tight, and no leakage or drainage may escape from the vehicle.

b. The body of the vehicle shall have sides constructed of, or lined with, metal and shall not be less than 24 inches high to prevent the escape of any material.

2. Any vehicle used for hauling dead animals or offal shall be provided with a tarpaulin or other covering or be so constructed so as to shut off from view all such dead animals or offal, and said conveyance shall not stop by the way unless detained by unavoidable circumstances.

3. All vehicles and containers shall be thoroughly cleaned and disinfected after each trip with a disinfectant approved by the board or by live steam.

C. General Sanitation. General sanitation in the operation of a rendering plant shall meet the following requirements.

1. Incoming dead animals, offal and all other rendering material shall be processed immediately.

2. The finished products shall be handled and stored in such a manner as to avoid contamination.

3. Disposal of waste materials shall be done in a satisfactory manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093 and R.S. 3:2131.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:234 (March 1985), amended LR 11:615 (June 1985), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 23:196 (February 1997).

§121. Requiring the Reporting of Contagious Diseases

A. All veterinarians practicing veterinary medicine in this state shall report any of the diseases listed in this Section to the state veterinarian within 24 hours after making a diagnosis or tentative diagnosis of any such disease. The report may be made by telephone, fax, or electronic mail. The reportable diseases are: classical swine fever (hog cholera), anthrax, vesicular conditions, all equine encephalomyelitis conditions, transmissible spongiform encephalopathies (including chronic wasting disease, scrapie, bovine spongiform encephalopathy), pseudorabies (Aujeszky's Disease), tuberculosis, Brucellosis, rabies, strangles (*Streptococcus equi equi)*, equine herpes virus 1, equine viral arteritis, spring viremia of carp, viral hemorrhagic septicemia, Newcastle disease and other paramyxovirus infections, avian influenza (highly pathogenic), ornithosis (chlamydiosis, psittacosis), Salmonellas (pullorum disease or fowl typhoid), infectious laryngotracheitis (other than vaccine induced), trichomoniasis, any disease classified by USDA as a foreign animal disease, or any other disease condition which may seriously threaten the any animal population of this state.

B. Reports should include the:

1. name, address and phone number of the owner;

2. location of the premises;

3. morbidity and mortality rate at the time of reporting;

4. number of susceptible animals in the immediate area; and

5. approximate number of animals or poultry exposed.

C. Reports of disease outbreaks will be coordinated by the state veterinarian.

D. Livestock owners who suspect the occurrence of contagious disease should immediately contact the local practicing veterinarian, area regulatory veterinarian or county agent who, in turn, will be responsible for reporting to the state veterinarian.

E. An investigation of the reported contagious disease will be made by representatives of the Livestock Sanitary Board, preferably with the veterinarian or county agent reporting the disease. If necessary to protect the animal and poultry populations, a quarantine may be imposed on involved and exposed animals and areas. The quarantine will remain in effect until the threat has been removed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 3:2094 and R.S. 3:2095.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:234 (March 1985), amended LR 11:615 (June 1985), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 15:813 (October 1989), LR 16:391 (May 1990), LR 23:197 (February 1997), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 28:1170 (June 2002), LR 29:1460 (August 2003), amended by the Department of Agriculture and Forestry, Board of Animal Health, LR 34:2337 (November 2008), LR 35:1466 (August 2009).

§123. Intrastate Manufacture, Sale or Distribution of Animal Vaccines

A. No person, firm, association or corporation shall manufacture, sell or distribute any animal vaccine within the state of Louisiana unless such person, firm, association or corporation can prove to the board that he is currently the holder of a valid federal license to manufacture, sell or distribute such animal vaccine, except as provided hereinafter.

B. The board shall authorize the intrastate manufacture, sale or distribution of animal vaccines on an individual basis to meet emergency situations within the state of Louisiana under special permit of the state veterinarian, provided that no special permit for the intrastate manufacture, sale or distribution of animal vaccines shall be issued by the state veterinarian except under the authorization of the board.

C. The board reserves the right to prohibit the intrastate manufacture, sale or distribution of animal vaccines which, in the judgment of the board, would be detrimental to any phase of the livestock and/or animal health industries of the state.

D. The board shall distribute, through the state veterinarian, on an annual basis, no later than December 31 of each year, a complete list of all vaccines which are prohibited for use within Louisiana, and such list shall be available to any interested person who makes request therefor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:235 (March 1985), amended LR 11:615 (June 1985).

§125. Tuberculin Tests

A. Report of Tuberculin Tests. A report of all tuberculin tests, including the individual identification of each animal by ear tag number or tattoo, age, sex and breed, and a record of the size of the responses, shall be submitted in accordance with the requirements of the cooperating state and federal officials.

B. Tuberculin Test Interpretation

1. Reactor *R*: animals showing a circumscribed swelling 5 mm in diameter (3/16 of an inch)(P1) or a diffuse swelling twice as thick as the normal caudal fold (X2) or greater response to tuberculin on routine test should be classified as reactors unless in the professional judgment of the testing veterinarian a suspect classification is justified.

2. Suspect *S*: animals showing a response to tuberculin not classified as reactor with the exception noted below.

3. Negative *N*: animals showing no response to tuberculin.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:235 (March 1985), amended LR 11:615 (June 1985).

§127. Cooperation with USDA, APHIS, Veterinary Services

A. Upon determination by the state veterinarian of the existence of any infectious and contagious diseases, he is authorized to cooperate with the United States Department of Agriculture, APHIS, Veterinary Services, in the eradication of such diseases.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2224.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:235 (March 1985), amended LR 11:615 (June 1985).

§129. Waste Food Processing Unit

A. Permit

1. No person shall operate a waste food processing unit unless first obtaining a permit from the board.

2. Upon receipt of an application for a permit, a representative of the board shall make a thorough inspection of the premises and equipment and if found satisfactory to meet the requirements for the preparation of sterilized and dehydrated food (see definition), the board shall issue a permit to the applicant at its discretion.

3. The permit shall be issued to the person responsible for the operation and this permit shall not be transferable.

4. The waste food processor shall furnish the board, upon request, an up-to-date listing of establishments from

which waste food is collected and individuals or establishments to which processed food is sold or otherwise disposed.

B. Vehicles and Containers

1. Vehicles and containers used in the transportation of waste food to the processing unit shall meet the following requirements.

a. The body of the vehicle used to transport waste food must be constructed of or lined with metal or other good impervious material in such a way that it is leak-proof so that the waste matter will not escape from the vehicle.

b. Any container used to haul waste shall be in good condition, leak-proof with a tight lid during transit and storage.

c. All vehicles and containers shall be thoroughly cleaned and disinfected after each trip by live steam or with approved disinfectant approved by the board.

C. General Sanitation. General sanitation in the operation of a processing unit shall meet the following requirements.

1. Incoming waste material shall be processed immediately.

2. The finished product shall be handled and stored in such a manner as to avoid contamination from other sources or from the unfinished product.

3. Feeding and processing will not be allowed on the same premises unless a sufficient distance is maintained between the processing area and feeding area to prohibit the introduction of any unprocessed waste material into the feeding area. This will be determined by a representative of the board.

4. Disposal of inedible materials shall be done in a satisfactory manner in order to maintain good sanitation and animal husbandry practices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:235 (March 1985), amended LR 11:615 (June 1985).

§131. Conditions for Issuing a Quarantined Feedlot Permit

A. The operation must not constitute a health hazard to livestock on surrounding premises, or create a public nuisance.

B. The operator must agree to abide by the provisions of this regulation and all other regulations of the board and United States Department of Agriculture governing such operations and movements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:235 (March 1985), amended LR 11:615 (June 1985).

§133. Source and Amount of Indemnification

A. Indemnities may be paid by either the state or federal government. When indemnities are paid by the state of Louisiana, the amount of the payments shall be set by motion of the board and information concerning the level of indemnification shall be made available to all producers of livestock and dairymen.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093 and R.S. 3:2224.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:235 (March 1985), amended LR 11:615 (June 1985).

Chapter 3. Cattle

§301. Admission of Cattle into Louisiana

A. All cattle entering the state must meet the general requirements of §107 and the following specific requirements.

1. Tuberculosis Requirements. All cattle over one year of age must show a negative test for tuberculosis within 30 days prior to entry. The date and results of the test and the individual identification of each animal must be recorded on the health certificate. The following are exempt from this requirement:

a. cattle that originate from a tuberculosis free accredited herd; however, they must be individually identified and the accredited herd number furnished on the health certificate;

b. beef cattle that originate from a tuberculosis free state or from a herd, not under quarantine, in a modified accredited tuberculosis free state or area;

c. cattle consigned to a recognized slaughter establishment or to an approved livestock auction market to be sold directly for immediate slaughter only.

2. Brucellosis

a. In addition to the above requirements, cattle entering Louisiana must meet the Brucellosis requirements found in Part 78 of the *Code of Federal Regulations*.

b. No cattle from Brucellosis quarantined herds may move into Louisiana except those cattle moving to an approved livestock auction market or to an approved slaughter establishment and accompanied by the required federal form VS 1-27.

c. In addition to the requirements of §301.2.a, cattle must meet the following requirements.

i. Heifers between the ages of 4 and 12 months of age must be official Brucellosis calfhood vaccinates to be eligible to be brought into Louisiana. Exceptions to this Subparagraph are:

(a). heifers moving from a farm to an approved stock-yard or an approved slaughter establishment;

(b). individually identified heifers, less than 12 months of age, entering the state for exhibition purposes and returning to the state of origin.

ii. Effective January 1, 1989, all heifers and cows over 12 months of age, entering Louisiana, must be official Brucellosis vaccinates or originate from a herd that has had a complete negative herd test within the previous 12 months. A copy of the herd test record, which includes the animal(s) entering the state, must accompany the health certificate. Exceptions to this Subparagraph are:

(a). heifers and cows moving directly from a farm to an approved stockyard or an approved slaughter establishment;

(b). individually identified heifers and cows entering the state for exhibition purposes and returning to the state of origin;

(c). individually identified heifers and cows originating from a certified Brucellosis free herd, a Brucellosis Class Free state, or a Brucellosis Class A state.

d. All intact male and female cattle over 12 months of age moving into the state of Louisiana from Class B states must have a permit for entry prior to coming into Louisiana. These test eligible cattle must be quarantined and retested 45 to 120 days after movement into Louisiana. The following are exempt from this requirement:

i. individually identified, officially calfhood vaccinated females under 20 months of age for dairy breeds and under 24 months of age for beef breeds which are not preparturient (springers) or post-parturient, and the herd of origin is not known to be infected with Brucellosis;

ii. individually identified cattle originating from a certified Brucellosis-free herd or certified Brucellosis-free area, and moving directly to a Louisiana farm. The certified herd number must be recorded on the health certificate;

iii. cattle accompanied by a waybill to a recognized slaughter establishment for immediate slaughter only or to an approved livestock auction market for sale for immediate slaughter, for sale to a quarantined feedlot;

iv. steers and spayed heifers;

v. test-eligible cattle moving directly to a Louisiana auction market must have a permit for entry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093 and RS. 3:2221.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:236 (March 1985), amended LR 11:615 (June 1985), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 13:555 (October 1987), LR 17:354 (April 1991), LR 18:835 (August 1992).

§303. Admittance of Louisiana Cattle to Fairs, Livestock Shows, Breeders' Association Sales and Rodeos Held in Louisiana

A. All cattle consigned to fairgrounds, livestock show grounds, sale grounds, and rodeos must meet the general requirements of §109 and the following specific requirements.

NOTE: The word "cattle" as used in this regulation refers to cattle for exhibition and/or sale and the nurse cows that may accompany them.

1. Brucellosis

a. No cattle from Brucellosis quarantined herds or Brucellosis quarantined areas are allowed to be exhibited in the state of Louisiana or consigned to breeders' association sales in Louisiana.

b. All heifers between four and 12 months of age, must be official Brucellosis calfhood vaccinates to be eligible to be shown in Louisiana.

c. All heifers and cows over 12 months of age must be official Brucellosis vaccinates or be from a herd that has had a complete negative herd test within the past 12 months and be tested negative to the Brucellosis card test within 30 days prior to admission to fairs, livestock shows, and breeders' association sales. A copy of the herd test record, which includes the animal(s) on the health certificate, must accompany the health certificate. Exceptions to this Paragraph are:

i. individually identified, official Brucellosis calfhood vaccinates under 20 months of age for dairy breeds and under 24 months of age for beef breeds, which are not pre-parturient (springers) or post-parturient. The vaccination tattoo must be recorded on the health certificate;

ii. individually identified heifers and cows originating from a Louisiana farm, which have been tested within 60 days prior to admission to fairs and livestock shows and are official Brucellosis vaccinates or have been part of a complete negative herd test, conducted in the past 12 months. A copy of the herd test record, which includes the animal(s) on the health certificate, must accompany the health certificate;

iii. individually identified cattle, moving directly from a certified Brucellosis free herd. The certified herd number must be recorded on the health certificate;

iv. individually identified heifers and cows entering the state for exhibition purposes and returning to the state of origin.

d. Individually identified cattle originating in and moving directly from a certified herd. The certified herd number must be recorded on the health certificate.

e. All bulls, 12 months of age and over, must be tested negative to the Brucellosis card test, within 30 days prior to admission to all fairs, livestock shows, breeders' association sales, and rodeos. All bulls must be accompanied by a current health certificate.

2. Tuberculosis. All cattle must originate from herds not under quarantine for tuberculosis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2221 and R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:236 (March 1985), amended LR 11:615 (June 1985), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 12:500 (August 1986), LR 13:556 (October 1987), LR 17:29 (January 1991).

§307. Livestock Auction Market Requirements

A. All cattle which are sold or offered for sale in livestock auction markets must meet the general

requirements of §111 and the following specific requirements.

1. Brucellosis

a. Cattle from quarantined herds or from non-qualified herds from quarantined areas are not eligible for sale in the state of Louisiana except as provided in §323, which governs Brucellosis quarantined herds.

b.i. All cattle that are offered for sale through Louisiana livestock auction markets, which are Brucellosis test eligible, must be identified by an official back tag; those animals two years of age or older, shall have this official back tag placed immediately behind the shoulder of the animal. The market shall furnish the Livestock Sanitary Board's official representative a copy of each check-in slip, showing the name of the auction market, the date, the name and complete address of each consignor, and the official back tag numbers applied to the consignor's livestock. The check-in slip shall be made available to the Livestock Sanitary Board's official representative, before the animals can be tested for Brucellosis.

ii. It shall be a violation of this regulation for anyone to consign livestock to a Louisiana livestock auction market and give a name and address that are not the name and address of the owner consigning the livestock to the auction market.

c. All cattle over 12 months of age are subject to the following provisions regarding testing for brucellosis.

i. Cattle that are required to be tested for brucellosis prior to sale are those which:

(a). are eligible to be returned to a farm after sale;

(b). originate from a state declared brucellosis free less for than 5 years prior to the sale date; and

(c). are tested for brucellosis are to be identified by an official metal ear tag and official back tag.

ii. Cattle that are not required to be tested for brucellosis are those that are:

(a). steers and spayed heifers;

(b). "S" branded and listed on a permit prior to shipment from a quarantine feedlot to an auction barn;

(c). individually identified cattle which are less than 24 months of age for beef breeds and less than 20 months of age for dairy breeds, that have received an official brucellosis calfhood vaccination and which are not preparturient or post-parturient;

(d). individually identified cattle originating in and moving directly from a certified brucellosis free herd and accompanied by a copy of the last herd test record which includes the animal or animals being offered for sale;

(e). consigned to slaughter. These cattle are to be identified by an official back tag.

d. All heifer calves, between 4 and 12 months of age not vaccinated for Brucellosis must be vaccinated with USDA approved Brucellosis vaccine prior to being sold. Failure to accomplish this vaccination shall be a violation of this regulation and violators shall be subject to penalties which may be imposed by the Louisiana Livestock Sanitary Board as granted in R.S. 3:2093.

i. All nonvaccinated heifer calves, between 4 and 12 months of age, must be vaccinated with USDA approved Brucellosis vaccine prior to being sold or at the first point of sale, but in no case shall any heifer calf 4 to 12 months of age remain unvaccinated for Brucellosis more than 15 days after the date of sale. Exceptions to this Clause are heifer calves 4 to 12 months of age which are transported out of the state within 15 days of the date of their sale.

e. Disposition of Animals Tested at an Auction Market

i. Reactor animals vaccinated or non-vaccinated, disclosed must be branded with a 3-inch hot brand on the left jaw, tagged and removed to slaughter with a properly executed VS Form 1-27.

ii. Suspect animals, adult vaccinated or calfhood vaccinated animals, which are card test positive and either rivanol test negative or have a CITE test reaction, which is in the suspect range established by a designated epidemiologist, can be "S" branded and sold for slaughter or, at the choice of the owner, returned to the farm of origin under quarantine for retest in no less than 30 days. Additional animals in the same consignment with the vaccinated suspect(s), which are negative on the Brucellosis test, may move without restriction, provided they are in compliance with other appropriate regulations.

iii. All exposed animals in a consignment must be "S" branded for removal to slaughter or, at the choice of the owner, can be returned to the farm of origin under quarantine.

f. Cattle originating from Brucellosis quarantined herds shall be identified by ear tag and branded with a 3-inch hot "S" brand on the left jaw and accompanied by a properly executed VS Form 1-27. The branding and the issuance of VS Form 1-27 will be completed on the farm of origin prior to movement. The VS Form 1-27 will be delivered to authorized representatives at the livestock auction market. In cases where it is impractical to have the exposed cattle branded on the farm of origin, the state Veterinarian can authorize the movement of the cattle to the livestock auction market and the branding will be accomplished at this point.

i. Cattle from Brucellosis quarantined areas may be moved to Louisiana livestock auction markets on a permit. These animals will be "S" branded after arrival at the Louisiana livestock auction market.

ii. Cattle from quarantined areas and from Brucellosis quarantined herds must be sold to approved slaughtering establishments or to approved quarantined feedlots. Exceptions to §307.A.1.f.ii are:

(a). steers and spayed heifers;

(b). heifer calves eight months of age or less, from Brucellosis quarantined beef herds and heifer calves 6 months of age or less, from Brucellosis quarantined dairy herds, provided the herd is participating in an approved herd plan to eliminate Brucellosis from the herd;

(c). bull calves under 6 months of age, that are nursed by Brucellosis reactor or exposed cows, may move from the quarantined premises under permit, provided they have been weaned for not less than 30 days immediately preceding movement;

(d). exceptions Clauses ii and iii above will be deleted when Part 78 of the *Code of Federal Regulations* is amended to restrict the movement of all sexually intact heifer calves from Brucellosis quarantined herds.

g. When Brucellosis reactors are found in a consignment, all remaining negative cattle in the consignment are considered exposed and shall be handled by one of the following ways.

i. The exposed cattle shall be identified by a 3-inch, hot brand on the left jaw with the letter "S" and sold directly to a recognized slaughter establishment for immediate slaughter or to a state-federal approved quarantined feedlot and shall be accompanied by a VS Form 1-27.

ii. The exposed cattle may be identified by a yellow paint mark on the left ear and returned to the original owner's premises under quarantine. All such movements will be accompanied by a quarantine notice listing the ear tag and auction tag identification numbers of the animals moving to Louisiana farms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 3:2221, and R.S. 3:2228.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:237 (March 1985), amended LR 11:615 (June 1985), LR 12:501 (August 1986), LR 12:598 (September 1986), LR 13:556 (October 1987), LR 14:220 (April 1988), LR 14:695 (October 1988), LR 15:810 (October 1989), LR 17:31 (January 1991), LR 18:837 (August 1992), LR 22:960 (October 1996), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1677 (September 1998), LR 25:1083 (June 1999), LR 27:182 (February 2001), amended by the Department of Agriculture and Forestry, Board of Animal Health, LR 34:2337 (November 2008).

§309. Governing the Sale of Cattle in Louisiana by Livestock Dealers

A. All cattle which are sold or offered for sale by livestock dealers must meet the general requirements of §115 and the following specific requirements.

1. Brucellosis

a. No cattle may be sold or purchased from Brucellosis quarantined herds, except as provided for in §331.

b.i. All cattle 12 months of age are to be Brucellosis test negative 30 days prior to sale. Exceptions are:

(a.) steers and spayed heifers;

(b.) individually identified official Brucellosis calfhood vaccinated heifers under 20 months of age for dairy breeds and under 24 months of age for beef breeds, which are not parturient or post-parturient, that originate in and move directly from, a herd known not to be infected. The vaccination tattoo must be recorded on the health certificate;

(c). individually identified cattle originating in and moving directly from a Brucellosis certified free herd. The certified herd number must be recorded on the health certificate;

(d). bulls less than 18 months of age.

(e). those consigned to slaughter. An official back tag shall be applied prior to sale.

ii. In instances where Brucellosis reactors are found, the reactor animals must be branded with a 3-inch hot brand on the left jaw with the letter "B" and a Brucellosis reactor tag must be placed in the left ear. The branding of reactors and placement of reactor tags must be accomplished immediately after the animals are found to be Brucellosis reactors. All other cattle that have been commingled with the reactor animals for more than 24 hours are considered exposed and must be branded on the left jaw or high on the tail head by a 3-inch hot brand with the letter "S." The reactor and exposed cattle shall be separated from all other cattle immediately and placed in quarantine pens, identified as such by conspicuously placed signs. The movement of such cattle shall be restricted to:

(a). the reactor cattle must be sold directly to an approved slaughter establishment or to an approved livestock auction market for sale to an approved slaughter establishment. These animals must be accompanied by a VS Form 1-27;

(b). the exposed cattle may be moved to an approved slaughter establishment or to a state-federal approved quarantine feedlot, or to an approved livestock auction market to be sold to an approved slaughter establishment or to an approved quarantine feedlot. These animals must move on a VS Form 1-27. The exceptions to these restrictions are steers and spayed heifers.

c.i. All heifer calves between 4 and 12 months of age must be vaccinated with USDA approved Brucellosis vaccine prior to being sold or at the first point of sale but in no case shall any heifer calf 4 to 12 months of age remain unvaccinated for Brucellosis more that 15 days after the date of sale. Exceptions to this Paragraph are heifer calves 4 to 12 months of age which are transported out of the state within 15 days of the date of their sale.

ii. Until Louisiana is officially classified as Brucellosis Class A in the *Code of Federal Regulations* by the USDA Animal and Plant Health Inspection Service, Veterinary Services, all heifers and cows over 12 months of age, must be official Brucellosis vaccinates, (calfhood or adult), or be from a producer's herd, (not a herd owned by the dealer), that has had a complete negative Brucellosis

herd test conducted in the past 12 months, be negative to a Brucellosis test within 30 days prior to, or at the time of purchase by the dealer and the animals do not come in contact with animals other than those from the herd of origin. The dealer must keep a copy of the complete negative Brucellosis herd test with his records, to show that the animals have met the above requirements.

iii. All livestock dealers must do the following with all of their cattle herds in order for them to be in compliance with this regulation and before they can sell any heifers and cows over 12 months of age from cattle herds owned by them.

(a). All livestock dealers must identify and record with the Livestock Sanitary Board all of their cattle herds.

(b). All livestock dealers must test all of their cattle herds annually.

(c). All permitted livestock dealers must maintain records and appropriate documents to show that purchased heifers and cows added to their herds met the Brucellosis testing requirements in effect at the time of purchase.

d. Cattle over 6 months of age originating in Brucellosis quarantined areas must originate from a qualified herd (known not to be infected), and must be Brucellosis test negative not less than 30 days from the date of herd qualification and within 30 days of the date of sale. The date and results of the test and individual identification of each animal must be recorded on the official health certificate.

e. All cattle over 12 months of age must be Brucellosis test negative within 30 days prior to purchase from herds not under quarantine for Brucellosis. The official test chart, health certificate, or a certificate of veterinary inspection, or an individual Brucellosis test record, must be kept for a period of 24 months following the purchase of any Brucellosis tested cattle. Exceptions to this Paragraph are:

i. steers and spayed heifers;

ii. individually identified official Brucellosis calfhood vaccinated heifers under 20 months of age for dairy breeds and under 24 months of age for beef breeds;

iii. individually identified cattle originating in and moving directly from a certified Brucellosis free herd;

iv. test eligible cattle may be moved from a producer's premises to a dealer's premises en route to an approved stockyard or approved slaughter establishment without being tested for Brucellosis, provided the test is completed within 72 hours of movement from the producer's premises and records are maintained to identify the animals and identify the herd of origin. Contact with other cattle is not permitted.

v. those consigned to slaughter. An official back tag shall be applied prior to sale.

2. Tuberculosis. No cattle shall be purchased from tuberculosis quarantined herds unless moving directly to slaughter and must be "S" branded and accompanied by a VS Form 1-27.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:562, R.S. 3:2221 and R.S. 3:2228.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:237 (March 1985), amended LR 11:615 (June 1985), LR 12:502 (August 1986), LR 13:558 (October 1987), LR 14:221 (April 1988), LR 17:31 (January 1991), LR 18:838 (August 1992), LR 22:960 (October 1996), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1678 (September 1998), LR 25:1083 (June 1999), LR 27:182 (February 2001), amended by the Department of Agriculture and Forestry, Board of Animal Health, LR 34:2337 (November 2008).

§311. Governing the Sale of Purchases, within Louisiana, of all Livestock not Governed by Other Regulations (Brucellosis Requirements)

A. It is a violation of this regulation to sell or purchase cattle, not governed by other regulations of the Livestock Sanitary Board, in Louisiana, for any purpose other than immediate slaughter, unless they meet one of the following requirements.

1.a. Heifers 4 to 12 months of age, are to be official Brucellosis calfhood vaccinates prior to being sold or be vaccinated at the first point of sale but in no case shall any heifer 4 to 12 months of age remain unvaccinated for Brucellosis more than 15 days after the date of sale. Exceptions to this Paragraph are:

i. heifers sold to move directly to slaughter;

ii. heifers sold to be moved directly to a quarantine feed lot;

iii. heifers which are transported out of Louisiana within 15 days of the date of their sale.

b. Any person found in violation of Subparagraph 1.a of this regulation shall be fined no less than $1,000 or more than $5,000 for each count. Each nonvaccinated heifer shall be considered a separate violation and each day on which the violation occurs shall be considered a separate count.

c. Any person who has knowledge of and does not report to the LDAF any violation of Subparagraph 1.a of this regulation shall be considered in violation of this regulation and subject to the same penalties as stated in Subparagraph 1.b of this regulation.

2. Effective while Louisiana is officially classified as Brucellosis Class B in the *Code of Federal Regulations* by the USDA Animal and Plant Health Inspection Service, Veterinary Services, all heifers and cows over 12 months of age must originate from a herd not quarantined for Brucellosis and must be official Brucellosis vaccinates (calfhood or adult) or part of a herd that has had a complete negative Brucellosis test, conducted within the previous 12 months and be tested negative for Brucellosis 30 days prior to, or at the time of, being sold or purchased. Exceptions to this Paragraph are:

a. individually identified official Brucellosis calfhood vaccinated heifers, under 20 months of age for dairy breeds and under 24 months of age for beef breeds, that are not preparturient (springers) or post-parturient;

b. individually identified heifers and cows, originating in and moving directly from a certified Brucellosis free herd.

3. Effective after Louisiana is officially classified as Brucellosis Class A in the *Code of Federal Regulations* by the USDA Animal and Plant Health Inspection Service, Veterinary Services, all heifers and cows over 12 months of age must originate from a herd not quarantined for Brucellosis and be tested negative for Brucellosis 30 days prior to, or at the time of being sold or purchased. Exceptions to this Paragraph are:

a. individually identified official Brucellosis calfhood vaccinated heifers, under 20 months of age for dairy breeds and under 24 months of age for beef breeds, that are not preparturient (springers) or post-parturient;

b. individually identified heifers and cows, originating in and moving directly from a certified Brucellosis free herd.

4. Bulls over 12 months of age must be Brucellosis test negative 30 days prior to, or at the time of sale or purchase. Exception to this Subsection is: Individually identified bulls originating in and moving directly from a certified Brucellosis free herd.

5. Steers and spayed heifers may move unrestricted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 2221 and R.S. 3:2228.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:238 (March 1985), amended LR 11:615 (June 1985), 12:502 (August 1986), LR 13:559 (October 1987), LR 17:29 (January 1991), LR 18:837 (August 1992), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1678 (September 1998), LR 25:1083 (June 1999), LR 27:182 (February 2001).

§313. Testing of Cattle for Brucellosis

A. The testing of any cattle for Brucellosis shall be done by:

1. a USDA accredited veterinarian;

2. an employee of the Department of Agriculture and Forestry, Livestock Sanitary Board; or

3. an employee of the USDA, Animal and Plant Health Inspection Service, Veterinary Services.

B. All cattle tested for Brucellosis shall be individually identified by an official USDA ear tag, individual brand, or individual tattoo. The identification shall be recorded on the official Brucellosis test chart (Form VS 4-33).

C. All blood samples drawn for Brucellosis testing shall be submitted to the state/federal laboratory. Each sample shall be identified and the identity recorded on the official Brucellosis test chart. The test chart shall accompany the blood sample(s) to the state/federal laboratory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2221 and R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 18:836 (August 1992), repromulgated LR 18:1115 (October 1992).

§315. Sale and Use of Brucella Abortus Antigen

A. The sale of Brucella antigen, manufactured for the purpose of detecting Brucellosis in food producing animals, shall be restricted, in Louisiana, to either the Department of Agriculture and Forestry, Livestock Sanitary Board or the USDA Animal and Plant Health Inspection Service, Veterinary Services.

B.1. The use of Brucella antigen manufactured for the purpose of detecting Brucellosis in food producing animals is restricted, in Louisiana, to authorized accredited veterinarians; authorized employees of the Department of Agriculture and Forestry, Livestock Sanitary Board; authorized employees of the USDA, Animal and Plant Health Inspection Service, Veterinary Services, and research projects approved by the state veterinarian.

2. It is a violation of the regulation for anyone other than authorized individuals to use and/or possess Brucella antigen. Accredited veterinarians; employees of the Department of Agriculture and Forestry, Livestock Sanitary Board; and employees of USDA Animal and Plant Health Inspection Service, Veterinary Services, are considered authorized to use Brucella abortus antigen to conduct a Brucellosis test only when proper documentation of the test (VS Form 4-33) and all blood samples are submitted to the state/federal laboratory.

3. Use and/or possession of Brucella antigen shall include any person that is present at the time an unauthorized test for Brucellosis is conducted.

C.1. All cattle tested for Brucellosis shall be individually identified by official ear tag, individual brand number or individual tattoo (identification such as chain numbers is not acceptable).

2. The individual identification shall be recorded on the official test chart (Form VS 4-33) and be submitted to the state/federal laboratory with the blood samples taken from each of the individually identified animal(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:239 (March 1985), amended LR 11:615 (June 1985), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 13:559 (October 1987), LR 18:838 (August 1992).

§317. Identification and Movement of Cattle Reacting to the Brucellosis Test

A. All cattle showing a positive reaction to the Brucellosis test shall be immediately branded on the left jaw with a hot B brand no less than 3 inches in height. In addition, a reactor tag shall be placed in the left ear. (Reactors should be slaughtered as soon as possible; however, slaughter may be delayed for 45 days after the date of test provided the animals have been identified

and branded and separated from the remainder of the herd. A 45-day delay in slaughter of Brucellosis reactors nullifies owner's eligibility for federal indemnity which requires slaughter within 15 days from the date the animal is tagged and branded as a reactive.)

B. All Brucellosis reactors moving from the quarantined premises must be accompanied by Form VS 1-27. These movements shall be limited to slaughter establishments specifically approved to handle Brucellosis reactors or to approved livestock auction markets to be offered for sale specifically approved slaughter establishments only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, R.S. 3:2226 and R.S. 3:2227.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:239 (March 1985), amended LR 11:615 (June 1985).

§319. Sale and Use of Brucella Abortus Vaccine

A. The sale and use of Brucella abortus vaccine shall be restricted to Louisiana accredited veterinarians and to Livestock Sanitary Board approved non-veterinary personnel who administer the vaccine under the supervision of state-federal veterinarians.

B. Biological supply houses and their distributors are hereby required to send to the Livestock Sanitary Board a copy of the invoices on all shipments of Brucella abortus vaccine into and within, the state of Louisiana.

C. Veterinarians, drug stores, biological houses, and all other wholesale and retail distributors of Brucella abortus vaccine, who sell Brucella abortus vaccine to persons other than Louisiana accredited veterinarians, shall be prosecuted as prescribed by state law.

D. Brucella abortus vaccine will be administered in accordance with the method approved by the United States Department of Agriculture.

E. All heifer calves between 4 and 12 months of age must be official Brucellosis calfhood vaccinated, prior to being sold.

F. Adult Vaccination of Cattle

1. Adult vaccination of female cattle 12 months old or older, for Brucellosis, may be performed on an individual herd plan by state or federal veterinarians, provided the owner signs the official agreement to comply with the following provisions:

a. test of entire herd and removal of Brucellosis reactors with Brucellosis vaccination completed within 10 days following herd test and removal of Brucellosis reactors;

b. all animals vaccinated as adults will be identified with an official AV tattoo in the right ear, preceded by the quarter of the year and followed by the last digit of the year, as well as the official metal ear tag (or individual animal registration tattoo or individual animal registration brand) and plastic bangle tag, which are to be correlated on test records with the official ear tag;

c. animals so vaccinated will be quarantined and tested on the schedule established in the herd plan. The quarantine will be released when the herd has a negative test, at least 180 days after the last reactor is removed from the herd. Exceptions to this regulation are steers and spayed heifers over 6 months of age.

2. Guidelines to conduct a referendum which would make Brucellosis testing and Brucellosis vaccination of all adult cows mandatory on a parish-wide basis.

a. The referendum shall be conducted by the Livestock Sanitary Board, in conjunction with the cattle producers' organizations. The referendum will be held within 90 days after issuance of the call for the referendum. All producers of cattle in the affected area shall be eligible to participate in the referendum.

b. The referendum would give all producers of cattle in the parish an opportunity to vote for or against the referendum, which would require all cattle to be tested for Brucellosis and any herd which has one or more reactors, on more than one herd test, would have to be adult vaccinated for Brucellosis and tested according to the herd plan and adult vaccination agreement. In the absence of a herd plan, the herd would have to be tested at intervals of 180 days or less.

c. If a majority of the eligible cattle producers vote in favor of the referendum, all producers of cattle in the area shall be required to test all their cattle and adult vaccinate any infected herds as described in §319.F.1.

d. The following herds would be exempt from the testing requirements:

i. certified Brucellosis free herds; and

ii. dairy herds identified as having negative Brucellosis ring test.

e. The following infected herds would be exempt from mandatory adult vaccination:

i. herds of registered cattle; and

ii. herds of cattle comprised of all calfhood vaccinated cows.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:239 (March 1985), amended LR 11:615 (June 1985), LR 12:289 (May 1986), LR 14:222 (April 1988).

§321. Establishing the Official Tests for Brucellosis in Cattle

A. Screening Test

1. Milk Ring Test (BRT). This test is conducted by the state-federal laboratory on a composite sample of milk collected at dairy farms. A follow-up individual serological test shall be conducted on all cattle represented in a composite sample which reacts to the test.

a. A commercial dairy herd that has passed four consecutive, negative milk ring tests within the last

12 months, the tests being no less than two months or more than four months apart, will be considered a negative herd and will not be required to be blood tested as long as the herd continues to have milk ring tests four times each year, the tests being no less than two months or more than four months apart, and the results of the tests remain negative.

b. A commercial dairy herd showing a positive milk ring test will be considered Brucellosis infected and will be quarantined and blood tested. The Brucellosis status of the herd will then be determined by the results of the blood test which shall be conducted within 30 days of official notification.

2. Card Test. This test will be used by approved personnel to classify cattle negative on surveillance samples collected at slaughter or at livestock auction markets on routine samples collected on farms and on tests of suspicious and infected herds. Positive samples from Brucellosis vaccinated animals will be given supplemental testing when possible to aid in classification of cattle as reactors.

B. Supplemental Tests

1. Standard Plate Agglutination Test. This test may classify as negative, suspect or reactors.

2. Rivanol Test. This test may classify cattle as negative or reactor.

3. Complement Fixation Test. This test may classify cattle as negative, suspect or reactor.

4. Particle Concentration Fluorescence Immunoassay Test (PCFlA). This test may classify as negative, suspect, or reactor.

5. Concentration Immunoassay Technology Test (CITE). This test may classify as negative or reactor.

6. Any test officially approved by the USDA and recommended by the state veterinarian and the designated epidemiologist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2221 and R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:240 (March 1985), amended LR 11:615 (June 1985), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 18:836 (August 1992).

§323. Testing and Vaccination of Cattle and the Movement of Cattle from Brucellosis Quarantined Herds

A. Testing of Cattle in Quarantined Herds

1. Within six months of the date the quarantine was issued, an exposed herd will be tested at a date agreed upon by the owner or his representative and an authorized agent of the Livestock Sanitary Board. If a date to test an exposed herd cannot be agreed upon, the state veterinarian will establish a date to test the exposed herd and notify the owner in writing 30 days prior to the date established. An exposed herd will remain under quarantine and be tested until it has passed one complete negative test. When more than one herd test is required to obtain a complete negative test, the test date will be established by the procedures used to establish the initial herd test.

2.a. An infected herd will be tested on a schedule established in an approved herd plan or be tested at intervals of 60 days or less. The adult herd will be tested and continue to be classified as infected and under quarantine until it has passed one complete negative herd test, not less than 30 days following the date the last reactor was removed from the herd, and, in addition, a second negative herd test, no less than 180 days from the date the last reactor was removed from the herd. In addition, all infected herds must be tested six to 12 months following their release from Brucellosis quarantine, provided that some or all of their herd is still intact;

b. heifer calves weaned after 8 months of age, from a known Brucellosis infected herd, must be quarantined and held separate and apart from the known infected adult herd until they test negative for Brucellosis following their first calving; or

c. if heifer calves remain in a Brucellosis infected adult herd, the entire herd shall remain under quarantine until all the heifer calves have calved and the entire herd is tested negative for Brucellosis.

3. Any Brucellosis infected herd which has one or more reactors on more than one herd test, would be required to be adult vaccinated against Brucellosis and will be tested on a schedule established in an approved herd plan or be tested at intervals of 60 days or less. The herd will be tested and continue to be classified as infected and under quarantine until it has passed one complete negative test, not less than 30 days following the date the last reactor was removed from the herd and a second negative herd test, not less than 180 days from the date the last reactor was removed from the herd. In addition, the herd must be tested six to 12 months following its release from Brucellosis quarantine, provided that some or all of the herd is still intact.

B. Movement of Cattle from Quarantined Herds

1. Brucellosis reactors disclosed in a quarantined herd will be:

a. "B" branded on the left jaw;

b. identified with a reactor tag; and

c. removed from the herd and sold directly to slaughter or to an approved stockyard for sale to slaughter within 45 days from the date the animal is classified as a Brucellosis reactor.

2.a. All cattle over 6 months of age in beef herds, will be "S" branded and identified prior to movement from the quarantined premises by an authorized agent of the Livestock Sanitary Board. In cases where it is impractical to have exposed cattle branded on the farm of origin, the state veterinarian can authorize the movement of cattle from quarantined herds to a livestock auction market for branding and identification. Exceptions to this Subparagraph are:

i. steers and spayed heifers;

ii. official Brucellosis calfhood vaccinated heifers, no more than 8 months of age and in a herd participating in an approved herd plan to eliminate Brucellosis from the herd.

b. All cattle over 6 months of age in dairy herds, will be "S" branded and identified prior to movement from the quarantined premises by an authorized agent of the Livestock Sanitary Board. Exceptions to this Subparagraph are:

i. steers and spayed heifers;

ii. calves, no more than 6 months of age which were separated from the dam at no more than seven days of age, held separate and apart from the infected herd for at least 30 days, and be identified with an official ear tag prior to movement from the premises. In addition, they must be from a herd participating in an approved herd plan to eliminate Brucellosis.

3. When Part 78, of the *Code of Federal Regulations*, is amended to restrict the movement of all sexually intact heifer calves from Brucellosis quarantined herds, all cattle, regardless of age or vaccination status, will be "S" branded and identified prior to movement from any Brucellosis quarantined premises by an authorized agent of the Louisiana Livestock Sanitary Board. In cases where it is impractical to have exposed cattle branded on the farm of origin, the state veterinarian can authorize the movement of cattle from quarantined herds to a livestock auction market for branding and identification. Exceptions are steers and spayed heifers.

C. All movements from Brucellosis quarantined herds must be accompanied by a VS Form 1-27, listing the individual identification of each animal to be moved. This form must be delivered to an authorized representative at destination. These permits will be issued by an agent of the Livestock Sanitary Board.

D. All intrastate and interstate movements from Brucellosis quarantined herds are restricted to an approved slaughtering establishment for immediate slaughter, directly to an approved quarantined feedlot, or to an approved livestock auction market for sale to an approved slaughtering establishment or quarantined feedlot. (Brucellosis reactors must be sold for slaughter only, either directly to an approved slaughtering establishment or through an approved livestock auction market for sale to such establishment.) Exceptions to §323.D are:

1. steers and spayed heifers over 6 months of age;

2. heifer calves under 12 months of age that are official calfhood vaccinates, and they originate from herds participating in an approved herd plan to eliminate Brucellosis from the herd.

E. Bull calves under 6 months of age that are nursed by Brucellosis reactor or exposed cows, may move from the quarantined premises under permit, provided they have been weaned for not less than 30 days immediately preceding movement. Exceptions to this Subparagraph are:

1. steers and spayed heifers;

2. heifer calves from beef herds that are no more than eight months of age and are in a herd participating in an approved herd plan to eliminate Brucellosis from the herd;

3. calves from dairy herds that are not more than 6 months of age which were separated from the dam at no more than 7 days of age, held separate and apart from the infected herd for at least 30 days, and be identified with an official ear tag prior to movement from the premises. In addition, they must be from a herd participating in an approved herd plan to eliminate Brucellosis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093 and R.S. 3:2221.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:240 (March 1985), amended LR 11:615 (June 1985), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 12:289 (May 1986), LR 13:559 (October 1987), LR 14:696 (October 1988).

§325. Quarantined Cattle Feedlots

A. Permit Required. No person may operate a quarantined cattle feedlot without first obtaining a permit from the Livestock Sanitary Board. Any person operating a cattle feedlot without a valid permit will be in violation of this regulation and subject to prosecution.

B. Conditions for Issuing a Quarantined Feedlot Permit

1. The operation must not constitute a health hazard to livestock on surrounding premises, or create a public nuisance.

2. The operator must agree to abide by the provisions of this regulation and all other regulations of the Livestock Sanitary Board and United States Department of Agriculture governing such operations and movements.

C. Requirements for Operation of Quarantined Feedlots

1. All cattle must be maintained separately and apart from all other cattle. There can be no fence line contact with cattle not in the quarantined feedlot. An exception to this regulation are steers and spayed heifers.

2. Complete records must be maintained on all transactions showing dates, identification, origin and disposition of each animal. These records shall be made available to state-federal personnel upon receipt.

3. All male and female cattle except steers and spayed heifers must be "S" branded prior to or on arrival at the feedlot.

4. Necessary facilities and personnel shall be provided to enable state-federal personnel to "S" brand cattle and to determine the identification of animals that are being permitted to a slaughter establishment, quarantined feedlot, or to a stockyard to be sold for slaughter or to another quarantined feedlot.

5. All cattle movements from a quarantined feedlot must be on a Form VS 1-27 or similar document issued by state-federal personnel and shall be consigned directly to a slaughtering establishment operating under approved state or federal meat inspection, to a quarantined feedlot, to a stockyard to be sold to a slaughter establishment or to a quarantined feedlot.

6. All tuberculosis exposed animals shall be fed and maintained as a group and shall not be allowed to mix with other animals in the feedlot.

7. Feeder calves under 12 months of age from tuberculosis quarantined herds will be required to be negative to a tuberculin test within 60 days prior to shipment to the feedlot.

8. Animals will be permitted to Louisiana livestock auction markets for sale for slaughter or to a quarantined feedlot provided no tuberculosis exposed animals are received or fed on feedlot premises.

D. Cancellation of Quarantined Feedlot Permit. A quarantined feedlot permit may be canceled upon written notice that the operation does not meet the requirements of this regulation, or has violated one or more provisions of this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:241 (March 1985), amended LR 11:615 (June 1985).

§327. Testing of Cattle and the Movement of Cattle from Tuberculosis Quarantined Herds and the Establishment and Maintenance of All Tuberculosis Accredited Herd

A. Quarantine Procedures and Disposition of Movement from Quarantined Herds

1. All herds in which reactor animals are disclosed shall be quarantined. All animals in a *Mycobacterium bovis* herd shall be tested.

2. Reactors must remain on the premises where disclosed until a state or federal permit has been obtained. Movement for immediate slaughter must be direct to a slaughter establishment where approved state or federal inspection is maintained within 15 days of classification. Upon delivery to the slaughtering establishment, reactors shall be slaughtered as soon as practicable.

3. No animals classified as a reactor shall be retained.

4. Suspects to the tuberculin test shall be quarantined to the herd where found or shipped under permit to slaughter in accordance with the state and federal laws and regulations. Suspects to the caudal fold tuberculin test shall be quarantined to the premises where found until:

a. retested by the comparative-cervical tuberculin test within 10 days of the caudal fold injection;

b. retested by the comparative-cervical tuberculin test after 60 days; or

c. shipped under permit direct to slaughter in accordance with state and federal laws and regulations.

5. Exposed animals must remain on the premises where disclosed unless a state or federal permit has been obtained. Movement for immediate slaughter must be direct to a slaughtering establishment where approved state or federal inspection is maintained.

6. Sale of feeder calves from quarantined herds will be restricted. Feeder calves under 12 months of age that have passed a tuberculin test within 60 days of movement may be permitted to move intrastate to a quarantined feedlot.

7. Herds in which *Mycobacterium bovis* infection has been disclosed shall remain under quarantine and must pass two tuberculin tests at intervals of at least 60 days and one additional test after six months. The minimum quarantine period shall be 10 months from slaughter of lesion reactors.

8. Herds in which NGL reactor(s) only occur and no evidence of *Mycobacterium bovis* infection has been disclosed may be released from quarantine after a 60 day retest on the entire herd.

9. In herds where *Mycobacterium bovis* infection has been confirmed but the herd not depopulated, five annual tests on the entire herd followed by two tests at three year intervals shall be applied following the release of quarantine.

10. In herds with history lesions suspicious of bovine tuberculosis (not confirmed), two complete annual herd tests shall be applied after release of quarantine; the first test to be applied approximately one year after release of quarantine.

11. In a newly assembled herd on a premises where a tuberculous herd has been depopulated, two annual herd tests shall be applied to all cattle, the first test to be applied approximately six months after assembly of the new herd. These tests shall be followed by two complete herd tests at three year intervals.

B. Accredited Herd Plan

1. Testing of herds for accreditation or re-accreditation shall include all cattle over 24 months of age and any animals other than natural additions under 24 months of age. All natural additions shall be individually identified and recorded on the test report as members of the herd at the time of the annual test.

2. Herd additions must originate directly from one of the following:

a. accredited herd;

b. herd in an accredited free state;

c. herd in a modified accredited area that has passed a herd test of all animals over 24 months of age within 12 months and the individual animals for addition were negative to the tuberculin test conducted within 60 days; or

d. herd in a modified accredited area not meeting requirements of Subparagraph B.2.a, b, or c of this Section, individual animals for addition must pass a negative test within 60 days prior to entering the premises of the

accredited herd and must be kept in isolation from all members of the accredited herd until negative to a test conducted after 60 days of date of entry. Animals added under Subparagraph B.2.b, c, or d of this Section shall not receive accredited herd status for sale purposes until they have been members of the herd at least 60 days and are included in a herd retest.

3. To qualify for accredited herd status, the herd must pass at least two consecutive annual tuberculin tests with no evidence of bovine tuberculosis disclosed. All animals must be bonafide members of the herd. Qualified herds may be issued a certificate by the local state and federal officials. The accreditation period will be 12 months (365 days) from the anniversary date and not 12 months from the date of the re-accreditation test. To qualify for re-accreditation, the herd must pass an annual test within a period of 10 to 14 months of the anniversary date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:615 (June 1985), amended LR 12:289 (May 1986).

§329. Identification of Cattle with Official Backtags and the Collection of Blood Samples from Officially Backtagged Cattle at Slaughter Establishments under State or Federal Meat Inspection

A. Official Backtagging of Cattle

1. All cattle over 24 months of age that are not officially backtagged when received by a slaughter establishment under state or federal meat inspection shall be identified by official backtag, properly placed. The name and address of the consignor, and the name and address of the owner of the herd of origin, if different from that of the consignor, shall be recorded, along with the official backtag numbers, on forms provided for this purpose. A copy shall be retained by the slaughter establishment for their records; the original is to be furnished the meat inspector to accompany blood samples to the laboratory.

2. The slaughter establishment shall be responsible for the identification of the animals and for maintaining required records.

3. Exemptions from this regulation are:

a. steers and spayed females;

b. Brucellosis branded animals; or

c. Brucellosis exposed ("S" branded) animals.

B. Records. All records pertaining to the identification of the cattle, name and address of consignor and the name and address of the owner of the herd of origin, if different from that of the consignor, shall be maintained and made available to representatives of the Livestock Sanitary Board upon request.

C. Blood Sample Collection. A blood sample shall be collected from each head of backtagged cattle over 24 months of age, except steers, spayed females and branded Brucellosis reactors. State and federal meat inspection personnel shall be responsible for the collection of the blood samples; the identification of the samples; and the packaging and mailing of the blood samples, corresponding backtags and forms to the state-federal livestock diagnostic laboratory in Baton Rouge, Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:242 (March 1985), amended LR 11:615 (June 1985).

§331. Payment of Indemnities

A. In addition to the general requirements stipulated in §133, the following are specific requirements for the payment of indemnities.

1. Eligibility for Payment. Producers of registered and grade cattle found to be infected with Brucellosis and dairymen whose herds are found to be infected with Brucellosis shall be eligible for an indemnity payment for each infected animal slaughtered regardless of the point of concentration where the Brucellosis is first identified.

2. Source and Amount of Indemnification. Indemnities may be paid by either the state or federal government. When indemnities are paid by the state of Louisiana, the amount of the payments shall be set by motion of the Livestock Sanitary Board and information concerning the level of indemnification shall be made available to all producers of livestock and dairymen.

3. Cattle Owners Not Eligible for Indemnification. No indemnity shall be paid to livestock owners who do not own the cattle 120 days prior to the testing. The owner must prove ownership of the cows tested.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093 and R.S. 3:2224.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:242 (March 1985), amended LR 11:615 (June 1985).

§333. Routine Testing of Dairy Herds

A. All dairy herds in Louisiana shall be tested for *Mycoplasma bovis*, ("Mycoplasma"), which causes an incurable form of mastitis in dairy cattle, in accordance with the following provisions.

1. The Louisiana Department of Agriculture and Forestry, ("department"), shall collect milk samples from a bulk tank sample collected by the milk hauler.

2. The department shall forward the samples to the Mastitis Lab at the Hill Farm Research Station ("HFRS") in Homer, Louisiana for testing.

3. HFRS shall forward the test report for each dairy herd to the department and to the owner of the dairy herd.

B. If a sample from a dairy herd tests positive for Mycoplasma mastitis the department shall collect a second sample directly from the bulk tank holding the dairy herd's milk and send the sample to HFRS for testing. HFRS will

send the test result directly to the department, who will then notify the dairy herd's owner of the test results.

C. All dairy herds shall be tested monthly for 12 months. Any dairy herd that tests negative each month for 12 months will then be tested quarterly so long as each test is negative for Mycoplasma mastitis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093 and R.S. 3:2224.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 30:1141 (June 2004).

§335. Restrictions on Dairy Herds Testing Positive for Mycoplasma Mastitis

A. If the second sample from a dairy herd tests positive for Mycoplasma mastitis then that dairy herd shall be placed on a "Mycoplasma Restricted List."

1. Individual members, male and female, of any dairy herd placed on the Mycoplasma Restricted List shall be tested to identify infected animals.

2. Any animal found to be infected with Mycoplasma shall be either immediately sold for slaughter or branded with a mark acceptable to the department to show that the animal can only be sold for slaughter. If any such animal is sold at a livestock auction market, it shall be kept in quarantine separate from any other cattle.

3. No animal from a dairy herd that is on the Mycoplasma Restricted List shall be sold or moved for any purpose other than slaughter unless accompanied by a health certificate showing that the animal has had a negative test for Mycoplasma within the 30 days prior to the date of sale or movement.

B. Any dairy herd found to be infected with Mycoplasma shall remain on the Mycoplasma Restricted List until all infected animals are removed and bulk tank samples test negative for six months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093 and R.S. 3:2224.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 30:1141 (June 2004).

§337. Fees

A. The department shall collect from each owner of a dairy herd a fee of no more than $15 per milk sample to defray the cost of the testing and quarantine programs necessary to prevent, control or eradicate Mycoplasma in dairy cattle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093 and R.S. 3:2224.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 30:1141 (June 2004).

§339. Trichomoniasis Testing and Movement Requirements for Cattle

A. Every bull moved into this state and every bull within this state which is sold, exchanged, leased, rented, sold, or otherwise transferred in ownership or possession (hereafter collectively referred to as "transferred") from one person to another shall be accompanied by a test result showing that the bull is free from Trichomoniasis (hereafter referred to as "negative test result" or "testing negative") except for the following bulls.

1. Exhibition and rodeo bulls that are temporarily in the state only for the purpose of the event and will be leaving the state immediately after the event.

2. Bulls going direct to slaughter or being sold to go direct to slaughter.

3. Virgin bulls accompanied by a certification of virgin status signed by the owner of the bull, or the owner's representative or an accredited veterinarian and including the bull's individual identification.

4. Bulls being transported through this state in interstate commerce unless offloaded and comingled with female cattle already in this state that are not going direct to slaughter.

B. Every bull required to be accompanied by a negative test result shall be tested no later than 30 days prior to being moved into the state or the date of transfer, except for bulls that are in a trichomoniasis-free certification program or a semen certification program, recognized by the state veterinarian.

C. Every bull moved into this state and every bull within this state which is transferred from one person to another, except for the bulls listed in Subparagraph 1-4 of Subsection A of this Section, shall be identified by one or more of the following means:

1. Brucellosis ear tag;

2. official 840 radio frequency identification device (RFID);

3. official 840 flap or bangle tag;

4. official individual animal breed registry brand;

5. official individual animal breed registry tattoo; or

6. an official state of origin trichomoniasis tag.

D. The requirements for testing a bull for trichomoniasis are as follows.

1. All test samples shall be drawn by an accredited veterinarian.

2. The testing of samples shall be through the use of a test approved by the state veterinarian or by USDA APHIS VS that is performed at an official laboratory or by an accredited veterinarian qualified to test for trichomoniasis.

3. Test results that show that the tested animal has trichomoniasis (hereafter referred to as "positive test results" or "testing positive") shall immediately cause the tested animal to be classified as trichomoniasis infected and subject to the restrictions set out in this Section.

4. An additional test to confirm the presence of trichomoniasis may be requested in the event of an initial positive test result, but the request for the confirmatory test must be made to the state veterinarian within 5 business days of notification of the positive test result.

a. If the confirming test comes back negative then the tested animal is considered negative for trichomoniasis and may be moved as such.

b. If the confirming test comes back positive then the tested animal shall be subject to the restrictions set out in this Section.

5. A bull being tested for trichomoniasis shall be kept separate from female cattle at all times during the entire test period from the taking of samples until receipt of the results of the initial test results. A bull testing negative on the initial test may be comingled with female cattle upon receipt of the test results while a bull testing positive shall be immediately subject to the restriction on trichomoniasis infected bulls set out in this Section.

6. All test results for trichomoniasis, whether negative or positive, shall be reported to the state veterinarian within 24 hours after receipt of the results.

7. When a positive test result is received the treating veterinarian shall consult with the state veterinarian on the first business day after receipt of the test results to determine a plan of action regarding the animal testing positive.

E. Bulls that are required to be tested for trichomoniasis prior to being moved into this state or prior to being transferred from one person to another but which have not been tested shall be kept separate from breedable-type cattle until tested and a negative result is obtained.

F. Bulls, except for virgin bulls, that are not required to be tested for trichomoniasis prior to being moved into this state or prior to being transferred from one person to another shall, at all times, be kept separate from female cattle until tested and a negative result is obtained. However, a bull being moved direct to slaughter or sold to go direct to slaughter may be comingled with breedable-type cattle also being moved direct to slaughter or being sold to go direct to slaughter.

G. Bulls testing positive for trichomoniasis are subject to the following restrictions.

1. No known trichomoniasis infected bull shall be moved into or within this state or transferred within this state from one person to another, unless the bull is going direct to slaughter or being sold to go direct to slaughter.

2. No known trichomoniasis infected bull, whether being moved into or within this state, shall be used for breeding purposes and shall be kept separate from female cattle, from the time the first positive test result is received.

3. A trichomoniasis infected bull shall be moved direct to slaughter, or sold to go direct to slaughter within 30 days from receipt of the positive results of the original test or the results of the confirming test, whichever is later.

4. A trichomoniasis infected bull may be moved only after a VS 1-27 permit is issued by the testing veterinarian or the state veterinarian or his representative. The VS 1-27 permit shall accompany the bull upon movement of the animal.

H. If a trichomoniasis infected bull has been in a herd with female cattle then the infected bull and the other bulls in the herd are subject to the following requirements.

1. The trichomoniasis infected bull shall be immediately separated from the herd and all other bulls in the herd and shall be moved or transferred only as allowed by this Section.

2. If there is any other bull or bulls in the herd then all other such bulls shall be immediately separated from, and kept separate from all female cattle.

3 Each such bull shall be tested for trichomoniasis as soon as possible. Test samples shall not be pooled.

4. A bull testing negative shall be immediately removed from all other bulls that have not been tested or for which the test results have not been received and shall be considered to be a negative bull for all purposes.

5. A bull testing positive shall immediately be classified as a Trichomoniasis infected bull and shall be subject to the restrictions imposed in this Section on such bulls.

6. An additional test to confirm the presence of trichomoniasis may be requested in the event of an initial positive test result, but the request for the confirmatory test must be made to the state veterinarian within 5 business days of notification of the positive test result.

a. If the confirming test comes back negative then the bull shall be considered negative for trichomoniasis.

b. If the confirming test comes back positive then the bull shall be considered to be infected with trichomoniasis and subject to the restrictions imposed in this Section on such bulls.

I. A trichomoniasis infected herd is a herd known to contain or have contained a trichomoniasis infected bull or cow. If a virgin bull or bull that has tested negative for trichomoniasis is comingled with female cattle from a trichomoniasis infected herd then the virgin bull or bull with negative test results shall be tested for and found to be free of trichomoniasis before being moved, placed into another herd, or transferred from one person to another.

J. A cow is not required to be tested for trichomoniasis before being moved into this state or transferred from one person to another but if a cow is tested then the same procedure set out in this Section for testing a bull shall apply to the testing of a cow.

K. A cow testing positive for trichomoniasis shall be subject to the following restrictions:

1. A cow testing positive for trichomoniasis shall not be moved into this state, except to go direct to slaughter or to be sold to go direct to slaughter.

2. A cow within this state that has tested positive for trichomoniasis shall be immediately separated from, and kept separate from all bulls.

a. The cow shall be moved direct to slaughter or sold to go direct to slaughter within 30 days from receipt of the positive result of the original test or the confirming test, whichever is later, unless placed under a quarantine program approved by the state veterinarian.

b. If the cow is quarantined then it may not be moved from quarantine until the quarantine is released in writing by the state veterinarian. The cow may be released from quarantine only if the cow is subsequently tested and found to be free from trichomoniasis or if the cow is to be moved direct to slaughter or to be sold to go direct to slaughter.

3. A trichomoniasis infected cow may be moved only after a VS 1-27 permit is issued by the testing veterinarian or the state veterinarian or his representative. The VS 1-27 permit shall accompany the cow upon movement of the animal.

L. Quarantine Facilities

1. A livestock owner or lessor, livestock dealer, and a public livestock market facility may, with the written approval of the state veterinarian, establish a quarantine facility to hold bulls being moved into this state or being sold in this state until they can be tested for trichomoniasis.

2. The quarantine facility shall be inspected and approved by the state veterinarian or his representative prior to being placed into use.

3. The fencing or railing of the quarantine facility must be of material that will keep a bull from being able to breed with a cow located in an adjacent pen or pasture and of sufficient strength to keep a bull from escaping the quarantine facility.

4. A bull in a quarantine facility testing positive for trichomoniasis shall be immediately separated from, and kept separate from, all female cattle and shall be subject to the restrictions imposed by this Section on a trichomoniasis infected bull.

M. The state veterinarian may grant a written exception or variance to the provisions of this Section, with such conditions as the state veterinarian may impose, if such action is necessary to provide for unforeseen situations or circumstances. Any such exception or variance shall balance the need to protect cattle from trichomoniasis with the need to allow cattle to move in commerce.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093, 3:2095, and 3:2097.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Board of Animal Health, LR 35:1466 (August 2009), amended LR 36:2518 (November 2010).

§341. Tuberculosis Testing of Mexican Cattle; Documentation

A. Mexican cattle which are used, or intended to be used, at rodeos, timed events, team events, or other similar events or as roping stock.

1. Mexican cattle in this category entering Louisiana from another state shall be accompanied by the following documents:

a. a certificate of veterinary inspection (CVI) that includes, in legible marking:

i. an official identification eartag (840 RFID tag or metal brite tag); and

ii. an official entry permit number issued by the department;

b. proof of a negative test for bovine tuberculosis taken within 60 days prior to the cattle entering the state;

c. the original or a certified copy of the tuberculosis test chart.

2. Mexican cattle in this category entering Louisiana directly from Mexico shall be accompanied by the documents listed in Paragraph A.1 of this Section and shall:

a. enter into quarantine at the first destination premises in the state;

b. test negative for tuberculosis within 60-120 days of arrival in this state, with all testing to be at the expense of the owner of the cattle;

c. not move from quarantine except with specific permission from the department and then only to events or activities where commingling with other cattle will not occur until confirmation of a negative post entry re-test for tuberculosis is obtained.

B. Mexican cattle that are under 18 months of age and which are brought into this state, either from another state or directly from Mexico, for grazing purposes prior to shipment to a feedlot or to slaughter shall be:

1. accompanied by a certificate of veterinary inspection (CVI);

2. moved under permit from the department only to a pasture or pen which has fencing sturdy enough to contain the cattle and to prevent co-mingling with other cattle and which pasture or pen has been approved by the department; and

3. subsequently moved from the pasture or pen only to a feedlot prior to going directly to slaughter or to a stockyard for sale for slaughter only.

C. At any time Mexican cattle enter the state and any time they are in the state, the latest tuberculosis test chart shall be, upon request, presented for inspection to a duly authorized officer, employee, or agent of the department or APHIS.

D. All Mexican cattle permanently located in this state shall be retested annually for tuberculosis at the expense of their owner.

E. All tuberculosis tests shall be conducted by a USDA accredited veterinarian, the test records shall be maintained with the cattle and, upon request, presented for inspection to a duly authorized officer, employee, or agent of the department or APHIS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093 and 3:2135.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 39:3246 (December 2013).

Chapter 5. Equine

§501. General Requirements Governing the Admission of Equine

A. All equine imported into the state shall meet the general requirements of §107 and the following specific requirements.

1. All equine moving into Louisiana for any purpose other than consignment to an approved Louisiana livestock auction market or an approved slaughter establishment for immediate slaughter shall be accompanied by a record of a negative official test for Equine Infectious Anemia (EIA) conducted within the past 12 months. The official test shall be conducted by an approved laboratory. The name of the laboratory, the case number and the date of the official test shall appear on the health certificate as required in §503.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2053.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 11:242 (March 1985), amended LR 11:615 (June 1985), LR 14:222 (April 1988), LR 20:405 (April 1994).

§503. Admission of Equine to Fairs, Livestock Shows, Breeders Association Sales, Rodeos and Racetracks

A. All equine consigned to fairgrounds, livestock show grounds, sale grounds, rodeos and racetracks must meet the general requirements of §109 and the following specific requirements.

1. It is recommended that all owners have their equine vaccinated against equine encephalomyelitis with bivalent (eastern and western type) vaccine within 12 months prior to entry. It is also recommended that owners have their equine vaccinated against Venezuelan Equine Encephalomyelitis (VEE) before entry.

2. Representatives of the Livestock Sanitary Board may inspect equine at the shows periodically, and any equine showing evidence of a contagious or infectious disease shall be isolated and/or removed from the show.

3. All equine moving into the state of Louisiana to fairs, livestock shows, breeder's association sales, rodeos, racetracks or any other concentration point, shall be accompanied by a record of a negative official test for Equine Infectious Anemia (EIA), conducted within the past 12 months. The official test shall be conducted at an approved laboratory and the name of the laboratory, the case number, and the date of the official test shall appear on the record.

4. All equine moving within the state to fairs, livestock shows, breeder's association sales, rodeos, racetracks, or to any other concentration point shall be accompanied by an official record of a negative official test for EIA conducted within the past 12 months. The official test shall be conducted by an approved laboratory and the name of the laboratory, the case number, and the date of the test shall appear on the official record of the test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, Livestock Sanitary Board, LR 11:242 (March 1985), amended LR 11:615 (June 1985), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 14:222 (April 1988), LR 20:405 (April 1994).

§505. Movement of Equine in Louisiana by Livestock Dealers

A. All equine which are sold or offered for sale by livestock dealers, must meet the general requirements of §115 and the following specific requirements.

1. All equine sold or offered for sale by permitted Louisiana livestock dealers must be accompanied by a record of a negative official test for Equine Infectious Anemia, conducted at an approved laboratory, within the past 12 months. The record shall include the name of the laboratory, the case number and the date of the official test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:502.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, Livestock Sanitary Board, LR 11:243 (March 1985), amended LR 11:615 (June 1985), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 14:223 (April 1988), LR 20:406 (April 1994).

§507. Equine Infectious Anemia and Louisiana Livestock Auction Market Requirements

A. Identification. Beginning February 1, 1994, all equine prior to an official test for Equine Infectious Anemia (EIA) shall be individually and permanently identified by one of the following means:

1. implanted electronic identification transponder with individual number;

2. individual lip tattoo;

3. individual hot brand or freeze brand.

B. Equine Required to be Tested

1. All equine moving into the state of Louisiana for any purpose other than immediate slaughter, shall be accompanied by a record of a negative official test for EIA, conducted within the past 12 months. The official test shall be conducted by an approved laboratory. The name of the

laboratory, the case number, and the date of the official test shall appear on the health certificate, as required in §503.

2. All equine moving within the state to fairs, livestock shows, breeders association sales, rodeos, racetracks, or to any other concentration point, shall be accompanied by an official record of a negative official test for EIA, conducted within the past 12 months. The official test shall be conducted by an approved laboratory and the name of the laboratory, the case number, and the date of the test shall appear on the official record of the test.

3. All equine sold or purchased in Louisiana shall have been officially tested negative for EIA within six months of the date of the sale or shall be officially tested negative for EIA at the time of sale or purchase. The official test shall be conducted at an approved laboratory. The official test record shall accompany the horse at the time of the sale or purchase and the name of the laboratory, the case number, and the date of the test shall appear on the official record of the test.

4.a. All equine offered for sale at Louisiana livestock auction markets must be accompanied by an official record of a negative official test for EIA conducted by an approved laboratory within 12 months of the date of the sale, except as provided in this Subsection.

i. An equine offered for sale at a Louisiana public livestock auction market shall be tested for EIA at the auction market prior to sale if the equine has not been tested or is not accompanied by a current negative official EIA test record. The auction market shall collect a $5 identification fee from the purchaser of each such equine before the equine leaves the auction market and then remit the fee to the Department of Agriculture and Forestry. The blood sample for the EIA test shall be drawn by an accredited veterinarian and submitted for an official EIA test in accordance with these regulations. The veterinarian's fee for this service shall be collected from the seller by the auction market and paid directly to the veterinarian. An equine without a current negative official EIA test record that is sold at an auction market may be moved to the buyer's premises under a Board of Animal Health quarantine after the blood sample is taken and the veterinarian and identification fees are paid. The equine shall remain under quarantine until the official test results show that the animal is an EIA negative equine.

b. Authorized buyers for approved slaughter establishments may request that any equine they have purchased at a Louisiana livestock auction market be restricted to slaughter. After the request, such equine shall be branded with the letter "S" on the left shoulder prior to leaving the auction market and shall be issued a VS Form 1-27 permit. The branding and permit issuing shall be done by Livestock Sanitary Board personnel.

5. All equine domiciled within the state of Louisiana shall be maintained with a negative current official test for Equine Infectious Anemia. A negative current official test is a written result of a test conducted by an approved laboratory where said official test was performed not more than 12 months earlier. An equine is domiciled within the state when the equine has been pastured, stabled, housed, or kept in any fashion in the state more than 30 consecutive days. Written proof of a negative current official test shall be made available in the form of negative results from an approved laboratory upon request by an authorized representative of the Livestock Sanitary Board.

C. Identification and Quarantining of Equine Positive to the Official EIA Test

1. With the exception of the equine stabled at a racetrack regulated by the State Racing Commission, all equine testing positive to the official test for EIA shall be quarantined to the owner's premises and shall be destroyed or sold for immediate slaughter within 20 days of the date of the official test for EIA. If destroyed, verification of said destruction by written and signed statement must be furnished to the office of the state veterinarian. If sold for slaughter, the equine shall be accompanied by a VS Form 1-27 permit issued by Livestock Sanitary Board personnel from the owner's premises to an approved Louisiana livestock auction market or to an approved slaughter facility. The owner or trainer of all equine stabled at a racetrack regulated by the State Racing Commission testing positive to an official EIA test shall be notified immediately by the testing veterinarian, or by racetrack officials, or by Livestock Sanitary Board personnel and the equine testing positive shall be removed from the racetrack premises immediately. Exceptions are:

a. upon request by the owner, any female equine testing positive to the official test for EIA that is at least 270 days pregnant or has a nursing foal no more than 120 days of age at her side may be quarantined to the owner's premises and kept at least 200 yards away from any other equine. The female equine shall be identified with a "72A" brand at least 3 inches in height on the left shoulder. The female equine may remain in quarantine until her foal dies or reaches an age of 120 days at which time the female equine shall be destroyed or sold for immediate slaughter within 20 days. If destroyed, verification of said destruction by written and signed statement must be furnished to the office of the state veterinarian. If sold for slaughter, the female equine shall be accompanied by a VS Form 1-27 permit issued by Livestock Sanitary Board personnel from the owner's premises to an approved Louisiana livestock auction market or to an approved slaughter facility;

b. any foal kept in quarantine with its EIA positive dam shall be officially tested for EIA no later than 90 days after it is weaned;

c. any equine testing positive to the official EIA test prior to the effective date of this regulation may be quarantined to the owner's premises and kept at least 200 yards away from any other equine. This equine shall be identified with a "72A" brand at least 3 inches in height on the left shoulder. If the EIA positive equine is sold, it must be sold for slaughter and a VS Form 1-27 permit must be issued by Livestock Sanitary Board personnel to move the EIA positive equine from the owner's premises to slaughter. If the EIA positive equine is destroyed or dies, verification

of said destruction or death by written and signed statement must be furnished to the office of the state veterinarian;

d. any EIA positive equine found in violation of this quarantine shall be required to be sold for slaughter or destroyed within 20 days.

2. All equine stabled at a racetrack regulated by the State Racing Commission, testing positive to the official EIA test and immediately removed from the racetrack shall be quarantined to the premises to which they are moved and shall be destroyed or sold for immediate slaughter within 20 days of the date of the official test for EIA. If destroyed, verification of said destruction by written and signed statement must be furnished to the office of the state veterinarian. If sold for slaughter, the equine shall be accompanied by a VS Form 1-27 permit issued by Louisiana Livestock Sanitary Board personnel from the owner's premises to an approved Louisiana livestock auction market or to an approved slaughter facility.

3. With the exception of the equine stabled at a racetrack regulated by the State Racing Commission, the following shall be quarantined and officially tested for EIA no sooner than 30 days after the positive equine has been removed:

a. all equine on the same premises as an equine testing positive to the official EIA test;

b. all equine on all premises within 200 yards of the premises of the equine testing positive to the official EIA test; and

c. all equine which have been on these aforementioned premises within the past 30 days at the time the equine which is positive to the official EIA test was tested.

4. All equine stabled at a racetrack regulated by the State Racing Commission which are stabled in the same barn or in a directly adjacent barn of an equine which tests positive to the official EIA test shall be quarantined until the positive equine is removed and all other horses in the aforementioned barns are tested negative to the official EIA test.

5. Equine which are required to be officially tested for EIA as a result of being quarantined due to the circumstances described in §507.C.3 and 4 of this Section may be tested by an accredited veterinarian chosen by the owner or by a state employed veterinarian if requested by the owner of the quarantined equine. In the event that the official testing for EIA is done by a state employed veterinarian, the official record (VS Form 10-11) will not be made available to the owner.

6. Equine positive to the official test for EIA shall be identified with a "72A" brand on the left shoulder at least 3 inches in height, by Livestock Sanitary Board personnel. Equine positive to the official test for EIA will be retested prior to identification by branding upon request by the owner, by Livestock Sanitary Board personnel and the blood sample submitted to the Louisiana Veterinary Medical Diagnostic Laboratory for confirmation.

D. Collection and Submission of Blood Samples

1. All blood samples for official EIA testing must be drawn by an accredited veterinarian and submitted to either an approved laboratory or the Louisiana Veterinary Medical Diagnostic Laboratory as provided herein. The seller of any equine which sells at a Louisiana livestock auction market in which the gross proceeds from the sale are less than $50 may request that the blood sample be drawn by Livestock Sanitary Board personnel.

2. Blood samples for official EIA testing shall be accompanied by a VS Form 10-11, Equine Infectious Anemia Laboratory Test Report, with completed information as to the equine owner's name, address, telephone number, and permanent individual identification of the equine. The VS Form 10-11 shall be considered the official record for all official EIA tests conducted in Louisiana.

3. Only serum samples in sterile tubes shall be accepted for testing.

4. Blood samples drawn for EIA testing at Louisiana livestock auction markets and blood samples drawn for EIA testing by Livestock Sanitary Board personnel shall be submitted to the Louisiana Veterinary Medical Diagnostic Laboratory for testing.

E. Testing of Blood Samples Collected

1. Only laboratories approved by the United States Department of Agriculture, Animal Plant Health Inspection Service, Veterinary Services, shall be authorized to conduct the official test for EIA in Louisiana and such laboratories must also receive approval by the Livestock Sanitary Board.

2. Approved laboratories shall submit the original (white copy) of each VS Form 10-11 at the end of each week to the Livestock Sanitary Board office.

3. Approved laboratories may charge a fee to the accredited veterinarian for conducting the official test.

F. Requirements for a Permit for the Operation of an Equine Quarantine Holding Area

1. Any buyer desiring to operate an equine quarantine holding area must file an application for approval of the facility on forms to be provided by the Livestock Sanitary Board.

2. The facility to be operated as an equine quarantine holding area, must have an area where equine testing positive to the official EIA test and/or "S" branded horses are kept and where such horses are separated by at least 440 yards from all other horses.

3. The facility must be approved by the Livestock Sanitary Board in an inspection of the premises prior to the issuance of the permit.

4. The buyer desiring to operate an equine quarantine holding area, must agree, in writing, to comply with the rules and regulations of the Livestock Sanitary Board.

5. No other equine except equine consigned for slaughter, shall be kept in an equine quarantine holding area.

6. No equine shall be kept in the equine quarantine holding area longer than 60 days.

7. All permits must be renewed annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, Livestock Sanitary Board, LR 11:243 (March 1985), amended LR 11:615 (June 1985), LR 14:223 (April 1988), LR 14:697 (October 1988), LR 20:406 (April 1994), LR 20:1257 (November 1994), amended by the Department of Agriculture and Forestry, Board of Animal Health, LR 35:406 (March 2009).

§509. Equine Infectious Anemia Testing Laboratory Requirements

A. No person shall operate an Equine Infectious Anemia testing laboratory without first obtaining approval from the Livestock Sanitary Board.

B. Conditions for Approving an Equine Infectious Anemia Testing Laboratory

1. The person must submit an application for approval to the office of the state veterinarian.

2. An inspection of the facility must be made by someone representing the office of the state veterinarian and who shall submit a report to the Livestock Sanitary Board indicating whether or not the person applying for an Equine Infectious Anemia testing laboratory approval has the facilities and equipment which are called for in Veterinary Service Memorandum 555.8.

3. The applicant must agree, in writing, to operate the laboratory in conformity with the requirements of the regulation and Veterinary Service Memorandum 555.8.

4. The applicant must show the board that there is a need for the laboratory.

5. If the application is approved by the Livestock Sanitary Board, the applicant will proceed with training, examination, and United States Department of Agriculture laboratory visitation.

6. Laboratory check test results shall be provided to the state veterinarian for final approval.

7. All Equine Infectious Anemia testing laboratories which have been approved by the United States Department of Agriculture, prior to the adoption of this regulation, shall be automatically approved at the time this regulation goes into effect.

C. Conditions for Maintaining Equine Infectious Anemia Testing Laboratory Approval

1. Laboratories must maintain a work log clearly identifying each individual sample and tests results, which must be available for inspection, for a period of 18 months from the date of the test.

2. Laboratories must maintain on file and make available for inspection, a copy of all submitting forms for a period of 18 months.

3. Laboratories must continually meet all the requirements of Veterinary Services Memorandum 555.8.

4. Samples shall be periodically collected and laboratories periodically inspected without prior notification.

5. Laboratories shall report, immediately, by telephone or telephonic facsimile, all positive results to the official test for EIA to the state veterinarian's office.

6. The state veterinarian shall renew the approval in January of each year, as long as laboratories maintain the standards required by this regulation and Veterinary Services Memorandum 555.8.

D. Cancellation of Equine Infectious Anemia Testing Laboratory Approval. An Equine Infectious Anemia testing laboratory may have its approval canceled if the Livestock Sanitary Board finds, at a public hearing, that the laboratory has failed to meet the requirements of this regulation or has falsified its records or reports.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 14:698 (October 1988), amended LR 20:408 (April 1994).

§511. Definitions

A. Wherever in these EIA rules and regulations the masculine is used, it includes the feminine and vice versa; wherever the singular is used, it includes the plural and vice versa.

Approved EIA Testing Laboratory—a laboratory which is authorized by the board to conduct the EIA test analysis on equine blood samples.

Board—the Louisiana State Livestock Sanitary Board.

Buyer—any person who purchases EIA positive or S branded equine for slaughter.

Direct to Slaughter—for shipment or movement from the premises of origin directly to an approved slaughter establishment for the purpose of slaughter without any stopping or diversion except as is necessary or incidental to such shipment.

EIA Negative Equine—equine that is currently tested for EIA with a negative test result in accordance with these EIA rules and regulations.

EIA Positive Equine—an equine that has completed an EIA test with a positive test result.

EIA Quarantine—the secure and physical isolation of EIA positive equine, S branded equine or both in a specific confined area the perimeter of which is at all times at least 200 yards away from all other equine.

EIA Test—has the same meaning as test for EIA defined hereinafter.

Equine—any member of the family of *Equidae* including horses, mules, burros, donkeys, asses, and zebra.

Equine Infectious Anemia—a contagious and infectious disease of equine caused by a lentivirus the symptoms of which can include intermittent fever, depression, weakness, edema, anemia and sometimes death. The disease is also known as Swamp Fever and is sometimes referred to herein as "EIA."

Equine Quarantined Holding Area—an area where the secure and physical isolation of only EIA positive equine, S branded equine, or both are confined, the perimeter of which provides for separating by at least 440 yards from all other equine that are not EIA positive equine, S branded equine, or both.

Exposure to EIA—in the presence of an EIA positive equine.

Foal—an equine less than 1 year old.

In the Presence of—coming within 200 yards of the animal or object referred to.

Owner—any person who, in any form, possesses, has custody of, or has an ownership interest in an equine. A person is an owner during the period of time of the described relationship. A parent or tutor of an owner who is a minor is also an owner during the period of time that the owner-parent or tutor's minor resides with the parent or tutor. A curator of an owner who has been interdicted is an owner during the period of time that the interdict is an owner.

Permanent Individual Equine Identification—one of the following methods of identifying equine:

a. operational implanted electronic identification transponder with individual number;

b. legible individual lip tattoo; or

c. legible individual hot brand or freeze brand other than the brand S or 72A on the left shoulder.

Person—any natural person, partnership, limited partnership, limited liability company, corporation, association or any legal entity whatsoever.

Premises—any immovable or movable property in which or upon which an equine is, was or could be located.

Public Livestock Market—any place, establishment or facility commonly known as a "livestock market," "livestock auction market," "sales ring," "stockyard," or the like, operated for compensation or profit as a public market for livestock, consisting of pens, or other enclosures, and their appurtenances, in which livestock are received, held, sold, or kept for sale or shipment.

Quarantine—the secure and physical isolation of equine in a specific confined area the perimeter of which is at all times at least 200 yards away from other equine.

S Branded Equine—an equine which has been branded with the letter S at least 3 inches in height on the left shoulder.

Stall Barn—a building in which equine are customarily housed.

Test for EIA—a test, approved by the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, for scientifically testing equine for the presence of EIA. The test for EIA is also sometimes herein referred to as the "EIA test."

Testing Veterinarian—a veterinarian accredited by the United States Department of Agriculture who draws an equine's blood for an EIA test and who submits the blood sample to an approved EIA testing laboratory.

Verification—a written statement signed by each owner which includes the name, address, telephone number of each owner, the name of the equine, if any, the permanent individual identification of the equine, and an affirmative attestation of the date, place and the manner of ending the life of the equine.

VS Form 10-11—the form provided by the board or the United States Department of Agriculture utilized in EIA testing which provides for information including the name of the laboratory, the case number, the date of completion of the EIA test, the equine owner's name, address, telephone number and the permanent individual identification of the equine and the test results.

VS Form 1-27 Permit—a form provided, completed and issued by the board or the United States Department of Agriculture which is required before certain livestock may be moved from the premises of origin.

Written Proof of EIA Test—the VS Form 10-11 completed by an approved EIA testing laboratory which, when completed, provides the name of the laboratory, the case number, the date of completion of the EIA test, the equine owner's name, address, telephone number and permanent individual identification of the equine and the test results.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2091-2097.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 23:943 (August 1997).

§513. Statement of Purpose

A. The purpose of these EIA rules and regulations is to better identify and control EIA infected equine and to remove EIA infected equine from the population in order to prevent the spread of EIA. Due to the persistent incidence of EIA in the equine population, a more stringent eradication program for removal of infected equine, which includes ending the life of EIA infected equine, is necessary. These EIA rules and regulations should be liberally construed in favor of ending the life of EIA infected equine. The authority granted therein is to be exercised only in carrying out this necessary EIA eradication program.

B. It is understood that title to an equine can be difficult to discern, that custodians and possessors are frequently the only persons exercising authority over nontitled equine and,

therefore, effective enforcement of these EIA rules and regulations requires that possessors, custodians, and owners of equine share responsibility for eradication of a disease that has proven destructive to the industry and to equine. It is further understood that if in the board's view effective enforcement would not be jeopardized, the board should direct enforcement against titled owners over custodians and custodians over possessors. Notwithstanding the foregoing, the board may direct enforcement against any or all owners as defined in these EIA rules and regulations in any given case as it shall deem fit in its sole and exclusive judgment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2091-2097.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 23:944 (August 1997).

§515. Obligations of Owners

A. Any owner of equine that are physically located in Louisiana shall timely accomplish the following mandatory requirements, except as provided in §517 herein.

1. Every owner shall have a permanent individual equine identification for each of their equine completed not later than the time of the initial test for EIA called for herein and as otherwise provided for in these EIA rules and regulations.

2. Every owner shall, at the following times, have their equine tested by an approved EIA testing laboratory with blood samples drawn by a testing veterinarian and shall maintain written proof of and the results of such tests for not less than 24 months.

a. Every owner shall have all of the owner's equine tested for EIA at least every 12 months.

b. Every owner shall have all of the owner's foals first tested for EIA no later than one year after the foals are born.

c. Every owner shall have all of the owner's equine coming into the state accompanied with written proof of said equine having been tested negatively for EIA not more than 12 months prior to the date of the equine's entry into the state.

d. Every owner shall have all equine, for which written proof of a negative EIA test cannot be provided, immediately quarantined, tested for EIA, and permanently and individually identified within 20 days of the date upon which an unfulfilled request for written proof of a negative EIA test is made by an authorized agent of the board.

e.i. Owners must test for EIA any equine, except EIA positive equine and S branded equine, that is for any length of time:

(a). in the presence of any equine quarantined holding area; or

(b). in the presence of an EIA positive equine; or

(c). on the same premises as an EIA positive equine; or

(d). on a premises with a perimeter less than 200 yards from the perimeter of the premises of an EIA positive equine.

ii. Said test shall be conducted no earlier than 30 days after the date of the EIA test of the EIA positive equine.

iii. The owners shall ensure that said test for EIA is conducted no sooner than 30 days and, to the extent possible, no later than 60 days from the last date upon which the owners' equine was in the presence of the EIA positive equine or in any of the aforementioned places, but, in any event, the said EIA test shall be conducted.

f. Every owner shall have all equine that are to have their ownership changed tested for EIA within six months prior to the change.

g.i. Every owner offering equine for sale at public livestock markets without written proof of a negative EIA test conducted within six months of sale or without permanent individual equine identification shall have the equine quarantined, fitted with permanent individual equine identification if not already so fitted, tested for EIA and the results of a negative EIA test before the equine may be removed from quarantine.

ii. All such owners shall have the blood sample drawn for the EIA test before the equine leaves the public livestock market.

iii. If no veterinarian is available for official EIA testing of equine at a public livestock market, EIA testing shall be conducted by an authorized agent of the board.

iv. Prior to the drawing of blood for the EIA test required by §515.A.2, the owner shall authorize payment of the testing fee for the EIA test to the testing veterinarian.

v. The purchaser of the equine shall pay the identification fee before the equine leaves the public livestock market.

h. Every owner offering equine for sale at public livestock markets without permanent individual equine identification shall have said equine fitted with permanent individual equine identification before said equine leaves the public livestock market.

3. Every owner shall have all of the owner's equine stabled at a racetrack governed by the Louisiana State Racing Commission which are EIA positive immediately and individually quarantined and removed from the racetrack. Owners of other equine which were in the same or directly adjacent stall barns as an EIA positive equine shall be tested for EIA. The EIA testing shall, to the extent possible, as determined by the board, be conducted no sooner than 30 days and no later than 60 days after the date upon which the EIA positive equine was removed from the presence of the equine being tested but, in any event, the said EIA test shall be conducted.

4. Every owner shall immediately, upon receipt of knowledge of a positive EIA test, quarantine and thereafter

maintain quarantine of all EIA positive equine until the end of the equine's life as provided herein.

5.a. Every owner shall have all equine which test positive for EIA branded by an authorized agent of the board with a 72A brand at least 3 inches in height on the left shoulder immediately upon receipt of the positive EIA test report.

b. Upon request by the owner to the board, an owner shall be permitted to retest the EIA positive equine by a veterinarian employed by the board prior to a 72A brand being placed on the EIA positive equine.

6. In no event shall any EIA positive equine be moved from one immovable premises to another without a VS Form 1-27 Permit issued by an authorized agent of the board accompanying the EIA positive equine.

7. Every owner who receives notice of a positive EIA test shall inform all other owners of the relevant equine of the test results within 24 hours of having received notice of the EIA test results.

8.a. Every owner shall cause the ending of the life of or end the life of all equine testing positive for EIA, immediately upon notice of the positive result of the EIA test and shall provide verification of the death of such equine by written and signed statement of the owner which shall be furnished to the office of the state veterinarian.

b. In the event any EIA positive equine is to be sold for slaughter, the owner shall secure a VS Form 1-27 Permit issued by an authorized agent of the board before the equine may be moved from the premises where the EIA positive equine was quarantined and the owner shall cause the EIA positive equine to be accompanied with the VS Form 1-27 Permit issued by an authorized agent of the board when the EIA positive equine is en route to or at the public livestock market.

c. When the equine is sold for slaughter a properly completed VS-Form 1-27 Permit may serve as the verification called for herein.

9.a. Upon written or oral request by an authorized agent of the board, all owners shall immediately make available written proof of an EIA test demonstrating compliance with the EIA testing requirements of these EIA rules and regulations. If the requested written proof is not provided to an authorized agent of the board, the equine shall be presumed to be untested.

b. When a change of possession, custody or ownership of an equine occurs, the owner transferring possession, custody or ownership shall physically transfer to the transferee written proof of the most recent EIA test of the equine transferred.

10. Every owner of equine shall provide the names, addresses and telephone numbers of all other owners, if any, to the board upon the request of an authorized agent of the board.

11. Every owner shall, without prior notice, permit and assist authorized agents of the board in the inspection of equine and inspections to determine compliance with these EIA rules and regulations, including inspection of the equine's permanent individual equine identification, inspection of the manner in which any EIA quarantine is being maintained, inspection of the collection of blood samples for EIA tests and inspections relating to the establishment of EIA quarantines.

12. All owners of an equine are responsible and liable in solido to the board for any violation of these EIA rules and regulations involving that equine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2091-2097.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 23:945 (August 1997).

§517. Exceptions

A. Notwithstanding any other provision hereof, the written proof of EIA test and the requirements of these EIA rules and regulations need not include permanent individual equine identification of equine for those equine that temporarily enter Louisiana from another state and that depart Louisiana before the passage of 12 months since such equine's last EIA test. This exception does not apply to equine offered for sale at a public livestock market. All equine, including those temporarily in Louisiana from another state that are offered for sale at a public livestock market, and their owners are subject to all requirements of §515.A.2.g.i including those pertaining to permanent individual equine identification.

B. Upon request by any owner, any mare or dam testing positive for EIA that is at least 270 days into term or has a nursing foal no more than 120 days of age may be quarantined to the owner's premises prior to ending the mare's or dam's life until not later than 20 days after either her foal dies or reaches an age of 120 days by which time the mare's or dam's life shall be ended. Notwithstanding the foregoing exception, all owners shall have the EIA positive mare or dam branded with a 72A brand at least 3 inches in height on the left shoulder immediately upon receipt of the EIA positive test report.

C. Notwithstanding any other provision hereof, all owners of equine which tested positive for EIA prior to February 1, 1994 shall be permitted to confine such equine to a quarantine approved by the board in lieu of ending the EIA positive equine's life. However, in the event such a quarantine is elected by the owner and such a quarantine is thereafter shown to have been violated and the board can demonstrate, after notice and hearing, that the quarantine was not, in every respect, maintained in accordance with these EIA rules and regulations and any special conditions, then, in that event, the owner shall, within 20 days of such finding, cause the ending of the life of, end the life of, or sell for slaughter any EIA positive equine so found in violation of the quarantine.

D. The seller of any equine which is sold at any public livestock market with gross proceeds from the sale being less than $50 shall not be required to pay the testing fee required herein for the EIA test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2091-2097.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 23:946 (August 1997).

§521. Collection and Submission of Blood Samples

A. All blood samples for EIA testing must be drawn by a testing veterinarian and submitted to an approved EIA testing laboratory. The seller of any equine sold at a public livestock market in which the gross proceeds from the sale are less than $50 may request that the blood sample be drawn by authorized agents of the board, which, if granted, shall satisfy the requirements of these EIA rules and regulations in that respect.

B. Blood samples submitted to the approved EIA testing laboratory for official EIA testing shall be accompanied by and submitted with a VS Form 10-11, Equine Infectious Anemia Laboratory Test Report, signed by the testing veterinarian, with completed information as to the equine owner's name, address, telephone number, date blood sample drawn and permanent individual identification of the equine.

C. Blood samples in nonsterile tubes shall not be accepted for testing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2091-2097.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 23:946 (August 1997).

§523. Penalties

A. The penalty for a violation of these EIA rules and regulations shall be a fine of up to $1,000 for each violation. With regard to continuing violations, whether acts or omissions, each day a violation occurs or continues shall be a separate violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2091-2097.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 23:947 (August 1997).

§525. Enforcement

A. In addition to those relevant provisions of law, the board may do the following, as is necessary, to carry out the board's powers and duties and to accomplish the purpose of the EIA eradication program.

1. The board may brand and permanently, individually identify equine.

2. The board may quarantine equine, EIA positive equine and equine in their presence, cause the ending of the life of EIA positive equine, end the life of EIA positive equine or cause the sale of EIA positive equine for slaughter.

3. An authorized agent of the board may enter any premises or place where equine are present during reasonable hours with or without prior notice for the purpose of determining whether these EIA rules and regulations have been violated and to inspect the equine for the presence of EIA and exposure related to EIA. A testing veterinarian employed by the board may draw blood samples from the equine present for the EIA test.

4.a. Any authorized agent of the board shall have access to, and may enter at all reasonable hours, all places of business dealing in or with equine and all places of business where books, papers, accounts, records, or other documents related to equine are maintained.

b. The board may subpoena, and any authorized agent of the board may inspect, copy, audit or investigate any of the books, papers, accounts, records, or other documents pertaining to equine, all for the purpose of determining whether there is compliance with the provisions of R.S. 3:2091-2100, and with these EIA rules and regulations.

c. The authority granted in §525.A.4.b shall also extend to books, papers, accounts, records, or other documents of persons doing business with the above referenced places of business.

5. The board may apply to a court of competent jurisdiction for a warrant to conduct any reasonable searches and seizures as is necessary to carry out the board's powers and duties not already provided for in these EIA rules and regulations.

6. The board may declare abandoned any equine with no apparent owner. The board is authorized to seize, test for EIA and fit with permanent individual identification any equine that has been declared abandoned. The board may also cause the ending of the life of, end the life of, or sell for slaughter any EIA positive equine that has been declared abandoned. Prior to any declaration of abandonment on the grounds of having no apparent owner, the board shall make reasonable inquiry in the geographic area where the relevant equine was initially located, and such reasonable inquiry shall include placing an advertisement in no less than two publications in the print media of greatest circulation near the geographic area where the equine was found. Further, no declaration that an equine is abandoned shall be made until 15 days have passed since the last publication seeking the owner was made.

7. The board may issue written orders in preventing, controlling or eradicating EIA, and a violation of any such order shall constitute a violation of these EIA rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2091-2097.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 23:947 (August 1997).

§527. Fees

A. There shall be a testing fee of not more than $18 per EIA test at all public livestock markets. All public livestock

markets shall collect the testing fee of not more than $18 per EIA test from sellers of equine which arrive at public livestock markets untested for EIA within six months prior to the equine's sale or offering for sale. The public livestock market shall forward the testing fee to the testing veterinarian.

B. There shall be an identification fee of $5 at all public livestock markets. All public livestock markets shall collect an identification fee of $5 per equine from purchasers of equine for all equine which arrive at public livestock markets untested for EIA within six months prior to the equine's sale or offering for sale. The public livestock market shall forward the fee to the Louisiana Department of Agriculture and Forestry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2091-2097.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 23:947 (August 1997).

§529. Approved Equine Infectious Anemia Testing Laboratories

A. No person shall operate an approved EIA testing laboratory without first obtaining approval from the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, and from the board.

B. The conditions for approving an EIA testing laboratory are as follows.

1. Any person applying for an EIA testing laboratory approval must submit a written application for approval by the board to the office of the state veterinarian.

2. An inspection of the facility must be made by a representative of the office of the state veterinarian who shall submit a report to the board indicating whether or not the person applying for an EIA testing laboratory approval has the facilities and equipment which are called for by the United States Department of Agriculture, currently contained in the Animal and Plant Health Inspection Service, Veterinary Services Memorandum 555.8.

3. Any person applying for an EIA testing laboratory approval must agree in writing to operate the approved EIA testing laboratory in conformity with the requirements of the United States Department of Agriculture, currently contained in Animal and Plant Health Inspection Service, Veterinary Services Memorandum 555.8.

4. If the application is given preliminary approval by the board, the person applying will proceed with successful completion of training, examination, and inspection by the United States Department of Agriculture.

5. Laboratory check test results of the United States Department of Agriculture shall be provided to the state veterinarian for final approval by the board.

6. All EIA testing laboratories which have been approved by the United States Department of Agriculture, prior to the effective date of this regulation, shall be deemed approved at the time this regulation goes into effect.

C.1. Approved EIA testing laboratories must maintain a work log clearly identifying each individual blood sample, EIA test result and VS Form 10-11, all of which must be preserved and available for inspection, for a period of time of not less than 24 months from the date of the EIA test.

2. Approved EIA testing laboratories must maintain on file and make available for inspection a copy of all VS 10-11 forms for a period of 24 months.

3. Approved EIA testing laboratories must at all times meet all the requirements of the United States Department of Agriculture, including those requirements currently contained in Animal and Plant Health Inspection Service, Veterinary Services Memorandum 555.8.

4. Blood samples shall be periodically collected and approved EIA testing laboratories periodically inspected by a representative of the office of the state veterinarian with or without prior notification.

5. Approved EIA testing laboratories shall immediately report by postage prepaid U.S. first class mail, telephone and telephonic facsimile all positive EIA test results to the state veterinarian's office.

6. The state veterinarian shall renew the approval of approved EIA testing laboratories in January of each year, provided the approved EIA testing laboratories maintain the standards required by this regulation and by the United States Department of Agriculture, currently contained in Animal and Plant Health Inspection Service, Veterinary Services Memorandum 555.8.

7. Approved EIA testing laboratories must submit the white original of each VS Form 10-11 not less than monthly to the board.

8. Approved EIA testing laboratories may charge a fee to the testing veterinarian for conducting an EIA test.

D. All records of EIA tests conducted by an approved EIA testing laboratory shall contain the name of the approved EIA testing laboratory.

E. An approved EIA testing laboratory may have its approval canceled if the board finds that the approved laboratory has failed to meet the requirements of the EIA rules and regulations, has falsified its records or reports, or has failed to maintain the standards required by this regulation and by the United States Department of Agriculture, currently contained in Animal and Plant Health Inspection Service, Veterinary Services Memorandum 555.8.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2091-2097.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 23:947 (August 1997).

§531. Equine Quarantined Holding Area

A. Any person desiring to operate an equine quarantined holding area must file a written application for approval of the facility to the board and shall have:

1. the equine quarantined holding facility and area inspected and approved by the board; and

2. agree, in writing, to comply with these EIA rules and regulations.

B. No other equine except equine consigned for slaughter shall be kept in an equine quarantined holding area and all equine held therein shall be S branded.

C. No equine shall be kept in the equine quarantined holding area longer than 60 days by which time the life of any such equine shall be ended.

D. No equine shall be released from an equine quarantined holding area except to be delivered direct to slaughter.

E. The equine quarantined holding area shall be an area where EIA positive equine, S branded equine or both are kept at least 440 yards from all other equine at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2091-2097.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 23:947 (August 1997).

§533. Other

A. The permit for operating an equine quarantined holding area upon approval shall be issued by the board and shall be subject to renewal annually upon such terms, conditions and requirements as the initial issuance or upon terms, conditions and requirements as are necessary to carry out the purposes of these EIA rules and regulations.

B. All equine that arrive at a public livestock market, that have had a blood sample drawn for an EIA test, been fitted with a permanent individual equine identification, and that have had their fee paid, may be moved by the purchaser to the purchaser's premises and, if so moved, shall be held by the purchaser under quarantine until the EIA test results are received.

C. For purposes of these EIA rules and regulations the date of the drawing of the blood sample used for an EIA test shall be deemed the date of the conduct of the EIA test sometimes referred to as the date of the EIA test.

D. No person may import into Louisiana any equine that is EIA positive.

E. Authorized buyers for approved slaughter establishments may request that any equine purchased by the approved slaughter establishment at a public livestock market be restricted to slaughter. Upon such request, an authorized agent of the board shall place an S brand on said equine and shall issue a VS Form 1-27 Permit before the said equine may leave the public livestock market.

F. No person shall conspire with another person or aid and abet another person in the violation of these EIA rules and regulations.

G. No person shall give false information, in any form, to the board or any representative thereof.

H. No equine under EIA quarantine or quarantine may be moved except with a VS Form 1-27 permit.

I. No equine under EIA quarantine or quarantine may be sold other than directly to slaughter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2091-2097.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 23:948 (August 1997).

§535. Severability

A. If any part of these EIA rules and regulations is declared to be invalid for any reason by any court of competent jurisdiction, said declaration shall not affect the validity of any other part not so declared.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2091-2097.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, Livestock Sanitary Board, LR 23:949 (August 1997).

Chapter 7. Poultry

§701. Health Requirement Governing Admission of Poultry

A. All poultry entering the state must meet the general requirements of §107 and the following specific requirements.

1. All poultry or poultry eggs for hatching, shall not be imported into Louisiana unless they originate in negative tested flocks under the supervision of the National Poultry Improvement Plan or in flocks that have passed a negative blood test for pullorum disease, under the supervision of the proper state Livestock Sanitary Board official, within 30 days prior to entry.

2. Poultry consigned to a recognized slaughter establishment may enter the state on a waybill, which must include the name and address of the consignee, the number of birds, and the name and address of the slaughter establishment. If, in the opinion of an authorized agent of the Livestock Sanitary Board, poultry consigned to a recognized slaughter establishment is of questionable health, the entire shipment will be quarantined immediately, and consigned to a poultry establishment maintaining federal inspection for wholesomeness, or be returned to the state of origin.

3. The state veterinarian may prohibit the entry of birds, eggs, or poultry by-products into Louisiana from any state which has an area under quarantine due to a contagious and/or infectious disease in the state which, in his opinion, may seriously threaten the health of Louisiana poultry.

4. Psitticine birds and mynah birds may be imported into Louisiana under permit issued by the state veterinarian. All birds imported into Louisiana will be quarantined at destination for 90 days.

5. No permits will be issued for importation into Louisiana of psitticine birds or mynah birds that have been vaccinated for Newcastle disease.

6. Birds determined to be infected with, or exposed to, exotic new-castle disease, shall be destroyed without compensation to the owner.

7. All poultry brought into Louisiana shall be accompanied by a VS Form 9-2, indicating the flock of origin is under the National Poultry Improvement Plan and is free of *Salmonella pullorum* (pullorum) and *Salmonella gallinarum* (typhoid). If the flock of origin is not under the National Poultry Improvement Plan, the birds must be accompanied by a test report from an approved laboratory indicating the birds were tested negative for *Salmonella pullorum/typhoid* within 30 days prior to entry into Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:244 (March 1985), amended LR 11:615 (June 1985), LR 14:224 (April 1988).

§703. Admittance of Louisiana Poultry to Fairs, Livestock Shows and Poultry Shows

A. All poultry going to Louisiana fairs, livestock shows and poultry shows shall be accompanied by a Form VS 9-2, indicating the flock of origin is under the National Poultry Improvement Plan and is free of "*Salmonella*" (pullorum) and "*Salmonella gallinarum*" (typhoid). If the flock of origin is not under the National Poultry Improvement Plan, the birds of breeding age must be accompanied by Form VS 9-2, health certificate or Certificate of Veterinary Inspection indicating the birds were tested negative for pullorum/typhoid within 90 days prior to admittance to the fairs, livestock show or poultry show.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 12:503 (August 1986).

§705. Slaughter and Testing of Poultry of Questionable Health

A. Poultry consigned from within the state of Louisiana to a recognized slaughter establishment which is, in the opinion of an authorized agent of the Livestock Sanitary Board, of questionable health, then the poultry will be quarantined and the entire shipment reconsigned to a slaughter establishment maintaining federal inspection for wholesomeness, or returned to the place of origin.

B. All hatcheries and hatchery supply flocks within the state must be qualified as U.S. pullorum/typhoid clean or have met equivalent requirements for pullorum/typhoid control under official state supervision. If other domesticated fowl, with the exception of waterfowl, are maintained on the same premises as the participating flock, freedom from pullorum/typhoid infection shall be demonstrated by an official blood test of each of these fowl.

C. All flocks which test positive for *Salmonella pullorum* or *Salmonella galinarum* shall be followed by an investigation by the official state agency to determine the origin of the infection.

D. All flocks found to test positive for pullorum or typhoid shall be quarantined until marketed or destroyed under the supervision of the official state agency or until subsequently blood tested at intervals of at least 21 days and until two consecutive negatives tests are obtained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:244 (March 1985), amended LR 11:615 (June 1985), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 15:812 (October 1989).

§707. Sanitary Disposal of Dead Poultry

A. All commercial poultry producers are required to obtain a certificate of approval. Failure to obtain a certificate shall be considered a violation of this regulation. Certificates of approval are continuous, but subject to review and cancellation should the poultry producer fail to dispose of dead poultry in accordance with this regulation.

B. Dead poultry must be removed from the presence of live poultry without delay. The carcasses, parts of carcasses and offal must be held in covered containers until disposal is made by one of the approved methods. In no instance, however, will the storage of dead poultry be allowed to create sanitary problems. Commercial poultry producers shall be required to dispose of dead poultry by one of the following methods.

1. Disposal Pits. Disposal pits shall be constructed in a manner and design capable of providing a method of disposal of dead poultry to prevent the spread of diseases. Disposal pits that are currently in use will be allowed to operate until July 1, 1997.

2. Incinerators. Incinerators shall be constructed in a manner and design capable of providing a method of disposal of dead poultry to prevent the spread of diseases. The design and construction must be approved by an authorized representative of the Livestock Sanitary Board.

3. Rendering Plant. Dead poultry, parts of carcasses and poultry offal may be transported in covered containers to approved rendering plants. Poultry carcasses may be held on the premises of commercial poultry producers as long as the storage does not create a sanitary problem. All such methods of storage and transportation of dead poultry to approved rendering plants must be approved by an authorized representative of the Livestock Sanitary Board.

4. Composting. The design, construction, and use of compost units must be approved by an authorized representative of the Livestock Sanitary Board.

5. Digesters. Poultry digesters may be used if the following conditions are met:

a. the design, construction, location, and use of digesters must be approved by an authorized representative of the Livestock Sanitary Board;

b. the bacteria being used in the digester must be approved by an authorized representative of the Livestock Sanitary Board;

c. the digester must be maintained according to recommendations of an authorized representative of the Livestock Sanitary Board.

C. In the event of the death of more than 1 percent of broilers or 0.5 percent of pullets or breeders over four weeks of age on the same premises within a 24-hour period of time, the death of which is not known to be caused by a contagious or infectious disease, the dead poultry may be disposed of by on-site burial. The State Veterinarian's Office must be notified immediately by telephone or facsimile in the event of excessive mortality requiring on-site burial.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:244 (March 1985), amended LR 11:615 (June 1985), LR 17:874 (September 1991), LR 18:1355 (December 1992), LR 20:863 (August 1994), LR 23:949 (August 1997).

Chapter 9. Swine

§901. Health Requirements Governing Admission of Livestock

A. General Swine Requirements

1. All swine imported into Louisiana must meet the general requirements of §107 and the specific requirements of this Section.

2. No swine originating from an out-of-state livestock auction market, feeder pig sale or concentration point are eligible to move to a Louisiana livestock auction market, feeder pig sale or concentration point.

3. All swine consigned to Louisiana for feeding or breeding purposes or for exhibition must be permanently identified to the herd of origin by ear tag or tattoo (unless prohibited by federal regulation). Ear notch identification will be accepted in lieu of tag or tattoo on registered, purebred animals.

4. Feeding and/or breeding swine moving into Louisiana from an out-of-state specifically approved livestock auction market, feeder pig sale or concentration point, shall move to a Louisiana farm.

5. All eligible swine moving into Louisiana for slaughter purposes must be consigned to a specifically approved slaughter establishment maintaining state or federal meat inspection or livestock auction market specifically approved to handle slaughter hogs from out-of-state.

B. Brucellosis. In addition to the general requirements of §105 and the swine requirements of this Section, all swine for breeding purposes must show an official, negative test for Brucellosis in the 1:25 dilution or a negative swine Brucellosis card test within 30 days prior to date of shipment. Each animal must be individually identified to herd of origin by ear tag or tattoo unless prohibited by federal regulations (ear notch identification will be accepted in lieu of tag or tattoo on registered, purebred animals), and this identification must be recorded on the health certificate. An exception to this Section are swine from a validated Brucellosis free herd. The validated herd number and individual identification of each animal must appear on the health certificate.

C. Pseudorabies Requirements

1. All swine moving into Louisiana must originate from herds not known to be infected with pseudorabies. A permit is required for all swine entering the state for breeding or feeding purposes. The permit number is valid for 15 days and must be recorded on the health certificate. All breeding swine, entering the state on a permit, will be quarantined at destination, to be retested in 30 to 60 days at the owner's expense.

2. Swine moving into Louisiana for breeding or exhibition must:

a. originate from herds not known to be infected with pseudorabies, and are negative to an official test for pseudorabies within 30 days of movement; or

b. originate from a qualified pseudorabies herd. The qualified herd number must be recorded on the health certificate; or

c. be shipped directly from the farm of origin in a State IV or Free State.

3. Swine moving into Louisiana for feeding purposes, must meet one or more of the following requirements:

a. pass a negative official pseudorabies serologic test within 30 days prior to interstate shipment; or

b. originate in a pseudorabies qualified negative herd; or

c. originate in a pseudorabies monitored feeder pig herd; or

d. be shipped directly from the farm of origin in a state III, IV, or free state; or

e. be sold at an approved all class market or approved slaughter market and imported for feeding in a quarantined feedlot; or

f. be sold at an approved feeder pig market and imported for feeding without restrictions.

4. Slaughter hogs moving into Louisiana, in addition to a waybill, must move:

a. directly to a recognized slaughter establishment; or

b. directly to an approved slaughter market or approved all class market, and then directly to another approved slaughter market, or to a recognized slaughter establishment or quarantined feedlot; or

c. directly to an approved slaughter market and then to a quarantined feedlot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:244 (March 1985), amended LR 11:615 (June 1985), LR 16:391 (May 1990).

§903. Admittance of Livestock to Fairs, Livestock Shows, Breeders' Association Sales

A. All swine consigned to fairs, livestock shows and/or breeders' association sales must meet state and federal interstate requirements if they move in interstate commerce. Louisiana swine must meet the general requirements of §109 and the specific requirements outlined in this Section.

B. All swine consigned for exhibition or sale must be permanently identified as to the herd of origin by official ear tag or tattoo, (ear notch identification will be accepted in lieu of ear tag or tattoo on registered, purebred animals), and this identification must be shown on the health certificate which accompanies the animals.

C. Swine Brucellosis. All breedings age swine moving within the state to fairs, livestock shows, or breeders' association sales must show an official negative card test for Brucellosis within 60 days prior to arrival at the fairgrounds or livestock show grounds, and within 30 days prior to arrival at breeders' association sale grounds. Swine moving to shows within the state that were purchased from validated or monitored herds are exempt from this testing requirement. Proof of purchase and validated/monitored herd numbers of the swine herd will be required.

D. Pseudorabies Requirements. All swine moving within the state to fairs, livestock shows, or breeders' association sales must show an official test for pseudorabies within 60 days prior to arrival at the fairgrounds or livestock show grounds, and within 30 days prior to arrival at breeder's association sale grounds. Swine moving to shows within the state they were purchased from qualified or monitored herds are exempt from this testing requirement. Proof or purchase and qualified/monitored herd numbers of the swine herd will be required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:245 (March 1985), amended LR 11:615 (June 1985), LR 16:392 (May 1990), LR 20:1258 (November 1994).

§905. Quarantining, Vaccinating and Testing Swine for Brucellosis and Pseudorabies

A. The state veterinarian or his representative shall have the authority to conduct epidemiologic investigations and quarantine of:

1. swine herds in which one or more of the animals are found to be positive to pseudorabies, as determined by the epidemiologist, based on the interpretation of official tests;

2. the herd of origin of swine that have been added to a herd that becomes quarantined because of pseudorabies, if swine have been acquired from said herd of origin within the last 12 months;

3. herds which have received swine from herds found to have pseudorabies.

B. Herds of swine including feedlots, within a 1.5-mile radius of the quarantined herd, will be monitored in accordance with the recommendation of the state veterinarian and/or epidemiologist by either a test of all breeding swine or by an official random sample test.

C. A herd plan and epidemiology report must be completed within 30 days from the date an animal that originated from the herd was found to be a reactor at slaughter. A herd test must be completed within 45 days from the date an animal that originated from the herd was found to be a reactor at slaughter.

D. To be eligible for release from quarantine, a swine herd must meet the following requirements.

1. All swine positive to an official pseudorabies test must be tagged with an official reactor tag in the left ear and permitted on Form VS 1-27 to recognized slaughter establishment, rendering plant, or disposed of on the herd premises or other "approved" location by disposal means authorized by applicable state laws within 15 days. All swine, over 6 months of age and a random sampling of any growing/finishing swine which remain in the herd, must be tested negative 30 days or more after removal of reactors. No livestock on the premises shall have shown signs of pseudorabies after removal of reactors.

2. Whole Herd Depopulation. All swine on the premises must be tagged with an official reactor tag in the left ear and permitted on a Form VS 1-27 to a recognized slaughter establishment, rendering plant, or disposed of on the herd premises or other "approved" location by disposal means authorized by applicable state laws. The premises must remain depopulated for 30 days and the herd premises must be cleaned and disinfected with an approved disinfectant prior to putting swine back on the premises.

E. A herd of swine quarantined because of Brucellosis must meet one of the following requirements.

1. All swine positive to an official Brucellosis test must be tagged with an official reactor tag in the left ear and permitted on Form VS 1-27 to a recognized slaughter establishment, rendering plant, or disposed of on the herd premises by disposal means authorized by applicable state laws within 15 days.

a. All swine over 6 months of age which remain in the herd, must be tested according to an approved herd plan.

b. A herd may be released from quarantine upon completion of three negative Complete Herd Tests (CHT):

i. the first test must be completed at least 30 days after removal of the last reactor;

ii. a second CHT must be conducted 60-90 days following the first CHT;

iii. a third CHT is required 60-90 days following the second CHT;

iv. a fourth CHT is required six months after the third CHT.

2. Whole Herd Depopulation

a. All swine on the premises must be tagged with an official reactor tag in the left ear and permitted on a Form VS 1-27 to a recognized slaughter establishment, rendering plant, or disposed of on the herd premises or other "approved" location by disposal means authorized by applicable state laws.

b. The premises must remain depopulated for 30 days and the herd premises must be cleaned and disinfected with an approved disinfectant prior to putting swine back on the premises.

F. All movement from pseudorabies/Brucellosis quarantined herds, must be accompanied by a VS Form 1-27, Permit for Movement of Restricted Animals, listing the official, individual identification of each animal to be removed.

1. This form must be delivered to an authorized representative at destination.

2. These permits will be issued by a representative of the Livestock Sanitary Board.

G. All exposed swine moving from quarantined premises in interstate or intrastate commerce, must move directly to a recognized slaughter establishment or to an approved swine quarantined feedlot or rendering plant.

H. The use of pseudorabies vaccine is prohibited, except by permission of the state veterinarian.

I. All swine, 6 months of age or older, must be tested negative for pseudorabies and Brucellosis by an official test within 30 days prior to sale. Swine originating from a Brucellosis validated-pseudorabies qualified free herd or from a monitored feeder pig herd are exempt from this testing requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 16:392 (May 1990), amended LR 18:839 (August 1992), LR 20:1258 (November 1994), LR 23:1493 (November 1997).

§907. Operation of Livestock Auction Markets

A. All swine which are sold or offered for sale in livestock auction markets must meet the general requirements of §111 and the following specific pseudorabies/Brucellosis requirements.

1. All breeder and feeder swine moving to Louisiana auction markets from farms outside Louisiana must meet the requirements of §111.

2. All swine over 6 months of age, being sold at Louisiana livestock auction markets must be identified by an official swine back tag, placed on the animals' forehead and an official metal ear tag.

3. The market shall furnish the Livestock Sanitary Board's official representative a copy of each check-in slip, showing the name of the auction market, the date, the name and complete address of each consignor, and the official back tag numbers applied to the consignor's livestock. It shall be a violation of this regulation for anyone to consign livestock to a Louisiana livestock auction market and give a name and address that is not the name and address of the owner consigning the livestock to the auction market.

4. All swine 6 months of age or older arriving at a livestock auction market without an official negative test will have a blood sample drawn for testing. Swine

originating from a Brucellosis validated-pseudorabies qualified free herd or from a monitored feeder pig herd are exempt from this testing requirement. Testing for pseudorabies and Brucellosis at livestock auction markets may be suspended by the state veterinarian due to climatic conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:245 (March 1985), amended LR 11:615 (June 1985), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 16:392 (May 1990), LR 18:839 (August 1992), LR 23:1494 (November 1997).

§909. Quarantined Swine Feedlots

A. Permit Required. No person may operate a quarantined swine feedlot without first obtaining a permit from the Livestock Sanitary Board. Any person operating a feedlot without a valid permit will be in violation of this regulation and subject to prosecution.

B. Requirements for Operation of Quarantined Feedlots

1. All swine must be maintained at a safe distance and apart from all other neighboring swine of other producers.

2. Complete records must be maintained on all transactions showing dates, identification, origin and disposition of each animal. These records shall be made available to state-federal personnel upon request.

3. All swine movements from a quarantined feedlot must be directly to a slaughtering establishment operating under approved state or federal meat inspection.

C. Cancellation of Quarantined Feedlot Permit

1. A quarantined swine feedlot permit may be canceled upon written notice that the operation does not meet the requirements of this regulation, or the operator of such quarantined swine feedlot has violated the provisions of this regulation in any respect.

2. The board shall give written notice of the cancellation of a quarantined swine feedlot permit to the operator thereof.

3. Any operator of a quarantined swine feedlot whose permit is so canceled may appeal the cancellation thereof by written notice to the board within 10 days of receipt of the notice of cancellation. Any operator of a quarantined swine feedlot who appeals cancellation of his permit shall be entitled to a full hearing before the board, and the decision of the board at such hearing will be final unless the operator appeals to a court of competent jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:247 (March 1985), amended LR 11:615 (June 1985).

§911. Identification of Swine with Official Backtags and the Collection of Blood Samples from Officially Backtagged Swine at Slaughter Establishments under State or Federal Meat Inspection

A. Official Backtagging of Swine

1. All swine over 6 months of age that are not officially tagged when received by a slaughter establishment, under state or federal meat inspection, shall be identified by an official backtag, properly placed. The name and address of the consignor, the name and address of the owner of the herd of origin, (if different from that of the consignor), shall be recorded, along with the official backtag numbers, on forms provided for this purpose. A copy of the completed form shall be retained by the slaughter establishment for their records; the original is to be furnished to the meat inspector to accompany blood samples to the state-federal Livestock Diagnostic Laboratory.

2. The slaughter establishment shall be responsible for the identification of the animals and for maintaining required records.

B. Records. All records pertaining to the identification of the swine, the name and address of the owner of the herd of origin, (if different from that of the consignor), shall be maintained and made available to representatives of the Livestock Sanitary Board, upon request.

C. Blood Sample Collection. A blood sample shall be collected from all swine over 6 months of age. State and federal meat inspection personnel shall be responsible for the collection of the blood samples; the identification of the samples, the packaging and mailing of the blood samples, corresponding backtags, and forms, to the state-federal livestock diagnostic laboratory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 16:392 (May 1990).

Chapter 11. Sheep

§1101. Health Requirements Governing Admission of Livestock

A. All sheep entering the state must meet the general requirements of §107. In addition, all sheep entering Louisiana from a state in which scabies is known to exist must be dipped within 15 days prior to shipment in a dip preparation approved for this purpose by the United States Department of Agriculture. The date and name of the dip must be recorded on the health certificate covering this movement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:247 (March 1985), amended LR 11:615 (June 1985).

§1103. Admission of Livestock to Fairs, Livestock Shows, Breeders' Association Sales and Rodeos

A. All sheep consigned to fairgrounds, livestock showgrounds, sale grounds and rodeos must meet the general requirements of §109. In addition, all sheep to be admitted to fairgrounds, livestock show grounds, sale grounds or rodeos must be accompanied by an official health certificate, issued by an accredited veterinarian, stating the animals are healthy and free from infectious, contagious or parasitic disease.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:247 (March 1985), amended LR 11:615 (June 1985).

§1105. Identification of Sheep

A. All sheep changing ownership shall be individually identified by means of an official identification for Scrapie as defined in §101.

B. The following sheep shall be individually identified with Official Identification for Scrapie:

1. live Scrapie positive sheep;

2. suspect Scrapie positive sheep;

3. all sheep considered as high risk for developing Scrapie, as defined by USDA;

4. all sheep exposed to Scrapie.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093 and 2095.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 31:1971 (August 2005).

Chapter 13. Goats

§1301. Health Requirements Governing Admission of Livestock

A. All goats imported into the state must meet the general requirements of §107. In addition, dairy goats must meet the Brucellosis and tuberculosis requirements stipulated for cattle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:247 (March 1985), amended LR 11:615 (June 1985).

§1303. Identification of Goats

A. The following goats shall be individually identified by means of an Official Identification for Scrapie and defined in §101:

1. live Scrapie positive goats;

2. suspect Scrapie positive goats;

3. all goats considered as high risk for developing Scrapie, as defined by USDA;

4. all goats exposed to Scrapie.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093 and 2095.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 31:1971 (August 2005).

Chapter 15. Alternative Livestock—Imported Exotic Deer and Imported Exotic Antelope, Elk and Farm-Raised White-Tailed Deer

§1501. Statement of Authority and Purpose

A. The Commissioner of Agriculture and Forestry heads and directs the Department of Agriculture and Forestry and exercises all functions of the state relating to the promotion, protection and advancement of agriculture and forestry. The commissioner is authorized by law and does hereby adopt these rules and regulations for the purposes of promoting, protecting and advancing agriculture and to implement the laws adopted by the legislature, including those in Part I of Chapter 19-A of Title 3 of the Revised Statutes, giving the commissioner the specific power to regulate farm-raised exotic animals, including imported exotic deer and imported exotic antelope, elk and farm-raised white-tailed deer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1671 (September 1998).

§1503. Definitions

A. For purposes of these rules and regulations the following words and phrases shall have the meaning given herein.

Alternative Livestock—any imported exotic deer and imported exotic antelope, elk and farm-raised white-tailed deer.

Canned Hunt—harvesting farm-raised alternative livestock in a manner that is similar to but substantially inconsistent with those methods and techniques generally employed in the sport known as hunting and where those inconsistencies result in the taking of the farm raised alternative livestock being a certainty.

Chronic Wasting Disease (CWD)—a contagious neurological disease affecting deer, elk and moose which causes a characteristic spongy degeneration of the brain of infected animals resulting in emaciation, abnormal behavior, loss of bodily functions and death.

Commercial Purpose—the keeping, breeding, raising, containing, harvesting, killing, slaughtering, buying, selling, trading, or transferring ownership of alternative livestock, any alternative livestock carcass or part thereof, with the intent to receive money, goods, services, livestock or any other type of compensation in connection therewith.

Commissioner—the Commissioner of Agriculture and Forestry.

Department—the Louisiana Department of Agriculture and Forestry.

Elk—any animal of the species and genus *cervus canadensis*.

Farm—any area of land or water, regardless of size, used to breed, raise or keep farm-raised alternative livestock for a commercial purpose, including but not limited to breeding farms or propagating preserves. This definition does not include areas of land or water which are part of a zoo, game park or wildlife exhibit where the primary purpose is the exhibition of alternative livestock or other animals.

Farm-Raised—any alternative livestock born, raised, or kept within a closed circumscribed fenced area for a commercial purpose. This definition does not include alternative livestock which are part of a zoo, game park or wildlife exhibit where the primary purpose is the exhibition of the alternative livestock or other animals.

Farm-Raised White-Tailed Deer—any animal of species and genus *Odocoileus virginianus* which is bred, born, raised and/or kept within a closed circumscribed fenced area for the purpose of buying, selling, or trading in commerce. Farm raised white-tailed deer does not include any white-tailed deer which is part of any zoo, game park, or wildlife exhibit where the primary purpose of the same is the exhibition of white-tailed deer and/or other animals.

Harvesting—the attempt or act of shooting, wounding or killing farm-raised alternative livestock within the enclosure system of a farm in a manner consistent with those techniques commonly referred to as hunting in Title 56 of the Louisiana Revised Statutes.

Imported Exotic Antelope—any animal of the family *Bovidae* which are not indigenous to North America, except animals of the tribes *Bovine* (cattle) and *Caprine* (sheep and goats).

Imported Exotic Deer—any animal of the family *Cervidae* which are not indigenous to North America, including but not limited to Red Deer, Seika Deer and Fallow Deer.

LDWF—the Louisiana Department of Wildlife and Fisheries.

Person—any individual, corporation, partnership or other legal entity.

Quarantine—the requirement, resulting from an order of the department or the State Veterinarian's Office, to secure and physically isolate an animal or animals in a specified confined area to prevent the spread of contagious disease.

White-Tailed Deer—any animal of the species and genus *odociolus virginianus*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1671 (September 1998), amended by the Department of Agriculture and Forestry, Board of Animal Health, LR 38:961 (April 2012).

§1505. Issuance of Farm-Raising License; Renewals

A. Any person who keeps, breeds, raises, contains, harvests, kills, slaughters, buys, sells, trades, or transfers ownership of any type of farm-raised alternative livestock for commercial purposes shall obtain a farm-raising license, from the department prior to engaging in such activity.

B. The department shall not issue any farm-raising license until the application for the farm-raising license and the information requested, including the required plan for the operation of the farm, is approved by the department and the proposed farm passes the department's and LDWF's inspection.

C. Any changes in any information submitted in the original application, occurring during or after the application process, shall be submitted in writing to the department. The department and LDWF must approve, in writing, any change or modification, which shall be in writing, in the written farm operation plan submitted with the original application before such change or modification, may go into effect.

D. A farm-raising license shall be valid for the period beginning with the date of issuance and ending the following June 30 or from July 1 of the year of renewal through the following June 30.

E. A farm-raising license may be renewed each year by the department. A licensee shall submit a written request for renewal, the renewal fee, any proposed modification, which shall be in writing, of the written farm operation plan previously submitted to and approved by the department and any proof requested by the department of compliance by the licensee with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine. If either the written request for renewal or the renewal fee is received by the department after July 31, the farm-raising license shall be deemed expired, *ipso facto*, retroactive to June 30.

F. In the event that the department determines that a farm does not meet the requirements of or was not complying with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine the farm-raising license may not be renewed by the department.

G. The licensee may contest the department's decision not to renew a farm-raising license by filing a written request for an adjudicatory hearing with the department within 15 days from receipt of the notice of nonrenewal. Such a hearing is to be held in accordance with the provisions of the Administrative Procedure Act. Any such hearing shall be held within 30 days of the request, unless continued for good cause.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1672 (September 1998).

§1507. Fees

A. Farm-Raising License Fees

1. The fee for a new farm-raising license shall be $250.

2. The farm-raising license renewal fee shall be $250.

B. Harvesting Permit Fee

1. Each individual intending to harvest or kill any farm-raised alternative livestock at any farm licensed by the department shall obtain a harvesting permit from the department or LDWF, before harvesting or killing any farm-raised alternative livestock, except as provided by §1507.B.3.

2. The fee due to the department for each harvesting permit shall be $50 which fee shall be collected by the department or ministerially collected for the department by LDWF. Upon collection by LDWF, LDWF shall promptly remit the fee to the department retaining one-half for administrative costs.

3. No licensee or those persons employed by or assisting such licensee harvesting farm-raised alternative livestock to be taken directly to a state or federally approved slaughter facility or capturing farm-raised alternative livestock to be sold or traded for breeding or stocking purposes shall be required to obtain a harvesting permit or pay a fee.

C. Farm-Raised Alternative Livestock Tag Fee

1. Each farm-raised alternative livestock harvested or killed shall have a farm-raised tag attached to the left ear or left antler of the carcass at the time of kill and the tag shall remain with the carcass at all times, except as provided in §1507.C.3.

2. The farm-raised alternative livestock tag shall be provided by the department at a cost of $5 per tag.

3. No farm-raised tag shall be required for farm-raised alternative livestock which are to be taken directly to a state or federally approved slaughter facility or which are sold or traded alive for breeding or stocking purposes.

4. No harvesting shall occur and no harvesting permit shall be issued if the area of the relevant farm within the enclosure system is less than 300 acres or more 2,500 acres in size unless good cause is shown by the applicant to the commissioner why the issuance of a harvesting permit for an enclosure of a different size is not inconsistent with the intent of Part I of Chapter 19-A of Title 3 of the Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101 and R.S. 3:3107.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1672 (September 1998), LR 39:3060 (November 2013).

§1509. Farm-Raising Licensing Requirements

A. Written Application. Each applicant for a farm-raising license shall submit a completed written application on a form supplied by the department. In addition to any other information that may be requested by the department the applicant shall provide the following information:

1. name, physical address, mailing address and telephone number of the applicant and whether the applicant will own or lease the land. If the land is leased then a copy of the lease shall be provided to the department;

2. the name under which the business will operate, the physical address, mailing address and telephone number of the business, if different than the information provided in §1509.A.1;

3. the business structure, (sole proprietorship, partnership, corporation, limited liability company, joint venture, or otherwise);

4. the name of the person or persons in charge, position (e.g., owner, manager, etc.), residence address and phone number;

5. the physical location and size of the farm;

6. a topographical map of the farm if 50 acres or more;

7. the species of alternative livestock to be farm-raised;

8. the approximate number of animals to be farm-raised;

9. the complete plan for the operation of the farm including:

a. an enclosure system, including fencing the farm, indicating the location, size, nature and extent of the fencing material and of any right of way related to the farm property;

b. systematic inspection of the enclosure system, including the fence, maintenance, repair and replacement of the fence, keeping the fence and any clearance along either side of the fence clear and verification to the department of compliance with this provision;

c. the capture of any farm-raised alternative livestock that may escape from or wild white-tailed deer that may enter the farm through a breach or opening in the enclosure system or fence;

d. removal of white-tailed deer from the farm prior to completion of the enclosure of the farm;

e. controlling farm-raised alternative livestock population;

f. identification by means of an electronic implant of all white-tail deer born, bought, sold, traded or which otherwise become farm-raised white-tailed deer, which shall include the systematic capture of farm-raised white-tailed deer for implantation purposes;

g. the removal and disposal of all alternative livestock in the event that the farm ceases operation for any reason or upon revocation or nonrenewal of the farm-raising

license, including a provision for written notice to the department prior to cessation of farming operation;

h. the type of farming operation records that will be kept;

10. a statement that the applicant shall abide by the requirements of Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine;

11. a certified statement that all representations contained in the application, the farm operation plan and attachments are true and correct.

B. Farm Inspection. An applicant shall have the proposed farm physically inspected and approved by the department and LDWF before a farm-raising license may be issued by the department. To obtain department approval a proposed farm shall:

1. be located in a rural area of the state;

2. be securely enclosed by an enclosure system, including fencing, that meets the following specifications:

a. a minimum height, above the relevant ground, of 8 feet;

b. enclose an area of not less than 300 acres nor more than 2,500 acres to be eligible for harvesting as provided by §1507.B of these rules and regulations. Applicants seeking eligibility to harvest on farms with enclosures of less than 300 acres or more that 2,500 acres must demonstrate good cause why an enclosure of a different size is not inconsistent with the intent of Part I of Chapter 19-A of Title 3 of the Revised Statutes;

c. a minimum gauge wire of 12 1/2;

d. fencing material of chain link, woven wire, solid panel or welded panel or, if made with any other material, approved in writing by the department, however, welded wire fences shall not be used unless it was approved by LDWF and installed prior to April 22, 1997, but, such welded wire fences, when replaced or partially replaced, shall be replaced by fencing required by these rules and regulations;

3. have drainage sufficient to leave a majority of the farm free from extended periods of standing water;

4. have adequate space and if the total enclosed area of the farm is less than 50 acres, allow at least 5,000 square feet for the first elk or farm-raised white-tailed deer placed on the farm and at least 2,500 square feet for each subsequent elk or farm-raised white-tailed deer;

5. have no condition which may cause noncompliance with or substantial difficulty in complying with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine;

6. not be subject to an objection for good cause related to wildlife made in writing to the department by LDWF, which written objection shall follow within 10 working days of a physical inspection of the proposed farm made concurrently and jointly by the department and LDWF.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1673 (September 1998).

§1511. Grounds for Refusal to Issue or Renew a Farm-Raising License

A. The commissioner may refuse to issue or renew a farm-raising license for any of the following circumstances:

1. the applicant cannot demonstrate to the satisfaction of the commissioner a competency to operate an alternative livestock farm;

2. the applicant has failed to provide all of the information required in or with the farm-raising license or renewal application, or has provided false information to the department;

3. the applicant has previously refused to permit the department to inspect the farm or to inspect farm records or the applicant has otherwise failed to comply with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine;

4. the department does not approve the farm operation plan;

5. the proposed farm does not pass the department's or LDWF's inspection;

6. the applicant has previously been found in violation of either Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department or any quarantine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1673 (September 1998).

§1513. Obligations of the Farm-Raising Licensee

A. Identification of Farm-Raised Alternative Livestock

1. All farm-raised white-tailed deer shall be identified by means of an electronic implant implanted as follows:

a. the electronic implant shall be implanted into the subcutaneous tissue at the base of the left ear or in either shoulder;

b. all farm-raised white-tailed deer being brought into Louisiana shall have the electronic implant implanted before entering this state and prior to being released on the farm;

c. farm-raised white-tailed deer born in this state shall have an electronic implant implanted the first time the

farmBraised white-tailed deer is captured alive and before the farm-raised white-tailed deer leaves the farm;

d. all white-tailed deer shall be electronically implanted at the base of the left ear immediately upon harvest whether or not such deer have already been implanted previously. This requirement for electronic implantation is in addition to any and all other requirements for electronic implantation contained in these regulations. This electronic implantation shall remain with the carcass at all times;

e. each electronic implant code shall be listed on the farm-raised white-tailed deer's health certificate and on the bill of sale or certificate of transfer.

2. All farm-raised alternative livestock other than farm-raised white-tailed deer shall be permanently and individually identified as follows:

a. by means of an electronic implant or by a permanent ear tattoo and ear tag;

b. the electronic implant shall be implanted into the subcutaneous tissue at the base of the left ear or in either shoulder;

c. prior to entering the state, alternative livestock, other than farm-raised white-tailed deer, shall be identified as required herein;

d. alternative livestock born in this state, other than farm-raised white-tailed deer, shall be identified as required herein, the first time any such animal is captured alive and before any such animal leaves the farm;

e. the identification number or electronic implant code, and the location thereof, shall be listed on the health certificate and the bill of sale or certificate of transfer.

3. Farm-raised alternative livestock, other than farm-raised white-tailed deer, that will be transported directly to a state or federally approved slaughter facility are exempt from this identification requirement.

4. Farm-raised alternative livestock placed on a farm prior to the effective date of these regulations, other than farm-raised white-tailed deer, are not required to be identified by a permanent ear tattoo and ear tag or electronic implant unless removed alive from the farm.

B. Record Keeping

1. Each licensee shall maintain records, for not less than 36 months, of all sales, deaths, kills, trades, purchases, or transfers of any farm-raised alternative livestock. The records shall include:

a. total number of farm-raised alternative livestock, carcasses, or parts thereof, killed, sold, traded, purchased or transported;

b. name and address of the person to whom each farm-raised alternative livestock, or any carcass, or parts thereof, was sold, traded, delivered, presented or transported;

c. the electronic implant code or identification number of the farm-raised alternative livestock;

d. copies of any health certificates issued;

e. accurate records showing all inspections, maintenance, repairs and replacement to the enclosure system, including the fence and such records shall include the dates and times of each, names of the persons performing services, the location of any breaches of the enclosure system, including the fence and nature and location of any repairs or replacements made to the fence;

f. records customarily kept in the normal course of conducting business and those records required by these rules and regulations.

2. Sellers, traders or transferors of farm-raised alternative livestock, any carcass, or any part thereof, shall furnish the purchaser or transferee with a bill of sale or letter of transfer as verification of the farm-raised status.

3. The furnishing of any false information shall be a violation of these rules and regulations.

C. Enclosure System and Fence Inspection and Maintenance

1. Any licensee shall conduct or shall have conducted a visual ground inspection of the enclosure system, including the fence, along the entire perimeter of the fenced area of the farm not less than weekly. An inspection shall be conducted immediately after any major storm or occurrence of any other force of nature that would cause a reasonable person to be concerned about the integrity of the enclosure system, including the fence.

2. Any licensee shall maintain the enclosure system, including the fence in good repair at all times. Good repair means that farm-raised alternative livestock are not able to leave and wild white-tailed deer are not able to enter through the enclosure system, including the fence, or otherwise.

3. Any licensee who discovers a breach or opening in the enclosure system or fence that would allow farm-raised alternative livestock to leave from or wild white-tailed deer to enter into the enclosed area shall notify, orally and in writing, the department and LDWF of the breach or opening and the department shall notify LDWF within 12 hours.

4. In the event of such a breach or opening the licensee shall immediately close the breach or opening and make all reasonable efforts to determine if farm-raised alternative livestock left from or wild white-tailed deer entered into the area enclosed by the fence.

D. Other Obligations of the Farm Licensee

1. A licensee shall remove white-tailed deer from the farm prior to completion of the fencing and enclosure system of the farm. Removal of the white-tailed deer shall be accomplished to the satisfaction of the department and LDWF pursuant to these regulations.

2. A licensee shall control the population of farm-raised alternative livestock on the farm.

3. A licensee shall make all efforts that a reasonable licensee would make to capture any farm-raised alternative livestock that escapes from the fenced area of the farm and to remove wild white-tailed deer that enters the fenced area of the farm.

4. A licensee shall, in writing, notify the department, at least 10 days prior to placing any alternative livestock on the farm if such alternative livestock was not listed on the original application or on any modification previously approved, in writing, by the department. The department shall promptly notify LDWF following receipt of licensee's notice.

5. A licensee upon cessation of operations, or upon revocation or nonrenewal of the farm-raising license shall remove and dispose of all farm-raised alternative livestock on the farm in accordance with the farm operation plan submitted to and approved by the department or in accordance with specific written instructions issued by the department in the event that circumstances warrant removal and disposal of the farm-raised alternative livestock to be made in a manner different from the farm operation plan.

6. A licensee shall be responsible for ensuring that any individual who harvests or kills any farm-raised alternative livestock on the licensee's farm does so in accordance with these rules and regulations.

7. A licensee shall harvest or kill farm-raised alternative livestock in accordance with these rules and regulations.

8. A licensee shall provide that all farm-raised alternative livestock have the necessary health certificates and that the farm-raised alternative livestock meet all applicable health requirements.

9. A licensee shall allow authorized representatives of the department and authorized representatives of LDWF to inspect the farm at any time and all books and records at any reasonable time.

10. A licensee shall comply with all provisions of Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1674 (September 1998).

§1515. Health Certificates and Health Requirements

A. Prior to entering Louisiana, all alternative livestock, except those being transported directly to a state or federally approved slaughter facility, shall:

1. meet the general health requirements promulgated in §107 of this Part

2. have an entry permit number issued by the State Veterinarian's Office no more than 15 days before entry into Louisiana which entry number shall be included on the certificate of veterinary inspection;

3. have written proof of a negative test for Brucellosis in accordance with the *Brucellosis Eradication in Cervidae Uniform Methods and Rules* as and when published by the United States Department of Agriculture, Animal and Plant Health Inspection Service. Until such time as the *Brucellosis Eradication in Cervidae Uniform Methods and Rules* are published, all alternative livestock six months of age and older entering Louisiana, except those being transported directly to a state or federally approved slaughter facility, shall be tested negative for Brucellosis within 30 days prior to entry into Louisiana, and written proof thereof shall be provided, unless the alternative livestock originate from a herd which has been officially declared a certified *Brucellosis* free herd by the state of origin;

4. have written proof of a negative tuberculin skin test or a serological test for tuberculosis that meets the following requirements;

a. the tuberculin skin test or serological test for tuberculosis is one of the official tuberculosis tests approved by the U.S. Department of Agriculture for use on the species of alternative livestock for which permission to enter the state is being sought;

b. the test was administered and read in accordance with the USDA requirements for the administering and reading of that test;

5. prior to any person importing any alternative livestock into Louisiana, LDWF shall be provided by the department a copy of the entry permits or other applicable documents which describe the alternative livestock by species, sex, age and place of origin.

B. Any alternative livestock which has been exposed to *Brucellosis* or tuberculosis shall be quarantined and tested for the diseases to which it has been exposed within 60 days of the date of the quarantine. The quarantine shall remain in effect until removed, in writing, by the State Veterinary Office.

C. Elk, black-tailed deer, mule deer, red deer, white-tailed deer, and any imported exotic deer as defined in LAC 7:XXI.1503 (collectively referred to in this Section as "deer") shall not be admitted or readmitted (collectively referred to as "admitted") into this state without specific written authorization from the commissioner or his designee.

1. Deer being transported through this state in interstate commerce shall be exempt from the provisions of this Section if there are no scheduled stops for offloading the deer or if such stops would reasonably place the deer in contact with other deer or cattle.

a. If deer being transported through this state in interstate commerce must be offloaded due to a mechanical breakdown or an emergency situation then the state veterinarian shall be immediately notified of the situation.

b. No deer shall be offloaded without authorization from the state veterinarian to offload the deer.

c. The deer shall be offloaded, confined, and quarantined in strict compliance with the instructions

provided by the state veterinarian and shall be kept confined, quarantined and re-loaded under the direct supervision of the state veterinarian's representative.

2. Deer within this state that are moved or transported out of this state, even temporarily, shall not be admitted back into this state without the specific written authorization of the commissioner or his designee.

D. A person must provide the state veterinarian the following documentation or information as to each animal in order to obtain the authorization necessary for admission of the deer into this state.

1. A request stating the number and type of deer to be admitted, the origin of the deer, the destination of the deer, any stops made or anticipated to be made between the origination point and the final destination where the deer will be offloaded or held in proximity to other deer, the name and address of the requestor, the name and address of the owner of the deer and the reason for the admission of the deer.

2. A certificate of veterinary inspection issued within the preceding 30 days by an accredited veterinarian on the deer listed in the written request which includes a permit number obtained from the department's office of animal health services.

3. A statement by the owner of the deer that he will reimburse all costs incurred by the commissioner or the department for feeding, sheltering, caring, and disposing or destroying of any deer seized and quarantined by the department for violation of any conditions, quarantines, or restrictions placed on deer admitted to the state.

4. Written and signed certification, whether signed jointly or separately, by both the owner of the deer and the inspecting veterinarian of the following information:

a. the distance to the nearest confirmed case of CWD if the deer are to be admitted from any state that has reported a CWD case within the last five years;

b. whether the facility the deer are coming from is enclosed by a single fence or double fence;

c. that each deer:

i. is from a herd that has participated in a recognized CWD surveillance and monitoring program for at least 60 months;

ii. has been in the herd from which the deer is being moved for at least 60 months, or has been in the herd for its entire life if younger than 60 months of age, or was placed in the herd from a herd that had participated in a recognized CWD surveillance and monitoring program for at least 60 months prior to the removal of the deer from the second herd and placement in the first herd;

iii. comes from a herd that is not within 25 miles of a confirmed case of CWD occurring within the previous 60 months if the facility that the deer is coming from is a single fenced facility; or

iv. comes from a herd that is not within five miles of a confirmed case of CWD occurring within the previous 60 months if the facility that the deer is coming from is a double fenced facility.

5. Documentation that shows that each deer meets the health requirements set out in LAC 7:XXI.107 and 7:XXI.1515.

E. The commissioner or his designee shall have the discretion to refuse to authorize the admission of deer into this state, even if all the criteria set out in Subsection D have been met, if in his informed opinion based on advice and recommendations from accredited veterinarians on staff with the department or employed by the federal government or from reliable veterinarian research or other credible information, he believes that admission of the deer may jeopardized the health of the deer population in this state or run the risk of bring CWD into the state.

F. The commissioner or his designee may, at his discretion, impose conditions, quarantines, and restrictions on the admission of any deer into this state if he believes that such conditions, quarantines, and restrictions are necessary to protect the health of this state's deer population or to control the risk of bringing CWD into the state.

1. Deer admitted into the state subject to any condition, quarantine or restriction may be seized by the department and placed in quarantine on order of the commissioner, at the owner's expense, for any violation of any condition, quarantine or restriction.

2. The commissioner, on behalf of the board, may take any legal action necessary to obtain a court order to dispose of or destroy any such deer seized by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1675 (September 1998), amended by the Department of Agriculture and Forestry, Board of Animal Health, LR 38:961 (April 2012), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 39:3247 (December 2013).

§1517. Harvesting or Killing of Farm-Raised Alternative Livestock

A. Farm-raised white-tailed deer shall be harvested by killing only from one-half hour before sunrise to one-half hour after sunset during the period of October 1 through January 31 of the following year, as established by the Louisiana Wildlife and Fisheries Commission. Licensees may also harvest at will at any other time from one-half hour before sunrise to one-half hour after sunset upon 48 hours notice to and written approval of the department. Upon receipt of any such notice the department shall, no later than 24 hours before the harvest, notify LDWF.

B. Except for farm-raised white-tailed deer, farm-raised alternative livestock may be harvested or killed at any time from one-half hour before sunrise to one-half hour after

sunset unless the commissioner provides otherwise in accordance with the provisions of §1517.C.

C. The commissioner and Louisiana Wildlife and Fisheries Commission may establish, by written order, other dates and conditions for the harvesting or killing of farm-raised alternative livestock as the commissioner deems necessary to carry out the purposes of part I of chapter 19-A of title 3 of the *Revised Statutes*. Such orders shall be issued by the commissioner in January of each year or as soon thereafter as is practical and published in the January issue of the *Louisiana Register* or in the first available issue after any such order is issued.

D. Prior to harvesting or killing farm-raised alternative livestock, any person, except as provided by §1507.B.3 of these regulations, shall first apply for and obtain a harvesting permit to do so from the department or LDWF by submitting an application on a form supplied by the department.

1. Any harvesting permit issued by the department or LDWF shall be valid only for the time periods stated on the face of the permit.

2. The department may issue or LDWF may ministerially issue a harvesting permit upon written application by any individual or by any farm licensee making application on behalf of the individual and upon receipt of the harvesting permit fee.

3. The applicant shall not be subject to any existing court or administrative order denying the applicants right to harvest.

E. Except as provided by §1507.C.3 of these regulations, any farm-raised alternative livestock harvested or killed, shall have a farm-raised tag attached to the left ear or left antler of the carcass at the time of the kill and the tag shall remain with the carcass at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1675 (September 1998).

§1519. Prohibitions

A. No farm-raised alternative livestock shall be released into the wild without express written permission from both the department and LDWF.

B. Farm-raised white-tailed deer meat or farm-raised white-tailed deer parts of any kind shall not be bought, sold, traded, or moved in commerce in any way.

C. Farm-raised alternative livestock sold for slaughter, except farm-raised white-tailed deer, the sale of which is prohibited, shall be handled in accordance with state and federal meat inspection laws and regulations.

D. It is a violation of these regulations to sell, purchase, trade, transport, or otherwise transfer any farm-raised alternative livestock for any purpose other than immediate slaughter at a state or federally approved slaughter facility if such farm-raised alternative livestock originates from a herd which is under quarantine for *Brucellosis* or tuberculosis.

E. Canned hunts of farm-raised alternative livestock are prohibited.

F. Failure to comply with any provision of part I of chapter 19-A of title 3 of the *Revised Statutes*, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine is prohibited and each act or omission or each day of a continuing violation shall constitute a separate violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1676 (September 1998).

§1521. Enforcement

A. The department's and LDWF's authorized representatives may, at any time, enter and inspect all farms on which farm-raised alternative livestock are located for the purposes of issuing, renewing or reviewing farm-raising licenses and to insure compliance with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine.

B. Authorized representatives of the department and LDWF may inspect, during any reasonable hours, any records regarding or relating to any farm-raised alternative livestock.

C. Farm-raised alternative livestock which escapes from the enclosure system of the farm, if not captured by a licensee within 96 hours of the escape, may be captured by authorized representatives of the department or by any law enforcement agency by whatever means deemed necessary by that agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1676 (September 1998).

§1523. Penalties

A. The commissioner may suspend or revoke the farm-raising license of any licensee and the harvesting permit issued to any person found guilty of violating Part I of Chapter 19-A of Title 3 of the Revised Statutes, those portions of Title 56 of the Revised Statutes related to wildlife, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine.

B. The commissioner may, in addition to suspending or revoking any farm-raising license or harvesting permit, impose upon any person charged with violating any provisions of Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine, a fine for up to $100 per violation for each violation such person is found guilty.

C. These civil penalties may be assessed only by a ruling of the commissioner based on an adjudicatory hearing held in accordance with the Administrative Procedure Act.

D. Any person or licensee subject to an order or decision made pursuant to these regulations may request and receive an adjudicatory hearing before the department to be held in accordance with the Administrative Procedure Act by making written application for same to the department within 15 days of issuance of such order or decision.

E. The commissioner may seek a restraining order, injunctive relief or other relief in a proper court of law to restrain violations of or to compel compliance with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department or any quarantine or to enforce any order or ruling made by him in an adjudicatory proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1676 (September 1998).

Chapter 17. Reserved

Chapter 19. Dogs and Cats

§1901. Health Requirements Governing Admission

A. All dogs and cats imported into Louisiana for any purpose must meet the general requirements of §107 and must be accompanied by an official health certificate, issued by an accredited veterinarian, showing they have been immunized against rabies within 12 months prior to entry. Exceptions to this Section are dogs and cats which are 3 months of age or younger are exempt from the rabies vaccination requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:247 (March 1985), amended LR 11:615 (June 1985).

Chapter 21. Wild Animals

§2101. Health Requirements Governing Admission

A. Wild or semi-wild animals, under domestication or in custody, may be imported into the state of Louisiana provided that these animals meet the general requirements of §107 and a report of the number of animals to be imported are made to state veterinarian of Louisiana within 10 days of the date of shipment and immediate opportunity for examination is afforded a representative of the Livestock Sanitary Board to determine the health status of such animals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:247 (March 1985), amended LR 11:615 (June 1985).

Chapter 23. Turtles

§2301. Definitions

A. In addition to the definitions listed below, the definitions in R.S. 3:2358.3 shall apply to these regulations.

Agent—an authorized representative of the Department of Agriculture and Forestry.

Antibiotic—any bactericide or other organic substance which can kill bacteria such as *Salmonella* and Arizona spp.

Approved Antibiotic—an antibiotic approved by the Department of Agriculture and Forestry for use in the egg immersion method.

Approved Antibiotic Solution—a dissolved antibiotic at a concentration approved by the Department of Agriculture and Forestry for use in the egg immersion method.

Bactericide—any organic or inorganic substance, chemical, or compound that has the capacity to kill microorganisms.

Baquacil/Vantacil—a chemical product classified as a polyhexamethydme biguamide dissolved in water to give a concentration of 50 ppm or a concentration as approved by the department.

Certificate of Inspection—a document that is signed by a Louisiana licensed, accredited, and department approved veterinarian which verifies species, dates of laboratory testing, turtle lot number and utilization of the Siebeling Method.

Certified Turtle Farmer—a Louisiana individual, partnership, corporation or entity engaged in the collection, hatching, sale or distribution of turtles using the egg immersion method and which have been inspected by the Department of Agriculture and Forestry.

Chlorine Solution—a solution of chlorine at a concentration approved by the Department of Agriculture and Forestry.

Department—the Department of Agriculture and Forestry.

Department Issued Guidelines—a document provided periodically by the Department of Agriculture and Forestry setting forth detailed procedures designed to implement these regulations.

Dip Solution—an approved antibiotic solution as defined above.

Document—any form or document deemed necessary by the department for the operation of a Louisiana Certified Turtle Farm.

Egg Immersion Method—a sanitization process derived from the Siebeling Method developed by Dr. Ronald J. Siebeling and approved by the department whereby pet turtle eggs are cleaned, disinfected and treated with an approved antibiotic solution in order to render the hatchling free from *Salmonella* or other bacteria harmful to humans or other pet turtles.

Egg Washing Machine—a machine intended for the washing of turtle eggs, or modified from a machine intended for the washing of eggs of commercial poultry.

Exporter—a person who is licensed by the U.S. Fish and Wildlife Service to engage in the business of exporting groups of turtles or groups of turtle eggs.

Farmer-Exporter—a licensed pet turtle farmer that is also licensed by the U.S. Fish and Wildlife Service to engage in the business of exporting groups of turtles or groups of turtle eggs.

Garasol—an antibiotic (Gentamicin sulfate) dissolved in water to give a concentration of 1,000 ppm or a concentration as approved by the Department of Agriculture and Forestry.

Health Certificate—a document issued by a Louisiana licensed, accredited, and department approved veterinarian to turtle farmers verifying a certificate of inspection, attaching a laboratory report and certifying that the veterinarian has inspected the turtles or eggs and that they are free of visible signs of infectious, contagious or communicable disease. The health certificate and/or certificate of inspection shall be required before eggs or turtles are shipped or transported and before they are moved from a certified turtle farm into intrastate or interstate commerce.

Laboratory—a certified laboratory as defined in R.S. 3:2358.3 and which employs at least one microbiologist.

Licensed Pet Turtle Farmer—a Louisiana individual, partnership, corporation or entity engaged in the collection, hatching, sale or distribution of turtles or turtle eggs using the Egg Immersion Method and who has been licensed by the Department of Agriculture and Forestry.

Pet Turtles—turtles with a carapace length of less than 4 inches that originates from a Louisiana pet turtle farm operated by a licensed pet turtle farmer.

Pet Turtle Farm—any area of land or water used to breed, raise or keep pet turtles.

Quarantined Area—any designated area or premises where pet turtle eggs or hatchlings are stored, processed or hatched which has been designated as quarantined by a Louisiana-licensed, accredited and department-approved veterinarian due to a finding of contamination in a group or lot by *Salmonella, Arizona* or other bacteria harmful to other turtles or humans.

Siebeling Method—a process by which turtle eggs are cleaned, their surfaces disinfected and a bactericide forced through the pores of the shells without violating and natural, structural integrity of the shell, thereby rendering the hatching *Salmonella* and Arizona free.

Turtle Group—any amount (multiple or single units) consisting of less than 40,000 turtles or turtle eggs.

Turtle Lot—any amount of pet turtles or eggs up to 20,000 in number, and may be used interchangeably with the term turtle group.

Turtles—any animals commonly known as turtles, tortoises, terrapins and all other animals of the order Testudinata, class Reptilia except marine species (families Dermochelidae and Cheloniidae).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 12:224 (April 1986), amended by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1567 (August 2000), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 31:2210 (September 2005).

§2302. Facilities

A. Effective January 1, 2001, all applicants for initial licensure as licensed pet turtle farmers shall be required to meet, prior to licensure, all standards of construction and operations established by these rules and regulations.

B. All licensed pet turtle farmers that are licensed prior to January 1, 2001, shall be required to meet all standards of construction and operation established by these rules and regulations no later than January 1, 2002.

C. Each facility operated by a licensed pet turtle farmer shall be of sufficient size to contain no less than the following: turtle pond(s), turtle laying area, egg washing area, egg treatment area, hatching area, holding or post-hatching area, and inventory storage area.

D. Each facility shall possess hot and cold water, hand washing facilities, cooling and ventilation capability, be free of rodents and pests, be properly disinfected, utilize stainless steel or non-porous tables, buckets and baskets and have access to restroom facilities.

E. The physical structure shall consist of a free-standing building that is used only for the washing, treating, hatching, incubating, raising, shipping or holding of turtles or turtle eggs. Such building shall be separate and apart from the pond area and the egg laying area. No business activity other than the activities associated with the raising, treating, hatching, storing and marketing of turtles or turtle eggs shall be conducted within the confines of the building designated for turtle raising, treating, hatching, storing and marketing.

F. All floors in the washing or treating areas shall consist of concrete or non-porous covering with drainage sufficient to prevent the accumulation of water. All surfaces in the washing or treating areas which come in contact with turtles or turtle eggs shall be non-porous.

G. All washing areas and treating areas shall be well lighted and ventilated.

H. The hatching area shall be an identifiable room in which the temperature can be maintained and controlled.

I. The holding or post-hatching area shall be large enough to accommodate all designated groups of turtles that have not been sold. Lighting, ventilation and cooling shall be such so as to insure humane treatment of the turtles.

J. The turtle production area (ponds and laying areas) shall be free of debris, trash and offensive odors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1567 (August 2000).

§2303. Monitoring of Turtle Farms for Safety and Sanitization

A. State-employed veterinarians shall inspect the premises of certified turtle farmers, including those areas involved in the washing, incubation and hatching of turtles, or other operations. At least one inspection shall be performed prior to the start of each egg laying season. Recommendations shall be made to farmers to ensure compliance with these regulations. At the time of inspection, state-employed veterinarians or their designees may randomly select eggs or turtles for submission to a laboratory for microbiological examination. The inspections shall be made to insure the following.

1. The egg immersion method of egg collection and sanitization is being conducted properly and is in accordance with procedures issued by the department.

2. All equipment used in the egg immersion method shall be clean and in working order.

3. Vacuum tanks used for the egg immersion method shall be airtight and constructed of smooth-finished material to facilitate decontamination.

4. The egg immersion method shall be performed in a designated building. Due care shall be applied to maintaining isolation of this area. Operators shall prevent spillage or transfer of the antibiotic solution used in the egg immersion method to any other area or the environment outside of the building designated for the egg immersion method.

5. Persons implementing the egg immersion method shall wash their hands in disinfectant and remove the garments recommended in department-issued guidelines prior to leaving the isolated area where the method is being performed.

B. State-employed veterinarians shall inspect the premises of turtle farmers to insure that no turtles which have been treated by the egg immersion method or any other method utilizing antibiotics shall be introduced into the environment.

C. State-employed veterinarians or their designees shall inspect the premises of turtle farmers to insure that no turtles or eggs which have been treated by the egg immersion method or any other method utilizing antibiotics are used to stock or restock the ponds of a certified turtle farmer or non-certified turtle farmers.

D. State-employed veterinarians or their designees shall inspect the premises of turtle farmers to insure that no turtles or eggs belonging to different groups are commingled without first receiving health certificates.

E. State-employed veterinarians or their designees shall inspect the premises of turtle farmers to insure that each turtle group is clearly identified and is not improperly commingled with saleable or hatchable eggs of other groups.

F. State-employed veterinarians or their designees shall inspect the records of certified turtle farmers to verify that all documentation required by the department shall be kept current.

G. Samples of water from ponds may be taken by state-employed veterinarians or their designees and shall be transmitted to a laboratory for chemical and microbiological analysis, including, but not limited to pH, antibiotic and pesticide contaminants, and potentially pathogenic bacteria.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2 and 3:2358.9.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 12:224 (April 1986), amended by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1568 (August 2000).

§2305. Collection of Egg and Turtle Samples

A. In order to ensure a representative sample from the turtle group and to prevent cross-contamination the following procedures shall be followed.

1. Licensed turtle farmers shall inform the department in a timely manner of their intention to ship turtle hatchlings or eggs to arrange certification procedures.

2. Upon notification by the farmer, a department employed veterinarian shall inspect the group of turtles or turtle eggs bound for shipment for visible signs of infections, contagious or communicable diseases. The veterinarian or designee shall randomly select turtles or eggs for submission to a certified laboratory for microbiological examination unless the turtles to be shipped are food turtles in which case the random selection of turtles and submission to a certified laboratory may be omitted.

3. The department-employed veterinarian shall inspect the premises and turtle group or eggs and shall issue a certificate of inspection subject to compliance with the requirements of these regulations. The certificate of inspection shall verify the species, number of turtles or eggs, destination, turtle group number and compliance with the egg immersion method.

4. All specimens shall be collected using approved methods to prevent contamination.

5. The transportation to a certified laboratory for microbiological examination and handling of the samples of turtles and eggs shall be performed in such a manner as to maintain identity and integrity.

6. Licensed turtle farmers shall have the option of:

a. collecting samples under the on-site supervision of the department-employed veterinarian or designee; or

b. allowing the department veterinarian or designee to collect the samples.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2, 3:2358.9, 3:2358.10 and 3:2358.12.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:351 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1568 (August 2000), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 31:2210 (September 2005).

§2307. Movement of Turtle Eggs and Turtles

A. The department shall regulate the movement of turtles or turtle eggs by licensed pet turtle farmers and procedures shall include, but not be limited to, shipment into local and international commerce, as well as shipment to certified laboratories.

1. All turtles or eggs leaving a licensed turtle farm bound for a certified laboratory shall be accompanied by a certificate of inspection. A health certificate from a Louisiana licensed veterinarian stating that the turtles and/or eggs originated from a Louisiana licensed pet turtle farm shall accompany all shipments into international commerce. Each health certificate shall identify the final destination of the turtles or eggs they accompany.

2. A health certificate or a laboratory report pursuant to a microbiological examination shall be required for any intrastate movement of pet turtles or pet turtle eggs except for submission to a Louisiana certified laboratory for microbiological examination.

3. Turtles shipped to certified laboratories for microbiological examination shall be accompanied by appropriate documentation.

4. No pet turtles or their eggs originating outside of Louisiana shall be sold, held for sale, or offered for any other type of commercial or public distribution in Louisiana.

5. No dead turtles or non-viable eggs shall be shipped, transported or distributed.

6. Turtles or turtle eggs shall be shipped, transported or distributed only in packaging approved by the department.

7. Turtles or eggs intended for international commerce shall be conspicuously marked "For Export Only" on the outside of the shipping package and shall be accompanied by a health certificate and a certified laboratory report.

8. Official health certificates and appropriate affidavits shall accompany movement of all pet turtles and eggs shipped, transported or distributed for non-commercial purposes.

9. Pet turtle eggs that are offered for sale shall be washed and treated by the egg immersion method, possess a group designation number, be laboratory tested, and be declared *Salmonella*-free, unless prior approval for sale has been granted by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2 and 3:2358.10.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:351 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1569 (August 2000).

§2309. Identification of Groups of Turtles and Turtle Eggs

A. All groups of turtles or turtle eggs produced by licensed pet turtle farmers in Louisiana shall be assigned an identification number in a department-approved manner.

B. No turtle group shall exceed 20,000 viable hatchlings or eggs.

C. All pet turtle eggs shall originate from department licensed pet turtle farmers. They shall be continuously identifiable and properly labeled.

D. All pet turtles, treated by the egg immersion method, on turtle farms operated by licensed pet turtle farmers, shall be placed in a designated lot and remain a component of the same lot until they are sold or destroyed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2 and 3:2358.7.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:351 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1569 (August 2000).

§2311. Microbiological Test Procedures

A. Samples of turtles or turtle eggs shall be subjected to microbiological examination using approved procedures and techniques based upon procedures set forth in Official Methods of Analysis of the Association of Official Analytical Chemists.

B. Turtle groups identified as contaminated with bacteria of the genus *Salmonella* or Arizona or any other microorganisms pathogenic to humans, domestic animals or aquatic species shall be subject to the notification provisions of R.S. 3:2358.11 and this Part.

C. If any group of turtles or turtle eggs test positive for *Salmonella spp*, then the licensed pet turtle farmer (owner) may request a retest. Samples of the retest must be submitted when requested by representatives of the department. The owner may request a retest of the group as a whole using the same sampling procedures as used for the original test or the owner may subdivide the affected positive group into a maximum of four equal subgroups. Each such subgroup shall be separately identified, simultaneously randomly sampled and tested. The Louisiana Veterinary Medical Diagnostic Laboratory shall conduct the retesting, whether from the group as a whole or from any of the subgroups in accordance with normal protocol. The Louisiana Veterinary Medical Diagnostic Laboratory test results, whether from the group as a whole or from any of the subgroups shall be the final and conclusive test results. Any group or subgroup that tests positive for *Salmonella spp* shall be disposed of in accordance with the law and these regulations.

D. All pet turtles that are on turtle farms operated by licensed turtle farmers shall originate from eggs that are produced on turtle farms operated by licensed pet turtle farmers and have been subjected to the egg immersion method of treatment. All turtles, other than those designated and shipped as food turtles, shall be randomly sampled and tested by a certified laboratory for *Salmonella.* The pond water in which food turtles are raised shall be tested at least once every year by a certified laboratory for *Vibria Cholera.*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2 and 3:2358.10.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:351 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1570 (August 2000), LR 30:1445 (July 2004), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 31:2210 (September 2005).

§2313. Issuance of Health Certificates

A. Accredited Louisiana-licensed and department-approved veterinarians will issue official health certificates.

B. Health certificates shall not be issued on groups of turtles or eggs until the turtles or eggs and pond in which the turtles are raised have been inspected and tested as required by these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2, 3:2358.9 and 3:2358.10.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 17:352 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1570 (August 2000), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 31:2211 (September 2005).

§2315. Quarantine

A. In addition to the procedures set forth in R.S. 3:2358.11, upon the identification by laboratory examinations of *Salmonella* or any other species of bacteria harmful to humans or other pet turtles in a group of turtles or turtle eggs, the following procedures for quarantine shall apply.

1. Notification of the test results and quarantine shall be made in person or by telephone, followed by written notification as set forth in R.S. 3:2358.11, by agents of the department, including at least one department veterinarian.

2. The quarantine and its related restrictions shall remain in effect until the farmer is otherwise notified by the department.

3. Immediately upon receipt of the personal notification, the licensed pet turtle farmer producing the quarantined eggs shall identify to the agents of the department all turtles or eggs belonging to the same group as the one which tested positive for the presence of *Salmonella* or other harmful bacteria.

4. Licensed pet turtle farmers wishing to submit a quarantined turtle group for a second laboratory microbiological examination must do so prior to the end of the 21-day period specified in R.S. 3:2358.12, and must follow the same procedure established for an initial collection and submission of samples. Failure to timely obtain a second examination shall result in the implementation of the disposal procedures set forth in R.S. 3:2358.12.

5. Quarantined eggs or turtles shall be subject to inventory and verification by agents of the department. Records, physical examination and photographs may be used to verify the inventory of quarantined eggs or turtles.

6. Quarantined turtles and eggs shall be sealed under supervision of agents of the department to prevent the spread of pathogenic bacteria until the licensed pet turtle farmer receives notice of either:

a. the lifting of the quarantine; or

b. instructions dealing with the disposal of the contaminated turtle or egg group.

7. All turtles and/or eggs belonging to a group which has either received a second notice of contamination with harmful bacteria or otherwise ordered disposed of by the department shall be disposed of in a humane manner approved by the department within 21 days of the receipt of the second notice.

8. Areas where quarantined turtles or eggs have been kept shall be disinfected in a manner approved by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2,3:2358.11 and 3:2358.12.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:352 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1570 (August 2000).

§2317. Form and Content of Records

A. In addition to those records required under R.S. 3:2358.7, licensed pet turtle farmers, exporters of pet turtles or eggs, certified laboratories and department-approved veterinarians shall be responsible for maintaining and submitting as requested proper records. Records shall include, but not be limited to, purchase and disposal of antibiotics, application of the egg immersion method, volume of eggs treated, laboratory reports and disposition of groups of eggs and turtles. These records must be current.

B. All turtles or turtle eggs that are offered for sale or sold by licensed pet turtle farmers-exporters shall be accompanied by a current chain of custody document, laboratory report and health certificate.

C. Each licensed pet turtle farmer, farmer-exporter or exporter shall be required to initiate and maintain accurate, current documentation on the origin and distribution of all groups of turtles or groups of turtle eggs.

D. The records shall be maintained in a manner that allows for an orderly inspection. The records shall include the following documents:

1. official certificate of inspection for pet turtles and eggs;

2. pet turtle group distribution document;

3. facility inspection reports (surveillance and monitoring);

4. health certificates;

5. laboratory reports;

6. U.S. Fish and Wildlife Service Form 3-177 (for exporters only);

7. turtle replenishing reports;

8. citations.

E. All documents are required to be maintained for a period of three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2 and 3:2358.7.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:352 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1570 (August 2000).

§2319. Turtle Farmers; Licensing

A. In addition to the provisions below, the requirements for licensure set forth in R.S. 2358.5 shall apply.

1. Licenses for pet turtle farming shall be issued only by the Office of Animal Health Services of the Department of Agriculture and Forestry.

2. Upon issuance of an initial license by the department, licensed pet turtle farmers shall be assigned a permanent licensed farmer identification code for use on all documents related to pet turtle farming.

3. Prior to the issuance or renewal of a certified turtle farmer license, an inspection of the farm premises shall be made by an accredited, Louisiana-licensed and department-approved veterinarian to ensure that all equipment required for sanitization and other procedures is present and in working order.

4. A map or schematic showing the location of ponds or other breeding habitats, storage, treatment and incubation buildings and facilities shall be included with all applications for a pet turtle farmer license. Each pond or breeding habitat shall be designated by a letter, beginning with "A", and shall be designated in sequential order and properly labeled on the map or schematic.

5. Licenses for turtle farming shall be issued upon the satisfactory completion and acceptance by the department of the application form to be a licensed pet turtle farmer, accompanied by an application fee of $250 by the person seeking such a license. The application form should specify the following, along with any other information required by the commissioner of Agriculture and Forestry:

a. name of applicant;

b. date of application;

c. address of applicant;

d. telephone number of applicant;

e. whether the applicant is an individual, corporation, subchapter "S" corporation, cooperative or partnership;

f. principal officers of the applicant, if any;

g. location of applicant's principal office and farming premises;

h. location of all offices operated by applicant, along with the name of the manager and phone number of each;

i. the dates upon which the applicant begins and ends its fiscal year;

j. the names, businesses and phone numbers of three persons who can provide references as to the character and business standing of the applicant; and

k. the following phrase, included at the bottom of the application, which must be read by the applicant and which must be signed and dated by the applicant signifying his assent thereto:

> "The undersigned, having read Part X of Chapter 16 of Title 3 of the Louisiana Revised Statutes of 1950, Act 770 of 1990 and the rules and regulations written in conformity therewith, and agreeing to abide by and comply therewith, applies for a license to operate as a licensed pet turtle farmer under the provisions of the aforementioned acts of the Legislature, in furtherance whereof, the statements and answers of the above questions, are made and declared to be true under penalty of perjury."

6. In the case of the transfer of ownership of the person or entity that is the licensed pet turtle farmer that farmer must reapply with the department for licensing and must meet all of the qualifications required for the issuance of an initial license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2 and 3:2358.5.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:352 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1571 (August 2000).

§2321. Proper Disposal

A. Because of the danger posed by the emergence of bacteria resistant to antibiotics used to kill *Salmonella* and other harmful bacteria, licensed pet turtle farmers who use Garosol to treat turtle eggs and/or turtles shall follow approved disposal procedures, including but not limited to, the following.

1. Eggs or turtles that have been found to contain *Salmonella*, *Arizona* or other harmful bacteria shall be disposed of in a humane manner approved by the department.

2. Chlorine or antibiotic solutions shall be disposed of in a manner approved by the department.

B. Dead or deformed turtles and also those turtles not sold within 12 months of certification shall be disposed of in a humane manner as approved by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2, 3:2358.9 and 3:2358.10.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 17:353 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1571 (August 2000), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 31:2211 (September 2005).

§2323. Authority of Agents to Enter Premises

A. Agents of the department are authorized and shall be allowed entry onto any property or premises in the state of Louisiana for the purpose of carrying out the provisions of these regulations. Whenever reasonably possible, agents shall notify the turtle farmer before performing any inspections.

B. Agents of the department are authorized to inspect all records and premises maintained by licensed pet turtle farmers in order to enforce the provisions of R.S. 3:2358.1 et seq., and these regulations.

C. No person shall in any way interfere with an agent in making inspections on properties or premises in carrying out the provisions of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2 and 3:2358.5.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:353 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1571 (August 2000).

§2325. Department Issued Guidelines

A. Due to the unique nature and rapid development of this evolving program, the department finds it necessary to issue guidelines to delineate certain detailed procedures which require periodic updates. These guidelines will be made available upon request or application for licensure as a licensed pet turtle farmer. Prior to any changes in these guidelines, except for emergencies, interested persons will be given a reasonable amount of time for comment and appeal. Licensed pet turtle farmers will be sent copies of these proposed changed by United States mail.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:353 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1571 (August 2000).

§2327. Violations and Penalties

A. For failure to implement the egg immersion method or Siebeling method of treatment in conducting of his business, the offender shall be fined no more than $1,000 and shall be further enjoined from operation of such business, and no further sales shall be allowed, until this method is implemented. No fine shall be assessed for non-willful deviation from the application of the regulations and guidelines, but the licensed pet turtle farm shall be enjoined, and no further sales shall be allowed, until deficiencies are adequately corrected.

B. It shall be a violation of these regulations for anyone to engage in the falsification or misrepresentation of groups of turtles or groups of turtle eggs for sampling, testing or retesting.

C. It shall be a violation of these regulations for anyone to alter or falsify or to provide documents for alteration or falsification of groups of turtles or groups of turtle eggs.

D. Unless otherwise provided, it shall be a violation of these regulations for any person to sell, transmit or have transmitted groups of turtles or groups of turtle eggs to any other person except a licensed and bonded freight forwarder, exporter, or approved research institution.

E. Any person found guilty of violating any of the provisions of this Chapter or those of R.S. 3:2358.1 et seq., is subject to the penalties provided for by R.S. 3:2358.14, including fines of up to $1,000 for each violation. Each day in which a violation occurs shall be considered a separate offense.

F. Prior to the assessment of any civil penalties, there shall be an adjudicatory hearing in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Animal Health Services, LR 12:225 (April 1986), amended by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:353 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1572 (August 2000).

§2329. Repeal of Prior Rules and Regulations

A. All prior rules and regulations in this Chapter adopted and/or promulgated in accordance with R.S. 56:638 are hereby repealed in their entirety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:247 (March 1985), amended LR 11:615 (June 1985), amended by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:353 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1572 (August 2000).

Chapter 25. Regulation of Apiaries

§2501. Definitions

Agent or *Specialist*—an authorized representative of the state entomologist and/or the Department of Agriculture and Forestry.

Apiary or *Yard*—the assembly of one or more colonies of bees at a single location.

Beekeeper—an individual, firm or corporation, who owns or has charge of one or more colonies of bees.

Certificate of Inspection—a document issued after inspection for the sale or movement of bees and/or regulated articles.

Colony, Colony of Bees, or *Hives*—an aggregate of bees consisting principally of workers, but having, when perfect, one queen and at times many drones; including brood, combs, honey, and the receptacles inhabited by the bees.

Comb Package—a package of bees shipped or moved on a comb containing honey and/or brood, with or without a queen.

Combless Package—a package of bees shipped or moved without comb, with or without a queen.

Commissioner—the commissioner of Agriculture and Forestry.

Department—the Louisiana Department of Agriculture and Forestry.

Disease or *Pest*—any infectious condition of bees which is detrimental to the honey bee industry, such as American foulbrood, European foulbrood, Nosema, Acarine Disease, Varroa Mite, and so forth.

Frame—a wooden or plastic case for holding honeycomb.

Infested—the presence of any disease or pest of bees.

Nucleus—bees, brood, combs and honey in or inhabiting a small hive or portion of a standard hive or other dwelling place.

Permit—a document issued for registration of colonies of bees.

Person—an individual, firm, corporation or other legal entity.

Quarantined Area—any area of the state designated by the state entomologist as having regulated articles which are or may be infested by a disease or pest, which presents a danger to other colonies of bees.

Queen—a fully developed female bee, capable of being fertilized.

Regulated Areas—geographical areas outside of the state of Louisiana which have been designated by the U.S. Department of Agriculture, Louisiana Department of Agriculture and Forestry or local governmental officials as infested states or counties. Any state or county which fails to conduct annual inspections in accordance with inspection standards adopted by the Louisiana Department of Agriculture and Forestry shall be presumed to be regulated areas.

Restricted Articles—colonies of bees, nuclei, comb or combless packages of bees, queens, used or second-hand beekeeping fixtures or equipment, and anything that has been used in operating an apiary.

State Entomologist—the entomologist of the Louisiana Department of Agriculture and Forestry.

Super—a standard frame hive body (all depths).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2302 and R.S. 3:2303.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:517 (May 1985).

§2503. Annual Registration

A. On or before October 1 of each year, or prior to bringing any honeybees or beekeeping equipment into the state, every beekeeper shall register with the commissioner every colony or apiary in his possession or under his control, on a form to be furnished by the commissioner.

B. Beekeepers will be designated as Class A or Class B permit holders. To be eligible for a Class A permit, an applicant must either:

1. be domiciled in this state; or

2. have held a Class B permit for three consecutive violation-free years. If violations are incurred at any time during this three-year period, the Class B permit holder will automatically be placed back at year one, pending payment of any fines levied against him by the commissioner.

C. A fee shall accompany the application for registration. The amount of the fee will be based upon the number of colonies owned or under the control of the applicant as follows.

Number of Colonies	Class A Permit	Class B Permit
1 to 25	$ 2	$ 8
26 to 100	5	20
101 to 300	10	40
301 to 500	15	60
501 or more	25	

D. Permits issued for registration shall not allow the holder to sell bees or regulated articles as is provided for with a certificate of inspection.

E. Failure to register colonies of bees in the state of Louisiana is a violation of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2305 and R.S. 2:2303.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:517 (May 1985).

§2505. Authority of Agents or Specialists to Enter Premises

A. Agents or specialists of the department are authorized and shall be allowed entrance onto any property or premises in the state of Louisiana for the purpose of inspecting any honeybees or beekeeping equipment when there is probable cause to conclude that the bees or beekeeping equipment is infected with any contagious or infectious diseases or other pests or to ascertain whether such bees may have been or are being transported in violation of the apiary law.

B. No person shall interfere with agents or specialists who are making such inspections on properties or premises.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2308 and R.S. 3:2303.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:517 (May 1985).

§2507. Applications for Inspection

A. Beekeepers who desire certificates of inspection authorizing the sale or movement of bees and/or regulated articles shall make application for inspection by February 1 of each year on a form that will be furnished by the department and shall give the location of each and every apiary or yard owned or controlled or from which bees and/or regulated articles are to be moved or sold by the applicant. For the purpose of this Section, movement shall mean any movement of bees and/or regulated articles of a distance greater than 100 miles.

B. A map showing the location of each and every apiary or yard must accompany the application for inspection. Each apiarist shall notify the department if the location of an apiary or yard changes after the application has been submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2307 and R.S. 3:2303.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:517 (May 1985).

§2509. Issuance and Use of Certificates of Inspection

A. Certificates of inspection shall not be issued by the department except to cover the shipment or movement of package bees and/or regulated articles from a yard or yards that are not under quarantine and have been inspected at least once each year (prior to the shipment or movement of bees therefrom) and found free of American foulbrood infection and other diseases found have been effectively controlled.

B. Certificates of inspection shall not be issued to cover the shipment or movement of bees and/or regulated articles from an area that has been quarantined on account of American foulbrood infection until it has been determined by state entomologist that the American foul-brood infestation has been destroyed. If any apiary or yard of bees has 4 percent or less American foulbrood infestation, as noted below, the infected colony(ies) shall be burned immediately and a partial quarantine imposed. This shall mean that a second inspection shall be made within 21-30 days to insure control of the disease. Where a second inspection is required, colonies shall not be moved except by special permission of the state entomologist.

Colonies in Apiary or Yard	AFB Infected Colony
01–25	1
26–50	2
51–75	3
75 or more	4

1. If over 4 percent of the colonies, but not more than four colonies in the case of over 100 colonies, in an apiary or yard are found to be infested with American foulbrood, the colonies shall be burned immediately and the apiary or yard shall be placed under a 21-30 day quarantine, during such time no drugs will be allowed to be fed to the bees. If after 21-30 days an inspection shows that the apiary or yard is found free from American foulbrood infestation, the quarantine shall be lifted. However, if American foulbrood is again found, an additional 21-30 day quarantine period shall be enforced and infested colonies shall be burned immediately. An additional 60-day quarantine shall be enforced on any quarantined apiary or yard found to be treated with drugs to mask the infection.

C. Certificates of inspection shall be issued to cover the shipment or movement of bees and/or regulated articles into other states only with the approval of the proper officials of the state of destination.

D. Certificates of inspection issued by the department shall be used by beekeepers only to cover the shipment or movement of bees and/or regulated articles from a yard or yards designated by the state entomologist or his agents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2306 and R.S. 3:2303.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:517 (May 1985).

§2511. Movement of Bees and/or Regulated Articles into Louisiana and the Power to Prevent the Introduction of Contagious and/or Infectious Diseases or Pests

A. Queens and/or combless packages of bees purchased by mail orders may be shipped into Louisiana only when accompanied by certificate of inspection signed by the state entomologist, state apiary inspector or similar official of the state or country of such bees' origins. The certificate shall certify to the apparent freedom of the bees from contagious or infectious diseases and/or pests and shall be based upon an actual inspection of the bees during the current inspection season.

B. Honeybees and used or second-hand beekeeping equipment may be shipped into the state by a person possessing a current Class A permit, but only when accompanied by certificate of inspection signed by the state entomologist, state apiary inspector or similar official of the state or country of such bees' origin. The certificate shall certify to the apparent freedom of the bees from contagious or infectious diseases and pests and shall be based upon an actual inspection of the bees to be shipped or moved within a period of 60 days preceding the date of shipment.

C. Combless honeybees may be shipped into the state by a person possessing a current Class B permit, but only when accompanied by a certificate of inspection signed by the state entomologist, state apiary inspector or similar official of the state or country of such bees' origin. The certificate shall certify to the apparent freedom of the bees from contagious or infectious diseases and shall be based upon actual inspection of the bees to be shipped or moved within a period of 60 days preceding the date of shipment. The shipment of other regulated articles into Louisiana by Class B permit holders is prohibited.

D. When honeybees are to be shipped or moved into the state from other states or countries where no official state apiary inspector or state entomologist is available, the commissioner may permit the shipping into Louisiana of such bees upon presentation of suitable evidence showing the bees to be free from disease.

E. The commissioner may inspect any honeybees or beekeeping equipment being shipped into this state, even if the honeybees or beekeeping equipment are accompanied by a certificate of inspection issued by another state. If an inspection of honeybees or beekeeping equipment accompanied by a certificate of another state reveals the presence of contagious or infectious disease, the commissioner may declare a moratorium on this state's recognition of any certificate of inspection issued by that state until the commissioner determines that the standards of inspection of that state are adequate to ensure the health and safety of Louisiana honeybees at last equal to the standards established by this state.

F. Movement of regulated articles from regulated areas into Louisiana shall require a limited permit issued by the state entomologist.

G. If the state entomologist, or his agents, or specialists find any honeybees or regulated articles infected with or exposed to contagious or infectious diseases, he may require the destruction, treatment, or disinfection of such infected or exposed bees or beekeeping equipment.

H. If the state entomologist, or his agents or specialists find that any honeybees and/or regulated articles have been brought into this state in violation of this Part, the bees and/or regulated articles shall be immediately placed under quarantine until released by the commissioner or state entomologist after thorough inspection for pests. The payment of any and all fines, inspection fees and/or costs of maintenance and preservation, if any, either due or to become due the department by the owner of such bees and/or regulated articles shall be made before release. Such release shall be only for the purpose of immediate removal of the bees and/or regulated articles from this state. The presence in this state of bees and/or regulated articles in violation of registration or entry requirements 24 hours after they have been released by the department shall constitute a new and separate violation(s) of this Part.

I. Except as otherwise permitted in this Section, the movement or shipment into this state of colonies of bees, nuclei, comb package of bees, or used or second-hand beekeeping equipment is prohibited.

J. All hives shall have removable tops and frames allowing inspection at all depths.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2306 and R.S. 3:2303.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:517 (May 1985).

§2513. Requirements Covering the Movement into Louisiana of Supers and Frames Used in Shipping Honey to Points In or Out of the State

A. Under special permit issued by the state entomologist, Class A permit holders of Louisiana may ship honey supers filled with frames and honey to points outside the state and/or move or ship the same back into Louisiana provided:

1. each super bears a brand or label containing the name and address of the shipper;

2. all shipments are free of bees and are transported under bee proof enclosures; and

3. upon receipt of such supers, frames and/or honey into the state, the state entomologist shall be advised of same, indicating the number of supers and frames and name and address of co-signer. All such equipment shall be subject to inspection by agents of the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2303.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:517 (May 1985).

§2515. Authority to Establish Quarantine Area

A. The state entomologist has authority to designate any area of the state as a quarantine area when he determines that diseases and/or pests in that area constitutes a danger to other colonies of bees.

B. To establish a quarantine area, the state entomologist shall publish in the *Louisiana Register* a notice of quarantine which details a finding or findings of danger to the health and welfare of bee colonies, geographical area of quarantine, the date the quarantine is to begin, and the objective(s) of the quarantine.

C. The shipment or movement of regulated articles from any quarantine area of Louisiana is prohibited until such time that the quarantine has been lifted or by special written permission from state entomologist.

D. The state entomologist shall have full authority to control, eradicate or prevent the introduction, spread and dissimilation of any and all contagious and infectious disease of bees and all other pest of bees.

E. The state entomologist may modify or terminate a quarantine by publication of a notice in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2308, R.S. 3:2304 and R.S. 3:2303.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:517 (May 1985).

§2517. Eradication Measures

A. All colonies of bees infected with American foulbrood shall be destroyed by burning the frames, bees and combs in the presence of or by an agent or specialist of the department. Hive bodies and top and bottom boards saved from infected colonies shall be moved from the yard during the burning process or by a time prescribed by agents or specialists of the department and are to be scorched or properly treated to remove possible sources of reinfestation before re-use. Failure to adhere to this requirement shall result in destruction of all infected equipment including hive bodies, top and bottom boards.

B. Nuclei exposed to American foulbrood infection by the transfer of combs with brood or bees from an infected colony or yard shall be destroyed by burning.

C. Any apiary or yard suspected of being infected with American foulbrood shall be reported to the department.

D. All colonies of bees found infected with European foulbrood shall be requeened within 30 days after infection is found. European foulbrood found in excess of 4 percent upon second inspection shall be quarantined until the disease is under control.

E. All other bee diseases and/or pests found that are considered detrimental to the honeybee industry shall be treated as prescribed by the state entomologist or his designee for the control of same.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2308, R.S. 3:2304 and R.S. 3:2303.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:517 (May 1985).

§2519. Penalties and Adjudicatory Proceedings

A. Whenever the commissioner has any reason to believe that a violation of these regulations has occurred, an adjudicatory hearing will be held to make a determination with respect to the suspected violation.

B. Upon any directive of the commissioner, the state entomologist shall give written notice to the person suspected of the violation, such notice to comply with the requirements of the Administrative Procedure Act, at least five days prior to the date set for such adjudicatory hearing.

C. The commissioner shall designate a hearing officer to preside at all adjudicatory proceedings.

D. At any such adjudicatory hearing, the person suspected of a violation of these regulations shall be accorded all of the rights set forth in the Administrative Procedure Act.

E. Whenever the commissioner makes a determination from the proceedings of the adjudicatory hearing that any violation of R.S. 3:2301 et seq., or these regulations has occurred, the commissioner may impose a monetary fine.

F. The commissioner may impose a penalty of up to $500 for each violation of R.S. 3:2301 et seq., or these regulations which is proven in any adjudicatory hearing.

G. Each separate day on which a violation occurs shall be considered a separate violation.

H. Any person may appeal any action taken by the commissioner to impose a monetary penalty by:

1. applying for a rehearing under the procedures provided in the Administrative Procedure Act; or

2. applying for judicial review of the commissioner's determination, under either the Administrative Procedure Act or other applicable laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2310 and R.S. 3:2303.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:517 (May 1985).

§2521. Repeal of Prior Rules and Regulations

A. All prior rules and regulations adopted and/or promulgated in accordance with R.S. 3:2303 are hereby repealed in their entirety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2303.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:517 (May 1985).

Chapter 27. Eradication and Control of the Imported Fire Ant

§2701. Authority

A. Whereas, it has been determined, and so declared, that a serious insect pest known as the imported fire ant (*Solenopsis saevissima richteri Forel*) is known to exist in certain parishes in the state of Louisiana; and

B. whereas, the imported fire ant is known to be a serious pest of humans, crops, livestock and wildlife; and

C. whereas, the intrastate movement from a property of articles infested with the imported fire ant to other properties or areas where the pest does not exist constitutes a menace to the agricultural industry of the state;

D. therefore, in order to prevent the spread of and to control and eradicate the imported fire ant in Louisiana, the Louisiana Department of Agriculture and Immigration, under authority of Part II of Chapter 12 of Title 3 of the Louisiana Revised Statutes of 1950, hereby promulgate the following quarantine and regulation.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:2351.

HISTORICAL NOTE: Adopted by the Department of Agriculture, June 1960.

§2703. Definitions of Words, Terms and Phrases

A. For the purpose of these regulations, the following words, terms and phrases shall be construed respectively to mean:

Agent or *Inspector*—an authorized representative of the state entomologist and/or the Louisiana Department of Agriculture and Immigration.

Certificate—a document evidencing compliance with the requirements of this quarantine.

Department—the Louisiana State Department of Agriculture and Immigration.

Eradication Area—that portion of the regulated area in which eradication measures directed against this pest have been carried out or are in the process of being carried out.

Infestation—the presence of the imported fire ant.

Limited Permit—a document authorizing the movement of regulated products to a restricted destination for limited handling, utilization, processing or treatment.

Moved—carried, shipped, offered for shipment, accepted for shipment, or otherwise caused or allowed to be transported intrastate by any means whatsoever by any person, directly or indirectly.

Person—an individual, firm or corporation.

Pest-Free Area—that portion of the state of Louisiana in which the imported fire ant is not known to exist.

Pest and/or *Imported Fire Ant*—the insect known as the imported fire ant (*Solenopsis saevissina richteri Furel*) in any stage of development.

Regulated Area—any portion of the state of Louisiana in which the imported fire ant has been found and placed under quarantine because of its presence.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:2351.
HISTORICAL NOTE: Adopted by the Department of Agriculture, June 1960.

§2705. Scouting, Inspection, Control and Eradication Authority

A. Agents of the Louisiana Department of Agriculture and Immigration shall be allowed entrance onto any property or premises to determine if the pest exists on such and to take such action as, in the judgment of the state entomologist, is necessary to control or eradicate the pest wherever found.

B. No person, firm or corporation shall in any way interfere with an agent of the Louisiana Department of Agriculture and Immigration in carrying out the provisions of this regulation, or interfere with the application of suppressive measures for the control and eradication of the imported fire ant.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:2351.
HISTORICAL NOTE: Adopted by the Department of Agriculture, June 1960.

§2707. Quarantined Area

A. Quarantined areas in Louisiana are hereby declared to be the entire parishes of:

Acadia	Lafayette	St. Landry
Ascension	Livingston	St. Martin
Beauregard	Orleans	St. Tammany
Calcasieu	Ouachita	Tangipahoa
Concordia	Plaquemines	Terrebonne
East Baton Rouge	Pointe Coupee	Washington
Iberia	St. Bernard	West Baton Rouge
Iberville	St. Charles	
Jefferson	St. John the Baptist	

and the following parts of parishes of:

Assumption—that portion lying west of the west line of R. 14 E.

Avoyelles—that portion lying south of the south line of T. 2 N.

Bossier—that portion lying south of U.S. Highway 80.

Caddo—that portion lying south of the south line of T. 19 N. and east of the east line of R. 15 W.

East Carroll—that portion lying south of the south line of T. 20 N. and west of the west line of R. 12 E.

Evangeline—that portion lying east of the east line of R. 1 N.

Franklin—Secs. 27, 28, 29, 30, 31, 32, 33, 34, and 35, T. 15 N., R. 9 E.; and Secs. 2, 3, 4, 5, and 6, T. 14 N., R. 9 E.

Jefferson Davis—that portion lying north of the north line of T. 9 S.

Lafourche—Secs. 1, 2, 3, 4, 24, 25, 37, 38, 39, 40, 41, 42, and 43, T. 18 S., R. 21 E. Secs. 4, 5, 6, 7, 8, 12, and 62, T. 17 S., R. 21 E.; Secs. 43, 44, 45, 46, and 104, T. 17 S., R. 20 E.; and Secs. 11, 12, 13 and 14, T. 14 S., R. 18 E.

Madison—that portion lying west of Tensas Bayou and north of the north line of T. 15 N.

Morehouse—that portion lying south of the south line of T. 20 N. and west of the west line of R. 7 E.

Rapides—that portion lying south of the south line of T. 3 N. and east of the east line of R. 2 W.

Richland—Secs. 12, 13, 24, and 25, T. 17 N., R. 9 E.; and Secs. 7, 18, 19, and 30, T. 17 N.,R. 10 E.

St. Helena—that portion lying south of the south line of T. 3 S. and west of the Tickfaw River.

St. Mary—that portion lying west of the Wax Lake Outlet.

Tensas—Secs. 25, 26, 27, 38, 39, 40, 47, 48, 49, 50, and 51, T. 9 N., R. 10 E.; and Secs 1, 2, 18, and 20, T. 9 N., R. 11 E.

Union—that portion lying south of the south line of T. 21 N. and east of the east line of R. 1 E.

Vermilion—that portion lying east of the west line of R. 1 E.

West Carroll—that portion lying south of the south line of T. 22 N.

West Feliciana—that portion lying south of the south line of T. 1 S.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:2353 and R.S. 3:2351.
HISTORICAL NOTE: Adopted by the Department of Agriculture, June 1960.

§2709. Regulated Products

A. Regulated products shall consist of the following:

1. soil and unprocessed sand and gravel, separately or with other things;

2. forest, field or nursery-grown woody or herbaceous plants with soil attached;

3. plants in pots or containers;

4. grass sod;

5. unmanufactured forest products such as stump wood or timbers if soil is attached;

6. any other products not listed in this Paragraph when it is determined that they present a hazard of the spread of the imported fire ant.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:2353 and R.S. 3:2351.
HISTORICAL NOTE: Adopted by the Department of Agriculture, June 1960.

§2711. Conditions Governing Movement of Regulated Products

A. Regulated products may be moved within any regulated area or to a point outside the regulated area only if accompanied by a valid certificate issued under the following conditions:

1. when, in the judgement of the inspector, they have not been exposed to infestation;

2. when they have been examined by the inspector and found to be free of infestation;

3. when they have been treated under the observation of the inspector and in accordance with methods selected by him known to be effective under the conditions applied;

4. when grown, produced, stored or handled in such a manner that, in the judgment of the inspector, no infestation would be transmitted thereby. Regulated products originating outside the regulated area may be shipped through or reshipped from the regulated area without restrictions provided their point of origin is indicated, their identity is maintained, and they have been safeguarded against infestation in a satisfactory manner. Otherwise, such regulated products shall be subject to the same requirements as for regulated products originating in the regulated area.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:2351.
HISTORICAL NOTE: Adopted by the Department of Agriculture, June 1960.

§2713. Conditions Governing the Issuance of Certificates, Limited Permits and Dealer-Carrier Agreements

A. Certificates. Certificates may be issued by the inspector for the movement of regulated products within the regulated area or to a point outside the regulated area provided the conditions outlined in §2711 have been met.

B. Limited Permits. Limited permits may be issued by the inspector for the movement of uncertified regulated products to specified destination for limited handling, utilization and/or processing.

C. Dealer-Carrier Agreement. Any person engaged in purchasing, assembling, exchanging, handling, processing, utilization, treating, or moving regulated products may be required to sign a dealer-carrier agreement stipulating that he will maintain such safeguards against the establishment and spread of infestation and comply with such conditions as to the maintenance of identity, handling, and subsequent movement of regulated products, and the cleaning and treatment of means of conveyance and containers used in the transportation of such products as may be required by the inspector.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:2351.
HISTORICAL NOTE: Adopted by the Department of Agriculture, June 1960.

§2715. Assembly of Articles for Inspection

A. Persons intending to move any regulated products shall make application for inspection to the state entomologist as far in advance as possible, shall so handle such products as to safeguard them from infestation, and shall assemble them at such points and in such manner as the inspector shall designate to facilitate inspection.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:2351.
HISTORICAL NOTE: Adopted by the Department of Agriculture, June 1960.

§2717. Cancellation of Certificates or Limited Permits

A. Certificates or limited permits may be withdrawn or canceled and further certificates or permits refused whenever it is determined that their further use might result in the spread of the pest.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:2351.
HISTORICAL NOTE: Adopted by the Department of Agriculture, June 1960.

§2719. Waiver of Liability

A. The Department of Agriculture or its inspector will not be responsible in any way for the death of livestock, bees or plants in areas treated for the control of the imported fire ant after official notice has been given that such areas are to be treated. When such notice is given, property owners are to take all necessary precautions to protect their properties.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:2351.
HISTORICAL NOTE: Adopted by the Department of Agriculture, June 1960.

§2721. Shipments for Scientific Purposes

A. The restrictions of this quarantine do not apply to shipments of regulated products under proper safeguards to the United States Department of Agriculture, or to recognized state institutions for scientific purposes, except that a special permit issued by a duly authorized state or federal inspector, must be attached to the outside of the container.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:2351.
HISTORICAL NOTE: Adopted by the Department of Agriculture, June 1960.

§2723. Penalties

A. Any person found guilty of violating the provisions of this quarantine and regulation is subject to the penalties provided for by Section 1736 of Parts 2 and 3 of Chapter 12 of Title 3 of the Louisiana Revised Statutes of 1950.

B. Regulated products held in storage, warehouses, moved, sold or offered for sale in violation of this quarantine and regulation shall be confiscated by an inspector of the department and either destroyed or otherwise disposed of in such a manner as to eliminate the hazard of spreading imported fire ant infestation.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:2354 and R.S. 3:2351.
HISTORICAL NOTE: Adopted by the Department of Agriculture, June 1960.

§2725. Effective Date

A. The above quarantine and regulation to prevent spread of, control and eradicate the imported fire ant may be revised or amended at any time conditions warrant.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:2351.
HISTORICAL NOTE: Adopted by the Department of Agriculture, June 1960.

Chapter 29. Repeal Rules and Regulations

§2901. Repeal Rules and Regulations Previously Adopted by the Livestock Sanitary Board

A. All rules and regulations which were previously adopted by the Livestock Sanitary Board are hereby repealed in their entirety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:615 (June 1985).

Chapter 31. Standards of Care for Bovine, Equine, Ovine, Caprine, Porcine, and Poultry used for Show, Profit, or Production

§3101. Definitions

A. In addition to the definitions listed below, and unless otherwise provided, the definitions in §101 of this Part shall apply to this Chapter.

B. The terms defined in this Chapter have the meanings given to them in this Section, except where the context expressly indicates otherwise.

C. Terms Defined in this Section

Ambulatory—state of biological function where an animal is capable of walking without pain for an extended period of time.

Animal Care and Well-Being Plan—a program or method for providing or ensuring that an animal's basic needs are met to maintain their health, biological function, and physical and behavioral needs.

Animal Health—physical state of an animal.

Animal Husbandry—the branch of agriculture concerned with the care and breeding of domestic animals such as cattle, horses, pigs, and sheep.

Animal Husbandry Procedures—a way of performing or effecting the care and breeding of livestock.

Beef Quality Assurance Guidelines (BQA)—accepted production standards for quality and safety, including biosecurity, animal health and well-being, production performance and environmental stewardship, that are appropriate to an operation and which can be met or exceeded in an objective manner.

Behavioral Needs—a particular animal's need to express behaviors given their species, age, sex, and physiologic state.

Biosecurity—preventive measures designed to reduce the risk of transmission of infectious diseases, parasites and pests.

Body Condition—refers to the health or physical fitness of the animal.

Body Condition Score (BCS)—accepted management tool used by producers, veterinarians, extension personnel, and researchers to evaluate the nutritional level of livestock based on a numerical scale.

Conspecific Aggression—hostile actions or fighting among a group of animals of the same species.

Discomfort—unpleasant sensations other than pain caused by a disruption of normal biologic function or psychological needs.

Disease—pathologic condition of any part of an animal's biology.

Distress—state of mental or physical pain, intense anxiety, or suffering affecting the animal that may require immediate attention.

Electric Stunning—application of high amperage current passed through the brain which renders the animal instantly unconscious.

Electro-immobilization—use of electricity to immobilize and paralyze animals that does not render them unconscious or insensible to pain.

Euthanasia—intentional causing humane death of an animal in order to relieve pain and suffering.

Facility—premises or something such as a fenced in area or a structure or structures constructed to serve a function related to livestock.

Good Animal Health—having good biological function and being free of disease and injury.

Handling—actions involving hands on treatment of livestock such as loading or unloading, restraining, or moving animals in a pen or chute.

Health—normal biologic and physiologic function free of disease.

Heat or *Cold Stress*—external temperature and/or humidity causing change of an animal's physiologic function and/or causing distress.

Humane Death—when an animal dies with minimum pain and suffering that may result through utilization of methods such as inhalant agents, injectable euthanasia agents, or other physical methods.

Humane Treatment—care an animal receives with the intention and result of promoting animal health as balanced with considerations of human health, food safety, and animal production.

Injury—disruption of tissue causing pain or impaired function.

Insensible—unable to perceive any stimulus or having no cortical brain function.

Knowledge—having an awareness of scientifically valid facts regarding animal health and animal husbandry and the ability to apply these facts so as to ensure the care and well-being of animals.

LDAF—Louisiana Department of Agriculture and Forestry.

Livestock—bovine, equine, porcine, ovine, caprine, and poultry used for show, profit, selling, or producing crops, plant or animal products for market.

Livestock Personnel—producer or person in charge of animals.

Mass Euthanasia—putting to death populations of animals in unusual conditions such as wide spread disease eradication and circumstances resulting from natural disasters, as authorized by the state veterinarian.

Minimize Heat Stress—systems utilizing one or more of the following to reduce the negative impact on animals due to heat stress- shade, facility design to improve air flow and ambient temperature from outside temperature and airflow, fans or forced air movement, water cooling systems such as misters, evaporative cooling systems, and climate controlled air conditioning.

Minimize Pain and Distress—actions taken to reduce or eliminate those stimuli resulting in pain or distress.

National Chicken Council (NCC) Guidelines—industry standard program for assessment of animal programs and practices in broiler and broiler breeder operations.

Pain—unpleasant stimulus associated with actual or potential tissue damage that is perceived as unpleasant.

Parturition—act of giving birth (i.e. calving, foaling, lambing, farrowing).

Person in Charge—person who has animal(s) under his supervision or control.

Physiologic Requirements—conditions needed to maintain an animal's normal body function given their physical, metabolic, and hormonal demands.

Physiologic State—functioning of an animal's body, including its current body systems, metabolism, and homeostasis.

Practical—method or technology which is easily available and economically viable as determined by acceptable standards.

Producer—person who owns and is responsible for the care of livestock that are raised for home use or for profit, especially on a farm.

Rapid Loss of Consciousness—that which causes an animal to lose consciousness within 60 seconds.

Remedial Action—any action taken to provide care, nutrition, treatment, veterinary treatment, or other action in order to eliminate the cause of compromised animal health.

Shelter—physical object or construct that provides protection from weather and climate to a specific animal; *shelter* may include manmade constructions, variations in the topography of land, plants, trees, and shrubbery as conditions may require.

Stress—reaction by an animal to an uncomfortable or unfamiliar physical or psychological stimulus that may include an increased state of alertness, anxiety, increased heart rate, or sweating.

Sufficient—enough to meet the physiological needs of the animal (i.e. adequate nutrition to maintain an average BCS).

Supervision—act or having the responsibility to ensure an animal is provided care.

Timely Manner—soon enough that is not too late.

Veterinary Treatment—procedure or care performed by or on the order of a licensed veterinarian.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2095.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 39:3238 (December 2013).

§3103. General Standards that Apply to the Production of All Animals

A. Producer or person in charge of animals shall ensure that a sufficient level of animal health and animal care and well-being is maintained for the livestock.

1. Livestock personnel shall have the proper level of knowledge, ability, and competency to maintain the health and care and well-being of livestock as specified in this Code.

2. Livestock shall be inspected as determined by livestock personnel based on their age and physiologic state to ensure they remain healthy and to allow for timely remedial action for those livestock found to be diseased or distressed.

B. Exceptions

1. Any standard in this code may be excepted by or under the advice of a licensed veterinarian as required for the prevention, diagnosis, management, treatment, or control of disease or injury.

2. Any standard in this code may be excepted during a declared disaster, foreign animal disease outbreak, or other exceptional circumstance as deemed necessary by LDAF.

3. Any standards in this code may be excepted by LDAF as deemed necessary to promote animal health or care, human health, agriculture, food safety, or other compelling need of the people or resources of the state of Louisiana.

C. Housing

1. Shelter as defined in this document may be a necessary requirement for livestock. All facilities in which livestock are maintained shall be kept clean and ventilated so as to minimize injury or pain caused by noxious gases. All facilities in which livestock are maintained shall be constructed and maintained so as to minimize disease and injury to animals.

2. All facilities in which livestock are maintained shall be constructed and maintained so as to securely contain the livestock within.

3. Livestock shall be able to lie down and rest comfortably so as to meet their behavioral needs for rest.

4. For livestock housed in an indoor facility with concrete floor, dry bedding shall be provided for the comfort and warmth of the livestock.

D. Nutrition and Water

1. All livestock shall be provided sufficient food to maintain good health, meet their physiological requirements, and minimize nutritional or metabolic disease.

2. All livestock shall have access to water, including ponds, so as to maintain adequate hydration.

3. Nutritional standards for livestock may vary with level of activity, pregnancy/nursing status, age, or medical status; veterinary or nutritional consultation may be required to establish these standards.

4. Exception. Food and water may be temporarily withheld when handling, treating, or transporting livestock.

E. Health and Veterinary Care

1. All producers shall develop and implement an animal care and well-being plan to promote the health of the livestock.

2. Livestock shall be monitored regularly as determined by producers and livestock personnel so signs of injury or disease are identified in a timely fashion.

3. Producers shall treat signs of injury or disease in a timely manner to prevent or control compromised health of cattle.

a. Producers shall determine when a licensed veterinarian shall be consulted in the diagnosis, treatment, management, and prevention of injury or disease as necessary to minimize pain and distress of livestock.

4. Livestock other than dairy cattle with a body condition score less than three, and dairy cattle with a BCS less than two shall receive prompt care and/or treatment (see BCS charts below).

5. Livestock suffering from severe lameness shall receive prompt remedial action.

6. Livestock suffering from extreme pain or distress shall be examined by a licensed veterinarian or properly euthanized in a timely fashion as to minimize pain and distress.

7. Non-ambulatory livestock may be moved in the most effective manner deemed necessary by the producer or person in charge.

F. Parturition Management

1. Livestock observed to have vigorous straining and/or abdominal contractions while giving birth without progress shall have remedial action taken.

2. No motor vehicle shall be used to provide traction to assist parturition.

G. Sanitation

1. All facilities in which livestock are maintained shall be kept clean so as to minimize the spread of infectious disease to animals.

2. All facilities in which livestock are maintained shall have pest control so as to minimize the spread of infectious disease to animals.

3. All equipment used in managing livestock shall be kept clean so as to minimize the spread of infectious disease to livestock and to minimize pain.

4. All personnel shall maintain adequate biosecurity in facilities to minimize the spread of infectious disease to livestock.

H. Handling

1. Livestock shall be handled in a manner so as to minimize stress, risk of injury, and risk of exhaustion or heat stress to the livestock.

2. Only the minimum force necessary shall be used to move or restrain livestock.

3. Handling of livestock shall be performed with knowledge of the point of balance and flight zone when possible.

4. All facilities used to move or restrain livestock shall be designed and maintained so as to minimize stress, risk of injury, risk of exhaustion, risk of heat stress and shall allow livestock to be released rapidly if necessary.

5. Electric prodders shall not be used in the most sensitive areas of livestock: udder, eyes, nose, anus, prepuce, vulva, or testicles.

6. Livestock physically restrained in handling facilities shall be supervised at all times.

7. Electro-immobilization shall not be an acceptable handling technique for livestock.

I. Animal Husbandry Procedures

1. Certain animal husbandry procedures shall be performed only as necessary to protect animal and human health, allow animal management and production, and allow product attributes.

a. Necessary animal husbandry procedures include, but are not limited to: castration, disbudding, dehorning, branding, tattooing, and ear tagging.

2. Animal husbandry procedures shall only be performed by personnel with sufficient knowledge to minimize pain and distress.

3. Animal husbandry procedures shall be performed in a timely manner and physiologic state so as to minimize pain and distress.

J. Selection for Transport

1. Livestock transported for any reason shall be ambulatory at the time of loading.

2. Exception shall be when livestock need to be transported on-farm, farm-to-farm, or for veterinary care.

K. Transportation by land shall:

1. be loaded and unloaded in a manner and with proper equipment and personnel so as to minimize stress and injury. Have sufficient headroom so as to not come into contact with the roof of the vehicle in a normal standing position;

2. transportation vehicle shall:

a. have floors that are constructed and kept clean so as to minimize the slipping and falling of livestock; and Be constructed to allow visual inspection of all livestock during transport; and

b. be constructed to allow ventilation and protection in order to minimize the harmful effects of weather and climate;

3. livestock shall be segregated into groups based on age, size, and other attributes so as to minimize injury, distress, and conspecific aggression;

4. livestock shall be loaded at a density that minimizes injury and falling, but that allows animals to rise unassisted if fallen;

5. livestock shall be transported as quickly as possible to their final destination and transported to their final destination directly when possible;

6. pursuant to 49 USC §80502, the transportation of livestock shall be planned so that animals are unloaded and provided rest, water, and feed on travel more than 28 hours.

L. On-Farm Euthanasia

1. Livestock shall be euthanized in a method that results in rapid loss of consciousness and animals must remain insensible until death. The following methods of euthanasia are approved for on farm use:

a. captive bolt or rifle shot of at least .22 caliber administered so as to disrupt the cerebral cortex and brainstem; and

b. barbiturate overdose administered by a licensed veterinarian or other licensed professional.

2. The carcass of any livestock euthanized shall be disposed of in a manner as to prevent the spread of infectious disease or if euthanized by barbiturate overdose to prevent other animal exposure to the carcass.

3. The carcasses of all livestock shall be disposed of in a sanitary manner by cremation or burial of at least 6 feet according to R.S. 3:2131.

M. Body condition scoring for livestock is intended to be used as a practical guideline by which producers can measure animal care and well-being based on the animal's physical appearance as determined in the charts below.

1. Body Condition Scoring for Livestock other than Dairy Cattle

Score	Description
1. Poor	Severely emaciated; no fatty tissue; vertebrae, ribs, tail head, and bones of withers, shoulder, and neck are visible All rib and bone structures easily visible. No fat over backbone, edge of loin, hip bones, or ribs. Tailhead and ribs project prominently. Animal has difficulty standing or walking.
2. Emaciated	Appears emaciated but tailhead and ribs are less prominent. Individual spinous processes are sharp to touch, but some tissue exists along the spine. Animal not weak, but no fat detectable.
3. Very Thin	Ribs are individually identifiable, but not sharply. No fat on ribs, brisket, spine or over tailhead. Individual hindquarter muscles easily visible, spinous processes apparent.
4. Thin	Individual ribs are not visibly apparent except the last two ribs. Backbone can be identified with slight pressure; individual spinous processes are rounded rather than sharp. Individual muscles in the hindquarter are apparent, but the quarter is straight.
5. Moderate	Good overall appearance. The last two ribs are not visible but can be easily felt. Hindquarter individual muscles are not apparent. Areas on either side of the tail head are filled and fat cover is palpable.
6. High Moderate	Good smooth appearance throughout. Ribs are not visible and are fully covered. Some fat deposition in the brisket. Spongy fat on ribs and pin bones and sides of tailhead. Firm pressure is needed to feel the spinous processes.
7. Good	Livestock appear fleshy and obviously carry considerable fat. Brisket is full. Tailhead and pin bones have protruding fat deposits. Back appears square.
8. Obese	Protruding fat deposits on tailhead and pin bones. Spinous processes almost impossible to feel. Brisket is distended and neck is thick.
9. Very Obese	The body has lost definition and contours disappear across back and sides as animal takes on a block-like smooth appearance. Tailhead and hips buried in fat deposits. Bony structures no longer visible or palpable.

2. Body Condition Scoring for Dairy Cattle

Score	Description
1. Emaciated	Deep cavity around tailhead. Bones of pelvis and short ribs are easily felt. No fatty tissue in pelvic or loin area. Deep depression in loins.
2. Thin	Shallow cavity around tailhead with some fatty tissue lining it and covering pin bones. Pelvis easily felt. Ends of short ribs feel rounded and upper surfaces can be felt with slight pressure. Depression viable in loin area.

Score	Description
3. Ideal	No cavity around tailhead and fatty tissue easily felt over entire area. Pelvis felt with slight pressure. Thick layer of tissue covering top of short ribs which is felt with pressure. Slight depression over loin area.
4. Fat	Fold of fatty tissue around tailhead with patches of fat covering pin bones. Short ribs cannot be felt. No depression in loin area.
5. Obese	Tailhead buried in thick layer of fatty tissue. Pelvic bones cannot be felt with firm pressure. Short ribs covered with thick layer of fatty tissue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2095.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 39:3240 (December 2013).

§3105. Beef and Dairy Cattle Standards

A. Body Condition Scoring (BCS) of Cattle

1.a. *BCS*—a standardized, objective method of evaluating the body condition of cattle regardless of breed, age, gender, or body type.

b. *Body Condition*—a measure of fat cover and scores are indicative of energy reserves in the body.

2. Several conditions may affect *body condition*:

a. lack of proper nutrition;

b. severe parasitism;

c. infectious disease;

d. older animals.

3. Starvation shall not be ascertained by *body condition* alone but may be determined by amount of feed and forage available.

4. Consultation with a licensed veterinarian and or a knowledgeable livestock professional may be suitable in remedying the situation.

5. *Body condition* shall be evaluated by visual appraisal and by feeling six areas of the animal's body and then assigning an overall score.

6. Beef cattle scores range from one (severely emaciated) to nine (very obese).

7. Dairy cattle scores range from one (emaciated) to five (obese).

8. *BCS* below two for beef or dairy scoring indicate emaciated cattle.

B. BQA guidelines may be used as a standard reference for all cattle producers (beef and dairy) as a reference in areas of cattle management and record keeping.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2095.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 39:3242 (December 2013).

§3107. Equine Standards

A. Housing

1. All facilities in which horses are maintained shall be kept free of excessive feces, urine, mud, or other waste products.

2. All facilities in which horses are maintained shall be constructed and maintained to minimize hazards that may cause injury to the horses confined within.

3. For horses housed in an indoor facility with concrete floor, dry bedding shall be provided for the comfort and warmth of the horses.

4. Horses confined to minimal enclosed areas shall receive sufficient turnout time or controlled exercise (e.g., hand-walking, lunging, riding, driving, hot walker, treadmill) unless directed otherwise by a veterinarian.

5. When housed in groups, horses shall be segregated so as to minimize conspecific aggression.

B. Nutrition

1. Concentrates, trace minerals, and salt may be used to balance the diet.

2. Horses confined without available pasture to graze may need daily supplemental feed; horses on pasture may need supplemental feed if the pasture is insufficient to maintain body weight and health.

C. Water

1. Water troughs, water containers, and any automatic watering devices shall be cleaned and maintained on a regular basis.

2. Transportation of Equine

a. The following horses shall not be transported:

i. those that are non-ambulatory (cannot walk unassisted), weak and/or debilitated, cannot bear weight on one or more legs, blind in both eyes, or, unless being transported for veterinary care;

ii. foals shall not be transported until their navels are closed unless being transported for veterinary care.

3. Transportation by land shall:

a. load horses at a density that minimizes injury and falling, but that allows them to rise unassisted if fallen;

b. horses destined for slaughter shall be transported pursuant to USDA's Slaughter Horse Transport Program in addition to the regulations above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2095.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 39:3242 (December 2013).

§3109. Porcine Standards

A. Housing

1. If housed outdoors, shelter shall be readily available to swine so as to minimize the compromise to their health from heat and adverse weather.

2. If housed indoors, facilities shall be maintained so as to minimize the compromise to health from heat and adverse weather.

3. For any swine housed in a primary enclosure, such as a farrowing stall or gestation crate, the swine shall be able to:

a. lie in full recumbency without its head touching a feeder;

b. rise and lie down comfortably at will; and

c. stand so as to not touch more than one side of the enclosure simultaneously and so as to not touch the top of the primary enclosure.

4. Flooring shall be designed or managed so as to minimize slipping and so as to prevent urine scald to the swine.

5. If nursing piglets, the enclosure shall allow the sow to lie down as to minimize injury or death of her piglets.

B. Nutrition and Water

1. Feed shall be provided in methods so as to minimize aggression and resultant injury to swine.

2. Any mechanical devices used to deliver feed or water shall be kept clean so as to minimize the spread of infectious disease, and shall be regularly inspected to ensure proper function.

C. Animal Husbandry Procedures

1. Animal husbandry procedures include, but are not limited to:

a. castration, needle teeth clipping, tail docking, ear notching, tattooing, and ear tagging;

b. shall be performed only as necessary to protect animal and human health;

c. allow animal management and production; and

d. allow product attributes.

2. Animal husbandry procedures shall be performed in a timely manner and physiologic state so as to minimize pain and distress including:

a. clipping of needle teeth performed before five days of age;

b. teeth clipped at the tip of the tooth rather than the gum line;

c. ear notching, tail docking, and castration performed before five days of age.

D. Farrowing and Piglet Management

1. Temperature control shall be provided in order to allow newborn pigs to maintain normal body temperature.

E. Specific Recommendations on All Aspects of Swine Production

1. Producers shall consult the current *Swine Care Handbook* published by the National Pork Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2095.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 39:3242 (December 2013).

§3111. Ovine and Caprine (Small Ruminants) Standards

A. Housing

1. Shelter shall be readily available to small ruminants so as to minimize the compromise to their health from heat or adverse weather.

B. Health and Veterinary Care

1. Management procedures shall be in place to minimize the distress or disease caused by *Haemonchus contortus*.

2. Management procedures shall be in place to minimize fly strike.

3. Small ruminants with a body condition score of or less than three shall receive prompt care and/or treatment by or on the advice of a licensed veterinarian to improve their body condition.

C. Parturition and Lamb/Kid Management

1. All lambs or kids shall receive adequate nutrition from a lactating ewe or doe or shall be provided adequate nutrition by hand rearing if rejected, or have other remedial action taken.

D. Shearing

1. Shearing shall be performed carefully so as to minimize distress and injury to the small ruminant.

E. Animal Husbandry Procedures

1. Animal husbandry procedures include, but are not limited to:

a. castration;

b. disbudding;

c. dehorning;

d. foot trimming;

e. injections;

f. drenching;

g. shearing;

h. tail docking of wool sheep;

i. tattooing; and

j. ear tagging.

F. Selection for Transport

1. The following small ruminants are not fit for transport:

a. those unable to bear weight, unless transported for veterinary care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2095.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 39:3243 (December 2013).

§3113. Poultry Standards

A. Housing and Environment

1. Any facilities in which poultry are housed shall provide shelter so as to minimize the compromise to poultry health from heat, cold, adverse weather, and predation.

2. All (commercial) facilities in which poultry are housed shall be maintained so as to limit the exposure of feeding and watering devices and poultry to feces and urine.

3. All facilities in which poultry are maintained shall be designed, lighted, and stocked so as to allow visual inspections of poultry at any point in time.

4. Natural or artificial lighting mimicking the intensity and duration of daylight shall be provided, or other artificial lighting program exceeding this shall be provided, except as necessary for animal husbandry practices or introduction of new poultry. Any change in artificial lighting program shall be introduced gradually so as to prevent distress of poultry.

5. Stocking density shall follow NCC guidelines of pounds per square foot for commercial enterprises and for backyard flocks and shall not exceed that which does not allow all poultry to lie down simultaneously without being forced to lie on top of other poultry. Environmental moisture and dust shall be minimized in order to prevent the spread of infectious disease or compromise the health, care, and well-being of poultry.

6. Environmental temperature shall be controlled at a level that minimizes heat stress or cold stress to the poultry.

7. The following are acceptable housing systems.

a. Cages (Conventional and Enriched)

i. Cages shall be arranged so as to protect exposure of poultry in one cage from feces or urine from poultry in any other cage.

ii. Maximum slope for any cage shall be designed to support forward facing claws.

b. Barns/Aviaries

i. Flooring shall be such that minimizes claw injuries to birds.

ii. Flooring shall be designed so as to support forward facing claws.

iii. Perches shall be designed so as to minimize injury to the poultry.

c. Free Range

i. For those facilities with an indoor and outdoor component, openings shall be designed so as to facilitate movement of the poultry in a manner that minimizes injury and death to the poultry.

B. Nutrition and Water

1. All poultry shall be provided sufficient food daily so as to maintain good health, meet their physiological requirements, and minimize nutritional or metabolic disease (see exceptions).

2. All poultry shall have continual access to water so as to maintain adequate hydration (see exceptions).

3. All food and water shall be provided in means that minimize aggression or competition.

4. Any mechanical devices used to deliver feed or water shall be kept clean so as to minimize the spread of infectious disease and shall be regularly inspected to ensure proper function.

5. Poultry shall be regularly monitored, and those found not to be consuming adequate food or water shall be removed and either raised alternatively or euthanized.

6. Exception. Food and water may be temporarily withheld up to 48 hours as prescribed by the NCC, allowing for five days feed, and two skipped days, along with limitation of water when handling, performing management practices, treating, transporting, or depopulating poultry.

C. Health and Veterinary Care

1. Disabled poultry shall be removed from their environment in a timely fashion to minimize compromise to their health and have remedial action taken, including euthanasia.

2. Any dead poultry shall be removed from any facilities and disposed of according to LDAF protocols so as to minimize the spread of infectious disease between poultry and so as to minimize pests.

D. Handling

1. Poultry shall be caught and handled so as to minimize stress, risk of injury, and risk of exhaustion.

a. Poultry shall never be picked up by a single wing.

2. Only the minimum force necessary shall be used to move or restrain poultry.

3. All equipment used to move or restrain poultry shall be designed and maintained so as to minimize stress, risk of injury, risk of exhaustion, risk of heat stress.

4. Poultry that are seriously injured during handling (such as, but not limited to, broken legs) shall have remedial action taken, including euthanasia.

E. Hatching, and Chick/Poult Management

1. All chicks/poults shall have access to adequate nutrition and water within 48 hours of hatching or have other remedial action taken.

2. Environmental temperature control and air flow control shall be present before arrival of new chicks/poults into an area and maintained for newly placed chicks/poults so as to support normal body temperature and minimize health compromise.

F. Animal Husbandry Procedures

1. Certain animal husbandry procedures include, but are not limited to, beak trimming, male claw removal, and dubbing.

a. Animal husbandry procedures shall be performed at an age and physiologic state so as to minimize pain and distress.

i. Beak trimming shall be performed by or before 10 days of age.

ii. Male claw removal and dubbing (in commercial operations) shall be performed by or before 3 days of age.

b. Necessary stressful procedures include induced molting.

i. Induced molting shall be performed and birds sufficiently supervised to prevent health compromise, weight loss, and flock mortality.

G. Transportation

1. Transportation by land shall:

a. have stocking density that allows all poultry to lie down simultaneously without being forced to lie on top of other poultry;

b. have transportation vehicle design, maintenance, arrangement of poultry, and time of transport to minimize injury, distress, or death to the poultry;

c. have vehicle transporting poultry designed to provide adequate ventilation to minimize injury, distress, heat or cold stress, or death to the poultry;

d. have crates or other devices used to transport poultry designed to minimize injury and movement must allow poultry to rapidly reposition in an upright position.

H. On-Farm Euthanasia

1. The following methods of euthanasia shall be approved for on-farm use:

a. carbon dioxide;

b. cervical dislocation;

c. cecapitation;

d. water based foam for mass euthanasia;

e. instantaneous fragmentation may be used for one day old chicks and poults, and for pipped and embyonated eggs. Sufficient flow to and through the instantaneous fragmentation device shall prevent backlog at the point of entry to the device;

f. barbiturate overdose is an acceptable form of euthanasia administered by a licensed veterinarian or other licensed professional.

2. The carcasses of all poultry shall be disposed of in a sanitary manner by cremation or burial of at least six feet according to RS 3:2131 or by following LAC 7:XXI.Chapter 7, Sanitary Disposal of Dead Poultry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2095.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 39:3243 (December 2013).

§3115. Emergency Standards

A. Standards for management and destruction of animals during an emergency may be extended during a declared disaster or animal disease event. In such cases mass euthanasia may be necessary.

1. Mass euthanasia shall be used for unusual conditions which require depopulation, such as wide-spread disease eradication and exigent circumstance resulting from natural disasters; the state veterinarian may authorize alternate methods if necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2095.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 39:3245 (December 2013).

§3117. Accepted Methods for Mass Euthanasia

A. Inhalant Agents

1. Carbon Dioxide (CO_2)

a. Compressed CO_2 gas in cylinders shall be the only allowed source of carbon dioxide.

b. Gas concentration shall be maintained for at least one minute after death.

c. CO_2 shall be the only chemical to be used for euthanasia of animals intended for human or animal consumption.

B. Injectable Euthanasia Agents

1. All injectable agents, including all barbiturate derivatives, shall be used by or under the direct supervision of a licensed veterinarian.

C. Physical Methods

1. Penetrating Captive Bolt

a. Captive bolt guns shall be powered by gunpowder or compressed air and shall provide sufficient energy to penetrate the skull of the species on which they are being used.

b. Penetrating captive bolt shall be suitably placed so that the projectile sufficiently disrupts a cerebral hemisphere and the brain stem causing a sudden loss of consciousness and resulting in humane death.

c. The penetrating captive bolt gun shall be held firmly against the head.

d. All manufacturers' directions regarding caliber and powerload shall be followed.

2. Non-Penetrating Captive Bolt

a. The non-penetrating captive bolt does not have a projectile, is powered by gunpowder or compressed air, and shall deliver a percussive blow which produces unconsciousness.

b. The non-penetrating captive bolt gun shall be held firmly against the head and shall not be used as a sole means of euthanasia, except for animals weighing equal to or less than 12 pounds and poultry.

c. All manufacturers' directions regarding caliber and powerload shall be followed.

3. Blunt Force Trauma

a. A single decisive blow shall produce immediate depression of the central nervous system and destruction of brain tissue resulting in rapid unconsciousness and humane death.

4. Gunshot

a. Shooting shall only be performed by personnel proficient in the use of firearms and only in jurisdictions that allow legal firearm use. Personnel, the public, and nearby animal safety and well-being shall be considered as well as control of the animal whenever feasible.

b. Gunshot shall utilize bullets of suitable caliber that depend on the size of the animal to be euthanized and that expand on impact. The projectile shall enter the brain causing instant loss of consciousness and humane death.

c. Ammunition for most animals shall be a minimum caliber .22 hollow point for long rifles. For large mature animals, such as cattle and swine, the minimum caliber shall be .22 magnum hollow point for long rifles.

d. The gun shall be held as close as reasonably possible but not less than 2 inches from the head of the animal.

5. *Cervical Dislocation*—the manual stretching or instrument assisted separation of the cervical vertebrae from the skull.

6. *Decapitation*—the rapid separation of the head from the neck.

7. Electrocution

a. One-step electrocution shall use alternating current applied to the head and the opposite side of the body behind the heart at the flank skin fold, causing simultaneous stunning and inducing cardiac fibrillation resulting in cerebral hypoxia.

b. Two-step stunning and electrocution shall first render the animal unconscious by passing an alternating current across the head and followed immediately, in less than 15 seconds, by passing the current from the head to the opposite side of the body behind the heart.

8. *Foam*—a water-based product utilizing a specialized delivery system that produces *foam* of the appropriate consistency to occlude the upper respiratory tract causing hypoxia in a rapid and humane manner.

9. *Maceration*—the use of a mechanical apparatus having rotating blades or projections that causes immediate fragmentation and death.

10. *Exsanguination*—to drain of blood as a stand-alone method of euthanasia shall be limited to use for ritual slaughter pursuant to ORC, chapter 945.01 and 945.02. *Exsanguination* may be used to ensure death subsequent to stunning or in otherwise unconscious animals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2095.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 39:3245 (December 2013).

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.

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 olds 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 Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3466 (December 2011), by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 38:3103 (December 2012).

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 Changes in Regulations or for Declaratory Rulings

A. A request for the adoption, amendment or repeal of a regulation in this Part shall be made in accordance with LAC 7:I.303.

B. A request for a declaratory order or ruling as to the applicability of any statutory provision or of any rule or regulation in this Part or order made pursuant to any applicable law or regulation shall be made in accordance with LAC 7:I.305.

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, Advisory Commission on Pesticides, LR 37:3467 (December 2011).

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.

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 l983), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February l989), 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 l983), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February l989), 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 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 test 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. Louisiana citizens who have failed any examinations under these standards shall not be permitted to receive certification 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.

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).

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, at any location approved by the director or at the office of the county agent in any parish of the state.

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).

§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;

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 use pesticide containing Tributyltin (TBT) 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).

§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 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.

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.

E. 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).

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 decalled 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 of 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).

§727. Pesticides Dealers; Restrictions on Cash Sales

A. Pesticide dealers shall not sell the following restricted use pesticides for currency without first visually inspecting and confirming that the person seeking to purchase said pesticide holds the proper certification:

1. methyl parathion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3252 (A)(8).

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

Sciences, LR 19:609 (May 1993), repromulgated by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3477 (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 At Meeting outside Baton Rouge At District Offices	 $25 $25 $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.

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).

§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	2,4-D
6. 4-(2,4-dichlorophenoxy) butyric	2,4-DB
7. 2,methoxy-3, 6-dichlorobenzoic acid	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
12. Sodium arsenite	---
13. 2-(2,4,5-trichlorophenoxy) ethyl 2,2 dichloropropionate	---
14. Tris (2,4-dichlorophenoxy ethyl) phosphite	---
15. A mixture of tri-, tetra-, and polychlorobenzoic acid	---

C. The pesticides listed in §1103.B shall not be applied by commercial applicators between March 15 and September 15 in the following parishes or wards:

1. Avoyelles;

2. Bossier;

3. Caddo;

4. Caldwell;

5. Catahoula;

6. Claiborne, Ward 4;

7. Concordia;

8. DeSoto, Ward 7;

9. East Carroll;

10. Evangeline, Wards 1, 3 and 5;

11. Franklin;

12. Grant;

13. Iberville Ward 9;

14. LaSalle;

15. Madison;

16. Morehouse;

17. Natchitoches;

18. Ouachita;

19. Pointe Coupee;

20. Rapides;

21. Red River;

22. Richland;

23. St. Landry;

24. St. Martin, Ward 5;

25. Tensas;

26. Union;

27. West Carroll;

28. West Baton Rouge, Wards 5, 6, and 7;

29. Winn, Ward 7.

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. $3^1 4^1$-Dichloropropionanilide—Propanil;

2. 1:1-Dimethyl-4, 41-Bipyridinium (cation)—Paraquat;

3. Isopropylamine salt of glyphosate—Glyphosate;

4. Sulfosate Trimethylsulfonium carboxymethylaminomethyl-phosphonate—Touchdown;

5. Glufosinate-ammonium—Ignite.

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.

O. Regulations Governing Aerial Applications of 2, 4-D or Products Containing 2, 4-D

1. Registration Requirements

a. Prior to making any commercial aerial or ground application of 2, 4-D or products containing 2, 4-D, as described in §1103.P.3.a.i, the owner/operator must first register such intent by notifying the in writing.

b. All permits and written authorizations of applications of 2, 4-D or products containing 2, 4-D in the areas listed in §1103.P.3.a.i., shall be a part of the record keeping requirements, and be in the possession of the owner/operator prior to application.

2. Grower Liability. Growers of crops shall not force or coerce applicators to apply 2, 4-D or products containing 2, 4-D to their crops when the applicators, conforming to the Louisiana Pesticide Law and rules and regulations promulgated there under or to the pesticide label, deem it unsafe to make such applications. Growers found to be in violation of this Section may be subject to a stop order, subject to an appeal to the commission.

3. 2, 4-D or Products Containing 2, 4-D; Application Restriction

a. Aerial application of 2, 4-D or products containing 2, 4-D is limited to only permitted applications annually between April 1 and May 1 in the following parishes.

i. Aerial application of 2, 4-D or products containing 2, 4-D is limited to only permitted applications annually between April 3 and May 1 in the following parishes: Allen (East of U.S. Highway 165 and North of U.S.

Highway 190), Avoyelles (West of LA Highway 1), Evangeline, Pointe Coupee (West of LA Highway 1 and North of U.S. Highway 190), Rapides, and St. Landry (North of U.S. Highway 190).

ii. Applications of 2, 4-D or products containing 2, 4-D, shall not be made in any manner by any commercial or private applicators between May 1 and August 1, in the areas listed in §1103.P.3.a.i., except commercial applications of 2, 4-D or products containing 2, 4-D permitted by the department may be made in the area in Allen Parish which is south of Deer Farm Road and Carrier Road, north of U.S. Highway 190 between U.S. Highway 165 and Castor Creek and in the area in Evangeline Parish south of LA Highway 104, north of US Highway 190 and west of LA Highway 13. The request to the department for a permitted application shall be made in writing to the department and must be approved in writing by the Assistant Commissioner of the Office of Agricultural and Environmental Sciences or his designee.

4. Procedures for Permitting Applications of 2, 4-D or Products Containing 2, 4-D

a. Prior to any application of 2, 4-D, or products containing 2, 4-D, a permit shall be obtained in writing from DPEP. Such permits may contain limited conditions of applications and shall be good for five days from the date issued. Growers or commercial ground or aerial applicators shall obtain permits from DPEP. Commercial ground and aerial applicators shall fax daily to DPEP all permitted or written authorized applications of 2, 4-D or products containing 2, 4-D. The faxed information shall include but not be limited to the following:

i. wind speed and direction at time of application;

ii temperature at time of application;

iii. field location and quantity of acreage;

iv. time of application;

v. grower name, address and phone number;

vi. owner/operator firm name, address and phone number;

vii. applicator name, address, phone number and certification number;

viii. product name and EPA registration number;

ix. any other relevant information.

b. The determination as to whether a permit for application is to be given shall be based on criteria including but not limited to:

i. weather patterns and predictions;

ii. wind speed and direction;

iii. propensity for drift;

iv. distance to susceptible crops;

v. quantity of acreage to be treated;

vi. extent and presence of vegetation in the buffer zone;

vii. any other relevant data.

5. Monitoring of 2, 4-D or Products Containing 2, 4-D

a. Growers or owner/operators shall apply to the DPEP, on forms prescribed by the commissioner, all requests for aerial applications of 2, 4-D or products containing 2, 4-D.

b. All owner/operators and private applicators shall maintain a record of 2, 4-D or products containing 2, 4-D applications.

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).

§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 Agriculture 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;

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, and Commercial Applicators

A. Any person applying pesticides for a fee 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).

§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).

Title 7
AGRICULTURE AND ANIMALS
Part XXV. Structural Pest Control

Chapter 1. Structural Pest Control Commission

§101. Definitions

A. The definitions in R.S. 3:3362 are applicable to this Part.

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

Act—the Structural Pest Control Law, which is currently Part VII of Chapter 20 of Title 3 of the Louisiana Revised Statutes of 1950, (R.S. 3:3301 et seq.).

Adjudicatory Proceeding—an open public hearing by the commission to determine whether violations of the Act or these rules and regulations have occurred.

Applicant—any person making application for a license to engage in operations coming under the provisions of this Part.

Availability [with reference to *direct supervision*]—that the licensee must be able to reach the job site within three hours after receipt of a call or have established another licensee to supervise his operations (see definition of *direct supervision* in §101).

Bond—a written instrument issued or executed by a bonding, surety or insurance company licensed to do business in this state, guaranteeing the fulfillment of the agreement between the licensee or business entity and his customer and insuring against fraudulent practices by the licensee or business entity.

Branch Office—any site, i.e., office, store, warehouse, etc., where any kind of structural pest control services are offered to the general public.

Business—either a single person or a group of persons organized to carry on the business of structural pest control.

Certified Applicator (for purposes of these regulations)—any person who holds a valid license as herein provided or otherwise known as licensee.

Certified Fumigation Technician—a technician qualified to perform the following:

a. *Structural Fumigation*—apply fumigants to and clear fumigants from structures under the supervision of a licensed fumigator.

b. *Ship Fumigation*—shall only add additional fumigants to a ship fumigation after the initial amount of fumigants has been applied, under the supervision of a licensed fumigator.

c. *Commodity Fumigation*—apply fumigants to and clear fumigants from commodities under the supervision of a licensed fumigator.

Chain Wall—any wall constructed of any material that supports or skirts a structure.

Commodity Fumigation—the fumigation of food or non-food items stored in stacks, rail cars, containers, trucks, barges, boxes, bins, etc. that are not normally occupied by humans. No living quarters shall be in any of the above.

Construction—the act of building a structure from the start of the first stage of physical work until completion which is when either the structure is ready to be inhabited, final inspection and approval by an appropriate building inspector, or completion of the final grade.

Containment Pad—a containment structure that:

a. for new and existing containment structures, 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); and

b. accommodates pesticide spills or leaks in dispensing areas at bulk facilities.

Containment Structure or *Structure*—new and existing structures at bulk facilities that meet the design, construction materials and capacity requirements used 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.

Contract—a written agreement between two or more persons, one of whom is a pest control operator for services for the provision of a specific pest control service. Contracts for subterranean termites, dry wood termites, power post beetles or old house borers shall be approved by the commission prior to use.

Curtain Wall—any non-supporting wall constructed of any material that skirts a structure.

Department—the Louisiana Department of Agriculture and Forestry.

Direct Supervision—physical contact at least twice within five consecutive working days by a licensee with all employees registered under his supervision, including giving

routine and/or special instructions, prescribing pesticides, calculating volume of pesticides to be applied, calibrating equipment and being available, whenever and wherever needed, to handle any emergency situations which might arise (see definition of *availability* in §101).

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

Division—the Department's Division of Pesticide and Environmental Programs.

Employee—any person employed by a permittee and working under the supervision of licensee with the exceptions of clerical, janitorial or office maintenance employees or those employees performing work completely disassociated with the use of pesticides, the control and inspection of insects, pests, rodents and the control of and inspection for wood-destroying insects.

Fumigation—the application of a fumigant in residential and commercial structures, ships, railcars, trucks, commodities such as dunnage on wharves, silos or conveyors, vaults or the like.

Gas—matter in a vapor state which diffuses readily and is capable of indefinite expansion in all directions moving from an area of high concentration toward an area of lower concentration. Aerosols should not be confused with gas as they are particulate suspensions.

Household Pest—all species of insects and other pests which infest residences and other types of buildings and their immediate premises, such as cockroaches, flies fleas, mosquitoes, clothes moths, spiders, carpenter ants, carpenter bees, rodents and so forth, but does not include wood-destroying insects.

Label—the written, printed or graphic matter on or attached to a pesticide or device or any of its containers or wrappers.

Labeling—all labels and other written, printed or graphic matter:

a. accompanying a pesticide or device at any time; or

b. to which reference is made on the label or in literature accompanying the pesticide or device, provided that the term does not apply to current official publications of the EPA; the U.S. Departments of Agriculture, Interior or Health, Education and Welfare; state experiment stations; state agriculture colleges; and other similar federal and state institutions and agencies authorized by law to conduct research in the field of pesticides.

License—a document issued by the commission which authorizes the practice and/or supervision of one or more phases of structural pest control work as follows:

a. *General Pest Control*—the application of remedial or preventive measures to control, prevent or eradicate household pests by use of pesticides used as sprays, dusts, aerosols, thermal fogs, barriers, traps and baits. Residential rodent control will be limited to the use of anticoagulant rodenticide and traps;

b. *Commercial Vertebrate Control*—the application of remedial or preventive measures to control, prevent or eradicate vertebrates, including baits, chemicals, barriers, gases and traps, in nonresidential establishments, but not including tarpaulin fumigation;

c. *Termite Control*—the application of remedial or preventive measures for the control, prevention or eradication of termites and other wood-destroying insects and the inspection of structures for wood-destroying insects;

d. *Fumigation*—the use of lethal fumigants and/or rodenticides in a gaseous form for the control, prevention or eradication of insect pests, rodents, or other pests in a sealed enclosure with or without a tarpaulin;

e. *Wood Destroying Insect Report (WDIR) Inspector*—the application of remedial or preventive measures for the control, prevention or eradication of termites and other wood-destroying insects and the inspection of structures for wood-destroying insects.

Licensee—the person who holds a valid license as herein provided.

Material Safety Data Sheet (M.S.D.S.)—a document which states chemical characteristics and safety precautions regarding a specific chemical.

Non-Residential Establishment—includes, but shall not be limited to, hotels, motels, schools, hospitals and nursing homes.

Permittee—any person who holds a place of business permit issued by the commission.

Pest Control Operator—any person conducting or performing structural pest control.

Place of Business—the entire premises to which the pubic generally is expressly or impliedly invited for the purpose of transacting business with the owner and is simply a location where business is transacted, or a shop, office, warehouse or commercial establishment, and shall be indicated on the application and the permit and any license issued for that place of business.

Registered Employee—an employee registered as provided by this Chapter.

Registered Wood Destroying Insect Report (WDIR) Technician—an employee qualified to conduct wood destroying insect report inspections.

Registration Certificate—a document issued by the commission staff to a non-licensed employee of a business engaged in structural pest control work.

Repellents—substances, not fumigants, under whatever name known, which may be toxic to insects and related pests, but generally employed because of their capacity for preventing the entrance or attack of pests.

Residential Structure—any structure, movable or immovable, permanent or temporary, that is adapted for both human residence and lodging whether occupied or not, such as, single-family homes, multi-family, apartments, townhouses, condominiums, and/or co-ops but excludes any structure built for the temporary residence of a human such as hotels, motels.

Rule—as defined in R.S. 49:951(6).

Secretary or *Secretary of the Commission*—the assistant commissioner of Agricultural and Environmental Sciences (assistant commissioner).

Ship Fumigation—the fumigation of a vessel capable of transporting or housing people and/or products. It is normally self-powered and shall have a crew or living quarters.

Spot Treatment (when used in reference to termite control work)—a localized application of chemicals or other substances to control, prevent or eradicate termites in a residence or other structure that is not under a current contract.

Structural Fumigation—the fumigation by covering or sealing churches, schools, homes or any other buildings in which people are normally housed or work or is frequented by people. This also includes the covering or sealing of small boats or ships under 100 feet.

Termites—all species of the order *Isoptera* which infest timbers and\or other materials containing cellulose in buildings and\or contents thereof, subdivided into two groups according to their habits, as follows:

a. *Subterranean Termites*—all species of termites which make tubes, but not pellets, and normally require contact with soil; especially species of the genera reticulitermes and coptotermes;

b. *Dry-Wood Termites*—all species of termites which make pellets, but not tubes, and do not require contact with damp soil; especially species of the genera kalotermes, cryptotermes an incisitermes.

Termiticide—any substance applied to buildings, wood products or soil for the treatment of termites.

Termiticide Treatment—application of a termiticide.

a. *Pre-Construction Treatment*—a termiticide treatment for subterranean termites made with a commission approved termiticide prior to the stage of construction where a slab or concrete is poured or piers are being built or placed into position. Borate treatments during any stage of construction shall be considered a pre-construction treatment.

b. *New-Construction Treatment*—a termiticide treatment made with any commission approved termiticide(s) or baiting system that meets minimum specification requirements for that type of treatment and which is applied or installed during or after the stage of construction where a slab or concrete is poured or piers are being built or placed into position and up to 12 months after completion of construction. New-construction treatments are to be made in accordance with the post-construction treatment section of termiticide labels.

c. *Post-Construction Treatment*—a termiticide treatment made with any commission approved termiticide(s), using the post construction section of a label, which is applied after the time frame of new-construction.

Vertebrate—those pests, such as rodents, bats and birds, belonging to the phylum vertebrata.

Violation—any act which is prohibited by the Act or any of these rules and regulations. Violations shall be classified in accordance with degree of severity, as follows:

a. *Minor Violation*—any act prohibited by the Act or these rules and regulations which does not result in danger to human health or damage to personal property, including, but not limited to, clerical errors or failure to make timely reports to the commission;

b. *Moderate Violation*—any act of negligence in meeting the guarantees of an agreement for structural pest control work in the licensure phase where the violation occurs, such as failure to apply chemicals in accordance with label and labeling requirements and minimum specifications:

c. *Major Violation*—any act which may adversely affect human health and safety. Any act performed without having the proper permit, license, or registration; any intentional misrepresentation of any matter involved in or related to structural pest control work; or any false or misleading statement knowingly make in a wood-destroying insect report or any failure to timely pay any civil penalty imposed buy the commission or any failure to timely pay any fee collected by the department.

Wood Destroying Insect Report (WDIR)—a document approved by the Structural Pest Control Commission issued by a pest control operator only for inspections made to determine the presence of wood destroying insects for acts of sale or refinance of structures. A wood destroying insect report shall not be renewable or issued for any other purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3362 and R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:323 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission LR 15:954 (November 1989), 17:251 (March 1991), LR 23:855 (July 1997), LR 30:1143 (June 2004), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 31:26 (January 2005), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 32:796 (May 2006), repromulgated LR 32:1015 (June 2006), amended LR 33:39 (January 2007), LR 35:204 (February 2009), LR 35:1468 (August 2009), LR 37:272 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:300 (February 2013).

§103. Administration of the Affairs of the Commission; Adoption of Rules and Regulations

A. As provided by R.S. 3:3364, the commissioner or his designee shall serve as permanent chairman of the commission.

B. The assistant commissioner shall serve as secretary of the commission.

C. In the absence of the chairman, the secretary shall preside at meetings of the commission.

D. The chairman shall designate a hearing officer, who may or may not be a member of the commission, to preside at all adjudicatory proceedings of the commission.

E. The commission shall serve as the hearing body in all adjudicatory proceedings and shall make the final decision with regard to the disposition of matters coming to adjudication.

F. The commission shall hold regular meetings at least once during each quarter.

G. Meetings of the commission shall normally be held in the domicile of the commission.

H. Meetings may be held at locations other than the domicile of the commission upon the determination of the chairman or at the written request of any three members of the commission.

I. Special meetings of the commission may be called at any time by the chairman.

J. Whenever at least three members of the commission desire to call a special meeting, the three members shall so advise the chairman in writing and the chairman shall call a special meeting to be held within 30 days after receipt of the members' request.

K. If the chairman fails or refuses to call a special meeting upon the proper request of three members, the members may convene a special meeting of the commission by written notice to the remaining members.

L. The secretary shall notify each member of the commission by in writing or by electronic means of any regular or special meeting at least one week prior to the meeting date.

M. The secretary shall provide clerical and other support services as may be required by the commission and shall maintain and distribute appropriate minute records of all meetings of the commission.

N. There shall be no voting by proxy.

O. Three members of the commission shall constitute a quorum, and no action shall be taken without three votes in accord.

P. Rules and regulations of the commission, and amendments thereto, shall be noticed, adopted and promulgated as required by the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3363, R.S. 3:3364 and R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:325 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 20:644 (June 1994), LR 35:204 (February 2009), LR 37:275 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:300 (February 2013).

§105. Permit for Operation of Structural Pest Control Business; Changes in Structural Pest Control Business

A. Every place of business engaged in structural pest control work shall:

1. obtain a permit for operation from the commission prior to engaging in structural pest control work.

2. provide a certificate of insurance on a document provided by the department including but not limited to the following information:

a. not less than $250,000, general liability coverage, per occurrence for the following:

i. all work performed under specific structural pest control license phases;

b. not less than $100,000 coverage for property damage;

c. or combined single limits of $350,000;

d. definitions for purposes of this Section:

i. *Public Liability*—general liability;

ii. *Accident*—occurrence;

e. provide at least 10 days prior written notice to the commission before cancellation and 10 days written notice to the commission when paid claims reach or exceed the aggregate limit.

3. Provide evidence of a surety or fidelity bond on a form provided by the department covering the business with which the applicant is connected, issued by a bonding, surety or insurance company authorized to do business in Louisiana, in the amount of $2,000, of tenor and solvency satisfactory to a majority of the commission. An applicant who is not connected with a business covered by the required surety or fidelity bond shall secure the appropriate coverage prior to issuance of the license.

B. No permit for operation shall be issued by the commission unless there is a licensee for each phase of structural pest control work being conducted who is domiciled and designated as the primary licensee at the business location for which the permit is sought.

C. Each permit for operation shall be renewed annually, on or before June 30 of each year.

D. The fee for issuance of a permit for operation shall be $125 for firms which employ two or less employees and $175 for firms which employ three or more employees.

E. When two or more businesses which are separate legal entities, even though owned by the same individual or the same legal entity, are operated at one physical location, each separate entity shall obtain a permit for operation.

F. Whenever a license is suspended or revoked under §131, the commission may also revoke the permit to operate. In such cases, the commission shall recall the permit and require the licensee to immediately return the permit to the commission.

G. Whenever a permit is recalled by the commission as provided in §105.F, no structural pest control work of any kind shall be provided by persons domiciled at the location for which the recalled permit has been issued.

H. Except as provided in this Subsection, any change in the status of a permittee (e.g., death, retirement, prolonged illness, merger, sale, change of ownership, etc.) shall be reported to the commission, in writing, within 14 days after the change in status occurs.

1. If the change in the permittees status would result in the non-renewal of the place of business permit or would require the commission to issue a new place of business permit, then the notice shall be accompanied by the following information:

a. the reason for the change in the status and the effective date of the change;

b. the status of all licensee(s) and registered and certified technicians;

I. If a permittee sells or otherwise transfers any wood destroying insects contract then the commission and each customer whose contract was sold or transferred shall receive the following written notification.

1. The selling or transferring permittee and the person purchasing or receiving the wood destroying insects contract shall each provide the commission in writing the following information and statements.

a. If all the wood destroying insects contracts of the permittee selling or transferring such contracts are being purchased or transferred then a statement that all wood destroying insects contracts are being sold or transferred and that all the contracts shall remain in full force and effect in accordance with the terms and conditions of the customers' contracts shall be sufficient.

b. If all the wood destroying insects contracts are not being sold or transferred then the information provided to the commission shall include:

i. a statement that all wood destroying insects contracts are being sold or transferred except for the specific contracts listed;

ii. a list of the specific contracts that are not being sold or transferred;

iii. for each contract being sold or transferred, a statement that all contracts being sold or transferred shall remain in full force and effect in accordance with the terms and conditions of the customers' contracts.

2. The person acquiring a wood destroying insects contract by a sale or transfer shall notify the customer in writing, within 30 days after the sale or transfer of:

a. the effective date of the sale, transfer, or change in status; and

b. the name, address, and telephone number of the person acquiring the customer's wood destroying insects contract;

c. a statement that the customer's contract shall remain in full force and effect in accordance with the terms and conditions of the contract.

J. A permittee who is closing his business or is otherwise not going to honor or service existing wood destroying insects contracts shall, within 14 days of the time of the close of business or ceasing to honor or service existing wood destroying insects contracts shall provide certified written notification of the decision to affected customers along with the following information:

1. the commission's address and telephone number;

2. the date of closure or last date the contract will be honored or serviced;

3. a statement of bond coverage; and

4. the bond company's name, address, telephone number, and contact person.

K. Any person who fails to comply with the provisions of this Section shall personally come before the commission prior to that person being granted a registration, certification, license, or permit, or renewal thereof. The commission may deny or defer action on a request to grant a registration, certification, license or permit, or renewal thereof. The commission may deny a renewal or impose civil penalties for violation of this Section only after the person has been brought to an adjudicatory proceeding and found guilty of violating the provisions of this Section.

L. All information and all documents relating to written contracts transmitted to the commission in accordance with the requirements of this Section shall be confidential and shall be exempt from the Public Records Law, R.S. 44:1 et seq., as provided in R.S. 3:3370(E).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:325 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:954 (November 1989), LR 33:40 (January 2007), LR 37:275 (January 2011).

§107. License to Engage in Structural Pest Control Work Required

A. No person shall perform structural pest control work until licensed and permitted to do so by the commission.

B. Each applicant for license shall possess one of the following qualifications in order to take the examination(s):

1. general pest control, commercial vertebrate control and fumigation:

a. a degree from an accredited four-year college or university with a major in entomology; or

b. a degree from an accredited four-year college or university with at least 12 semester hours or the equivalent in quarter hours of course work in entomology and at least one year of experience as a registered technician under the supervision of a licensee in the licensee phase for which the applicant desires to take the examination; or

c. four years of experience as a registered technician under the supervision of a licensee in the licensee phase for which the applicant desires to take the examination; or

d. four years of experience as a technician under the supervision of a structural pest control operator in another state in the licensee phase for which the individual desires to take the examinations. Experience with an out-of-state structural pest control operator shall be substantiated by evidence acceptable to the commission;

2. termite control:

a. a degree from an accredited four-year college or university with a major in entomology and complete a commission approved comprehensive termite program; or

b. a degree from an accredited four-year college or university with at least 12 semester hours or the equivalent in quarter hours of course work in entomology and at least one year of experience as a registered technician under the supervision of a licensee in the licensee phase for which the applicant desires to take the examination and complete a commission approved comprehensive termite program; or

c. four years of experience as a registered technician under the supervision of a licensee in the licensee phase for which the applicant desires to take the examination and complete a commission approved comprehensive termite program; or

d. four years of experience as a technician under the supervision of a structural pest control operator in another state in the licensee phase for which the individual desires to take the examinations and complete a commission approved comprehensive termite program. Experience with an out-of-state structural pest control operator shall be substantiated by evidence acceptable to the commission.

C. Each applicant for a ship fumigation license shall possess one of the following qualifications in order to take the examination:

1. a degree from an accredited four-year college or university with a major in entomology and 200 jobs in ship fumigation working under the supervision of a licensed ship fumigator; or

2. a degree from an accredited four-year college or university with at least 12 semester hours or the equivalent in quarter hours of course work in entomology and at least one year of experience as a registered technician under the supervision of a licensee in ship fumigation; or

3. four years of experience as a registered technician under the supervision of a licensee in ship fumigation; or

4. experience as a certified ship fumigation technician having completed 200 jobs in ship fumigation working under the supervision of a licensed ship fumigator; or

5. four years of experience as a technician under the supervision of a structural pest control operator in another state in ship fumigation. Experience with an out-of-state structural pest control operator shall be substantiated by evidence acceptable to the commission; or

6. 200 jobs in ship fumigation that the applicant has worked as a registered technician in ship fumigation working under the supervision of a licensed ship fumigator, during a two-year period.

D. Each applicant for licensure shall also demonstrate the following competencies:

1. knowledge of the practical and scientific facts underlying the practice of structural pest control, control of wood-destroying insects and/or fumigation; and

2. knowledge and ability to recognize and control hazardous conditions which might affect human life or health.

E. Each applicant shall successfully complete the appropriate examination for certification prior to issuance of the structural pest control license.

F. In addition to the qualifications required by §107.B-C, each applicant for licensure ~~must~~ shall:

1. submit a complete application for examination as required by §109 hereof;

2. be approved by the commission to take the examination for licensure;

3. have successfully completed a written examination for licensure no more than two years prior to the date of issuance of the license;

G. Out-of-state applicants for licensure shall meet the educational requirements shown in Paragraph B.1 or produce evidence satisfactory to the commission of four years of experience under the supervision of a recognized and reputable pest control operator. Experience in pest control work in another state will be verified with the appropriate regulatory agency of the other state before out-of-state applicant will be allowed to take the examination for licensure in Louisiana.

H. The commission shall consider each application for examination for licensure in open session. The commission may verify the contents of any application prior to taking final action to approve/disapprove the applicant to take the examination. The commission may disapprove an applicant,

or defer action on the application to take the examination, in any instance when the contents of the application cannot be verified. Action to grant/deny approval for the applicant to take the examination shall be taken only upon the affirmative vote of three members of the commission. No license shall be issued until the commission has approved the application.

I. All applicants who are approved by the commission will, upon successfully completing the examination for licensure as set forth in §109 hereof, receive a single license to engage in structural pest control work, which license shall specify on the face thereof the specific phase or phases of structural pest control work for which the license is issued, as follows:

1. general pest control;
2. commercial vertebrate control;
3. termite control;
4. structural fumigation;
5. ship fumigation;
6. commodity fumigation.

J. A license to engage in structural pest control work is permanent unless suspended or revoked by the commission as provided in §131.

K. A licensee shall perform or supervise structural pest control work only in the phase or phases of the license for which he is licensed by the commission.

L. Each license is personal to the holder and shall not be transferred to another for any purpose or for any period of time and may not be utilized in any way by any person other than the licensee whose name appears on the face of the license.

M. All licenses shall be displayed at the place of business at all times.

N. The commission may deny a license to any person proven to have committed any of the violations set forth in §127 hereof.

O. A licensee approved in one phase of pest control work may be licensed in additional phases by successfully completing the examination for the additional phase. However, the license for additional phase or phases of structural pest control work shall not be issued until the commission approves the licensee to take the examination for the additional phase or phases.

P. Any permittee\licensee desiring to utilize a telephone answering service other than at locations holding a place of business permit shall submit a written department.

Q. A licensee shall only have one license with all phases for which he possesses issued at one place of business.

R. When a license phase has not been recertified, the licensee shall comply with all requirements for initial licensing contained in §107 and §109 or in a written request to the department to retest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and 3:3368.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:326 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:955 (November 1989), LR 19:1009 (August 1993), LR 23:855 (July 1997), LR 23:1493 (November 1997), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 31:2761 (November 2005), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 32:796 (May 2006), repromulgated LR 32:1016 (June 2006), amended LR 37:276 (January 2011).

§109. Application for Examination; Contents of Application

A. An application for examination for licensure may be made at any time by filing a complete application, on forms provided by the commission.

B. A complete application for examination shall be filed in the commission office at least 30 working days prior to any scheduled meeting of the commission to be routinely placed on the agenda for consideration by the commission.

C. Each applicant for examination shall pay a nonrefundable fee of $50 per examination upon the commission's approval of the applicant's application for examination.

D. Each application for examination shall contain the following information:

1. business name, address and phone number of the business domicile of the applicant;

2. name and residence address of the applicant;

3. educational qualifications. For applicants seeking licensure on the basis of educational qualifications, a certified copy of the applicant's college or university transcript shall be provided;

4. proof of practical experience in pest control work:

a. upon request of the commission, the applicant shall submit from the said supervising licensee, a written statement that the jobs have been participated in by the applicant under his supervision and that the applicant has demonstrated the requisite knowledge to perform and supervise such work;

b. experience in pest control work. Information to be provided includes, but is not limited to, business name and address where employed under supervision, name of the licensee providing supervision to the applicant and evidence of registration while in the claimed employment. Applicants seeking licensure on the basis of experience shall provide a notarized statement from the licensee who supervised the applicant, attesting to the period of supervised employment and the capacity in which the applicant was employed, said affidavit to be executed on a form to be provided by the department;

c. if at the time of application, the licensee who provided supervision is deceased, his whereabouts are unknown, or fails or refuses to supply the statement, affidavit, or both, required under Subparagraphs a and b above, then the commission may waive the requirements for such statement, affidavit, or both upon:

i. submission by the applicant of a notarized statement signed by the applicant that the licensee who provided supervision is deceased, his whereabouts are unknown, or fails or refuses to supply the statement, affidavit, or both, required under Subparagraphs a and b above, and

ii. verification by the department to the commission of the applicant's experience in pest control work.

E. Any applicant who is not approved by the commission to take the examination will be notified of the commission's decision. An applicant who has not been approved by the commission to take an examination will not be admitted to the examination.

F. Copies of applications for examinations may be provided to the commission members for informational purposes during the interim between commission meetings.

G. Examinations will be given once during each quarter of the year by the director or the secretary only at the times or places which have been previously announced for each quarter.

H. The written examination shall be supplemented by oral examination and/or visual identification of specific pests and insects.

I. The minimum score required for successful completion of the examination is 70 percent.

J. 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 J 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.

i. The appeal shall be in writing, state the grounds for the appeal, and filed with the director or secretary within 30 days of the date of the action complained of.

ii. 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.

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

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

v. 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.

K. Each applicant shall be sent written notification of his or her examination results within 30 days after completing of the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and 3:3368.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:326 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:955 (November 1989), LR 35:206 (February 2009), LR 37:278 (January 2011).

§111. Certified Fumigation Technician

A. A mandatory two-year registered technician in the fumigation phase under a licensed fumigator, as is required. After the two years, the licensed fumigator would have to submit a list of the following:

1. six jobs in structural fumigation that this particular applicant has worked from start to finish;

2. six jobs in commodity fumigation that this particular applicant has worked from start to finish;

B. Having met these requirements in §111.A, the applicant would be qualified to take a written test administered by the commission to demonstrate that the person has the necessary knowledge in the phase(s) for which application is made. The minimum score required for successful completion of the examination is 70 percent.

C. The certified fumigation technician shall maintain his registration in current status by:

1. attending a continuing education program at least once every three years;

2. the continuing education program shall contain a minimum of six hours of technical training for the phase of fumigation;

3. shall attend the entire approved continued education program for technicians, otherwise the certified fumigation technician would not maintain his registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and 3369.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Structural Pest Control Commission, amended LR 17:251 (March 1991), LR 19:1010 (August 1993), LR 37:279 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:300 (February 2013).

§113. Registration of Employees; Duties of Licensee and Registered Employee with Respect to Registration

A. The permittee shall register, on a form to be provided by the commission, every employee under the supervision of a licensee with the commission within 30 days after the commencement of the employee's employment and shall test as required by R.S. 3:3369.H.

B. The registration application of each employee shall contain the following information:

1. name and address of the business location where the employee is domiciled;

2. name, address and phone number of the licensee providing supervision over the employee;

3. name and residence address of the employee to be registered;

4. phase(s) of pest control work in which the employee will work and be supervised;

5. date of employment of the employee;

6. one photograph of the employee; and

7. date of birth.

C. The fees for the registration of technician shall be as follows.

1. The fee of the administrative processing of the registration certificate shall be $20. This fee shall be paid at the time of initial registration.

2. The administrative processing of change of registration each time a registered technician is employed by a different pest control operator shall be $10.

3. The fee for the examination for the technician registration shall be $25.

D. An employee's registration certificate shall be issued within 20 working days after the department receives the completed registration form or the technician has successfully passed the examination, whichever is later.

E. The requirements for the examination are as follows.

1. Each employee requesting to take the examination will be notified by the department of the date, time, and location of the next available examination.

2. The minimum score required for successful completion of the examination is 70 percent.

3. The consequences and procedures that apply as a result of 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 are the same as are provided for in §109.J of this Chapter.

4. Each employee who did not successfully pass the examination will be notified of the results in writing within twenty working days after the examination.

F. Each registration certificate is personal to the holder and shall not be transferred to another for any purpose or for any period of time and shall not be utilized in any way by any person other than the registered employee whose name appears on the certificate.

G. A registration certificate is valid only while the registered employee remains under the supervision of a licensee at this place of business.

H. The permittee\licensee shall require the registered employee to sign the registration certificate, in his presence, within five days after the permittee\licensee receives the registration certificate.

I. A registered employee shall have his registration certificate in his possession at all times while engaging in pest control work and shall display his registration certificate upon reasonable request by any employee of the department and to any person for whom pest control work is being performed.

J. A registered employee shall perform pest control work only in the phase of pest control work for which he is registered.

K. Upon termination of a registered employee, the licensee shall secure the employee's registration certificate, notify the department of the employee's termination and return the registration certificate to the department within five working days after the termination.

L. If the licensee is unable to retrieve the registration certificate of a terminated employee, the licensee shall notify the department of the employee's termination within five working days after the termination and provide written reasons for the failure to retrieve the terminated employee's registration certificate.

M. Each employee and/or registered technician shall remit to each employer all funds collected in connection with structural pest control work performed by the employee within 10 calendar days.

N. Each employer shall pay each employee and/or registered technician in accordance with the terms of the employment agreement between them.

O. Each employer shall keep complete records at the place of business establishment of all structural pest control work performed for a period of at least two years. These records shall include the address of the structure treated, the name of the technician who performed the treatment, the name of the person for whom the treatment was performed, and the common name of the pesticide applied.

P. Each registered technician shall participate in an entire continuing education program as a condition of maintaining his or her status as a registered technician at least once annually (July 1 to June 30).

1. Each continuing education program, minimum of four hours of technical training, shall be approved in advance by the department.

2. Each continuing education program shall be a minimum of one hour in length per phase.

3. Documentation of the technician attendance and participation shall be forwarded to the department and a copy retained at the technician's place of employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366, 3368 and 3369.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:327 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:956 (November 1989), LR 32:797 (May 2006), repromulgated LR 32:1016 (June 2006), amended LR 35:207 (February 2009), LR 37:279 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:301 (February 2013).

§115. Certified WDIR Technician

A. Requirements of a Certified WDIR technician, prior to conducting WDIR inspections, are as follows:

1. shall be registered as a termite technician; and

2. complete department approved WDIR training; and

3. pass WDIR technician test with a score of 70 or greater~~.~~ ; and

4. pay the fee for the examination for the WDIR technician registration which shall be $25; and

5. complete application form provided by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and 3:3369.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 23:855 (July 1997), amended LR 32:797 (May 2006), repromulgated LR 32:1016 (June 2006), amended LR 37:280 (January 2011).

§117. Obligations of the Licensee\Permittee

A. The permittee or the primary licensee shall keep the bond and general liability insurance required under §107.F in full force and effect at all times.

B. The permittee or the primary licensee shall renew the permit for operation for each business location annually prior to June 30.

C. The permittee or the primary licensee shall apply for a registration certificate for each employee under his supervision within 30 days after the employee is hired and shall comply with all other requirements pertaining to registration of employees set forth in §113.

D. The primary licensee shall be responsible for training the employee in the kind of work which he will perform.

E. Maintenance of a commercial applicator certification by a licensee

1. A licensee shall maintain his commercial applicator certification in current status by:

a. attending a continuing educational program for recertification approved by the department;

b. recertification at least once every three years; such recertification shall be completed by December 31 of the year preceding the third anniversary of either the original certification or the most recent recertification;

c. a minimum of six hours of technical training which shall include but not limited to the phases of general pest control, termite control and commercial vertebrate control;

d. a minimum of six hours of technical training for the phase of fumigation.

2. A licensee attending an approved recertification seminar shall attend the entire approved program; otherwise the licensee shall not be recertified at this approved seminar.

3. Time and location for each licensee recertification can be obtained by calling or writing to the department.

F. A licensee shall be available to provide direct supervision over all employees registered under his license on a regular, ongoing basis.

G. The permittee or the primary licensee shall report all termite contracts and all wood-destroying insect reports and pay all required fees as set forth in §119 hereof.

H. Any person applying pesticides for a fee and the permittee or the primary licensee shall maintain records according to LAC 7:XXV.117.H, at the physical address listed on the place of business permit of all applications of pesticides on a record keeping form or in a format approved by the director of Pesticide and Environmental Programs of the department. These records shall be retained for a period of two years after the date of the pesticide application for ship and commodity fumigation, general pest control and commercial vertebrate control and a period of two years after the expiration of applicable contracts for termite and

other wood destroying insect control. The licensee shall make a copy of these records available to any employee of the department for inspection at a reasonable time during normal working hours.

1. Records for applications of pesticides for wood destroying insects shall contain the following information:

a. place of business name, address, and number;

b. primary licensee name, address, and department I.D. number;

c. customer name and address;

d. location of application;

e. product\brand name;

f. EPA registration number;

g. restricted\general use pesticide;

h. application date and time;

i. target pest;

j. type of application (pre-treat, post, spot, etc.);

k. size of area treated (square feet or linear feet);

l. mixture concentration;

m. total amount of product mixture applied;

n. applicator and department I.D. number;

o. contract.

2. Record keeping for applications of pesticides in the general pest and commercial vertebrate phases shall contain the following information:

a. place of business name address, and number;

b. primary licensee name, address, and certification department I.D. number;

c. customer name and address;

d. location of application;

e. product/brand name;

f. EPA registration number;

g. restricted/general use pesticide;

h. application date and time;

i. pest treated/type of application;

j. mixture concentration (percent);

k. applicator and department I.D. number.

3. Records for applications of pesticides in the fumigation phase shall contain the following information:

a. place of business name, address, and number;

b. primary licensee name, address, and department I.D. number;

c. customer name and address;

d. location of application;

e. product/brand name;

f. EPA registration number;

g. restricted/general use pesticide;

h. application date and time;

i. pest treated;

j. type of application (ship, structure, commodity);

k. size of area treated (cubic feet);

l. rate applied;

m. total amount of product applied;

n. applicator, department I.D. number.

4. Records for using bait and baiting systems shall contain the following information:

a. place of business name, address, and phone number;

b. primary licensee name, address, and department I.D. number;

c. customer name and address;

d. physical address of contracted structure;

e. product\brand name;

f. EPA registration number;

g. restricted\general use pesticide;

h. linear feet of perimeter of the treated structure(s):

i. date each monitoring stations installed or inspected;

j. date each ground bait station installed, inspected or replaced;

k. date each above ground bait station installed, inspected or replaced;

l. number of monitoring, ground and above ground bait stations inspected during each inspection;

m. name and certification\registration number of person inspecting;

n. inspection diagram;

o. contract.

I. The licensee shall renew each phase in which he is licensed annually by June 30.

J. The annual fee for licensed pest control operators shall be $5 for each phase in which the pest control operator is licensed.

K. The permittee or the primary licensee shall report to the department all termite contracts, termite perimeter applications and wood destroying insect reports completed each month on the form provided by the department. The reports listed above are due in Division of Pesticide and

Environmental Programs office in Baton Rouge on or before the tenth of the month following the contract or application or report.

L. The fee for each standard contract and wood-destroying insect report that has been issued is $8. All such fees are due and payable to the department at the time the reports required by §119.E are due.

M. The permittee or the primary licensee shall have provisions for spill control including materials and tools on every vehicle transporting pesticides.

N. Signage of Vehicles

1. General. A motor vehicle being operated by a place of business that is engaged in the transport or application of pesticides shall be marked as specified below:

a. magnetic or removable signs may be used;

b. size, shape, location and color of marking. The marking shall contain the following:

i. appear on both sides of the vehicle;

ii. be in letters that contrast sharply in color with the background;

iii. be readily legible during daylight hours;

iv. lettering shall be a minimum of 2 inches in height;

v. be kept and maintained in a manner that retains the legibility of the information required by §117.O.1.c;

c. nature of marking. The marking shall display the following information:

i. the name or trade name of the place of business operating the vehicle.

O. No employee shall use a telephone number, advertise or solicit business unless approved, in writing, by the permittee or licensee and reported in writing to the department.

P. The pest control operator shall record the nature of the completion and the date of completion that construction of a structure is completed, as found in §101.B within the definition of *construction*, and maintain the date as part of the application records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and 3:3368.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:327 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:956 (November 1989), LR 21:930 (September 1995), LR 23:855 (July 1997), LR 26:2437 (November 2000), LR 29:1062 (July 2003), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 30:196 (February 2004), LR 31:2761 (November 2005), LR 35:1468 (August 2009), LR 37:280 (January 2011), LR 39:301 (February 2013).

§119. Contracts for Termite Control Work

A. The permittee or a licensee shall enter into a written contract for termite work with the property owner/agent employing him. The contract shall:

1. be in a form provided or approved by the commission;

2. guarantee performance for a period of not less than 1 year after the treatment is made;

3. guarantee treatment of the structure(s) in accordance with minimum specifications for termite control work set forth in §141 hereof;

4. provide for at least one inspection of all unobstructed or accessible areas outside of the structure(s) prior to expiration of the agreement;

5. include an inspection diagram;

6. provide for the treatment of all subterranean termites; and

7. include a damage repair warranty and be exclusive to the property owner for 5 years subject to the terms and conditions of the contract, if the contract is for pre construction or new construction termiticide treatment.

B. Each contract for termite control work shall cover only one unit or one individual property, provided that the contract may include a garage appurtenant to the unit or individual property.

C. Contracts for spot termite treatments shall guarantee the area treated for a period of one year.

D. The permittee or a licensee shall report to the commission, no later than the tenth day of each month, each termite contract and initial treatment for a pre-treatment contract for termite work which he has entered into, and performed or completed during the previous month. If no contracts were entered into or performed during the previous month, the permittee or a licensee shall report this fact to the commission no later than the tenth of each month.

E. A licensee or permittee shall pay to the department the required fee for each standard contract issued when the required monthly report is filed with the department.

F. Termite treatment contracts that include termite monitoring stations shall include a contract addendum that provides the number of monitoring station(s) and the frequency of inspection(s). The contract addendum shall be approved by the commission prior to its use.

G. A licensee or any technician working under the licensee's supervision shall enter into a written agreement for monitoring for subterranean termites with the structure owner\agent employing him\her, which agreement shall:

1. be in a form approved by the commission;

2. provide for the frequency of inspections that shall include at least one inspection of the structure prior to expiration of the agreement;

3. provide for the number of subterranean termite monitoring station(s);

4. provide for the owner name, address, city, state, zip code of the structure;

5. provide the name, address, city, state, zip code of the pest control company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and R.S. 3:3370.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:328 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:957 (November 1989), LR 26:2437 (November 2000), LR 27:1179 (August 2001), LR 27:2084 (December 2001), LR 28:1171 (June 2002), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 30:196 (February 2004), LR 30:1144 (June 2004), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 31:26 (January 2005), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 35:1468 (August 2009), LR 37:282 (January 2011).

§121. Wood Destroying Insect Report

A. A wood destroying insect report approved by the commission shall be issued only for inspections made to determine the presence of wood destroying insects for acts of sale or refinance of structures.

1. A wood destroying insect report shall not be renewable or issued for any other purposes, and shall not provide a guarantee to repair damage caused by wood destroying insects.

2. No licensee, pest control operator, or any person employed or supervised by a licensee or pest control operator, either before or after issuing a wood destroying insect report, shall represent, orally or in writing, to any customer or potential customer that if wood destroying insects are discovered more than 90 days after the date of the WDIR inspection the licensee or pest control operator will treat the property at no cost or repair any damage caused by the wood destroying insects.

B. A wood destroying insect report shall be issued by a person who is licensed by the commission in termite control or a certified WDIR technician who is working under the supervision of a person who is licensed by the commission in termite control. The report shall carry a guarantee that the property will be treated without charge should live wood destroying insects covered by the report be found within 90 days from the date of inspection. The presence of frass will be acceptable as evidence of a live infestation of powder post beetles; however, frass shall be exuding or streaming from the holes on the outside of the wood.

1. A contract approved by the commission shall be issued on date of treatment.

2. This contract shall be reported to the commission and a fee paid as required by the Structural Pest Control Law.

C. Regulations for completing wood destroying insect reports LPCA-143 WDIR without the arbitration clause and 143 A. with the arbitration clause. The following numbered sections correspond to the numbered sections on WDIR Form LPCA 143 and 143 A. LPCA 143 and 143 A shall be completed as follows.

1. Enter HUD/FHA/VA Case number (if available).
2. Enter date of structure(s) inspection.
3.A. Enter name of inspection company.
3.B. Enter address (including street, city, state, and zip code) of inspection company.
3.C. Enter telephone number (include area code) of inspection company.
4. Enter pest control inspector license number.
5.A. Enter name and address of property owner\seller at the time of inspection.
5.B. Enter address of property inspected (including street, city, state, and zip code).
5.C. List only structures located at address in 5B that are part of this report.
5.D. Information only. This area shall not be checked, circled or marked in any way.
6. If any areas of the structure(s) were obstructed or inaccessible mark box YES. If no, mark box NO.
7. Check the appropriate block as to the construction of the structure(s) inspected. More than one block can be checked.
8.A. Check this block only when there is no visible evidence of wood destroying insects in accessible areas on the structure(s) inspected. Evidence includes but is not limited to: live or dead wood destroying insects, wood destroying insect parts, shelter tubes, shelter tube stains, frass, exit holes or damaged wood due to wood destroying insects.
8.B. Check this block if evidence of wood destroying insects is observed. Evidence includes but is not limited to: live or dead wood destroying insects, wood destroying insect parts, shelter tubes, shelter tube stains, frass, exit holes or evidence of damage due to wood destroying insects. If live wood destroying insects are observed, identify and list the insect(s) observed and the location(s) in this Section.
8.C. Check this box if visible evidence of damage due to wood destroying insects was observed. Evidence of damage is defined as obvious feeding or removal of wood by wood destroying insects including "etching" or "scabbing" marks on the wood surface(s). Identify the wood destroying insect and list the location(s) of evidence of damage caused by wood destroying insects in this Section.
8.D. Treatment was or will be performed by inspection company? YES or No; If YES, explain as follows:
a. Inspecting company with a current treatment contract on the structure(s) inspected: list the original treatment date for all structures treated and the contract type.
b. Inspecting company without a current treatment contract on the structure(s) inspected: list the structure(s) to be treated and the type of treatment and contract.
9. Additional comments shall not contain language that extends the time for treatment contained in the WDIR should termites be discovered, that provides for or incorporates documents that provide inspection guarantees, damage repair guarantees or treatment guarantees, or that amends, modifies, or deletes any terms and conditions of the WDIR. (If necessary, continue on reverse side.)
10. Make no marks in this section.
11. Do not mark in this section.
a. If any of the conditions listed in this paragraph on the WDIR (LPCA 143 & 143 A) are present under or to within 12 inches of the inspected structure(s), list them in section #10 of this report.
12. Signature and registration\licensee number of inspector conducting the inspection.
13. Enter date of inspector signature.
14. Enter name of person requesting the WDIR (if available).
15. Enter name of person WDIR received by (if available).
16. Title of person in Number 15 (if available).

17. Date of signature of Number 15 (if available).

D. Minimum Specifications for conducting a Wood Destroying Insect Report

1. No person shall conduct a WDIR inspection unless that person is properly licensed in termite control or is a certified WDIR technician.

2. Persons described in LAC 7:XXIII.121.D.1 shall inspect all unobstructed or accessible areas including but not limited to bath traps with visible access, crawl spaces of raised pier construction, and attics having a permanent ladder or staircase specifically to provide access to the attic.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and 3:3670.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 12:285 (May 1986), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 23:856 (July 1997), LR 24:631 (April 1998), LR 25:235 (February 1999), LR 25:829 (May 1999), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 31:26 (January 2005), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 32:797 (May 2006), repromulgated LR 32:1017 (June 2006), amended LR 37:282 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:301 (February 2013), LR 39:3238 (December 2013).

§123. Change in Status of Licensee

A. Any change in a licensee's status (e.g., death, retirement, prolonged illness, merger of companies, sale, change of ownership, etc.) shall be reported to the commission, in writing, within 14 days after the change in status occurs by the permittee or primary licensee.

B. When any change in status occurs, provisions shall be made for supervision at any location where there is no licensee during the interim until another licensee is approved by the commission for examination. The person in charge of the permitted location where the change in status occurred shall notify the department, in writing, of the name and address of the licensee providing supervision during the interim within 14 days after the change occurs. Supervising licensee shall notify the department of his acceptance of this supervision within 14 days of his acceptance.

C. When the change in status results in no licensee being domiciled at a permitted location, an applicant who is eligible for licensure shall be approved by the commission for examination either:

1. at the next meeting of the commission after the change in status occurs; or

2. within 90 days after the change in status occurs, whichever is later. During this period no use of restricted-use pesticides is permitted.

D. When the change of status is within the same company, there is no grace period.

E. When the death or disability of a licensee occurs, resulting in no licensee being domiciled at the permitted location, the commission may extend the period for qualifying a new licensee for an additional 90 days before revoking or canceling the permit for operation.

F. During the temporary absence of the licensee, the permittee/licensee shall designate another licensee(s), certified in the same phases as the licensee, to perform the duties that require the physical presence of a licensee for a period of time not to exceed 30 days. For the purpose of this Chapter, temporary absence shall mean any absence where the licensee would reasonably be expected to return to his duties. The licensee shall notify the department in writing of any such temporary absence giving the name of the substituting licensee jointly responsible with the licensee, and the dates of the temporary absence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and 3:3368.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:328 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:957 (November 1989), LR 37:283 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:301 (February 2013).

§125. Inactive Status of License

A. Upon written notice to the commission, any licensee may place his license on inactive status during any period of time when he will not be directly engaged in pest control work.

B. Notice to the commission shall include the period for which inactive status is requested and any information which may support the licensee's request for placement of his license on inactive status.

C. The license of any licensee which has been placed on inactive status shall be maintained in current status as provided in §117.F.

D. The commission may deny or defer action on a request to return a license to active status, regardless of the period of time when the license has been on inactive status, whenever the licensee on inactive status has been proven guilty in an adjudicatory proceeding of any of the violations.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 3:3366 and 3:3368.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:328 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:957 (November 1989), LR 37:283 (January 2011).

§127. Adjudicatory Proceedings of the Commission; Violations

A. The commission may place a licensee/registered employee on probationary status or suspend/revoke a license/registration certificate by holding an adjudicatory proceeding noticed and conducted in accordance with the requirements of the Administrative Procedure Act and the Structural Pest Control Law.

B. Whenever the commission has reason to believe that a licensee/registered employee has violated any provision of the Act or these rules and regulations, the commission shall notify the licensee/registered employee, by certified mail, at least 30 days prior to the scheduled hearing date.

C. In addition to providing all information required by the Administrative Procedure Act, the notice required in §125.B shall state that failure to appear at the scheduled hearing may result in the suspension or revocation of the license/registration certificate.

D. The commission may place a licensee/registered employee on probationary status or suspend/revoke his license/registration certificate when any of the following violations are sustained in a properly noticed adjudicatory proceeding:

1. misrepresentation for the purpose of defrauding;

2. deceiving or defrauding;

3. knowingly making false statements;

4. failure by a licensee to provide true and correct information to the commission;

5. failure to comply with any of the requirements of the Act or these rules and regulations;

6. failure to pay required fees;

7. intentional misrepresentation in an application for license and/or employee registration;

8. conviction in any court of law violations of the Act or of any felony;

9. knowingly permitting any person under the supervision of the offender to violate any provisions of the Act or these rules and regulations;

10. failure to enter into a written contract with the property owner employing the pest control operator for termite work;

11. failure to comply with the minimum specifications for termite control work set forth in §141;

12. failure to follow the label and labeling requirement in the application of any pesticide not specifically covered in §141;

13. failure to maintain required insurance coverages and fidelity or surety bonds in full force and effect;

14. failure to fulfill the terms of any written guarantees or agreements entered into;

15. failure to attend an approved training program for commercial applicator certification during any three-year period and failure to maintain current status as a commercial applicator;

16. knowingly making any false or misleading statement in a wood-destroying report;

17. gross negligence in conducting an inspection or failing to make an inspection prior to issuance of a wood-infestation report; or

18. conviction of a violation or assessment of a civil penalty under FIFRA or Louisiana Pesticide Law;

19. failure of a registered technician to attend an approved training program during any one-year period;

20. failure to maintain proper signage on vehicles or;

21. failure to keep records on all pesticide applications as required by §117.I;

22. operating faulty or unsafe equipment;

23. operating in a faulty, careless, or negligent manner;

24. the intentional misrepresentation is the misrepresentation or suppression of a substantial fact with the intent either to obtain an unjust advantage for any person or to cause a loss or inconvenience to any person. Intentional misrepresentation may occur through words or actions, or by silence or inaction. The following acts are illustrative of intentional misrepresentation:

a. failure of a registered technician to report structural pest control work performed by him or to remit any fees for structural pest control work collected by him, to his employer within 10 calendar days after performing the work or collecting the fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and 3:3672.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:328 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:957 (November 1989), LR 23:854 (July 1997), LR 37:284 (January 2011).

§129. Probationary Status of Licensee/Registered Employee

A. A license or registration certification may be placed on probationary status only upon the affirmative vote of three members of the commission at an adjudicatory proceeding noticed and conducted as required under §127.

B. When a minor violation is sustained before the commission in an adjudicatory proceeding, a licensee or registered employee may be placed on probation for a period not to exceed six months.

C. When a moderate violation is sustained before the commission in an adjudicatory proceeding, the licensee or registered employee may be placed on probation for a period not to exceed one year.

D. When multiple violations (i.e., violations of more than one provision of the Act or these rules and regulations or more than one violation of the same provision of law or regulations) are sustained before the commission, the commission shall consider each separate violation and take appropriate action with respect thereto.

E. Whenever any licensee or registered employee is found in an adjudicatory proceeding to have committed a

major violation or multiple violations of the Act or these rules and regulations, the commission may suspend or revoke the license/registration certificate without first imposing a period of probation.

F. Any violation of the Act or these rules and regulations during a period of probationary status will subject the offender to more severe penalties, including suspension and/or revocation of his license or registration certificate and/or the initiation of proceedings in a court of competent jurisdiction.

G. If the violations resulting in the imposition of probationary status are corrected during the period of probationary status, the probationary period shall automatically expire, without notice, at the end of the probationary period specified by the commission.

H. If the violations resulting in the imposition of the probationary status are not corrected during such period of probationary status, the commission may either:

1. renew the period of probationary status; or

2. suspend/revoke the license/registration certificate after an adjudicatory hearing noticed and conducted under §127.

I. The licensee/registered employee may continue to work during any period of probationary status.

J. The commission may place a licensee/registered employee on probationary status for one phase of pest control work for which he is licensed/registered without effect upon any other phase of pest control work for which he is licensed/registered.

K. The commission may place on probation all phases of pest control work for which the licensee/employee is licensed/registered for a violation occurring in only one phase of pest control work.

L. The commission shall notify the licensee/registered employee, in writing, of:

1. the nature of the violations sustained before the commission, including dates and places where the violations occurred;

2. the period of probationary status;

3. the phases of the license/registration certificate affected by the probationary status; and

4. any additional terms and conditions imposed by the commission.

M. A licensee/registered employee may be placed on probationary status for a cumulative total of no more than 24 months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and 3:3370.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:329 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 37:284 (January 2011).

§131. Suspension/Revocation of License/Registration

A. A license/registration may be suspended/revoked by the commission:

1. only upon the unanimous vote of the commission; and

2. only for a violation of the Act or these rules and regulations sustained before the commission in an adjudicatory proceeding noticed and conducted as required under §127 hereof.

B. The commission may suspend/revoke a license/registration for any major violation without previously imposing a period of probationary status.

C. Any suspension of a license/registration shall be for a specific period of time, and the licensee/registered employee shall be notified in writing of the period of time and any conditions which may be imposed on the reinstatement thereof.

D. In addition to the period of suspension, the commission may impose additional terms and conditions which shall be met before the license/registration will be reinstated.

E. The licensee/registered employee shall not perform any work in any phase of pest control work, including in the case of licensees the supervision of registered employees, when his license/registration for that phase of pest control work has been suspended by the commission.

F. The commission may suspend the license/registration for one phase of pest control work without effect upon any other phase of pest control work for which the licensee/employee is licensed/registered.

G. The commission may suspend all phases of pest control work for which the licensee/employee is licensed/registered for a major violation occurring in only one phase of pest control work.

H. Upon provision of evidence acceptable to the commission, either before or at the expiration date for the period of suspension, that the violations which resulted in the suspension have been corrected, the suspension may be terminated by the commission.

I. When a license/registration certificate has been revoked by the commission, the license/registration certificate may not be reinstated until such time as the former licensee meets all requirements set forth in §§105, 107, 109 hereof and/or the former registered employee meets all requirements set forth in §113 hereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and 3:3370.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:329 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 37:285 (January 2011).

§133. Inspection, Taking of Samples

A. During the course of their inspections, inspectors employed by the commission may take soil samples and/or chemical samples of tank mixes and/or rodenticide.

B. Soil and chemical samples shall be properly marked to preserve a chain of custody record and shall be submitted to the laboratory at Louisiana State University for analysis.

C. Results of laboratory analysis of soil and/or chemical samples may be used in adjudicatory proceedings and shall be made available to the pest control operator upon request after the analysis is completed.

D. Samples that are requested by any other person other than for enforcement by the department shall be paid for by the person requesting the chemical sample. The fee shall be $500 per sample which includes one (1) analysis and the cost for obtaining the samples by the employee of the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:330 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:958 (November 1989), LR 37:285 (January 2011).

§135. Prohibitions

A. A pest control operator shall not engage in any phase of structural pest control work for which he is not specifically licensed by the commission.

B. No person engaged in the sale of products for the eradication of household pests or wood-destroying insects shall demonstrate such products by applying the products to the premises of a customer without first obtaining a license from the commission.

C. No examination for licensure will be given if the applicant is not eligible for licensure on the basis of education and/or experience.

D. No person shall assign a registered licensee\employee to perform structural pest control work in any phase for which he is not licensed or registered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and 3:3371.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:330 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 37:285 (January 2011).

§137. Exceptions

A. These rules and regulations do not apply to the application of pesticides for the control of agricultural pests.

B. These rules and regulations do not apply to any person, firm, partnership, corporation, association or other organization or combination thereof engaged in the manufacturing or selling of products to the general public for the control of household pests and termites, provided that such entities shall not apply such products, by way of demonstration or otherwise, to a customer's premises or offer any services connected with pest control unless licensed to do so by the commission.

C. These rules and regulations do not apply to persons who personally apply pesticides of any kind for the control of household pests or wood-destroying insects on property which they own, rent or lease.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and R.S. 3:3376.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:330 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 37:286 (January 2011).

§139. Complaints against Pest Control Operators

A. Any citizen may file a complaint in writing against any pest control operator by contacting the commission's office.

B. Upon receipt of a written complaint, the commission staff shall:

1. conduct an investigation of the incident involved in the complaint; and

2. inform the pest control operator against whom the complaint has been lodged.

C. Upon completion of the investigation required under §139.B, the commission staff shall notify the complainant and the pest control operator of the results of its investigation when requested in writing.

D. The department may bring any matter arising from a citizen's complaint to an adjudicatory hearing if, in the judgment of the department, the facts established in the investigation required under §139.B warrant such action.

E. In any instance where a citizen feels that the facts of his complaint warrant an adjudicatory hearing by the commission, the citizen may request, in writing, that the matter be placed on the agenda for consideration at the next meeting of the commission, provided that the citizen shall appear and give sworn testimony at such hearing called at the request of the citizen. In any instance where a citizen has filed a written petition for an adjudicatory proceeding but fails to appear, upon proper notice, and give testimony, the commission may cancel such adjudicatory proceedings without action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:330 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 37:286 (January 2011).

§141. Minimum Specifications for Termite Control Work

A. All labels for products used for termite control work shall be registered by the EPA and the department and shall be approved by the commission prior to their use.

1. The department shall issue a listing of product labels approved by the commission for termite control work. The listing shall become effective upon approval by the commission. The list shall be published in the Potpourri section of the *Louisiana Register* and shall remain in effect until changed by the commission. The commission may add or delete any product labels from its list. The list shall be published in the Potpourri section of the *Louisiana Register*. Upon publication of the list all previous listings shall be repealed.

2. The commission's list of product labels shall also contain the chemical concentration at which each product label is approved for usage, and shall be applied in accordance with label and labeling requirements and shall not be applied at any less than label and labeling requirements.

B. Requirements for Trench and Treat

1. Calculations made for the rate and volume of the termiticide mixture being applied in all trenches shall be based on a minimum of one foot of depth.

2. All trenches shall be a minimum of four inches wide at the top angled toward the foundation and a minimum of six inches deep in order to permit application of the required chemical.

3. Application of the product mixture into the trench shall be made at the rate and manner prescribed on the label and labeling.

4. Rodding shall be acceptable only when trenching will damage irrigation equipment, flowers and/or shrubs.

C. Treatment of Existing Pier Type Construction

1. Access Openings

a. Provide suitable access openings to all crawl-space areas and to all other areas requiring inspection and/or treatment for termites.

b. A minimum clearance of 12 inches from the bottom of the sill.

2. Required Clean-Up

a. Remove all cellulose-bearing debris, such as scrap wood, wood chips, paper, etc., from underneath buildings.

b. Trench, rod and treat any large stumps or roots that are too sound to be removed, provided that such stumps or roots are at least 12 inches from the foundation timbers. Stumps or roots located less than 12 inches from foundation timbers shall be cut off to provide at least 12 inches clearance.

c. Remove all form boards that are not embedded in concrete.

3. Elimination of Direct Contact of Wood with Ground

a. Piers and stiff legs shall have concrete or metal-capped bases extending at least 3 inches above the ground. Pressure-treated piling foundations are exempt from this requirement.

b. Wood parts which extend through concrete or masonry (such as posts, door frames or stair carriages) shall be cut off and set on metal or concrete bases at least three inches above ground level.

c. Wood steps shall be placed on concrete or masonry bases which extend at least 1 inch above ground level, and beyond the steps in all directions. Multiple-course masonry step supports shall be treated as required in §141.C.7.a, b, c and d.

4. Pipes

a. Remove all packing around pipes for a distance of 3 inches above ground level and/or treat according to label and labeling.

5. Skirting and Lattice-Work

a. All skirting and lattice-work shall rest on solid concrete or brick extending at least 3 inches above the outside grade. This base will be trenched and treated.

b. All skirting and lattice-work resting on ground shall be treated by digging trenches below and under the edge of the skirting and lattice; or

c. There shall be at least 3 inches clearance above outside grade if skirting or lattice-work is suspended.

6. Stucco

a. Where stucco extends to or below grade, dig trenches below and under the edge of the stucco and apply chemical as required by label and labeling.

b. Where ground slabs prevent treatment as required in Subparagraph (a) above, drill and treat slab as required by label and labeling. Where slab is drilled the holes hall be no more than 18 inches apart (unless label requires closer distance).

7. Masonry. Apply chemical to all porous areas, visible cracks and accessible voids in foundation walls, piers, chimneys, steps, buttresses, etc., as follows:

a. treat all cracks in concrete;

b. drill holes every second mortar joint, a minimum of three holes, in all two-course brick foundations (piers, foundation walls, steps, buttresses, L-shaped and T-shaped piers, etc.) and thoroughly treat wall voids. Holes shall be deep enough to reach the center mortar joint and chemical shall be applied under sufficient time and pressure to treat all cracks and voids. Drilling is not required when solid concrete footing extends above grade level or when wall is capped with solid concrete;

c. drill holes in mortar joints of all three-course brick foundation walls at the end of every second brick to the depth of the end of the second brick. Apply chemical under sufficient time and pressure to treat all cracks and voids;

d. drill holes into each compartment of the lowest accessible block of hollow concrete (or other lightweight aggregate) blocks and apply chemical into the openings under sufficient time and pressure to treat the area of the bottom of the foundation. On T-shaped or L-shaped piers the connecting mortar joints (crotches) shall be drilled and treated. Drilling is not required if the opening in the block is accessible.

8. Ground treatment:

a. trench around each pier and/or foundation of the structure being treated;

b. all trenches shall be approximately 4 inches wide at the top, angled toward the foundation and sufficiently deep (approximately 6 inches) to permit application of the required chemical. Apply the product mixture into the trench at a rate and manner prescribed on the label and labeling. Rodding will be acceptable where trenching will damage irrigation equipment, flowers and/or shrubs. Maximum distance between rod holes shall be 4 inches.

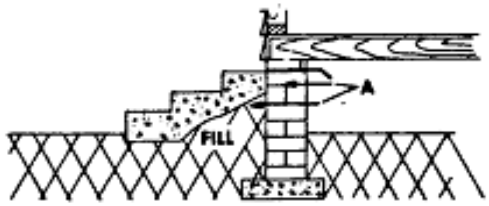
9. Dirt filled porches:

a. where the sill or other wood extends to, or below, the under side of the concrete slab, the dirt shall be excavated so as to leave a horizontal tunnel at the junction of slab and foundation wall. The tunnel shall extend the full length of the fill and be at least 12 inches deep (or down to grade) and 12 inches wide. Soil in the tunnel shall be treated with chemical at all points of contact with wall and slab. Supports for the slab shall be erected in the tunnel if necessary. Tunnel shall be well ventilated, but care shall be taken to assure that water does not run into those tunnels (see Figure 1);

Figure 1—Excavation of Dirt Filled Porches

Exception: If, due to construction, it is impractical to break

Excavation of Dirt Filled Porches (Figure 1)



into and excavate dirt-filled areas, a method of drilling, rodding and flooding as outlined in §141.C.9.b.ii below, may be employed.

b. Where the sill or other wood does not extend to or below the underside of the concrete slab, the fills shall be drilled, rodded and flooded as follows.

i. Drill floor slab at intervals of not more than 18 inches (unless label requires closer distance) along the junction of the porch and the buildings: rod and treat the fill along the foundation wall of the building.

ii. When it is impossible to rod and treat fill because of broken concrete, rock or other non-porous material in the fill, drill the floor slab as outlined in §141.C.9.b.i and apply sufficient chemical to treat the surface areas beneath the floor slab. When non-porous materials are present in the fill, drill holes in a multi-course brick foundation at 8 inch intervals with every other hole extending into the fill. When there is a hollow-brick foundation, drill holes into the fill area every 16 inches along the foundation wall.

NOTE: This is in addition to drilling and treating voids as outlined below (see Figure 2 and 3).

Dirt Filled Porch - Hollow Block (Figure 2)

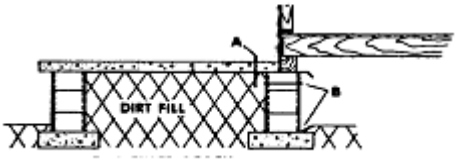
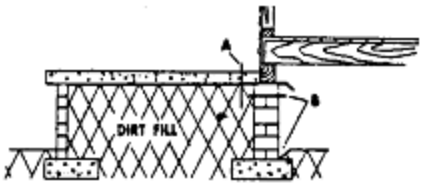


Figure 2—Dirt Filled Porch (Hollow Block)

Figure 3—Dirt Filled Porch (Multi-Course Brick)

Dirt Filled Porch - Multi-Course Brick (Figure 3)



c. When treating earth fills (drilling, rodding and excavation), porch foundation walls will be treated as follows.

i. Drill hollow-block walls and apply sufficient chemical to penetrate mortar joints and flow into the trench at the bottom of the foundation wall.

ii. Drill multi-course brick walls at intervals of every second brick and treat all voids, making certain that the chemical flows into the voids on both sides of the hole being treated.

10. Chimney Bases and Dirt Filled Steps. Chimney bases and dirt filled steps shall be treated by drilling the foundation walls as outlined in Step 2 for dirt filled porches, (see Figure 4 and 5).

Figure 4—Chimney Base

Chimney Base (Figure 4)

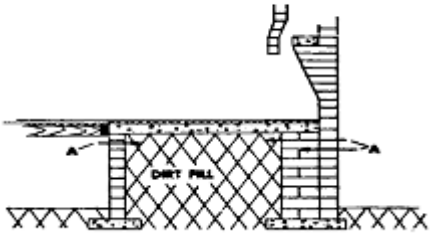
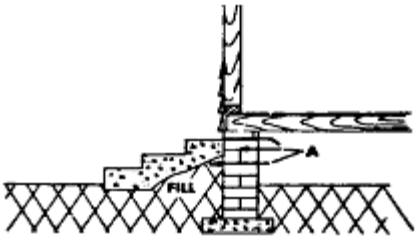


Figure 5—Dirt Filled Step

Dirt Filled Step (Figure 5)



D. Treatment of Existing Slab-Type Construction

1. Ground Treatment

a. Trench around the entire perimeter of the structure being treated, adjacent to the foundation wall.

b. All trenches shall be approximately 4 inches wide at the top, angled toward the foundation and sufficiently deep (approximately 6 inches) to permit application of the required chemical. Apply the product mixture into the trench at a rate and manner prescribed on the label and labeling. Rodding will be acceptable only where trenching will damage irrigation equipment, flowers and/or shrubs. Maximum distance between rod holes shall be 4 inches.

2. Bath Traps

a. An access hole of a minimum of 6x8 inches shall be provided during the initial treatment to all bathtub plumbing.

b. If the soil in a trap does not reach the bottom of the slab, the trap shall be filled to within 2 inches of the top of the slab with soil prior to initial treatment. Treat bath trap(s) as required by label and labeling.

c. A tar filled bath trap shall also be drilled and treated as required by label and labeling.

d. If bath trap is solid concrete pour, it shall be drilled and treated as close as practical to the bathtub plumbing.

3. Other Openings in Slab

a. All showers shall be drilled and treated as close as practical to shower plumbing.

b. Rod under or drill through the slab and treat all areas beneath expansion joints and cracks in the slab as per label and labeling instructions. When the slab is drilled, the holes shall be no more than 18 inches (unless label requires closer distance) apart along the above stated areas.

c. All other openings (plumbing. etc.) shall be treated during the initial treatment as required by label and labeling.

d. Treat all visible cracks in slab.

4. Eliminate direct contact of wood with ground.

a. Remove all cellulose debris, such as scrap wood, vines, etc., from the foundation level of the structure or above the slab.

b. Trench, rod and treat any large stumps or roots that are too sound to be removed, provided that such stumps or roots are at least 12 inches from the foundation timbers. Stumps or roots located less than 12 inches from foundation timbers shall be cut off to provide at least 12 inches clearance.

c. Remove all form boards that are not embedded in concrete.

E. Pre-Treatment of Slabs

1. The permittee or primary licensee shall report the completion of the application to the outside of the foundation to the department on the termite perimeter application form. Within 12 months after initial treatment, the outside perimeter of the foundation will be treated as follows:

a. trench around the entire perimeter of the structure being treated, adjacent to the foundation wall. All trenches shall be approximately 4 inches wide at the top, angled toward the foundation and sufficiently deep (approximately 6 inches) to permit application of the required chemical. Apply the product mixture into the trench at a rate and manner prescribed on the label and labeling. Rodding will be acceptable where trenching will damage irrigation equipment, flowers and/or shrubs. Maximum distance between rod holes shall be 4 inches;

b. rod under or drill through any slab(s) adjoining or abutting the initial pre-treated slab and treat all areas beneath adjoining or abutting slab(s) as per label and labeling instructions. When any slab(s) is drilled, the holes shall be no more than 18 inches (unless label requires closer distance) apart along the above stated areas.

2. If, during the treatment of any area which will be beneath a slab foundation, the operator shall leave the site for any reason prior to the completion of the application, the operator shall prominently display a poster, approved by the department, which states that the treatment of the area under the slab is not complete.

3. All pre-treatment of slabs shall be called or faxed to the department's district office in which the pretreat occurs, a minimum of 1 hour prior to beginning the application of termiticides. The information provided shall include

treatment company name; treatment structure street address, city, parish; directions to the property being pre-treated; date and time of beginning the application of termiticides to the property; square or linear footage of each structure to be treated; and number of structures. All pest control operators shall keep a log of all pretreats including the information noted. The following is a list of parishes in each of the department's seven district offices. Pre-treatments in a parish shall be called into the corresponding district office.

a. Shreveport District—Caddo, Bossier, Webster, Claiborne, Bienville, Red River, and Desoto.

b Monroe District—Union, Morehouse, West Carroll, East Carroll, Madison, Richland, Ouachita, Lincoln, Jackson, Winn, Caldwell, Franklin, Tensas, Concordia, and Catahoula.

c. Alexandria District—Sabine, Natchitoches, Grant, LaSalle, Avoyelles, Rapides, and Vernon.

d. Crowley District—Beauregard, Allen, Acadia, Jefferson Davis, Cameron, Calcasieu.

e. Opelousas District—Evangeline, St. Landry, St. Martin, Iberia, St. Mary, Vermilion, and Lafayette.

f. Baton Rouge District—Pointe Coupee, West Feliciana, East Feliciana, St. Helena, Tangipahoa, Washington, St. Tammany, Livingston, St. James, Lafourche, Terrebonne, Assumption, Ascension, Iberville, West Baton Rouge, and East Baton Rouge.

g. New Orleans District—St. John the Baptist, St. Charles, Jefferson, Orleans, St. Bernard, and Plaquemines.

F. Spot Treatment

1. Spot treatments shall not be done on pier-type or slab construction except where a waiver of minimum specifications has been obtained from the owner of the property. All buildings that can not be treated according to the minimum specifications shall have a waiver of the item or items signed by the owner prior to the treatment. A copy of the signed waiver shall be filed with the department with the monthly Termite Eradication Report.

2. Treatment will be allowed to any additions to the main structure or exterior slab enclosures and a fee shall be paid and a contract issued on this addition unless the main structure is under contract with the firm performing the treatment on this addition.

3. Each spot treatment reported on the Wood-Destroying Insect Eradication Report shall include a waiver of minimum specifications and a complete diagram of the area(s) treated.

G. Infested Properties

1. Whenever any agent of the department finds that any property is infested with termites, the pest control operator who treated the property or who has a current contract shall retreat within 30 days after receipt of notification from the department.

2. When the pest control operator completes the re-treatment, he shall notify the department within 5 working days.

H. Responsibility of Pest Control Operator

1. The pest control operator shall notify the property owner/agent of the presence of any visible insect damage found in portions of the building that are accessible for inspection.

2. The pest control operator shall provide for an air space or a backflow preventer on the water hose used in supplying water to the chemical tank.

I. Waiver of Requirements of Minimum Specifications for Termite Control Work

1. A pest control operator may request from the owner/agent of the structure(s) to be treated, a waiver of the requirements set out in these regulations whenever it is impossible or impractical to treat one or more areas of the structure in accordance with these minimum specifications for initial treatment. The waiver shall be signed by the owner/agent of the structure(s) to be treated prior to or during treatment. A signed copy of the waiver shall be given to the owner/agent and shall be sent to the department with the company's monthly eradication report. The waiver shall include, but not be limited to, the following information:

a. graph identifying the structure and the specific area(s) where treatment is waived;

b. a description of each area where treatment is waived; and

c. for each area, the reason treatment is being waived.

2. A pest control operator may request, from the owner/agent of the structure(s) to be treated, a waiver of the requirements set out in these regulations whenever it is impossible or impractical to treat one or more areas of the structure in accordance with these minimum specifications for retreat(s). The waiver shall be signed by the owner/agent of the structure(s) to be treated prior to or during treatment. A signed copy of the waiver shall be given to the owner/agent and shall be made available to the department upon reasonable request. The waiver shall include, but not be limited to, the following information:

a. a graph identifying the structure and the specific area(s) where treatment is waived;

b. a description of each area where treatment is waived; and

c. for each area, the reason treatment is being waived.

3. The requirements specified in §141.B.1-3 shall not be waived.

J. Requirements for Baits and Baiting Systems

1. Any licensee or any person working under the supervision of a licensee, who applies baits and/or baiting

systems, shall be certified in the use of the baits and baiting systems, by the manufacturer of the product, prior to any application of the bait or baiting system. Manufacturer certification and training programs shall have department approval of the agenda prior to the program presentation.

2. All baits and baiting systems applications shall be contracted and reported according to R.S.3:3370 and LAC7:XXV.119. D and pay the fee as described in LAC 7:XXV.119.E.

3. Bait and baiting systems shall be used according to label and labeling.

4. Above-ground bait stations shall be used according to their label and labeling when the presence of subterranean termites are detected in the contracted structure and shall be monitored not less than quarterly.

5. All bait stations, except those products in the pilot project, shall be monitored\inspected according to the label and labeling.

6. Monitoring and ground bait stations shall surround the contracted structure and shall not be more than 20 feet apart, where soil is available unless the label requires stations closer and\or does not allow for "where soil is available."

7. Monitoring and ground bait stations, where soil is available, shall be no further than 20 feet from the slab or pier's outside perimeter except for non-structural wood elements including but not limited to trees, stumps, wood piles, landscape timbers and detached fences.

8. Records of contracts, graphs, monitoring, and bait applications shall be kept according to LAC 7:XXV.117.I.

9. A consumer information sheet, supplied by the manufacturer and approved by the commission, shall be supplied to the registered pest control operator. The pest control operator shall, in turn, supply a copy of the consumer information sheet to all persons contracted.

10. All monitoring and bait stations shall be removed by the pest control operator from the contracted property within 30 days of the termination of the contract. In the event the bait and baiting system manufacturer stops the use by the pest control operator of their bait and baiting system; all monitoring and bait stations shall be removed by the pest control operator from the contracted property within 90 days of the stop use notification.

11. The commission hereby establishes a pilot program for the use of bait and baiting systems and shall include but not be limited to the following:

a. all baits and baiting systems products shall be subject to the pilot project for a period of a minimum of one year. The commission shall reevaluate the products in the pilot program prior to the end of the first quarter of every calendar year;

b. pilot project bait and baiting system products shall, upon approval of the commission, be listed in the *Louisiana Register*;

c. pilot project bait and baiting system products are subject to all regulations in LAC 7:XXV.141.J;

d. baits and baiting systems may be used as a stand-alone termite treatment only with written approval by LDAF;

e. baits and baiting systems may be used as a supplement to traditional ground termiticide treatments.

f. ground bait delivery shall begin when the presence of subterranean termites are detected in the monitoring station or if the label allows, Ground bait stations may be used as monitoring stations and inspected as required in LAC 7:XXV.141.J.11.

g. Ground monitoring and bait stations, used as monitors, shall be inspected monthly, not to exceed 35 days, from the date of installation or last inspection. When there is no termite feeding on any bait or monitoring station for 90 days from the date of installation or last inspection; monitor as required in LAC 7:XXV.141.J.11.

h. When there is termite feeding on any bait and/or monitoring station(s) at the contracted structure; all above ground bait stations and ground monitoring and bait stations shall be inspected monthly, not to exceed 35 days from the date of installation or last inspection and such inspections shall continue until there is no termite feeding on any bait and\or monitoring station, in any station, at the contracted structure for 90 days from the date of installation or last inspection; When there is no termite feeding on any bait or monitoring station for 90 days from the date of installation or last inspection; monitor as required in LAC 7:XXV.141.J.11.

i. When there is no termite feeding on any bait or monitoring station for 90 days from the date of installation or last inspection; monitoring shall resume at regular intervals, not to exceed 90 days from the date of the last inspection; when termites are detected again, monitoring and/or baiting shall follow the requirements set forth in LAC 7:XXV.141.J.11.

j. pilot project bait and baiting system products are subject to all regulations in LAC 7:XXV.141.J;

K. Requirements for Combination Liquid Spot and Baits and Baiting Systems Treatments

1. Any licensee or any person working under the supervision of a licensee, who applies a combination liquid spot and baits and/or baiting systems treatments, shall be certified in the use of the baits and baiting systems, by the manufacturer of the product, prior to any application of the bait or baiting system.

2. Combination of liquid spot and bait and baiting systems treatments shall be used according to label and labeling. Above-ground bait stations shall be monitored not less than quarterly.

3. All combination liquid spot and baits and baiting systems treatments shall be contracted and reported according to R.S. 3:3370 and LAC 7:XXV.119.E and pay the fee as described in LAC 7:XXV.119.F.

4. Records of contracts, graphs, monitoring (if required), and applications shall be kept according to LAC 7:XXV.117.I. At termination of the contract, the pest control operator shall remove all components of bait and baiting systems.

5. All structures that cannot be treated according to the combination liquid spot and bait and baiting systems treatment minimum specifications shall have a waiver of the listed item or items signed by the owner prior to the baiting treatment. A copy of signed waiver shall be filed with the department with the monthly termite eradication reports.

6. A bait and baiting systems consumer information sheet, supplied by the manufacturer and approved by the commission, shall be supplied to the registered pest control operator. The pest control operator shall, in turn, supply a copy of the consumer information sheet to all persons contracted.

7. Combination liquid spot and bait and baiting systems treatment of existing slab-type construction shall bait following the label and labeling and liquid spot treat to the following minimum specifications:

a. Trench and treat 10 feet on both sides of live subterranean termite infestation site(s) around the perimeter of the structure, adjacent to the foundation wall. All trenches shall be approximately 4 inches wide at the top, angled toward the foundation and sufficiently deep (minimum 6 inches) to permit application of the required chemical. Apply the emulsion into the trench at a rate and manner prescribed on the label and labeling. Rodding will be acceptable only where trenching will damage irrigation equipment, flowers and/or shrubs. Maximum distance between rod holes shall be 4 inches.

b. Rod under or drill through abutting slab(s) and treat all areas in the abutting slab(s) within the 20 feet as required in LAC 7:XXV.141.K.7.a. When the abutting slab is drilled, the holes shall be no more than 18 inches apart, unless label requires closer distance along the above stated areas.

c. Treat bath trap(s) as per label and labeling. Bath trap(s) access hole of a minimum of 6 x 8 inches shall be provided to all bathtub plumbing.

i. If the soil in a trap does not reach the bottom of the slab, the trap shall be filled to within 2 inches of the top of the slab with soil prior to treatment. Treat bath trap(s) as required by label and labeling.

ii. A tar filled bath trap shall also be drilled and treated as required by label and labeling.

iii. If bath trap is solid concrete pore, it shall be drilled and treated as close as practical to the bathtub plumbing.

d. All showers shall be drilled and treated as close as practical to shower plumbing according to label and labeling.

e. All other openings (plumbing, etc.) shall be treated as required by label and labeling.

8. Combination liquid spot and bait and baiting systems treatments of existing pier-type construction with live subterranean termite infestation(s) shall bait following the label and labeling and liquid treat to the following minimum specifications.

a. Trench and treat 10 feet on both sides of infestation site(s) on brick\block chain wall(s) and all piers within 10 feet of an infested pier or chain wall. Trench, drill, and treat as required in LAC 7:XXV.141.

b. Above-ground bait stations shall be monitored not less than quarterly.

9. Combination liquid spot and bait and baiting systems treatment of existing slab-type construction and pier-type construction without live subterranean termite infestation(s) shall bait following the label and labeling and liquid treat as required in LAC 7:XXV.141.K.7.c-e.

10. Whenever any property under a combination liquid spot and bait and baiting systems treatment contract becomes infested with subterranean termites, the operator shall treat the property according to the minimum specifications as stated in LAC 7:XXV.141.K.

L. Requirements for Retreats

1. Retreatment of existing slab-type construction shall treat following the label and labeling and the following minimum specifications.

a. Trench and treat 10 feet on both sides of live subterranean termite infestation site(s) and/or a breach(s) in the treated zone around the perimeter of the structure, adjacent to the foundation wall. All trenches shall be approximately 4 inches wide at the top, angled toward the foundation and sufficiently deep (minimum 6 inches) to permit application of the required chemical. Apply the emulsion into the trench at a rate and manner prescribed on the label and labeling. Rodding will be acceptable only where trenching will damage irrigation equipment, e flowers and/or shrubs. Maximum distance between rod holes shall be 4 inches.

b. Rod under or drill through abutting slab(s) and treat all areas in the abutting slab(s) within the 20 feet as required in LAC 7:XXV.141.L.1.a. When the abutting slab is drilled, the holes shall be no more than 18 inches apart along the above stated areas unless the label requires closer distance.

c. Treat bath trap(s) as per label and labeling when live subterranean termites or a breach(s) in the treated zone occur. Bath trap(s) access hole of a minimum of 6 x 8 inches shall be provided to all bathtub plumbing.

i. If the soil in a trap does not reach the bottom of the slab, the trap shall be filled to within 2 inches of the top

of the slab with soil prior to treatment. Treat bath trap(s) as required by label and labeling.

ii. A tar filled bath trap shall also be drilled and treated as required by label and labeling.

iii. If bath trap is solid concrete pour, it shall be drilled and treated as close as practical to the bathtub plumbing.

2. Retreatments of existing pier-type construction with a live subterranean termite infestation(s) and/or a breach(s) in the treated zone shall liquid treat to the following minimum specifications.

a. Trench and treat 10 feet on both sides of a breach(s) in the treated zone or an infestation site(s) on chain wall(s) and all piers within 10 feet of an infested or breached pier or chain wall. Trench, drill, and treat as required in LAC 7:XXV.141.

3. Minimum specification treatments shall not include areas properly waivered in initial treatment contract.

M. Requirements for Borates Pre-Construction Treatments

1. Treat according to the borate label.

2. A perimeter soil treatment shall be applied within 12 months after initial treatment, the outside perimeter of the foundation, shall be treated as follows:

a. trench around the entire perimeter of the structure being treated, adjacent to the foundation wall. All trenches shall be approximately 4 inches wide at the top, angled toward the foundation and sufficiently deep (approximately 6 inches) to permit application of the required chemical. Apply the product mixture into the trench at a rate and manner prescribed on the label and labeling. Rodding will be acceptable where trenching will damage flowers and/or shrubs. Maximum distance between rod holes shall be 4 inches;

b. rod under or drill through any slab(s) adjoining or abutting the slab and treat all areas beneath adjoining or abutting slab(s) as per label and labeling instructions. When any slab(s) is drilled, the holes shall be no more than 18 inches (unless label requires closer distance) apart along the above stated areas;

3. treat bath traps as per termiticide label and labeling or as follows:

a. if the soil in a trap does not reach the bottom of the slab, the trap shall be filled to within 2 inches of the top of the slab with soil prior to treatment. Treat bath trap(s) as required by label and labeling;

b. a tar filled bath trap shall also be drilled and treated as required by label and labeling;

c. if bath trap is solid concrete pour, it shall be drilled and treated as close as practical to the bathtub plumbing;

4. if, during the treatment of any area, the operator shall leave the site for any reason prior to the completion of the application, the operator shall prominently display a poster at the treatment site, which states that the treatment of the area is not complete;

5. the treatments of structures required in this section shall be called or faxed to the department's district office in which the treatment occurs, a minimum of one hour prior to beginning the application of termiticides. The information provided shall include: treatment company name; treatment structure street address, city, parish; directions to the property being pre-treated; date and time of beginning the application of termiticides to the property; square or linear footage of the each structure to be treated; and number of structures. Permitees or licensees shall keep a log of all pretreats including the information noted. The following is a list of parishes in each of the department's seven district offices. Treatments in a parish shall be called into the corresponding district office:

a. Shreveport District—Caddo, Bossier, Webster, Claiborne, Bienville, Red River, and Desoto;

b. Monroe District—Union, Morehouse, West Carroll, East Carroll, Madison, Richland, Ouachita, Lincoln, Jackson, Winn, Caldwell, Franklin, Tensas, Concordia, and Catahoula;

c. Alexandria District—Sabine, Natchitoches, Grant, LaSalle, Avoyelles, Rapides, and Vernon;

d. Crowley District—Beauregard, Allen, Acadia, Jefferson Davis, Cameron, Calcasieu;

e. Opelousas District—Evangeline, St. Landry, St. Martin, Iberia, St. Mary, Vermilion, and Lafayette;

f. Baton Rouge District—Pointe Coupee, West Feliciana, East Feliciana, St. Helena, Tangipahoa, Washington, St. Tammany, Livingston, St. James, Lafourche, Terrebonne, Assumption, Ascension, Iberville, West Baton Rouge, and East Baton Rouge;

g. New Orleans District—St. John the Baptist, St. Charles, Jefferson, Orleans, St. Bernard, and Plaquemines;

6. all borate treatments shall be contracted and reported as provided by R.S. 3:3370 and §119.E of this Part and the fee for each such contract shall be paid in accordance with §119.F of this Part;

7. records of contracts, graphs, monitoring (if required), and applications shall be kept as required by §117.I;

8. all retreatments shall be as required by §141.L of this Part;

9. the permittee or licensee shall report the completion of the application to the outside of the foundation to the department on the termite perimeter application form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:330 (April

1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:958 (November 1989), LR 20:644 (June 1994), LR 21:931 (September 1995), LR 23:1285 (October 1997), LR 25:235 (February 1999), LR 25:1620 (September 1999), LR 26:2437 (November 2000), LR 27:1180 (August 2001), LR 29:1063 (July 2003), LR 30:1145 (June 2004), repromulgated LR 30:1614 (August 2004), amended LR 35:207 (February 2009), LR 35:1469 (August 2009), repromulgated LR 35:1872 (September 2009), amended, LR 37:286 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:301 (February 2013), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:1413 (June 2013).

§143. Termiticide Foam Applications

A. Termiticide foam applications may be used as a supplemental treatment to approved liquid applications on treatments for the control, prevention or eradication of termites and other wood destroying insects.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 19:1010 (August 1993), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 37:292 (January 2011).

§145. Wood-Destroying Beetles

A. An active infestation of wood destroying beetles, as described below, shall be found by the pest control operator prior to recommending entering into a contract, applying a treatment, or performing a service to control or eradicate the infestation.

1. Powder Post Beetle (Anobiidae, Bostrichids and Lyctidae)

a. Powder post beetle frass shall be exuding or streaming from the holes on the outside of the wood or live larvae or pupae are found in the wood members.

2. Old House Borer (*Hylotrupes bajulus*)

a. The presence of live larvae or pupae, adult beetles or oblong exit holes with frass in pine or other softwoods will be evidence of active infestation of the old house borer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:332 (April 1985), amended LR 35:1470 (August 2009), LR 37:292 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:302 (February 2013).

§147. Fumigation

A. General

1. This rule governs all fumigation of residential and commercial structures, ships, railcars, trucks, commodity containers and vaults within the state of Louisiana, including ships at anchor in rivers within the borders of Louisiana and ships at anchor within a 3-mile limit off the coast of Louisiana.

2. The licensee shall not only comply with the Structural Pest Control Commission rules and regulations but shall follow all other applicable state and federal rules and regulations.

3. The licensee is responsible for compliance with all label and labeling requirements.

4. The licensee is responsible for giving any notice to law enforcement and/or fire protection agencies required by any governing body of the locality in which the fumigation will take place.

5. The licensee shall make certain that personal protection equipment for the fumigant being used is immediately accessible where the fumigation is being done.

6. The licensee or his certified fumigation technician shall remove all signs, fumigation containers and/or materials, and any other debris which accumulated as a direct result of the fumigation.

B. Requirements for Structural Fumigation

1. The permittee or primary licensee shall give notice, in writing, to be received by the department at least 24 hours prior to structural fumigation. Notice to the department shall include the following items:

a. time and place where the fumigation will take place;

b. name, address and emergency phone number of the licensee;

c. name of the fumigant to be used;

d. a brief description of the property to be fumigated;

e. target pest;

f. location of target pest; and

g. other information the commission requests.

2. When notice cannot be given as required by §147.B.1, notice shall be given by phone but shall be confirmed in writing, to be received by the commission within 24 hours after the telephone notice.

3. A licensed fumigator shall personally inspect all structures that are to be fumigated while they are being tented or sealed after the structure has been evacuated.

4. A licensed fumigator of his certified fumigation technician shall seal or supervise the sealing or the area to be fumigated and assure that there is proper and secure sealing to confine the fumigant to the area that is to be fumigated, prior to the release of the fumigant.

5. A licensed fumigator or his certified fumigation technician shall see that a sign or signs of sufficient size as to be conspicuous and bearing the word "poison" and the skull-and-crossbones symbol, is prominently displayed at all

entrances to the area being fumigated continuously from the time the area is sealed until ventilation is completed.

6. When tarp fumigation is being used, in addition to the signs on each entrance of the building, there shall be at least one sign on each side of the exterior tarp. If any side of the building exceeds 35 feet, additional signs will be added. The maximum distance between signs of any side of a building will be 60 feet.

7. Two test lines with at least 1/4 inch outside diameter shall be appropriately located on the first floor of the structure(s) being fumigated to permit sufficient readings of the fumigant concentrate to determine its efficacy in destroying insects. They shall be on opposite sides of the building. In multi-story buildings the lines shall be on different floors. A written record of fumigant level readings shall be maintained during progress of job and will become part of job file.

8. A licensed fumigator shall post a guard(s) to prevent entry by an unauthorized person into the area being fumigated. The guard is not required to be a licensed pest control operator or registered employee.

9. Whenever one unit of a complex containing more than one unit is to be fumigated, all units of the building to be fumigated shall be evacuated during fumigation and until such time as the fumigated area is declared safe for occupancy. A licensed fumigator shall inspect all units of a complex.

10. A licensed fumigator or his certified fumigation technician shall be present when the fumigant is released and immediately prior to the time when the fumigated area is declared safe for occupancy. At least one other person, trained in fumigation in addition to the above, ~~must~~ shall be present when the fumigant is released and immediately prior to the time when the fumigation area is declared safe for occupancy.

11. A licensed fumigator or his certified fumigation technician shall personally inspect the area which was fumigated when ventilation is completed to assure that the fumigated area, and adjacent areas as appropriate, is safe for occupancy.

C. Requirements for Shipboard Fumigation

1. A licensed fumigator shall be present for the initial application of fumigant.

2. A licensed fumigator is responsible to declare the ship safe for occupancy.

D. Requirements for Commodity Fumigation. A licensed fumigator or certified fumigation technician shall:

1. check inside the container along the junctures to be sealed before fumigation;

2. all openings in vehicles being fumigated must be sealed;

3. inside and outside warning signs shall be posted as required by labeling and label requirements;

4. after releasing the fumigant, check for leakage and repair any leaks which occur;

5. the permittee or licensed fumigator licensee shall notify the consignee, in writing, of the fumigant being used, antidotes and the proper procedures for handling any vehicle(s) or commodity container(s) which is shipped under gas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 11:332 (April 1985), amended LR 17:251 (March 1991), LR 37:293 (January 2011).

§149. Repeal of Prior Rules and Regulations of the Commission

A. Upon promulgation of these rules and regulations, all rules and regulations of the commission adopted prior to the effective date of these rules and regulations shall be repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:334 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 37:294 (January 2011).

§151. General Requirements for Pesticide Waste

A. All permittees, licensees, or registered persons shall implement a containment system for reuse or apply a pesticide waste immediately to a site of application per label and labeling.

B. Handling Spills by Applicators

1. All spills of more than 1 gallon liquid or 4 pounds dry weight shall be reported to the director by the applicator, primary licensee or permitee within 24 hours by telephone and by written notice within 3 days.

2. The permitee is responsible for the cost of cleanup~~s~~ resulting from pesticide spills in their operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 12:285 (May 1986), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 37:294 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:302 (February 2013).

§153. Handling of Pesticide Containers by Structural Pest Control Operators

A. Storage Areas for Full or Partially Full Pesticides 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. Transportation of full or partially full pesticide containers shall be secure and not accessible by the general public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 12:285 (May 1986), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 37:294 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:302 (February 2013).

§155. Rinsate from Pesticide Containers

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

B. Pesticide containers, ready for disposal, shall be stored in a secured area and shall be kept for no more than 90 days or 180 days if held for recycling.

C. 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 and shall be removed from the system in less than 30 days after deposit therein; or

3. disposed in a permitted waste facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:302 (February 2013).

§157. Containment Structures

A. Containment structures shall meet all of the following requirements:

1. shall 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;

2. shall be compatible with the pesticides stored within the structure;

3. shall be liquid-tight with cracks, seams and joints sealed;

4. shall not be constructed of natural earthen material, unfired clay and asphalt;

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

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

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

8. 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.

B. Containment structures for new and existing secondary containment shall meet the following requirements.

1. Liquid pesticide stationary containers shall be anchored or elevated to prevent flotation.

2. Dry pesticide stationary containers shall:

a. be protected from wind and precipitation; and

b. be on pallets or raised concrete; and

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 12:285 (May 1986), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 37:294 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:303 (February 2013).

§159. Containment Pads

A. Existing containment pads shall:

1. intercept leaks and spills; and

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

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

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

5. have no automatic pumps without overflow cutoffs.

B. New containment pads to be designed and constructed shall:

1. intercept leaks and spills; and

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

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

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

5. have no automatic pumps without overflow cutoffs; and

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:303 (February 2013).

§163. Donation of Structural Pest Control Work

A. Structural pest control operators licensed by the commission may donate, in accordance with this Section, structural pest control work to eligible individuals or organizations who otherwise could not afford such services in order to improve living conditions and their quality of life.

B. The commission, at the request of the Louisiana Pest Control Association or any other state or local not-for-profit association of pest control operators, may approve a plan for the donation of structural pest control work to individuals or organizations that are in need of, but unable to afford such services.

C. Any plan submitted to the commission shall state:

1. the purpose of the plan;

2. the organization(s) or group(s) of persons receiving such services;

3. the nature of the services to be provided;

4. the location(s) at which the services are to be provided;

5. the length of time the program is to run;

6. the licensed pest control operators who are expected to participate;

7. any other information the commission may deem necessary to properly evaluate the plan.

D. Upon approval of any such plan by the commission, the department shall suspend:

1. the fee for termite contracts required under §117.M of this Part; and

2. the requirements of §119 of this Part pertaining to contracts.

E. The rules and regulations suspended by Subsection D above are waived only for the duration of the program and only in connection with structural pest control work performed by participating licensed pest control operators on buildings and structures at the specific locations listed in the approved plan.

F. The month of June is the Louisiana Pest Control Month. All programs for the donation of pest control work shall begin in June and end at the time specified in the plan that is submitted and approved by the Structural Pest Control Commission. The commissioner may, for exceptional circumstances, approve a plan to begin in a month other than June.

G. A copy of the approved plan, showing the list of specific eligible locations and the beginning and ending dates of the program shall be published in the potpourri Section of the *Louisiana Register* at least 30 days prior to the beginning of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 24:1262 (July 1998), amended LR 37:295 (January 2011).

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

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

B. A request for a rule change shall be in writing and shall contain the following information:

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

2. the name, address, telephone number, fax number and e-mail address of the requesting party.

C. The request for a rule change shall be addressed to the commission and shall be mailed or delivered to 5825 Florida Boulevard, Baton Rouge, LA 70806.

D. The commission shall consider the request as follows.

1. A request for rule change shall be considered by the commission within a reasonable time, not to exceed 90 days.

a. Notice of the meeting at which the request is to be considered shall be provided to the person submitting the request.

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 by the commission.

c. The request, with the consent of the requesting party, may be taken under consideration or action deferred 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 commission or at a special meeting.

E. Any decision by the commission shall be in writing and shall state the reasons for the denial or action. Such notice may be delivered by hand, mail, electronically or by any other means reasonably assured to provide notice to the requesting party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and R.S. 49:953(C).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:303 (February 2013).

§167. Procedure for Declaratory Orders and Rulings

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

B. A request for a declaratory order or ruling shall be in writing 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 concise statement of why the declaratory order or ruling is being requested;

3. 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 a hearing is called to take evidence;

4. the name, address, telephone number, fax number and e-mail address of the requesting party, either printed or written in legible form.

C. The request for a declaratory order or ruling shall be addressed to the commission and shall be mailed or delivered to 5825 Florida Boulevard, Baton Rouge, LA 70806.

D. The commission shall consider the request as follows.

1. The request shall be considered by the commission within a reasonable time, not to exceed 90 days.

2. Notice of the meeting at which the request is to be considered shall be provided to the person submitting the request.

E. The commission's decision shall be sent to the requesting party either by certified mail, return receipt requested; hand delivery; or commercial courier.

F. Failure of the requesting party, after notice, to attend any hearing or meeting regarding the request may be cause for the request to be denied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366, R.S. 49:962 and R.S. 49:963(D).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:304 (February 2013).

Title 7
AGRICULTURE AND ANIMALS
Part XXVII. Agricultural Commodity Dealer and Warehouse Law

Chapter 1. Louisiana Agricultural Commodities Commission

Subchapter A. General Provisions

§101. Definitions

Adjudicatory Proceeding—an open public hearing by the commission to determine whether violations of R.S. 3401-3425 or the regulations contained in this Part have occurred. Such proceedings are conducted in accordance with the Louisiana Administrative Procedure Act (R.S. 49:950 et seq.).

Advance—a partial payment against total proceeds due to a seller.

Agricultural Commodities—cotton, all agricultural products commonly classed as grain (rice, corn, wheat, oats, rye, soybeans, barley, and grain sorghum), and any other agricultural commodity which the commission may declare to be an agricultural commodity subject to regulation under R.S. 3:3401-3425.

Applicant—any person making application for a license to engage in any of the activities regulated under R.S. 3:3401-3425 or anyone who requests official grain inspection services and/or grain weighing services of the department.

Audited (with respect to a financial statement)—a financial statement prepared by an independent certified public accountant, the basis of which financial statement is the accountant's independent examination of the books and records of the business entity covered by the financial statement.

Authentic Act—a statement executed before a notary public and at least two witnesses.

Authorized Agent—with reference to the authorized agent of a warehouse or grain dealer, any representative thereof whose name has been filed with the commission as such. A person whose name has not been filed with the commission as an authorized agent will not be recognized by the commission as entitled to act for or on behalf of a warehouse or grain dealer.

Bid Contract—an agreement between a producer and a purchaser under which the purchaser examines samples of rice and extends to the producer an offer to purchase the rice at a price based on the quality of the sample.

Capacity—all of the area of a licensee which is in any kind of protected enclosure.

CCC—Commodity Credit Corporation.

Central Filing System (CFS)—an electronic system operated and maintained by a provider where information relating to electronic warehouse receipts is recorded and maintained in a confidential and secure fashion independent of any outside influence or bias in action or appearance, and that is authorized by the director.

Certified—with respect to the financial statements required under the Act R.S. 3:3401-3425, a written statement signed by the independent certified public accountant preparing the financial statement.

Commission—the Louisiana Agricultural Commodities Commission.

Commissioner—the Louisiana Commissioner of Agriculture and Forestry.

Compilation—with respect to a financial statement, a financial statement prepared by an independent certified public accountant solely on the basis of representations of the management of the business entity covered by the financial statement.

Confirmation Date—the date on which the bid contract was confirmed.

Confirmed—the bid contract has been agreed to by both parties. A bid contract is confirmed when the producer and the purchaser agree to the quantity and price of the rice to be sold.

Cotton Agent—every person, firm, corporation, association, or other legal entity which purchases or contracts to purchase cotton grown or to be grown by producers in this state for or on behalf of a cotton merchant and which is required to be a party to a notarized written agency agreement.

Cotton Merchant—every person, firm, corporation, association, or other legal entity which purchases or contracts to purchase, either directly or through a cotton agent, cotton grown or to be grown by producers in this state.

Current Financial Statement—a financial statement containing all of the documents listed in §107.B of this Part and presenting financial position as of the close of the applicant's or licensee's most recent fiscal year.

Deferred Price Commodities—commodities purchased by a grain dealer from a producer for which the sale price will be established after date of the initial agreement between the parties. The agreement between the parties covering deferred price commodities shall be in writing. The term deferred price commodities is the same as the other following terms in general usage: price later, no price established (NPE),

delayed price, basis contract, future settlement delivery, or contract for purchase.

Delivery Date—the date on which the purchaser is required to take delivery of the rice, either under the provisions of Subchapter O of this Chapter or under the provisions of a written agreement between the producer and the purchaser.

Department—the Louisiana Department of Agriculture and Forestry.

Director—the employee of the commission who is responsible for implementing the policies of the commission and performing the administrative responsibilities delegated to the commissioner under R.S. 3:3401-3425.

Electronic Warehouse Receipt (EWR)— a receipt that is issued or transmitted in the form of an electronic document.

Farm Products—products employed directly in the cultivation, production, or harvesting of any agricultural commodities or containers for agricultural commodities or farm products.

Fee—any charge imposed by a warehouse, directly or indirectly, for care of agricultural commodities belonging to any person other than the warehouse owner, including but not limited to base price adjustments, storage, handling, dockage, commission, drying, and/or conditioning fees or any fees as listed on the latest approved schedule of fees (§128.D of this Part) for official grain inspections and weighing services provided by the department.

Field Warehouse—a warehouse operated by a management organization under a contractual agreement between the management organization and the owner of the warehouse.

First Point of Sale—the initial time when title to agricultural commodities or farm products passes from a seller to a buyer.

Grain— corn, wheat, oats, rye, soybeans, barley, and grain sorghum.

Grain Dealer—any person who purchases agricultural commodities from producers, sells agricultural commodities for producers, or represents producers in the purchase or sale of agricultural commodities. The term does not include producers who purchase grain commodities for their own use as feed or seed.

Hedge (with respect to a contract to sell commodities)—a secondary contract to buy commodities to protect the obligations incurred with respect to the contract to sell. Hedge, with respect to a contract to buy commodities, means a secondary contract to sell commodities to protect the obligations incurred with respect to the contract to buy.

Identity Preserve—

1. instances in which a warehouse preserves the separate identities of different lots of agricultural commodities; or

2. instances in which a warehouse preserves the separate identities of agricultural commodities belonging to different owners.

Independent Certified Public Accountant—a person who has completed all requirements established by the American Institute of Certified Public Accountants and the state Society of Louisiana Certified Public Accountants. To be recognized as an independent public accountant, the accountant, members of his immediate family, and his accounting business associates shall be totally free of any obligation to or interest in the client, its management, or its owners.

Licensed Capacity—the warehouse area which is bonded for the storage of agricultural commodities or farm products belonging to a person other than the owner of the warehouse.

Licensee—any person holding a license as a warehouse, cotton merchant or grain dealer issued by the commission.

Open or *Open Position*—the grain dealer's contracts for purchase or sale of agricultural commodities which are unhedged.

Person—any individual, partnership, company, firm, association, corporation, cooperative association, or any other legal entity engaged in any of the activities regulated under R.S. 3:3401-3425.

Producer—the owner, tenant, lessee, or operator of land within this state who has an interest in or receives all or any part of the proceeds from the sale of agricultural commodities produced thereon.

Purchaser—any person who purchases rice from a producer under a bid contract.

Review (with respect to a financial statement)—a financial statement prepared by an independent certified public accountant, in the preparation of which financial statement the accountant makes such inquiries of management and performs such analyses and/or comparisons as may appear appropriate to the accountant.

Risk Position—the loss potential to the grain dealer resulting from bringing its open position to market.

Scale Ticket—the document issued to a producer when agricultural commodities are delivered to a warehouse or grain dealer.

Spot or *Spot Sale*—a transaction where title to agricultural commodities passes from the producer to the buyer on the day of delivery, in which transaction the producer is paid promptly at the market price established on the day of delivery.

Storage—the physical possession by a warehouse, in any manner and/or under any type of fee arrangement, of agricultural commodities belonging to any person other than the owner of the warehouse. The term storage does not apply to a transaction in which title passes from the seller to the buyer upon delivery.

Warehouse—any building, structure, or any other protected enclosure required to be licensed by the commission in which agricultural commodities or farm products are stored for the public for a fee. The term includes facilities which commingle commodities belonging to different owners and facilities which preserve the separate identities of different lots of agricultural commodities.

Warehouse Operator—any person or other entity operating a warehouse.

Warehouse Receipts—may be paper or electronic and may be negotiable or non-negotiable and are defined as follows.

1. *Non-Negotiable Warehouse Receipts*—written evidence of the deposit of agricultural commodities or farm products in a warehouse, which cannot be sold or traded by the holder and cannot be used to secure a loan.

2. *Negotiable Warehouse Receipts*—written evidence of the deposit of agricultural commodities or farm products in a warehouse, which can be sold or traded by the holder and can be used to secure a loan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3402 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agricultural, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:284 (May 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 12:287 (May 1986), LR 19:1300 (October 1993), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:624 (April 1998), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:494 (February 2011).

§103. Administration of the Affairs of the Commission

A. The officers of the commission shall be a chairman and a vice-chairman, who shall serve for terms concurrent with the commissioner, but may be elected for an indefinite number of terms.

B. After the initial election of officers, the chairman and vice-chairman shall be elected at the commission's regular meeting during the first quarter of each year.

C. In the absence of the chairman at any meeting of the commission, the vice-chairman shall preside.

D. The commission shall hold at least one regular meeting during each quarter of the year, but may meet more frequently upon the call of the chairman.

E. Meetings of the commission shall normally be held in its domicile but may be held at other locations upon the determination of the chairman or the will of the commission.

F. The quorum of the commission is five members.

G. An affirmative vote of a minimum of five members shall be required for the adoption of any motion.

H. There shall be no voting by proxy.

I. Rules and regulations of the commission, and amendments thereto, shall be noticed, adopted, and promulgated as required by the Louisiana Administrative Procedure Act.

J. The chairman shall designate a hearing officer, who may or may not be a member of the commission, to preside at all adjudicatory proceedings of the commission. The chairman may, if he so desires, serve as hearing officer at any adjudicatory proceeding.

K. The commission shall serve as the hearing body in all adjudicatory proceedings and shall make the final determination with regard to the disposition of all matters coming to adjudication.

L. The director shall provide clerical and other support services as may be required by the commission and shall maintain and distribute appropriate minute records of the commission.

M. No member of the commission shall participate in any discussion or vote concerning any matter before the commission in which such member has a personal or commercial interest.

N. No member of the commission or the staff shall disclose any financial information pertaining to any licensee or applicant for license.

O. The commission may, from time to time, delegate any of its responsibilities to subcommittees appointed by the chairman. Such subcommittees may perform such specific duties as may be assigned by the chairman but all actions of such subcommittees shall be subject to ratification by the full commission.

P. Appointed members of the commission shall be entitled to receive a per diem of $40 and to be reimbursed for mileage expenses in accordance with the same travel regulations applying to state employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agricultural, Agricultural Commodities Commission, LR 9:287 (May 1983), amended 12:287 (May 1986), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:624 (April 1998), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:494 (February 2011).

§105. Agricultural Commodities and Other Farm Products Regulated by the Commission

A. The following agricultural commodities shall be regulated by the commission at all times:

1. rice;

2. rough rice;

3. all agricultural commodities commonly classed as grain; including:

a. wheat;

b. corn;

c. oats;

d. rye;

e. soybeans;

f. barley;

g. grain sorghum;

4. cotton.

B. Whenever commission warehouse receipts are issued to cover any of the following agricultural commodities, the following agricultural commodities shall be regulated by the commission:

1. peppers;

2. oils (vegetables and mineral);

3. pecans;

4. molasses and/or syrup;

5. any canned and/or frozen vegetables/fruits/juices.

C. Commodities and farm products enumerated in §105.B of this Part shall be subject to all requirements set forth in the regulations contained in this Part whenever commission warehouse receipts are issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:288 (May 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1300 (October 1993), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:624 (April 1998), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:497 (February 2011).

Subchapter B. Application for Warehouse, Grain Dealer and Cotton Merchant Licenses

§107. Application for License (Initial and Renewal); Time for Filing; Contents; Fees; Style of Document

A. Applications for renewal of warehouse, cotton merchant and grain dealer licenses shall be received no later than April 30 of each year. Applications for initial license may be filed at any time during the year. For both initial and renewal licenses, the following information shall be furnished on the application form provided by the commission:

1. type of application:

a. warehouse;

b. grain dealer;

c. cotton merchant;

2. date of submission;

3. nature of application:

a. initial application;

b. renewal application;

4. nature of applicant's business:

a. sole proprietorship;

b. partnership;

c. corporation;

d. association;

e. agricultural cooperative;

f. other;

5. name under which the business will operate;

6. address of the principal office of the business, either in-state or out-of-state, including mailing address, physical location, and telephone number;

7. name of the person in charge (e.g., manager, warehouse operator, principal dealer, etc.) and his residence address and telephone number;

8. if a partnership, the names, addresses, and interests of all partners;

9. if a corporation, the names and addresses of all officers;

10. if an association, including an agricultural cooperative, the names and addresses of all members of the board of directors;

11. name and address of the owner of the business, if not shown under §107.A.7, 8, and 9 of this Part;

12. status of the facility in which the business will be operated:

a. owned by applicant;

b. leased by applicant (short term or long term);

c. rented by applicant and name and address of owner;

d. other;

13. type of agricultural commodities that the applicant will store or trade;

14. for all business locations to be operated under one license:

a. number of locations;

b. address of each location;

c. total capacity;

d. capacity of each location to be licensed, if different from total capacity;

e. name of person in charge of each facility;

15. bond status of the applicant:

a. amount of bond posted;

b. name and address of bonding company;

c. period for which bond written;

16. insurance of applicant:

a. amount of provisional stock insurance carried;

b. name and address of carrier;

c. term of policy;

d. physical address of each location covered by stock insurance;

17. names of all authorized agents;

18. a statement that the applicant will abide by the requirements of R.S. 3:3401-3425 and the regulations contained in this Part;

19. a certified statement that all representations contained in the application and in all required attachments are true and correct;

20. grain dealer applicants only:

a. name of person(s) on grain dealer's staff who is certified as a grain sampler and/or grader;

21. warehouse applicant only:

a. if utilizing paper warehouse receipts, three signature cards, on card forms provided by the commission, completed by each person listed as an authorized agent of the applicant, together with a resolution from the board of directors naming each person, other than the owner or president, whose name is listed as an authorized agent;

b. a copy of the warehouse's current schedule of tariffs or charges;

22. cotton merchant applicants only:

a. name and written notarized agency agreements of cotton agents buying cotton in the state;

23. grain dealers and cotton merchant applicants only:

a. aggregate amount paid to producers during applicant's most recent fiscal year;

24. application for acceptance into the self-insurance fund, if applicable.

B. For initial licensure under R.S. 3:3401-3425, each applicant shall provide a financial statement as of the close of the applicant's most recent fiscal year.

1. The financial statement shall be prepared by an accountant who is not a full-time employee of the applicant and who meets at least one of the following:

a. a certified public accountant;

b. a graduate of an accredited four-year college or university with a degree in accounting; or

c. has passed the examination administered by the National Society of Accountants.

2. The financial statement presented for initial licensure under R.S. 3:3401-3425 may be any of the following:

a. compilation;

b. review;

c. audited.

3. The financial statement shall contain:

a. a balance sheet;

b. a statement of income (profit and loss);

c. a statement of retained earnings;

d. a statement of changes in financial position;

e. a certificate by the applicant or the chief executive officer of the applicant, in the form of an authentic act, that the financial statement accurately reflects the financial condition of the applicant for the period covered in the financial statement;

f. whenever the certificate required under §107.B.3.e of this Part is executed by a representative of the applicant other than the owner or president, a resolution of the board of directors authorizing such representative to execute the certificate is required.

4. Multi-state and/or multi-national corporations with subsidiary divisions located in Louisiana shall either:

a. submit a fully audited financial statement showing the position of the parent company, together with sufficient financial information pertaining to the Louisiana subsidiary to reasonably reflect the corporation's ability to satisfy all obligations to Louisiana producers; or

b. pay all expenses necessary for performance of a full audit, at one or more locations where pertinent corporation records are maintained, by the department's Central Audit Committee.

5. The financial statement shall be prepared and signed by an accountant, as defined in §107.B of this Part, and shall be presented in accordance with generally accepted accounting principles.

a. Financial statements shall include contracts covering commodities which have not been delivered. Contracts covering commodities which have not been delivered to the licensee or applicant shall be brought to market in the financial statement. Contracts on commodities which have not been delivered to the licensee or applicant may be made a part of the financial statement by means of a footnote to the statement.

b. Fixed assets shall be presented at cost on financial statements.

6. Only one financial statement shall be required for a chain of warehouses covered by a single warehouse license.

C. Each licensee shall file a financial statement conforming to the requirements of §107.B of this Part within 90 days after the close of the licensee's fiscal year.

D. Each applicant shall also provide the following information, in addition to completing the required application form and providing a financial statement:

1. evidence of bond or alternate security which meets the requirements set forth in §115 of this Part (warehouse license applicants), §123.G of this Part (grain dealer license applicants) or R.S. 3:3411.1 (cotton merchant license applicants);

2. evidence of provisional stock insurance which meets the requirements set forth in §117 of this Part (warehouses) or §123 of this Part (grain dealers);

3. copy of Scale Ticket. Applicants who do not use scale tickets in their business operations shall certify to that effect in lieu of filing a scale ticket;

4. applicants who apply under corporate status shall provide evidence of compliance with Louisiana's Corporation Laws.

E. A fee of $200, as required by R.S. 3:3401-3425, shall accompany each application at the time of filing. This fee is non-refundable, whether or not the license is granted.

F. All licenses shall signify on the face the following information:

1. name and address of licensee;

2. if a cotton merchant or grain dealer, the location of the principal place of business;

3. if a warehouse, the licensed capacity of the location covered by the license;

4. amount of bond;

5. term of license.

G. Approved licenses shall be issued in the name of the commission and signed by the commissioner.

H. A late fee of $50 may be assessed per application per business day when the application is received after April 30.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405, R.S. 3:3408, R.S. 3:3409, R.S. 3:3410, R.S. 3:3411 and R.S. 3:3411.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:289 (May 1983), amended LR 10:75 (February 1984), LR 11:229 (March 1985), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 12:287 (May 1986), LR 19:1300 (October 1993), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:624 (April 1998), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:497 (February 2011).

§109. Grounds for Refusal to Issue or Renew a Warehouse, Cotton Merchant, or Grain Dealer License

A. The commission may refuse to issue or renew a warehouse, cotton merchant, or grain dealer license in any of the following circumstances:

1. the applicant cannot demonstrate to the satisfaction of the commission that he is competent to operate the business for which the license is sought;

2. the applicant cannot demonstrate a $100,000 net worth;

3. the applicant has failed to provide all of the information required in the application for licensure;

4. the applicant has previously refused to permit audit of his records;

5. the applicant has not or cannot secure the bond required by R.S. 3:3401-3425;

6. the applicant has not or cannot secure the insurance required by R.S. 3:3401-3425;

7. if an applicant for a warehouse license: the facilities in which the business will be operated are not suitable for storage of agricultural commodities;

8. if an applicant for a grain dealer license: the applicant has failed to hedge its obligations to producers as required by R.S. 3:3401-3425 and the rules contained in this Part.

B. Any cotton merchant, warehouse or grain dealer whose application for license is refused by the commission may appeal the decision of the commission under the Administrative Procedure Act or through the judicial process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and R.S. 3:3412.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:293 (May 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 12:287 (May 1986), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:625 (April 1998), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:499 (February 2011).

Subchapter C. Warehouse Licenses

§111. Requirements Applicable to All Warehouses

A. No person shall operate a warehouse subject to regulation under R.S. 3:3401-3425 unless licensed by the commission or under the U.S. Warehouse Act. The following types of warehouses are specifically defined as warehouses subject to regulation under R.S. 3:3401-3425:

1. any facility offering storage as defined in §101 of this Part;

2. any facility which issues state warehouse receipts covering agricultural commodities or farm products;

3. all field warehouses. The management organization operating a field warehouse shall secure a separate license for each location. Field warehouses shall be licensed in the same manner as any other warehouses and regulations governing other warehouses shall apply equally to field warehouses.

B. Warehouses licensed under the U.S. Warehouse Act are not required to submit the application required under R.S. 3401-3425 and are not subject to all other requirements of R.S. 3:3401-3425 unless licensed under the provisions of R.S. 3:3401-3425.

C. No warehouse, whether licensed under R.S. 3:3401-3425 or the U.S. Warehouse Act, shall buy or sell agricultural commodities for producers unless such warehouse is also licensed by the commission as a grain dealer.

D. A single business entity which operates warehouse facilities at more than one location may be covered by one license. In such instances, the applicant shall provide separate capacity and personnel information for each location but may submit a consolidated financial statement covering all locations.

E. When two or more businesses which are separate legal entities, even though owned and/or operated by the same individual or the same legal entity, are operated at one or more physical locations, each separate legal entity shall obtain a separate license.

F. Each license is personal to the holder thereof and may not be transferred or assigned to another for any purpose or any period of time.

G. Licenses issued by the commission shall be consecutively numbered and the number shall include a fiscal year designation.

H. All warehouse licenses issued by the commission shall expire on June 30 following the date of issue.

I. For initial and continuing licensure, the facility shall meet all requirements of §113 of this Part.

J. The warehouse shall meet all bonding and insurance requirements set forth in §§115 and 117 of this Part prior to issuance of the license. Failure to maintain the required bond and insurance in full force and effect for the license period shall subject the licensee to revocation of its license.

K. The person in charge of each warehouse unit shall possess the following qualifications:

1. be of legal age;

2. demonstrate the following:

a. knowledge of the practical facts of keeping accurate records regarding the storage of agricultural commodities;

b. knowledge of proper pest control and fumigation procedures.

L. Provisions Relative to the Schedule of Tariffs or Charges

1. Each warehouse shall file its current tariff with the commission for the commission's approval as to form.

2. Whenever there is any change in any warehouse's tariff, the new tariff shall be filed with the commission prior to implementation of any changes.

3. The director shall note on each warehouse's tariff the fact of its receipt by the commission. Upon the warehouse's receipt of the tariff bearing the director's notation, the warehouse shall post the copy bearing the director's signature in a conspicuous location at the warehouse.

4. Each tariff shall indicate whether charges are made on the basis of barrels, bushels, or hundredweights.

5. The tariff shall contain all fees routinely charged to depositors.

6. The tariffs or charges shall be the same for the same class of services to each customer of the warehouse.

M. Each warehouse shall maintain a daily inventory report on forms provided by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405, R.S. 3:3409, R.S. 3:3410 and R.S. 3:3420.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:294 (May 1983), amended LR 11:229 (March 1985), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1301 (October 1993), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:499 (February 2011).

§113. Standards for Approval of Facilities for Storage of Agricultural Commodities

A. The building shall be of sound construction, in good physical condition, and suitable for storage of the agricultural commodities to be stored therein.

B. The building shall be weathertight so as to protect the commodities stored in it from the elements at all times.

C. The building and the surroundings shall be reasonably clean and free of debris of any kind.

D. There shall be safe ingress and egress to all storage units.

E. Storage units having entrances more than 20 feet above ground or floor level shall be equipped with a safe and adequate lift or ladder.

F. All catwalks shall be equipped with railings, shall be structurally sound, and shall be kept free of all grain or other matter which might endanger human life.

G. The facility shall maintain reasonable provisions for rodent and insect control.

H. Commodities or farm products stored in containers rather than in bulk shall be separated by an aisle of sufficient width to permit passage for inspection.

I. When different agricultural commodities are stored in the same facility in bulk, the different commodities shall be separated by a substantial partition.

J. When a warehouse license covers more than one facility, each warehouse unit shall be designated by a number, beginning with the number 1, which number may

not be changed without the prior approval of the commission.

K. Each storage unit, building, bin, or compartment shall have painted thereon or securely affixed, in a conspicuous manner and location, an identifying number or letter, or both, which may not be changed without prior approval of the commission.

L. Bulk grain bins shall be numbered at all openings on top and also on or near all outlet valves underneath so as to be easily identified.

M. Each facility shall contain adequate and accurate weighing and sampling equipment. All scales in warehouses licensed by the commission are subject to examination by the Division of Weights and Measures of the department.

N. Special Requirements for Rice. Provisions for identification cards shall be securely attached to all bins and when commodities are placed under receipt, an identification card showing the following information shall be firmly attached to the bin boards:

1. the lot number;

2. whether the receipt is negotiable or non-negotiable;

3. the number of the receipt;

4. the name of the person or company to whom the receipt was issued;

5. the number of containers of commodities, if not in bulk, in the bin.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and R.S. 3:3409.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:296 (May 1983), amended LR 11:229 (March 1985), amended LR 11:229 (March 1985), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:500 (February 2011).

§115. Bond Required for Warehouse License; Provisions Relative to Licensed Capacities

A. Each applicant shall execute and file a bond, on bond forms provided by the commission, which bond shall be issued by a company authorized to do business in Louisiana prior to issuance of the license.

B. Each bond shall be conditioned upon:

1. the faithful performance of all duties and obligations to patrons of the warehouse; and

2. compliance with all requirements of R.S. 3:3401-3425 and the regulations contained in this Part.

C. The amount of the bond shall be established on the basis of the capacity of the warehouse to be licensed.

1. The commission shall establish capacity records for all licensed facilities. Whenever there is a discrepancy between the capacity claimed by the applicant and the commission's capacity figures for the applicant, the bond to be required shall be determined by the commission's capacity figures. A licensee may, however, appeal the decision of the commission whenever it disagrees with the capacity figures established by the commission for its facility.

2. All facilities which commingle agricultural commodities shall bond 100 percent of their available capacity, subject to the exemptions contained in §115.C.5 and 6 of this Part.

3. Facilities which store identity-preserved commodities may, with the prior approval of the commission, bond 75 percent of their available capacity. In such event, the amount of the bond shall be increased if commodities in storage exceed the licensed capacity.

4. All capacity under one roof shall be bonded.

5. Outside tanks which are used solely for storage of company-owned commodities are not required to be bonded.

6. Buildings which are used solely for storage of company-owned commodities are not required to be bonded.

D. The amount of the bond shall be as follows:

1. $0.20 per bushel for the first million bushels of licensed capacity—up to $200,000 for a licensed capacity of 2 million bushels;

2. plus $0.15 per bushel for the second million bushels of licensed capacity—a total of $350,000 for a facility with a licensed capacity of 2 million bushels;

3. plus $0.10 per bushel for all bushels over 2 million bushels up to 3.5 million bushels of licensed capacity—a maximum of an additional $150,000.

E. A minimum bond of $25,000 is required for all facilities of 125,000 bushels or less licensed capacity.

F. A maximum bond of $500,000 is required for all facilities of 3.5 million or more bushels of licensed capacity.

G. Each bond shall be written for a period of one year, beginning on July 1, or for such other period of time as the commission may require.

H. Each bond shall provide for at least 90 days written notice to the commission prior to cancellation.

I. Each bond is subject to final approval by the commission and shall be so approved prior to issuance of the license.

J. Provisions for Alternate Security in Lieu of the Required Bond

1. The commission may accept alternate security in lieu of the required bond in an amount equal to 100 percent of the required bond.

2. Alternate security may be offered only by:

a. pledging of certificates of deposit;

b. filing of an irrevocable letter of credit, which shall be non-cancelable for a period of one year;

c. securing a first mortgage on immovable property which is located in Louisiana and which has an appraised value of at least one hundred fifty percent of the amount of the bond. The appraisal shall be made by an independent appraiser jointly designated by the commission and the applicant. The applicant shall provide a title insurance policy issued by a company authorized to do business in Louisiana in the amount of the required bond with the commission being an insured under the policy. The applicant shall pay all fees involved in providing such security.

3. Alternate security is subject to the approval of the commission. Approval is required prior to issuance of a license.

4. All alternate security instruments shall be assigned to the commission and maintained in the commission's office in Baton Rouge. Holders of certificates of deposit will continue to draw the interest thereon.

5. Whenever any warehouse ceases to operate as a licensed warehouse, alternate security filed in lieu of the required bond shall be retained by the commission:

a. until public notice, as herein required, is made; and

b. until completion of a final audit, which final audit shall be completed in not more than 120 days. Public notice of the commission's intent to release alternate security shall be made by publication in a newspaper of general circulation in the area where the licensee is located, as follows:

i. if there is a daily newspaper in the area, such notice shall be published at least three times, beginning at least 15 days prior to the date on which the commission will release the alternate security;

ii. if there is no daily newspaper in the area, such notice shall be published in a weekly newspaper and shall be published once each week for the three weeks preceding the date on which the commission will release the alternate security.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and 3:3410.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:297 (May 1983), amended LR 10:75 (February 1984), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1301 (October 1993), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:500 (February 2011).

§117. Provisional Stock Insurance Required for Warehouse License

A. At all times, each warehouse shall carry sufficient provisional stock insurance to assure protection against fire and other disasters for all agricultural commodities in storage in an amount proportionate to the licensed capacity of the facility. Provisional stock insurance records are subject to examination by the commission during audit of the facility.

B. The provisional stock insurance shall be written for a period of at least one year by an insurance company authorized to do business in Louisiana and shall provide for 30 days written notice to the commission prior to cancellation.

C. A copy of the insurance policy or a certificate of insurance shall be filed with the commission prior to issuance of the license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and R.S. 3:3410.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:299 (May 1983), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:501 (February 2011).

§119. Amendment to License Required When Change of Status Occurs

A. The licensee shall give written notice to the commission within three days after any of the following occurs:

1. loss or damage to stored commodities or licensed facilities;

2. change of ownership of a licensed warehouse, including a change in the members of a partnership or in the officers of a corporation;

3. change in management personnel of a licensed warehouse;

4. change in the name of the business operating the facility;

5. any major structural change in the facility;

6. the termination of a lease covering a licensed facility;

7. change of business address;

8. filing of any legal action (except filing of suits for workmen's compensation) against the warehouse or the management personnel of the warehouse.

B. The licensee shall give prior written or oral notice to the commission before use of the facilities for the storage of any agricultural commodity not listed on the application and before any change in the licensed capacity of the facility (except a change resulting from fire or other actions outside the control of the warehouse).

C. Notice to the commission concerning a change in licensed capacity shall include:

1. name, address, and license number of the warehouse;

2. warehouse or warehouses affected by the change in capacity;

3. current licensed capacity of the affected facility(ies);

4. proposed new capacity (whether increased or decreased).

D. Whenever the licensed capacity of a facility changes, the bond required under §115 of this Part shall be changed within 45 days to conform to the new capacity. Failure to amend the bond as required herein will subject the licensee to revocation of its license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and R.S. 3:3410.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:299 (May 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1301 (October 1993), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:501 (February 2011).

Subchapter D. Grain Dealers

§123. Requirements Applicable to All Grain Dealers

A. No person shall buy and/or sell agricultural commodities for producers, or represent producers in the purchase or sale of agricultural commodities, unless licensed as a grain dealer by the commission.

B. No grain dealer may store agricultural commodities belonging to any other person unless such grain dealer is also licensed by the commission as a warehouse or licensed under the U.S. Warehouse Act.

C. A single business entity which operates grain dealerships at more than one location may be covered by one license. In such instances, the applicant shall provide separate personnel information for each location but may submit a consolidated financial statement covering all locations.

D. When two or more businesses which are separate legal entities, even though owned and/or operated by the same individual or the same legal entity, are operated at one or more physical locations, each separate entity shall obtain a separate license.

E. Each grain dealer license issued by the commission shall expire on June 30 following the date of issue.

F. The applicant shall be of legal age and shall be able to demonstrate knowledge of the practical facts of keeping accurate records regarding the trading of agricultural commodities.

G. The applicant shall execute and file a bond, on forms provided by the commission, which is written by a bonding company authorized to do business in Louisiana. The bond shall be in an amount of $50,000 and shall provide for 90 days written notice to the commission prior to cancellation. The bond shall be conditioned upon:

1. the faithful performance of all duties and obligations to producers; and

2. compliance with all requirements of R.S. 3:3401-3425 and the regulations contained in this Part. The bond is subject to the approval of the commission and shall be so approved prior to issuance of the license. Failure to keep the bond in full force and effect shall subject the grain dealer to suspension or revocation of its license.

H. The commission may accept alternate security in an amount of $50,000 in lieu of the required bond.

1. Alternate security may be offered only by:

a. pledging of certificates of deposit or other similar negotiable instruments; or

b. filing of an irrevocable letter of credit, which shall be non-cancelable for a period of one year; or

c. securing a first mortgage on immovable property which is located in Louisiana and which has an appraised value of at least 150 percent of the amount of the bond. The appraisal shall be made by an independent appraiser jointly designated by the commission and the applicant. The applicant shall provide a title insurance policy issued by a company authorized to do business in Louisiana in the amount of the required bond with the commission being an insured under the policy. The applicant shall pay all fees involved in providing such security.

2. All alternate security instruments shall be assigned to the commission and will be maintained in the commission's office in Baton Rouge. Holders of certificates of deposit will continue to draw interest thereon.

3. Whenever any grain dealer ceases to operate as a licensed grain dealer, alternate security filed in lieu of the required bond shall be retained by the commission:

a. until public notice, as herein required, is made; and

b. until completion of a final audit, which final audit shall be completed in not more than 120 days. Public notice of the commission's intent to release alternate security shall be made by publication in a newspaper of general circulation in the area where the licensee is located as follows:

i. if there is a daily newspaper in the area, such notice shall be published at least three times, beginning at least 15 days prior to the date on which the commission will release the alternate security;

ii. if there is no daily newspaper in the area, such notice shall be published in a weekly newspaper and shall be published once each week for the three weeks preceding the date on which the commission will release the alternate security.

4. Alternate security offered in lieu of the required bond is subject to the approval of the commission and shall be approved prior to issuance of the license.

I. The applicant shall demonstrate a net worth which is reasonably sufficient to assure its ability to meet its obligations to producers. The commission shall be the final judge of the sufficiency of each applicant's net worth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and R.S. 3:3411.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agricultural Commodities Commission, LR 9:301 (May 1983), amended LR 10:75 (February 1984), LR 12:287 (May 1986), LR 35:2311 (November 2009), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:502 (February 2011).

§125. Risk Position Requirements

A. Each grain dealer shall achieve and maintain a relatively even hedge position within no more than three business days after deposit of agricultural commodities by producer. Relatively even hedge position means that the grain dealer has entered into contracts to buy or sell commodities which are roughly equal in value to the amount of the dealer's outstanding obligations to producers.

B. Whenever a grain dealer's risk position is brought to market, its loss potential shall never exceed 30 percent of the grain dealer's current net worth. No grain dealer may maintain a risk position in excess of 30 percent of its current net worth, provided that the commission may specify a lower maximum risk position for any grain dealer in an amount having a reasonable relationship to that grain dealer's current net worth.

C. The commission may require a lower maximum risk position on any grain dealer by the following procedures.

1. The commission shall notify the grain dealer that a public hearing will be held, within five days after notice, to establish for such grain dealer a requirement that its risk position will be less than 30 percent of its current net worth.

2. The grain dealer may appear on its own behalf or may be represented by counsel at the hearing, and may show cause why such lower maximum risk position shall not be established for such grain dealer.

3. The commission may require the submission of interim financial statements in order to make a final determination with respect to establishment of a lower risk position requirement for such grain dealer.

4. The commission shall make a determination at the public hearing and shall establish an exact risk position as a percentage of current net worth for such grain dealer. Written notice of the lower risk position requirement shall be given by the director immediately following such public hearing.

D. Any grain dealer who does not adhere to the risk position requirement imposed for such grain dealer by the commission shall be subject to the penalties set forth in §149 of this Part.

E. Any grain dealer whose risk position is established by the commission at less than 30 percent of its net worth may request reconsideration of the established risk position whenever its financial position changes. Such request shall be made in writing, setting forth the reasons therefore, and the commission shall consider the request at the next regularly scheduled quarterly meeting following receipt of such request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and R.S. 3:3413.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:302 (May 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1301 (October 1993), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:503 (February 2011).

Subchapter E. Assessments and Fees

§127. Assessments: Amount, Time of Payment, Payment under Special Conditions

A. Assessments shall be due and payable from the producer at the first point of sale as defined in §101 of this Part.

B. Each grain dealer shall deduct the assessments set forth in this rule and in R.S. 3:3422 from the proceeds to be paid to producers at the time of sale of commodities.

C. Assessments on commodities normally weighed by hundredweight and on commodities normally weighed by bushels shall be as set forth in R.S. 3:3422. The weight of commodities normally weighed in barrels shall be converted to bushels by multiplying the barrel weight by 3.6.

D. Rates of Assessments

1. Assessments on regulated commodities listed in §105 of this Part shall be at rates comparable to the rates set forth in §127.E of this Part. The exact assessment on each commodity shall be promulgated in the *Louisiana Register* and when so promulgated shall remain in full force and effect until changed by subsequent promulgation in the *Louisiana Register*. Such assessments may be collected as soon as promulgated in the *Louisiana Register* and shall be collected in the same manner as the assessments listed in §127.C of this Part.

2. Rates of assessments to be levied at the first point of sale of agricultural commodities.

Rough Rice	$.01 per hundredweight
Corn	$0.007 per bushel
Soybeans	$0.007 per bushel
Oats	$0.007 per bushel
Sorghum	$0.007 per bushel
Wheat	$0.007 per bushel
Cotton	$0.10 per bale

3. All assessments collected by licensees of the commission shall be remitted to the commissioner, together with the report form required by the commission, no later than the fifteenth day of the month following the month in which the assessments are collected.

4. The above assessments shall remain in effect until changed by the commission.

E. Each cotton merchant, grain dealer and warehouse shall remit all assessments withheld from producers, or otherwise due under this rule, together with a report on the

form provided by the commission, to the commissioner no later than the fifteenth day of each month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and R.S. 3:3422.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:303 (May 1983), amended LR 9:459 (July 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1301 (October 1993), repromulgated LR 20:154 (February 1994), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:503 (February 2011).

§128. Fees: Amount, Time of Payment

A. Fees are due and payable upon the receipt of an invoice from the department. A late payment shall be assessed for all invoices paid after 30 days from the date of the invoice. The amount which shall be assessed shall be 10 percent of the outstanding balance.

B. Applicable fees shall be charged for each request for the department to provide official inspection service or weighing service.

C. Schedule of Fees

1. The regular hours shall be 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays and declared half-holidays. All hours worked, that are not regular hours, shall be considered as overtime. Legal holidays and half-holidays shall be those legal holidays designated by the legislature in R.S. 1:55(B) and any other time declared to be a holiday or half-holiday by the governor of Louisiana in accordance with R.S. 1:55.

2. The hourly rate shall be $26 per hour, including travel time. Overtime hours shall be billed at one and one-half times the hourly rate and shall be assessed in half-hour increments.

3. Mileage shall be billed at the IRS standard mileage rate and applicable hourly rate for actual miles traveled from nearest inspection point. Changes to the mileage rate shall be effective when the IRS changes their standard mileage rate.

4. Official Services (including sampling except as indicated)

Online D/T sampling inspection service (sampling, grading and certification), per regular hour	$26
Overtime hourly rate, per hour	$39
Unit Inspection Fees:	
Aflatoxin Testing, per sample	$30
Rail Car, per car	$20.50
Truck/Trailer, per carrier	$10
Barge, per 1,000 bushels	$2.60
Submitted sample inspection	$12.30
Re-inspection grain sample	$15
Rail Car (per sample)	$10.30
Truck/Trailer (per sample)	$5.30
Barge (per sample)	$25.30
Starlink TM (if applicant supplies kit), per test	$6
Starlink TM (if LDAF provides kit), per test	$12
Factor only determination, per factor (not to exceed full grade fee)	$5.20
Probe Sampling Barge (per barge)	$100
On-Line Sampling Barge (per hour)	$20

D. Moisture Meter Registration and Inspection Fee

1. A registration fee of $20 per meter and an inspection fee of $40 per meter to shall be paid by the owner or user of every moisture measuring device used or held for use at any commercial facility which receives, holds, dries, stores, mills, processes or otherwise deals in agricultural commodities in the state, when such use or intended use is for the purpose of determining discounts or other price variances in connection with the purchase or sale of such commodity, said Each moisture meter device shall be registered with the Louisiana Department of Agriculture and Forestry.

2. Registration shall be required on or before May 15 of each year or within five business days of acquisition of new or additional unregistered moisture measuring devices for the purpose set forth in Paragraph 1 of this Section. Registration forms shall be provided by the department and shall state the name and address of the commercial facility which owns or uses the device, the number of devices used and held for use, the brand name(s) of the device(s), and such other information as may be deemed necessary to carry out the provisions of this Subchapter.

3. A moisture measuring device shall be deemed defective when an inspector determines after an inspection and testing that:

a. the moisture measuring device varies in tolerance in excess of one-half of one per cent with the testing device used by the inspector; or

b. the commercial facility does not have available the latest charts and calibration data for the type of commodity being tested; or

c. the facility does not have available accurate and proper scales and thermometers for use in conjunction with the type of moisture measuring device being used.

4.a. A moisture measuring device which is determined to be defective and which the defect cannot be immediately corrected shall be tagged in such a manner as to warn the public that the device is not in compliance with the law.

b. Notice shall be conspicuously posted indicating that a moisture measuring device has been deemed defective and the percentage by which the device has been determined to be out of tolerance.

5. Moisture measuring devices which have been registered and inspected and which have not been found defective shall bear an official tag or sticker from the department, placed on the devices by the inspector in such a manner as to be readily visible, bearing the year of inspection. Such tags or stickers shall be nontransferable.

6. All non-National Type Evaluation Program (NTEP) approved moisture measuring devices registered prior to

May 15, 2010 shall be deemed suitable for use. In the event a non-NTEP moisture measuring device is deemed defective after May 15, 2010, it shall be taken out of service and replaced with an NTEP approved device.

7. Notwithstanding §128.D of this Part, all moisture measuring devices shall be NTEP approved devices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405, R.S. 3:3414.3 and R.S. 3:3422.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 12:287 (May 1986), amended LR 14:528 (August 1988), LR 19:889 (July 1993), LR 23:196 (February 1997), LR 27:815 (June 2001), amended by the Department of Agriculture and Forestry, Office of the Commissioner, Agricultural Commodities Commission, LR 30:197 (February 2004), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:504 (February 2011).

Subchapter F. Scale Tickets

§129. Scale Tickets: Filing, Contents, Maintenance in Records

A. Immediately upon deposit with a licensed warehouse or a licensed grain dealer of any agricultural commodity or farm product regulated under R.S. 3:3401-3425, the warehouse or grain dealer shall issue a scale ticket to the depositor which conforms to the requirements of this rule. Warehouses licensed under the U.S. Warehouse Act may use scale tickets approved by the federal licensing agency.

B. Each scale ticket shall contain the following information:

1. name and location of the licensed warehouse or grain dealer;

2. name and other information sufficient to identify the owner of the agricultural commodities or farm products;

3. the type, quantity, and grade (or applicable grade factors) necessary to determine the net value of the commodity received;

4. date the commodity was deposited in the warehouse or grain dealer's custody;

5. one of the following, as appropriate:

a. if the commodity is deposited on a spot basis, the words spot or spot sale, and when so marked the scale ticket shall serve as written confirmation of the sale;

b. if the commodity is deposited for any type of storage, including open storage, the word storage;

c. if the commodity is deposited for contract, the word contract;

6. such other terms as may be agreed upon between the depositor and the warehouse operator or grain dealer.

C. Scale tickets shall be sequentially pre-numbered and shall be issued to depositors in numerical order. Different scale ticket books may be used for different scales.

D. Each scale ticket shall consist of an original and at least one copy. The original or a copy of the scale ticket shall be maintained in numerical order in the licensee's records and shall be available for examination by the commission at all times.

E. Whenever a scale ticket is voided, all copies shall be so marked, dated, and signed by an authorized agent of the warehouse or grain dealer, and all copies of the voided scale ticket shall be maintained in the warehouse or grain dealer's records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and R.S. 3:3415, R.S. 3:3419.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agricultural Commodities Commission, LR 9:304 (May 1983), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:504 (February 2011).

Subchapter G. Warehouse Receipts

§131. Warehouse Receipts: Completion; Issuance; Open Storage; Cessation of Business; Other Applicable Laws; Cancellation of Receipts; Company-Owned Commodities; Form of Non-negotiable Receipts

A. A licensee may issue warehouse receipts by use of a paper warehouse receipt system, an electronic warehouse receipt system, or both.

B. Except as herein provided, all warehouses shall use paper or electronic sequentially numbered warehouse receipts.

C. Warehouses licensed under the U.S. Warehouse Act may use receipt forms approved by the federal licensing agency.

D. Issuance of Receipts

1. Each warehouse shall, on demand, issue a warehouse receipt for stored agricultural commodities or farm products.

2. No warehouse shall issue a warehouse receipt covering commodities which are already covered by an outstanding and uncanceled warehouse receipt, except as provided by §133.D of this Part.

3. No warehouse may issue a warehouse receipt covering commodities which are not actually stored in the warehouse.

E. All spaces on the warehouse receipt shall be filled in with appropriate information or crossed out (xxxxx).

F. Warehouse receipts may be signed only by authorized agents of the warehouse.

G. Open Storage

1. A warehouse which has commodities under open storage shall, in all cases when such commodities are not physically stored in its facilities (i.e., forwarded), be able to produce or secure a warehouse receipt from the warehouse

to which such commodities were forwarded. The physical whereabouts of all agricultural commodities in open storage are subject to verification by the commission.

H. Delivery of Commodities Covered by Warehouse Receipt or Scale Ticket Marked for Storage

1. The holder of a warehouse receipt or a scale ticket marked for storage may request delivery of the agricultural commodities, or any portion thereof, at any time.

2. When the depositor of agricultural commodities removes such commodities from storage, the warehouse shall deliver to the depositor commodities of the same quantity and grade as designated on the warehouse receipt or scale ticket marked for storage.

3. The warehouse shall, without unnecessary delay, deliver any agricultural commodities or farm products stored therein upon demand by the holder of a warehouse receipt or scale ticket marked for storage upon the following conditions:

a. full payment of all amounts owed to the warehouse;

b. surrender of the warehouse receipt, if negotiable, for cancellation.

I. Cancellation of Warehouse Receipt

1. When commodities or farm products are removed from storage, the warehouse shall promptly and plainly cancel the warehouse receipt covering such commodities or farm products.

2. No warehouse receipt shall be canceled unless:

a. the commodities have been removed from storage, by sale or otherwise; or

b. a new warehouse receipt has been issued to replace a lost or destroyed warehouse receipt, as provided under §133.D of this Part.

J. Warehouse Receipt on Company-Owned Commodities

1. A warehouse may issue and hold a warehouse receipt for commodities which are company-owned, in whole or in part, and stored in the warehouse, provided that such warehouse receipts are subject to all requirements of the regulations contained in this Part.

K. Non-Negotiable Warehouse Receipts

1. Each person to whom a non-negotiable warehouse receipt is issued shall furnish the warehouse with a written statement naming persons having power to authorize delivery of the commodity covered by the non-negotiable warehouse receipt, together with a bona fide signature of such person. The warehouse shall not release the commodity except to persons so authorized by the owner of the commodities or farm products.

2. The warehouse may release a portion of the commodities or farm products covered by a non-negotiable warehouse receipt, upon presentation of authorization as above required, but may not release all of the commodities covered by a non-negotiable warehouse receipt until such time as the non-negotiable warehouse receipt is returned and canceled.

L. Cessation of Business

1. Whenever any warehouse ceases to operate as a licensed warehouse, for any reason, the warehouse shall satisfy all outstanding obligations to producers and all outstanding warehouse receipts shall be canceled. The requirement for cancellation does not, however, apply when the warehouse is unable, for any reason, to satisfy obligations to producers.

M. Other Applicable Laws

1. In any circumstances surrounding the issuance of warehouse receipts which are not covered by R.S. 3:3401-3425 or the regulations contained in this Part, Chapter 7 of Title 10 of the Louisiana Revised Statutes of 1950 shall control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405, R.S. 3:3416, R.S. 3:3417 and R.S. 3:3418.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:305 (May 1983), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:505 (February 2011).

§133. Paper Warehouse Receipts: Required Form; Issuance; Partial Delivery; Duplicate Receipts; Non-Negotiable Receipts

A. Except as herein provided, all paper warehouse receipts shall only be sequentially pre-numbered warehouse receipts on forms furnished by the commission.

B. Agents of the commission shall note the issuance of all partial releases, by number of each such partial release, on the original receipt.

C. Whenever a warehouse receipt is voided, all copies shall be so marked, dated, and signed by an authorized agent of the warehouse; the green and yellow copies of the voided receipt shall be maintained in proper sequence in the warehouse's receipt records and the pink copy shall be mailed to the commission on the day voided.

D. Issuance of Duplicate Negotiable Warehouse Receipt

1. If a negotiable warehouse receipt is lost or destroyed, the warehouse shall notify the commission of such loss or destruction prior to issuance of a duplicate warehouse receipt. A duplicate warehouse receipt replacing a lost or destroyed negotiable warehouse receipt may be issued by the warehouse only upon the written authorization of the commission.

2. Before authorizing issuance of a duplicate negotiable warehouse receipt, the commission shall require that the person applying for authority to issue the duplicate warehouse receipt shall file with the commission a notarized statement that:

a. the applicant is lawfully entitled to possession of the duplicate warehouse receipt;

b. the applicant has not negotiated or assigned the lost or destroyed warehouse receipt; and

c. reports how the original was lost or destroyed.

3. A duplicate negotiable warehouse receipt issued to replace a lost or destroyed receipt shall:

a. be marked duplicate;

b. be distributed as required under §131.C of this Part;

c. contain the same terms and conditions as the lost or destroyed warehouse receipt; and

d. bear on its face the number and date of the warehouse receipt which it replaces.

4. The warehouse shall retain both the green and the yellow copies of canceled warehouse receipts in numerical order in the warehouse records for a period of at least three years after date of cancellation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405, R.S. 3:3416, R.S. 3:3417 and R.S. 3:3418.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:306 (May 1983), amended LR 11:229 (March 1985), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1302 (October 1993), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:506 (February 2011).

§134. Electronic Warehouse Receipts (EWR): Validity; Format; Issuance; Rights and Obligations; Printing; Records Retained; Duplicates

A. The issuance and transfer of warehouse receipts in electronic form are specifically authorized by this Part. Any such warehouse receipts shall have the same validity and enforceability, for all purposes, as those in paper form.

B. An EWR shall be in the format prescribed in the applicable provider agreement.

C. An EWR issued in accordance with the R.S. 3:3401-3425 shall not be denied legal effect, validity, or enforceability on the grounds that the information is generated, sent, received or stored by electronic or similar means.

D. A warehouse shall not be required to issue a warehouse receipt in electronic form.

E. If a warehouse licensed under R.S. 3:3401-3425 elects to issue EWRs, and if the depositor or other holder prefers a paper receipt, the warehouse shall cancel the EWR and issue a paper receipt.

F. A warehouse operator intending to issue or issuing EWRs under the R.S. 3:3401-3425 shall:

1. issue an EWR through only one authorized provider annually;

2. inform the department of the identity of its provider 60 calendar days in advance of first issuing an EWR through that provider. The department may waive or modify this 60-day requirement;

3. before issuing an EWR, request and receive from the department a range of consecutive warehouse receipt numbers that the warehouse will use consecutively for issuing their EWRs;

4. cancel an EWR only when it is the holder of the EWR;

5. receive written authorization from the department at least 30 calendar days before changing providers. Upon authorization, a warehouse may request its current provider to transfer, and that provider shall transfer, its EWR data from the current provider's CFS to the CFS of the authorized provider it selects;

6. notify all holders of EWRs in the CFS at least 30 calendar days before changing providers, unless otherwise allowed or required by FSA; and

7. for purposes of §134.F.4 of this Part, the warehouse is considered a "holder" solely for the purpose of canceling an electronic warehouse receipt on the electronic warehouse receipt system and the warehouse shall in no way be considered the owner of the grain that was covered by the canceled electronic warehouse receipt, absent evidence of sale of that grain to the warehouse.

G. EWR Rights and Obligations. An EWR establishes the same rights and obligations with respect to an agricultural product as a paper warehouse receipt and possesses the following attributes.

1. The holder of an EWR will be entitled to the same rights and privileges as the holders of a paper warehouse receipt.

2. Only the current holder of the EWR may transfer the EWR to a new holder.

3. The identity of the holder shall be kept confidential by the provider.

4. Only one person may be designated as the holder of an EWR at any one time.

5. A warehouse operator may not issue an EWR on a specific identity-preserved or commingled lot of grain or any portion thereof while another valid warehouse receipt representing the same specific identity-preserved or commingled lot of grain remains not canceled. No two warehouse receipts issued by a warehouse may have the same warehouse receipt number or represent the same lot of grain.

6. Holders and warehouse operators may authorize any other user of their provider to act on their behalf with respect to their activities with this provider. This authorization shall be in writing and acknowledged and retained by the warehouse and provider.

H. Printing

1. Electronic warehouse receipts may be printed by a person authorized by the department. The department shall authorize persons to print warehouse receipts if they are printed in accordance with R.S. 3:3401-3425 and the regulations contained in this Part.

2. All electronic warehouse receipts shall be:

a. printed only for licensee;

b. numbered consecutively either at the time of printing or through the control of a computer generated system, and the numbers shall not be duplicated.

I. A complete record of receipts printed shall be retained by the person printing them for five years, showing for whom printed, the number printed, and the consecutive numbers that were printed on the receipts.

J. A duplicate copy of any invoice rendered for printing warehouse receipts shall be forwarded by the person printing them to the department at the same time as billing is made to the warehouse. The invoice shall show for whom printed, the consecutive numbers that were printed on the receipts, type of receipt (whether negotiable or non-negotiable), and number of receipts printed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405, R.S. 3:3416, R.S. 3:3417 and R.S. 3:3418.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 37:506 (February 2011).

Subchapter H. Grading; Sampling; Out-of-Condition Commodities

§135. Elevators: Official Grades and Sampling

A. All agricultural commodities shall be graded and sampled in accordance with official USDA grading standards, as detailed in The Official United States Standards for Grain handbook.

B. Procedures that result in equivalent results to USDA procedures are acceptable.

C. Requirements for Certification as an Elevator Grain Sampler and/or Grader

1. All persons interested in being certified to grade or sample grain for an elevator shall submit an application on a form which shall be provided by the commission.

2. All applicants shall pass an examination which shall be given by the department. The examination fee shall be $5 and shall be submitted with the application. If the applicant successfully completes the examination, he will be required to pay a $25 fee in order to be certified.

3. Each person that has been certified and whose certification has not been revoked or suspended may renew that certification by submitting an application to renew with a fee of $25.

4. All certifications shall expire on December 31 of each year and shall be renewed annually.

D. One elevator representative may be certified as grader and sampler as long as the representative is responsible for subordinate graders and samplers.

E. The commission shall be required to provide each grain dealer with a copy of all changes to USDA standards prior to the effective date of such changes.

AUTHORITY NOTE: Promulgated in accordance with R.S.3:3405 and R.S. 3:3414.3

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:309 (May 1983), amended LR 12:288 (May 1986), amended LR 12:288 (May 1986), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:507 (February 2011)

§136. State Official Grain Inspections

A. Standards established in *Regulations Under the United States Grain Standard Act, As Amended*, USDA, Federal Grain Inspection Service (CFR, Title 7, Chapter VIII, Pt. 800 (Section 800.0 to 800.219), 801 (Section 801.1-801.12), 802 (Section 802.0 to 802.13), and 810 (Section 810.201 to 810.555), shall apply to all Department of Agriculture and Forestry grain inspections.

AUTHORITY NOTE: Promulgated in accordance with R.S.3:3405 and R.S. 3:3414.3.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 12:288 (May 1986), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:507 (February 2011).

§137. Out-of-Condition Commodities

A. If a warehouse operator has reason to believe that any identity-preserved commodities are out-of-condition, or are becoming out-of-condition, he shall give immediate notice of such fact to the director of the commission and to the owner of the commodities.

B. The director shall immediately send a representative to the warehouse to determine whether out-of-condition commodities shall be cleaned, at the cost of the warehouse, or disposed of as the law permits and the circumstances require.

C. The storer of such commodities shall notify the warehouse operator, within 24 hours after receipt of notice, of the disposition to be made of such commodities. If the storer of the commodities fails to make such notice to the warehouse operator, the warehouse operator may dispose of the commodities as authorized by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:309 (May 1983), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:507 (February 2011).

Subchapter I. Records and Reports

§141. Records Required to be Maintained

A. Each grain dealer, cotton merchant and warehouse shall maintain the following records, when applicable to the commodity stored or traded, on a current basis in the company's principal office in this state at all times:

1. current financial statement;

2. bank statements;

3. bank reconciliations;

4. broker's statements;

5. current listing of unpriced commodities;

6. sequential record of all scale tickets;

7. sequential record of all warehouse receipts;

8. settlement or distribution sheets;

9. weight sheets;

10. perpetual inventory record;

11. insurance file, including copies of monthly reports to the carrier;

12. record of all assessments collected and remitted;

13. copies of all outstanding contracts;

14. copies of all outstanding notes and mortgages affecting the business;

15. a sample of each lot of grain which contains damage in excess of 7 1/2 percent shall be:

a. maintained for five days from the original grade date; and

b. maintained in separate containers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405, R.S. 3:3419 and R.S. 3:3414.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:309 (May 1983), amended LR 12:288 (May 1986), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:625 (April 1998), LR 35:2311 (November 2009), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:508 (February 2011).

§143. Reports Required

A. Each cotton merchant, grain dealer and warehouse shall file a report of assessments collected from producers, on the form provided by the commission, and remit such assessments to the commissioner no later than the fifteenth day of each month. The assessment report shall be filed each month whether or not any assessments were collected during the month.

B. No later than the fifteenth day of each month, each warehouse shall file a copy of his daily inventory report for the preceding month with the commission.

1. The reports shall be filed on forms provided by the commission.

2. The commission may accept computer print-outs containing the same information as required by the commission's form.

3. The commission may accept any report in substantially the same form which is prepared as a result of any federal requirement in lieu of the report on the commission's form.

C. Subsequent to initial licensure under R.S. 3:3401-3425, each cotton merchant, grain dealer and warehouse shall file a financial statement, containing all of the information required under §107.B of this Part, no later than 90 days after the last day of the warehouse's or grain dealer's fiscal year.

D. Each cotton merchant, grain dealer and warehouse shall file such unaudited financial statements as and when required by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405, R.S. 3:3:3419 and R.S. 3:3422.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:310 (May 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1302 (October 1993), LR 35:2311 (November 2009), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:508 (February 2011).

Subchapter J. Access Requirements

§145. Access Requirements

A. Each licensee shall permit any officer or authorized representative of the commission or the commissioner to enter all locations listed on the application for license and inspect, examine, and/or audit all contents, facilities, equipment, records, books, accounts, samples, and grading and sampling practices relating thereto at any time during normal working hours, with or without notice.

B. The warehouse operator, cotton merchant, or grain dealer shall provide the necessary assistance required for any inspection, examination, and/or audit made in accordance with R.S. 3:3401-3425.

C. Each licensee having physical custody of commodities shall permit any authorized representative of the commission or the commissioner to sample commodities at any time during normal business hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405, R.S. 3:3414.3 and R.S. 3:3419.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:310 (May 1983), amended LR 12:288 (May 1986), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:625 (April 1998), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:508 (February 2011).

Subchapter K. Posting Requirements

§147. Posting Requirements

A. Each grain dealer and cotton merchant shall post its original license issued by the commission in a conspicuous location at its principal place of business. A copy of the license shall be posted at all other locations covered by the license.

B. Each warehouse location shall post its original license issued by the commission so that it is clearly visible at the main entrance to the warehouse. When only a portion of a location is licensed by the commission, that portion licensed by the commission shall be clearly marked.

C. The warehouse schedule of tariffs or charges shall be posted in a conspicuous location at each location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405, R.S. 3:3409, R.S. 3:3411 and R.S. 3:3420.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:311 (May 1983), amended LR 11:229 (March 1985), LR 12:287 (May 1986), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:508 (February 2011).

Subchapter L. Suspension/Revocation of License; Other Penalties

§149. Adjudication Required Prior to Suspension/Revocation of License or Imposition of Other Penalties; Amount of Penalties; Surrender of License

A. Whenever the chairman has any reason to believe that a violation of R.S. 3:3401-3425 or the regulations contained in this Part has occurred, he shall call a meeting of the commission for the purpose of conducting an adjudicatory hearing to make a determination with respect to the suspected violation.

B. Upon any directive of the chairman, the director shall give written notice to the person suspected of the violation, such notice to comply with the requirements of the Administrative Procedure Act, at least five days prior to the date set for such adjudicatory hearing.

C. At any such adjudicatory hearing, the person suspected of a violation of R.S. 3:3401-3425 or the regulations contained in this Part shall be accorded all of the rights set forth in the Administrative Procedure Act.

D. The commission may suspend or revoke a license for any of the grounds set forth in §109 of this Part, or any other violation of R.S. 3:3401-3425 or the regulations contained in this Part, whenever proof thereof is made at any adjudicatory proceeding noticed and conducted as required by the Administrative Procedure Act.

E. Whenever the commission makes a determination at an adjudicatory hearing that any violation of R.S. 3:3401-3425 or the regulations contained in this Part has occurred, the commission may:

1. suspend or revoke the license;

2. impose a monetary fine;

3. place licensee on probation.

F. Any suspension of a license shall be for a definite period of time and the licensee shall be informed in writing of the period of suspension.

G. The commission may impose a penalty of up to $1,000 for each violation of R.S. 3:3401-3425 or the regulations contained in this Part which is proven in an adjudicatory hearing.

H. Each separate day on which a violation occurs shall be considered a separate violation.

I. Whenever the commission suspends or revokes a warehouse, cotton merchant, or grain dealer license, the former licensee shall immediately surrender the original and all copies of the license.

J. No person whose license has been suspended or revoked may engage in any of the activities regulated under R.S. 3:3401-3425.

K. Any licensee may appeal any action taken by the commission to suspend/revoke a license or impose a monetary penalty by either:

1. applying for a rehearing under the procedures provided in the Administrative Procedure Act; or

2. applying for judicial review of the commission's determination, under either the Administrative Procedure Act or other applicable laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405, R.S. 3:3410, R.S. 3:3411, R.S. 3:3417 and R.S. 3:3424.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:311 (May 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 12:288 (May 1986), LR 19:1303 (October 1993), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:625 (April 1998), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:509 (February 2011).

Subchapter M. Schedule of Inspections; Voluntary Inspection

§151. Inspection of Physical Facilities and Contents; Schedule

A. A complete inspection of the physical facilities and the contents thereof shall be made of each licensee at least once during each license period, but may be made more frequently. Such inspection of facilities and contents may or may not be made in conjunction with an audit of the licensee's books and records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and R.S. 3:3406.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural

Commodities Commission, LR 9:312 (May 1983), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:509 (February 2011).

§153. Voluntary Inspection Service

A. Warehouses which require more frequent inspection and verification of contents, for whatever reason, may secure such services by making an application to the commission.

B. Voluntary inspection of facilities and contents, and verification thereof, on a schedule which shall be mutually agreed upon between the warehouse applying for voluntary inspection services and the commissioner, shall be made for a fee of $0.01 per hundredweight for commodities normally weighed by hundredweight, $.007 per bushel (or barrel weight converted to bushels as provided by R.S. 3:3422 and §127.C of this Part) for commodities normally weighed by bushel, or such other fee as may be promulgated by the commission as an assessment fee on other agricultural commodities or farm products.

C. The fee for voluntary inspection services shall be due and payable within 15 days after each inspection is completed.

D. The total fee for each voluntary inspection of facilities and contents shall be determined by multiplying the total amount of commodities under warehouse receipt at the time of voluntary inspection services times the fee set forth in §153.B of this Part.

E. The minimum inspection fee applicable to voluntary inspection services, when performed for any licensee of the commission, shall be $100.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and R.S. 3:3422.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:312 (May 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1303 (October 1993), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:509 (February 2011).

Subchapter N. Exemptions

§155. Exemptions

A. The regulations contained in this Part shall not apply to the following:

1. cold storage facilities;

2. facilities which store only commodities which are imported from outside the boundaries of the continental United States;

3. seed dealers licensed under R.S. 3:1431 et seq., who store seed for producers, which is identifiable on the bag and in the seed dealer's records as to the owner thereof, but who do not engage in any other activities regulated under R.S. 3:3401-3425. This exemption does not apply to seed dealers who issue warehouse receipts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3425 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:313 (May 1983), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:510 (February 2011).

§157. Prompt Payment for Rice

A. Each purchaser shall take possession of the rice which is the subject of the bid contract no later than the twentieth day after the confirmation date unless the producer and the purchaser agree in writing that the purchaser shall take possession of the rice on a different date.

B. If the purchaser does not take possession of the rice on or before the delivery date, the purchaser shall pay all storage and related charges for the storage of the rice after the delivery date.

C. Each purchaser shall pay for the rice purchased from each producer under a bid contract no later that the tenth calendar day after the delivery date.

D. If the purchaser does not make payment as required in Subsection E, the purchaser shall pay the producer interest on the purchase price at the legal rate of interest as established in Civil Code Article 2924.

E. The provisions of this Subchapter shall apply to each transaction in which a purchaser buys rice from a producer under a bid contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3414.2 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 12:288 (May 1986).

§161. Agricultural Commodities Commission; Self-Insurance Fund

A. The commission has promulgated regulations governing the self-insurance fund which may be found in Chapter 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agriculture Commodities Commission, LR 19:1303 (October 1993).

Subchapter O. Grain and Cotton Indemnity Fund

§191. Creation

A. The Grain and Cotton Indemnity Fund is hereby created pursuant to R.S. 3:3410.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 35:629 (April 2009), amended by the Department of Agriculture and Forestry,

Agricultural Commodities Commission, LR 37:510 (February 2011).

§193. Definitions

A. The following words and terms are defined for purposes of this Subchapter and supplement the words and terms defined in §101 of this Part.

Claimant—a producer, as defined in §101 of this Part.

Fund—the Grain and Cotton Indemnity Fund.

Insolvency—the inability of a licensee to meet debts or discharge liabilities.

Licensee—for purposes of this Subchapter only, a *Licensee* is a cotton merchant as defined in R.S. 3:3402(6) or a grain dealer as defined in R.S. 3:3402(10).

Value of Commodity—the quoted price plus or minus premiums or discounts such as moisture and quality factors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 35:629 (April 2009), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:510 (February 2011).

§195. Purpose

A. Upon the insolvency of a licensee, the fund shall be used to reimburse a producer who has not otherwise been fully compensated for grain or cotton sold to the licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 35:629 (April 2009), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:510 (February 2011).

§197. Assessments

A. The commission shall charge an assessment at the rate of 1/25 of one percent on the value of all agricultural commodities regulated under this Chapter which are purchased by grain dealers and cotton merchants licensed in this state.

B. The assessments shall be levied only on commodities which are grown in Louisiana and that are regulated by the commission.

C. The assessments shall be due and payable to the commission by the licensee at the first point of sale, except as otherwise provided for under §199 of this Part.

D. The assessments shall be due to the commission on a monthly basis.

E. Each grain dealer and cotton merchant shall send a completed copy of the Louisiana Grain and Cotton Indemnity Fund Monthly Assessment Report (supplied by the commission) and assessment to the commission by the fifteenth of each month for the preceding month.

F. In the event no assessments are collected by the licensee, the licensee shall still submit a report each month to the commission on the approved form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 35:629 (April 2009), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:510 (February 2011).

§199. Cotton Merchants Operating on a Cooperative Basis

A. Cotton merchants operating on a cooperative basis shall pay the assessment rate of 1/25 of one percent of the value of the commodity at the time of each payment, including any initial advance payment, progress payments and final payment to its members as proceeds of the crop.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 35:629 (April 2009), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:510 (February 2011).

§201. Claim Provisions

A. The monies in the Grain and Cotton Indemnity Fund shall be used solely for the administration and operation of the fund.

B. Any claimant who wishes to assert a claim shall provide, under oath, written and notarized proof of a loss covered by this fund within 60 days of the loss.

C. A written claim shall include all of the following information:

1. name and address of claimant;

2. name of the licensee against whom claimant is asserting a loss;

3. nature of the relationship and transaction between claimant and licensee;

4. the date of the loss which shall be defined as the date on which the claimant knew or should have known that a loss had occurred;

5. the amount of the loss and how calculated;

6. a concise explanation of the circumstances that precipitated the loss;

7. copies of those documents relied upon by claimant as proof of said loss.

D. Failure to furnish such proof of loss within the required time shall not invalidate nor reduce the claim if it was not reasonably possible to give proof within such time, provided such proof is furnished as soon as reasonably possible.

E. Upon receipt of a proof of loss, the commission shall review the claim to determine whether it is covered under the program. The burden of proof to establish the loss shall be upon the claimant.

F. Once proof of loss has been filed against a licensee, the commission may make a complete inspection of the licensee's physical facilities and the contents thereof, as well as an examination of all books and records of the licensee and/or claimant, subject to the confidentially requirements of R.S. 3:3421.

G. Once proof of loss has been filed against a licensee, any other claimants alleging a loss caused by said licensee shall have a period of 60 days within which to post and thereby file a written claim.

H. The said 60 day period shall begin to run upon publication by the commission of the notice of claim in the official local journal for legal notices, or the print publication with the highest circulation in the area serviced by the licensee.

I. If claims for indemnity payments from the fund exceed the amount in the fund, the commission shall prorate the claims and pay the prorated amounts. As future assessments are collected, the commission shall continue to forward indemnity payments to each eligible person until the person receives the maximum amount payable in accordance with this Subchapter.

J. Distributions from the fund shall be made on a periodic basis as deemed necessary by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 35:630 (April 2009), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:510 (February 2011).

§203. Distribution of Funds for Claims from Prior Insolvency

A. Any claimant who wishes to assert a claim against a licensee who became or becomes insolvent after January 1, 2008, but before the promulgation of these rules shall provide, under oath, written and notarized proof of a loss covered by this fund within 30 days of notification of claim process.

B. A written claim shall include all of the following information:

1. name and address of claimant;

2. name of the licensee against whom claimant is asserting a loss;

3. nature of the relationship and transaction between claimant and licensee;

4. the date of the loss which shall be defined as the date on which the claimant knew or should have known that a loss had occurred;

5. the amount of the loss and how calculated;

6. a concise explanation of the circumstances that precipitated the loss;

7. copies of those documents relied upon by claimant as proof of said loss.

C. Upon receipt of proof of loss, the commission shall review the claim to determine whether it is covered under the program. The burden of proof to establish the loss shall be upon the claimant.

D. The said 30 day period shall begin to run upon publication by the commission of the notice of claim process in the official local journal for legal notices or the print publication with the highest circulation in the area serviced by the licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 35:630 (April 2009), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:511 (February 2011).

§205. Appeal Procedure

A. Any decision of the commission to deny or grant a claim for payment from the fund may be appealed to the commission by the licensee or claimant by seeking an adjudicatory hearing to have said decision reconsidered by the commission in accordance with Chapter 13 of Title 49 of the Louisiana Revised Statutes, as well as all subsequent appeals therefrom, provided said appellant files with the commission a written notice of appeal within 30 days of the mailing of the decision of the commission to the affected party.

B. The notice of appeal shall contain an expressed statement of each and every basis upon which said appeal is sought and the hearing to consider same shall be limited accordingly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 35:630 (April 2009), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:511 (February 2011).

§207. Subrogation

A. When a claim is paid by the commission from the fund, the claimant, by accepting said payment, subrogates his rights to the commission up to the full amount of payment.

B. Any recovery for reimbursement to the fund shall include interest computed at the U.S. Treasury two-year note coupon rate as published in the Wall Street Journal on the date of the claim.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Louisiana Agricultural Commodities Commission, LR 35:631 (April 2009), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:511 (February 2011).

§209. Reimbursement Limitations

A. When any loss is or may be covered by other insurance or bond, the other insurance or bond is primary and the commission shall require the claimant to exhaust his remedies as to the other insurer before considering the payment of the claim.

B. After all other remedies are exhausted, claimants shall be entitled to recover the full amount of claims filed against the fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 35:631 (April 2009), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:512 (February 2011).

§211. Pending Litigation or Arbitration; Stay of Claims

A. Where the commission finds that litigation is pending, which could determine whether payment of a claim is due or to whom payment of a claim is due, the claim in question may be stayed until the judgment in said litigation has become final and definitive. The commission shall give notice of the stay to any claimants whose claims have been stayed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 35:631 (April 2009), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:512 (February 2011).

§213. Violations

A. Providing false information to the commission by a claimant or licensee regarding a claim for reimbursement from the fund is a violation of this Subchapter, if the person providing the information knew or should have known the information was false.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 35:631 (April 2009), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:512 (February 2011).

§215. Adjudicatory Hearings

A. Findings of violations and imposition of penalties may be made only by a ruling of the commission based upon an adjudicatory proceeding held in accordance with the provisions of the Administrative Procedure Act.

B. Whenever the commissioner has any reason to believe that a violation of R.S. 3:3410.2, or of any rules and regulations adopted pursuant to this Part has occurred, the commissioner may present the alleged violations to the commission for a determination.

C. A hearing officer shall be appointed by the office of the attorney general to preside over the hearing.

D. Notice of the alleged violation, the date of the adjudicatory hearing, and the conduct of discovery shall be as provided in the Administrative Procedure Act.

E. The ruling of the commission shall be in writing and provided to the person charged with the violation, as provided by the Administrative Procedure Act.

F. Any appeal from a ruling of the commission shall be in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 35:631 (April 2009), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:512 (February 2011).

§217. Civil Penalties

A. Any claimant or licensee who has been found in an adjudicatory hearing to be in violation of the provisions of this Subchapter shall be subject to the following civil penalties.

B. Any claimant or licensee who knew or should have known that he was providing the commission with false information regarding a claim may be denied payment of the claim on that basis.

C. Any claimant or licensee who knew or should have known that he was providing the commission with false information regarding a claim, or regarding any other matters pertaining to the fund, shall be subject to a maximum civil penalty of $1,000 for each violation. Each day the false information is with the commission without correction shall be considered a separate violation.

D. Any licensee who intentionally refuses or fails to collect the assessment or refuses to remit the collected assessment to the commission shall be subject to a maximum civil penalty of $1,000 for each violation. Each day the assessment is not collected shall be a separate violation. Each day the collected assessment is not remitted to the commission shall be a separate violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 35:631 (April 2009), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:512 (February 2011).

Title 7
AGRICULTURE AND ANIMALS
Part XXIX. Horticultural Commission

Chapter 1. Horticulture

§101. Administration of the Affairs of the Horticulture Commission

A. In the absence of the chairman, the secretary shall preside at meetings of the commission.

B. The chairman may designate a hearing officer, who may or may not be a member of the commission, to preside at all adjudicatory proceedings of the commission.

C. The commission shall serve as a hearing body in all adjudicatory proceedings and shall make the final decision with respect to the disposition of all matters brought to adjudication.

D. Whenever any member of the commission desires to be represented at any meeting of the commission, the member must give at least five working days prior written notice to the secretary, naming the individual who will represent the member at the meeting of the commission.

E. Meetings of the commission shall normally be held at the domicile of the commission but may be held at other locations throughout the state upon the determination of the chairman of the commission.

F. The commission shall be convened upon the call of the chairman.

G. The commission may act to expel a member under the provisions of R.S. 3:3801(H) only after its intent to do so has been advertised to all members of the commission by placement of the expulsion matter on the agenda for the meeting at which the vote for expulsion will be taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801 and R.S. 3:3814.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:183 (April 1982).

§102. Definitions

A. The words and terms defined in R.S. 3:3803 are applicable to this Chapter.

B. The following words and terms are defined for the purpose of enforcing the provisions of R.S. 3:3801 et seq.

Arborist—any person trained in the care and removal of shade and ornamental trees. Shade and ornamental trees may be defined as those on an existing homesite or commercial property and those on property permitted for development for commercial or residential purposes. This definition shall also apply to any tree within 100 feet of any improvements on these properties.

Department—The Louisiana Department of Agriculture and Forestry.

Floral Design—an arrangement of cut flowers, ornamental plants, other living or freshly cut plant materials, or any combination thereof intentionally constructed so as to constitute a planned relationship among them.

Horticulture Law—Louisiana Revised Statutes of 1950, Title 3, Chapter 24, §3801 et seq.

Landscape Architect—any person that applies creative and technical skills and scientific, cultural and political knowledge in the planned arrangement of natural and constructed elements on the land with a concern for the stewardship and conservation of natural, constructed and human resources.[1]

Stop Order and Notice of Non-Compliance—a directive issued by the commissioner or the department or authorized agent to a person prohibiting that person from continuing a particular course of conduct or prohibiting the advertisement, application, distribution, disturbance, movement, performance, sale or offer for sale of a service or material thing, or both.

[1]American Society of Landscape Architects (ASLA) Definition of Landscape Architecture, ASLA Member Handbook, adopted November 18, 1983.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801 and R.S. 3:3814.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Horticulture Commission, LR 26:627 (April 2000), amended LR 33:1854 (September 2007), LR 34:2547 (December 2008).

§103. Enforcement

A. Hearings

1. Investigative hearings shall be for the purpose of investigating alleged violations of the Horticulture Law Law or regulations promulgated by the commission.

2. Investigative hearings may be held upon the call of the commission. Such hearings may be held in any part of the state.

3. The chairman, the secretary, a member designated by the chairman, or a hearing officer designated by the commission who need not be a member of the commission, shall preside at investigative hearings. All witnesses shall be sworn or shall make affirmation.

4. Investigative hearings conducted by the commission shall be open to the general public.

5. If the commission determines that evidence or testimony at an investigative hearing may tend to defame, degrade, or incriminate any person, it shall afford such person, upon request, an opportunity to appear as a witness; receive and dispose of requests from such persons to

subpoena additional witnesses; and afford such person, or his attorney, upon request the opportunity to examine or cross-examine witnesses.

6. The director of the horticulture commission, upon approval of the chairman or secretary, is authorized to sign subpoenas which require the attendance and giving of testimony by persons who may possess any knowledge concerning any offense under investigation at an investigative hearing or for investigative purposes. The subpoena shall set forth reasonable grounds therefore, and shall order the person to appear at a designated time and place. The director may also order the issuance of a subpoena duces tecum as described above.

7. Whenever any person summoned under this regulation neglects or refuses to obey such summons or to produce books, papers, records or other data, or to give testimony as required, the commission may apply to the judge of the district court for the district within which the person so summoned resides or is found, for an attachment against him as for a contempt.

8. A subpoena may be served by any person authorized by law to serve civil process, or by any agents of the commission, and the return made in writing by any such person shall be accepted as proof of service.

9. The commission is the sole judge of the pertinency of testimony and evidence adduced at such hearings.

10. The attorney for the commission and that of any public agency which may be participating in the investigation shall have the right to be present at all hearings and shall have the right to examine or cross-examine any witness.

11. Witnesses at investigative hearings may be accompanied by their own counsel.

12. A copy of this regulation shall be made available to any witness and a copy shall be delivered at the time of making service, to each person upon whom a subpoena is served; in addition thereto each person upon whom a subpoena is served shall be informed in writing that the commission suggests that he consult his attorney and that his attorney should attend the hearing to advise him.

13. The commission may, in its discretion, issue a report upon the conclusion of any such investigative hearing.

14. As a result of such investigations, the commission may initiate adjudicatory proceedings against licensees, permittee, or persons engaged in any regulated profession or occupation, may refer matters to other public agencies and may take any other appropriate action.

15. Investigative hearings may be conducted jointly with other interested public agencies.

16. It shall not be necessary to publish any advance notice of any investigative hearing and it shall be necessary that subpoenas disclose the general nature of the investigation.

17. At all investigative hearings the testimony shall be recorded stenographically or otherwise. Upon payment of the costs thereof, and when authorized by the commission, a witness may obtain a transcript copy of his testimony given at a public session.

B. Access to Premises

1. Any authorized representative of the commission or of the commissioner shall have access to, and may enter at all reasonable hours, all places of business operated by license or permit holders or persons engaged in any regulated profession or occupation to perform horticultural inspections and/or investigations. Any information gained through utilization of the authority granted hereinabove in this Subsection shall be treated as confidential and shall be used only for the administration of this Chapter, provided, that such information may be divulged by a person when called upon to testify in any adjudicatory proceeding before the commission or the commissioner or in any court proceedings, and provided further, that nothing contained in this Section shall prevent the use of any information procured by the commission or the commissioner in the compiling and dissemination of general statistical data containing information procured from a number of licensees or permittee and compiled in such a manner as not to reveal individual information of any licensee or permittee.

C. Cease and Desist. Upon determination of violation of law or rules and regulations, the commission may issue a cease and desist order describing with particularity the violative action and ordering the immediate cessation of said violative action.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:183 (April 1982), amended LR 9:410 (June 1983), LR 34:2547 (December 2008).

§105. Qualifications for Examination and Licensure or Permitting

A. All applicants for examination and licensure or permitting under the provisions of R.S. 3:3801 et seq., must have attained their eighteenth birthday before taking an examination and before being issued a license or permit. Provided, however, that an applicant for examination who is 17 years of age, but who will attain his or her eighteenth birthday between regularly scheduled examinations may apply for and take the examination immediately prior to his or her eighteenth birthday. No applicant who qualifies to take an examination before his or her eighteenth birthday shall be issued a license or permit before attaining his or her eighteenth birthday.

B. All applicants for the landscape architect examination must meet one of the following qualifications:

1. holds a degree in landscape architecture, or holds a degree in another field with a minimum of the following credit hours earned from an accredited university or college curriculum:

a. 25 hours in Landscape Design;

b. 12 hours in Landscape Implementation (Construction);

c. 6 hours in Plant Science or Plant Identification;

d. 6 hours in Landscape Drawing or Graphics;

e. 3 hours in Landscape History;

f. 3 hours in Professional Practice;

g. and has completed an equivalent of one year internship under the direct supervision of a licensed landscape architect, landscape horticulturist, engineer, architect, or a licensed professional with a design or contracting firm;

2. has completed the equivalent of six years of practical experience under the direct supervision of a licensed landscape architect, landscape horticulturist, or environmental designer. Must present a minimum of six examples of work in at least three of the following areas:

a. site design;

b. staking or layout plan;

c. grading plan;

d. irrigation plan;

e. construction details;

f. planting plan with a plant list;

g. specifications;

NOTE: Examples of work submitted become the property of the commission.

3. has a combination of education and experience equivalent to §105.B.1 and 2. In determining credit to be given for education other than in landscape architecture, the applicant may be given up to two years credit for a degree in horticulture/plant science, architecture, civil engineering, environmental design, or urban design.

C. Any application received under §105.B.2 or 3 shall be reviewed by a committee appointed by the commission to determine qualifications.

D. All applicants for licensure must successfully complete the examination prescribed by the commission for the area in the practice of horticulture for which the license is sought.

1. Applicants for a landscape architect's license who are applying through reciprocity shall submit evidence of successful completion of an exam approved by CLARB or the commission and licensure in another state whose requirements for licensure are at least equal to those of this state. Such persons shall be required to pass the Louisiana section of the examination in order to be licensed in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801, R.S. 3:3807, and R.S. 3:3808.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:7 (January 1988), LR 20:639 (June 1994), LR 26:2240 (October 2000, LR 35:1227 (July 2009).

§107. Application for Examination and Licensure or Permitting

A. Each applicant must complete the application form prescribed by the commission for the area in the practice of horticulture for which the license or permit is sought.

B. Landscape Architect

1. Applicants who desire to take the examination for landscape architect must file the completed application, together with any supporting evidence, official transcript(s), and affidavit(s) as may be necessary, and with the fee required under §109.B at the commission's state office in Baton Rouge. The application must be postmarked or received by the deadline date established for applying for examination, which date shall be published in a prior issue of the *Louisiana Register*.

2. Any applicant for licensure as a landscape architect who successfully completes one or more of the different sections of the examination but does not successfully complete all sections of the examination will not be required to submit to re-examination in any section which was successfully completed. In such cases, the applicant may apply to re-take only the section(s) of the examination which were not successfully completed.

C. Arborist, Landscape Horticulturist, Landscape Irrigation Contractor, Retail Florist, Utility Arborist, Wholesale Florist

1. Applicants who desire to take the examination for arborist, landscape horticulturist, landscape irrigation contractor, retail florist, utility arborist, or wholesale florist may apply at any time, in person or by writing, to the commission's state office in Baton Rouge or to any district office of the Department of Agriculture and Forestry. Applicants who apply in person, will be allowed, whenever feasible, to complete the written application form at the initial visit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801, R.S. 3:3807, and R.S. 3:3808.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:7 (January 1988), LR 18:249 (March 1992), LR 20:639 (June 1994), LR 23:854 (July 1997), LR 29:1460 (August 2003), LR 31:1053 (May 2005), LR 35:1227, 1228 (July 2009), LR 37:3464 (December 2011).

§109. Examination Fees

A. Landscape Architect

1. The fee for examination for licensure as a landscape architect shall be the cost for each section of the examination

plus an administrative fee of $200 for first time applicants and those applying through reciprocity.

2. The fee for re-examination in the various sections for licensure as a landscape architect shall be the cost for each section plus one administrative fee of $100.

B. Arborist, Landscape Horticulturist, Landscape Irrigation Contractor, Retail Florist, Utility Arborist, Wholesale Florist

1. The fee for examination or re-examination for licensure as an arborist, landscape horticulturist, landscape irrigation contractor, retail florist, utility arborist, or wholesale florist shall be $50.

C. All fees required under this Rule must be submitted at the same time as the application; failure to submit any required fees will bar the applicant from taking the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3806, R.S. 3:3805, and R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:8 (January 1988), LR 18:249 (March 1992), LR 20:640 (June 1994), LR 29:2297 (November 2003), LR 31:1053 (May 2005), LR 35:1227 (July 2009), LR 37:3464 (December 2011).

§111. Minimum Examination Performance Levels Required

A. The performance level for satisfactory completion of all examinations for licensure, except the examination for landscape architect shall be a minimum of 70 percent.

B. The minimum performance level for satisfactory completion of the examination for landscape architect shall be the minimum performance level acceptable to the Council of Landscape Architects Registration Board.

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 8:184 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 20:153 (February 1994), LR 35:1229 (July 2009), LR 37:3464 (December 2011).

§113. Examination Schedule

A. Landscape Architect

1. The examination for licensure as a landscape architect shall be given by the commission on the date selected for administration of the examination nationally by the Council of Landscape Architects Registration Board.

2. The commission shall publish the time and location selected by the Council of Landscape Architects Registration Board for administration of the examination for landscape architect in an issue of the *Louisiana Register* to be published prior to the scheduled examination date and will disseminate information concerning the scheduled examination to all interested applicants.

3. The Louisiana section of the examination for landscape architect shall be given on the date selected for administration of the examination nationally by the Council of Landscape Architects Registration Board and at no more than one other time during the year, if deemed necessary to the commission based on the number of applicants desiring to take the Louisiana section.

B. Arborist, Landscape Horticulturist, Landscape Irrigation Contractor, Retail Florist, Utility Arborist, Wholesale Florist

1. Examinations for licensure as an arborist, landscape horticulturist, landscape irrigation contractor, retail florist, utility arborist, or wholesale florist will be administered in the commission's state office in Baton Rouge and in district offices of the Department of Agriculture and Forestry upon request. Interested applicants may apply, in person or by writing, at the state office or the most convenient district office. A date for the examination will be established for each applicant.

2. Whenever any applicant fails to successfully complete an examination for licensure, he may not apply to re-take the examination for a period of two weeks following the date of the examination which he failed.

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).

§115. General Requirements for All Licensees or Permittee

A. All licensees or permittees must cooperate with any representative of the commission in any inspection of the premises and/or any other reasonable request. The giving of a false statement to any representative of the commission by a licensee or permittee shall constitute a violation of this regulation.

B. A person holding a license in a regulated profession may be the licensee for only one person or business. The licenses of all licensees regularly assigned to work in any outlet shall be prominently displayed at all times in a location accessible to the general public or any representative of the commission.

C. The permits of cut flower dealers and nursery stock dealers must be prominently displayed at all times in a location accessible to the general public or any representative of the commission.

D. All sod sold or installed in quantities of two pallets or 100 square yards or more shall be accompanied by a completed form indicating the type and class of sod. The form shall be specified by the commission and the consumer shall be provided with the completed form at the time of sale or installation. Copies of completed forms shall be kept on

file and made available to commission representatives upon request for a period of one year after sale or installation.

1. The types of sod shall be indicated as: Centipede, St. Augustine, Bermuda, Zoysia, Carpet, Mixed, or Other. Bermuda, mixed, or other types shall be specified as to varieties.

2. The classes of sod shall be indicated as follows.

a. Class A (Superior Quality)—shall be free from bahia grass, torpedo grass, and Florida betony. Shall not contain more than 5 plants per 100 square feet of any other grasses, broadleaf weeds, or sedges.

b. Class B (Good Quality)—shall be free from bahia grass, torpedo grass, and Florida betony. Shall not contain more than 25 plants per 100 square feet of any other grasses, broadleaf weeds, or sedges.

c. Class C (Field Sod)—may include all sod not covered in the Classes A or B above. It may consist of sod lifted from pastures which may have been grown primarily for forages.

3. All sod must be free of insects and diseases and viable at the time of sale or installation.

4. It is the responsibility of the licensee or permittee to provide the proper classification of sod. Any discrepancies will be investigated by a representative of the commission. Any improper classification shall be considered a violation of this Part.

E. Licensees must display at least one of their license numbers on both sides of all vehicles that have advertisement or signs and are used for business purposes with lettering at least 2 inches high and legible at the distance of 25 feet. The number to be displayed shall be the last four digits of the license number preceded by two letters indicating the type of license as follows.

AR—Arborist
LH—Landscape Horticulturist
LA—Landscape Architect
IC—Landscape Irrigation Contractor
RF—Retail Florist
UA—Utility Arborist
WF—Wholesale Florist

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. Retail Florist

1. Professional Standards

a. All cut flowers, ornamental plants, and living or freshly cut plant materials sold or offered for sale must be fresh, of high quality, and free from injurious insects, diseases, and other pests. No plant material of low quality and no wilted or dead plant materials may be offered for sale to the general public or sold to a consumer except when specifically requested by the consumer.

b. Floral designs, cut flowers, ornamental plants, and living or freshly cut plant materials must be cared for in a manner that, to the extent reasonably possible, maintains their freshness and increases their longevity.

c. Coolers where floral designs, cut flowers, ornamental plants, or living or freshly cut plant materials, are kept or stored must be clean and maintained at a temperature conducive to prolonging the freshness of the said products kept or stored in the coolers.

d. Containers holding cut flowers or living or freshly cut plant materials must be maintained in a manner that does not adversely affect the cut flowers or plant material. Water in containers must be changed periodically so as to remain clean at all times.

e. Floral designs shall be prepared in a good and workmanlike manner and shall satisfy the consumer's requests that are objective in nature. All reasonable efforts should be made to satisfy the consumer's requests that are subjective in nature. All floral designs must be constructed in such a manner as to remain intact during transportation.

f. All wires, steel picks, corsage pins, and other sharp objects employed in the construction of a floral design must be used in a manner that will maintain the integrity of the floral design while minimizing the risk of injury to any person handling the floral design.

g. Compliance with equivalent procedures and techniques set forth in James L. Johnson, William J. McKinley, Jr. and M. Buddy Benz, *Flowers: Creative Design* (San Jacinto Publishing Co. 7th ed. 2001; distributed by Texas A&M Univ. Press) will establish a rebuttable presumption of compliance by the licensee with these professional standards.

2. Requirements

a. Retail florist shops that lose their licensed florist will be granted a grace period of 90 days of operating without the services of a full-time licensed florist. This grace period shall end 90 days from that date. The purpose of this grace period is to provide the florist shop an opportunity to employ a licensed person. This grace period can only be used once in a 12-month period. Retail florist shops shall cease to engage in the profession of retail florist after the grace period has been exhausted. In the event a retail florist shop, despite reasonable prevention efforts, loses its only or only remaining regularly employed licensed retail florist, the florist shop must replace the regularly employed licensed retail florist as soon as possible but in no event more than 90 days from the first day the retail florist shop operated without a regularly employed licensed retail florist. Notwithstanding the foregoing, no retail florist shop shall operate without a regularly licensed retail florist for more than a total of 90 days in any 12-month period that follows

the first day of operation without a regularly employed licensed retail florist.

b. Retail florists may rent potted ornamental plants for special events such as weddings, conventions, trade shows, etc., if such plants are normally and customarily sold by florists and such plants do not require maintenance, other than normal watering. Plants rented by retail florists for a special event shall be rented only for the duration of that special event.

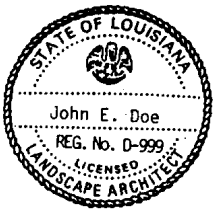
B. Landscape Architect

1. Without good cause, all designs must make use of plant materials commonly found growing in Louisiana or which are suitable for growth in Louisiana's growing conditions.

2. Licensees must meet the standards established by the Council of Landscape Architects Registration Board.

3. Each landscape architect must obtain a seal of the design authorized by the commission. The seal shall be placed on all professional documents, including contracts, maps, plans, designs, drawings, specifications, estimates and reports, issued by a licensed landscape architect for use in this state.

a. The seal required shall be circular and 1 5/8 inches in diameter. The words "State of Louisiana" shall be along the top circumference and the words "Licensed Landscape Architect" shall be along the bottom circumference. The individual's name shall be placed horizontally in the center of the field with his registration number below. Letters and figures shall be as shown on the example printed herein to insure uniformity.



b. A rubber stamp facsimile, which conforms to the official design of the seal described in §117.B.3.a, may be obtained and used in place of the seal by a licensed landscape architect.

c. The licensee shall sign his or her legal name on each document and shall then affix his or her seal over that signature. The presence of one's seal over the signature on any document constitutes proof that he or she accepts all legal and professional responsibility for the work accomplished. The seal shall be used only by the licensee responsible to this commission for authorship of the documents thus identified. No person other than the licensee represented shall use or attempt to use the prescribed seal, and no unlicensed person shall be authorized to use the prescribed seal. Authorized use of the prescribed seal is an individual act whereby the licensee must personally inscribe the seal over his or her signature. The licensee is responsible for the security of the seal when not in use.

4. All designs and specifications utilizing sod shall specify the type and class of sod to be used as provided in §115.D and accompanied by the sod classification form specified by the commission.

5. Continuing Education Requirements

a. Compliance with these continuing education requirements is necessary for a landscape architect, ("licensee"), to maintain a landscape architect license in this state.

b. The commission shall administer the continuing education requirements through a standing continuing education committee consisting of not more than two staff members and at least three licensed Louisiana landscape architects elected by mail ballot. The landscape architects on the committee will each serve a term of two years. The call for nominations and balloting for committee service will be conducted concurrent with annual balloting for members of the Louisiana Landscape Architects Selection Board.

c. A licensee shall attend, or complete an approved substitute for attendance, a minimum of 8 credit hours of continuing education within each calendar year. If more than 8 credit hours are obtained during a calendar year, a licensee may carry over a maximum of 4 credit hours from one calendar year to the next. Any credit hours carried over into a following calendar year shall apply to that year only and may not be carried forward into subsequent years. A credit hour must contain at least 50 minutes of actual instruction or education.

d. Activities that may be approved for continuing education credits must contain instructional or educational components. Such activities include annual professional meetings, lectures, seminars, workshops, conferences, university or college courses, in-house training, and self directed activities. The commission's staff shall make the initial determination as to whether an activity qualifies for continuing education credit. If the commission's staff determines that an activity may not qualify, that activity request will be automatically forwarded to the continuing education committee for review and the committee's determination. Any licensee or other applicant for approval of an activity may appeal any committee rejection of an activity for continuing education credit to the commission. However, the commission retains the right to review and approve or disapprove any activity as a qualifying continuing education activity and the number of credit hours arising from such activity, even if there is no appeal. Any appeal from any decision of the commission shall be taken in accordance with the Administrative Procedure Act, (R.S. 49:950 et seq.).

e. A licensee shall keep all records showing attendance, or completions of an approved substitute for attendance, at continuing education activities for three years following the year in which attendance or completion was done.

f. Each licensee shall annually submit a written certification signed by the licensee that the licensee has, during that calendar year, attended, or completed an approved substitute for attendance, the number of credit hours stated in the certification. If credit hours carried over from the previous year are being used as a substitute for attendance then the certification shall state the number of carried over credit hours that are being used. The certifications shall be attached to the licensee's annual license renewal application. Any renewal application received without this certification shall not be processed for license renewal and the license fees submitted with the application shall be refunded to the licensee.

g. The commission shall cause an annual audit of licensees to be conducted. Licensees shall be selected for audit either by cross-section of licensees or by random audit. The provisions of this subsection notwithstanding, an investigation of a licensee for possible violation of these continuing education requirements may be conducted if there is reason to believe that a violation may have occurred. Licensees selected for audit will be required to provide documented proof of their having obtained the continuing education credits for the year being audited. A licensee's failure to provide documented proof of having attended, or completed an approved substitute for attendance, for each credit hours certified for the year being audited shall be a violation of this Part. In the event that a licensee provides documented proof of having attended, or undertaken an approved substitute for attendance, any credit hour certified for the year being audited and such credit hour is disallowed then the licensee shall have six months from date of notification of the disallowance to attend, or complete an approved substitute for attendance, a sufficient number of approved credit hours to make up for the disallowed credits. The credit hours attended to make up for any disallowed credit hours shall not count toward the minimum credit hours needed for any other year. Failure to timely make up for the disallowed credit hours shall be deemed a violation of this Part. An appeal from a disallowance of any credit hour may be taken as provided in Subparagraph d.

h. A licensee may submit a written request for an approved substitute for attendance or for a hardship exemption or extension of time in which to obtain the minimum credit hours for the year in which the request is made. The licensee must detail the reason for the request, such as the benefit of any substitution, any physical disability, illness, or extenuating circumstance, and a specification of the requested substitute for attendance, including number of credit hours, course of study, etc. The licensee must also provide any additional information asked for in consideration of the request.

C. Wholesale Florist

1. All flowers or greenery sold or offered for sale must be fresh and of high quality. No wilted or dead plant materials may be offered for sale to persons holding the proper license or permits.

2. All nursery stock sold or offered for sale must be fresh and of high quality and free from injurious insects, diseases, and other pests. No low quality plant materials may be offered for sale.

3. Coolers from which cut flowers or greenery are sold, or in which cut flowers or greenery are stored prior to sale, must be kept clean at all times. Water in containers must be changed regularly and kept clean at all times.

D. Landscape Horticulturist

1. Any nursery stock used in landscaping, leased, or sold, or offered for use in landscaping, lease, or sale, shall be of high quality and free from injurious insects, diseases, and other pests. Nursery stock which is leased must be maintained in high quality and free from injurious insects, diseases, and other pests.

2. All plant beds must be properly prepared and must allow for proper drainage.

3. All recommendations and maintenance and planting practices must incorporate sound horticultural practices.

4. All sod installed, sold, or recommended shall be classified as provided in §115.D.

5. Recommendations and maintenance and planting practices shall meet the standards outlined in *The Louisiana Manual for the Environmental Horticulture Industry* published by the Louisiana Nursery and Landscape Association.

6. Landscape horticulturists who prepare drawings to indicate the planting and location and arrangement of plant materials by that landscape horticulturist shall place his name, the words "Landscape Horticulturist," and his license number on each drawing prepared by him. Drawings prepared by a landscape horticulturist may be used only by that landscape horticulturist and no one else in connection with the submission of a bid proposal.

7. Licensees must display their license at all times in a location accessible to the general public or any representative of the commission.

E. Arborist

1. Licensees may not use climbing irons in any trees which are not to be removed except as provided §117.E.3 hereof.

2. Before the commission issues an arborist's license, the person to be licensed shall first furnish to the commission the following:

a. a certificate of insurance, written by an insurance company authorized to do business in Louisiana, covering the public liability of the applicant for personal injuries and property damages, providing for not less than $25,000 per person for personal injuries and not less than $50,000 for property damages, both limits applicable to each separate accident, provided that the commission may waive the requirement for the stated insurance coverages for any licensed arborist who does not physically work on trees or

accept responsibility for work on trees but only provides consultation with respect to work on trees. The certificate of insurance must provide for 30 days' written notice to the commission prior to cancellation.

3. When the characteristics of a tree require the use of climbing irons, the licensee may use climbing irons but only with the prior written permission of the owner of the tree.

4. Licensees shall enter into a written contract with the property owner employing him for arboricultural work, which contract must specify the services to be performed and the sum to be paid for the services. Both parties shall receive a copy of the contract.

5. Licensees may apply pesticides only for the purposes of retarding decay or disease. See also §119.A relative to application of pesticides.

6. Licensees engaged in the feeding of trees must follow proper fertilizer schedules and rates according to label directions. Representatives of the commission may take a sample of the nutrients applied during any tree feeding operation for the purpose of verifying its chemical analysis.

7. Licensees must display their license at all times in a location accessible to the general public or any representative of the commission.

8. Prior to renewal of an arborist license, the licensee shall provide the commission with certifiable evidence of completion of a continuing training seminar which was previously approved by the commission.

9. Recommendations and pruning practices shall meet the standards outlined in the *Arborists' Certification Study Guide* published by the International Society of Arboriculture.

F. Nursery Stock Dealer

1. All nursery stock sold or offered for sale must be fresh and of high quality and must be free from injurious insects, diseases, and other pests. No low quality plant materials may be offered for sale to the general public.

2. All indoor nursery stock offered for sale must be displayed or offered for sale under the protection of some type of covering, such as inside a building or under a carport, tent, or canopy, which will protect such plant material from exposure to sun, wind, or rain.

3. A clean source of water must be provided at all times when plants are offered for sale.

4. Nursery stock dealers operating from a mobile unit shall not sell nursery stock within 300 feet of a place of business that holds a nursery stock dealer's permit, nursery certificate permit, horticulture service license, retail florist license or a wholesale florist license.

5. The permit holder must display his permit at all times in a location accessible to the general public or any representative of the commission.

6. All sod sold shall be classified as provided in §115.D.

G. Cut Flower Dealer

1. All flowers or greenery offered for sale must be fresh and of high quality. No wilted or dead plant materials may be offered for sale to the general public, save and except when specifically requested by consumer.

2. A clean source of water must be provided for all flowers or greenery that are offered for sale. Water in containers must be changed regularly and kept clean at all times.

3. The permit holder must display his decal and/or permit at all times in a location accessible to the general public or any representative of the commission.

4. The restriction against a cut flower dealer locating within 300 feet of an established retail florist shall not apply to cut flower dealers in permanent locations. In addition, cut flower dealers operating from a mobile unit shall not sell cut flowers, within 300 feet of place of business that holds a cut flower dealer's permit.

H. Utility Arborist

1. Licensees may not use climbing irons in any trees which are not to be removed except in remote utility rights-of-way that are inaccessible to tree trimming equipment where no other practical means of trimming the tree is available or as provided in §117.E.3.

2. Before the commission issues a utility arborist license, the person to be licensed shall first furnish to the commission a certificate of insurance as provided in §117.E.2.a.

3. Licensees must make their license available to the public or any representative of the commission at all times.

4. Prior to renewal of a utility arborist license, the licensee shall provide the commission with certifiable evidence of completion of a continuing training seminar which was previously approved by the commission.

5. Recommendations and pruning practices shall meet the standards outlined in the *International Society of Arboriculture Certification Manual* and *Best Management Practices—Utility Pruning of Trees*, a publication by the International Society of Arboriculture.

I. Landscape Irrigation Contractor

1. Before the commission issues a landscape irrigation contractor license the person to be licensed shall first furnish to the commission a certificate of insurance, written by an insurance company authorized to do business in Louisiana, covering the public liability of the applicant, as a licensee, for personal injuries and property damages. The insurance policy shall provide for not less than $25,000 per personal injuries and not less than $50,000 for property damages, both limits applicable to each separate accident. The certificate of insurance must provide for 30 days' written notice to the commission prior to cancellation. The commission may, however, waive the requirement for the stated insurance coverage for any licensed landscape

irrigation contractor who does not physically work on landscape irrigation systems or accept responsibility for work on landscape irrigation systems but only provides consultation or other associated services with respect to landscape irrigation systems or the work performed on such systems.

2. Licensees are required to attend and complete a commission approved continuing training seminar at least once every three years. Each licensee, prior to renewal of his or her license, shall provide the commission with certifiable evidence that the licensee has timely and successfully completed such a seminar.

3. Licensed landscape irrigation contractors shall enter into a written contract with the property owner, specifying the landscape irrigation services to be performed and the sum to be paid for the services. The contract shall include the following statement: "Any complaints regarding landscape irrigation installation should be directed to the Louisiana Horticulture Commission at 225/952-8100." Both parties shall receive a copy of the contract.

4. Licensees must display their license at all times in a location accessible to the general public or any representative of the commission.

5. The following clarifications apply to licensed landscape irrigation contractors.

a. A licensed landscape irrigation contractor is not required to have a water supply protection specialist endorsement from the State Plumbing Board in order to install an irrigation system up to the point of connecting the irrigation system to a public or private water supply system or installing a backflow prevention device.

b. A licensed landscape irrigation contractor shall also have a water supply protection specialist endorsement from the State Plumbing Board before connecting any irrigation system to a public or private water supply system or installing a backflow prevention device, pursuant to R.S. 3:3808(P)(4), (5).

c. A governing authority, such as a parish or municipality, shall issue all necessary permits, including necessary electrical permits, to a licensed landscape irrigation contractor who does not hold a water supply protection specialist endorsement for the installation of an irrigation system, except for those permits that would allow such a licensed landscape irrigation contractor to connect the irrigation system to a public or private water supply system or install a backflow prevention device.

d. A governing authority, such as a parish or municipality shall issue all necessary permits to a licensed landscape irrigation contractor who holds a water supply protection specialist endorsement from the State Plumbing Board for the installation of an irrigation system, including necessary electrical permits and those permits that would allow such a licensed landscape irrigation contractor to connect the irrigation system to a public or private water supply system or install a backflow prevention device.

e. A licensed landscape irrigation contractor who also holds a water supply protection specialist endorsement from the State Plumbing Board is required by R.S. 3:3816(6) to install backflow prevention devices in accordance with ordinances adopted by local governing authorities, such as parishes and municipalities, regulating the installation of backflow prevention devices. If a local governing authority does not have an ordinance regulating the installation of backflow prevention devices, such devises shall be installed in accordance with the requirements of Part XIV (Plumbing) of the Sanitary Code, State of Louisiana.

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).

§119. Prohibition

A. No licensee or permittee of the commission may apply pesticides to any properties which are not owned, rented, or leased by the licensee or permittee or persons engaged in any regulated profession or occupation unless such licensee or permittee, or persons engaged in any regulated profession or occupation is properly licensed or certified by the department in accordance with the Louisiana Pesticide Law (R.S. 3:3201 et seq.).

B. Licensees, permittees, or persons engaged in any regulated profession or occupation shall not engage in any fraudulent practices.

C. Licensees, permittees, or persons engaged in any regulated profession or occupation shall not engage in any false advertisement of any kind.

D. No licensee, permittee, or persons engaged in any regulated profession or occupation of the commission shall fail to comply with any cease and desist order directed and delivered to said licensee, permittee, or persons engaged in any regulated profession or occupation.

E. No person, with intent to sell or in any way dispose of merchandise, securities, service, or anything directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title, or an interest therein, shall make, publish, disseminate, circulate, or place before the public, or cause directly or indirectly to be made, published, disseminated, circulated, or placed before the public, in this state, in a newspaper or other publications, or in the form of a book, notice, hand-bill, poster, bill, circular, pamphlet, or letter, or radio broadcasts, telecasts, wire, wireless, motion picture, or in any other way, an advertisement of any sort regarding merchandise, securities, service, or anything offered to the public, which advertisement contains any assertion, representation or statement of fact which is untrue, deceptive or misleading.

F. No licensee, permitee or person engaged in any profession or occupation regulated by the commission shall

use the words "design" or "designer" or any form of these words, whether separately or in combination with other words in any advertisement, solicitation or title, or on any estimate, contract or other document, except for those persons who are licensed as a landscape architect or as a retail florist.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:186 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 29:1460 (August 2003), LR 36:2520 (November 2010).

§121. Re-Issuance of Suspended, Revoked or Unrenewed License or Permit

A. Whenever a license or permit is suspended by the commission, the violations which caused the suspension must be corrected, to the satisfaction of the commission, prior to re-issuance of the suspended license or permit.

B. Whenever a license or permit is suspended by the commission, the holder of the suspended license or permit must pay the fee required under §109 for renewal of the license or permit prior to re-issuance.

C. Whenever a license or permit is revoked by the commission:

1. the violations which caused the revocation must be corrected to the satisfaction of the commission prior to re-issuance of the license or permit;

2. the holder of a revoked license must apply to take and must successfully complete all phases of the examination prescribed for the license;

3. the holder of a revoked permit must file a complete application prior to a re-issuance of the permit;

4. the holder of a revoked license or permit who seeks re-issuance thereof must pay the fees prescribed in §109 for the initial issuance of such license or permit;

5. the relevant requirements of Paragraphs C.1-4 must be complied with prior to re-issuance of a revoked license or permit.

D. Whenever a licensee fails to renew a license:

1. if the period of non-renewal is more than three years, but less than or equal to five years, the license may be re-issued upon payment of fees required under R.S. 3:3807(D);

2. if the period of non-renewal is more than five years, he or she must either retake the appropriate exam or petition the commission for re-issuance of the license. The holder of the un-renewed license must provide evidence that they have been active in the appropriate profession during the period of non-renewal. If the commission approves the re-issuance of the license, the license will be re-issued only after payment of fees under R.S. 3:3807(D).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3811 and R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:186 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 26:627 (April 2000).

§123. Stop Orders and Notice of Non-Compliance

A. A person believed to be in violation of the Horticulture Law or regulations of the commission may be issued a verbal or written stop order or written notice of non-compliance by the department or authorized agent to prevent possible future violations from occurring.

B. If an alleged violator refuses to accept a written stop order or notice of non-compliance when tendered or refuses or fails to claim such stop order or notice of non-compliance sent by certified mail, the stop order or notice of non-compliance shall be deemed to have been delivered to the alleged violator.

C. An adjudicatory proceeding before the commission shall commence against an alleged violator for the alleged violations that led to the issuance of the stop order or order of non-compliance, even if he is in compliance, under any of the following circumstances:

1. if the alleged violations involve fraudulent practices or activities;

2. if the alleged violations caused personal injury or economic loss other than payment for services rendered, to another person;

3. if the alleged violator has refused or failed to accept the stop order or order of non-compliance, or has attempted to avoid or evade delivery of the stop order or order of non-compliance.

D. An adjudicatory proceeding before the commission shall commence against an alleged violator for the alleged violations that led to the issuance of the stop order or order of non-compliance if he refuses or fails to comply with the stop order or order of non-compliance.

E. No provision of this Section shall prevent the institution of an adjudicatory proceeding against an alleged violator who has not been issued a stop order or notice of non-compliance or for violations that occur after the issuance of a stop order or notice of non-compliance.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Horticulture Commission, LR 34:2547 (December 2008).

Title 7
AGRICULTURE AND ANIMALS
Part XXXI. Milk, Milk Products and Substitutions

Chapter 1. Milk Testing

Subchapter A. Samples

§101. Measuring and Sampling Milk from Farm Bulk Tanks

A. No person shall measure or sample milk without benefit of license by the commissioner.

B. No milk shall be secured from farm bulk tanks unless the tank, gauge rod and calibration chart all bear identical manufacturer serial numbers; nor shall milk be secured from other type containers unless approved by the Division of Weights and Measures and/or the State Health Department.

C. Procedure. The gauge rod shall be removed and cleaned in such manner as to remove all oily substance from its surfaces. When the volume is completely still, the gauge rod shall be gently lowered into the volume until snugly fitted into the bracket. Measurement shall be determined to the nearest graduation. Two readings of the volume shall be made or such number as may be necessary to ascertain accuracy. Conversion shall be made immediately and the results posted on the weight ticket. The contents shall be agitated a minimum of five minutes or such length of time as to ascertain complete mixture. Broken agitators or improper function of other equipment will be noted on the weight ticket. The sample shall be secured using a sanitized stainless steel dipper which has been rinsed twice in the milk prior to sampling. Approximately 3 ounces of milk shall be placed in 6-ounce sterile plastic containers or other type containers approved by the commissioner. The wire tips of the container shall be folded approximately 1/4 inch and the container closed by a twirling motion until tight. One round shall be released prior to final sealing. The container shall be labeled with the date, and the producer identification number in legible fashion using waterproof and smearproof materials. The sample shall be placed immediately in a rubberized or other type rack approved by the commissioner and maintained at 33-40° F while in transport. The measurer-sampler shall leave the producer a receipt recording the producer number, date, gauge reading, pounds of milk and the signature or initials of the measurer-sampler.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:889, R.S. 40:884, R.S. 40:885, and R.S. 40:883.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Dairy Stabilization Board, LR 1:164 (March 1975).

§103. Storage; Preparation of Samples for Testing

A. Butterfat samples shall be stored in a clean, dry refrigerator at a temperature range of 33-40° F until tested. Prior to warming and mixing, the sample shall be gently rotated to incorporate the cream into the milk, then warmed quickly to 98-100° F and mixed by inverting the contents briskly against the top of the container four to six times or pouring the contents from one container to another four times. The sample shall be immediately tested or drawn. The sample shall be remixed following two tests or drawings. Sour, leaking, spilled or otherwise inappropriate samples shall not be used for testing. Composite samples shall be wiped down prior to mixing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:885 and R.S. 40:883.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Dairy Stabilization Board, LR 1:164 (March 1975).

Subchapter B. Approved Methods of Testing

§105. Testing Raw Milk Samples for Butterfat Content

A. No person shall test milk for butterfat content without benefit of license by the commissioner.

B. Babcock Method; Procedure. Deliver 17.5 ml. of milk into an 8 percent milk test bottle and temper to approximately 70° F. Add 17.5 ml. of sulphuric acid (sp. gr. 1.82 to 1.83 at 68° F) to contents of test bottle or such amount necessary to render a deep chocolate color. Mix the contents for three minutes in a mechanical shaker, then centrifuge for five minutes at proper speed. Add hot water 140-150° F to within 1/4 inch of the graduated neck on the test bottle and centrifuge for two minutes. Add 140-150° F water to approximately the 7 percent mark on the graduated test bottle and centrifuge for one minute. Remove the tests from the centrifuge and place into a 138-140° F tempering bath for five minutes, making certain that the water level is above all the fat columns. Measure the fat column from the extreme point of the lower meniscus to the uppermost point of the upper meniscus. Percentage of butterfat shall be determined to the nearest tenth percent and posted immediately. Glassware and equipment shall be drained and cleaned immediately upon termination of use.

C. Milko-Tester Mark III; Procedure. The diluent solution shall be prepared, mixed, stored and utilized according to manufacturer specifications. The accuracy of calibration and performance shall be ascertained. The device shall be flushed four times with diluent and 10 tests performed prior to calibration and official testing. During periods of official testing the device shall be flushed four times with diluent after two routes have been tested or at approximately 35 test intervals. Samples shall be tested at 98-100° F and applied to the automatic pipette in such manner as to avoid contact with the pipette. Test results from the Milko-Tester and other similar devices shall be determined to the nearest hundredths percent and posted

immediately following each test. Upon termination of its use the device shall be flushed four times with diluent solution and a Grade A Homogenized sample (3 3/10 to 3 1/2 percent) placed therein to remain until the device is used again the following day(s).

D. Majonnier Method. The procedure employed in this test shall be in accordance to A.O.A.C. [Association of Official Analytical Chemists] approved standards without modification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:889, R.S. 40:891 and R. S. 40:883.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Dairy Stabilization Board, LR 1:164 (March 1975).

§107. Procedure; Testing Cream for Butterfat Content

A. Approved Method. The official methods of analysis shall be the Majonnier, Babcock or any other method approved by the commissioner of agriculture.

B. Babcock Procedure. At room temperature (approximately 70° F) mix sample by pouring from one container to another four times. Weigh 9 or 18 grams into a 9 or 18 gram cream test bottle. Add an equal amount of water and mix. Add 14 to 17 milliliters sulphuric acid (5p. Gr. 1.82 to 1.83) to the contents in two stages mixing the contents after each stage. Centrifuge, add water and temper tests as specified for milk samples in Subsection B. Add three or four drops of glymol to four tests at the time to level the top meniscus. Measure the fat column from the extreme point of the lower meniscus to the junction of the fat and glymol at the top of the fat column. The test shall be determined to the nearest half percent and the results posted immediately. Glassware and equipment shall be drained and cleaned immediately upon termination of use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:891 and R.S. 40:883.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Dairy Stabilization Board, LR 1:165 (March 1975).

§109. Procedure; Testing Ice Cream for Butterfat Content

A. The two methods of analysis shall be the Majonnier and the Acetic and Sulphuric Acid Method. The procedure for the latter shall be as follows: Weigh 9 or 18 grams of melted ice cream into a 9 or 18 gram cream test bottle. Add an equal amount of water and mix. Add 13 to 14 milliliters of glacial acetic acid to contents and mix. Add 13 to 14 milliliters of sulphuric acid (Sp. gr. 1.82 to 1.83 at 68° F) and mix. Complete the testing procedure exactly as specified for cream (§107).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:891 and R.S. 40:883.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Dairy Stabilization Board, LR 1:165 (March 1975).

§111. Procedure; Testing Homogenized Milk for Butterfat Content

A. Approved Methods. The official methods of analysis shall be the Majonnier, Babcock or any other method approved by the commissioner of agriculture.

B. Babcock Procedure. The sample shall be warmed to ram temperature (approximately 70° F) and mixed by pouring from one container to another four times. The remaining procedure shall be essentially the same as that for raw milk samples (§105.B) with the following exceptions.

1. The sulphuric acid shall be added in three stages and mixed thoroughly after each stage.

2. Time in the centrifuge shall be extended to seven, five and two minutes respectively for the first, second and third stages in centrifuge.

3. Tests shall be made in duplicate and the variation between the two shall not exceed 1/10 of 1 percent butterfat.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:891 and R.S. 40:883.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Dairy Stabilization Board, LR 1:165 (March 1975).

§113. Testing Chocolate Milk for Butterfat Content

A. The method of analysis shall be the Pennsylvania Method and the procedure shall be as follows: Warm the samples to room temperature (approximately 70° F) and mix by pouring from one container to another four to six times. Weigh 18 grams into an 8 percent milk test bottle. Add 2 milliliters of 28 percent to 29 percent ammonium hydroxide and mix for three minutes in a mechanical shaker. Add 3 milliliters of N-butyl alcohol and mix for three minutes in the shaker. Add 17.5 milliliters sulphuric acid (sp. gr. 1.72 to 1.74) to the contents and mix for three to five minutes in the shaker. When contents appear to be incompletely dissolved, Add 1 to 2 milliliters of sulphuric acid (sp. gr. 1.82 to 1.83) and mix for two minutes in the shaker. The remaining procedure shall be the same as that for raw milk samples (§105.B) with the following exception: Add one to two drops of glymol and measure fat column as specified for cream test (§107). Tests shall be run in duplicate and the variation between the two shall not exceed 1/10 of 1 percent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:891 and R.S. 40:883.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Dairy Stabilization Board, LR 1:166 (March 1975).

§115. Procedure; Testing Skim Milk for Butterfat Content

A. Approved Methods. The official methods of analysis shall be the Majonnier, Babcock and any other method approved by the commissioner of agriculture.

B. Babcock Procedure (Modified). Measure nine milliliters of skim milk into the skim milk test bottle. Add two milliliters of N-butyl alcohol and mix for three minutes in mechanical shaker. Add 7 to 9 milliliters of sulphuric acid (sp. gr. 1.82 to 1.83) to contents and mix for three to five minutes in shaker. Centrifuge for six minutes and add 140-150° F water to within 1/4 inch of graduated neck of the test bottle. Centrifuge for two minutes and add 140 to 150 water into the upper section of the graduated neck of the test bottle. Centrifuge for two minutes. Remove tests and place in 138-140° F tempering bath for five minutes.

Measure the column and double the test result. Post test result immediately. Drain and clean glassware and equipment immediately upon termination of testing procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:891 and R.S. 40:883.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Dairy Stabilization Board, LR 1:166 (March 1975).

Subchapter C. Use of Other Than Approved Method Equipment, Glassware, Tests or Installation Prohibited

§117. Calibration

A. Glassware. All glassware used in the determination of fat content for milk, cream and finished or processed milk products shall conform to the United States Bureau of Standards specifications and shall meet the approval of the commissioner. All glassware calibrated for measurement purposes shall bear a Sealed mark which shall constitute the manufacturers' bond that the glassware meets all specifications set forth by the United States Bureau of Standards.

B. Milko-Tester Mark III. This device, and any other such device, shall be calibrated to conform to the Babcock Method of analysis and shall be determined on the basis of not less that 20 samples tested by the Babcock Method and the Milko-Tester Mark III. For calibration purposes, each determination shall be computed to the hundredths percent. When two or more individual tests vary in excess of 0.15 percent, the calibration shall not be deemed acceptable. The variation between simple averages of all tests performed shall not exceed 0.03 percent. The commissioner may, at his discretion, reduce the 20 test calibration procedure to twice each week utilizing in its stead, Grade A Homogenized finished product control samples as a basis of calibration. After each route, or more often as may be necessary to determine the accuracy of the device, a control sample shall be placed into the device and the results compared to the original. Should the variation exceed 0.03 percent, an additional control sample shall be tested. Should the variation continue to exceed 0.03 percent, the device shall be deemed inaccurate; repairs and/or shift and L value adjustments made and an additional calibration check performed. The standard for the zero adjustment shall be 0.02 percent. Calibration logs shall be maintained and copies furnished the commissioner upon request. No person other than those licensed or approved by the commissioner shall calibrate or adjust the calibration of this or similar type devices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:891 and R.S. 40:883.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Dairy Stabilization Board, LR 1:166 (March 1975).

§119. Approved Laboratories; Equipment

A. No person shall make a butterfat analysis, when such data shall be used as a basis of payment (or fat-skim accounting) in any other than a laboratory approved or licensed by the commissioner.

1. Laboratory. The laboratory shall be so located, designed and equipped as to assure safety, efficiency and accuracy of butterfat analysis.

2. Equipment. The laboratory shall be equipped with the following.

a. Centrifuge. Shall be electric, equipped with heating element, thermostat controls, tachometer or speed counter, brakes and on-off switch.

b. Hot Water Tank and Tempering Bath. Shall be equipped with tray, thermostatic controlled heating element and on-off switch.

c. Glassware. Sufficient to perform the workload in an efficient and accurate manner.

d. Hot Water. 140° F or above with sinks designed to provide adequate tempering of samples.

e. Supplies. Sufficient to provide basic maintenance of analytical devices, proper cleansing of glassware and the accurate, efficient performance of the testing program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:891 and R.S. 40:883.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Dairy Stabilization Board, LR 1:167 (March 1975).

Subchapter D. Test Results

§121. Finished Product Analysis

A. The commissioner may secure such sample as a means of checking the accountability of fat and skim by processors and cooperatives. Samples shall be secured within five-day intervals on not less than six dates within the month and shall equitably represent size and type of the product. Test results shall be averaged immediately following the end of each month and a copy submitted to respective parties. The commissioner may require accounting on the basis of such averages provided the variation between that of the processor or cooperative and the commissioner's shall vary in excess of the following.

Pasteurized Milk	0.05%
Homogenized Milk	0.05%
Skim Milk	0.05%
Buttermilk	0.05%
Chocolate Milk	0.10%
Half and Half Cream	0.10%
Light Cream	0.10%
Heavy Cream	0.20%
Sour Cream	0.10%

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:888 and R.S. 40:883.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Dairy Stabilization Board, LR 1:167 (March 1975).

§123. Inadequate Fresh Milk Tests Compensation

A. In the absence of composite samples, an inadequate number of acceptable fresh milk tests may be compensated by the most recent acceptable fresh milk test recorded for the preceding period of shipment. Compensation shall be limited to one test. Inadequate tests, exceeding one, shall necessitate securing the additional samples from the farm by employees of the party responsible for the testing program. Such samples shall be secured, when possible, prior to the end of the sampling period or immediately following the termination of the testing period. The commissioner, his agent or representative, shall be notified prior to all compensations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:883.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Dairy Stabilization Board, LR 1:167 (March 1975).

§125. Computation of Butterfat Tests; Averages

A. Individual fresh and composite Babcock tests and all computed averages being compared to Babcock Composite tests shall be determined to the nearest tenth percent.

B. All other tests and computed averages shall be determined to the nearest hundredths percent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:883.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Dairy Stabilization Board, LR 1:167 (March 1975).

Chapter 3. Dairy Stabilization Board

§301. Definitions

A. Wherever in these rules and regulations the masculine is used, it includes the feminine and vice versa; wherever the singular is used, it includes the plural and vice versa.

Act—R.S. 3:4101 et seq., the Dairy Stabilization Law.

Administrative Cost—includes those direct additional expenses normally and customarily associated with the placement of a product into an established accounting system such as clerical assistance and computer related expenses and does not include expenses such as marketing, sales or promotional expenses.

Agent—an employee of the Department of Agriculture and Forestry or any person authorized to act on behalf of the commissioner.

Board—the Dairy Stabilization Board created by R.S. 3:4106.

Bulk Milk—milk which has not yet been placed in the container in which the product will be offered for sale to consumers, retailers, or institutions.

Cartage—the transportation of dairy products within a limited geographicia area, such as delivery of dairy products from the processor to the retailer or distributor.

Commerce—any act for which a license from the board is required.

Commissioner—the commissioner of Agriculture and Forestry of the state of Louisiana.

Cost—

a. *Cost to the Retailer*—the per unit invoice cost of the dairy products to the retailer:

i. less the volume discount, if any;

ii. plus, all costs of freight;

iii. plus, a markup to cover a proportionate part of the cost of doing business, direct and indirect, which markup, in the absence of proof of a different cost, shall be no less than 6 percent of the invoice cost to the retailer after adding freight charges;

b. *Cost to the Distributor*—the per unit invoice cost of the dairy products to the distributor, including:

i. all freight charges not otherwise included in the invoice which shall, in the absence of proof of a different amount, be presumed to be 6 percent of the invoice cost for inbound freight and 12 percent of the invoice cost for outbound freight as applicable; and

ii. a markup to cover a proportionate part of the cost of doing business, direct and indirect, which markup, in the absence of proof of a different cost, shall be presumed to be no less than 3 percent of the invoice cost;

c. *Cost to the Processor*—all the cost including the costs of raw products, ingredients and/or additives, labor (including salaries of executives and officers), receiving, cooling, processing, packaging, manufacturing, rent, interest, depreciation, power, supplies, selling, delivery, storing, maintenance of plant and equipment, advertising, transportation, all types of licenses, taxes, fees, insurance, any and all overhead expenses, and all other costs, direct and indirect, of doing business. Cost shall be allocated proportionately to each unit of product produced;

d. to determine cost when one or more items are advertised, offered for sale, or sold with one or more other items at a combined price, or are advertised, offered as a gift, or given with the sale of one or more items, then all of the items shall be considered as advertised, offered for sale, or sold, and the cost and price of each item shall be governed by the provisions of §301.*Cost*.a, b, and c, and other related provisions hereof.

Delinquent Account—the unpaid debt resulting from the purchase of dairy products on credit after the passage of 30 days from the end of the month in which the purchase was made.

Department—the Department of Agriculture and Forestry of the state of Louisiana.

Discount—any reduction, direct or indirect, in the price of dairy products.

Disruptive Trade Practice—any of the acts more fully defined in §317 hereof.

Distributor—a person, other than a processor, who sells dairy products to one or more retail establishments or home delivery routes. The term *distributor* includes wholesale grocers, cooperative grocery associations, and any person engaged in marketing dairy products at wholesale (the sale of goods in bulk or quantity as opposed to retail or direct sales to consumers).

Fluid Milk—homogenized milk, creamline milk, lowfat milk, fortified lowfat milk, skim milk, buttermilk, flavored milk, chocolate milk, lowfat chocolate milk, ice milk mix, half and half, breakfast cream, whipping cream, egg nog, sour cream, cottage cheese (dry or cream), creole cream cheese, yogurt, U.H.T. milk, reene, and lo-reene.

Freight—all cost of transportation of dairy products such as delivery of products to and from the retailer or distributor.

Frozen Dessert(s)—frozen dairy products including ice cream, fruit ice cream, nut ice cream, frozen yogurt, ice milk, malt ice milk, malt ice cream, French ice cream, milk sherbets, mellorine, olarine, sherine and the mix from which any such product is made.

Illicit Payment—the payment of anything of value by a processor or distributor or any agent of either for the privilege of doing business or with the intent or effect of influencing the recipient in a business relationship.

Institution—a school, hospital, state agency, religious organization, charitable organization, or nursing home.

Invoice—the document evidencing the sale of products which shall contain sales information including the date, quantity, description of product and the actual sale price of each product to the purchaser.

Licensee—any person licensed or required to be licensed under the Act or these rules and regulations.

Market Area—that geographic territory in which a licensee departing from a prevailing price under the circumstances described in §323.A.2.a.i or §323.B.2.b.i, actively competes for customers with the relevant competitor and where the relevant competitor is offering the price being met or that geographic territory in which consumers of the licensee's dairy products actively shop for dairy products of the licensee and the relevant competitor and where the relevant competitor is offering the price being met.

Markup—an amount added to the invoice or replacement cost of dairy products to establish a reasonable sales price.

Milk—the lacteal secretion of one or more cows (including such secretions when raw, cooled, pasteurized, standardized, homogenized, recombined, or concentrated) which meets applicable requirements of the state health officer.

Milk Case(s)—the wood, metal, or plastic container utilized for transportation and/or delivering cartons, bottles, jugs, or other packages of dairy products.

Person—any licensee, individual, partnership, corporation, cooperative association, governmental agency, or any entity.

Price—the net amount received or to be received by the seller in legal United States currency and currency specifically does not include trading stamps.

Processor—a person who processes one or more dairy products or a person who purchases bulk milk for resale to a person who processes dairy products. The term does not include a person who purchases ice cream mix or ice milk mix whose processing activities are limited to converting such mix into a dairy product which will be sold on the premises where such processing occurs.

Quorum—with respect to the board, four members of the board.

Retailer—any person who is engaged in transferring title to daily products to consumers at a fixed business location within the state.

Slotting Allowance—the payment of anything of value by a supplier as a mere reimbursement for actual, real and genuine additional direct administrative cost incurred by a purchaser in servicing the physical introduction of a product or products. Slotting allowance does not mean, under any circumstances, any payment which may be construed as an illicit payment as defined herein.

Supplier—processors and distributors, including wholesale grocers and cooperative grocery associations.

Volume Discount—a rate of reduction applicable to the price of dairy products, which rate is established on the basis of total purchases of dairy products from all suppliers of such products.

Volume Discount Year—the 12 months commencing on April 1 and ending on March 31.

Wholesaler—any licensee engaged in the business of making sales at wholesale (the sale of dairy products in bulk or quantity as opposed to retail or direct sales to consumers) within this state, or if any person is engaged in the business of making sales at both wholesale and at retail, wholesaler shall apply only to the wholesale portion of the business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4102 and 3:4108 (formerly R.S. 40:931.2 and R.S. 40:931.8).

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Dairy Stabilization Board, LR 9:3 (January 1983), amended LR 20:398 (April 1994).

§303. Administration of the Affairs of the Board

A. The chairman shall preside at all meetings, provided that in the absence of the chairman, the vice-chairman shall preside.

B. The board shall meet upon the call of the chairman or the commissioner.

C. The board may conduct at least one meeting during each quarter or may meet more frequently upon call.

D. The board may, from time to time, delegate some of its responsibilities to subcommittees of the board, provided that such delegation of authority may be granted only at a meeting where a quorum is present.

E. Members of the board shall be entitled to reimbursement in accordance with rules and regulations governing state employees for expenses incurred in attending meetings of the board or its subcommittees, provided that no member shall be entitled to reimbursement except for the performances of duties specifically assigned by the commissioner.

F. Meetings of the board shall normally be held in the domicile of the board but may be held at other locations from time to time.

G. Proxies shall not be permitted.

H. No final action shall be taken by the board except at a meeting where a quorum is in attendance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4107 and 3:4108 (formerly R.S. 40:931.7 and R.S. 40:931.8).

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Dairy Stabilization Board, LR 9:4 (January 1983), amended LR 20:399 (April 1994).

§305. Licenses Required and Procedure

A. Each retailer, distributor, processor or any person must be licensed by the board or the commissioner prior to and while conducting any business of buying and/or selling dairy products.

B. The board or the commissioner shall maintain a list of each retailer of dairy products. This list shall be known as the Retailer License List. Inclusion on the list shall constitute licensing of the retailer. Temporary removal from the list shall constitute suspension of the license and permanent or indefinite removal from the list shall constitute revocation of the retailer's license. The Retailer License List shall be a public record.

C. It shall be the obligation of each retailer to inform the board or commissioner, in writing, the full name, address of each location at which it sells dairy products, all applicable phone numbers, whether a corporation, partnership, sole proprietorship or other type of entity and the name, title, address and phone number of the highest ranking officer, partner or manager, before selling any dairy products. Upon receipt of such information the board or the commissioner shall include the retailer on the Retailer License List unless the board or commissioner finds after a hearing in accordance with the Administrative Procedure Act that the retailer notwithstanding the foregoing Paragraphs is in effect a person or entity whose license has been previously suspended or revoked. The board or commissioner may include any retailer on the Retailer License List which it believes to be engaged in the business of retailing and where there is no cause not to include said retailer on the Retailer License List.

D. For licensure, each processor and distributor must:

1. complete the application form required by the board or the commissioner;

2. demonstrate compliance with all pertinent requirements of agencies of government.

E. Each license is personal to the holder thereof and may not be transferred to another for any purpose nor for any period of time.

F. Any license suspended or revoked by the board or commissioner may be re-issued after due deliberation by the board or commissioner in their discretion.

G. Each licensee is responsible for assuring that the other party or parties to any transaction of sale or purchase of dairy products is properly licensed by the board or commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4109 and R.S. 3:4108 (formerly R.S. 40:931.10 and R.S. 40:931.8).

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Dairy Stabilization Board, LR 9:5 (January 1983), amended LR 20:399 (April 1994).

§307. Assessments

A. Pursuant to R.S. 3:4101, an assessment of $0.03 per hundredweight is hereby levied upon the first sale of dairy products within the state of Louisiana by the processor, distributor or retailer licensee who sells such product. The assessment shall be due and payable on all sales of dairy products during the previous month.

B. Only one assessment shall be levied on any given lot of dairy products. For example, when a processor makes the first sale of a given lot of dairy products and pays the assessment due thereon, no assessment shall be due from the distributor or retailer of that lot of dairy products. However, when a distributor makes the first sale within this state of a given lot of dairy products, the distributor or retailer shall be liable for payment of the required assessment on such lot.

C. The assessment on frozen desserts shall be determined by converting the frozen desserts to milk equivalents by the following procedure: Multiply total non-fat milk solids x 5.79 and multiply total pounds fat x 12.5, add the two results. The resulting figure shall be used as a milk equivalent.

D. Assessments must be paid on or before the last day of the month following the month in which the sales occur. (For example, a report filed on December 31 should include all sales made during the month of November.) Assessments must be remitted to the board or commissioner together with the reporting form required by the board or commissioner. Each processor, distributor and retailer required under Subsection A hereof to pay the assessment must file the required report and pay the assessment on the due date.

E. Licensees whose assessments amount to $25 or less each year may pay the total assessment for the 12 months of the year on an annual basis, provided that such licensees must file the reporting form required by the board or commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4111 and R.S. 3:4108 (formerly R.S. 40:931.13 and R.S. 40:931.8).

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Dairy Stabilization Board, LR 9:5 (January 1983), amended LR 20:399 (April 1994).

§309. Volume Discounts Program and Procedures

A. Any licensed retailer desiring to receive a volume discount from its suppliers must first be approved by the board or commissioner to receive a volume discount. To be approved by the board or commissioner, the retailer must complete a volume discount eligibility application, on forms provided by the board or commissioner. The application must include all fluid milk purchases during the standard three-month base period and/or all frozen dessert purchases during the standard 12-month base period. The application is subject to verification by the board or commissioner.

B. Processors and distributors may grant volume discounts to a licensed retailer upon receipt of notification from the board or commissioner of the retailer's eligibility to receive a volume discount.

C. The board or commissioner will annually, on or before April 1, publish a list of all retailers eligible to receive volume discounts, including the retailer's name and address, the rate(s) of discount authorized for each such retailer, and the effective date of such volume discount. The board or commissioner shall promptly notify all processors and distributors of any retailer approved for volume discounts subsequent to publication of the annual listing.

D. The authorized rate(s) of volume discount(s) will be established on the basis of a retailer's total purchases of fluid milk and/or frozen desserts from all suppliers during the appropriate base period.

E. The standard base period for calculation of the authorized rate of volume discount for fluid milk will be the months of August, September and October of each year. The standard base period for calculation of the authorized rate of volume discount for frozen desserts will be November 1 through October 31 immediately preceding the retailer's application.

F. A retailer that has not been in operation during the entire standard base period may, with the approval of the board or commissioner, use for fluid milk, his first full three calendar month's purchases and, for frozen desserts, his first full 12 calendar month's purchases.

G. The authorized rate of volume discount on fluid milk purchases will be established by totaling the value of all fluid milk purchases from all suppliers during the approved base period and dividing said total by three.

H. The authorized rate of volume discount on frozen desserts will be established by totaling the value of all frozen dessert products purchased from all suppliers during the approved base period.

I. The authorized rate of volume discount for each retailer shall become effective on April 1 of the year following the application and shall remain in effect until the following March 31, except as provided in §309.F. Volume discount rates for a new retailer shall become effective as of his first day of business and remain in effect until he has operated for a full volume discount year.

J. The authorized rates of volume discount of fluid milk purchases shall be as follows.

Average Monthly Purchases from All Suppliers Discount Rate	Volume
$1,000.00 to $1,500.00	3 percent
$1,500.01 to $2,500.00	4 percent
$2,500.01 to $3,500.00	5 percent
$3,500.01 to $4,500.00	6 percent
$4,500.01 and over	7 percent

K. The authorized rates of volume discount on frozen desserts shall be as follows.

Total Annual Purchases from All Suppliers Discount Rate	Volume
$ 4,000.00 to $ 6,000.00	3%
$ 6,000.01 to $ 8,000.00	4%
$ 8,000.01 to $11,000.00	5%
$11,000.01 to $15,000.00	6%
$15,000.01 and over	7%

L. All applications for volume discounts must be submitted within one month after the close of the appropriate base period. One month's volume discount shall be forfeited for each month the application is late.

M. In a retail ownership transfer, the buyer may receive the volume discount rate approved for the previous owner. Alternatively, the buyer may choose to establish his own volume discount rate in accordance with these rules and regulations.

N. Accounts shall become delinquent 30 days from the end of the month in which the purchases were made, unless a good faith dispute exists between the parties concerning the amount of such account, in which case the account becomes delinquent 30 days following resolution of such good faith dispute.

O. Retailers who have delinquent accounts with any processor or distributor are not eligible to receive a volume discount from any supplier on any dairy products purchased during the period when the account was delinquent.

P. Each processor and distributor must report to the board or commissioner, no later than the tenth of each month, the name and address of each account which was delinquent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4108 (formerly R.S. 40:931.8).

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Dairy Stabilization Board, LR 9:5 (January 1983), amended LR 20:400 (April 1994).

§311. Milk Case Deposit Program and Procedure

A. Any licensed processor may adopt a milk case deposit program provided that those licensees who adopt a milk case deposit program shall:

1. give written notice providing clear, express and written detail of the program to all persons or entities to whom the program applies;

2. provide the same information in writing to the board or commissioner;

3. provide all said notices no less than 30 days before the implementation of said program;

4. apply any such program uniformly to all customers; and

5. such milk case deposits, if implemented, shall be refundable and shall be $1 per milk case.

B. Any person or entity required to provide a deposit on milk cases under such a program shall not fail to do so and failing to do so, shall be deemed to be and is hereby declared to be an unfair trade practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4108.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Dairy Stabilization Board, LR 12:825 (December 1986), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Diary Stabilization Board, LR 20:400 (April 1994).

§313. Investigative Hearing Procedure

A. Upon the belief that the Act or these rules and regulations may have been or will be violated, the board or commissioner may take the deposition of any person, firm or corporation for the purpose of investigating alleged violations or potential violations of the Act or these rules and regulations subject to the following conditions:

1. the deponent shall receive no less than five business days' notice of the date, time and place of the deposition. The place of said deposition shall be designated by the board or commissioner and shall be either in East Baton Rouge Parish or in the parish of domicile or principal place of business of deponent. In the event the deponent is not domiciled in Louisiana and has no principle place of business in Louisiana, the deposition may be noticed for and taken in East Baton Rouge Parish;

2. the subject of inquiry of the deposition shall be contained in the notice and the inquiry shall be limited to the subject or subjects noticed, said limitation being the same as those of a civil discovery deposition conducted in accordance with Louisiana law;

3. the notice shall advise deponent of the right to be represented by counsel and to be accompanied by counsel;

4. the notice shall advise of the potential uses of such deposition;

5. the notice shall advise of the right to read and sign the deposition;

6. the notice shall advise of the right to obtain a copy of such deposition upon payment of costs.

B. The board or commissioner may issue subpoenas and subpoenas duces tecum in connection with said deposition. The scope of same being governed by Louisiana law related to the scope of discovery deposition subpoenas.

C. In the event that any person, firm or corporation fails or refuses to comply with any subpoena issued hereunder, the board or commissioner may compel such compliance by civil action commenced in the Nineteenth Judicial District Court for the Parish of East Baton Rouge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4108 (formerly R.S. 40:931.8).

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Dairy Stabilization Board, LR 9:8 (January 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Diary Stabilization Board, LR 20:401 (April 1994).

§315. Violations

A. No person shall violate any provision of the Act or these rules and regulations.

B. No person shall engage in any disruptive trade practices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4109, R.S. 3:4116 and R.S. 3:4108 (formerly R.S. 40:931.10, R.S. 40:931.18 and R.S. 40:931.8).

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Dairy Stabilization Board, LR 9:8 (January 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Diary Stabilization Board, LR 20:401 (April 1994).

§317. Disruptive Trade Practices

A. Disruptive trade practices are any act or acts by any person in commerce where the effect of such act or acts may tend to substantially lessen competition or tend to create a monopoly in the sale of dairy products; or which tend to injure, reduce, prevent, or destroy competition in the sale of dairy products.

B. The following acts are, but not by way of limitation, disruptive trade practices.

1. It shall be prohibited for any person engaged in commerce, in the course of such commerce, either directly or indirectly, to discriminate in price between different purchasers of dairy products of like grade and quality, where either or any of the purchasers involved in such discrimination are in commerce, where such dairy products are sold for use, consumption, or resale within the state of Louisiana.

2. No person engaged in the processing, production, manufacture, distribution or sale of dairy products shall discriminate between different sections, communities, cities, or localities in the state by selling such dairy products at a lower rate in one section, community, city, or locality, than is charged for the dairy product by such person in another section, community, city or locality, after making due allowance for the difference, if any, in the grade or quality of the dairy product and in the actual cost of transportation of the dairy product from the point of production, if a raw product, or from the point of manufacture, if a manufactured product, where the effect of such discrimination may tend to harm competition. All sales so made shall be prima facie evidence of the unfair discrimination prohibited hereby.

3. It shall be unlawful for any person engaged in commerce, in the course of such commerce, to either directly or indirectly, pay or grant, or to receive or accept, anything of value as a commission, brokerage, any other compensation, any allowance or any discount other than the volume discount established herein and slotting allowance as defined herein, except for the actual cost of services rendered in connection with the sale or purchase of dairy products.

4. It shall be unlawful for any person engaged in commerce to pay anything of value to or for the benefit of a customer of such person in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale or offering for sale of any dairy products manufactured, sold, or offered for sale by such person.

5. It shall be unlawful for any person to discriminate in favor of one purchaser against another purchaser or purchasers of dairy products bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of any services or facilities connected with the processing, handling, sale or offering for sale of such dairy product so purchased upon terms not accorded to all purchasers on proportionally equal terms.

6. It shall be unlawful for any person engaged in commerce, in the course of such commerce, knowingly to induce or receive a discrimination in price which is prohibited by this Section.

7. It shall be unlawful for any person engaged in commerce, in the course of such commerce, to be a party to, or assist in, any transaction of sale, or contract to sell, which discriminates against competitors of the purchaser and to sell, or contract to sell, dairy products in any part of Louisiana at prices lower than those exacted by said person elsewhere in Louisiana.

8. The granting or offering to grant of any discount, rebate or allowance, except the volume discount established herein and slotting allowance as defined herein.

9. The granting or offering to grant of any volume discount different from or in excess of the volume discount authorized herein is a disruptive trade practice, unfair method of competition and unfair or deceptive act or practice and is hereby prohibited with respect to the sale of dairy products.

10. Any advertisement, offer to sell, or sale of any dairy products by any processor, distributor or retailer at less than cost as defined herein plus any state, parish, or municipal sales tax that is then payable under any existing law or ordinance, is a disruptive trade practice, unfair competition and contrary to and violative of public policy as tending to deceive purchasers or prospective purchasers, or tending to substantially lessen competition.

11. Giving or receiving or offering to give or receive, directly or indirectly, anything of apparent, present or prospective value with the intent or effect of influencing the recipient in the business relationship.

12. The selling or offering to sell dairy products by a retailer, distributor, or processor who is not licensed by the board or commissioner is prohibited.

13. The sale to or purchase from a person whose license has been suspended or revoked is prohibited.

14. The granting of a volume discount to any retailer without notification from the board or commissioner of the retailer's eligibility for such discount is prohibited.

15. The extending to or receiving of further credit by any licensee where the account is delinquent.

16. The filing of any false information of any kind with or the making of any false statements of any kind to the board or commissioner, or any agent of either is prohibited.

17. The failing or refusing to maintain or permit an examination of financial or other records when the request of the commissioner, board or any agent of either to audit is made for valid purposes is prohibited.

18. The failing or refusing to provide any report required by the board or commissioner is prohibited.

19. The use by a retailer, processor, or distributor of equipment furnished by a frozen dessert processor or distributor for the storage or display of frozen desserts other than those frozen desserts sold to such retailer by such frozen dessert processor or distributor which provides the equipment is prohibited. The storage or display of products other than frozen desserts received from such processor or distributor, in such storage or display cabinet by a retailer shall constitute prima facie evidence of a violation of this regulation.

20. The advertising of lowfat milk (milk with a milk fat content of not less than 1/2 of 1 percent nor more than 2 percent) in any form of mass media without clearly stating the percentage of milk fat contained in said product is prohibited.

21. The failing by a processor or distributor to provide an invoice to a purchaser of dairy products at the time of delivery is prohibited. Mailing of said invoice on the date of delivery shall satisfy the requirement of providing an invoice as required herein.

22. The selling or the offering to sell dairy products under terms or prices which result in said sale being below cost as defined herein is prohibited.

23. Combined sales at less than cumulated costs where one or more of the items in combination is a dairy product is prohibited.

24. The furnishing, giving, lending, selling, or renting, by a processor or distributor or the accepting, receiving, buying, or renting by a retailer of any signs or display materials advertising and containing the name or product of any retailer is prohibited.

25. Donating dairy products except as provided in §321.A.4.

26. The using, shipping, lending, borrowing, possessing, giving away, throwing away, donating or disposing of in any manner, of milk cases belonging to another licensee is prohibited without written authority from the director of the board.

27. The providing of a fluid milk dispenser to any retailer, except under the following conditions.

a. The processor or distributor has been engaged in selling dispenser milk to the retailer for at least 60 days prior to the date on which the dispenser is furnished.

b. The dispenser is replacing the retailer's dispenser which is undergoing repair and the period during which the dispenser is furnished does not exceed 30 days.

c. The processor or distributor must report to the board or commissioner within 10 days after the date on which the dispenser is furnished to the retailer the make and serial number of the dispenser, the name and address of the retailer and the date on which the dispenser was installed.

28. The failure of the purchaser, licensee, to assume all responsibility for product losses except where a portion of the price is dedicated to the seller for assuming that loss, sometimes referred to as a "full service" sale or except in the case of manufacturing or processing defects.

29. Utilization of coupons in connection with the marketing of dairy products without the prior written approval of the director of the Dairy Stabilization Board. When submitted for approval, the coupons shall be reviewed to determine if said coupons are in compliance with the Act and these rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4108 (formerly R.S. 40:931.8).

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Dairy Stabilization Board, LR 9:5 (January 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Diary Stabilization Board, LR 20:401 (April 1994).

§319. Mandatory Obligations of Licensees

A. The omission by a licensee of any of the following requirements constitutes a violation of these rules and regulations and failure to comply with same can result in suspension or revocation of license, in addition to any other penalty provided by law or these rules and regulations.

B. Each licensee must maintain all records including financial records pertaining to all transactions subject to the Act in accordance with standards generally prevailing in industry for a period of not less than two years. Said records shall be kept in a manner that permits prompt access to all such records and shall be kept in a manner that facilitates the determination by audit of, which costs are allocable to which products and, shall include but not be limited to the following records:

1. expenses incurred and paid;

2. expenses accrued;

3. depreciation schedules;

4. production schedules; and

5. documentation of circumstances relating to price changes for purposes of meeting competition.

C. In order to enforce the provisions of the Act and these rules and regulations, the commissioner may from time to time audit the books and records of licensees, and each licensee shall permit access to his financial records, during normal business hours, for such audit.

D. Each licensee shall submit such additional reports concerning the sale of dairy products as may from time to time be required by the board or commissioner.

E. The monthly assessment report of sales of dairy products required under §307 shall be submitted timely.

F. The monthly assessment on sales of dairy products required by R.S. 3:4111 and §307 of these rules and regulations shall be paid timely.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4108 (formerly R.S. 40:931.8).

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Dairy Stabilization Board, LR 9:7 (January 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Diary Stabilization Board, LR 20:403 (April 1994).

§321. Trade Practices Declared Not Disruptive

A. The following acts are specifically declared as not constituting disruptive trade practices and are not prohibited:

1. the giving of advertising novelties unless the nature or value of the advertising novelty is such that the giving of such advertising novelty constitutes an illicit payment;

2. normal social activities of any person or the entertainment of any customer unless the expenditure involved in such entertainment is excessive or unreasonable;

3. the giving of samples of dairy products to consumers if the following requirements are observed:

a. in the case of fluid milk products, the quantity must be limited to 3 fluid ounces;

b. in the case of frozen desserts, the quantity must be limited to 1 fluid ounce;

c. the retailer on whose premises such sampling activity takes place must have been in operation at that location for at least 60 days prior to the date on which such activity takes place;

d. prior to engaging in sampling activities on the premises of a retailer, the processor or distributor shall notify the board or commissioner of the planned sampling activity. If such notification is by mail, it shall be given at least 10 days prior to the date of the planned sampling activity, and if such notification is by telephone, it shall be given at least three days prior to such activity;

e. notwithstanding the above provisions, processors may give homogenized milk, lowfat milk, skim milk, or chocolate milk in half-pint containers or a frozen dessert

sample weighing no more than 3 fluid ounces to persons participating in plant tours, if such products are consumed on the premises where given;

f. the giving of such sampling by a processor or distributor shall not extend over a period of more than two consecutive days for each retailer and shall not occur more frequently than once per calendar quarter; provided that the giving of such samples during the month of December shall not be used in determining whether there has been compliance with the provisions of this Subsection limiting frequency of sampling demonstrations to one per calendar quarter;

g. the prohibition contained herein shall not apply to trade shows or other activities designated by the board or commissioner in writing;

4. the donation of dairy products not directly or indirectly related to the sale of dairy products to nonprofit and charitable entities;

5. a cooperative association returning to its members, producers, or consumers the whole or any part of the net earnings or surplus resulting from its trading operations, in proportion to their purchases or sales from, to, or through the association, provided same is not in the form of a discount or allowance and distributed not more frequently than quarterly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4108.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Dairy Stabilization Board, LR 20:403 (April 1994).

§323. Burdens and Presumptions

A. Sales below Cost

1. Upon proof being made at any adjudicatory hearing that a licensee has advertised, offered to sell, or sold dairy products at less than cost as defined herein plus applicable taxes, the licensee shall be presumed in violation of the regulations proscribing sales below cost.

2. The licensee may rebut that presumption by proving that:

a. such advertisement, offer to sell, or sale was not for the proscribed purpose, did not have a proscribed effect or was otherwise lawful, such as that it was made in good faith to meet an equally low price of a competitor when all of the following circumstances were present:

i. the advertisement, offer to sell, or sale was limited to that customer, group of customers or that market area to which the price was available from competitors;

ii. the advertisement, offer to sell, or sale occurred only while the competitive circumstances justifying such sale below cost existed; and

iii. the advertisement, offer to sell, or sale is reported in advance in writing to the board or commissioner, or, if advance notification is not possible, within 72 hours thereafter;

b. such advertisement, offer to sell, or sale was necessary in response to actual or imminent deterioration of dairy products, seasonal obsolescence of dairy products, distress sales under court process, final liquidation sales or sales in good faith in discontinuance of a business or in discontinuance of a dairy product, and provided that the price at which the dairy product is advertised, offered, or sold is reported in advance to the board or commissioner, or, if advance notification is not possible, within 72 hours thereafter.

3. In the event a representative of the board or of the commissioner has a reasonable basis upon which to believe that a licensee may be selling dairy products below costs and said licensee denies access, fails to produce or produces records which will not permit a determination of the cost of production then, in that event, the cost of the dairy products for the relevant period shall be presumed to be in excess of the selling price. This presumption shall be rebuttable but the burden of rebutting same shall be upon the licensee.

B. Price Discrimination

1. Upon proof being made at any adjudicatory hearing that there has been discrimination in price, services, facilities furnished, or any other proscribed discrimination, the licensee shall be presumed to be in violation of the rules and regulations proscribing discrimination.

2. The licensee may rebut that presumption by proving that:

a. the discrimination in price, services, or facilities was necessary in response to actual or imminent deterioration of dairy products, seasonal obsolescence of dairy products, distress sales under court process, final liquidation sales or sales in good faith in discontinuance of a business or in discontinuance of a dairy product; or

b. the discrimination in price, services, or facilities was made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor and all of the following circumstances were present:

i. the discrimination in price, services, or facilities was limited to that customer, group of customers or that market area to which the price was available from competitors;

ii. the discrimination in price, services, or facilities occurred only while the competitive circumstances justifying such discrimination existed; and

iii. the discrimination in price, services or facilities is reported in advance in writing to the board or commissioner, or, if advance notification is not possible, within 72 hours thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4108.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Dairy Stabilization Board, LR 20:404 (April 1994).

§325. Cease and Desist Order; Suspension/Revocation of License; Hearing Required; Penalties; Amount; Stipulated Resolutions; Service

A. Upon probable cause the board or commissioner may issue a cease and desist order to any licensee, describing with particularity the acts or omissions which the board or commissioner believes to constitute a violation of the Act or these rules or regulations and ordering such licensee to take the necessary and sufficient steps to establish immediate compliance.

B. Upon a finding of any violation of the Act or these rules and regulations by a licensee which violation occurred after the receipt of a relevant cease and desist order the board or commissioner may and should assess a penalty which is treble the normal penalty for any such offense.

C. The board or commissioner may suspend or revoke the license of any licensee found to have violated any provisions of the Act or these rules and regulations.

D. No license shall be suspended or revoked unless the licensee is given an adjudicatory hearing noticed and conducted in accordance with the Administrative Procedure Act (R.S. 49:950-49:970).

E. The board or commissioner may, in lieu of suspension or revocation of any license, impose a penalty in accordance with R.S. 3:4109(G) as a result of any violation of the Act or these rules and regulations which is sustained at such hearing. No penalty may be imposed until such time as an adjudicatory hearing in accordance with the Administrative Procedure Act is held.

F. Each day on which a violation occurs shall be considered a separate offense.

G. The foregoing shall not limit any stipulated resolution of any alleged violation.

H. All notices including notices of adjudicatory hearings and services of the subpoenas shall be served upon the agent for service of process, an officer, the principal owner, a manager or an employee of the entity to be noticed or served and, once served in accordance herewith said notice or service, shall be valid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4108, R.S. 3:4109 and R.S. 3:4116.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Dairy Stabilization Board, LR 20:404 (April 1994).

§327. Confidentiality

A. Neither the board, the commissioner, nor any agent nor representative of either shall disclose any financial or business information of any licensee which is acquired or collected in the enforcement of the Act or these rules and regulations, except as provided by R.S. 3:4110.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4108 and R.S. 3:4110.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Dairy Stabilization Board, LR 20:405 (April 1994).

§329. Delegation of Authority and Duties

A. The commissioner may, from time to time, in accordance with the authority granted to him under R.S. 36:901(B), delegate to the board any of the authority and/or duties reserved to the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4108.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Dairy Stabilization Board, LR 20:405 (April 1994).

Chapter 5. Tax Credit for Certain Milk Producers

§501. Purpose and Effective Date

A. These regulations implement the provisions of R.S. 47:6032.

B. These regulations are effective for taxable periods beginning on or after January 1, 2007.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:1598 (August 2008).

§503. Definitions

Announced Production Price—the average of the production price of milk for the three years immediately preceding the calendar year for which tax credits may be given.

Certified Milk Producer—a milk producer who has been certified as such to the Department of Revenue by the Department of Health and Hospitals in accordance with R.S. 47:6026(E).

Commissioner—the Louisiana Commissioner of Agriculture and Forestry or his designee.

Federal Milk Market Order (FMMO)—a regulation issued by the United States secretary of agriculture specifying minimum prices and conditions for the purchase of milk from dairy farmers within a specified geographic area.

Information Release Form—a form entitled Authorization to Release Information which authorizes the milk market administrator or other persons to release information held by the administrator or other person relative to that milk producer.

LDAF—the Louisiana Department of Agriculture and Forestry or its designee.

Milk Handler—the person, including a dairy cooperative, who collects or receives a milk producer's milk directly from the milk producer's dairy.

Milk Market Administrator—the market administrator of the FMMO that covers this state.

Milk Producer—a resident taxpayer of the State of Louisiana who is engaged in the business of producing milk in this state from his own cows.

Non-Pooled Milk—milk that is produced in Louisiana for sale but is not included in milk production records maintained by the milk market administrator. Examples of non-pooled milk include milk pooled on FMMOs that do not cover this state, milk that has been sold but not pooled on any FMMO, and milk that had to be dumped or destroyed for legitimate reasons.

Non-Pooled Milk Form—a form or list entitled "non-pooled milk production certification" submitted by a milk producer or milk handler showing the amount of non-pooled milk produced by a milk producer for a year for which the credit is applied for.

Production Price—an annual price derived by averaging over 12 months the monthly sum of the market balancing factor, (which is the monthly arithmetic difference between the average of the sums of the uniform prices plus the associated transportation costs of moving milk from its export points of origin to New Orleans, Louisiana less the monthly uniform price in the FMMO that covers this state), plus the cost of milk production in this state as determined by the LSU Agricultural Center's Department of Agricultural Economics and Agribusiness.

Tax Credit—the milk producer refundable tax credit established by R.S. 47:6032.

Uniform Price—the weighted average price established in the FMMO covering this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:1598 (August 2008).

§505. Cooperative Endeavor Agreements

A. For the purpose of implementing the provisions of Acts 2007, No. 461 and these regulations LDAF, through the Commissioner, may enter into cooperative endeavor agreements with other state agencies, federal agencies, or private entities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:1598 (August 2008).

§507. Responsibilities of Milk Producers and Milk Handlers

A. It shall be the responsibility of any milk producer who wants to apply for a tax credit in the year for which the credit is applied for to:

1. hold a milk producer permit during the year for which the credit is applied for under Louisiana Administrative Code, Title 51, Public Health—Sanitary Code, Part VII, Milk, Milk Products, and Manufactured Milk Products and meet the requirements of the 2007 revision to the Grade A Pasteurized Milk Ordinance of the United States Food and Drug Administration;

2. ensure that the records of the Department of Health and Hospitals reflect that during the year for which the credit is applied for the milk producer was in compliance with the requirements set out in Paragraph 1 for purposes of being certified as a milk producer;

3. timely submit to LDAF a properly completed and signed information release form;

4. timely submit to LDAF a properly completed and signed non-pool milk form for the year for which the credit is applied for if the milk producer's milk did not go into the FMMO milk pool for Louisiana and is not listed on a non-pooled milk form submitted by the milk producer's milk handler. The form shall certify the amount of such non-pool milk produced by the milk producer for that year and the reasons why the milk is non-pooled milk and why the milk is not listed on the certification form submitted by the milk handler;

5. timely submit to LDAF all other forms and information, properly completed and signed, that may be required by that department;

6. timely submit an application for the tax credit to the Department of Revenue on forms supplied by that department and in accordance with that department's regulations and policies.

B. It shall be the responsibility of each milk handler to timely submit to LDAF a properly completed and signed non-pooled milk form showing the amount of non-pooled milk collected or received by the milk handler from each of its milk producers. A milk handler may substitute a list showing its milk producers who have non-pooled milk, the amount of non-pooled milk, and the reason the milk is non-pooled milk for the non-pooled milk form.

C. Failure of a milk producer or milk handler to fulfill the responsibilities set out in Subsections A and B of this Section may result in the milk producer being disqualified from receiving any tax credit for the applicable tax year for which the credit is applied for or receiving less than the maximum allowable tax credit for the year for which the credit is applied for.

D. All forms and lists shall be free of false statements or false representations of any material fact. A milk producer or milk handler may be referred to the appropriate district attorney for possible criminal prosecution under R.S. 14:133 for filing false public records if the milk producer or milk handler files with LDAF or other state agency a form that contains a false statement or false representation of a material fact or provides false information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:1599 (August 2008).

§509. Forms; Distribution

A. All forms required by these regulations to be filled out and submitted by a milk producer or milk handler may be obtained from LDAF.

B. LDAF shall submit all forms relative to the tax credit which are received from milk producers and milk handlers to the proper state or federal agency or other appropriate entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:1599 (August 2008).

§511. Determination of the Announced Production Price

A. The announced production price shall be determined based on the following factors:

1. the average uniform price of milk in the top five states from which milk is imported to Louisiana;

2. the average transportation cost of importing milk from those five states;

3. the cost of production in Louisiana.

B. The determination of the announced production price shall be based on calculations made by the Louisiana State University Agricultural Center, Department of Agricultural Economics and Agribusiness, using the factors set out in Subsection A of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:1599 (August 2008).

§513. Determination of Tax Credit for Individual Producers and Eligible Quarters

A. LDAF shall, no later than April 30 of each year, provide the Department of Revenue with a chart for the previous year for which the credit is applied for showing the names of each participating certified milk producer, the amount of milk produced by each, the anticipated amount of tax credit each certified milk producer is eligible to receive, and any other information necessary or proper for the Department of Revenue to pay the tax credits.

1. Prior to submission of the chart to the Department of Revenue, a review committee composed of a person appointed by the commissioner, one person appointed by the secretary of health and hospitals, one person appointed by the secretary of revenue, and one certified milk producer appointed by the commissioner shall review and approve the chart.

B. Determination of the amount of milk produced during a calendar year by a participating certified milk producer shall be based on information obtained from the non-pooled milk certification forms and from records maintained by the milk market administrator.

C. Determination of the anticipated amount of tax credit each certified milk producer is eligible to receive shall be based on:

1. the amount of milk produced by the certified milk producer;

2. the maximum amount of tax credit the certified milk producer would be eligible to receive based on the amount of milk produced by that certified milk producer and the tax credit schedule set out in R.S. 47:6032(C);

3. if applicable, the percentage or ratio shown by dividing the statutory cap on the tax credit by the aggregate of the tax credit that all the certified milk producers would be eligible to receive if there was no statutory cap in place; and

4. the number of eligible quarters to which the tax credit shall be prorated.

a. A quarter shall be considered to be an eligible quarter for purposes of the tax credit whenever the uniform price for any one month of the quarter drops below the announced production price.

NOTE: For example, assume that a participating certified milk producer produces between 2,000,001 and 2,500,000 pounds of pooled and non-pooled milk combined for the year in which he is applying for a tax credit. He would be eligible under the statute for a maximum tax credit of $20,000, which, prorated over four quarters, would be $5,000 per quarter. If the aggregate of the tax credits that all participating certified milk producers would be entitled to for that year is equal to or less than the statutory cap of $2,500,000 and each quarter of the year is an eligible quarter then the certified milk producer in this example would receive a $20,000 tax credit. If there are only two eligible quarters in the year then the maximum tax credit he would receive would be $10,000, ($5,000 per quarter X 2).

If, however, the aggregate of the tax credits that all participating certified milk producers would be entitled to exceeds the statutory cap of $2,500,000 then all individual tax credits would have to be adjusted by a percent or ratio such that the aggregate cap of dairy tax credits for the taxable year would not exceed $2,500,000. Suppose the aggregate tax credit in this example equaled $3,100,000. Then the whole number percentage or ratio adjustment to individual tax credits necessary to maintain the aggregate tax credit for the year at or under $2,500,000 would be 80 percent. The participating certified milk producer in this example would be eligible for a maximum credit of $16,000, or $4,000 per quarter, (80% of the maximum tax credit of $20,000) if each quarter of the year is an eligible quarter. However, if there were only two eligible quarters in the year and the aggregate of the tax credits that all participating certified milk producers would be entitled to receive would, by virtue of that fact, be reduced to $2,500,000 or less then the certified milk producer in this example would be eligible to receive the non-prorated maximum tax credit for each quarter. In this example that tax credit would be $10,000, ($5,000 per quarter X 2).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:1599 (August 2008).

§515. Payment of Tax Credit

A. The tax credit shall be paid by the Department of Revenue to a certified milk producer based on the name and tax identification number listed on the chart that LDAF provides to the Department of Revenue.

B. LDAF shall determine the name and tax identification number of the certified milk producer based on the name and tax identification number listed on the information release form.

C. If two or more milk producers combined their milk under one certified milk producer's permit then the division of the tax credit among such milk producers shall be the responsibility of those milk producers and not the responsibility of either LDAF or the Department of Revenue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:1600 (August 2008).

§517. Certification of Non-Pooled Milk

A. LDAF may certify non-pooled milk for inclusion in determining the amount of tax credit due to a certified milk producer if a non-pooled milk form or list is submitted by the certified milk producer or on his behalf by a milk handler not later than January 31 of the year immediately following the year for which the credit is applied for.

B. The milk producer or milk handler shall provide LDAF with documentation sufficient to show that the non-pooled milk was commercially produced in Louisiana and the reason why the milk is non-pooled milk.

C. LDAF may investigate the circumstances and require the milk producer or milk handler to provide additional information in determining whether the non-pooled milk is to be used for determining the milk producer's tax credit.

D. If LDAF determines that the non-pooled milk is to be used for determining the certified milk producer's tax credit then LDAF shall notify the milk producer of that determination and provide the information to the person or entity making the tax credit calculations.

E. If LDAF determines that the non-pooled milk is not to be used for determining the milk producer’s tax credit then LDAF shall notify the milk producer of that determination on or before February 28 of the year immediately following the year for which the credit is applied for.

F. Any milk producer who is aggrieved by a decision of LDAF regarding the eligibility of non-pooled milk may petition the commissioner for an administrative hearing to determine the validity of the decision by LDAF.

1. Any such petition must be filed within 30 days after the milk producer receives notice from LDAF of the decision the milk producer is appealing.

2. The administrative hearing shall be held within 30 days after receipt of the milk producer's petition. The administrative hearing shall be conducted in accordance with the provisions of the Administrative Procedure Act.

3. The commissioner may conduct the hearing or appoint a hearing officer to conduct the hearing and make a recommendation to the commissioner. In all cases the commissioner shall make the final administrative decision.

4. Any petition for judicial review of the commissioner's decision shall be filed in accordance with the Administrative Procedure Act and within the time limits set out in the APA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:1600 (August 2008).

§519. Notices

A. LDAF shall publish the announced production price and list of eligible quarters in the Potpourri Section of the *Louisiana Register* and disseminate this information to milk producers by means reasonably calculated to provide notice to the milk producers.

B. LDAF shall notify each participating certified milk producer of the amount of tax credit that the milk producer is entitled to at the time that the chart of tax credits is submitted to the Department of Revenue.

C. All announcements and notices relative to the tax credit that LDAF is required to provide by law or these regulations to milk producers shall be provided by means reasonably calculated to provide notice to the milk producers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:1601 (August 2008).

§521. Disputes Regarding Milk Producer Tax Credit Qualifications

A. All disputes regarding whether a milk producer is or is not a certified milk producer shall be decided by the Department of Health and Hospitals in accordance with the regulations and policies of that department.

B. All disputes regarding eligibility for a tax credit or the amount thereof due the milk producer under the provisions of R.S. 47:6032 shall be decided by the Department of Revenue in accordance with the regulations and policies of that department.

C. All disputes regarding certification of the amount of non-pooled milk produced during a calendar year shall be decided by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:1601 (August 2008).

§523. Confidentiality of Records; Maintenance of Records

A. All information provided by a milk producer or milk handler to LDAF or to other state or federal agencies and any information received by LDAF from other state or federal agencies that is declared by the milk producer or milk handler to be proprietary or trade secret information, or which is considered to be confidential under the U.S. or

Louisiana Constitutions or by Louisiana law shall be treated by LDAF as confidential information that is exempt from Louisiana's public records laws.

B. LDAF's records relative to the tax credit shall be maintained for a period of three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2(A) and R.S. 47:6032(B).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner LR 34:1601 (August 2008).

Title 7
AGRICULTURE AND ANIMALS
Part XXXIII. Meat and Poultry Inspections

Chapter 1. Meat and Poultry Inspection Program

§101. Applicability of Federal Laws and Regulations

A. Notwithstanding any other provision of this Chapter to the contrary no provision of any regulation in this Chapter shall exempt any person subject to the Louisiana Meat and Poultry Inspection Law, (R.S. 3:4201 et seq.), or participating in the Louisiana Cooperative Federal/State Meat and Poultry Inspections Program from any applicable federal law or regulation, including but not limited to the following:

1. the Federal Food, Drug, and Cosmetic Act, (21 U.S.C. §301 et seq.), and regulations promulgated in the Code of Federal Regulations pursuant to the Act;

2. the Federal Meat Inspection Act, (21 U. S. C. §601 et seq.), and regulations promulgated in the Code of Federal Regulations pursuant to the Act;

3. the Federal Poultry Products Inspection Act, (21 U.S.C. §451 et seq.), and regulations promulgated in the Code of Federal Regulations pursuant to the Act;

4. the Federal Humane Methods of Livestock Slaughter Act, (7 U.S.C. §1901 et seq.) and regulations promulgated in the Code of Federal Regulations pursuant to the Act.

B. In respect to intrastate operations and commerce, notwithstanding any other provision of this Chapter to the contrary, no provision of any regulation in this Chapter shall be construed or interpreted as imposing, or requiring the enforcement of, any standards that are less than those imposed and enforced under the Federal Meat Inspection Act and the Federal Poultry Products Inspections Act and regulations promulgated pursuant to those Acts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:708 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 30:196 (February 2004), LR 32:1011 (June 2006).

§103. Definitions

A. As used in this Chapter, the words and terms defined in R.S. 3:4201 and the following words and terms shall have the meanings given to them except where the context expressly indicates otherwise.

Combination Custom Slaughterer and Processor—a person which provides both slaughter and processing services solely for the owners of animals.

Commissioner—Commissioner of Agriculture and Forestry.

Custom Processor—any person which prepares, processes, and/or transports intrastate the meat of animals slaughtered for the owners of such animals.

Custom Slaughterer—any person which offers to the public the service of slaughtering cattle, sheep, poultry, swine, goats, horses, mules or other equines for the owners thereof.

Department—the Louisiana Department of Agriculture and Forestry, Office of Animal Health Services, Division of Meat and Poultry Inspection, Grading and Certification.

Establishment—each place of business of a licensee, registrant, or a person whose business is subject to inspection.

Meat Jobber—a person engaged in the business of buying or selling carcasses, parts of carcasses, meat or meat food products of cattle, sheep, poultry, swine, goats, horses, mules or other equines at the wholesale level, but who does not subsequently change the form of the product in any manner.

Meat Processor—any person engaged in the business of buying or selling carcasses, parts of carcasses, meat or meat food products of cattle, sheep, poultry, swine, goats, horses or other equines at the wholesale level; who receives the product in tact, and who changes the form of the product before shipping out again.

Normal Retail Quantities—sales to a single customer not exceeding the amounts shown below (see also 9 CFR 303.1.d.2.ii, Federal Meat and Poultry Inspection Regulations):

a. cattle, 300 pounds;

b. calves, 37.5 pounds;

c. sheep, 27.5 pounds;

d. swine, 100 pounds;

e. goats, 25 pounds.

Person—an individual, company, corporation limited liability company, or firm as defined in R.S. 3:4201(2) and any other legal entity or other form of organization.

Prepared—slaughtered, canned, salted, rendered, boned, cut up or otherwise manufactured or processed.

Primal Cut—the first or main cut.

Restaurant—any place of business:

a. where products are prepared solely for sale or service, as meals or entrees, directly to individual consumers at such establishments; and

b. where only federally or state inspected and passed products or products prepared in a retail store or outlet are used.

Retail Outlet—any place of business operated in the traditional or usual manner of operation or a retail store, with sales across-the-counter only in normal retail quantities. The term *retail outlet* applies solely to businesses with a single location.

Traditional or Usual Manner of Operation—

a. cutting up, slicing and trimming carcasses, halves, quarters or wholesale cuts into retail cuts such as steaks, chops and roasts, and freezing such cuts;

b. grinding and freezing products made from meat;

c. curing, cooking, smoking, rendering or refining of livestock fat or other preparation of products, except slaughtering or retort processing of canned products;

d. breaking bulk shipments of products;

e. wrapping or re-wrapping of products.

USDA—the United States Department of Agriculture.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:709 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:1012 (June 2006).

§105. Persons Required to Register

A. The following persons shall register with the department prior to conducting intrastate operations and commerce:

1. meat brokers, renderers and animal food manufacturers;

2. wholesalers of any carcasses or parts of carcasses of any cattle, sheep, poultry, swine, goats, horses, mules or other equines, whether the product is intended for human consumption or not;

3. public warehousemen who store carcasses or parts of carcasses of any cattle, sheep, poultry, swine, goats, horses, mules or other equines;

4. buyers, sellers, and transporters of any dead, dying, disabled or diseased animals or parts of carcasses of such animals;

5. meat brokers;

6. meat jobbers;

7. meat processors;

8. slaughters, including custom slaughters;

9. processors, including custom processors;

10. combination custom slaughterers and processors;

11. educational programs where carcasses or parts of carcasses are slaughtered, processed, or both;

12. any combination of the above.

B. All persons entering into any of the business activities listed in Subsection A shall apply for registration prior to engaging in such business. All persons shall be registered by category as shown in Subsection A above.

C. All registrants shall pay an initial registration fee of $25 for each establishment at the time of application to cover the costs of processing of registrations and issuance of certificates of registration.

D. All persons must submit the following information in their applications for registration:

1. names and addresses of each establishment or place of business;

2. names and addresses of owner(s) and principal stockholder(s) and/ or names and addresses of members of boards of directors;

3. all trade names under which the person, firm, association, corporation or educational program conducts business.

E. All registrations must be renewed on or before April l of each year. The fee for renewal of registrations shall be the same as for the initial registration.

F. Each registrant shall receive a certificate of registration within 30 days after the application for registration is filed with the department if the registrant is in full compliance with applicable federal and state laws and regulations regarding slaughtering, processing, inspecting, packaging, handling, and transportation meat and poultry.

G. Penalties for failure to register or to annually renew a registration if the establishment is still in operation shall be assessed in accordance with R.S. 3:4233.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:709 (December 1980), amended LR 11:247 (March 1985) amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:1012 (June 2006).

§107. Licenses for Establishments Coming under Inspection

A. All persons operating a slaughtering, processing, or combination slaughtering/processing establishment, or as a custom slaughterer, custom processor or a combination custom slaughterer and processor shall obtain a license from the department for each establishment prior to conducting intrastate operations or commerce.

B. All applications for licenses shall consist of a completed Form 401 submitted to the department at 5825 Florida Boulevard, Baton Rouge, LA 70806. Form AHS-09-54 is available on request from the department.

C. A license number shall be assigned to each establishment upon the department's approval of the application. The license shall be issued to the establishment within 30 days of final approval, in one of the following categories:

1. slaughter;
2. processing;
3. custom;
4. any combination of Paragraphs 1, 2 or 3 above.

D. All establishments receiving licenses shall display the license at a prominent location in the establishment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:710 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:1013 (June 2006).

§109. Change of Ownership of Licensed Establishments

A. Whenever the ownership or operation of a licensed establishment changes, the new owner or operator must submit an application for a license to the department at least 30 days prior to the date the change in ownership or operation is to take place.

B. Within 30 days of change of ownership or operation, the new owner or operator shall submit to the department a certified copy of the act of sale, lease agreement or other legal document showing change of ownership or operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:710 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:1013 (June 2006).

§111. Exemption

A. No person or establishment shall be exempt, under the Louisiana Meat and Poultry Inspection Law, from the inspections of the slaughter of animals and the preparation of the carcasses, parts thereof, meat and meat food products at establishments conducting such operations except as provided in R.S. 3:4215 and 4216.

B. Establishment at which the slaughter of animals and the preparation of the carcasses, parts thereof, meat, poultry, and meat and poultry food products are exempt from inspection under R.S. 3:4215 and 4216 shall conduct slaughtering and processing operations under the same sanitary standards as are required of slaughter and processing establishments that engage in interstate operations or commerce.

C. No retail store, restaurant, or similar retail type establishment shall qualify for any exemption provided for in R.S. 3:4215 and 4216 unless the establishment otherwise qualifies as a retail store or restaurant under The Federal Meat Inspection Act and regulations promulgated pursuant to the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:710 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:1013 (June 2006).

§113. Removal of Inspection Services

A. An assigned inspector may, upon proper justification, withhold inspection services for an inspected plant for a period not to exceed six hours, but may not withhold inspection services for a period longer than six hours. If for any reason the assigned inspector leaves the plant during the period when inspection services are withheld, he shall be available to the plant within one hour of notification of correction of the situation justifying the withholding of inspection services.

B. An area supervisor may, upon proper justification, withhold inspection services for a period not to exceed a total of 12 hours from the time when inspection services were first withheld.

C. The state office of the meat and poultry inspection program may withhold inspection services for an indefinite period of time upon proper justification.

D. An informal public hearing shall be held on the next working day following the initial withholding of inspection services upon the request of the establishment.

E. Inspection services may not be permanently withdrawn by the department except following a public hearing on the matter conducted in accordance with §121 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:711 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:1013 (June 2006).

§115. Inspection Brands; Hot Brands; Replacement Brands

A. The department shall furnish an appropriate number of inspection brands to the establishment upon initial approval for inspection.

B. The establishment shall furnish the required number of hot brands and the number provided shall be provided to the department.

C. The establishment shall notify the assigned inspector when replacement brands are needed, providing the following information to the assigned inspector:

1. the name and address of the brand manufacturer preferred by the establishment; and
2. the number and kind of brands needed.

D. Upon receipt of the information required in §115.C, the inspector shall immediately notify the state office, which shall place the official order with instructions for the brands to be shipped direct to the establishment.

E. Upon receipt of the replacement brands, the establishment must deliver all unserviceable brands to the assigned inspector for transmittal to the department for destruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:711 (December 1980) amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:1014 (June 2006).

§117. Stamping of Carcasses

A. All beef, calf and veal carcasses must be stamped with not less than two stamps per side. At least one stamp shall be affixed, on each side, in each of the numbered portions illustrated in Figure 7 in Appendices (§137.A and §139) attached immediately following.

B. All swine carcasses must be stamped with not less than two stamps per side. At least one stamp shall be affixed, on each side, in each of the numbered portions illustrated in Figure 8 in Appendices (§141).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:711 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Certification, LR 32:1014 (June 2006).

§119. Inspection upon Movement of Meat and Meat Products

A. All carcasses, parts of carcasses, meat and meat products brought into any slaughtering, meat canning, salting, packing, rendering or similar establishment must originate from an establishment under inspection.

B. All carcasses, parts of carcasses, meat or meat products which are inspected and passed at any slaughtering, meat canning, salting, packing, rendering or similar establishment before movement there from, which is later returned to the same establishment, must be re-inspected upon return before further treatment or processing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:711 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:1014 (June 2006).

§121. Appeals from Decisions of the Cooperative Federal/State Meat and Poultry Inspection Program

A. Any person owning or operating an establishment that is subject to inspection or these rules and regulations may appeal any dispute of any decision made by an inspector in accordance with the procedures set forth in this rule.

B. If the person disputes the methods used by any inspector in the program, such person shall first make his objections known to the inspector.

C. If the person objecting and the inspector cannot resolve the dispute, the person objecting shall immediately notify the area supervisor of the dispute and the basis for the dispute.

D. If the dispute cannot be resolved by conference with the area supervisor, the person objecting shall then notify the department's program manager of the meat and poultry inspection program within three business days after the conference. Such notification may be verbal but shall be confirmed in writing within three days after the verbal notification.

E. If the person objecting and the program manager cannot resolve the dispute the person objecting may petition the commissioner, in writing, for a resolution of the dispute within three business days after the program manger makes his decision.

F. The commissioner may appoint a designee who does not work in the meat and poultry inspection program meditate the dispute. If the mediation is unsuccessful or the commissioner determines that a public hearing is necessary to resolve the dispute then the commissioner may set a public hearing to resolve the dispute. Any public hearing shall be conducted in accordance with the Administrative Procedure Act.

G. No license shall be suspended or revoked from any establishment without a full hearing on the matter in accordance with R.S. 3:4233 and the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:711 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:1014 (June 2006).

§123. Taking of Blood Samples

A. A slaughter establishment under inspection shall be responsible for the identification of animals and the maintenance of records as provided in this rule.

B. Any cattle that are not officially backtagged upon receipt shall be identified by an official backtag, properly placed.

C. The name and address of the consignor and the name and address of the owner of the herd of origin, if different from the consignor, shall be recorded on forms provided by the department, the original of which shall be transmitted to the department and the copy of which shall be maintained in the establishment's files.

D. The assigned inspector shall take a blood sample from all cattle received at the establishment.

E. The assigned inspector shall be responsible for collection and identification of all blood samples, and for packaging and transmission of blood samples, corresponding backtags and forms to the diagnostic laboratory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:713 (December 1980), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:1015 (June 2006).

§125. Overtime and Holiday Inspection Service

A. The Department of Agriculture and Forestry shall perform inspection services for official establishments, without charge, up to a 40 hours workweek Monday through Friday.

B. The department shall charge to and be reimbursed by official establishments an hourly overtime rate per department employee providing overtime inspection services to the official establishment. The overtime periods and rate per period are as follows:

1. $25 per hour for inspection services provided for more than 40 hours in any workweek Monday through Friday;

2. $30 per hour for inspection services provided on a Saturday or Sunday that is not otherwise a legal holiday established by R.S. 1:55;

3. $35 per hour for inspection services provided on days of public rest and legal holidays, other than Saturdays and Sundays, observed by the departments of the state in accordance with R.S. 1:55;

4. overtime inspection services shall be billed at a minimum of two hours at the appropriate rate. Time spent providing inspection services in excess of two hours shall be billed in increments of quarter hours, with the time being rounded up to the next quarter hour.

C. Bills are payable upon receipt and become delinquent 30 days from the date of the bill. Overtime inspections will not be performed for official establishments having a delinquent account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:247 (March 1985), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 31:1055 (May 2005), LR 32:1015 (June 2006).

§127. Appeals from Decisions of the Cooperative Federal/State Meat and Poultry Inspection Program

A. Any person, firm, association or corporation which is subject to any of the inspection procedures and/or requirements contained in the federal meat and poultry inspection regulations, USDA Handbook 191, or these rules and regulations may appeal any decision made thereunder in accordance with the procedures set forth in this rule.

B. If the person, firm, association or corporation disagrees with the methods used by any inspector in the program, such person, firm, association or corporation shall first make his objections known to the inspector.

C. If the differences cannot be resolved by this informal method, the person, firm, association or corporation objecting shall immediately notify the area supervisor of the objections and the basis therefor.

D. If the differences cannot be resolved by conference with the area supervisor, the person, firm, association or corporation objecting shall then notify the state office of the meat and poultry inspection program. Such notification may be verbal but shall be confirmed in writing within three days after the verbal notification.

E. If the difference cannot be resolved by this method, the person, firm, association or corporation may petition the commissioner of agriculture, in writing, for a full public hearing on the matter.

F. The commissioner of agriculture shall call a public hearing on the matter within 15 days of the date of receipt of such petition, which hearing shall be conducted within 30 days of the date on which the call is issued.

G. No permit shall be permanently removed from any establishment without a full hearing on the matter. Whenever, for any reason, the commissioner of agriculture contemplates the permanent withdrawal of a permit for inspection services, he shall call a public hearing on the matter.

H. Notice shall be given to the affected person, firm, association or corporation, as required by the Administrative Procedure Act, setting forth the following:

1. a statement of the time, place and nature of the hearing;

2. a statement of the legal authority and jurisdiction under which the hearing is to be held;

3. a reference to the particular Sections of the statutes and rules involved; and

4. a short and plain statement of the matters asserted.

I. Such notice of public hearing shall be mailed by certified mail, return receipt requested, at least 15 days prior to the date on which the hearing is scheduled to be held.

J. At any hearing called under this rule, the affected party(ies) shall have the right to counsel of his (their) own choosing and shall be afforded the opportunity:

1. to respond;

2. to present evidence on all issues of fact involved;

3. to present argument on all issues of law and policy involved;

4. to conduct such cross-examination as may be required for a true and full disclosure of the facts; and

5. to examine any evidence entered into the record.

K. All hearings called under this rule shall be conducted by the commissioner of agriculture or his designated hearing officer.

L. Any determination made as a result of such hearing shall be rendered in writing and shall be made available to all affected parties.

M. Any determination made at any hearing held in accordance with this rule shall be final and shall be binding upon the party(ies) notified as provided herein, whether or not such party(ies) appear at said hearing.

N. Whenever a settlement cannot be reached by the procedures set forth herein, the commissioner of agriculture and/or the affected party(ies) may appeal to a court of competent jurisdiction as provided by law, provided that all such matters shall be lodged in the parish in which the Department of Agriculture is domiciled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2276 and R.S. 40:2300.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:711 (December 1980).

§129. Hearings on Alleged Violations of Law and/or Regulations

A. Whenever any establishment which is subject to the requirements of the State Meat and Poultry Inspection Act (R.S. 40:2271-R.S. 40:2299), the Federal Meat and Poultry Inspection Regulations, USDA Handbook 191 and/or these rules and regulations appear to be in violation of any provision(s) thereof, the commissioner of agriculture shall convene a public hearing on the matter, which hearing shall be conducted in accordance with §127 hereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2300.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:713 (December 1980).

§131. Taking of Blood Samples

A. The slaughter establishment under inspection shall be responsible for the identification of animals and the maintenance of records as provided in this rule.

B. Any cattle that are not officially backtagged upon receipt shall be identified by an official backtag, properly placed.

C. The name and address of the consignor and the name and address of the owner of the herd of origin, if different from the consignor, shall be recorded on forms provided by the Department of Agriculture, the original of which shall be transmitted to the Department of Agriculture and the copy of which shall be maintained in the establishment's files.

D. The assigned inspector shall take a blood sample from all cattle received at the establishment.

E. The assigned inspector shall be responsible for collection and identification of all blood samples, and for packaging and transmission of blood samples, corresponding backtags and forms to the diagnostic laboratory.

F. Failure to comply with the provisions of this rule shall subject the slaughter establishment to prosecution under the provisions of R.S. 3:2096 and/or R.S. 40:2296.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2096, R.S. 40:2300 and R. S. 40:2296.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:713 (December 1980).

§133. Overtime and Holiday Inspection Service

A. The Department of Agriculture and Forestry shall perform inspection services for official establishments, without charge, up to a 40 hours workweek Monday through Friday.

B. The department shall charge to and be reimbursed by official establishments an hourly overtime rate per department employee providing overtime inspection services to the official establishment. The overtime periods and rate per period are as follows:

1. $25 per hour for inspection services provided for more than 40 hours in any workweek Monday through Friday;

2. $30 per hour for inspection services provided on any Saturday or Sunday that is not otherwise a legal holiday established by R.S. 1:55;

3. $35 per hour for inspection services provided on days of public rest and legal holidays, other than Saturdays and Sundays, observed by the departments of the state in accordance with R.S. 1:55;

4. overtime inspection services shall be billed at a minimum of two hours at the appropriate rate. Time spent providing inspection services in excess of two hours shall be billed in increments of quarter hours, with the time being rounded up to the next quarter hour.

C. Bills are payable upon receipt and become delinquent 30 days from the date of the bill. Overtime inspections will not be performed for official establishments having a delinquent account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:247 (March 1985), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 31:1055 (May 2005).

§135. Meat, Poultry and Seafood Fee

A. There is hereby established and henceforth there shall be a monthly fee to be paid by retailers, as defined in R.S. 47:301, for red meat, poultry and seafood. The fee shall be an amount equal to 0.87 percent of the wholesale value of all sales of red meat, poultry and seafood sold in Louisiana. The fee shall be known as the meat, poultry and seafood fee. The department may adopt and publish guidelines which facilitate calculation and collection of this fee.

B. For purposes of administration and convenience, the meat, poultry and seafood fee shall be paid by retailers at the same time and in the same manner as retail sales taxes are remitted. The meat, poultry and seafood fee shall be forwarded by the retailer to the Department of Revenue and Taxation. The meat, poultry and seafood fee shall be delinquent if not paid by the due date provided in law for the remittance of Louisiana Retail Sales Tax.

C.1. Any retailer failing to pay the meat, poultry and seafood fee established herein shall be subject to a reasonable civil fine of not more than $50, which fine may

be levied by the Department of Agriculture and Forestry upon a finding of intentional delinquency of all or a part of any fees due after the conduct of an adjudicatory hearing in accordance with the Louisiana Administrative Procedure Act. Each day of delinquency shall be considered a separate offense and violation.

2. In any such adjudicatory hearing pertaining to delinquency, the establishment by competent evidence that the respondent is a retailer of meat, poultry, or seafood products and that the fee has not been paid by the due date or that said fees received are less than the amount due based on respondent's purchases of meat, poultry or seafood, shall constitute a "prima facie" case of delinquency and burden of proof shall, thereafter, shift to the respondent.

D. Any authorized representative of the Department of Agriculture and Forestry or the Department of Revenue and Taxation shall have access to, and may enter at all reasonable hours, all places of business operated by retailers where meat, poultry or seafood are purchased, stored, processed, manufactured, or sold, or where the retailer maintains books, papers, accounts, records, or other documents related to such activities. The Department of Agriculture and Forestry may subpoena, and any authorized representative of the Departments of Agriculture and Forestry or Revenue and Taxation may inspect, copy, and/or audit any of such books, papers, records, accounts or documents, all for the purpose of determining whether the retailer is complying with the provisions of this regulation. The authority granted hereinabove shall also extend to books, papers, records, accounts, or other documents of persons doing business with retailers. Any information gained through utilization of the authority granted hereinabove in this Section shall be treated as confidential and shall be used only for the administration of this regulation; provided, that such information may be divulged by a person when called upon to testify in any adjudicatory proceeding or in any court proceeding, and provided further, that nothing contained in this regulation shall prevent the use of any information procured by the department or the commissioner in the compiling and dissemination of general statistical data, containing information procured from a number of retailers and compiled in such a manner as not to reveal individual information of any retailer.

E. This regulation shall expire 12 years from the date of adoption. The fees shall only be used to pay for all direct and indirect costs of the federal/state cooperative meat and poultry inspection program, meat, poultry and seafood grading and certification activities, animal disease prevention activities of the Livestock Sanitary Board, animal theft prevention of the Livestock Brand Commission, poultry related activities of the Poultry and Egg Division and for audit functions required by the aforementioned programs and are anticipated to generate $6,090,000 annually in revenues. The kinds and anticipated amounts of costs, which will be offset by this fee, include, but are not limited to: Personal Services—$3,757,266; Travel—$69,064; Operating Expenses—$620,122; Professional Services—$7,590; Other Charges—$612.665; Capital Outlays—$20,580; Indirect Costs—$1,017,457. The Department of Agriculture and Forestry shall suspend collections upon a finding by the Department of Agriculture and Forestry that collections will exceed the cost of the program. The commissioner of the Department of Agriculture and Forestry hereby certifies that written approval to adopt this regulation was received on July 1, 1988 from the commissioner of administration.

F. If any part of the regulation is determined to be invalid for any reason whatsoever then, in that event, the validity of the remainder of said regulation shall nevertheless not be adversely affected thereby. This rule and the repeal of the existing Emergency Rule is effective July 10, 1988.

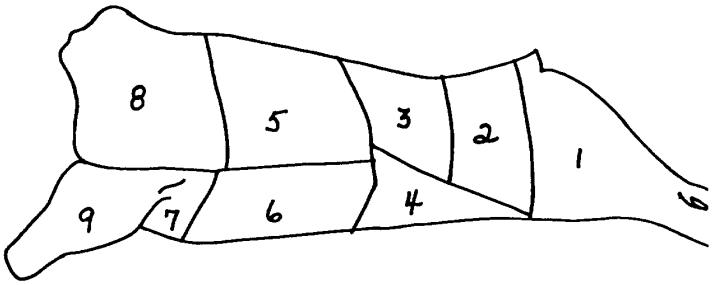
AUTHORITY NOTE: Promulgated in accordance with R.S. 47:301.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Management and Finance, LR 15:79 (February 1989).

§137. Practical Meat Cutting and Merchandising—Volume 1

A. Beef

Location of Primal and Subprimal Beef Cuts



Primal and Subprimal Cuts	Combination Cuts
1. Round	Hindquarter: 1 + 2 + 3 + 4
2. Short hip	Sirlion round: 1 + 2
3. Short loin	Loin: 2 + 3
4. Flank	Forequarter: 5 + 6 + 7 + 8 + 9
5. Rib	Wing: 5 + 6
6. Short plate	Full plate: 6 + 7
7. Brisket	Armbone chuck: 8 + 9
8. Square cut chuck	Cross-cut chuck: 7 + 8 + 9
9. Foreshank	Triangle: 6 + 7 + 8 + 9
	Back: 5 + 8

1. Identification of Beef Cuts by Geographical Location and Trade

	New York Area	New England Area	Restaurant and Institutional Trade
Beef Round No. 1	Cross-Cut Round Beef Round Round Across Primal Round	Beef Round Primal Round	Beef Round (a) Primal Round (b) Primal Round with rump on or off, shank on or off, bone-in or boneless (c) Round, three-way boneless
Knuckle No. 1 (Taken from beef round)	Knuckle Face Top Sirloin	Sirloin Tip	Knuckle (a) Knuckle Steaks

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2300.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 6:708 (December 1980).

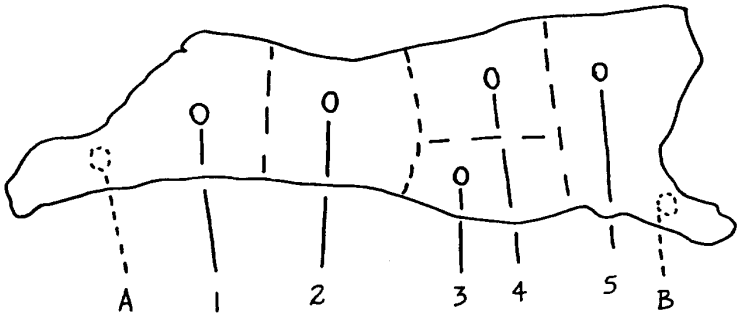
§139. Side of Beef

A. Hind Shank

B. Fore Shank

NOTE: A and B to be stamped on kill floor prior to shrouding or placing in cooler.

1. Round
2. Loin
3. Plate
4. Rib
5. Chuck



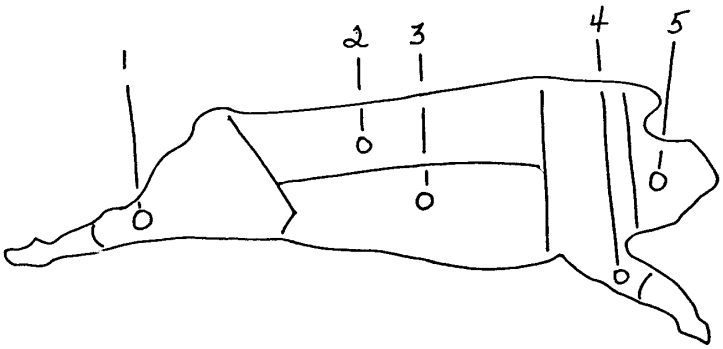
AUTHORITY NOTE: Promulgated in accordance with R. S. 40:2300.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 6:712 (December 1980).

§141. Proper Stampling—Primal Cuts

A. Side of Pork

1. Outer surface of ham hock
2. Skin side of each loin
3. Skin side of each belly
4. Outer surface of shoulder hock
5. Skin surface of each jowl or head



AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2300.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 6:712 (December 1980).

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

Chapter 1. Weights and Measures

§101. Specifications, Tolerances and Regulation for Commercial Weighing and Measuring Devices

A. All of Handbook H-44 issued by the National Institute of Standards and Technology entitled Specifications, Tolerances, and Regulations for Commercial Weighing and Measuring Devices is hereby adopted by reference.

B. That part of Handbook 130 issued by the National Institute of Standards and Technology entitled Examination Procedure for Price Verification is hereby adopted by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4606 and R.S. 3:4608.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Commission of Weights and Measures, April 1953, promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1530 (December 1993), amended LR 23:857 (July 1997), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Weights and Measures Commission, LR 24:1495 (August 1998), LR 34:408 (March 2008).

§103. Definitions

A. Wherever in these regulations the masculine is used, it includes the feminine and vice versa; wherever the singular is used, it includes the plural and vice versa.

Accurate—a device that when its performance or value (that is, its indications, its deliveries, its recorded representations or its capacity or actual value, etc., as determined by test made with suitable standards) conforms to the standard within the applicable tolerances and other performance requirements. Equipment that fails to conform is inaccurate.

Commercial—

a. in proving the size, quantity, extent, area or measurement of things for distribution or consumption, purchased or offered, or submitted for sale, hire or award;

b. in computing any charge for services rendered on the basis of weight or measure; or

c. in determining weight or measure when a charge is made for the determination.

Commission—the Commission of Weights and Measures established in R.S. 3:4603.

Compound Weighing Device—a weighing device that in its operation utilizes either more than one load receiving element and/or more than one primary indicating element.

Correct—conformance to all applicable requirements for weighing and measuring devices. Any other device is incorrect.

Hand-Held Scanning Device—a portable device that scans UPC codes that allows for the comparison of the price displayed on a shelf, item, or otherwise advertised, to the price for the item in the point-of-sale database.

Indicating Element—an element incorporated in a weighing or measuring device by means or which its performance relative to quantity or money value is read from the device itself (i.e., an index-and-graduated-scale combinations, a weighbeam-and-pose combination, a digital indicator, etc.).

Load-Receiving Element—that component of a scale that is designed to receive the load to be weighed (i.e., platforms, decks, rails, hoppers, platters, plates, scoops, etc.).

Point-of-Sale—an assembly of elements including a weighing element, indicating element, and receiving element (which may be equipped with a scanner) used to complete a direct sale transaction.

Price Look-Up Code or *PLU*—a pricing system where numbers are assigned to items or commodities and the price is stored in a database for recall when the numbers are manually entered. PLU codes are used with scales, cash registers, and point-of-sale items.

Primary Indicating Element—those principal indicting elements (visual) and recording elements that are designed to, or may, be used by the operator in the normal commercial use of a device. The term "primary" is applied to any element or elements that may be the determining factor in arriving at the sale representation when the device is used commercially. (Examples of primary elements are the visual indicators for meters or scales not equipped with ticket printers or other recording elements for meters or scales so equipped.) The term "primary" is not applied to such auxiliary elements (i.e., the totalizing register of predetermined-stop mechanism on a meter or the means for producing a running record of successive weighing operations) as these elements being supplementary to those that are the determining factors in sales representations of individual deliveries or weights.

Scanner or Scanning Device—an electronic system that employs a laser bar code reader to retrieve product identity, price and other information stored in computer memory.

Universal Product Code or UPC—a unique symbol that consists of a machine-readable code and human-readable numbers.

Weights, Measures, or *Weighing and Measuring Devices*—all weights, scales, scanners, taxi meters, beams, measures of every kind, instruments and mechanical devices for weighing or measuring, and any appliances and accessories connected with any such instruments. However, it does not include or refer to devices used to meter or measure, other than by weight, water, natural or manufactured gas, electricity, or motor fuel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4603 (formerly R.S. 55:3).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Commission of Weights and Measures, LR 13:157 (March 1987), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1530 (December 1993), LR 23:857 (July 1997).

§105. Commodities

A. Method of Sales, Quantity Statements

1. The offer to sell and/or the sale of all commodities shall be on the basis of net weight, net measure, or numerical count, in accordance with the following provisions; however, such provisions shall not apply to fresh vegetables which by common custom are offered for sale, and/or sold by the bunch.

2. The quantity of solids shall be stated in terms of weights and the quantity of liquids in terms of measure, except that in the case of a commodity in respect to where there exists a definite trade custom otherwise, the statement may be in terms of weight or measure in accordance with such custom.

3. The quantity of viscous or semi-solid commodities, or of mixtures of solids and liquids may be stated either by weight or measure, but the statement shall be definite and shall indicate whether the quantity is stated in terms of weight or measure.

4. Where it is practical to state the quantity of a commodity in terms of numerical count, the employment of such statement is contingent upon the commodity being in definite units.

5. Statement of weight shall be in terms of the avoirdupois pound and ounce.

6. Statement of liquid measure shall be in the terms of the United States gallon of 231 cubic inches, and quart, pint, and fluid ounce subdivisions thereof.

7. Statement of dry measure shall be in terms of the United States standard bushel of 2150.42 cubic inches, and peck, dry quart, and dry pint subdivisions thereof.

8. Statement of linear measure shall be in terms of the standard yard, foot and inch subdivisions thereof.

9. Statements may be in terms of the metric system, anything in these regulations notwithstanding, where the commodity is customarily bought and sold by metric weight or measure.

B. General Requirements

1. When any term common to more than one system of weights or measures is employed in the quantity statement, said statement shall include the proper qualification of the term, as, for example; either *avoirdupois ounces* or *fluid ounces*; *liquid pints* or *dry pints*; *liquid quarts* or *dry quarts*.

2. In connection with the weight, measure, or numerical count, no qualifying word, phrase or clause shall be used; a statement such as *not less than*, *average*, *when packed*, or a statement that the contents are *between* certain limits, is not permissible.

3. All commodities in package form shall be in full compliance with the law; otherwise, there shall be applied thereto an appropriate violation notice or tag. Such notice or tag shall not be obliterated or removed from the package until the commodity in question shall be in compliance with the law, and approved by the commission.

C. Labeling; Container Construction; Drainage

1. All commodities in package form shall bear a printed or stenciled label containing:

a. the true name of the commodity in the package; and

b. the name and place of business of the manufacturer, packer, distributor, or seller. Such label must be legible and in the English language and must not be covered or obscured in any way.

2. No container wherein commodities are packed shall have a false bottom, false side walls, false lid or covering, or otherwise so constructed or filled, wholly or partially as to facilitate the perpetration of deception or fraud.

3. A load receiving element intended for the purpose of weighing wet commodities shall be constructed as to drain effectively.

D. Package Markings; Exemptions. The following shall be exempt from the provisions of the law, requiring the net quantity marking of commodities in package form:

1. all packages of food and/or dry commodities weighing 1 avoirdupois ounce or less;

2. all packages of food weighing 1 fluid ounce or less.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4612, R.S. 3:4613, R.S. 3:4614, R.S. 3:4602, R.S. 3:4616 and R.S. 3:4608 (formerly R.S. 55:10, R.S. 55:11, R.S.55:12, R.S. 55:14 and R.S. 55:6).

HISTORICAL NOTE: Adopted by the Department of Agriculture, Commission of Weights and Measures, April 1953, amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1530 (December 1993).

§107. Crawfish; Live; Boiled; Peeled

A. *Crawfish*—freshwater crustaceans of the genera *Cambarus* or *Astacus* common to Louisiana.

1. Live or Boiled Crawfish

a. *Live Crawfish*—any crawfish which are live at the time of purchase.

b. *Boiled Crawfish*—any crawfish, still in the shell, which have been processed by boiling or steaming.

c. Live or boiled crawfish may be sold in bags or sacks.

d. The net weight of crawfish in bags or sacks must be clearly labeled in indelible ink or otherwise waterproof lettering and in accordance with all other provisions of the Louisiana Weights and Measures Law and of these regulations.

e. The labels described in Subparagraph d must remain on all bags or sacks of live or boiled crawfish once they leave the possession of farmer or fisherman.

f. The net weight of boiled crawfish shall be the net weight after boiling.

g. Boiled crawfish when sold for immediate consumption on the premises are exempt from this Section.

B. *Peeled Crawfish*—any crawfish which have been processed to remove the shells.

1. Peeled crawfish sold washed or cleaned.

a. Peeled crawfish which have been washed or cleaned of naturally adhering fat shall be labeled "cleaned" or "washed."

b. The net weight of the washed crawfish shall be the drained weight.

2. Peeled crawfish sold with naturally adhering fat.

a. Peeled crawfish may be packaged washed.

b. Naturally adhering fat content of packages of peeled crawfish shall not exceed 10 percent of the net weight of the crawfish in the package.

c. Testing for compliance with the fat content provisions shall be done in accordance with procedures outlined by the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1532 (December 1993).

§109. Oysters—Method of Sale

A. Oysters Unshucked. The standards used for unshucked oysters is a barrel containing 3 bushels, a sack containing 1 1/2 bushels or a 1 1/2 bushel wire hamper containing 3225.63 cubic inches.

B. Oysters Shucked. Oysters shucked shall only be sold by liquid measure, containing not more than 15 percent of fluids, by numerical count or by net drained weight.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4631, R.S. 3:4613 and R.S. 3:4608 (formerly R.S. 55:72, R.S. 55:11 and R.S. 55:6).

HISTORICAL NOTE: Adopted by the Department of Agriculture, Commission of Weights and Measures, April 1953, amended April 1972, amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1532 (December 1993).

§111. Poultry; Live; Dressed—Method of Sale

A. The offer to sell and/or the sale of all poultry (except when for immediate consumption on the premises and except when sold by count as provided for in R.S. 3:4615) shall be only on the basis of either *live weight* or *dressed and drawn weight*.

B. *Live Weight*—the net weight of poultry which is alive at time of sale, and as such, shall be classified as *live poultry*.

C. *Dressed and Drawn Weight*—the net weight of poultry after being killed, defeathered and eviscerated, and as such, shall be classified as *dressed and drawn poultry*, with only the edible parts thereof being included in the established weight.

D. *Poultry*—includes chickens, turkeys, ducks, geese, pigeons, guineas, and any other kind of domesticated bird commercially processed and sold for human consumption.

E. Live poultry shall be weighed within 30 minutes of delivery to a poultry processing facility.

F. All poultry, when placed in a container, or in any covering or wrapper, shall have its net weight plainly and conspicuously marked or labeled on the outside of the container, covering or wrapper.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4615, R.S. 3:4613 and R.S. 3:4608 (formerly R.S. 55:13, R.S. 55:11 and R.S. 55:6).

HISTORICAL NOTE: Adopted by the Department of Agriculture, Commission of Weights and Measures, April 1953, amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1532 (December 1993).

§113. Scales for Use with Purchases of Aluminum Cans

A. Purchases of 20 pounds or less of aluminum cans shall be weighed on scale having at least 500 divisions with a maximum weighing capacity of 60 pounds and an accuracy equivalent to Class III as defined in N.I.S.T. Handbook 44.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1532 (December 1993).

§115. Scales Prohibited from Use

A. The following scales shall not be used, sold or employed for commercial purposes in the weighing of any salable commodity:

1. an *overload* type of spring scale or balance, commonly known as *household* scales;

2. a scale identified as *illegal for use in trade*;

3. a scale whose physical condition facilitates the perpetration of deception and/or fraud.

B. Any type of apparatus, when found in any store, stand, business establishment, or on any vehicle from which commodities are sold or offered for sale, and in violation of the law and/or any regulation, shall be subject to immediate condemnation and confiscation.

C. It is prohibited to remove labels or other information placed on or packaged with scales sold in this state which indicate that such scales are not suitable or not intended for commercial use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4609 and R.S. 3:4608 (formerly R.S. 55:7 and R.S. 55:6).

HISTORICAL NOTE: Adopted by the Department of Agriculture, Commission of Weights and Measures, April 1953, amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1533 (December 1993).

§117. Bar Code Scanning Devices and Labels

A. The price of a commodity or item offered for retail sale which is labeled with a computerized bar code label shall be plainly displayed, either by a price marked in English on the package containing the individual commodity or item, or by a placard or card placed on the shelf in front of the commodity or item which is clearly visible and legible.

B. The price displayed on the shelf, commodity or item required by Subsection A of this Section shall be precisely equal to the price actually charged by the seller.

C. In calculating violations of this Section, multiple items contained in the same lot shall constitute one violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1533 (December 1993), amended LR 23:857 (July 1997).

§119. Cotton Beam Scales

A. *Cotton Beam*—a steelyard especially adopted for the weighing of bales of cotton.

B. *Normal Position*—the normal balance position of the weighbeam of a beam scale shall be horizontal. A weighbeam shall not be accelerating of in neutral equilibrium under normal operating conditions but a cotton beam shall be permitted to be slightly accelerating under load.

C. *On Cotton Beams*—the value of the minimum graduation on a cotton beam shall not exceed 1 pound.

D. *Sealing Cotton Beam Poise*—the plug or screw used in closing the adjusting cavity in a cotton beam poise shall be securely sealed with a lead seal bearing an identification mark of the manufacturer, repairman, or other person affixing the seal, which identification mark shall be approved by and registered with the Director of Weights and Measures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4602 and R.S. 3:4614 (formerly R.S. 55:14).

HISTORICAL NOTE: Adopted by the Department of Agriculture, Commission of Weights and Measures, April 1953. promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1533 (December 1993).

§121. Farm Bulk Milk Tank Regulations

A. The Division of Weights and Measures shall test the accuracy of any and all bulk milk tanks when it deems it appropriate or necessary. All installations of milk tanks shall be installed within the specifications of the Division of Weights and Measures which are outlined below.

1. All bulk milk tanks shall be installed in a rigid and level position on a reinforced concrete floor or reinforced concrete pier extending upwards from, or through concrete floor. Each foot, or leg, shall be fastened securely to floor or piers by means of a bolt or bolts and grouted around and over foot or leg with concrete to prevent tank from any movements.

2. The floor shall be not less than 6 inches thick of reinforced concrete. If piers are used, they shall be imbedded in ground not less than 36 inches, or 3 feet. The dimensions shall not be less than 16 by 16 inches wide. The same pier dimensions apply if the pier is mounted to concrete floor in a secure position to floor that complies with above floor specifications.

3. This applies to all new floor construction after July 1, 1964 and to all new installations of tanks after January 1, 1965.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:882 and R.S. 40:883.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Commission of Weights and Measures, July 1964, amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1533 (December 1993).

§123. Weighmaster

A. A weighmaster license shall be required of each individual in charge of weighing commodities being bought from or sold to the public and each such individual weighing for the public when a charge is made for such weighing or when a certificate of weights is issued. Each corporation, partnership, association, proprietorship or other business entity which engages in activities which require a licensed weighmaster shall employ at least one weighmaster per shift at each place of business. Individuals weighing at retail consumer outlets and individuals weighing prepackaged commodities shall be exempt from this provision.

B. The director of the Division of Weights and Measures may issue a weighmaster license after the applicant has passed the required test of his knowledge of weighing equipment.

C. This weighmaster license would be good for one calendar year, beginning January 1 through the month of December, or any part of the calendar year, but would have to be renewed at least 15 days before the beginning of each calendar year.

D. The director of the Division of Weights and Measures shall have the authority to revoke or cancel any weighmaster license if it is found that the weighmaster is improperly using any type of weighing device.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4603 (formerly R.S. 55:3).

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 19:1533 (December 1993).

§125. Metrology Laboratory Fee Structure

A. Fees for the tolerance testing of weights shall be as follows.

	Class F	Class P
1. Weights up to and including 10 pounds or 5 kilograms	$ 2	$ 4
2. Weights over 10 pounds or 5 kilograms and including 100 pounds or 60 kilograms	5	10
3. Weights over 100 pounds or 60 kilograms and including 1000 pounds or 500 kilograms	25	50
4. Weights over 1000 pounds or 500 kilograms	50	75

B. Fees for mass calibration with report of calibration stating corrections and uncertainties shall be as follows.

1. Weights up to and including 3 kilograms or 5 pounds	$25
2. Weights over 3 kilograms or 5 pounds and including 30 kilograms or 50 pounds	50

C. All tape certification, volumetric testing and calibration or special tests not listed in the fee schedule shall be performed at a rate of $30 per hour.

D. Incurred costs for return shipment shall be assessed when applicable.

E. The registration fee for each location utilizing scanning devices shall be as follows.

Category	Number of Point-of-Sale Devices	Fee
A	1 to 10	$50
B	11 to 25	$100
C	Over 25	$150

F. The annual fee for registration of taxi meters is $50.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4622.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1534 (December 1993), amended LR 23:857 (July 1997), LR 30:1142 (June 2004).

§127. Registration

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

B. Whenever there shall exist a weight or measure or weighing or measuring device in or about any place in which or from which buying or selling is commonly carried on, there shall be a rebuttable presumption that such weight or measure or weighing or measuring device is regularly used for the business purposes of that place and shall be registered as a commercial device.

C. Scales shall be registered according to the following criteria:

1. make;
2. model;
3. serial number;
4. capacity; and
5. intended use.

D. Scanning devices shall be registered according to the following criteria:

1. make;
2. model;
3. serial number; and
4. number of point-of-sale devices.

E. A late fee of $25 will be assessed for each device, the maximum penalty of $100 per outlet, when the application is submitted after December 31.

F. A late fee of $25 will be assessed for each new device not registered within 30 days from the date it is put into service.

G. A compound weighing device shall be considered one or more devices for the purpose of registration in accordance with the following.

1. A compound weighing device that consists of a single load receiving element and more than one indicating element shall be considered a single device when all indicating elements may be tested during the same test for the purpose of sealing the device as correct. Said device shall be considered separate devices for each separate test necessary for sealing.

2. A compound weighing device that consists of one indicating element and more than one load receiving element shall for the purpose of registration be considered a separate device for each load receiving element.

H. Applicants for registration may request application forms, verbally or in writing, from the Division of Weights and Measures of the Department of Agriculture and Forestry.

I. Each application for annual registration shall be accompanied by payment of required fee and said registration shall be valid until December 31. To remain valid, each annual registration must be renewed before January 1. The initial annual registration and fees due for scanning devices for calendar year 1997 shall be payable on or before April 30, 1997. Registration renewals and fees due for scanning devices for calendar years after 1997 shall be due and payable as set forth in this Section.

J. Any registration obtained without complying with all of the requirements of these regulations may be voided by the division.

K. Before a device may be sealed to certify the accuracy and correctness of a device, that device must be registered with the Division of Weights and Measures of the Louisiana Department of Agriculture and Forestry.

L. In accordance with R.S. 3:4611, no one shall use a weight, measure or weighing or measuring device which has not been sealed by the division, its director, or its inspectors, at its direction, within the year prior thereto, unless written notice has been given to the division to the effect that the weight, measure or weighing or measuring device is available for examination or is due for re-examination.

M. Application for registration or renewal of registration shall fulfill the requirement of notification in Subsection L of this Section.

N. Applications for annual renewal of registration shall be mailed by the Division of Weights and Measures of the Department of Agriculture and Forestry to all registrants, at the last address provided by the registrant, on or before November 15 and must be returned before January 1.

O. The record of all registrations shall be maintained by the Division of Weights and Measures and the director of the Division of Weights and Measures in its office in Baton Rouge.

P. Any registrant having a device registered under provisions of this regulation, and that is taken out of commercial use at the location shown on the application for registration, shall notify the commission's office in writing to remove said device from its records.

NOTE: This regulation shall expire 12 years from the date of adoption. The fee shall only be used to pay for the direct and indirect costs of the weights and measures program and are anticipated to generate $456,304 annually in revenues. The kinds and anticipated amounts of costs, which will be offset by this, include, but are not limited to: Personal Services—$331,489; Operating Expenses—$110,632. The Department of Agriculture and Forestry shall suspend collection upon finding by the Department of Agriculture and Forestry that collections will exceed the cost of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4603 (formerly R.S. 55:3).

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).

§129. Standards

A. For the purposes of registration of weighing and measuring devices, the criteria shall be compliance with the applicable requirements of NIST Handbook 44 "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices." This publication is published annually by the United States Department of Commerce, National Institute of Standards and Technology.

B. For any device being registered for the first time, it shall be determined that the above criteria has been met and that the device:

1. has been tested and approved in Louisiana prior to January 1, 1987, with no modifications to the device since such test and approval;

2. has been tested by the National Institute of Standards and shown to comply with Handbook 44 criteria by the issuance of a Report of Test (Prior to 1985) or a Certificate of Conformance (1985, Forward); or

3. has been tested by the Division of Weights and Measures of the Department of Agriculture and Forestry or another state which uses Handbook 44 as its criteria and has been issued a certificate stating such test and compliance with said criteria.

C. For the purpose of registration of a weighing and measuring device, the stated intended use shall be a use that the manufacturer intended or a use that is proven suitable for that device.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4603 (formerly R.S. 55:3).

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 by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1535 (December 1993), amended by the Weights and Measures Commission, LR 24:1495 (August 1998).

§131. Penalties

A. The commission, or his duly authorized representative, shall mark any device that is incorrect and warn its owner or user that the device is incorrect and should not be used until it is made correct. If a device that has been so marked as incorrect continues to be used commercially, the commission may seize the device in order to protect the public. The commission shall give a notice of intent to seize the incorrect device five calendar days before the actual seizure. However, a device which is not used at fixed location may be seized immediately upon a determination that said device is incorrect.

B. Upon a showing by the owner or user that adequate steps have been taken to correct the seized device, the commission shall release the seized device.

C. The commission shall give the owner or user of the seized device a hearing within 60 calendar days of a request for such a hearing. If the owner or user of the seized device fails to request a hearing on the seizure within 30 days of seizure, the right to a hearing shall be deemed waived.

D. If the owner or user waives his right to request a hearing and takes no action to retrieve the device within 60 days of seizure, the device shall be deemed abandoned property. The device may then be disposed of by the state with an obligation to the owner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4603 (formerly R.S. 55:3).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Commission of Weights and Measures, LR 13:159 (March 1987), repromulgated, LR 19:1535 (December 1993).

§133. Powers of the Director

A. When necessary for the enforcement of the Louisiana Weights and Measures Law or any rule adopted pursuant thereto, the director or an employee at his direction may:

1. stop any commercial vehicle from which commodities are kept for sale, sold or in the process of delivery on the basis of weight measure or count and, after presentment of his credentials, inspect the contents, require that the person in charge of that vehicle produce any documents in his or her possession concerning the contents, and require him to proceed with the vehicle to a specified place for inspection; and

2. access all books, papers and other information necessary for the enforcement of the Louisiana Weights and Measures Law. If after inspection the director finds or has reason to believe that the requirements set forth in the Louisiana Weights and Measures Law are not being met, he shall have access to all books, papers, records, bills of lading, invoices and other pertinent data relating to the use, sale or representation of any commodity including weighing and measuring devices within this state.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1535 (December 1993).

§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).

§137. Mulch; Definition; Sale by Volume; Prohibitions

A. Mulch is any product or material that is sold or offered or exposed for sale for primary use as a horticultural, aboveground dressing, for decoration, moisture control, weed control, erosion control, temperature control, or other similar purposes.

B. All mulch shall be sold or offered or exposed for sale in terms of volume measured by either the metric system or the inch-pound system.

1. If mulch is sold by the metric system, the volume of mulch shall be measured in terms of the cubic meter or liter.

2. If mulch is sold by the inch-pound unit the volume of mulch shall be measured in terms of the cubic yard or cubic foot.

C. Weight shall not be used in determining the volume of mulch being sold or offered or exposed for sale.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608 and R. S. 3:4613(C).

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Weights and Measures Commission, LR 34:408 (March 2008).

Chapter 3. Petroleum Products

Subchapter A. Standards

§301. Definitions

A. As used in this Subchapter, the terms defined in this Section have the meanings herein given to them, except where the context expressly indicates otherwise.

ASTM or ASTM International—the national voluntary consensus standards organization formed for the development of standards on characteristics and performance of materials, products, systems, and services, and the promotion of related knowledge.

Antiknock Index or AKI—the arithmetic average of the Research Octane Number (RON) and Motor Octane Number (MON): AKI = (RON+MON)/2. In addition to anti-knock index, this value is called by a variety of names including: octane rating, posted octane, and (R+M)/2 octane.

Automotive Fuel Rating—the automotive fuel rating required under federal law.[1] The automotive fuel rating for gasoline is the antiknock index. The automotive fuel rating for alternative liquid fuels consists of the common name of the fuel and the disclosure of the amount, expressed as a minimum percentage, by volume of the principal component of the fuel.

Automotive Gasoline or Automotive Gasoline-Oxygenate Blend—a type of fuel suitable for use in automotive spark-ignition internal combustion engines and also commonly used in marine and non-automotive applications.

Aviation Gasoline—a type of gasoline suitable for use as a fuel in an aviation spark-ignition internal combustion engine.

Aviation Turbine Fuel—a refined middle distillate suitable for use as a fuel in an aviation gas turbine internal combustion engine.

Base Gasoline—all components other than ethanol in a blend of gasoline and ethanol.

Biodiesel—a fuel comprised of mono-alkyl esters of long chain fatty acids derived from renewable resources including but not limited to vegetable oils, waste grease, or animal fat, and meeting the requirements of the American Society for Testing and Materials (ASTM) D-6751 or a diesel fuel substitute produced from non-petroleum renewable resources (inclusive of vegetable oils and animal fats) that meet the registration requirements for fuels and fuel additives established by the United States Environmental Protection Agency and any blending components derived from renewable fuel.

Biodiesel Blend—a blend of diesel fuel and biodiesel suitable for use as a fuel in compression ignition engines.

Cetane Index—an approximation of the cetane number of distillate diesel fuel, which does not contain a cetane improver additive, calculated from the density and distillation measurements.

Cetane Number—a numerical measure of the ignition performance of a diesel fuel obtained by comparing it to reference fuels in a standardized engine test.

Diesel Fuel—a refined middle distillate suitable for use as a fuel in a compression-ignition (diesel) internal combustion engine.

Distillate—any product obtained by condensing the vapors given off by boiling petroleum or its products.

EPA—the United States Environmental Protection Agency.

E85 Fuel Ethanol—a blend of ethanol and hydrocarbons of which the ethanol portion is nominally 75 to 85 volume percent denatured fuel ethanol.

Engine Fuel—any liquid or gaseous matter used for the generation of power in an internal combustion engine.

Engine Fuels Designed for Special Use—engine fuels designated by the commissioner as requiring registration. These fuels normally do not have ASTM or other national consensus standards applying to their quality or usability; common special fuels are racing fuels and those intended for agricultural and other off-road applications.

Ethanol or Denatured Fuel Ethanol—nominally anhydrous ethyl alcohol meeting ASTM D 4806 standards. It is intended to be blended with gasoline for use as a fuel in a spark-ignition internal combustion engine.

Fuel Oil—refined oil middle distillates, heavy distillates, residues of refining, or blends of these suitable for use as a fuel for heating or power generation, the classification of which shall be defined by ASTM D 396.

Gasoline—a volatile mixture of liquid hydrocarbons, generally containing small amounts of additives, suitable for use as a fuel in a spark-ignition internal combustion engine.

Gasoline-Alcohol Blend—a fuel consisting primarily of gasoline and a substantial amount (more than 0.35 mass percent of oxygen, or more than 0.15 mass percent of oxygen if methanol is the only oxygenate) of one or more alcohols.

Gasoline-Oxygenate Blend—a fuel consisting primarily of gasoline along with a substantial amount (more than 0.35 mass percent of oxygen, or more than 0.15 mass percent of oxygen if methanol is the only oxygenate) of one or more oxygenates.

Kerosene or *Kerosine*—a refined middle distillate suitable for use as a fuel for heating or illuminating, the classification of which shall be defined by ASTM D 3699.

Lead Substitute—an EPA-registered gasoline additive suitable, when added in small amounts to fuel, to reduce or prevent exhaust valve recession (or seat wear) in automotive spark-ignition internal combustion engines designed to operate on leaded fuel.

Lead Substitute Engine Fuel—for labeling purposes, a gasoline or gasoline-oxygenate blend that contains a "lead substitute."

Leaded—for labeling purposes, any gasoline or gasoline-oxygenate blend that contains more than 0.013 g of lead per liter (0.05 g lead per U.S. gal).[2]

Low Sulfur—low sulfur diesel fuel that meets ASTM D 975 standards, e.g., Grade Low Sulfur No. 1-D or Grade Low Sulfur No. 2-D.

Low Temperature Operability—a condition that allows the uninterrupted operation of a diesel engine through the continuous flow of fuel throughout its fuel delivery system at low temperatures. Fuels with adequate low temperature operability characteristics have the ability to avoid wax precipitation and clogging in fuel filters.

Lubricity—a qualitative term describing the ability of a fluid to affect friction between surfaces and wear to surfaces in relative motion under load.

M100 Fuel Methanol—nominally anhydrous methyl alcohol, generally containing small amounts of additives, suitable for use as a fuel in a compression-ignition internal combustion engine.

M85 Fuel Methanol—a blend of methanol and hydrocarbons of which the methanol portion is nominally 70 to 85 volume percent.

Motor Octane Number or MON—a numerical indication of a spark-ignition engine fuel's resistance to knock obtained by comparison with reference fuels in a standardized ASTM D 2700 Motor Method engine test.

Oxygen Content of Gasoline—the percentage of oxygen by mass contained in a gasoline.

Oxygenate—an oxygen-containing, ashless, organic compound, such as an alcohol or ether, which can be used as a fuel or fuel supplement.

Reformulated Gasoline—a volatile mixture of liquid hydrocarbons and oxygenates meeting the reformulated gasoline requirements of the Clean Air Act Amendments of 1990 and suitable for use as a fuel in a spark-ignition internal combustion engine.

Research Octane Number or *RON*—a numerical indication of a spark-ignition engine fuel's resistance to knock obtained by comparison with reference fuels in a standardized ASTM D 2699 Research Method engine test.

SAE—the Society of Automotive Engineers, a technical organization for engineers, scientists, technicians, and others in positions that cooperate closely in the engineering, design, manufacture, use, and maintainability of self-propelled vehicles.

Substantially Similar—the EPA's "Substantially Similar" rule, Section 211(f) of the Clean Air Act [42 U.S.C. 7545(f)].

Thermal Stability—the ability of a fuel to resist the thermal stress that is experienced by the fuel when exposed to high temperatures in a fuel delivery system.

Total Alcohol—the aggregate total in volume percent of all alcohol contained in any fuel defined in this Subchapter.

Total Oxygenate—the aggregate total in volume percent of all oxygenates contained in any fuel defined in this Subchapter.

Unleaded (when used in conjunction with *engine fuel* or *gasoline*)—any gasoline or gasoline-oxygenate blend to which no lead or phosphorus compounds have been intentionally added and which contains not more than 0.013 gram of lead per liter (0.05 g lead per U.S. gal) and not more than 0.0013 gram of phosphorus per liter (0.005 g phosphorus per U.S. gal).

Wholesale Purchaser Consumer—any person who is an ultimate consumer of gasoline, fuel methanol, fuel ethanol, diesel fuel, biodiesel, fuel oil, kerosene, aviation turbine fuel, or aviation gasoline and who purchases or obtains the product from a supplier and receives delivery of that product into a storage tank.

[1]16 CFR Part 306, adopted pursuant to 15 U.S.C. 2801, et seq.

[2]NOTE: EPA defines leaded fuel as one which contains more than 0.0013 g of phosphorus per liter (0.005 g per U.S. gal), or any fuel to which lead or phosphorus is intentionally added.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 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 31:28 (January 2005), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2548 (December 2008).

§303. Standard Fuel Specifications for Gasoline and Gasoline-Oxygenate Blends

A. Gasoline and gasoline-oxygenate blends sold, offered for sale, or distributed in Louisiana shall meet the following requirements.

1. The latest revision of ASTM D 4814, "Standard Specification for Automotive Spark-Ignition Engine Fuel," as approved and published by ASTM International, except that volatility standards for unleaded gasoline blended with ethanol shall not be more restrictive than those adopted under the rules, regulations, and Clean Air Act waivers of the U.S. Environmental Protection Agency.[1] Gasoline blended with ethanol shall be blended under any of the following three options:

a. the base gasoline used in such blends shall meet the requirements of the latest revision of ASTM D 4814; or

b. the blend shall meet the requirements of the latest revision of ASTM D 4814; or

c. the base gasoline used in such blends shall meet all the requirements of the latest revision of ASTM D 4814 except distillation, and the blend shall meet the distillation requirements of the ASTM specification.

2. Blends of gasoline and ethanol shall not exceed the ASTM D 4814 vapor pressure standard by more than 1.0 pounds per square inch (psi).

3. The Antiknock Index (AKI) shall not be less than the AKI posted on the product dispenser or as certified on the invoice, bill of lading, shipping paper, or other documentation.

4. The minimum motor octane number shall not be less than 82 for gasoline with an AKI of 87 or greater.

5. Gasoline and gasoline-oxygenate blends sold as "leaded" shall contain a minimum of 0.013 gram of lead per liter (0.05 g per U.S. gal).

6. Gasoline and gasoline-oxygenate blends sold as "lead substitute" gasoline shall contain a lead substitute which provides protection against exhaust valve seat recession equivalent to at least 0.026 gram of lead per liter (0.10 g per U.S. gal).

a. Upon the request of the commissioner, the lead substitute additive manufacturer shall provide documentation to the commissioner that demonstrates that the treatment level recommended by the additive manufacturer provides protection against exhaust valve seat

recession equivalent to or better than 0.026 gram per liter (0.1 g per U.S. gal) lead. The commissioner may review the documentation and approve the lead substitute additive before such additive is blended into gasoline. This documentation shall consist of:

i. test results as published in the Federal Register by the EPA Administrator as required in Section 211(f)(2) of the Clean Air Act; or

ii. until such time as the EPA Administrator develops and publishes a test procedure to determine the additive's effectiveness in reducing valve seat wear, test results and description of the test procedures used in comparing the effectiveness of 0.026 gram per liter lead and the recommended treatment level of the lead substitute additive shall be provided.

7. Blending. Leaded, lead substitute, and unleaded gasoline-oxygenate blends shall be blended according to the EPA "substantially similar" rule or an EPA waiver for unleaded fuel.

8. Gasoline or gasoline-oxygenate blends sold or delivered to consumers in Louisiana shall meet all the foregoing specifications and, in addition, shall have on all retail pumps a posted Antiknock Index. The Antiknock Index of the gasoline or gasoline-oxygenate blend shall not be less than the Antiknock Index posted on the pump.

[1]For referenced ASTM standards, visit the ASTM website, www.astm.org, or contact ASTM Customer Service at service@astm.org. Copies of referenced ASTM standards may be obtained from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, Pa 19428-2959, Tel: (610) 832-9500, Fax: (610) 832-9555 or may be inspected at the Division of Weights and Measures, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 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 31:29 (January 2005), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2549 (December 2008).

§305. Standard Fuel Specifications for Diesel Fuel

A. Diesel fuel sold, offered for sale, or distributed in Louisiana shall meet the following requirements.

1. The latest revision of ASTM D 975, "Standard Specification for Diesel Fuel Oils," as approved and published by ASTM International except that the requirements of the lubricity standard incorporated in ASTM D 975 shall not be mandatory until January 1, 2006.[1]

2. All diesel fuels identified on retail dispensers, bills of lading, invoices, shipping papers, or other documentation with terms such as premium, super, supreme, plus, or premier must conform to at least two of the requirements in Subparagraphs a-e.

a. Cetane Number. A minimum cetane number of 47.0 as determined by ASTM Standard Test Method D 613.

b. Low Temperature Operability. A cold flow performance measurement which meets the ASTM D 975 tenth percentile minimum ambient air temperature charts and maps by either ASTM Standard Test Method D 2500 (Cloud Point) or ASTM Standard Test Method D 4539 (Low Temperature Flow Test or LTFT). Low temperature operability is only applicable October 1-March 31 of each year.

c. Thermal Stability. A minimum reflectance measurement of 80 percent as determined by ASTM Standard Test Method D 6468 (180 minutes, 150°C).

d. Energy Content. A minimum energy content of 38.65 MJ/L, gross (138,700 BTU/gallon, gross) as measured by ASTM Standard Test Method D 240.

e. Fuel Injector Cleanliness. A Coordinating Research Council (CRC) rating of 10.0 r less and a flow loss of 6.0 percent or less as determined by the Cummins L-10 Injector Depositing Test.

[1]For referenced ASTM standards, visit the ASTM website, www.astm.org, or contact ASTM Customer Service at service@astm.org. For Annual Book of ASTM Standards volume information, refer to the standard's Document Summary page on the ASTM website. Copies of referenced ASTM standards may be obtained from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428-2959, Tel: (610) 832-9500, Fax: (610) 832-9555 or may be inspected at the Division of Weights and Measures, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 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 31:30 (January 2005).

§307. Standard Fuel Specifications for Aviation Turbine Fuels

A. Aviation Turbine Fuels sold, offered for sale, or distributed in Louisiana shall meet the specifications of the latest revision of ASTM D 1655, "Standard Specification for Aviation Turbine Fuels," as approved and published by ASTM International.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 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 31:30 (January 2005).

§309. Standard Fuel Specifications for Aviation Gasoline

A. Aviation Gasoline sold, offered for sale, or distributed in Louisiana shall meet the specifications of the latest revision of ASTM D 910, "Standard Specification for Aviation Gasoline," as approved and published by ASTM International.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 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 31:30 (January 2005).

§311. Standard Fuel Specifications for Fuel Oils

A. Fuel Oils sold, offered for sale or distributed in Louisiana shall meet the specifications of the latest revision of ASTM D 396, "Standard Specification for Fuel Oils," as approved and published by ASTM International.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 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 31:30 (January 2005).

§313. Standard Fuel Specifications for Kerosene

A. Kerosene (Kerosine) sold, offered for sale, or distributed in Louisiana shall meet the specifications of the latest revision of ASTM D 3699, "Standard Specification for Kerosine," as approved and published by ASTM International.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 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 31:30 (January 2005).

§315. Standard Specifications for Ethanol

A. Ethanol intended for blending with gasoline sold, offered for sale, or distributed in Louisiana shall meet the specifications of the latest revision of ASTM D 4806, "Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel," as approved and published by ASTM International.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 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 31:30 (January 2005).

§317. Standard Fuel Specifications for Fuel Ethanol

A. E85 Fuel Ethanol sold, offered for sale, or distributed in Louisiana shall meet the specifications of the latest revision of ASTM D 5798, "Standard Specification for Fuel Ethanol (Ed75-Ed85) for Automotive Spark-Ignition Engines" as approved and published by ASTM International.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 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).

§319. Standard Fuel Specifications for Fuel Methanol

A. M85 Fuel Methanol sold, offered for sale or distributed in Louisiana shall meet the specifications of the latest revision of ASTM D 5797, "Standard Specification for Fuel Methanol M70-M85 for Automotive Spark Ignition Engines," as approved and published by ASTM International.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 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).

§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, biodiesel, 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 shall not be permitted unless the Antiknock Index or ASTM grade indicated in the grade name is consistent with the value and meets the requirements of 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). 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. A computing or money-operated device shall be able to display on each face the unit price at which the device is set to compute or to dispense. Whenever a grade, brand, blend, or mixture is offered for sale from a device at more than one unit price, then all of the unit prices at which that product is offered for sale shall be displayed or shall be capable of being displayed on the dispenser using controls available to the customer prior to the delivery of the product. It is not necessary that all of the unit prices for all grades, brands, blends, or mixtures be simultaneously displayed prior to the delivery of the product. This Subsection shall not apply to fleet sales, other contract sales, or truck refueling sales (e.g., sales from dispensers used to refuel trucks).

D. A device shall be able to display conspicuously on each side the identity of the product being dispensed. A device designed to dispense more than one grade, brand,

blend, or mixture of product also shall be able to display on each side the identity of the grade, brand, blend, or mixture being dispensed.

E. A computing device shall compute the total sales price at any single-purchase unit price (i.e., excluding fleet sales, other price contract sales, and truck stop dispensers used only to refuel trucks) for which the product being measured is offered for sale at any delivery possible within either the measurement range of the device or the range of the computing elements, whichever is less. The analog sales price indicated for any delivered quantity shall not differ from a mathematically computed price (quantity x unit price = total sales price) by an amount greater than the value in Paragraph E.1. The values of the graduated intervals representing money values on a computing type device shall be no greater than those in Paragraph E.1. Money-Value Divisions and Maximum Allowable Variations for Money-Value Computations on Mechanical Analog Computers. A computing type device with digital indications shall comply with the requirements of Paragraph E.1and the total price computation shall be based on quantities not exceeding 0.05 L for devices indicating in metric units and 0.01 gal. intervals for devices indicating in inch-pound units. If a system is equipped with auxiliary indications, all indicated money value divisions of the auxiliary element shall be identical with those of the primary element.

1. Money-Value Divisions and Maximum Allowable Variations for Money-Value Computations on Mechanical Analog Computers

Unit Price		Money Value Division	Maximum Allowable Variation	
From	**To and including**		**Design Test**	**Field Test**
0	$0.25/liter or $1.00/gallon	$0.01	± $0.01	± $0.01
$0.25/liter or $1.00/gallon	$0.75/liter or $3.00/gallon	$0.01 or 0.02	± $0.01	± $0.02
$0.75/liter or $3.00/gallon	$ 2.50/liter or $10.00/gallon	$0.01 or 0.02	± $0.01	± $0.02
$0.75/liter or $3.00/gallon	$ 2.50/liter or $10.00/gallon	$0.05	± $0.02 1/2	± $0.05

F. When a product or grade is offered for sale at more than one unit price through a computing device, the selection of the unit price shall be made prior to delivery using controls on the device or other customer-activated controls except for dispensers used exclusively for fleet sales, other price contract sales, and truck refueling, e.g., truck stop dispensers used only to refuel trucks. A system shall not permit a change to the unit price during delivery of product. When a delivery is completed, the total price and quantity for that transaction shall be displayed on the face of the dispenser for at least five minutes or until the next transaction is initiated by using controls on the device or other customer-activated controls.

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).

§323. Automotive Gasoline and Automotive Gasoline-Oxygenate Blends

A. All dispensing devices for automotive gasoline and automotive gasoline-oxygenate blends shall post the Antiknock Index in accordance with applicable federal regulations (16 CFR Part 306, adopted 44 FR 19169, as amended 58 FR 41372-4, 59 FR 48798, 61 FR 54549, and 61 FR 55840).

B. The term *leaded* shall only be used when the fuel meets specification requirements of §303.A.5.

C. Each dispensing device from which gasoline or gasoline-oxygenate blends containing a lead substitute is dispensed shall display the following legend: "Contains Lead Substitute." The lettering of this legend shall not be less than 12 mm (1/2 in) in height and the color of the lettering shall be in definite contrast to the background color to which it is applied.

D. Each dispensing device from which gasoline or gasoline-oxygenate blends that contain lead in amounts sufficient to be considered "leaded" gasoline or lead substitute engine fuel are sold shall be equipped with a nozzle spout having a terminal end with an outside diameter of not less than 23.63 mm (0.930 in).

E. It is prohibited to use specific terms to describe a grade of gasoline or gasoline-oxygenate blend unless it meets the minimum Antiknock Index requirement shown in Paragraph E.1: Minimum Antiknock Index Requirements.

1. Minimum Antiknock Index Requirements

Term	Minimum Antiknock Index
Premium, Super, Supreme, High	91
Midgrade, Plus	89
Regular Leaded	88
Regular, Unleaded	87

F. The retailer shall be provided at the time of delivery of the fuel, on an invoice, bill of lading, shipping paper, or other documentation, a declaration of the predominant oxygenate or combination of oxygenates present in concentrations sufficient to yield an oxygen content of at least 1.5 mass percent in the fuel. Where mixtures of only ethers are present, the fuel supplier may identify either the predominant oxygenate in the fuel (i.e., the oxygenate contributing the largest mass percent oxygen) or, alternatively, use the phrase "contains MTBE or other ethers." In addition, any gasoline containing more than 0.15 mass percent oxygen from methanol shall be identified as "with" or "containing" methanol. This documentation is only for dispenser labeling purposes; it is the responsibility of any potential blender to determine the total oxygen content of the engine fuel before blending.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 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 31:32 (January 2005).

§325. Diesel Fuel

A. Diesel fuel sold, offered for sale, or distributed in Louisiana shall be identified by grades No. 1-D, No. 1-D (low sulfur), No. 2-D, No. 2-D (low sulfur), No. 2-D (ultra-low sulfur) or No. 4-D.

B. Each retail dispenser of diesel fuel shall be labeled according to the grade being dispensed. These labels shall be located on the upper 50 percent of the dispenser front panel in a position clear and conspicuous from the driver's position, in a type at least 12 mm (1/2 in) in height and 1.5 mm (1/16 in) stroke (width of type).

C. Before or at the time of delivery of premium diesel fuel, the retailer or the wholesale purchaser-consumer shall be provided on an invoice, bill of lading, shipping paper, or other documentation a declaration of all performance properties that qualifies the fuel as premium diesel fuel as required in §305.A.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 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 31:32 (January 2005), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2549 (December 2008).

§327. Biodiesel

A. A biodiesel blend containing more than 5 percent of a biodiesel by volume shall be identified by the term "biodiesel blend." A blend containing 5 percent or less of a biodiesel by volume shall not be required to be identified by the term "biodiesel blend."

B. Each dispenser of biodiesel blends containing more than 5 percent but no more than 20 percent of a biodiesel shall be labeled with either the capital letter B followed by the numerical value representing the volume percentage of biodiesel fuel and ending with "biodiesel blend," (i.e., B10 biodiesel blend; B20 biodiesel blend), or the phrase "biodiesel blend between 5 percent and 20 percent" or similar words.

1. Each label shall be located on the upper 50 percent of the dispenser's front panel in a position clear and conspicuous from the driver's position.

2. The size, color and lettering shall conform to the requirements of 16CFR306.12.

C. The distributor of a biodiesel blended fuel that contains more than 5 percent of a biodiesel by volume shall, at the time of delivery, provide the retailer with a written statement, whether on an invoice, bill of lading, or shipping paper, or other document, of the volume by percent of biodiesel in the fuel. The retailer shall keep this information as part of his records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2549 (December 2008).

§329. Aviation Turbine Fuels

A. Aviation turbine fuels sold, offered for sale, or distributed in Louisiana shall be identified by Jet A, Jet A-1, or Jet B.

B. Each dispenser or airport fuel truck dispensing aviation turbine fuels shall be labeled in accordance with the "Standard for Aircraft Fuel Servicing," NFPA Standard 407.[1]

C. Each aircraft fuel-servicing vehicle shall have a sign on each side and the rear to indicate the product. The sign shall have letters at least 3 inches (75 mm) high of color sharply contrasting with its background for visibility. It shall show the word "FLAMMABLE" and the name of the product carried, such as "JET A," "JET B," "GASOLINE," or "AVGAS."

[1]National Fire Protection Association. A copy of the standard may be obtained from the NFPA web page www.nfpa.org or from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Ma. 02169-7471, Telephone (617) 770-3000, Fax (617) 770-0700.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:32 (January 2005), repromulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2549 (December 2008).

§331. Aviation Gasoline

A. Aviation gasoline sold, offered for sale, or distributed in Louisiana shall be identified by Grade 80, Grade 100, or Grade 100LL.

B. Each dispenser or airport fuel truck dispensing aviation gasoline shall be labeled in accordance with the "Standard for Aircraft Fuel Servicing," NFPA Standard 407.[1]

C. Each aircraft fuel-servicing vehicle shall have a sign on each side and the rear to indicate the product. The sign shall have letters at least 3 inches (75 mm) high of color sharply contrasting with its background for visibility. It shall show the word "FLAMMABLE" and the name of the product carried, such as "JET A," "JET B," "GASOLINE," or "AVGAS."

[1]National Fire Protection Association. A copy of the standard may be obtained from the NFPA web page www.nfpa.org or from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Ma. 02169-7471, Telephone (617) 770-3000, Fax (617) 770-0700.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:33 (January 2005), repromulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2549 (December 2008).

§333. Fuel Oils

A. Fuel Oil sold, offered for sale, or distributed in Louisiana shall be identified by the grades of No. 1, No. 2, No. 4 (Light), No. 4, No. 5 (Light), No. 5 (Heavy), or No. 6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:33 (January 2005), repromulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2549 (December 2008).

§335. Kerosene (Kerosine)

A. Kerosene sold, offered for sale, or distributed in Louisiana shall be identified by the grades No. 1-K or No. 2-K.

B. Each retail dispenser of kerosene shall be labeled as 1-K Kerosene or 2-K Kerosene. In addition, No. 2-K dispensers shall display the following legend: "Warning—Not Suitable For Use In Unvented Heaters Requiring No. 1-K." The lettering of this legend shall not be less than 12 mm (1/2 in) in height by 1.5 mm (1/16 in) stroke; block style letters and the color of lettering shall be in definite contrast to the background color to which it is applied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673 and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:33 (January 2005), repromulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2550 (December 2008).

§337. Gasoline-Alcohol Blends

A. A dispenser of motor fuel containing greater than 1 percent but no more than 10 percent ethanol by volume shall have a label on both sides of the dispenser stating "contains ethanol" or "contains up to 10 percent ethanol," or "may contain up to 10 percent ethanol," or similar wording approved by the commissioner.

1. These labels shall be located on the upper 50 percent of the dispenser's front panel in a position clear and conspicuous from the driver's position, in a type at least 12 millimeter (1/2 in) in height, 1.5 millimeter (1/16 in) stroke (width of type).

2. The color of the lettering shall be in definite contrast to the background color to which it is applied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2550 (December 2008).

§339. Fuel Ethanol

A. Fuel ethanol sold, offered for sale, or distributed in Louisiana shall be identified by the capital letter E followed by the numerical value volume percentage of ethanol.

B. Each retail dispenser of fuel ethanol shall be labeled with the capital letter E followed by the numerical value volume percent denatured ethanol and ending with the word "ethanol", e.g., "E85 Ethanol."

C. Fuel ethanol shall be labeled with its automotive fuel rating in accordance with 16 CFR Part 306.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:33 (January 2005), repromulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2550 (December 2008).

§341. Fuel Methanol

A. Fuel methanol sold, offered for sale, or distributed in Louisiana shall be identified by the capital letter M followed by the numerical value volume percentage of methanol.

B. Each retail dispenser of fuel methanol shall be labeled by the capital letter M followed by the numerical value volume percent and ending with the word "methanol", e.g., "M85 Methanol."

C. Fuel methanol shall be labeled with its automotive fuel rating in accordance with 16 CFR Part 306.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:33 (January 2005), repromulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2550 (December 2008).

§343. Retail Storage Tanks

A. No water phase greater than 6 mm (1/4 in), as determined by an appropriate detection paste, is allowed to accumulate in any tank utilized in the storage of gasoline-alcohol blend, aviation gasoline, and aviation turbine fuel.

B. Water shall not exceed 50 mm (2 in) in depth when measured with water indicating paste in any tank utilized in the storage of biodiesel, diesel, gasoline, gasoline-ether blends, and kerosene sold at retail except as required in Subsection A.

C. The fill connection for any petroleum product storage tank or vessel supplying engine-fuel devices shall be permanently, plainly, and visibly marked as to the product contained.

D. When the fill connection device is marked by means of a color code, the color code shall be conspicuously displayed at the place of business.

E. Each retail location shall maintain on file a calibration chart or other means of determining the volume of each regulated product in each storage tank and the total capacity of such storage tank(s). This information shall be supplied immediately to the commissioner or his designee on request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:33 (January 2005), repromulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2550 (December 2008).

§345. Sampling

A. The commissioner or his designee may obtain samples of any and all petroleum products provided for in this Subchapter that are sold, offered for sale, distributed, or used in this state. The samples may be taken from any commercial weighing or measuring device used in the sale or distribution of petroleum products, from any tank or other container used in the transporting of such products, or from any tank or other container containing petroleum products intended for distribution or use in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:33 (January 2005), repromulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2550 (December 2008).

§347. Nonconforming Product

A. When the analysis of a sample of a petroleum product performed in conformity with the provisions of this Subchapter discloses that the product from which the sample was taken does not conform to the specifications fixed by this Subchapter, it is the duty of the commissioner to immediately serve notice on the manufacturer, distributor or seller that the product must not be sold in the state. If the petroleum product is in the process of transportation and has not yet been delivered to the consignee or retailer, the commissioner or his designee may immediately notify the consignor of the result of the test and instruct said consignor to withdraw the product from sale in this state. Failure on the part of the consignor to obey these orders shall constitute a violation of this Subchapter.

B. If the petroleum product is not in the process of transportation, but is exposed or offered for sale or distribution, the commissioner or his designee may, by written order, stop the sale or distribution of this product. The retailer or distributor upon whom a stop-sale order is served is prohibited from exposing for sale, selling, or distributing this product until formally released by order of the commissioner. The stop-sale order given by the commissioner must apply only to that product and may not be extended to cover other petroleum products sold or distributed by a retail dealer or distributor which are found to conform to specifications fixed under the provisions of this Subchapter.

C. When the commissioner or his designee issues a written order to stop the offering for sale, sale, or distribution of a particular product which is maintained at a terminal or bulk plant facility, the terminal or bulk storage plant shall immediately notify all customers that received those product(s) and make any arrangements necessary to replace or adjust to specifications those product(s). The terminal or bulk storage plant shall also immediately notify the commissioner of those customers, their business locations, and the quantity of product delivered to each location. A release from a stop-sale order will be issued only after the commissioner or his designee has agreed upon final disposition of the product. Confirmation of disposition of products shall be made available in writing to the commissioner. Specific variations or exemptions may be made for fuels used for blending purposes or designed for special equipment or services and for which it can be demonstrated that the distribution will be restricted to those uses.

D. The commissioner or his designee may placard or seal any pump, dispenser, tank or container which contains a nonconforming product or which would dispense a petroleum product that does not conform to the appropriate specification in this Subchapter. No person shall deface, remove, or obscure any placard or seal posted or placed by the commissioner or his designee or act in any manner so as to interfere with or obstruct the commissioner or his designee in the discharge of his duties under this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:34 (January 2005), repromulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2550 (December 2008).

§349. Product Registration

A. All engine fuels designed for special use that do not meet ASTM specifications or standards set out in this Subchapter shall be registered with the commissioner, on forms prescribed by the commissioner, 30 days prior to when the registrant wishes to engage in sales. The registration form shall include all of the following information.

1. Identity—business name, address(es), and telephone number(s).

2. Address—mailing address if different than business address.

3. Business Type—type of ownership of the distributor or retail dealer, such as an individual, partnership, association, trust, corporation, or any other legal entity or combination thereof.

4. Signature—an authorized signature, title, and date for each registration.

5. Product Description—product brand name and product description.

6. Product Specification—a product specification sheet shall be attached.

B. Registration is subject to annual renewal.

C. Renewal of a registration is required 30 days prior to any changes in the information required by Subsection A.

D. The commissioner may decline to register any product that actually or by implication would deceive or tend to deceive a purchaser as to the identity or the quality of the engine fuel.

E. Transferability—the registration is not transferable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:34 (January 2005), repromulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2551 (December 2008).

§351. Test Methods and Reproducibility Limits

A. ASTM Standard Test Methods referenced for use within the applicable Standard Specification shall be used to determine the specification values for enforcement purposes.

B. Reproducibility Limits

1. When determining the Antiknock Index acceptance or rejection of a gasoline sample, the AKI reproducibility limits as outlined in ASTM D 4814 Appendix X1 shall be utilized for enforcement purposes.

2. The reproducibility limits of the ASTM standard test method used for each test performed shall be utilized for enforcement purposes, except as indicated in Paragraph 1 above.

3. Dispute Resolution. In the event of a dispute over a reported test value, the guidelines presented in the specifications of ASTM D 3244, "Standard Practice for Utilization of Test Data to Determine Conformance with Specifications," shall be used to determine the acceptance or rejection of the sample.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4673, and 3:4680.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:34 (January 2005), repromulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2551 (December 2008).

Chapter 5. Consumer Products—Testing and Labeling

Subchapter A. Chloramphenicol

§501. Definitions

A. As used in this Chapter the following terms shall have the meaning given to them except where the context expressly indicates otherwise.

Chloramphenicol Region—a geographic area where Chloramphenicol has been declared by the commissioner to be used on or administered to crabs, crawfish, or shrimp, or found in seafood, honey, or a product made from seafood or honey.

Geographic Area—a country, province, state, or territory or definable geographic region.

Honey—any raw or processed honey or any product that contains honey.

Seafood—any crab, crawfish or shrimp, whether whole, portioned, processed or shelled, or any item or product containing crab, crawfish or shrimp meat.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3 and 3:4608.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Agriculture and Forestry, Office of Agro-Consumer Services, Weights and Measures Division, LR 33:34 (January 2007).

§503. Selling, Testing, Declarations, Records, Penalties

A. No seafood or honey may be held, offered or exposed for sale, or sold in Louisiana if the seafood or honey is contaminated with Chloramphenicol.

B. The department may inspect, take samples for testing, and test for Chloramphenicol in any seafood or honey of whatever origin, being held, offered or exposed for sale, or sold in Louisiana.

C. No seafood or honey harvested from or produced, processed, or packaged in a Chloramphenicol region may be held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection F.

D. The commissioner may make or rescind declarations related to Chloramphenicol in accordance with this Subsection.

1. The commissioner may declare a geographic area to be a Chloramphenicol region, based upon information that would lead a reasonable person to believe that Chloramphenicol is being used on, administered to, or found in seafood or honey in that geographic area.

2. Any declaration made pursuant to this Subsection and any rescission of any prior declaration shall be by rule promulgated in accordance with the provisions of the Administrative Procedure Act.

E. Declarations

1. The commissioner declares the following geographic areas to be Chloramphenicol regions for the following named seafood or honey because he has information that would lead a reasonable person to believe that Chloramphenicol is being used on, administered to, or found in seafood or honey in or from these geographic area(s):

a. crab:

i. China;

ii. Vietnam;

iii. Thailand;

iv. Mexico;

v. Malaysia;

b. crawfish and shrimp:

i. China;

c. honey:

i. China;

ii. Thailand.

F. Seafood or honey that comes from a Chloramphenicol region must meet the following requirements for sampling, identification, sample preparation, testing, and analysis before being held, offered or exposed for sale, or sold in Louisiana.

1. Sampling of Seafood

a. The numbers of samples that shall be taken are as follows:

i. two samples are to be taken of any seafood that is in lots of 50 pounds or less;

ii. four samples are to be taken of any seafood that is in lots of 51 to 100 pounds;

iii. twelve samples are to be taken of any seafood that is in lots of 10 pounds up to 50 tons;

iv. twelve samples for each 50 tons are to be taken of any seafood that is in lots of over 50 tons.

b. Samples of unpackaged seafood must be approximately 1 pound, (454 grams), of seafood per sample from randomly selected areas.

c. For packaged seafood, each sample shall be at least 6 ounces, (170.1 grams), in size and shall be taken at random throughout each lot of seafood.

2. Sampling of Honey

a. The numbers of samples that shall be taken are as follows.

i. Two samples are to be taken of any honey that is in lots of 50 pounds or less.

ii. Four samples are to be taken of honey that is in lots of 51 to 100 pounds.

iii. Twelve samples are to be taken of honey that is in lots of 101 pounds up to 50 tons.

b. For honey in bulk wholesale containers, each sample shall be at least 1 pound or 12 fluid ounces and must be pulled at random throughout each lot.

c. For packaged honey, each sample shall be at least 8 ounces in size and shall be taken at random throughout each lot.

3. If the seafood or honey to be sampled consists of packages grouped together, but labeled under two or more trade or brand names, then the seafood or honey packaged under each trade or brand name shall be sampled separately. If the seafood or honey to be sampled are not packaged, but are segregated in such a way as to constitute separate groupings, then each separate grouping shall be sampled separately.

4. A composite of the samples shall not be made. Each sample shall maintain a separate identity so that each sample may be tested individually. Each sample shall be clearly identifiable as belonging to a specific group. All seafood samples shall be kept frozen and delivered to the lab unless it adversely affects the sample quality or the ability to accurately test the sample.

5. Sample Identification

a. Each sample shall be identified as follows:

i. any package label;

ii. any lot or batch numbers;

iii. the country, province, state and city of origin;

iv. the name and address of the importing company;

v. unique sample number identifying the group or batch sample and sub sample extension number for each sub sample.

6. Sample Preparation

a. Honey

i. For small packages of honey up to and including 8 ounces, use the entire sample. If honey sample includes more than one container, they shall be blended together. Divide the sample in half. Use half of the sample for the original analysis portion and retain the other half of the sample as a reserve.

b. Seafood

i. For small packages of seafood up to and including 1 pound, use the entire sample. Shell the seafood, exercising care to exclude all shells from sample. Grind sample with food processor type blender while semi-frozen or with dry ice. Divide the sample in half. Use half of the sample for the original analysis portion and retain the other half of the sample in a freezer as a reserve.

7. Sample Analysis

a. Immunoassay test kits may be used if the manufacturer's published detection limit is 1 part per billion, (1 ppb) or less. Acceptable test kits are the riopharm Ridascreen Chloramphenicol enzyme immunoassay kit and the Charm II Chloramphenicol kit. The commissioner may authorize other immunoassay kits with appropriate detection limits of 1 ppb or below to be used. Each sample must be run using the manufacturer's test method. The manufacturer's specified calibration curve must be run with each set. All results 1 ppb or above must be assumed to be Chloramphenicol unless further testing by approved GC/LC method indicates the result to be an artifact.

b. HPLC-MS, GC-ECD, GC-MS methods currently approved by FDA, the United States Department of Agriculture or the Canadian Food Inspection Agency with detection limits of 1 ppb or below may also be used.

c. Other methods for sampling, identification, sample preparation, testing and analysis may be used if expressly approved in writing by the commissioner.

8. Any qualified laboratory may perform the testing and analysis of the samples unless the laboratory is located in a Chloramphenicol region. The commissioner shall resolve any questions about whether a laboratory is qualified to perform the testing and analysis.

9. The laboratory that tests and analyzes a sample or samples for Chloramphenicol shall certify the test results in writing.

10. A copy of the certified test results along with the written documentation necessary to show the methodology used for the sampling, identification, sample preparation, testing and analysis of each sample shall be sent to and actually received by the department prior to the seafood or honey being held for sale, offered or exposed for sale, or sold in Louisiana.

a. The test results and accompanying documentation must contain a test reference number.

b. The certified test results and the accompanying documentation must be in English and contain the name and address of the laboratory and the name and address of a person who may be contacted at the laboratory regarding the testing of the seafood or honey.

11. Upon actual receipt by the department of a copy of the certified test results and written documentation required to accompany the certified test results then the seafood or honey may be held, offered or exposed for sale, or sold in Louisiana, unless a written stop-sale, hold or removal order is issued by the commissioner.

12. A copy of the test results, including the test reference number, shall either accompany every shipment and be attached to the documentation submitted with every shipment of such seafood or honey sent to each location in Louisiana or shall be immediately accessible to the department, upon request, from any such location.

G. Any person who attempts to ship into Louisiana or to hold, offer or expose for sale, or sell in Louisiana any seafood or honey required to be sampled and tested under this Section shall be responsible for having such seafood or honey sampled and tested in accordance with Subsection F. Any such person must, at all times, be in full and complete compliance with all the provisions of this Chapter.

H. The commissioner may reject the test results for any seafood or honey if the commissioner determines that the methodology used in sampling, identifying, sample preparation, testing or analyzing any sample is scientifically deficient so as to render the certified test results unreliable, or if such methodology was not utilized in accordance with, or does not otherwise meet the requirements of this Section.

I. If any test results are rejected by the commissioner then all persons attempting to ship into Louisiana or holding, offering or exposing for sale, or selling in Louisiana any seafood or honey that were subject to the testing will be notified immediately of such rejection and shall be issued a stop-sale, hold or removal order as to the seafood or honey. Thereafter, it will be the duty of all such persons to abide by such order until the commissioner lifts the order in writing. Any such person may have the seafood or honey retested, at his expense, in accordance with this Section. If the certified results of the retesting show that the seafood or honey is free of Chloramphenicol then an application may be made to the commissioner to lift the order.

J. A stop-sale, hold or removal order, including a prohibition on disposal, may be placed on any seafood or honey that does not meet the requirements of this Section. Any such order shall remain in place until lifted in writing by the commissioner.

K. The department may take physical possession and control of any seafood or honey that violates the requirements of this Section if the commissioner finds that the seafood or honey presents an imminent peril to the public health, safety and welfare and that issuance of a stop-sale, hold or removal order will not adequately protect the public health, safety and welfare.

L. All records and information regarding the distribution, purchase and sale of seafood or honey shall be maintained for two years and shall be open to inspection by the department.

M. Penalties for any violation of this Section shall be the same as and assessed in accordance with R.S. 3:4624.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3, and 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Weights and Measures Division, LR 33:35 (January 2007).

§505. Labeling by Country of Origin

A. All seafood or honey specifically listed in §503.E.1 of this Chapter, which is being shipped into Louisiana or held, offered or exposed for sale, or sold in Louisiana, and which come from a foreign country, shall indicate the country of origin, except as otherwise provided in this Section.

B. Every package or container that contains foreign seafood or honey specifically listed in §503.E.1 of this Chapter shall be marked or labeled in a conspicuous place as legibly, indelibly, and permanently as the nature of the package or container will permit so as to indicate to the ultimate retail purchaser of the seafood or honey the English name of the country of origin.

1. Legibility must be such that the ultimate retail purchaser in the United States is able to find the marking or label easily and read it without strain.

2. Indelibility must be such that the wording will not fade, wash off or otherwise be obliterated by moisture, cold or other adverse factors that such seafood or honey are normally subjected to in storage and transportation.

3. Permanency must be such that, in any reasonably foreseeable circumstance, the marking or label shall remain on the container until it reaches the ultimate retail purchaser unless it is deliberately removed. The marking or label must be capable of surviving normal distribution and storing.

C. When foreign seafood or honey specifically listed in §503.E.1 of this Chapter are combined with domestic seafood or honey, the marking or label on the container or package or the sign included with any display shall clearly show the country of origin of the foreign seafood or honey.

D. In any case in which the words "United States," or "American," the letters "U.S.A.," any variation of such words or letters, or the name of any state, city or location in the United States, appear on any container or package containing foreign seafood or honey specifically listed in §503.E.1 of this Chapter, or any sign advertising such foreign seafood or honey for sale, and those words, letters or names may mislead or deceive the ultimate retail purchaser as to the actual country of origin, then the name of the country of origin preceded by "made in," "product of," or other words of similar meaning shall appear on the marking, label or sign.

1. The wording indicating that the seafood or honey is from a country other than the United States shall be placed in close proximity to the words, letters or name that indicates the seafood or honey is a product of the United States in a legible, indelible and permanent manner.

2. No provision of this Section is intended to or is to be construed as authorizing the use of the words "United States," "American," or the letters "U.S.A.," or any variation of such words or letters, or the name of any state, city or location in the United States, if such use is deceptive, misleading or prohibited by other federal or state law.

E. Foreign seafood or honey specifically listed in §503.E.1 of this Chapter shall not have to be marked or labeled with the country of origin if such seafood or honey is included as components in a product manufactured in the United States and the seafood or honey is substantially transformed in the manufacturing of the final product. In no event shall thawing, freezing, packing, packaging, re-packing, re-packaging, adding water, portioning, shelling, processing, peeling, partially cooking or combining with domestic seafood or honey shall be considered to be a substantial transformation.

F. The commissioner shall have all the powers granted to him by law, or in accordance with any cooperative endeavor with any other public agency, to enforce this Section, including the issuance of stop-sale, hold or removal orders and the seizing of seafood or honey mislabeled or misbranded as to the country of origin.

G. Penalties for any violation of this Section shall be the same as and assessed in accordance with R.S. 3:4624.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3, and 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Weights and Measures Division, LR 33:36 (January 2007).

Subchapter B. Fluoroquinolones

§511. Fluoroquinolones in Seafood Prohibited; Testing and Sale of

A. Definitions

Food Producing Animals—both animals that are produced or used for food and animals that produce material used as food.

Geographic Area—a country, province, state, or territory or definable geographic region.

Seafood—any edible freshwater or saltwater fish or shellfish, whether whole, portioned, processed and any product containing seafood.

B. No seafood may be held, offered or exposed for sale, or sold in Louisiana if such seafood contains Fluoroquinolones.

C. No seafood that is harvested from or produced, processed or packed in a geographic area, that the commissioner declares to be a location where Fluoroquinolones is being used on or found in food producing animals or in products from such animals, may be held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection E. No seafood from any such geographic area may be used, as an ingredient in any food held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection E.

D. The commissioner may declare a geographic area to be a location where Fluoroquinolones is being used on or found in food producing animals or in products from such animals, based upon information that would lead a reasonable person to believe that Fluoroquinolones is being used on or found in food producing animals, or in products from such animals, in that geographic area.

1. Any such declaration shall be subject to promulgation in accordance with the provisions of the Administrative Procedure Act.

2. The commissioner may release any such geographic area from a previous declaration that Fluoroquinolones is being used on food producing animals in that location. Any such release shall be subject to promulgation in accordance with the Administrative Procedure Act.

E. Seafood that comes from a geographic area declared by the commissioner to be a location where Fluoroquinolones is being used on, or is found in food producing animals or in products from such animals, must meet the following requirements for sampling, identification, sample preparation, testing and analysis before being held, offered or exposed for sale, or sold in Louisiana.

1. Each sample shall consist of a case per lot of seafood.

2. Each sample shall be identified as follows:

a. any package label;

b. any lot or batch numbers;

c. the country, province and city of origin;

d. the name and address of the importing company;

e. unique sample number identifying the group or batch sample and subsample extension number for each subsample.

3. Sample Preparation

a. The laboratory shall randomly select 12 filets of fish from the case, remove any skin, and cut each filet in half. Use half of the sample for the original analysis portion and retain the other half of the sample in a freezer as a reserve. Thoroughly blend the halves of the filets to be tested.

b. For all other seafood take samples from 12 randomly selected areas of each case in an amount to equal approximately one pound. Remove any skin or shell and thoroughly blend the meat. After the sample is blended, split the sample in half, setting aside one-half for testing and reserving the other half in a freezer.

4. Sample Analysis

a. Remove for testing, approximately two grams from the portion of the sample being tested.

b. The sample is initially tested using liquid chromatography with florescent detection. Samples that test positive are to be retested for confirmation of the initial test result using liquid chromatography with electrospray mass spectroscopy.

c. The initial test shall conform to the test method authored by Roybal et al., in the Journal of AOAC International, Volume 85, Number 6, 2002, page 1293, or current FDA methods. The confirmation testing shall conform to FDA LIB 4108 or current FDA methods.

d. Other methods for sampling, identification, sample preparation, testing and analysis may be used if expressly approved in writing by the commissioner.

5. Any qualified laboratory may perform the testing and analysis of the samples unless the laboratory is located in any geographic area that the commissioner has declared to be a location where Fluoroquinolones is being used on or found in food producing animals, or in products from such animals. The commissioner shall resolve any questions about whether a laboratory is qualified to perform the testing and analysis.

6. The laboratory that tests and analyzes a sample or samples for Fluoroquinolones shall certify the test results in writing.

7. A copy of the certified test results along with the written documentation necessary to show the methodology used for the sampling, identification, sample preparation, testing and analysis of each sample shall be sent to and actually received by the department prior to the seafood being held for sale, offered or exposed for sale, or sold in Louisiana.

a. The test results and accompanying documentation must contain a test reference number.

b. The certified test results and the accompanying documentation must be in English and contain the name and address of the laboratory and the name and address of a person who may be contacted at the laboratory regarding the testing of the seafood.

8. Upon actual receipt by the department of a copy of the certified test results and written documentation required to accompany the certified test results then the seafood may be held, offered or exposed for sale, or sold in Louisiana, unless a written stop-sale, hold or removal order is issued by the commissioner.

9. A copy of the test results, including the test reference number, shall either accompany every shipment and be attached to the documentation submitted with every shipment of such seafood sent to each location in Louisiana or shall be immediately accessible to the department, upon request, from any such location.

F. Any person who is seeking to bring seafood that is required to be sampled and tested under this Section, into Louisiana, or who holds, offers or exposes for sale, or sells such seafood in Louisiana shall be responsible for having such seafood sampled and tested in accordance with Subsection E. Any such person must, at all times, be in full and complete compliance with all the provisions of this Section.

G. The commissioner may reject the test results for any seafood if the commissioner determines that the methodology used in sampling, identifying, sample preparation, testing or analyzing any sample is scientifically deficient so as to render the certified test results unreliable, or if such methodology was not utilized in accordance with, or does not otherwise meet the requirements of this Section.

H. In the event that any certified test results are rejected by the commissioner then any person shipping or holding the seafood will be notified immediately of such rejection and issued a stop-sale, hold or removal order by the commissioner. Thereafter, it will be the duty of any such person to abide by such order until the commissioner lifts the order in writing. Any such person may have the seafood retested in accordance with this Section and apply for a lifting of the commissioner's order upon a showing that the provisions of this Section have been complied with and that the seafood are certified as being free of Fluoroquinolones.

I. The department may inspect, and take samples for testing, any seafood, of whatever origin, being held, offered or exposed for sale, or sold in Louisiana.

J. A stop-sale, hold or removal order, including a prohibition on disposal, may be placed on any seafood that does not meet the requirements of this Section. Any such order shall remain in place until lifted in writing by the commissioner.

K. The department may take physical possession and control of any seafood that violate the requirements of this Section if the commissioner finds that the seafood presents an imminent peril to the public health, safety and welfare and that issuance of a stop-sale, hold or removal order will not adequately protect the public health, safety and welfare.

L. The commissioner declares that he has information that would lead a reasonable person to believe that Fluoroquinolones is being used on or found in food producing animals or in products from such animals, in the following geographic area(s).

1. The geographic area or areas are:

a. the country of Vietnam;

b. the country of China.

2. All seafood harvested from or produced, processed or packed in any of the above listed geographic areas is hereby declared to be subject to all the provisions of this Section, including sampling and testing provisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3, and 3:4608.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Agriculture and Forestry, Office of Agro-Consumer Services, Weights and Measures Division, LR 33:38 (January 2007), amended LR 33:2348 (November 2007).

M. All records and information regarding the distribution, purchase and sale of seafood or any food containing seafood from the listed geographic areas shall be maintained for two years and shall be open to inspection by the department.

N. Penalties for any violation of this Section shall be the same as and assessed in accordance with R. S. 3:4624.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3, and 3:4608.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Agriculture and Forestry, Office of Agro-Consumer Services, Weights and Measures Division, LR 33:38 (January 2007), amended LR 33:2348 (November 2007).

Title 7
AGRICULTURE AND ANIMALS
Part XXXVI. Agricultural Ethanol Production

Chapter 1. Agricultural Ethanol Productions

§101. Authority

A. The authority of the Louisiana Agricultural Ethanol Production Law, R.S. 3:701 et seq., and in accordance with provisions R.S. 49:950 et seq., the Louisiana Agricultural Industry Board adopts the following regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3704.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Management and Finance, LR 12:503 (August 1986).

§103. Definitions

A. In addition to definitions listed below and unless otherwise provided, the definitions in R.S. 3:3703 shall apply to these regulations.

Act—the Agricultural Ethanol Production Law.

Adjudicatory Proceeding—an open public hearing by the board to determine whether violations of the Act or these regulations have occurred. Such proceedings are conducted in accordance with the Louisiana Administrative Procedure Act (R.S. 49:950 et seq.).

Agency Contract—a contract between a certified market participant and an intermediary, such as a grain dealer or warehouseman, who purchases or stores agricultural commodities or products for use in ethanol.

Agricultural Commodities or *Products*—crops and products made from processing crops. Commodities or products shall include sugar cane, grains (rice, rough rice, corn, wheat, oats, rye, soybeans, barley, milo and grain sorghum), sweet potatoes and sugar beets. Products shall include syrup and molasses. Any other agricultural commodity or product capable of producing ethanol may be declared to be an agricultural product or commodity by the board.

Applicant—a person who applies for designation as a certified market participant.

Authorized Agent—any representative of a certified market participant whose name has been filed with the board is empowered by the certified market participant and the board to act for or on behalf of a certified market participant.

Blender—any person who purchases and mixes ethanol and gasoline for sale as gasohol and who files the required reports with the Louisiana Department of Revenue and Taxation.

Board—the Agricultural Industry Board established by R.S. 3:3704.

Capital Costs—all expenditures made for the acquisition of land, equipment, buildings, engineering, construction interests and other expenses necessary to build an ethanol facility.

Central Registry—the public filing and listing of security devices encumbering agricultural crops, commodities or products maintained by the commissioner.

Certified Market Participant—an applicant approved by the board to participate in a cooperative endeavor authorized under this Chapter.

Certified Market Participant Confidential Business Plan—a confidential financial document or series of documents presented by an applicant or certified market participant periodically with the board, containing proposed agency and producer contracts and all other confidential and financial audit information.

Certified Market Participant Contract—a contract or cooperative endeavor between the board and a certified market participant relating to the production of ethanol.

Commissioner—the Louisiana Commissioner of Agriculture and Forestry or his duly authorized representative.

Controlling Interest—ownership by an individual or his spouse, either individually or collectively, of an interest in a person or entity which exceeds 25 percent of any legal entity.

Cooperative Endeavor—a contractual relationship between the state of Louisiana through the board with a person for a public purpose.

Ethanol—an ethyl alcohol which meets all of the following conditions in that it:

a. has a purity of at least 99 percent, determined without regard to any added denaturants;

b. has been denatured in conformity with one of the approved methods set forth by the United States Bureau of Alcohol, Tobacco and Firearms;

c. has been derived from agricultural commodities or products; and

d. has been produced in the state of Louisiana wholly from fermentation and distillation in the state of Louisiana.

Ethanol Facility—a facility:

a. which is located in Louisiana;

b. owned or leased and shall be permanently constructed or converted and operated for the purpose of producing ethanol as its primary product from agricultural commodities or products;

c. whose entire production, fermentation and distillation shall occur in Louisiana; and

d. whose ethanol shall be produced and sold for use in gasohol in Louisiana.

First Point of Sale—

a. the initial time when title to agricultural commodities or products passes from a seller to a buyer; or

b. the time when agricultural commodities or products are removed from storage.

Fund—the Agricultural Industry Incentive Fund established by R.S. 3:3706.

Gasohol—a fuel that contains not more than 90 percent gasoline and at least 10 percent ethanol.

Gasohol Multiplier—the number 10, which reflects the fact that 10 gallons of gasohol contains at least one gallon of ethanol.

Grain Dealer—any person who purchases agricultural commodities or products from producers, sells agricultural commodities for producers or represents producers in the purchase or sale of agricultural commodities. The term does not include producers who purchase grain commodities for their own use as feed or seed.

Intermediary—any person who purchases or stores agriculture commodities to be used to produce ethanol by a certified market participant. Grain dealers, a warehousemen and warehouse operators are intermediaries.

Licensee—any person holding a license as a warehouse or grain dealer issued by the Louisiana Agricultural Commodities Commission.

Person—any individual, partnership, association, corporation or other legal entity.

Principal Managers—the individuals or persons responsible for the daily operation of an ethanol facility.

Principal Office—the location where the records of the certified market participant will be maintained in the state of Louisiana.

Principal Stockholders or *Owners*—any individual who owns directly or indirectly 10 percent of an ethanol facility operated by a certified market participant.

Producer—a farmer, individual or person that engages in the production of agricultural commodities or products.

Producer Contracts—a two or three party contract between and among an agriculture producer, certified market participant and intermediaries, such as a grain dealer or a warehouseman.

Production Records—written evidence of the ethanol produced daily by a certified market participant.

Rules or *Regulations*—the rules or regulations adopted by the Agricultural Industry Board under the authority granted by the Act.

Scale Ticket—the document issued to a producer when agricultural commodities or products are delivered to intermediaries such as a warehouse or grain dealer.

Security Device—any assignment, pawn, pledge, mortgage, privilege, lien or other device by which an interest in agricultural commodities or products is encumbered, either legally or conventionally, to secure the fulfillment of any obligation.

Settlement Sheets—documents which reconcile contracts, shipping tickets, charges, deductions and payments to determine the value and quantity of agriculture commodities or products received by the certified market participant.

Shipping Documents—the written evidence of ethanol produced and shipped by a certified market participant.

Sold for Use in Gasohol—that ethanol will be blended with gasoline and Louisiana taxes are paid on the sale of gasohol in Louisiana. This intent is evidenced by any document of gasohol sales as reported to the Louisiana Department of Revenue and Taxation on its Monthly Motor Fuels Report.

Spot or *Spot Sale*—a transaction where title to agricultural commodities or products passes from the producer to the buyer on the day of delivery, in which transaction the producer is paid promptly at the market price established on the day of delivery.

Storage—the physical possession by a warehouse, in any manner and/or under any type of fee arrangement, of agricultural commodities or products belonging to any person other than the owner of the warehouse. The term storage does not apply to a transaction in which title passes from the seller to the buyer upon delivery.

Taxes Imposed on Gasohol—any state tax levied on gasohol and includes any tax levied on gasohol under the provisions of R.S. 47:711, R.S. 47:802, R.S. 47:302(A), and R.S. 47:331(A).

Under Substantial Construction—the certified market participant has entered into binding contracts for capital costs, including contracts for the purchase of land, engineering, capital construction and all other projects costs, the total of which shall be not less than 25 percent of the project costs.

Warehouse—any building, structure or any other protected enclosure in which agricultural commodities or products or farm products are stored for the public for a fee. The term includes facilities which commingle commodities, facilities which preserve the identity of separate lots of agricultural commodities or products and facilities which dry and/or condition agricultural commodities or products belonging to any person other than the facility owner.

Warehouseman or *Warehouse Operator*—any person or entity operating a warehouse.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3703 and R.S. 3:3704.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Management and Finance, Agricultural Industry Board, LR 12:503 (August 1986), amended LR 13:11 (January 1987).

§105. Administration of the Agricultural Industry Board

A. Officers: Titles and Functions

1. The officers of the board shall be a chairman and a vice-chairman. The chairman shall be the commissioner of agriculture. The vice-chairman shall be elected for a one year term.

2. In the absence of the chairman at any meeting of the board, the vice-chairman shall preside.

B. Meetings

1. The board shall hold at least one regular meeting during each quarter of the year, but may meet more frequently upon the call of the chairman or upon the written request of any three members.

2. Meetings of the board shall normally be held in its domicile, but may be held at other locations upon the determination of the chairman or the will of the board.

3. The quorum of the board is five members.

4. An affirmative vote of a majority of the members present shall be required for the adoption of any motion except that all motions to call an adjudicatory hearing, to terminate existing certified market participant contracts, to impose civil penalty, or to revoke the designation of a certified market participant shall require a minimum of six affirmative votes for adoption.

5. There shall be no voting by proxy.

C. Director: Duties and Responsibilities

1. The director shall provide clerical and other support services as may be required by the board and shall maintain and distribute appropriate records of the board.

2. The director shall draft and submit to the board all reporting forms required by the Act or the regulations.

D. Confidentiality of Financial Information. No member of the board or the staff shall disclose and confidential financial information of a certified market participant confidential business plan presented by any certified market participant or applicant for certified market participant designation unless such records or documents are presented to an adjudicatory hearing or unless he acts pursuant to a court order. This provision does not limit or prohibit the commissioner from compiling, publishing and distributing any such information if that data or information does not identify specific certified market participants therewith.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3704.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Management and Finance, Agricultural Industry Board, LR 12:504 (August 1986).

§107. Certified Market Participants: Procedures and Criteria for Approval

A. Criteria for Approving Certified Market Participants. In approving certified market participants, the board shall apply the following criteria in considering the application, to wit:

1. the facility to produce ethanol must be located in the state of Louisiana;

2. the facility must be owned or leased and must be constructed and converted and operated for the purpose of producing ethanol as its primary product from agricultural commodities or products;

3. the entire production, fermentation and distillation process must occur in the state of Louisiana and must be in accordance with the terms and conditions set forth in the written agreement between the board and the certified market participant and entered into in accordance with the law;

4. the ethanol must be produced and sold for use in gasohol;

5. the applicant's financial ability to perform as a certified market participant which shall include, but not be limited to the following criteria, to wit:

a. the applicant's ability to meet its financial obligations in producer and agency contracts it proposes to enter into with producers, grain dealers, warehousemen and other intermediaries;

b. the applicant's ability to amortize all capital cost of the ethanol facility within eight years of the date of application; and

c. the applicant's ability to sell ethanol for use in making gasohol to be sold in Louisiana;

6. the estimated number of temporary and permanent jobs created by applicant's construction and operation of an ethanol facility;

7. the estimated quantity and type of agricultural commodities and products to be used by applicant in producing ethanol;

8. the estimated or actual capital invested or proposed to be invested by the applicant in the construction and establishment of the permanent ethanol facility;

9. the maximum number of gallons of ethanol to be produced annually for use in gasohol by the applicant;

10. the character and professional competence, especially the managerial expertise and experience in the ethanol industry, of the applicant, principal stockholders, owners and managers;

11. the anticipated economic impact on Louisiana resulting from the purchase of supplies and materials, employment and other activities related to the construction and operation of the proposed ethanol facility.

B. Form and Contents of Application by Certified Market Participants. Applications for designation as a certified market participant must be filed at the times provided by board action. The following information must be furnished on the application form provided by the board to wit:

1. date of submission;

2. nature of applicant's business:

a. sole proprietorship;

b. partnership;

c. corporation;

d. association;

e. agricultural cooperative; or

f. other;

3. name under which the business will operate;

4. address of the principal office of the business, either in-state or out-of-state, including mailing address, physical location and phone number;

5. the name, address and telephone number of the authorized agent;

6. if the entity is a partnership, the name, address and interest of all partners;

7. if the entity is a corporation, the name and address of all officers and directors;

8. if the entity is an association, including an agricultural cooperative, the name and address of all members of the board of directors;

9. if not a partnership, corporation or association, provide the following information:

a. name of the owner(s);

b. address of the principal office; and

c. provide name, address and phone number of all designated authorized agents;

10. status of the facility in which the business will be operated:

a. owned by applicant;

b. leased by applicant (short term or long term);

c. rented by applicant and name and address of owner; or

d. other;

11. type and quantity of agricultural commodities or products that the applicant estimates will be used to make ethanol;

12. the number of temporary and permanent jobs created by the applicant's ethanol facility;

13. the amount of capital invested or proposed to be invested in the construction and establishment of the ethanol facility;

14. the maximum number of gallons of ethanol to be produced annually by the applicant;

15. the managerial expertise and experience in the ethanol industry of the applicant, principal stockholders, owners and managers;

16. the applicant's federal taxpayer identification number and the number and date of the license issued by the U.S. Dept. of Treasury, Alcohol, Tobacco and Firearms;

17. method of assurance for guaranteed performance of the producer contracts and agency contracts;

18. name, address and telephone number of the authorized agent;

19. if the business was previously operated under another name or ownership, show the name and address of previous business;

20. an affidavit signed by the principal stockholders, owners and managers appointing an authorized agent and acknowledging that the applicant will comply with the requirements of the Act, the board's rules and regulations and all provisions of their cooperative agreement;

21. an affidavit certifying that all information and representations contained in the application and in all required attachments are true and correct;

22. affidavits signed by the applicant's authorized agent, the principal stockholders, owners and managers authorizing the commissioner to perform credit investigations and all background checks that the board deems appropriate to determine the character and professional competency, especially the managerial expertise and experience in the ethanol industry of the applicant and its principal stockholders, owners and managers;

23. the names, addresses, phone numbers, birth dates, social security numbers and work experience in the ethanol industry, of the applicant's principal stockholders, owners and managers;

24. affidavit signed by the applicant's authorized agent, the principal stockholders, owners and managers attesting that they have never been convicted of a felony.

C. Financial Information

1. In the application for initial designation, each applicant shall sign an affidavit of authorization, certification and compliance. This affidavit shall authorize the commissioner to inspect and audit all financial and production records of the applicant. Furthermore, this affidavit shall certify that the applicant will maintain all financial and production records in the form and format required by the Act, rules and certified market participant contract and shall provide copies to the commissioner within five working days of his written request.

2. All financial records received by the commissioner shall be used for audit and enforcement purposes and therefore shall be confidential information pursuant to the provisions of R.S. 3:3708(A) unless and until the financial records are introduced at an adjudicatory hearing of the board.

3. The board shall consider any certified market participant confidential business plan only in executive session of the board pursuant to the requirements of R.S. 3:3708(A) and R.S. 42:6.1(A)(1)(2)(4) and (8).

4. The financial statement must be maintained and prepared in accordance with generally accepted accounting principles and must include all producer and agency contracts.

a. The financial statement must contain:

i. a balance sheet;

ii. a statement of income (profit and loss);

iii. a statement of retained earnings;

iv. statement of changes in financial position;

v. fixed assets must be presented at cost; and

vi. a certificate by the applicant or the chief executive officer of the applicant, in the form of an authentic act, that the financial statement accurately reflects the financial condition of the applicant for the period covered in the financial statement. Whenever the certificate is executed by a representative of the applicant other than the owner or president, the board of directors must adopt a resolution authorizing such representative to execute the certificate.

b. Multi-state and/or multi-national corporations with subsidiary corporations or divisions located in Louisiana must either:

i. maintain in their principal office in Louisiana a fully audited financial statement showing the position of the parent company, together with sufficient financial information pertaining to the Louisiana subsidiary, to reasonably reflect the corporation's ability to satisfy all obligations to Louisiana producers; or

ii. pay all expenses necessary for performance of a full audit, at one or more locations where pertinent corporation records are maintained, by the department's central audit committee.

5. After January 1, 1987, each certified market participant must maintain in their principal office in Louisiana, a financial statement conforming to the requirements of this rule within 120 days after the close of the certified market participant's fiscal year.

D. Procedures for Approval of Designation of Certified Market Participants

1. The board must vote in open public meeting on each application.

2. Six affirmative votes shall be required to approve the designation of any certified market participant.

3. At a meeting held to consider an application, the board, at its discretion, may permit the introduction of written materials or an oral presentation by the applicant or their representative.

E. Official Designation

1. After the board has voted to designate an applicant as a certified market participant, the commissioner shall sign and issue, in the name of the board, an official document evidencing the designation.

2. All documents indicating a designation shall contain the following:

a. name and address of the certified market participant;

b. location of the certified market participant's facilities; and

c. the maximum number of gallons of ethanol the certified market participant has been authorized to produce under the certified participant contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3704.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Management and Finance, Agricultural Industry Board, LR 12:505 (August 1986).

§109. Cooperative Endeavors and Agreements

A. Written Contractual Agreements

1. All certified market participants who seek incentive payments shall enter into a written certified market participant contract with the board, which shall be executed by the commissioner.

2. The certified market participant contract shall contain the following provisions, to wit:

a. a statement of the purposes, goals and objectives of the agreement;

b. the name of both parties;

c. the time period covered by the contract indicating a beginning and ending date;

d. a provision for the termination of the certified market participant contract by the board after an adjudicatory hearing in which the certified market participant is held to be in violation of the Act or certified market participant contract;

e. a provision that if any provisions of the written agreement are unenforceable then all of the provisions of the written agreement shall be unenforceable and the cooperative endeavor agreement shall be null, void and of no effect;

f. certification and agreement by the applicant that the financial and other records required to be maintained by certified market participant contract shall be accurate and shall be maintained on a current basis and copies shall be provided to the commissioner on request;

g. a provision that requires the board and the certified market participant to comply with all of the provisions and requirements of the Act;

h. a provision that the certified market participant shall enter into producer contracts or agency contracts after the board has approved their certified market participant confidential business plan;

i. provisions that the certified market participant specify the type of origin of agriculture commodities or products to be used and provisions that specify limitations and conditions for changes in the type and origin of agriculture commodities or products depending on availability of supply and costs;

j. a provision that acknowledges the right of the board to deduct monthly from each certified market participant's incentive payments, in accordance with the Act, funds to pay the costs of administration of the board, their employees, attorneys and auditors;

k. a provision prohibiting the certified market participant from being a producer, grain dealer, warehouseman or blender, or owning a substantial interest in a blender doing business in Louisiana without prior approval of the board;

l. a provision that the agreement may be terminated if the certified market participant:

i. fails to notify the board in writing of the transfer of sale of an ownership interest in the designated certified market participant within 15 days of such transfer or sale;

ii. fails to provide the board within 30 days of the transfer or sale the necessary affidavit(s) relating to ownership and/or management as required by the application; and

iii. fails to receive from the board a letter of acknowledgment stating that such transfer or sale or ownership interest has been duly noted and the certified market participant is authorized to continue under the cooperative endeavor agreement;

m. a provision that the agreement may be terminated upon the insolvency, bankruptcy or assignment for benefit of creditors by the certified market participant; and

n. a provision recognizing that under the provisions of the Agricultural Ethanol Production Law, all incentive payments shall be made subject to the availability of funds derived from the taxes imposed on gasohol and agreeing that the cooperative endeavor created no obligation on the part of the state to make incentive payments from any other source.

3. Agency and producer contracts entered into by a certified market participant shall contain the following general provisions, to wit:

a. name and address of all parties;

b. the time period covered by the contract indicating a beginning and ending term;

c. date of contract;

d. terms of price, quantity, delivery, quality, charges, deductions, payments, all commissions, fees and other financial arrangements;

e. agreement to all inspection of records and premises and to maintain and provide on request by the commissioner all records and documents required by the Act, rules or any certified market participant, agency or producer contract;

f. agreement to comply with the Act and rules;

g. identity the producer of the agriculture commodity or product;

h. attestation and verification by the producer that the agricultural commodities or products delivered to the certified market participant, grain dealer or warehouseman were grown by the producer at a location specified in the contract;

i. a requirement that shipments to intermediaries shall not be commingled and a separate scale ticket shall be maintained and given the producer;

j. a requirement that settlement sheets be kept by intermediaries on forms specified by the commissioner;

k. a provision that producers agree to permit the commissioner to enter their property to examine the contracted crops and to audit the producer's financial and agricultural commodities or product records relating to the commodity or product sold to produce ethanol;

l. a provision specifying the method and time of payment as well as the certified market participant method of assurance for guaranteed performance on the contract;

m. a provision that assigns the certified market participant's incentive payments to pay the producer contracts, however, this provision may be deleted from the contracts if the certified market participant provides acceptable assurances and guarantees to the board that it can meet its contractual obligations;

n. a provision that authorizes the board to make payments directly to producers or intermediaries when there has been an assignment of incentive payments by the certified market participant; and

o. a provision that, based on the commissioner's audit or a written complaint filed by a party to an agency or producer contract, the board may hold an adjudicatory hearing to resolve any differences about quality of the agriculture commodity or product among the parties.

4. Special provisions may be in agency and producer contracts but shall require prior approval of the board.

5. Periodically, applicants or certified market participants shall discuss with the board their certified market participant confidential business plan which shall contain their proposed agency and producer contracts and other information and data indicating how they will seek to achieve the purposes and objectives of the cooperative endeavor agreement.

a. The certified market participant confidential business plan(s) shall be kept in the certified market participant's principal office and shall be available for audit by the commissioner.

b. The certified market participant confidential business plan shall be numbered and dated sequentially with a corresponding, coordinated numbering system for all contracts proposed therein.

B. Authority to approve written contractual agreements. The board shall have absolute discretion to approve or disapprove all certified market participant contracts, agency contracts or producer contracts, and any modifications or amendments to the contracts must be in writing and will be subject to the prior approval of the board.

C. Procedure for Approval of Written Contractual Agreements

1. All contracts must be submitted to the commissioner for his review.

2. The board shall vote in a public meeting on each certified market participant contract. Six affirmative votes shall be required to approve or disapprove any contract.

3. The certified market participant confidential business plan shall be considered by the board only in executive session pursuant to the requirements of R.S. 3:3708(A) and R.S. 42:6.1(A)(1)(2)(4) and (8) and shall be approved by the board in open session with the action being taken by name of the certified market participant, the plan number, the date of discussion and the agency and producer contract numbers approved.

4. Certified market participant confidential business plans shall not be considered a public record.

5. Agency and producer contracts approved as part of a certified market participant confidential business plan shall be public records when they are filed and registered with the board and shall become effective between the parties only after they have been filed and registered with the board. The board may authorize the filing and registration of agency and producer contracts with the central registry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3704.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Management and Finance, Agricultural Industry Board, LR 12:506 (August 1986).

§111. Incentive Payments to Certified Market Participants

A. Incentive Payments Application Procedure

1. A request for incentive payments shall be submitted in writing on the forms approved by the board.

2. The request for incentive payment form shall be a public record in accordance with R.S. 3:3707(E) and shall contain the following information:

a. name, address and phone number of certified market participant;

b. signature of authorized agent;

c. date submitted;

d. month for which payment is requested;

e. number of gallons of ethanol sold for which incentive payment is requested; and

f. certification by authorized agent that the information reported on the form is true, correct and complete.

3. The following information shall be submitted simultaneously with request for incentive payment and such information shall be exempt from R.S. 44:1 et seq., and be considered confidential information:

a. ethanol buyer's name, address and quantity;

b. total number of gallons of ethanol and gasohol sold in Louisiana;

c. copies of shipping and receiving documents; and

d. certification by authorized agent that the information reported is true, correct and complete; and

e. an affidavit in authentic form provided by the commissioner and executed by the blender attesting to the following:

i. the blender has purchaser from _____, the certified market participant, _____ gallons of ethanol on the ____ day of _____, 20____, for use in gasohol to be sold in Louisiana;

ii. the blender shall on or before the twentieth day of each month file with the Louisiana Department of Revenue and Taxation report(s) or document(s) or pay monies as may be appropriate relative to taxes imposed on gasohol; and

iii. the blender shall attach to his affidavit and mail to the commissioner certified true copies of report(s) or document(s) field or monies paid by the blender with the Department of Revenue and Taxation;

iv. the blender shall attach as a schedule to his affidavit and mail to the commissioner a copy of a first-in, first-out perpetual inventory report showing each certified market participant's beginning inventory balance, shipments of ethanol received from said certified market participant during the month, sales of ethanol for said certified market participant that month and ending certified market participant's ethanol inventory. A copy of this schedule will also be sent to the certified market participant.

4. The incentive payments shall be made only to certified market participants who have contracts approved by the board.

B. Procedures for Payment to Certified Market Participants

1. Certified market participants must submit a written request for payment which shall be reviewed and approved as to form and completeness by the commissioner or his designee.

2. Within five working days of the fifth day of each month, the commissioner shall notify each certified market participant of his approval as to form and completeness of application for the month's incentive payment. This approval shall be evidenced by a certificate or certificates, the agricultural industry board incentive payment certificate, in the form approved by the board, signed by the commissioner stating the payment application has been approved as to form and completeness. The commissioner shall on or before the fifth working day following the fifth day of each month issue to certified market participant their specific agricultural industry board incentive payment certificate. The certified market participant may, with board approval, assign, those certificates to a producer, intermediary, blender, financial institution or other person.

3. The commissioner is authorized on behalf of the board to take all necessary steps to make payments to certified market participants from the Agricultural Industry Incentive Fund.

4. Each incentive payment made from the fund shall be applied first to the oldest outstanding certificate issued to the certified market participant until all certificates issued to the certified market participant shall be paid.

C. Procedures for Adjustments in Incentive Payments Due to Overpayment. In the event the request for incentive payment is inaccurate or erroneous, the commissioner shall notify the certified market participant and if the certified market participant agrees that an error has been made then the commissioner is authorized to deduct from any future incentive payment requested an amount sufficient to correct any error in payment plus legal interest. If the commissioner and the certified market participant do not agree, then the commissioner shall call an adjudicatory hearing before the board to consider the matter.

D. Procedure for Other Adjustment of Incentive Payments. If on a monthly basis the money in the fund is not sufficient to satisfy all outstanding obligations for incentive payments, the payments shall be divided proportionately among the certified market participants in accordance with the following formula: the payment received by each certified market participant shall be in the same proportion to the total funds available for incentive payments as the number of gallons of ethanol produced and sold by the certified market participant for use in gasohol sold in Louisiana bears to the total number of gallons of ethanol produced and sold by all the certified market participants for use in gasohol sold in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3704, R.S. 3705 and R.S. 3707.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Management and Finance, Agricultural Industry Board, LR 12:507 (August 1986), amended LR 13:12 (January 1987).

§113. Records Requirements

A. Each certified market participant shall maintain the following records on a current basis in the company's principal office in this state at all times:

1. current financial statements;

2. bank statements and reconciliations;

3. broker's statements;

4. copies of all outstanding contracts with producers, grain dealers and warehousemen or warehouse operators including, but not limited to, agency contracts, producer contracts and certified market participant contracts;

5. copies of all outstanding loans, notes and mortgages affecting the business;

6. records of all purchases of agriculture commodities or products;

7. daily production records;

8. record of all ethanol sales;

9. scale tickets, receiving and shipping documents; and

10. settlement sheets.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3704.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Management and Finance, Agricultural Industry Board, LR 12:508 (August 1986).

§115. Audits and Inspections

A. Access for Audits. Each certified market participant shall permit the commissioner to enter all locations listed on the application for designation as a certified market participant and inspect, examine and/or audit all contents, facilities, equipment records, books and accounts relating thereto at any time during normal working hours, with or without notice.

B. Frequency and Time of Audits. Audits shall be done at least once a year and may be done at any time that the commissioner deems it appropriate.

C. Cooperation in Audits. The certified market participant shall provide the necessary assistance and records required for any inspection, examination and/or audit made in accordance with the Act.

D. Records and Documentation. Each audit shall establish adequate documentation of all transactions concerning the purchase of agricultural commodities or products by certified market participants, the fermentation, distillation and production of ethanol in Louisiana, the sale of gasohol in Louisiana and the verification that taxes arising from ethanol and gasohol sales have been paid to the Department of Revenue and Taxation. Consistent with achieving the above mentioned objectives, the commissioner shall require that the certified market participant maintain for compliance and verification all records necessary to establish adequate documentation consistent with industry practice, generally accepted accounting principles and generally accepted audit standards. The above data will be maintained at the principal office of the certified market participant for verification and compliance purposes and such shall be exempt from public disclosure under R.S. 44:1 et seq., and R.S. 3:3708(A.) unless an adjudicatory hearing is held.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3704.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Management and Finance, Agricultural Industry Board, LR 12:508 (August 1986).

§117. Adjudicatory Proceedings

A. Hearing Officer. The chairman may designate a hearing officer, who may or may not be a member of the board, to preside at all adjudicatory proceedings of the board. The chairman may, if he so desires, serve as hearing officer at any adjudicatory proceeding.

B. Hearing Body. The board may serve as the hearing body in all adjudicatory proceedings and shall make the final determination with regard to the disposition of all matters coming to adjudication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3704.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Management and Finance, Agricultural Industry Board, LR 12:508 (August 1986).

§119. Violations

A. The board may hold adjudicatory hearings to determine if there are violations of the Act, the rules and regulations, a certified market participant contract, or any agency or producer contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3704.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Management and Finance, Agricultural Industry Board, LR 12:508 (August 1986).

§121. Penalties

A. The board may impose a civil penalty of up to $50,000 for each violation of the provisions of the Act or rules.

B. The board may revoke the designation of a certified market participant and terminate the cooperative agreement if there is a violation of the Act or rules.

C. Civil penalties shall be assessed only be a ruling of the board after an adjudicatory hearing in accordance with the Louisiana Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3704.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Management and Finance, Agricultural Industry Board, LR 12:508 (August 1986).

§123. Severability

A. If any provisions of these rules are declared invalid for any reason, that provision shall not affect the validity of the entire rules or any other provision thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3704.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Management and Finance, Agricultural Industry Board, LR 12:509 (August 1986).

Title 7
AGRICULTURE AND ANIMALS
Part XXXVII. Security Devices

Chapter 1. Central Registry

§101. Definitions

Buyer in the Ordinary Course of Business—a person who, in the ordinary course of business, buys farm products from a person engaged in farming operations who is in the business of selling farm products.

Central Registry—the place for recordation of all effective financing statements and written security devices which establish a security interest in farm products, and the place for recordation of assignments, amendments, extensions, and cancellations thereof.

Commission Merchant—any person engaged in the business of receiving any farm product for sale, on commission, or for or on behalf of another person.

Commissioner—the Louisiana Commissioner of Agriculture and Forestry, or his duly authorized agent.

Creditor—any person who holds a security interest in a farm product.

Crop Year—

1. for a crop grown in soil, the calendar year in which it is harvested or to be harvested;

2. for animals, the calendar year in which they are born or acquired; or

3. for poultry or eggs, the calendar year in which they are sold or to be sold.

Cumulative Addendum—a document listing all filings with the Central Registry as of the date of issuance that are not listed on the most recent master list.

Debtor—any person who owns or has an ownership interest in farm products which are subject to a security interest of creditors.

Department—the Louisiana Department of Agriculture and Forestry.

Effective Financing Statement (EFS)—a written instrument which is an abstract of a security device and which complies with the provisions of R.S. 3:3654(E).

Encumbrance Certificate—a written document signed by the commissioner which lists all security devices affecting a person which has been filed with the Central Registry on the date and at the time the certificate is issued and which complies with the provision of R.S. 3:3654(F).

Farm Product—an agriculture commodity such as wheat, corn, soybeans or a species of livestock, such as cattle, hogs, sheep, horses or poultry, used or produced in farming operations or a product of such crop or livestock in its unmanufactured state, such as ginned cotton, wool-clip, maple syrup, milk and eggs, that is in the possession of a person engaged in farming operations.

Farm Product Encumbrance List (Master List)—a document listing all effective financing statements, amendments, assignments and extensions of effective financing statements which:

1. is organized according to farm product; and

2. is arranged within each such product in alphabetical order according to the last name of the individual debtors, or, in the case of debtors doing business other than as individuals, the first word in the name of such debtors; in numerical order according to the Social Security number of the individual debtors, or, in the case of debtors doing business other than as individuals, the Internal Revenue Service taxpayer identification number of such debtors; geographically by parish; and by crop year.

Filing—the receipt of any EFS, amendment, assignment, extension or cancellation of an EFS with any other security devices accompanied by a related EFS by the Central Registry stamped with the date and time received and assigned a file number.

Knows or *Knowledge*—actual knowledge.

Person—any individual, partnership, corporation, trust or any other business entity.

Registrant—any person who has made application with the Central Registry, has paid the required registration fee and received written notice that his application has been accepted.

Regular Business Day—any day that the department is open for routine business.

Secured Party—a creditor with a security interest in farm products.

Security Device—a written instrument that establishes a creditor's security interest in farm products of any pledge or privilege described in R.S. 9:4521, whether or not evidenced by a written instrument.

Security Interest—an interest in or encumbrance upon farm products that secures payment or performance or an obligation.

Selling Agent—any person, other than a commission merchant, who is engaged in the business of negotiating the sale and purchase of any farm product on behalf of a person engaged in farm operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3652, R.S. 3:3654 and Public Law 99-198 (Food Security Act of 1985).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Management and Finance, Central Registry, LR 12:826 (December 1986), amended LR 13:560 (October 1987), LR 15:1041 (December 1989).

§103. Administration

A. The Central Registry will be administered by the commissioner and operated by the Office of Management and Finance of the department. All filings, notices, petitions, documents or other correspondence shall be addressed to the Department of Agriculture and Forestry, Office of Management and Finance, Central Registry, Box 3481, Baton Rouge, LA 70821-3481.

AUTHORITY NOTE: Promulgated in accordance with R.5. 3:3652, R.S. 3:3654 and Public Law 99-198 (Food Security Act of 1985).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Management and Finance Central Registry, LR 12:826 (December 1986), amended LR 13:561 (October 1987), LR 15:1042 (December 1989).

§105. Filing Procedures

A. Any person holding a security interest in a farm product may file security devices which are accompanied by a related EFS with the Central Registry. All security devices must be originals or a certified copy.

B. All effective financing statements must be submitted on Form CR-1 as prescribed by the commissioner.

C. All amendments, assignments, extensions and cancellations of an EFS must be submitted on Form CR-2 as prescribed by the commissioner.

D. All effective financing statements or amendments, assignments, extensions and cancellations of effective financing statements must be accompanied by the required fee unless approval for billing has been granted by the commissioner and completed in accordance with the instructions on the form.

E. The Central Registry will notify the secured party in writing at the address provided by the secured party of the time and date of filing of any EFS or an amendment, extension or cancellation of an EFS. In the case of assignments to an EFS, the Central Registry will notify the assignee at the address provided on the assignment form (CR-2).

F. Any EFS or amendment, assignment, extension or cancellation of a EFS that does not conform to all provisions of this Section will be rejected and returned to the secured party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3652, R.S. 3:3654 and Public Law 99-198 (Food Security Act of 1985).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Management and Finance, LR 12:826 (December 1986), amended LR 13:561 (October 1987), LR 15:1042 (December 1989).

§107. Procedures for Amendment, Assignment, Extension and Cancellation of an EFS

A. All amendments to security devices which are accompanied by a related EFS shall be filed in writing (Form CR-2) within three months of amendment.

B. All assignments of security devices which are accompanied by a related EFS shall become effective at time and date of filing with the Central Registry.

C. All extensions to security devices which are accompanied by a related EFS must be filed with the Central Registry within six months before the expiration of the initial five-year period.

D. Each person who files security devices which are accompanied by a related EFS with the Central Registry shall request cancellation of the EFS within 10 calendar days after the date the person who has granted or who is affected by the security device requests in writing, cancellation of the security device, provided the security device is then no longer in effect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3655, R.S. 3:3656 and Public Law 99-198 (Food Security Act of 1985).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Management and Finance, Central Registry, LR 12:826 (December 1986), amended LR 13:561 (October 1987).

§109. Registrations

A. Any person may register with the Central Registry to receive the master list or a portion thereof. Applications for registration shall consist of two types, namely initial registrations and renewal registrations. An initial registration application may be filed at any time of the year. A renewal registration application shall be filed by December 15 of each year. Failure to make application for renewal by December 15 shall result in termination of service by the Central Registry and loss of registrant status.

B. An initial application for registration may be filed at any time during the year. Within 30 days of notification of acceptance by the Central Registry, the registrant will receive the most recent master list and cumulative addendum or portion thereof for which registrant has registered.

C. Initial registration application forms (CR-3 as prescribed by the commissioner) will be provided by the Central Registry upon request. The form must be completed in its entirety and submitted with the required fee.

D. The Central Registry will notify each registrant that a renewal application is due and provide the renewal application to the registrant by October 10 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3655, R.S. 3:3656 and Public Law 99-198 (Food Security Act of 1985).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Management and Finance, Central Registry, LR 12:826 (December 1986), amended LR 13:561 (October 1987).

§111. Farm Products Encumbrance List (Master List)

A. The Central Registry shall compile all filings into a master list. The master list or portions thereof will be distributed to each registrant based on farm products and parishes as indicated on each registration application (Form CR-3).

B. The master list will be compiled on the first regular business day of each quarter beginning January 1, 1987 and distributed within five regular business days. Each master list shall contain all filings prior to close of business on the last regular business day of the previous quarter. Cumulative addenda shall be compiled on the first and fifteenth day of each month and distributed within three regular business days. The Central Registry will not distribute cumulative addenda on the first of each month in which there is a distribution of a master list.

C. The department shall allow interested parties to obtain direct access to the computerized information in the Central Registry. Request for direct access will be considered on a case by case basis. Method of access, terms, costs and conditions will be stipulated by contract between the department and the interested party. The cost of direct access to the interested party will be limited to the actual cost to the Central Registry.

D. All registrants shall be deemed to have received any master list or cumulative addendum distributed by the Central Registry on the seventh day following the date of mailing to the intended recipient or the date of actual delivery, whichever occurs first. The Central Registry shall maintain accurate records so that such dates can be readily determined.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3655 and Public Law 99-198 (Food Security Act of 1985).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Management and Finance, Central Registry, LR 12:826 (December 1986), amended LR 13:159 (March 1987), LR 13:562 (October 1987).

§115. Encumbrance Certificates

A. Any person may request an encumbrance certificate from the Central Registry. The request may be oral or written. Each request shall be subject to the following provisions.

1. The request shall contain the name and address of the person making the request.

2. The request shall contain the complete name, address and parish of residence of the person who is the subject of the request.

3. The request may contain the nickname, initials, or other appellation by which the person who is the subject of the request is sometimes or commonly known.

4. The request shall contain the Social Security number or federal tax identification number of the person who is the subject of the request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3654, and R.S. 3:3655 and Public Law 99-198 (Food Security Act of 1985).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Management and Finance, Central Registry, LR 12:826 (December 1986), amended LR 13:562 (October 1987).

§117. Farm Products List and Codes

A. In accordance with R.S. 3:3655 (B) and Section 1324 of the Food Security Act of 1985, Public Law 99-198 as amended, and regulations issued thereunder as applicable, only those products listed below shall be deemed farm products by the Central Registry.

Code	Product	Code	Product
1005	Broccoli		
1010	Cabbage	1200	Peanuts
1020	Cantaloupes	1210	Peas
1030	Cauliflower	1220	Pecans
1040	Corn	1230	Peppers
1050	Cotton	1240	Rice
1060	Cucumbers	1250	Rye Grass Seed
1070	Cushaw	1260	Sorghum Grain
1075	Eggplant		
1080	Flowers, Shrubs and Ornamentals		
1090	Garlic	1270	Soybeans
1100	Grapes	1280	Squash
1110	Grass	1290	Strawberries
1120	Greens	1300	Sugarcane
		1310	Sunflower Seed
1130	Hay	1320	Sweet Potatoes (Yams)
1145	Irish Potatoes	1330	Sweet Sorghum
1150	Mushrooms		
1160	Oats	1340	Tomatoes
1170	Onions	1350	Watermelons
1180	Oranges		
1190	Peaches	1360	Wheat
		3010	Alligators
		3020	Catfish
		3030	Cattle
		3040	Chickens
		3045	Crabs
		3050	Crawfish
		3060	Goats
		3070	Hogs
2010	Cheese	3080	Honeybees
2020	Eggs	3090	Horses
2030	Honey	3100	Mink
2040	Milk	3110	Oysters
		3120	Quail
		3130	Prawns
		3140	Sheep (Lamb)
		3150	Shrimp
		3160	Turkeys
		4000	Timber

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3654, R.S. 3:3660 and Public Law 99-198 (Food Security Act of 1985).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Management and Finance, Central Registry, LR 12:826 (December 1986), amended LR 13:159 (March 1987), LR 13:562 (October 1987), LR 14:529 (August 1988), LR 15:257 (April, 1989).

§119. Fees

A. In accordance with R.S. 3:3657, the commissioner is authorized to establish fees for the operation of the Central Registry. The fees are as follows.

1. Filing Fee (for effective financing statements, amendments, assignments and extensions of effective financing statements and security devices accompanied by a related EFS)—$8.

NOTE: This includes $5 filing fee and $3 prepaid cancellation fees.

2. Encumbrance Certificates—$5 per encumbrance certificate.

3. Certified Copies of Security Devices—$2 plus $.25 per page of the security device.

4. Registration (initial and renewal)—all registrations are for one calendar year.

Farm Products	1-3	4-7	Over 7
1-10 parishes	$ 40	$ 80	$125
11-30 parishes	$ 80	$175	$250
31-45 parishes	$125	$250	$325
46-64 parishes	$175	$325	$500

5. NSF Fee—$10 per check returned due to insufficient funds.

B. Failure by any person to pay any fee as required shall result in termination of service by the Central Registry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3654, R.S. 3:3656 and Public Law 99-198 (Food Security Act of 1985).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Management and Finance, Central Registry, LR 12:826 (December 1986), amended LR 13:562 (October 1987), LR 14:529 (August 1988).

Title 7
AGRICULTURE AND ANIMALS
Part XXXIX. Forestry

Chapter 1. Timber Stumpage

§101. Authority

A. The Louisiana Forestry Commission and the Louisiana Tax Commission adopt these regulations under the authority of R.S. 3:4274 and R.S. 47:1837 for the purpose of implementing the provisions of R.S. 47:633 which require the two commissions to jointly determine annually on the second Monday of December the then current average stumpage market value of trees and timber and of pulpwood; which valuation becomes effective, by law, on the first day of January of the following year and continuing until the next succeeding January.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4274 and R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, and the Louisiana Forestry Commission, LR 4:9 (January 1978), amended LR 5:7 (January 1979), LR 6:728 (December 1980), LR 7:627 (December 1981), LR 8:651 (December 1982), LR 9:848 (December 1983), LR 10:1038 (December 1984), LR 11:1178 (December 1985), amended by the Department of Agriculture and Forestry, Office of Forestry, and the Louisiana Forestry Commission, LR 12:819 (December 1986), LR 13:432 (August 1987), LR 14:9 (January 1988), LR 15:5 (January 1989), LR 16:16 (January 1990), LR 17:476 (May 1991), LR 19:611 (May 1993), LR 20:408 (April 1994), LR 21:930 (September 1995), repromulgated LR 21:1069 (October 1995), amended by the Department of Agriculture and Forestry, Forestry Commission and the Department of Revenue, Tax Commission, LR 22:581 (July 1996), LR 23:943 (August 1997), LR 24:1081 (June 1998), promulgated by the Department of Agriculture and Forestry, Forestry Commission and the Department of Revenue, Tax Commission LR 24:2075 (November 1998).

§103. Calculation of Current Average Stumpage Market Value

A. The current average stumpage market value of timber and pulpwood, unless otherwise provided by law, shall be based exclusively on sales of timber and pulpwood in the first two quarters of the year in which the commissions are to meet and in the last two quarters of the preceding year as reported to the Louisiana Department of Revenue and Taxation and as published in the *Quarterly Report of Forest Products* by the Louisiana Department of Agriculture and Forestry.

B. The current average stumpage market value of both timber and pulpwood shall be calculated by use of generally accepted statistical methods that take into account both quantity and price paid for the various forest products.

C. Upon receipt and verification of the sales of timber and pulpwood for the second quarter of the year in which the commissions are to meet the Louisiana Department of Agriculture and Forestry, Office of Forestry shall prepare a recommendation to the commissions as to the current average stumpage market value of each category and subgroup of timber and pulpwood based on the date and method of calculation authorized by Subsections A and B of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4274 and R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Forestry Commission and the Department of Revenue, Tax Commission, LR 24:2075 (November 1998).

§105. Notice

A. The Office of Forestry shall annually publish in the November issue of the *Louisiana Register* a notice of the date, time and place of the joint meeting of the commissions required by law to be held on the second Monday of December together with the recommendations of the Office of Forestry and the data used to determine such recommendations.

B. The Office of Forestry upon completion of its recommendations, shall send a copy of its recommendations and the data used as the basis for the recommendations to all interested parties who have requested a copy of the recommendation.

C. Notice of the commissions' determination of the current average stumpage market value of trees, timber and pulpwood shall be immediately sent to all interested parties who have requested notice or who are required by law to receive notice and shall be published in the next available edition of the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4274 and R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Forestry Commission and the Department of Revenue, Tax Commission, LR 24:2075 (November 1998).

§107. Annual Determination of Current Average Stumpage Market Value

A. At the annual meeting held by the commissions to determine the current average stumpage market value of timber and pulpwood the commissions shall jointly determine the stumpage market value based exclusively on the sales of timber as reported to the Louisiana Department of Revenue and as published in the *Quarterly Report of Forest Products* by the Louisiana Department of Agriculture and Forestry. All comments and input submitted by interested parties at this meeting shall be considered by the commissions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4274, R.S. 47:1837 and R.S.47:633 et seq.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Forestry Commission and the Department of Revenue, Tax Commission, LR 24:2075 (November 1998).

§109. Product Categories

A. The following categories and subgroups are to be used in determining the timber stumpage values based on current average stumpage market values to be used for severance tax computation:

1. Pine Trees and Timber;
2. Hardwood Trees and Timber;
3. Pine Chip and Saw;
4. Pine Pulpwood;
5. Hardwood Pulpwood.

B. No forestry product shall be moved from the trees and timber category to the pulpwood category or vice versa by the commissions without a prior adjudicatory hearing held in accordance with the Louisiana Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4274 and R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Forestry Commission and the Department of Revenue, Tax Commission, LR 24:2076 (November 1998).

Chapter 3. Tree Seedlings

§301. Seedling Prices

A. The Louisiana Forestry Commission adopts the following prices for forest tree seedlings.

Seedling Prices Per Packet:				
Category	**1000 and Over**	**500**	**100**	**50**
Superior Loblolly Pine	$43	$32	N/A	N/A
Advanced Generation Pine - Lob and Slash	$50	$37	N/A	N/A
Specialty Pine - Spruce and Superior Virginia	$87	$52	N/A	N/A
Improved Longleaf Pine	$102	$57	N/A	N/A
Containerized Adv/Gen Pine	$127		$32	N/A
Containerized Sup. Virginia Pine	$152		$37	N/A
Containerized Imp.Longleaf Pine	$202		$42	N/A
Specialty Hardwoods	$305	$255	$55	$45
Hardwood Species	$220	$205	$45	$35

B. The following price discounts will be offered if applicable to any category of seedling.

1. A discount of $3 per thousand for each order of Superior Loblolly Pine or Advanced Generation Pine-loblolly/slash that exceeds 500,000 seedlings.

2. A discount equal to the difference between the cost of production and seedling price if the cost of production is less than the seedling price.

3. A discount equal to the Office of Forestry seed costs if the seedlings are produced from seed supplied by the customer.

4. A discount to be determined by the state forester with the approval of the commissioner of agriculture and forestry if there is a surplus of seedlings above planned or expected sales or if the rate of actual sales indicates that there will be a surplus of seedlings at the end of the selling season.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4303.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, Forestry Commission, LR 8:285 (June 1982), amended LR 10:468 (June 1984), amended by the Department of Agriculture and Forestry, Office of Forestry, and the Louisiana Forestry Commission LR 13:432 (August 1987), LR 19:610 (May 1993), LR 21:671 (July 1995), LR 22:1210 ((December 1996), LR 26:2437 November 2000), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 30:200 (February 2004), amended by the Department of Agriculture and Forestry, Office of Forestry, Forestry Commission, LR 37:2986 (October 2011).

Chapter 5. Indian Creek Recreation Area

§501. Usage Fees

A. The Department of Agriculture and Forestry, Office of Forestry, hereby announces the following usage fee revisions.

1. Entrance Fee (Day Use)	$3 per Vehicle with up to Six Occupants. Additional $0.50 per Person for Additional Occupants
2. Regular Campsite	$ 14/day
3. Pull-Through Campsite	$ 18/day
4. Primitive Campsite	$ 8/day
5. Pavilion Rental	$ 50/day
6. Boat Launch	$ 3/boat
7. 30-day Off-Season Rate for Regular Campsite (Oct.-Feb. only)	$210/month
8. 30-day Off-Season Rate for Pull-through Campsite (Oct.-Feb. only)	$270/month

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, and the Louisiana Forestry Commission, LR 6:734 (December 1980), amended LR 11:1178 (December 1985), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 17:476 (May 1991), LR 23:553 (May 1997), LR 30:195 (February 2004).

Chapter 7. Forest Landowner Assistance

§701. Management Service Fees

A. The Department of Agriculture and Forestry, Office of Forestry, shall, under the direction of the state forester, provide private landowners with assistance in the management of their forestlands.

1. Basic Services. Performed on an as-requested basis in all Office of Forestry districts.

a.	Prescribed Burning Services	
	i. Reforestation (cutover areas)	$25/acre plus $70/hour for fireline establishment $300 minimum charge
	ii. Afforestation (pasture, etc.)	$15/acre plus $70/hour for fireline establishment. $300 minimum charge.
	iii. Helicopter Assisted Burns	$10/acre plus $70/hour for fireline establishment. $300 minimum charge.
	iv. Other Prescribed Burns (fuel reduction, hardwood control, wildlife habitat, etc.)	$20/acre $300 minimum charge.
	v. Fireline Plowing Only	$70/hour $100 minimum charge.
b.	Timber Marking	$25/acre

2. Special Services. Performed when approved on a case-by-case basis.

a.	Tree Planting*	$46/acre
b.	Direct Seeding*	$10/acre
c.	Light tractor (dozer) work [650 John Deere (or other brand of equal power) or less]	$70/hour (1 hour minimum)
d.	Heavy tractor (dozer) work [over 650 John Deere or other brand of equal power]	$100/hour (1 hour minimum)

*Seedlings or seed not included.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4276, R.S. 3: 4274 and R.S. 3:3.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, LR 8:419 (August 1982), amended by the Department of Agriculture and Forestry, Office of Forestry, Forestry Commission, LR 11:1178 (December 1985), LR 19:1414 (November 1993), LR 23:553 (May 1997), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 32:1782 (October 2006).

Chapter 9. Prescribed Burning

§901. Definitions

Act—Act 589 of the 1993 Regular Session of the Louisiana Legislature.

Commissioner—the Commissioner of the Louisiana Department of Agriculture and Forestry.

Department—Louisiana Department of Agriculture and Forestry.

Prescribed Burning Certificate—document issued by the Department of Agriculture and Forestry certifying that the document holder has completed the requirements of Louisiana R.S. 3:17 and this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:17.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 21:670 (July 1995).

§903. Written Authority

A. Written authority for a prescribed burn shall consist of a prescribed burning certificate issued to the prescribed burner by the department and signed by the associate state forester or the chief of the Forest Protection Branch of the Office of Forestry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:17.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 21:670 (July 1995).

§905. Completion of Prescribed Burn

A. Prescribed burns performed pursuant to the authority granted by the Act and conducted in accordance with the Act and these regulations shall be completed and declared safe when the certified prescribed burn manager who has been present on site from ignition finds:

1. that the ignition process has been safely accomplished;

2. the fire is safely contained within the control lines; and

3. the smoke is acting in a fashion consistent with the weather forecast and the burning prescription for that tract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:17.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 21:670 (July 1995).

§907. Certification Prerequisites and Training

A. The Department of Agriculture and Forestry shall offer workshops for the certification of prescribed burners. The application for attendance to a certification workshop shall include an affidavit from the applicant stating that:

1. the applicant has participated in a minimum of five prescribed burns as the person in charge of the execution of the burns; and

2. the applicant has completed a university sponsored continuing education prescribed burning course or other program approved by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:17.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 21:670 (July 1995).

§909. Certification Procedures

A. The department shall issue a prescribed burning certificate when the applicant has:

1. met all of the prerequisites on training and experience required by this rule; and

2. completed an application on a form approved by the department; and

3. attended a certification workshop conducted or approved by the department; and

4. scored a passing grade on a certification test administered or approved by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:17.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 21:670 (July 1995).

§911. Voluntary Smoke Management Guidelines

A. The official guidelines for management of smoke from prescribed burns shall be as contained in *Louisiana Smoke Management Guidelines*, published by the Louisiana Department of Agriculture and Forestry. Revisions to the guidelines shall take effect upon their publication by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:17.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 21:670 (July 1995).

§913. Suspension and Revocation of Prescribed Burning Certificate

A. In the event that any certified prescribed burn manager demonstrates that his practices and procedures during one or more of prescribed burns substantially deviates from accepted practices and procedures for prescribed burning in effect at the time of certification or at the time of the aforesaid prescribed burn or burns then, in that event, and upon such finding determined after an adjudicatory hearing conducted in accordance with the Administrative Procedure Act, the commissioner may suspend or revoke the certification of any such certified prescribed burn manager.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:17.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 21:670 (July 1995).

Chapter 10. Reforestation of Public Lands

§1001. Scope; Agencies Involved

A. Any state agency, department, board or commission, desiring to cut down or remove any tree or trees 10" Diameter-Breast-H eight or larger must first submit a request for approval to the Louisiana Department of Agriculture and Forestry, Office of Forestry, Box 1628, Baton Rouge, LA 70821-1628, addressed to the attention of the state forester.

B. The request for approval must include information about what trees are to be cut down, their location, size and species. A site plan or diagram such that trees can be located by an inspector is required and also the intent or reason for the removal of the tree or trees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 18:597 (June 1992).

§1003. Response to Agency Reports

A. The Louisiana Department of Agriculture and Forestry has 30 days in which to respond in writing to the written request. If no response is heard within 30 days, approval is automatically granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 18:597 (June 1992).

§1005. Site Inspections

A. The Louisiana Department of Agriculture and Forestry can inspect the site and make written recommendations to include alternatives to removing the trees, species, location and numbers of replacement trees and recommendations concerning planting and after care of planted trees. These recommendations will be adhered to unless determined to be physically impossible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 18:597 (June 1992).

§1007. Appeals

A. An appeal process is available, if the state agency, department, board or commission for some reason cannot comply with the recommendations of the Louisiana Department of Agriculture and Forestry, then a representative can appeal to the state forester or commissioner of the Department of Agriculture and Forestry for reconsideration. This must be done within 30 days of the written recommendations. The state forester or commissioner of the Louisiana Department of Agriculture and Forestry shall have the power to waive any or all planting requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 18:597 (June 1992).

§1009. Tree Planting; Survival Inspections

A. Required tree planting shall be completed during the next planting season after the removal of the trees. The Louisiana Department of Agriculture and Forestry can check tree planting survival up to three years after planting and require replacement of any losses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 18:597 (June 1992).

§1011. Size Requirements

A. On developed sites around buildings and along highway rights-of-way, a minimum tree size for planting is 1 inch caliper and 5 feet tall. The Louisiana Department of Agriculture and Forestry can require larger planting stock when deemed necessary for adequate survival. Seedlings may be allowed in certain areas where survival is not considered a problem.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4271.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 18:597 (June 1992).

§1013. Landscape Architects

A. The Louisiana Department of Agriculture and Forestry may require the use of a landscape architect in certain projects where their services are deemed necessary to ensure adequate attention to sensitive design considerations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4271.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 18:597 (June 1992).

§1015. Timber Harvesting

A. Any agency or department owning or controlling commercial forest land and desirous to harvest timber from this land is required by Act 211, 1987 Regular Legislative Session, to contact the Office of Forestry for assistance in developing a forest management plan for the acreage. Reforestation measures will be required as appropriate and this forest management plan will satisfy the requirements of Act 176.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4271.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 18:597 (June 1992).

§1017. Developing Wooded Property

A. Any agency planning to develop a site that contains existing trees must include the intent of Act 176 in the planning process of the project before any clearing of existing trees takes place. Assistance can be obtained from the Office of Forestry personnel to: locate, identify, evaluate and inventory existing trees; to provide technical assistance to save as many existing trees as is appropriate as well as to assist in the selection and placement of replacement trees. Emphasis shall be put on selection of appropriate species, size and location of trees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4271.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 18:597 (June 1992).

Chapter 11. Rural Fire Protection

§1101. State Excess Property Program

A. The Department of Agriculture and Forestry, through the Office of Forestry, shall use the following procedures for the assignment of state surplus property to local governments or duly organized and officially recognized fire organizations to be utilized in suppressing or providing protection from fires in rural areas.

1. This program shall be called the State Surplus Property Program (hereinafter "the program").

2. The state forester, or his designee, shall be the "program coordinator" and responsible for coordinating with local governments or duly organized and officially recognized fire organizations for the assignment of state surplus property under the program.

3. In order to be eligible to participate in the program, local governments or duly organized and officially recognized fire organizations must submit an application in writing to the program coordinator, Alexander State Forest, Box 298, Woodworth, LA 71485. The application must contain the name, address and phone number of the applicant and must state in detail the specific equipment sought by the applicant. All applications will be date stamped as of the date received in the office of the program coordinator and will be checked to verify the applicant's eligibility to participate in the program.

4. The department shall maintain a list of applicants which shall be divided into three categories of requested property:

a. vans and pickups up to 3/4 ton;

b. pickups 1 ton or larger and larger trucks; and

c. all other types of equipment not included in Categories (Subparagraphs) a and b.

5. Following receipt and verification of eligibility, the applicant's name and the date the application was received shall be placed on the list in the appropriate category or categories.

6. As equipment becomes available, the program coordinator will assign the property to the applicants in the following manner:

a. first priority shall be given to newly formed departments;

b. second priority shall be given to established departments that have not previously received property under the program;

c. third priority shall be given to established departments that have previously received property under the program;

d. should two or more applicants have equal priority under the order set forth above, the property shall be assigned based on the date the applications of those equal applicants was received by the program coordinator;

e. should two or more applicants have equal priority under the order set forth above, the property shall be assigned to the applicant who can demonstrate to the program coordinator the greatest need for the property.

7. Applicants shall be removed from the list upon assignment of property, or two years from the date their application was received by the program coordinator. Applicants shall be entitled to a two-year extension of their original application, provided that the program coordinator receives a written request from the applicant 60 days prior to the expiration of the original application. Applications extended pursuant to this Section shall maintain the same priority as the original application.

8. The assignment and the cooperative endeavor between the Office of Forestry and local governments or duly organized and officially recognized fire organizations shall be evidenced by a written agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 21:1328 (December 1995).

Subchapter B. Parish Burn Ban Ordinances

§1111. Purpose

A. The Commissioner of Agriculture and Forestry adopts the following regulations for the purpose of implementing the provisions of R.S. 33:1236(31)(b)(iii) and R.S. 30:2057(B)(5)(c), relative to the regulation of burning of vegetable matter and flammable materials in certain parishes when the fire danger rating for the parish is high or is predicted to be high.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3; 30:2057(B)(5)(c) and 33:1236(31)(b)(iii).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 33:249 (February 2007).

§1113. Determination of Fire Danger Rating

A. The fire danger rating for the state shall be primarily determined by the Keetch Byram Drought Index generalized color map (KBDI) which is published weekly by the Louisiana Office of State Climatology, Louisiana State University.

B. The fire danger rating for a parish will be high when any portion of a parish is indicated with a KBDI index of 601 or greater based on the most current KBDI color map.

C. If the Louisiana Department of Agriculture and Forestry has sufficient cause to believe that fire danger in localized areas may not be accurately represented by the published KBDI map, then the department may use additional data to analyze conditions and to declare a state of high fire danger for any parish if warranted by available data.

D. If the department declares one or more parishes to have a high fire danger rating, based on data other than the KBDI map, then the department will publish a list of such parishes on its website.

E. The KBDI map may be referenced through the Louisiana Office of State Climatology through its website at www.losc.lsu.edu or by the Louisiana Department of Agriculture and Forestry's website at www.ldaf.state.la.us.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3; 30:2057(B)(5)(c) and 33:1236(31)(b)(iii).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 33:249 (February 2007).

Chapter 13. Forestry Productivity Program

§1301. Authority

A. The Commissioner of Agriculture and Forestry adopts the following regulations under the authority of R.S. 3:4413 for the purpose of implementing the provisions of R.S 3:4410-4416, the Louisiana Forestry Productivity Program, enacted by Act 1377 of 1997.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1678 (September 1998).

§1303. Definitions

A. The terms defined in this Section have the meanings given to them herein, for purposes of these regulations, except where the context expressly indicates otherwise.

Approved Forestry Practice—forestry practice approved by the Department, for which the landowner is authorized to receive reimbursement under the cooperative agreement.

Commissioner—Commissioner of the Louisiana Department of Agriculture and Forestry.

Cooperative Agreement—the written and signed contract including all other documents made a part of the agreement or incorporated by reference between the department and a landowner, together with any written and signed amendments or addendums to the original cooperative agreement, establishing the terms of the agreement between the department and the landowner under the Louisiana Forestry Productivity Program.

Department—the Louisiana Department of Agriculture and Forestry, Office of Forestry.

Forestry Practice—any procedure or method used in the establishment and management of timber species.

Fund—the Forestry Productivity Fund established at R.S. 3:4411.B.

Landowner—any individual, corporation, partnership, association, trust, joint venture, other legal entity or combination thereof who owns 5 contiguous acres or more of land located in Louisiana. For purposes of these regulations a joint ownership of property is considered to be

one landowner separate and apart from the individuals or entities who own the property jointly.

Program—the Forestry Productivity Program authorized by R.S. 3:4410-4416.

State—collectively, the State of Louisiana, the Department of Agriculture and Forestry, the State Forestry Commission and the Commissioner of Agriculture and Forestry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1678 (September 1998).

§1305. Application and Fee

A. Any landowner desiring to apply for participation in this program must first submit an application to the department on a form supplied by the department.

B. Each landowner submitting an application must also submit a $25 nonrefundable application fee at the time the landowner's application is initially submitted to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1679 (September 1998).

§1307. Extent of State Participation

A. Financial assistance by the state to any one landowner participating in this program shall be limited to a total value of $10,000 during a fiscal year.

B. The state's participation under any cooperative agreement shall be limited to either or both of the following types of assistance:

1. a direct grant, for the purpose of assisting the landowner in implementing an approved forestry practice authorized by a cooperative agreement through the use of the landowner's resources or through the landowner's contacts with private firms; or

2. utilization of the state's personnel, equipment, or materials to implement an approved forestry practice authorized by a cooperative agreement, if private sector services are unavailable.

C. A direct grant shall not exceed 50 percent of the cost of implementing the cooperative agreement or the maximum cost share rates established by these regulations, whichever is less. In the event that state personnel, equipment or materials are utilized to implement an approved forestry practice the landowner shall be invoiced by the department for the cost of implementing the forestry practice. The landowner shall promptly pay such invoice and may subsequently submit the paid invoice for reimbursement under this program and these rules and regulations.

D. The maximum cost share rates are established as follows.

Maximum Cost-Share Rates 50 Percent of the Cost per Acre Not to Exceed the Following Rates		
FPP1	**Artificial Regeneration Component**	
Code	**Tree Planting**	**Maximum C/S Rate**
01	Pine (loblolly or slash, planting and seedling cost)	$50
02	Hardwood (planting and seedling cost)	$80
03	Labor Only (pine or hardwood)	$30
04	Longleaf Pine (planting and seedling cost)	$75
Direct Seeding		
05	Pine (seed and labor cost)	$15
06	Hardwood (seed and labor cost)	$30
Site Preparation		
11	Light (discing, mowing, or sub-soiling)	$15
12	Burn Only (cut-over areas or agricultural lands)	$15
13	Chemical and Burn (aerial, ground, or injection)	$75
14	Mechanical and Burn	$115
15	Post-site Preparation (aerial, ground, or injection)	$50
16	Chemical and Herschal	$90
FPP2	**Site Preparation for Natural Regeneration**	
21	Burning Only	$15
22	Chemical or Mechanical	$65
23	Chemical and Burning	$75
FPP3	**Control of Competing Vegetation**	
31	Chemical Release (aerial, ground, or injection)	$50
32	Precommercial Thinning (mechanical)	$65
33	Burning Only (longleaf pine)	$15

E. The commissioner, with the advice of the State Forester's Forestry Planning Committee, shall review annually the cost share rates established in this Section and determine if any of the rates require adjustment.

F. The state shall not provide reimbursement under this program for any forestry practice implemented by a landowner unless a cooperative agreement is on file with the department prior to implementation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4412 and R.S. 3:4413.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1679 (September 1998), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 28:267 (February 2002), LR 34:2338 (November 2008).

§1309. Land and Landowners Eligibility, Exclusions and Limitations

A. Any landowner owning five contiguous acres or more in Louisiana suitable for growing a timber species approved by the department is eligible for participation in this program unless excluded by these regulations or otherwise excluded by law.

B. The following landowners are not eligible to participate in this program:

1. landowners owning less than 5 contiguous acres of land;

2. public utilities companies;

3. landowners engaged in the manufacturing or production of forestry products;

4. any federal, state, or local government agency or political subdivision;

5. corporations with publicly traded stock;

6. any landowner with joint ownership in an eligible tract of land unless all joint owners and usufructuaries or duly authorized agent or agents, if any, sign the cooperative agreement;

7. any entity, other than a natural person, including but not limited to trusts, joint ventures, partnership, limited liability companies or successions, which have a set legal existence of less than 10 years unless all persons or legal entities who would, by law, be entitled to receive title to the land upon dissolution of the entity sign the cooperative agreement.

C. The following lands are not eligible to participate in this program:

1. any tract of land that is less than 5 contiguous acres;

2. lands owned by any landowner not eligible for participation;

3. land subject, at the time of application, to a reforestation contract with any federal, state or local government agency or under a private reforestation program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:44413 and R.S. 3:4414.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1680 (September 1998).

§1311. Obligations of the Landowner

A. The landowner shall abide by the provision of the law establishing this program, these regulations, and the cooperative agreement.

B. The landowner shall maintain the land subject to the cooperative agreement in forestry usage in accordance with the cooperative agreement for a period of at least 10 years from the date the department issues a certification of performance of the terms of the cooperative agreement.

C. The landowner shall not sell, convey, or otherwise lose control of land subject to a cooperative agreement under this program without placing a provision in the Act transferring the land requiring the new landowner to assume responsibility for abiding by the terms of the cooperative agreement and to maintain the approved forestry practices for the life of the cooperative agreement.

D. The landowner shall reimburse the department the cost of the state's involvement in the cooperative agreement plus court costs and reasonable attorney fees if the landowner violates the law establishing the program, these regulations or the cooperative agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1680 (September 1998).

§1313. Approved Forestry Practices

A. Forestry practices approved by the commissioner for purposes of this program are:

1. site preparation for reforestation by natural or artificial means;

2. planting of seeds or seedlings;

3. timber stand improvement through removal of undesirable vegetation or trees; and

4. post planting procedures that improve the growth, productivity, or viability of trees planted under this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1680 (September 1998).

§1315. Forestry Practice Implementation Period

A. Each landowner shall have 24 months to complete the forestry practice or practices authorized by the cooperative agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413 and R.S. 3:4415.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1680 (September 1998), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 28:267 (February 2002).

§1317. Payment by the Department

A. Payment by the department to any landowner under any cooperative agreement entered into under this program shall be made by the department only out of monies that are in the fund at the time payment is due.

B. The department shall make payment under any cooperative agreement only when:

1. the landowner has completed, to the department's satisfaction, all forestry practices stated in the cooperative agreement;

2. the landowner has complied with all other terms of the cooperative agreement;

3. the landowner has submitted invoices paid by him for all forestry practices authorized by the cooperative agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1680 (September 1998).

§1319. Repayment by Landowners to the Department

A. The department may seek repayment from a landowner when:

1. the landowner has, for any reason, received monies over and above the amount allowed by law or these regulations;

2. the landowner has failed to maintain the approved forestry practices for the life of the cooperative agreement;

3. the landowner has failed to abide by the terms of the cooperative agreement;

4. the landowner sells, conveys, or otherwise loses control of land subject to a cooperative agreement under this program and the new landowner does not abide by the terms of the cooperative agreement or does not maintain the approved forestry practices for the life of the cooperative agreement;

5. the department determines that a landowner has committed program violations or abuses that require repayment from the landowner or has violated any of the provisions of §1311 of these regulations.

B. A landowner may appeal a department's demand for repayment of monies paid the landowner under this program by filing with the commissioner a written request for an administrative review by him of the department's demand for repayment. The landowner's request for an administrative review must be postmarked within 15 days after the landowner receives the department's demand for repayment. A copy of the request must also be sent to the state forester who, upon receipt of the landowner's request shall forward all of the department's pertinent documentation to the commissioner with a copy to the landowner.

C. The landowner's request for an administrative adjudicatory hearing shall contain the following information:

1. the name, address and telephone number of the landowner and of any party that the landowner believes may be adversely affected by the commissioner's determination;

2. a statement of the facts known to the landowner and the reasons why he believes that the department is not entitled to repayment; and

3. a copy of all invoices and documents relating to the cooperative agreement.

D. The commissioner, upon receipt of all documentation from the department and the landowner shall either review the information and make a decision or appoint a hearing officer to conduct an administrative adjudicatory hearing and submit a report and recommendation to the commissioner for a final decision. Any administrative adjudicatory hearing shall be conducted in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413 and R.S. 3:4415.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1681 (September 1998).

§1321. Competitive Research and Cooperative Extension Grants

A. A competitive grant process is hereby created, subject to the following provisions, in order to provide for research and cooperative extension activities to enhance reforestation, increase productivity, and to further knowledge regarding the proper application of forestry principles.

B. Each fiscal year the commissioner shall set aside a portion of the monies in the fund to be used for competitive grants.

C. All competitive grants shall be awarded on a matching fund basis, with no more than 50 percent of the cost of the program being funded to be paid by the fund.

D. No grant shall be awarded under this program for any purposes other than research or cooperative extension activities intended to enhance reforestation, increase productivity, or to further knowledge regarding the proper application of forestry principles.

E. All grant proposals must be submitted, in writing, to the department no later than May 1 of each year. Each grant proposal must state in detail the purpose, goals, procedures, completion date and budget of the project as well as any additional information requested by the department.

F. The commissioner may award grants, no later than July 1 of each year, if the commission determines that an award of a grant will fulfill the purposes of the program. Upon the award of a grant the department and the grant recipient will enter into a written cooperative agreement detailing the terms and conditions of the grant.

G. Any grant that is awarded for a project that extends beyond the fiscal year in which the initial grant award is made may be renewed for the following fiscal year but any payment of monies by the department under the extended grant shall be subject to the availability of grant money in the fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413 and R.S. 3:4416.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1681 (September 1998).

Chapter 15. Timber Harvesting and Receiving Records

§1501. Loaders Log: Required Information; Distribution; Maintenance of Records

A. A loaders log must be kept on all timber harvesting sites. On any per-unit sale, upon completion of the harvest, the purchaser must provide the timber owner a copy of the loaders log. Loaders log must be maintained for a period not less than six years.

B. Each loaders log must contain the following information:

1. loader make and model—each loader used must be identified on the loaders log book by make and model;

2. load number—each load of timber leaving a cutting site must be assigned a load number. Load numbers for each job site must be in sequence;

3. parish/county and state—the parish or county and state where the timber was severed;

4. landowner's name—the name of the owner of the land where the timber is being severed. On multiple ownership land, the name of the estate, corporation, or what the site is commonly known as, may be entered. On industrial lands, the company tract number may be listed;

5. date and time—the date and time the forest product is loaded on the truck;

6. product—the forest product type must be clearly identified, for instance pine log, pine pulp, hardwood log, hardwood pulp, chip and saw, poles. The following symbols may be used: PL—pine logs; PP—pine pulp; HWL—hardwood logs; HWP—hardwood pulp; C&S—chip and saw. Any other forest product must be written out. The severance tax code may also be used to identify the product;

7. destination—the first wood-receiving facility that the forest product is being transported to;

8. loader's name—the name of the individual loading the timber. Name must be as shown on the loaders drivers license. Must be printed and legible;

9. driver's name—the name of the driver transporting the load. Name must be as shown on the drivers CDL. Must be printed and legible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4278.3.

HISTORICAL NOTE: Promulgated by the Department Agriculture and Forestry, Office of Forestry, Forestry Commission, LR 27:31 (January 2001), amended LR 27:1005 (July 2001), LR 37:2985 (October 2011).

§1503. Scale/Load Tickets: Required Information; Distribution; Maintenance of Records

A. Scale tickets must be maintained for a period of not less than six years. Information required by the scale ticket regulations may be kept on a load ticket provided that the scale ticket can be cross-referenced to the load ticket. When both are used the load ticket and scale ticket must be maintained for a period of not less than six years.

B. On any per-unit sale the purchaser of the timber must provide the timber owner hard copies of the scale tickets relating to any partial or final settlement made during the course of the harvest. Mill generated settlement sheets may be provided to the timber owner in lieu of a copy of the scale ticket provided it includes the load number, scale ticket number, date and time, product and species description, volume and/or weight.

C. Each scale ticket must contain the following information:

1. scale ticket number—each scale ticket issued at a wood receiving facility must be numbered;

2. parish/county and state—the parish/county and state where the timber was harvested;

3. date and time—date and time that the forest product was received (required on scale ticket only);

4. type and quantity of forest product delivered:

a. type—description of forest product received;

b. quantity—board feet, tonnage, or cords;

NOTE: The following items must be documented on a scale ticket or documented on a load ticket that can be cross referenced to the scale ticket.

5. timber owner's name—owner or owners of timber at the time it was severed. On a per-unit sale the seller must be listed as the timber owner;

6. landowner—name of the owner of the land where the timber was severed. On multiple ownership land, the name of the estate, corporation, or what the site is commonly known as, may be entered. On industrial lands, the company tract number may be listed;

7. producer—company or individual who is responsible for harvesting the timber;

8. load number—the load number designated by the loaders log book;

9. driver's signature—signature of driver delivering the forest product. Must be legible and as shown on the drivers CDL.

D. Restrictions. Wood-receiving facilities cannot accept any load of timber unless all information required by these regulations is provided at the time of delivery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4278.3.

HISTORICAL NOTE: Promulgated by the Department Agriculture and Forestry, Office of Forestry, Forestry Commission, LR 27:31 (January 2001), amended LR 27:1005 (July 2001), LR 37:2985 (October 2011).

§1505. Access Requirements

A. Each person, business or entity that harvests, loads, carries, or receives wood shall permit any commissioned officer or other authorized agent of the Department of Agriculture and Forestry, Office of Forestry to examine records required by these regulations. However, such records shall not be reproduced by any such commissioned officer or other authorized agent of the department, without the permission of the possessor of the records unless copies of records are required in connection with an ongoing investigation of a specifically identified timber theft or apparent violation of either R.S. 3:4278.3, these regulations or both. The records required by these regulations shall be considered confidential business records and any copies obtained by the department, its officers or agents shall remain such to the extent allowed by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4278.3.

HISTORICAL NOTE: Promulgated by the Department Agriculture and Forestry, Office of Forestry, Forestry Commission, LR 27:32 (January 2001).

§1507. Penalty for Violations

A. In the event of a violation of R.S. 3:4278.3 or the regulations promulgated thereunder, the maximum penalty allowed may be imposed after an adjudicatory hearing held in accordance with the Administrative Procedure Act. The Louisiana Forestry Commission shall make an initial determination on the matter. Their decision shall be submitted to the commissioner in writing.

B. The commissioner shall make the final determination on the matter. If the determination of the commissioner differs from the commission, the commissioner shall issue a written opinion based on the record of the hearing.

C. Appeals from rulings of the commissioner shall be taken in accordance with the provisions of the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4278.3.

HISTORICAL NOTE: Promulgated by the Department Agriculture and Forestry, Office of Forestry, Forestry Commission, LR 27:32 (January 2001), amended LR 27:1005 (July 2001).

Title 7
AGRICULTURE AND ANIMALS
Part XLI. Soil and Water Conservation

Chapter 1. Annual Election for Supervisors

§101. Electing One Soil and Water Conservation District Supervisor

A. The rules and regulations for electing one soil and water conservation district supervisor in each of the 40 soil and water conservation districts annually, as adopted by the soil and water conservation committee, are as follows.

1. General Rules

a. Act Number 231 of 1958 provides for an annual state election on the second Saturday in June.

b. Nominating petition forms shall be distributed by the district supervisors through county agents, SCS district conservationists, and others. All should encourage our best landowners or farm operators to qualify as candidates for district supervisors.

c. In order to qualify as a candidate to run for district supervisor, the candidate must be a qualified landowner or farm operator, must be a qualified voter within the state, and must present to the state committee a petition containing the names of at least 25 qualified voters. This petition shall be signed by the registrar of voters attesting that the names on the petition are qualified voters in the named Soil and Water Conservation District.

2. Nominating Rules

a. There shall be a 30-day nominating period which shall begin 60 days before the annual election on the second Saturday in June.

b. Nominating petitions must be completed on the petition papers supplied by the Louisiana Soil and Water Conservation Committee and/or any Soil and Water Conservation District Office. Nominating petitions will be revised yearly and will be numerically numbered; all nominating petitions submitted for district elections must have a current revised date and carry the name assigned to that district by the state committee.

c. Petitions must be mailed by the state committee to each chairman in the 40 Soil and Water Conservation Districts on or before _____.

d. Petitions completed containing the names of candidates, together with the signatures of at least 25 legally qualified voters, must be in the state committee office on or before _____.

e. Instructions, together with the necessary ballots, shall be mailed to the chairman of each soil and water conservation district in due time before the election.

f. The chairman of the board and the four district supervisors in each district shall have charge of the election. It shall be their duty to select the polling places and notify the state committee of such selection in time to give due notice before the election. It shall also be their duty to appoint two election commissioners for each polling place, carry the ballots out to the polling places, and secure an accurate result of the election of each polling place or appoint a trustworthy person to carry out these duties. The chairman of each district shall immediately mail the results of the election to the state committee.

g. The state committee shall give due notice through the press before the election, of the election in districts where elections are necessary as soon as nominating petitions have been approved by the committee. The notice shall contain the polling places and hour that the polls will be opened and closed. In districts where there is no opposition, there will be no election.

h. The election commissioners at each poll where elections are being held shall open the poll at 8 a.m. and close at 7 p.m.

i. Each soil and water conservation district board shall provide the state committee with a list of names of the persons who served as commissioners at the annual election, second Saturday in June.

j. The state committee shall pay each commissioner who served at the polls for the state annual election $25 per day and that districts may add up to an additional $25 to this pay for commissioners from their state appropriated funds. The districts shall have three polling places in each parish, but not to exceed a maximum of eight in each district where more than two parishes are involved.

k. No provisions will be made by the district for the qualified voters to vote by absentee ballot during this election.

l. The state committee shall, on the regular meeting date in June, promulgate the election returns and announce the names of the elected district supervisors. Nominees who had no opposition may be declared elected upon approval of their nominating petitions.

m. If the total number of candidates duly presented in nominating petitions does not exceed the name of supervisor places to be filled by election, then and in that event, the state committee is authorized and empowered to dispense with the election procedure and to declare each of said candidates duly qualified as a supervisor without the requirement of an election the same as if his name had been presented to the qualified voters in an election. Candidates so qualified shall be considered for all purposes "Elected Supervisors."

n. The state committee shall supervise the conduct and prescribe regulations of elections for district supervisors.

o. A tally sheet is to be maintained at each polling place in a bound ledger book and pages are not to be removed. Persons appearing at the designated polling places for the purpose of voting in this election must present one of the following items of identification: voter registration card; driver's license; or Social Security card. If none of the items of identification are available, the person must sign a sworn statement certifying that he is a registered voter. After identification has been produced, or the sworn statement has been signed, the voter will then enter his name on the tally sheet and will be given a ballot by the election commissioner in order to cast his vote.

p. Illiterate or blind voters will be assisted only by the election commissioner and only if the voter requests assistance in marking a ballot.

q. All candidates participating may appoint two poll watchers per polling place if they so desire. However, poll watchers will not receive pay from the state committee.

r. The official ballot is to be marked with an X by a black, ballpoint pen and folded out of the presence of the election commissioner and poll watchers, then dropped in the ballot box. If the ballot is not marked with an X, it will be considered spoiled.

s. All spoiled or excess ballots are to be accounted for by the commissioners. The ballot box, without being removed from the public view, shall be opened by the commissioners and they shall proceed with counting the ballots found therein without unfolding them except so far as to ascertain that each ballot is single, and by comparing the ballots found in the box with the number shown by the poll lists to have been deposited. If the ballots found in any box are more than the number of ballots shown to have been deposited, the ballots shall all be replaced without being unfolded in the box from which they were taken. One of the commissioners shall, without seeing the ballots and with his back to the box, thoroughly mingle them together, and another commissioner shall, without seeing the ballots and with his back to the box, publicly draw as many ballots as shall be equal to the excess. Without unfolding them, the commissioner shall at once mark them "uncounted in excess of poll list."

t. Ballot boxes are to be delivered only to election commissioners.

u. A sample of the current rules and regulations, official ballot and voters sworn statement for electing district supervisors will be posted in some conspicuous location at each polling place during the election so that voters will have the opportunity to review same.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1204 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 1:253 (May 1975), amended LR 10:469 (June 1984), repromulgated by the Department of Agriculture and Forestry, LR 31:898 (April 2005).

Chapter 3. Master Farmer Certification

§301. Definitions

Commissioner—the Louisiana Commissioner of Agriculture and Forestry.

Department—the Louisiana Department of Agriculture and Forestry.

Farm—all acreage within a watershed owned, operated or managed by an individual or legal entity if the acreage is used for the commercial production and harvesting of any agronomic, agricultural, aquacultural, floricultural, horticultural, silvicultural, or vitacultural product, including but not limited to, beans, cotton, fruits, grains, livestock, nursery stock, sugarcane, timber, crawfish, catfish, and vegetables.

LSU AgCenter—the Louisiana State University Agricultural Center.

Master Farmer—an individual who has obtained his or her master farmer certification from the commissioner.

NRCS—the Natural Resources Conservation Service of the United States Department of Agriculture.

Resource Management System Plan—an individual comprehensive whole-farm soil and water conservation plan for a farm that incorporates best management practices, meets the standards and specifications of NRCS, the department, and the affected soil and water conservation district, and is approved by the department.

Watershed—an area of land in Louisiana that drains toward a given point and which has been mapped and identified by a name and 11 digit number in accordance with United States Department of Agriculture and United States Geological Survey protocols.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:304.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:794 (May 2006).

§303. Application for Master Farmer Certification

A. The following individuals are eligible to apply to become a master farmer:

1. an individual who owns and operates one or more farms in his own name or through a legal entity in which the individual owns a controlling interest;

2. an individual who operates one or more farms on land leased by him or her;

3. an individual who manages or operates one or more farms for a legal entity in which the individual does not own a controlling interest.

B. An eligible individual may apply to the commissioner for certification as a master farmer if the individual has successfully completed the master farmer curriculum

established by the LSU AgCenter, attended a model farm field day sponsored by the LSU AgCenter, and has implemented a resource management system plan for at least one farm.

C. An applicant who manages or operates one or more farms for a legal entity in which the individual does not own a controlling interest will be considered to have implemented a resource management system plan if the owner of the farm implements such a plan.

D. Each application shall be made in writing on a form approved by the commissioner and shall be accompanied by:

1. a document from the LSU AgCenter showing successful completion of the master farmer certification curriculum established by the LSU AgCenter;

2. a document from the LSU AgCenter showing attendance at a model farm field day sponsored by the LSU AgCenter; and

3. a document from NRCS or the department showing that a resource management system plan has been implemented for a farm;

4. a statement by the applicant that he or she agrees to attend at least six hours a year of continuing education approved by the LSU AgCenter or (and) the department during the time he or she holds a master farmer certification;

5. a statement by the applicant that he or she agrees to develop, implement and maintain, in accordance with these regulations, a resource management system plan for all farms the applicant owns, operates, or manages.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:304.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:795 (May 2006).

§305. Issuance of Master Farmer Certification

A. The commissioner or his designee shall review each application for a master farmer certification to determine if the applicant successfully meets the requirements established by R.S. 3:304 and these regulations for obtaining a master farmer certification. If the commissioner approves an application the department shall issue a master farmer certification to the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:304.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:795 (May 2006).

§307. Cancellation of Master Farmer Certification

A. A master farmer shall remain certified as a master farmer so long as he or she actively maintains the resource management system plan in accordance with best management practices for each farm owned, operated, or managed by that individual.

B. A master farmer shall be actively maintaining a resource management system plan in accordance with best management practices so long as all of the following requirements are met.

1. The resource management system plan or best management practices incorporated into the plan are utilized and maintained on a consistent basis.

2. The records required by the resource management system plan are maintained as long as the resource management system plan is in effect.

3. Department personnel are allowed to inspect the farm or to review the records as long as the resource management system plan is in effect.

4. A comprehensive review of the resource management system plan with NRCS or the department is completed at least once every five years for the purpose of updating the plan and incorporating new best management practices as may be necessary.

5. Attendance at a minimum of six hours a year of continuing education approved by the LSU AgCenter or (and) the department.

6. The active development, maintenance, and review, in conjunction with NRCS or the department, of a resource management plan for all farms owned, operated, or managed by the individual.

C. The commissioner may cancel an individual's master farmer certification for failing to abide by the requirements established by R. S. 3:304 and these regulations only after an administrative adjudicatory hearing held in accordance with the Louisiana Administrative Procedure Act, or upon the written request or approval of the individual holding the certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:304.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 32:795 (May 2006).

Title 7
AGRICULTURE AND ANIMALS
Part XLIII. Organic Farming

Chapter 1. Organic Certification Program

§101. Organic Certification

A. Organic certification is governed by federal regulations which may be found in the Code of Federal Regulations Volume 65, Number 246, Part IV, 7 CFR Part 205, Subparts A-E, and Subpart G, Sections 600-607, 642-663, 670-681.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3 and 7 CFR 205.642.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 30:2255 (October 2004).

§103. Organic Certification Fees

A. Producers, processors, handlers, and distributors participating in the National Organic Program certified by the Department of Agriculture and Forestry will be charged organic certification fees.

B. The organic application fee, organic certification fee or annual update fee shall be paid by new applicants or those applicants updating organic certification and shall be paid in accordance with the following schedule.

Organic Certification Fee Schedule		
A nonrefundable $25 application fee is required for all business types. (Submitted with organic certification application.)		
Organic Business Type	**Initial**	**Annual Update**
Producer—Land Area Based on Acres	**$**	
Less than 5 acres	150	75
5 to 25 acres	200	100
Greater than 25 acres	300	150
Plus—Each additional Increment of 25 acres	50	50
Producer—Land Area Based on Square Feet	**$**	
Less than 250 sq. ft.	100	50
250 to 1000 sq. ft.	150	75
Greater than 1000 sq. ft.	200	100
Plus—Each Additional Increment of 250 sq. ft.	50	50
Handler/Processor	**$**	
Handler/Processor	500	500
Handler—Distributor only	300	300

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3 and 7 CFR 205.642.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 30:2255 (October 2004).

Title 7
AGRICULTURE AND ANIMALS
Part XLV. Agritourism

Chapter 1. Agritourism Activities; Plans of Operation

§101. Definitions

A. The words and terms defined in R.S. 9:2795.5 are applicable to this Chapter.

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

Agricultural Operation—a working farm, ranch, or other commercial agricultural, aquacultural, horticultural, or forestry operation.

Agritourism Plan of Operation—a planning document that will assist agritourism professionals in identifying and addressing possible inherent risks on their operations through recommended best management practices. Components of the plan will include listing of activities, their risks, suggestions for minimizing those risks, and a plan for the location of warning signs.

Commissioner—the Commissioner of Agriculture and Forestry for Louisiana.

Department—the Louisiana Department of Agriculture and Forestry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3 and 9:2795.5.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 35:204 (February 2009).

§103. Agritourism Activities

A. Agritourism activities are activities engaged in by a participant for one or more of the purposes of enjoyment of, education about, or participation in, the activities of an agricultural operation.

B. The commissioner has defined certain activities as agritourism activities when such activities are conducted in relation to an agricultural operation. The defining of an activity as an agritourism activity also includes the enjoyment of, education about or participation in closely related activities even though such closely related activities may not be specifically listed in the definition. For example, an agricultural craft tour or visit includes such things as attending on-site lectures, hands on participation in the making of an art or craft article, and purchase of an article.

1. The commissioner may add or remove activities to or from the list of agritourism activities from time to time by publishing a supplemental list of agritourism activities in the Potpourri Section of the *Louisiana Register* and by updating the list of activities on the department's website.

2. Interested persons may request activities to be added or deleted from the list of agritourism activities.

a. All such requests shall be submitted in writing to the department by letter or e-mail. Each request shall provide the name, address, and contact information for the person making the request, a description of the activity, and how it is related to an agricultural operation.

b. The commissioner shall make the determination as to whether the activity will be added or deleted from the list of agritourism activities. The requesting party shall be notified of the commissioner's decision.

C. A list of the agritourism activities shall be published annually in the Potpourri section of the February issue of the *Louisiana Register* and on the department's website.

D. The initial annual listing of agritourism activities established by the commissioner is listed below.

Annual Listing of Agritourism Activities in Accordance with LAC 7:XLV.101-105	
Notice: The activities listed below are agritourism activities only when conducted in relation to an agricultural operation as defined in LAC 7:XLV.101.	
Agricultural Crafts Tours and Visits	Farm/Ranch Vacations
Agricultural Exhibits Tours and Visits	Farmers Markets/on Farm Sales/Roadside Stands Visits and Participation
Agricultural Fairs and Festivals Visits and Participation	Fishing
Agricultural Operations Planting, Harvesting and Working Activities	Game/Exotic Farm Animal Tours and Visits
Agricultural Operations Tours and Visits	Garden/Nursery Tours and Visits
	Guided Crop Tours and Visits
Bed and Breakfasts Tours, Visits, and Stays	Hiking/Packing Trips
	Historical Tours of or Visits to Former Agricultural Operations
Bird Watching	
Boating/Swamp Tours	Horseback/Pony Riding
Camping/Picnicking	Hunting
Christmas Tree Farms Visits and Tree Cutting	Hunting/Working Dog Trials/Training
Corn/Hay Bale/Other Mazes Visits and Participation	Petting Zoos Tours, Visits, and Interaction with Animals
Crop Harvesting at U-Pick Operations	Pumpkin Patch Visits and Participation
Educational Tours and Visits	Skeet Shooting
Equine Activity [as defined in R.S. 9:2795.3(A)(3)] Attendance and Participation	Wagon Rides Attendance and Participation
	Winery Tours and Visits
Farm Animal Activity [as defined in R.S. 9:2795.1(A)(3)] Attendance and Participation	Youth Camp Stays and Participation

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3 and 9:2795.5.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 35:204 (February 2009).

§105. Procedure for Submission of Plan of Operation

A. Any agritourism professional who conducts an agritourism activity and seeks to avail himself of R.S. 9:2795.5 shall submit a written and completed agritourism plan of operation for each such activity to the Louisiana Cooperative Extension Service of the Louisiana State University Agricultural Center for approval. Multiple activities may be included in the plan. The agritourism plan of operation may be sent to LSU AgCenter, 11959 Highway 9, Homer, LA 71040.

1. An agritourism professional who adds an agritourism activity after his agritourism plan of operation has been approved shall submit an agritourism plan of operation for the new activity to the Louisiana Cooperative Extension Service of the Louisiana State University Agricultural Center for approval.

2. An agritourism plan of operation shall be submitted for each separate agricultural operation where agritourism activities are to be conducted.

B. The agritourism plan of operation shall include:

1. the name, physical address, mailing address, and telephone number of the agritourism professional;

2. the name under which the agritourism professional will operate, the physical address, mailing address and telephone number of the agricultural operation, if different than the information provided for the agritourism professional;

3. the business structure, (sole proprietorship, partnership, corporation, limited liability company, joint venture, or other structure);

4. the physical location of the agricultural operation;

5. the nature of the agritourism activities to be conducted at the location;

6. the known inherent risks to participants in the agritourism activities;

7. the best management practices, including the placement of warning signs, to be used by the agritourism professional for reducing these risks and for warning participants of the risks;

8. any other information requested by the Louisiana Cooperative Extension Service of the Louisiana State University Agricultural Center.

C. An agritourism professional, upon approval and implementation of his agritourism plan of operation, shall be presumed to be conducting an agritourism activity for each activity listed on an approved agritourism plan of operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3 and 9:2795.5.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 35:205 (February 2009).

Title 7
AGRICULTURE AND ANIMALS
Part XLVII. Railroad Crossings—Agrilcultural and Private Rural Residence

Chapter 1. Railways—Access Over Right-of-Way

§101. Definitions

Agricultural Operation—the commercial production, storage, or processing of any agronomic, floricultural, horticultural, vitacultural, silvicultural, or aquacultural crop or product.

Agricultural Crossing—a private road, street, lane, or path by which vehicles or equipment used in an agricultural operation may traverse a railway right-of-way.

Commissioner—the Louisiana Commissioner of Agriculture and Forestry.

Department—the Louisiana Department of Agriculture and Forestry.

Person—an individual, corporation, limited liability company, or other legal entity.

Private Crossing—an agricultural crossing or a rural residence crossing.

Railroad Corporation—a business or company that owns or operates a railway in this state.

Railway—a road composed of parallel steel rails supported by ties and providing a track for locomotive drawn trains and other rolling stock.

Rural Residence Crossing—a private road, street, lane, or path by which automobiles or other self propelled vehicles or equipment may traverse a railway right-of-way to get to and from a private rural residence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:390(H).
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 38:962 (April 2012).

§103. Authority of the Commissioner

A. The commissioner may order a railroad corporation to keep a private crossing open or to immediately restore and keep in good repair a private crossing closed by the railroad corporation upon written request by a person eligible to make such a request if the commissioner determines that the order is necessary to carry out the provisions of R.S. 48:390(H).

B. After receiving the written request, the commissioner may order the department to conduct an investigation.

C. The decision of the commissioner shall be based on the information submitted to him or obtained by him as a result of an investigation into the matter by the department.

D. The decision of the commissioner shall be in the exercise of the discretionary authority granted to him by R.S. 48:390(H) and shall be the final administrative decision in the matter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:390(H).
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 38:963 (April 2012).

§105. Eligibility for Making a Request

A. No person may make a request for an order to keep a private crossing open or to reopen a private crossing unless the person owns, leases, or otherwise has legal use or possession of land that is split by a railway or has no other practical access to that person's private rural residence or agricultural operation.

B. A person may make the request only in his name either directly or through an authorized legal representative.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:390(H).
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 38:963 (April 2012).

§107. Procedure for Requesting an Order from the Commissioner

A. The written request shall be made to the commissioner of agriculture and forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806 and shall be signed by the person submitting the request. The request shall include the following information:

1. the name, physical address, mailing address, and telephone number of the person or business submitting the request;

2. the name and business structure under which the individual or business conducts an agricultural operation and the physical address, mailing address and telephone number of the agricultural operation, if different than the information provided for the person or business making the request;

3. the physical location of the rural residence or agricultural operation;

4. the relationship of the person or business to the rural residence or agricultural operation affected or to be affected by the closing of the private crossing;

5. the nature of the agricultural operations, if any, affected or to be affected by the closing of the private crossing;

6. the hardship that will be or has been created by the closing of the private crossing;

7. the name of the railroad corporation owning or operating the railway that plans to close or has closed the private crossing;

8. the date of the scheduled closing or the date the private crossing was closed;

9. the location of the next available closest public or private crossing that the person or business would be able to access;

10. any other information requested by the commissioner or his designee.

B. The person making the request shall also submit the following documentation.

1. Proof of ownership or possession, such as a tax statement, deed, lease, title opinion or judgment of possession related to the rural residence or agricultural operation.

2. A map, plat, survey, or aerial or satellite photograph showing the railway and the property in relation to each other.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:390(H).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 38:963 (April 2012).

§109. Notice to a Railroad Corporation

A. Upon receipt of a written request for an order to stop the closure of a private crossing or to reopen the crossing, the commissioner shall provide the appropriate railroad corporation with a copy of the request.

B. The railroad corporation shall have 30 calendar days from the receipt of the mailing of a copy of the request to file a response with the commissioner and to submit any documents and information that the corporation wishes to submit with its response.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:390(H).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 38:963 (April 2012).

§111. Notice of Decision

A. The commissioner's order granting or denying the request shall be in writing and shall be provided to the person making the request and the railroad corporation by certified U.S. Mail, return receipt requested, or by a commercial courier that provides a delivery receipt.

B. An order directing the railroad corporation to allow the private crossing to remain open or for the private crossing to be reopened and kept in good repair shall accompany the commissioner's decision if such an order is issued by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:390(H).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 38:964 (April 2012).