

DECLARATION OF EMERGENCY
Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences

Sweet Potato Yield Adjustments
(LAC 7:XV.143)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority set forth in R.S. 3:1733 and R.S. 3:1734, the Commissioner of Agriculture and Forestry declares an emergency to exist and adopts by emergency process the attached rule relative to the adjustment to the sweet potato yields for purposes of the sweet potato tax and sweet potato fee. Sweet Potato growers pay a sweet potato tax of four cents per fifty pound bushel and an fee of six cents per bushel. The payments are based on an average yield of 175 bushels per acre. The Louisiana Sweet Potato Advertising and Development Commission determines the average yield pursuant to LAC 7:XV.143(D)(1)(a).

Louisiana's 2018 sweet potato crop was devastated by adverse weather conditions, especially torrential rain that occurred just prior to harvest. The adverse weather caused many growers to experience a substantial reduction in the yield per acre. The losses to the sweet potato crop and the inability to timely harvest the crop has caused a severe economic hardship for Louisiana's sweet potato growers. It is necessary to allow sweet potato growers an adjustment from the average yield per acre to reflect the reduction in the yields per acre experienced by growers in order to avoid growers paying excess taxes and fees during a time that they are experiencing financial hardship. Failure to allow such an adjustment creates a substantial risk of causing growers to pay more in taxes and fees than the amount actually due and has the potential of forcing growers out of business. Both situations create an imminent peril to the welfare of the citizens of Louisiana and to Louisiana's economy, thereby making this emergency rule necessary.

This rule shall have the force and effect of law on March 1, 2019, and will remain in effect 120 days, unless renewed by the Commissioner of Agriculture and Forestry, or until permanent rules are promulgated in accordance with law.

Title 7.
AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantine
Chapter 1. Crop Pests and Diseases

Subchapter C. Sweet Potato Weevil Quarantine

§143. Fees

A. – D.2. ...

E. A person who commercially grows, sells, or offers for sale sweet potatoes ("grower") may petition the Louisiana Sweet Potato Advertising and Development Commission ("commission") for a yield adjustment on the planted acres of the grower's 2018 sweet potato crop. Adjusted yields will range from the average yield of 175 bushels per acre set by the Commission down to 70 bushels per acre, which is the minimum adjusted yield the commission will accept.

1. A grower requesting a yield adjustment shall submit a written request to the commission.

a. The request shall include the farm name and address; the Sweet Potato Dealer's Permit number; the grower's name, address, telephone number, and e-mail address if available; the acres planted; the total fresh market bushels harvested from the 2018 crop; and a brief explanation of the reason for the request.

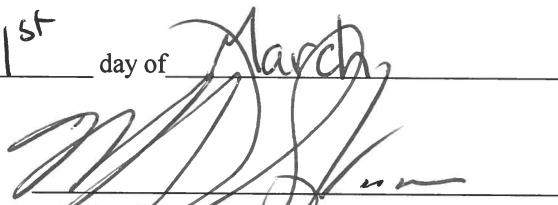
b. The grower shall sign the written request. The written request shall be delivered to the commission through mail, fax or other form of actual delivery, on or before 4:30 p.m. on March 15, 2019. A request will also be deemed to be timely when the papers are mailed on or before the due date. Timeliness 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.

2. Each grower who has timely filed a request for an adjustment with the commission shall be notified of the date, time and place the commission is scheduled to consider the request at least 10 days prior to the commission meeting. The commission shall not consider a written request that is untimely.
3. Each grower who has timely filed a request for an adjustment may be present and speak on his behalf at the time the grower's request is considered by the commission.
4. The commission shall grant or deny the adjustment based on the following factors:
 - a. The location of the farm;
 - b. The yield per planted acre as compared to the average statewide yield per planted acre, as set by the commission for 2018;
 - c. The reason given for the request for an adjustment and
 - d. Any other fact that is relevant to the request for an adjustment.
5. The commission may grant a request for adjustment if it finds all of the following:
 - a. The actual yield per planted acre for 2018 is less than the average yield per planted acre set by the commission for 2018.
 - b. The decreased yield for 2018 is related to factors beyond the grower's control.
 - c. The grower or farm submitting the request owes no delinquent or outstanding sweet potato fees, taxes or fines, levied prior to the 2018 crop year, to the Louisiana Department of Agriculture & Forestry or to the commission.
6. The denial or granting of the request for an adjustment shall be a discretionary decision of the commission.
7. Each grower submitting a timely request for an adjustment shall be notified in writing of the commission's decision and the amount of the adjustment in the yield per planted acre, if any.
8. If the request for an adjustment is granted, then the amount of both the sweet potato fee and sweet potato tax owed by the grower shall be based on the adjusted yield set by the commission.
9. Each grower who submits a timely request for an adjustment, regardless of whether that adjustment is granted or denied by the commission, shall be entitled to pay his sweet potato fee and sweet potato tax without imposition of a penalty if he pays the fee within 30 days after receiving written notification of the commission's decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1733, 3:1734.

HISTORICAL NOTE: Promulgated by 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); LR 45:

Signed and attested to this 1st day of March 2019.



MIKE STRAIN DVM, COMMISSIONER OF
AGRICULTURE AND FORESTRY