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Title 7
AGRICULTURE AND ANIMALS
Part I. Administration

Chapter 1. Administration Procedure

§101. Market Bulletin Subscriber Fee

A. There is hereby established and henceforth shall be a biennial fee to be paid by the subscribers to the *Louisiana Market Bulletin* of $10, which shall be known as the subscription fee.

B. The subscription fee shall be paid by the subscriber to the Department of Agriculture and Forestry biennially and when paid shall entitle the subscriber to 52 issues of the *Louisiana Market Bulletin*.

C. 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 Louisiana Market Bulletin program and are anticipated to generate $100,000 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 - $22,551; Operating Expenses - $66,200; Indirect Costs - $11,249. The Department of Agriculture and Forestry shall suspend collection 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.

D. 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 regulations shall nevertheless not be adversely affected thereby.

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).

§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 Department of Agriculture and Forestry.

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).

§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 of 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 Subsection 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 Subsection C.3 or a statement setting forth the reasons why a waiver under Subsection C.4 should be issue.

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 Credit Corporation

Chapter 1. Agricultural Finance Authority

§101. Definitions

A. *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.

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

C. *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.

D. *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.

E. *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.

F. *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.

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

H. *Farm*—and 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.

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

1. *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.

2. *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.

3. *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.

4. *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.

5. *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.

J. *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:

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

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

K. *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.

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

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

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

3. *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.

M. *IRS*—the Internal Revenue Service of the United States.

N. *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.

O. *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.

P. *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.

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

1. loan purchase agreement;
2. loan submission voucher;
3. opinion of lender's counsel;
4. officer's closing certificate;
5. loan note;
6. mortgage or any other evidence of security securing the borrower's obligations under the loan note;
7. certificate of economic life; and
8. assignment of loan note.

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

S. *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.

T. *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.

U. *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.

V. *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.

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

X. *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 five 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 five 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 LAC 7:511). 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.

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

Z. *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.

A1. *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.

A2. *Related Person*—

1. The following are related persons if borrower is an individual:

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

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

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

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

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

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

2. The following are related persons if borrower is a corporation:

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

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

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

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

e. 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.

3. The following are related persons if borrower is a partnership:

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

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

c. 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

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

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

ii. owned by his brothers, sisters, spouse, ancestors or lineal descendants.

4. The following are related persons if borrower is a trust:

a. its grantor;

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

c. a beneficiary of the trust;

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

e. 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.

A3. *TEFRA*—the Tax Equity and Fiscal Responsibility Act of 1982 (Federal).

A4. *Trustee*—Capital Bank and Trust Company of Baton Rouge, Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:263, 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 10:866 (November 1984).

§103. Administration of LAFA's Affairs

A. LAFA officers shall be a chairman, vice-chairman, secretary and assistant 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. LAFA's quorum shall be three members.

G. Official actions shall require an affirmative vote of a majority of the members present at any meeting.

H. There shall be no voting by proxy.

I. LAFA rules and regulations, and amendments thereto, shall be noticed, adopted, and promulgated under the Administrative Procedure Act.

J. 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. 3:264, R.S. 3:265, R.S. 3:266 and R.S. 3:270.

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

§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.J;

ii. the borrower will be the principal user (as defined in '101.X 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 rule §101(A.2.) 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 rule §101.X 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.O 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; and

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 rule ' 101.G), 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.X 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.L.3:

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 two and one-half 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**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**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 **c** 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. Lender's failure to pay loan note repayments over to the trustee if such failure continues for a period of five days.

2. Lender's 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***C**the Louisiana Agricultural Finance Act, Chapter 3-B of Title 3 of the Louisiana Revised Statutes of 1950, as amended (R.S. 3:261**C**R.S. 3:284).

*Agreements***C**agreements by which the Issuer agrees to purchase from Lenders certain Agricultural Loans.

*Agricultural Loan***C**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***C**any person engaged in agricultural production or exportation who has entered into an agricultural loan with a lender.

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

*Indenture***C**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***C**the Louisiana Agricultural Finance Authority (LAFA).

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

1. sells an agricultural loan to the trustee; or

2. enters into a repurchase obligation with the trustee.

*Trustee***C**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 epurchase 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

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).

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 REVENUE BOND PROGRAM

Louisiana Agricultural Finance Authority
12055 Airlin e 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**C**ARMS[3]	170.0%
FHA/VA Mortgage Notes**C**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.

§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. Family Farm Credit Program

§301. Definitions

*Agricultural Purposes***C**the tillage of the soil, dairy farming, ranching; production or raising of crops, poultry or livestock; and production of poultry or livestock products in an unmanufactured state.

*Applicant***C**a natural person applying for a family farm security loan and/or a natural person seeking approval for a family farm loan guaranty or interest payment adjustment.

*Commissioner***C**the commissioner of agriculture.

*Council***C**the Family Farm Council.

Family Farm Loan Guarantee or *Family Farm Loan Guarantee Agreement***C**an agreement between the council and a lender which obligates the state to pay a specified portion of the sums due and payable under a family farm security loan in the event the borrower defaults.

*Family Farm Security Loan***C**a loan which shall be used for acquisition of farmland and shall be approved by the council. This loan shall be guaranteed and may qualify for a payment adjustment as defined in §301] and may be a seller-sponsored loan as defined in §301].

*Farmland***C**land in Louisiana that is capable of supporting the commercial production of agricultural crops, livestock or livestock products, poultry products, milk or dairy products, or fruit or other horticultural products.

*Interest Payment Adjustment Agreement***C**the agreement whereby the council will pay the payment adjustment to the lender or seller-sponsor.

*Lender***C**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; and any foreign or domestic corporation engaged in the business of insurance which is subject to the supervision of the commissioner of insurance; and any financial institution operating under the supervision of the Farm Credit Administration. In the case of seller-sponsored loans, lender also means the seller of the property.

When used in these regulations, the term *loan* may also mean *loan guarantee*.

*Net Equity in Agricultural Land Holdings***C**the value of agricultural land holdings only, and shall exclude the value of personal residences, agricultural buildings, storage facilities and mineral rights.

Payment Adjustment or *Interest Payment Adjustment***C**an amount of money equal to one-half of the amount of the current rate on the principal balance of a family farm security loan, but shall not exceed one-half of the interest which would be due at the initial interest rate on the loan.

Prime Rate or *Prime Interest Rate***C**the interest rate applied to loans by the Federal Land Bank on the first day of the month in which a loan is approved, plus an additional number of percentage points, not to exceed four percentage points, above the interest rate applied by the Federal Land Bank.

*Restrictive Covenant***C**a provision inserted in an act of conveyance which limits the use of the land.

*Seller-Sponsored Loan***C**a loan in which part or all of the purchase price of the farm is financed by a loan from the seller of the property who is a natural person or a corporation, and the remainder of the loan, if any, is supplied by a lender as defined in §301.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:252 and R.S. 3:253.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:254 (May 1981), amended LR 7:623 (December 1981).

§303. Applicant Eligibility Requirements

A. The applicant must be a resident of Louisiana.

B. The applicant must have sufficient education, training, or experience in the type of farming for which he wishes the loan to indicate the probable success of the venture.

C. The applicant must agree to continued participation in a farm management program, approved by the council, for the duration of the family farm security loan. A farm management program shall include, but not be limited to, programs in farm record keeping or farm management offered by state universities, the Louisiana Cooperative Extension Service, or vocational agriculture programs.

D. The net equity in agricultural land holdings of the applicant, his spouse and dependents must be less than $100,000.

E. The applicant must demonstrate a need for the loan.

F. The applicant must purchase farmland which will be used by the applicant for agricultural purposes.

G. The applicant must clearly demonstrate to the council that he will farm the land purchased with the loan for as long as it is economically feasible to do so.

H. The applicant must be credit worthy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:255 and R.S. 3:253.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm council, LR 7:255 (May 1981).

§305. Conditions for Approval of Loan Guarantee

A. The applicant must meet all criteria for eligibility set forth in §703.

B. The loan shall have a maximum term of 40 years.

C. The guarantee is made on property secured by a first mortgage on immovable property.

D. The guarantee shall not exceed 90 percent of the purchase price of the farmland, or 90 percent of the appraised value of the farmland, whichever is less.

E. The maximum amount, in principal and interest, of the council's liability under the loan guarantee agreement shall not exceed $250,000.

F. The council may, at its discretion, require additional endorsers, in addition to the applicant, on the note.

G. The council shall require that each act of conveyance shall contain a restrictive covenant, in a form acceptable to the council, requiring that any land shall be restricted to

agricultural purposes for 20 years from the date of the Act of conveyance.

H. The applicant does not hold title to the land to be purchased prior to the approval of the loan guarantee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:257 and R.S. 3:253.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm council, LR 7:255 (May 1981), amended LR 7:623 (December 1981).

§307. Conditions for Approval of Interest Payment Adjustments

A. The applicant must meet all criteria for eligibility set forth in §303.

B. The applicant must meet all criteria of §305 and be approved for a family farm loan guarantee.

C. The loan for which the interest payment adjustment is requested must have a maximum term not to exceed 20 years.

D. The loan shall provide for payments at least annually. At the option of the lender and the applicant, and with council approval, payments may be made monthly, quarterly, or semi-annually, but no payment schedule providing for payments at periods longer than one year shall be approved by the council.

E. The interest payment adjustment to be paid by the council shall not exceed **2** of the interest which would be due at the initial rate on the loan.

F. The lender must agree to notify the council of all amounts of interest due prior to the due date.

G. Applicant must execute a note, secured by a first or second mortgage, as required by §323, payable to the council in an amount up to one-half of the maximum interest due during the term of the interest payment adjustment agreement. Both the note and the first or second mortgage shall provide, however, that the obligation of the applicant shall not exceed the amount actually paid by the council under the interest payment adjustment agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:257 and R.S. 3:253.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm council, LR 7:255 (May 1981), amended LR 7:623 (December 1981).

§309. Time and Manner of Filing Application

A. Any person desiring to purchase farmland may apply for a family farm loan guarantee and/or an interest-payment adjustment at any time during the year.

B. No application will be submitted for council consideration until all information required by §311 has been provided.

C. A complete application must be on file for at least 20 working days prior to the council meeting at which the application will be considered.

D. Three complete copies of the application must be filed (council, applicant and lender copies).

E. The application shall be jointly executed by the applicant and the lender, on forms to be provided by the council.

F. The application shall be filed by the lender.

G. In the case of seller-sponsored loans, the council, upon request, shall provide forms and assistance in preparing the application to the applicant and the seller-sponsor. The application for a loan guarantee on a seller-sponsored loan shall be jointly executed by the applicant and the seller-sponsor and shall be filed by the seller-sponsor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:256, R.S. 3:255 and R.S. 3:253.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm council, LR 7:255 (May 1981).

§311. Contents of the Application

A. Name and address of the applicant

B. Name, address and liaison official of the lender, or name and address of the seller-sponsor

C. Sworn statement of the relationship, if any, of the applicant with any state official and/or any employee of the State Department of Agriculture or any member of the Family Farm Council

D. In the case of seller-sponsored loans, sworn statement of the relationship, if any, of the seller-sponsor with any state official and/or any employee of the State Department of Agriculture or any member of the Family Farm Council

E. Location and legal description of the farmland to be purchased, including the number of acres

F. Evidence that title can be vested in the name of the applicant

G. A fully executed purchase agreement, legally binding on the seller as well as the buyer

H. Personal financial statement of the applicant, his spouse and dependents, prepared in accordance with generally accepted accounting principles

I. For experienced farmers, profit and loss statements and balance sheets for the three years immediately preceding date of application, prepared in accordance with generally accepted accounting principles

J. For new farmers, other evidence of financial experience, including, but not limited to, federal income tax returns for the three years immediately preceding date of the application

K. A three-year projected cash flow statement, or proforma budget, for income, operating expenses, and debt retirement

L. The existence of, or provisions for, financing of production expenses, equipment purchases, and family expenses for at least one year after the loan is approved

M. Written authorization for the council to perform any credit check(s) which the council may, in its discretion, deem advisable

N. Written statement reflecting the applicant's intended use of the land to be purchased

O. Written statement reflecting the degree to which the applicant intends to make farming the applicant's principal occupation

P. Written statement demonstrating the marketability of the product(s) to be produced

Q. Such additional market data a will enable the council to determine the advisability of loan approval

R. An evaluation of the farm management capability of the applicant, to be provided by an independent, reliable source

S. A letter of commitment from the lender setting forth the terms and conditions upon which the loan for which the guarantee is sought will be made

T. A property appraisal, prepared in accordance with §313 of all property to be offered as security for the family farm security loan. The appraisal must include the market value and income potential of the farmland to be purchased.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:253 and R.S. 3:256.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm council, LR 7:255 (May 1981).

§313. Appraisal Requirements

A. Listing of Approved Appraisers

1. The council 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.

2. All applicants for a council liting 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 by the council.

3. In order to have his or her name included on the council listing of all approved appraisers, an applicant shall submit the following information:

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

b. a written statement of his or her areas of experience in appraising farmland;

c. a written statement of his or her years of experience as an appraiser, particularly in appraisal of farmland or rural properties;

d. 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 Land Bank, or other similar institutions;

e. a written statement containing any additional information which the applicant thinks would be beneficial to the council's determinations of his or her qualifications.

4. Applicants for inclusion on the council 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 Louisiana and shall be non-refundable to the applicant regardless of the decision of the council with respect to the listing.

5. Any applicant for listing on the council listing of approved appraisers who is denied a listing may appeal the decision of the council under the general appeals procedures of the State Department of Agriculture and Forestry.

6. Pending development of a comprehensive listing of approved appraisers, the council may approve appraisers on an individual basis, but the council shall not approve appraisers in the absence of all information required under §313.A after December 31, 1982.

7. The listing of any appraisers on the council listing of approved appraisers shall be valid for a period of two years from the date of the council's approval and may be renewed as follows:

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

b. 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 §313.A.

8. The council may at any time remove from the listing of approved appraisers the name of any appraiser who, in their judgment, should be removed.

9. 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 Department of Agriculture and Forestry.

10. Upon request, the council shall furnish any applicant or interested citizen a copy of the listing of approved appraisers

B. Selection of Appraiser

1. All applicants for a family farm security loan guaranty must submit, as part of the application package, an appraisal performed by an appraiser selected as follows from the council listing of approved appraisers:

a. the applicant may review the file of credentials of approved appraisers and shall select from the listing of approved appraisers three appraisers who are acceptable to the applicant;

b. the applicant shall notify the council in writing of the names of the three appraisers selected by the applicant;

c. the council 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 to perform the appraisal;

d. the applicant and the council staff shall meet with the appraiser selected and negotiate a fee satisfactory to the appraiser and the applicant. The applicant shall be responsible for the payment of the appraisal fee;

e. the agreement for performance of the appraisal shall be in writing for the protection of all parties, the agreement to be prepared by the council staff unless the applicant wishes to secure private counsel;

f. failure to agree upon a fee shall result in selection of another appraiser. In such circumstances, the applicant shall be permitted to add one individual name, selected from the listing of approved appraisers, to the list and the council staff shall again select from the list and follow the procedures outlined in §313.B.

2. The council may, at its discretion, directly employ an appraiser listed on the listing of approved appraisers to conduct an appraisal.

a. When the council directly employs an appraiser, such appraisal shall be performed at the cost of the council.

b. The applicant shall cooperate fully with an appraiser employee directly by the council.

c. The council may, at its discretion, accept any appraisal which has already been accepted by any other state or federal lending agency, such as the Small Business Administration, the Federal Land Bank, the Farmers Home Administration, and so forth. In such event, however, the lending agency shall be required to attest in writing that the appraisal has been accepted by that agency for the purposes of the family farm security loan for which the guaranty is sought.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:253.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm council, LR 7:256 (May 1981), amended LR 7:623 (December 1981).

§315. Title Opinion Requirements

A. The council staff shall develop and maintain for public examination at any time a listing of attorneys whose title opinions will be acceptable to the council.

B. In order to have his or her name included on the council listing of approved appraisers, an applicant shall submit the following information:

1. a resumJ 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;

3. A list of three or more lending institutions, savings and loan associations, finance companies, the Small Business Administration, the Federal Land Bank, the Farmers Home Administration, the Production Credit Association, the Federal Housing Authority, and other similar organizations for which the opinions have been rendered by the applicant.

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

D. 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 attorney's practice devoted to real estate law;

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

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

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

E. Applicants for inclusion on the council listing of approved attorneys shall pay a fee a $25 at the time of filing request for inclusion on the listing, 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 council with respect to the listing.

F. Any applicant for listing on the listing of approved attorneys who is denied a listing may appeal the decision of the council under the general appeals procedures of the Department of Agriculture and Forestry.

G. Pending development of a comprehensive listing of approved attorneys, the council may approve attorneys on an individual basis, but the council shall not approve attorneys for title opinions in the absence of all information required under §315.B after December 31, 1982.

H. Applicants for inclusion on the council 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 council.

I. The applicant for a family farm council loan guaranty or interest payment adjustment shall be responsible for the payment of any fee for the required title opinion.

J. The listing of any attorney for the council listing of approved attorneys shall be valid for a period of two years from the date of the council's approval.

1. Thirty days prior to the second anniversary of each listing, the council 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 attorneys 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 under §315.B.

K. The council may at any time remove from the listing of approved attorneys the name of any attorney who, in their judgment, should be removed.

L. Any attorney so removed from the council 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 and Forestry.

M. Upon request, the Family Farm Council shall furnish any applicant or interested citizen a copy of the listing of approved attorneys.

N. The council may, at its discretion, accept the title opinion of any attorney whose title opinion has been accepted by any other state or federal lending agency, such as the Small Business Administration, the Federal Land Bank, the Farmers Home Administration, and so forth. In such event, however, the lending agency shall be required to attest in writing that the title opinion has been accepted by that agency for the purposes of the family farm security loan for which the guaranty is sought.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:253.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:257 (May 1981), amended LR 7:623 (December 1981).

§317. Council Procedures for Initial Approval/Denial of Application for Loan Guarantee/Interest Payment Adjustment; Notification.

A. An application for a family farm loan guarantee/interest payment adjustment shall be submitted for council consideration at the first council meeting occurring at least 20 working days following submission of the complete application.

B. The council shall approve/deny such application in accordance with the eligibility criteria set forth in §303, §305 and §307 and in accordance with this rule.

1. In determining the applicant's need for a loan guarantee and/or an interest payment adjustment, the couoncil shall consider all relevant matters, including but not limited to the applicant's financial statements and the possible availability and terms of a non-guaranteed loan from any lender.

2. The council may also consider the financial situation of the applicant's immediate family insofar as said financial situation indicates the ability of the applicant to obtain financial assistance from the applicant's immediate family for the purchase of farmland.

3. A determination of creditworthiness of the applicant shall be based upon all relevant considerations, including but not limited to the applicant's credit rating, spending habits, and reputation for honesty.

C. Upon approval of an application for a family farm loan guarantee, the council shall immediately notify the lender or seller-sponsor and the applicant of its approval, returning the original of the application to the lender or seller-sponsor and a copy of the application to the applicant.

D. Upon denial of an application for a family farm loan guarantee, the council shall immediately notify the lender or seller-sponsor, giving written reasons for such denial, and shall return the original application to the lender or seller-sponsor. A copy of the application and a copy of the written reasons for denial shall be forwarded immediately to the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:253 and R.S. 3:256.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:257 (May 1981).

§319. Re-application; Review of Determination

A. An applicant whose application has been denied by the council may re-apply whenever his circumstances change, provided that such re-application shall not be filed in less than 60 days from the date of denial.

B. An applicant who believes the council erred in denial of his application may, within 90 days of the applicant's receipt of notice of denial, request that the application be reconsidered. The applicant may also present in writing any additional facts relevant to the reasons given by the council for the denial. Upon receipt of a request for reconsideration, the council shall, at the next regularly scheduled meeting, review the application and make a determination with respect to the request for review of its determination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:253 and R.S. 3:256.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:258 (May 1981).

§321. Conditions for Execution of Family Farm Loan Guarantee Agreement

A. Proceeds of the family farm security loan must be disbursed to the applicant and/or scheduled for disbursement immediately upon execution of the family farm loan guarantee agreement.

B. Copies of the mortgage and note must be submitted for the approval of the council and/or the council attorney prior to execution of the agreement.

C. The applicant must provide a copy of a plat survey completed within the nine years immediately preceding the date of the family farm loan guarantee agreement by a registered land surveyor or certified civil engineer, provided, however, that the council is authorized to waive, in writing, provision of the survey, at its discretion.

D. The applicant must carry and provide evidence of fire and extended coverage insurance for an amount equal to the

value of the improvements naming the council 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 council.

E. The applicant must provide a title opinion by an attorney selected in accordance with §315, which title opinion shall include but not be limited to the following:

1. a legal description of the property;

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 servitude on the property; and

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

F. Applicant must provide evidence of adequate title insurance, unless waived by the Family Farm Council.

G. At the time of execution of the agreement, the applicant and/or the lender or seller-sponsor must provide copies of the executed note and the first mortgage on immovable property securing the note, and a mortgage certificate from the clerk of court of the parish in which the property is located.

H. Lender must hold a first mortgage on the farmland purchased with the family farm security loan.

I. Lender must agree in writing that upon written notification by the council, the applicant is in default for failure to maintain the land in active agricultural production for a period of time longer than one year and the council has not waived this requirement as provided in '329.C; that the lender will follow procedures established in '331 upon default for non-payment.

J. Lender must agree to notify council within 90 days after any default in any payment due under the note.

K. Title to property governed by a family farm loan guarantee shall not be transferred without prior notification to the council.

L. The maximum obligation of the state in the guarantee agreement shall be limited as follows:

1. In principal, 90 percent of the outstanding balance, or 90 percent of the purchase price, or 90 percent of the appraised value, whichever is the lesser.

2. In interest, 90 percent of the interest due on the lesser principal amount specified in Paragraph 1 above, with the interest calculated on the basis of the initially approved interest rate.

M. The maximum amount, in principal and interest, of the council's obligation under the family farm loan guarantee agreement shall not exceed $250,000.

N. The term of the loan shall not exceed 40 years.

O. The commissioner, as authorized by the council, shall execute the agreement on behalf of the council.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:253, R.S. 3:256 and R.S. 3:257.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:258 (May 1981), amended LR 7:623 (December 1981).

§323. Conditions for Execution of Interest Payment Adjustment Agreement

A. Prior to execution of the interest payment adjustment agreement, evidence of compliance with all applicable conditions of §321 shall be submitted.

B. Lender must submit an amortization schedule for the period of the agreement, and must agree to provide, annually, a schedule of all payments of principal and interest made by the applicant during the previous year.

C. Applicant shall execute a note payable to the council, secured by a first or second mortgage on immovable property or a first mortgage on movable property to secure the interest payments made by the council during the period of the interest payment adjustment agreement.

D. The council shall not accept a second mortgage on movable property.

E. The agreement shall provide that the council will annually pay **2** of the interest due, but not more than one-half of the interest due when calculated on the basis of the initial interest rate.

F. The agreement shall be for a period not to exceed 10 years.

G. The term of the loan for which the interest payment adjustment agreement is made does not exceed 20 years.

H. The commissioner, as authorized by the council, shall execute the agreement on behalf of the council.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:257 and R.S. 3:253.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:258 (May 1981), amended LR 7:623 (December 1981).

§325. Annual Determination of Eligibility for Interest Payment Adjustment

A. No applicant shall be eligible for an interest payment adjustment in any year when the net equity of the agricultural land holdings of the applicant, his spouse, or his dependents exceeds the sum of $200,000.

B. The applicant, his spouse and dependents shall annually submit, on or before February 1 of each year, a current statement of their net worth as of December 31 of the preceding year, specifically identifying that portion of net worth represented by agricultural land holdings.

C. Lender's schedule of payments made by the applicant during the previous year, as required by §323.B, shall be submitted on or before February 1 of each year.

D. All annual statements of net worth and lender's schedules of payments shall be submitted to the council for a determination of continuing eligibility at the first council meeting scheduled after February 1 of each year.

E. A determination of continuing eligibility shall be valid for a full calendar year unless there is a decided change in the status of the applicant, his spouse or dependents.

F. The council shall immediately notify each applicant, in writing, of the status of his eligibility for interest payments in the year in question. The lender shall also be notified of the applicant's eligibility for interest payments for the year in question.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:257 and R.S. 3:253.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:258 (May 1981).

§327. Repayment of Interest Payment Adjustment; Renewal of Interest Payment Adjustment Agreement

A. An applicant shall reimburse the council for all sums paid as interest payment adjustments during the initial 10 years of the agreement prior to the eleventh anniversary of the execution of the interest payment adjustment if the agreement is not renewed.

B. An interest payment adjustment agreement may be renewed for one 10-year period only.

C. Any applicant desiring a renewal of the interest payment adjustment agreement shall so notify the council no later than 90 days prior to the tenth anniversary of the execution of the interest payment adjustment agreement, provided that the council may, at its discretion, extend this due date for notification up to and including the tenth anniversary of the date of execution of the agreement but no later.

D. Any renewal of an interest payment adjustment agreement shall be subject to the same requirements as set forth in §307 and §323 hereof.

E. When an interest payment adjustment agreement is renewed, the note required under §323.C for the sums paid during the initial 10-year period shall be canceled and another note executed covering the 20-year period, and the mortgage shall be reinscribed for an additional 10 years.

F. When an interest payment adjustment agreement is renewed for an additional 10-year period, the applicant shall reimburse the council for all sums paid as interest payment adjustments during the 20 years of the agreements prior to the twenty-first anniversary of the execution of the interest payment adjustment agreement.

G. Interest payment adjustment accounts shall become delinquent on the sixtieth day following the tenth anniversary of the date of execution of the agreement if not renewed, and on the sixtieth day following the twentieth anniversary of the date of execution of the agreement if renewed.

H. The council may commence foreclosure proceedings on any interest payment adjustment account which is not paid within 90 days of the due date.

I. Any applicant may reimburse the council for sums paid as interest payment adjustments in his behalf prior to the expiration of the initial 10 years or the renewal period, provided that in the event the applicant pays such sums prior to the due date, the note required under §323.C shall be canceled and, if requested by the applicant, re-negotiated for the period remaining in the interest payment adjustment agreement. The mortgage securing the note shall be canceled or reinscribed for the balance of the period.

J. Any applicant may repay the sums paid as interest payment adjustments on his behalf and cancel the interest payment adjustment agreement at any time during the period of the agreement without penalty.

K. Whenever the council determines that an applicant has become ineligible for an interest payment adjustment because his net equity in agricultural land holdings exceeds $200,000, the council shall, at the same meeting, establish a schedule for the repayment of all sums advanced as interest payment adjustments during the period of eligibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:257 and R.S. 3:253.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:258 (May 1981), amended LR 3:624 (December 1981).

§329. Default for Failure to Farm Lands Purchased with Family Farm Security Loan

A. Any applicant who fails to maintain the land covered by a family farm credit loan in active agricultural production for a period of time longer than one year shall be in default.

B. Any applicant who wishes to waiver due to a physical disability or other extenuating circumstances shall request a waiver, in writing, no later than one year from the date when the land was initially taken out of agricultural production. Failure to submit a request for waiver shall result in the loan being placed in a default status.

C. The council shall establish the date of default under §329.A and notify the lender, in writing, as required under §321.I of this established date of default.

D. The council shall follow the procedures set forth in §331 whenever any loan is in default for failure to maintain the land in agricultural production as well as for loans in default for non-payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:256 and R.S. 3:253.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:259 (May 1981).

§331. Procedure upon Default for Non-Payment

A. Lender shall notify the applicant and the council by registered letter, within 90 days after any default on any payment of principal and/or interest.

B. If the default continues for 180 days, lender shall execute on the loan guaranty agreement, in which event lender must assign all its interests in the property to the council in exchange for payment according to the terms of the family farm loan guaranty agreement.

C. The council shall immediately notify the defaulting party whenever payment of state funds is made to the lender under the guaranty agreement.

D. The council may commence foreclosure proceedings immediately after lender assigns interests in the property to the council.

E. Within 15 days from the date of conveyance of title to the council and expiration of the time specified by law for redemption, the council shall publish a notice of impending sale, which notice shall meet all requirements of law.

F. The council shall sell the property to the highest bidder as determined by taking sealed bids or public auction, and shall notify the successful bidder within 15 days after the last published date of the sale.

G. All bidders shall submit security in the form of a certified check or bid bond in the amount of two percent of their bid price.

H. The successful bidder shall remit the balance of the purchase price to the council within 90 days of the sale.

I. In the event the purchaser (successful bidder) fails to remit the balance of the purchase price within 90 days of the date of sale, the purchaser shall forfeit all rights to the property and any moneys paid thereon; and the council shall recommence the sale process as set forth in the rule.

J. Upon default under a seller-sponsor loan guarantee, the seller-sponsor, only, shall have the option of:

1. accepting the council's loan guarantee; or

2. reacquiring the property after repaying the council for all sums advanced as interest payment adjustments.

K. In the event that a seller-sponsor exercises the option of reacquiring the land as set forth in §331.J, the council shall terminate the family farm loan guarantee agreement and the note securing the interest paid pursuant to any interest payment adjustment agreement after all sums advanced as interest payment adjustments are reimbursed to the council.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:256 and R.S. 3:253.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:259 (May 1981).

§333. Transfer of Property Secured under a Family Farm Loan Guarantee Agreement

A. Title to property covered by a family farm loan guarantee agreement shall not be transferred without prior notice to the council.

B. Any applicant who sells or conveys the property for which a family farm loan guarantee agreement was issued shall immediately retire the entire indebtedness still owed to the lender and any indebtedness owed to the council under a related interest payment adjustment agreement.

C. No applicant who has been granted a guaranty on a family farm security loan shall be prohibited from granting a security interest for the purposes of securing an additional loan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:259 and R.S. 3:253.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:259 (May 1981).

§335. Prohibitions

A. The council shall not approve any loan for any applicant who fails to submit all information required under §311.

B. The council shall not approve any loan for any person who is not a resident of Louisiana.

C. The council shall not approve any loan 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 failure to satisfactorily meet all obligations of indebtedness.

D. The council shall not approve any loan for any person when the interest rate of the loan exceeds the prime rate at the time the loan is given.

E. The terms and conditions imposed and made part of any family farm loan guarantee agreement or any interest payment adjustment agreement shall not be amended or altered by any member of the council or employee of the department except by subsequent or prior vote of approval of the council in open session with full explanation for such action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:253, R.S. 3:255, R.S. 3:256 and R.S. 3:257.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:259 (May 1981), amended LR 7:624 (December 1981).

§337. Effective Date

A. The said rules and regulations for the administration of the Family Farm Security Loan Program will become effective on July 1, 1981.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:253.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Family Farm Council, LR 7:260 (May 1981).

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 one 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 6:253 (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 resume 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 1, 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***C**any facility which receives raw agricultural products for the purpose of rendering them suitable for wholesale or retail marketing.

*Agricultural Product***C**any farm product or seafood product.

*Aquacultural Crop***C**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***C**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***C**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***C**any agricultural product that is ready to be passed on to a marketing level.

*Lender***C**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***C**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***C**any individual, firm, corporation, partnership or association domiciled in this state.

Process or *Processing***C**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***C**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***C**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 one 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 shall be paid by the contractor at the rate of 2**2** cents per pound of meat or meat products 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).

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 three 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 three 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 three 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 three 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 three 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***C**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***C**the commissioner of the Louisiana Department of Agriculture and Forestry;

*Farmer***C**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***C**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***C**a certificate of deposit placed by the state treasurer with a lending institution at three 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 three 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***C**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 three 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 three 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 three 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 CommissionCPoultry 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, ie., 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 .025 cents 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), 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***C**the atmospheric temperature surrounding or encircling shell eggs.

*Boiled Eggs***C**eggs that are hard or soft boiled, that are pickled, frozen, or by any other means preserved and sold commercially.

*Broker***C**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***C**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***C**30 dozen per case of shell eggs.

*Commissioner***C**the Commissioner of Agriculture and Forestry of the State of Louisiana.

*Consumer***C**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***C**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***C**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***C**the Louisiana Department of Agriculture and Forestry.

*Egg Producer***C**any person, farm, corporation, or other entity that produces eggs.

*Egg Products***C**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***C**Public Law 91-597, Egg Products Inspection Act, dated 12/29/70.

*Eggs***C**the product of the domesticated chicken offered for sale for human consumption.

*Federal Standards***C**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***C**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***C** the food prepared by freezing liquid eggs.

*Inedible and Unfit for Human Consumption***C**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***C**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***C**any person who grades, sizes, candles, and packs eggs for the purpose of resale.

*Person***C**any individual, partnership, association, business trust, corporation or any organized group of persons, whether incorporated or not.

*Possession***C**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***C**a person who operates a plant for the purpose of breaking or boiling eggs for freezing, drying, or commercial food manufacturing.

*Producer***C**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***C**any person who sells eggs to a consumer.

*Sell***C**to "offer for sale," "expose for sale," "have in possession for sale," "exchange," "barter," or "trade."

*Standard***C**the quality specifications for a single egg, and a group of standards is combined to make a grade.

*U.S.D.A.***C**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 19:1122 (September 1993), amended 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 **d** 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**C**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, amended and 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 19:1123 (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 two cent 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 16 cent 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 $.02 assessment nor the $.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 19:1123 (September 1993), amended LR 23:295 (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 30 days of age. Eggs 30-45 days of age after package date may be returned to the processor or sent to a breaker. Eggs older than 45 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	$ 5.00	$15.00
11 - 30 cases	20.00	30.00
31 - 99 cases	30.00	60.00
over 100 cases	40.00	80.00
*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 19:1124 (September 1993), amended LR 23:295 (March 1997).

§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.

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 19:1123 (September 1993).

§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***C**when referring to poultry, means a poultry plant engaged in further processing of poultry - i.e., nuggets, patties, breaded products, etc.

*Poultry***C**means any domesticated fowl, including chickens, turkeys, ducks, and geese.

*Poultry Plant***C**a plant engaged in the business of slaughter or processing poultry for sale, either fresh or frozen.

*R.T.C.***C**when referring to poultry, means "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 19:1125 (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: (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 LAC 7:V.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***C**unwashed and unsized citrus sold by the producer to a packer for further processing.

*Louisiana Citrus Producer***C**any person engaged in growing citrus in Louisiana for wholesale or retail sale.

*Packer***C**any person who washes, sizes, and packs citrus for wholesale/retail sales.

*Producer***C**any person engaged in growing citrus for the purpose of wholesale or retail sale.

*Retailer***C**any person who sells citrus to a consumer.

*Small Louisiana Citrus Producer***C**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***C**any container used for the purpose of packing fruit for wholesale or retail trade.

*Washed Citrus***C**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***C**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 **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 a 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 **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***C**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[H]**
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.

[H]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 8:272 (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 8:272 (June 1982).

Chapter 15. Farm Youth Loan Program

Subchapter A. Authorization and Administration of Farm Youth Loans and Loan Guarantees

§1501. Definitions

*Applicant***C**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***C**anyone who is granted a farm youth loan.

*Commission***C**the State Market Commission.

*Commissioner***C**the Commissioner of Agriculture.

*Compromise agreement***C**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***C**the Department of Agriculture.

*Farm youth loan***C**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***C**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***C**any bank, financial institution or federal agency making loans to any borrower who is eligible for a farm youth loan guarantee.

*Supervisor***C**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 10th birthday but not yet having a 20th 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***C**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***C**the State Market Commission.

*Commissioner***C**commissioner of the Department of Agriculture and Forestry.

*Department***C**the Department of Agriculture and Forestry.

*Food Product***C**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***C**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***C**the combined group of standards that a food product must meet to be in accordance with the appropriate certification requirements.

*Local School District***C**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***C**any part of any cattle or other bovine, swine, sheep, or goat capable of use as human food.

*Person***C**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***C**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***C**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***C**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***C**any board, commission, department, agency, special district, authority or other entity performing a state function.

*State Institution***C**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***C**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 Title 7, Part V, Chapter 5 of the *Louisiana Administrative Code*;

2. poultry and eggs governed by the grading and certification requirements set out in Title 7, Part V, Chapter 9 of the *Louisiana Administrative Code*;

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 Title 7, Part V, Chapter 5 of the *Louisiana Administrative Code* and poultry and eggs governed by the grading and certification requirements set out in Title 7, Part V, Chapter 9 of the *Louisiana Administrative Code* 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 Title 7, Part V, Chapter 5 of the *Louisiana Administrative Code* 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 [La 001];

f. keep refrigerated 45EF 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 45EF stored in coolers that maintain an ambient temperature of 45E 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 in Title 7, Part V, Chapter 9 of the *Louisiana Administrative Code*.

C. Poultry and poultry food products, other than those governed by the grading and certification requirements set in Title 7, Part V, Chapter 9 of the *Louisiana Administrative Code*, 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 $.025 per pound for each such meat, poultry or seafood product, or in the case of eggs, a fee of $.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 $.025 per pound for each such meat, poultry or seafood product, or in the case of eggs, a fee of $.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***C**the Louisiana Egg Commission Act, being Act #441 of 1968 found in R.S. 3:551.1**C**551.11.

*Case***C**a standard 30 dozen egg case.

*Commission***C**the Louisiana Egg Commission.

*Commissioner***C**commissioner of agriculture of the State of Louisiana.

*Eggs***C**pullet and hen eggs only.

*Handler and/or Dealer***C**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***C**a person who holds a license issued pursuant to these rules and regulations.

*Person***C**every person, partnership, firm, company, association, corporation or legal entity engaged in the production or the sale of eggs in Louisiana.

*Producer***C**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***C**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***C**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 10 cents 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 two cents 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 hereinbelow 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, Subparagraph e.

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 resume 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 evidencel;

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 paragraph 8 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 Strawberry Marketing Board

§1901. Definitions

A. In addition to the terms defined in R.S. 3:472, the definitions below shall apply to these regulations:

*Board***C**the Louisiana Strawberry Marketing Board as established pursuant to R.S. 3:473.

*Container***C**a container which is intended as a package for the sale of strawberries.

*Department***C**the Louisiana Department of Agriculture and Forestry.

*First Point of Sale***C**

a. the initial time when title to strawberries or pint containers passes from a seller to a buyer; or

b. the time when the strawberries are removed from storage.

*Pint container***C**a container which, in its intended use, is meant to hold approximately 16 ounces of strawberries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:475.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, State Market Commission, LR 17:249 (March 1991).

§1903. Levy on Pint Containers

A. Pursuant to Acts 1990, No. 908, an assessment in the amount of $0.00165 is levied on each pint container used to package strawberries.

B. In the case of containers intended to hold multiple pints, the assessment shall be proportionate to the number of pints each container may hold.

C. This assessment does not apply to those strawberries merely in transit in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:475.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, State Market Commission, LR 17:250 (March 1991).

§1905. Collection

A. The assessments provided for by these regulations and R.S. 3:475 shall be collected at the first point of sale in Louisiana. The person selling the containers or strawberries shall collect the assessments and complete a department prescribed assessment form.

B. Distributors, wholesalers, brokers, or retailers of strawberries produced outside of Louisiana shall collect this assessment at the time they first distribute or sell such strawberries in this state.

C. Each person who collects the assessments shall remit the collections and assessment forms to the department within 60 days of the end of each fiscal year. As it pertains to this section, a fiscal year shall begin on July 1 and end on June 30, of the next calender year.

D. Persons who purchase pint containers and who do not use those containers for the sale of strawberries may apply for a refund of the assessment upon the signing and submission of a refund form to the Department of Agriculture and Forestry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:475.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, State Market Commission, LR 17:250 (March 1991), amended LR 17:955 (October 1991).

§1907. Records

A. Each person who collects the assessment levied by these regulations shall keep accurate records, including one copy of each completed assessment form, of the number of pint containers sold and the assessments collected.

B. Each person who collects assessments shall retain for examination by representatives of the Department of Agriculture and Forestry evidence of sales of pint containers sold within the state. This shall include sales invoices and shipping tickets. Each invoice or ticket should state the number of pint containers sold, or in the case of containers containing multiples of pints, the number of pint equivalents.

C. Each person who collects assessments shall retain for examination by representatives of the Department of Agriculture and Forestry evidence of all shipments received from outside of Louisiana for distribution for within the state. This shall include receiving and shipping tickets and all sales invoices. Each invoice should state the number of pint containers of strawberries or equivalent pint containers.

D. Original documentation shall be kept for a period of two years from the date of sale or distribution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:475.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, State Market Commission, LR 17:250 (March 1991), amended LR 17:956 (October 1991).

§1909. Authority of Agents to Enter Premises

A. Agents of the department are authorized and shall be allowed entrance onto any property or premises in the state of Louisiana during normal business hours for the purpose of carrying out the provisions of these regulations. Agents shall notify the dealer, distributor or shipper before performing any inspections.

B. Agents of the department are authorized to inspect all records maintained by dealers, distributors and shippers in order to enforce the provisions of R.S. 3:475 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. 3:475.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, State Market Commission, LR 17:250 (March 1991), amended LR 17:956 (October 1991).

§1911. Refunds

A. Each person who purchases pint containers for a use other than for the sale of strawberries may obtain a refund of the assessment by submitting a written request on a form prescribed by the department to the department within 60

days of the end of each fiscal year. As it pertains to this section, a fiscal year shall begin on July 1 and end on June 30 of the next calender year.

B. Each request for a refund shall be accompanied by copies of invoices or sales receipts showing the amount of containers purchased, along with a completed and signed department prescribed form showing that the containers were not used for the sale of strawberries. In the case of assessments against containers for strawberries produced outside of Louisiana, distributed in this state, but not sold in this state, along with said signed form, documentation must be included with the request with corroborates this claim.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:475.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, State Market Commission, LR 17:250 (March 1991), amended LR 17:956 (October 1991).

§1913. Penalties

A. Any person who willfully evades the payment of the tax provided for in R.S. 3:475, or who violates any other provision of these regulations, may be fined in accordance with the provisions of R.S. 3:478.

B. 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. 3:475 and R.S. 3:478.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, State Market Commission, LR 17:250 (March 1991), amended LR 17:956 (October 1991).

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 LAC 7:V.Chapter 21, except where the context expressly indicates otherwise.

*Commission***C**the Louisiana State Market Commission.

*Commissioner***C**commissioner of the Louisiana Department of Agriculture and Forestry.

*Department***C**the Louisiana Department of Agriculture and Forestry.

*Farm***C**any area of land used to grow and package Louisiana sweet potatoes.

*Louisiana Sweet Potato***C**any sweet potato grown and packaged in the state of Louisiana.

*Louisiana Sweet Potato Logo***C**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***C**any individual, corporation, partnership, association or other legal entity.

*Producer***C**any person who grows or packs Louisiana sweet potatoes.

*Promote***C**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***C**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 LAC 7:V.Chapter 21 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 LAC 7:V.Chapter 21.

B. The department or its authorized representative may, while enforcing the provisions of LAC 7:V.Chapter 21, 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 LAC 7:V.Chapter 21;

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 LAC 7:V.Chapter 21 is furnished to the department if the stop order was issued because of a violation of LAC 7:V.Chapter 21;

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 LAC 7:V.Chapter 21 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 LAC 7:V.Chapter 21, any stop order or other orders issued by the department or the commission in the enforcement of LAC 7:V.Chapter 21 and every day of a continuing violation shall be considered a separate and distinct violation chargeable under LAC 7:V.Chapter 21.

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 LAC 7:V.Chapter 21 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).

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 Divison, 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.

Chapter 3. Cotton Buyers

§301. Application

A. Application for a license to engage in the business of cotton buyer shall be filed with the department and shall be in a form prescribed by the department. Such application shall set forth the name of the applicant, its principal officers if the applicant is a corporation, or the active members of a partnership if the applicant is a partnership; the location or locations of the principal office or place of business of the applicant and the location or locations in this state at which the applicant proposes to engage in the business of cotton buyer; the fiscal year upon which the business of the cotton buyer is or will be operated, and such additional information as the department may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:703 and R.S. 3:702.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 1:473 (November 1975).

§303. Bonds

A. All bonds which are issued to a cotton buyer under this act [refers to Act 27 of 1975] shall not be canceled during the period for which the license shall be issued. All

bonds shall have a common expiration date of June 30 of each year. All bonds shall obligate the bonding company to cover the Act of contract regardless of delivery date. The department shall furnish the bond forms to be used by the bonding companies for the cotton buyer's bond.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:703 and R.S. 3:702.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 1:474 (November 1975).

§305. Fees

A. The application for a license to operate as a cotton buyer as defined in this Part [refers to R.S. 3:700 et seq.], or a renewal thereof, shall be accompanied by a fee of $50. All fees collected by the department hereunder shall be used to pay the expenses of administration of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:703.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 1:474 (November 1975).

§307. Term of License; Renewal

A. Each license issued under Act 627 shall terminate on June 30 following the date of issuance unless otherwise extended by the department. Licenses must be renewed on an annual basis accompanied by a current financial statement, application, license fee, and $50,000 bond or continuance certificate of previous bond. Failure to renew the cotton buyer license shall revoke the authority of said merchant to do business in the state as a cotton buyer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:702 and R.S. 3:703.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 1:474 (November 1975).

§309. Posting of License

A. Upon application for a license, payment of the license fee thereof, and posting of $50,000 bond, the department shall issue to the licensee a license certificate, evidence that a license has been issued or renewed and a bond filed. A copy of this license or renewal thereof issued by the department hereunder shall be posted in the principal office of the licensee in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:702 and R.S. 3:703.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 1:474 (November 1975).

§311. Suspension and Revocation of License

A. The commissioner may temporarily suspend the license of any cotton buyer who fails to file a financial statement, who fails to keep his bond in force, or who otherwise violates any provisions of this Part or the rules and regulations adopted under it.

B. Within five days of the suspension, the commission shall hold a hearing at which the suspended cotton buyer shall be heard in opposition to the suspension. At the conclusion of the hearing, the commissioner shall have authority to vacate the suspension and restore the license, or to revoke the license. In the event the cotton buyer fails to comply with a suspension or revocation order, the commissioner may apply to the courts for injunctive relief to restrain any violation of this Part. The cotton buyer shall also have recourse to the courts to review any decision, rule or regulation of the commissioner which he alleges to be arbitrary, capricious or unreasonable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:703.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 1:474 (November 1975).

§313. Contracts

A. The Department of Agriculture will require all cotton buyers to furnish a monthly list of contracts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:703.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 1:474 (November 1975).

Title 7
AGRICULTURE AND ANIMALS
Part IX. Brands, Grades and Inspections

Chapter 1. Brands and Marks

§101. For the Prevention of Livestock Theft by Regulation or Livestock Movement on the Highways of the State (Regulation I)

A. In conformity with authority vested in the Livestock Brand Commission of Louisiana, under Section 750 of Chapter 7 of Title 3 of the Revised Statutes of 1950, as amended by Section 3 of Act 245 of the Louisiana Legislature of 1950. The following regulation is hereby promulgated in order to prevent the transportation of stolen livestock. This regulation to become effective on and after August 1, 1951.

B. Drivers of vehicles hauling livestock on the highways must have in their possession form or forms in accordance with the following; and showing marks, brands, and/or descriptions:

1. permit signed by owner or caretaker, when livestock belongs to another;

2. a bill of sale signed by previous owner, when hauling livestock purchased from someone else;

3. a list of livestock when owned by themselves;

4. bill of sale or invoice when bought from auction sales or commission markets;

5. uniform forms for the above not required.

C. This regulation will become effective August 1, 1951.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:742 and R.S. 3:732.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Livestock Brand Commission, May 1951, adoption re-affirmed November 1951.

§103. For the Prevention of Livestock Theft by Requiring Butchers and Slaughter Establishments to Keep Certain Records and Providing for the Inspection of Premises, Records, etc. (Regulation II)

A. Any butcher butchering animals purchased from sources where brand inspection is not maintained shall get from the owner a bill of sale or written transfer which shall contain general description of animal, brands and marks, etc. The said bills of sale shall be kept and shown to any brand inspector or peace officer when requested to do so.

B. All livestock brand inspectors duly commissioned by the Livestock Brand Commission are hereby authorized to make inspection of slaughter and/or retail establishments, and to hold, for a reasonable length of time, any hide or hides or parts of carcasses necessary in the identification of any animals suspected of being stolen.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:734, R.S. 3:744 and R.S. 3:732.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Livestock Brand Commission, January 1952.

Title 7
AGRICULTURE AND ANIMALS
Part XI. Fertilizers

Chapter 1. Sale of Fertilizers

§101. Definitions

*Additive***C**any substance added to fertilizer in small amounts.

*Adulteration***C**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.

*Analysis***C**the process of separating the components of fertilizers to determine the chemical composition.

*Basic Slag***C**a by-product from the manufacturing of steel by the Bessemer or open-hearth process.

*Commissioner***C**the commissioner of the Department of Agriculture and Forestry or his duly authorized representatives acting at his discretion.

*Composite Sample***C**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***C**a fertilizer product which has been produced to the customer's specifications and promotes plant growth or exerts beneficial action on the soil.

*Deficiency***C**any condition where the required primary plant nutrients constitute less than the percent, by weight, guaranteed.

*Fertilizer***C**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***C**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***C**the specific percentage of nitrogen (N), available phosphoric acid (P_2O_5), and soluble potash (K_2O) or any two of these components.

Guarantor and/or *Registrant***C**any person who manufactures, sells or offers fertilizer for sale under his name or brand, and who is registered with the Fertilizer Commission of the Louisiana Department of Agriculture and Forestry.

*Micronutrients***C**those listed in §107.E herein.

*Mixed Fertilizer***C**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***C**any parcel, bag, or other container in which fertilizer is stored and/or offered for sale.

*Pesticide***C**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***C**any place, warehouse, store, truck, railroad car, boat, etc., where fertilizer may be kept by a guarantor.

*Primary Plant Nutrients***C**nitrogen (N), available phosphoric acid (P_2O_5), and soluble potash (K_2O).

*Purchase Invoice***C**delivery, scale or meter ticket to identify the fertilizer in the trade channel.

*Sampling***C**the process of taking a portion or a specimen of fertilizer.

*Small Packages***C**16 ounces or less of liquid fertilizer and 10 pounds or less of dry material.

*Specialty Fertilizer***C**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***C**the director of the Agricultural Experiment Station at Louisiana State University and Agricultural and Mechanical College.

*Superphosphate***C**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***C**the dollar value attributable to a penalty calculated in accordance with these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1312.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Fertilizer Commission, LR 7:164 (April 1981), amended LR 12:493 (August 1986).

§103. Registration Requirements

A. No fertilizer shall be sold within the state of Louisiana unless such product is registered as required herein.

B. Every guarantor who manufactures, sells, or offers fertilizer for sale under his brand or company name within the state of Louisiana must be registered with the Fertilizer Commission of the Louisiana Department of Agriculture and Forestry. Fertilizer processed or manufactured in Louisiana and offered for sale or distributed solely outside the state of Louisiana is not required to be registered.

C. Applicants for registration may request application forms, verbally or in writing, from the Fertilizer Commission of the Department of Agriculture and Forestry.

D. Each registration shall be valid until December 31 of each year. To remain valid, each registration must be renewed on or before January 1 of each year.

E. Applications for annual renewal of registration shall be mailed by the Fertilizer Commission of the Department of Agriculture and Forestry to all registrants, at the last address provided by the registrant, on or before November 15 of each year and must be returned on or before January 1 of each year.

F. The record of all registrations shall be maintained by the Fertilizer 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. 3:1312.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Fertilizer Commission, LR 7:164 (April 1981), amended LR 12:494 (August 1986).

§105. Labeling Requirements

A. All fertilizers sold in Louisiana must be labeled by tag or printed label, if packaged; or by invoice, if in bulk form.

B. The label, tag, or printed invoice must contain:

1. name and address of the registrant;

2. net weight of contents, if packaged; or stamped weight tickets, if bulk;

3. the minimum percent by weight of nitrogen (N);

4. the minimum percent by weight of available phosphoric acid (P_2O_5); and

5. the minimum percent by weight of soluble potash (K_2O).

C. In the case of bone, rock phosphate, basic slag, and other materials of low available phosphorus, the label shall contain the total content of phosphoric acid.

D. When minor elements, pesticides, and/or seeds are added, the label, tag, or printed invoice must 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.

E. All additives must be clearly labeled as such.

F. 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.

G. When two or more fertilizer materials are mixed or blended together, the guarantor must 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. 3:1312.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Fertilizer Commission, LR 7:164 (April 1981), amended LR 12:494 (August 1986).

§107. Required Guarantees

A. Guarantees of the plant nutrients must 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 must 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, must 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.

G. In the case of bone, rock phosphate, basic slag, and other materials of low available phosphorus, the total content of phosphoric acid shall be guaranteed in lieu of available phosphoric acid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1312.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Fertilizer Commission, LR 7:164 (April 1981), amended LR 12:494 (August 1986).

§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. 3:1312.

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, five 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. 3:1312.

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 Fertilizer 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. 3:1312.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Fertilizer Commission, LR 7:164 (April 1981), amended LR 12:495 (August 1986).

§115. Tonnage Reports; Inspection Fees

A. All registrants must file a report of the tonnage and grade of product sold, on forms to be provided by the Fertilizer Commission of the Louisiana Department of Agriculture and Forestry, on the first day of July, the first day of October, the first day of January, and the first day of April of each year.

B. All registrants must grant the Fertilizer Commission of the Department of Agriculture and Forestry the right to examine their records for verification of the tonnage reports filed as required by §115.A.

C. Every registrant shall pay to the Fertilizer Commission of the Department of Agriculture and Forestry an inspection fee of 75 cents per ton on all fertilizers sold in the state, except for guarantors covered by §115.D, on the same dates established for filing tonnage reports.

D. Every guarantor blending or selling fertilizer in small package lots totaling less than 100 tons per year shall pay to the Fertilizer Commission of the Department of Agriculture and Forestry an annual inspection fee of $100.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1312.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Fertilizer Commission, LR 7:164 (April 1981), amended LR 12:495 (August 1986).

§117. Penalties; Deficiencies; Curing of Deficiencies

A. Whenever any registrant fails to file the required tonnage report and make the required payment of inspection fees within 20 days of the date on which the report and payment are due, a penalty of 10 percent of the amount due shall be assessed against the registrant.

B. The commissioner shall levy penalties as set forth in R.S. 3:1314, 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	% by weight guaranteed	Deficiency	Penalty
Nitrogen	0.0% - 8.0%	.4%	4 H value of deficiency
	8.1% - 20.9%	.5%	Same
	21.0% and above	.8%	Same
Phosphorus	0.0% - 10.0%	.4%	Same
	10.1% - 25.9%	.5%	Same
	26.0% and above	.8%	Same
Potassium	0.0% - 8.0%	.5%	Same
	8.1% - 20.9%	.6%	Same
	21.0% and above	1.0%	Same

C. The value of the deficiency shall be calculated as follows: (Guaranteed analysis **C** actual analysis) times value of element/unit times tons in shipment times four.

D. Notification of the percentage of deficiency and the dollar value of penalties to be assessed against the guarantor shall be given to the purchaser and guarantor in the report of the results of analysis.

E. If a fertilizer is deficient in one primary plant nutrient and there is an overage in either or both of the other two primary plant nutrients, the dollar value of such overage shall be applied to offset the deficiency, except as set forth in §117.F and G hereof. When an overage in either or both primary plant nutrients is equal or greater in dollar value than the dollar value of the deficiency in the third primary plant nutrient, no penalty shall be assessed.

F. A deficiency may not be cured as provided in §117.E, if the deficiency in any one primary plant nutrient is more than twice the tolerance allowed.

G. A deficiency in two of the three required primary plant nutrients may not be cured by overages in the third required primary plant nutrient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1312.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Fertilizer Commission, LR 7:164 (April 1981), amended LR 12:496 (August 1986).

§119. Prohibitions Against Penalties

A. No penalty shall be assessed against a guarantor as a result of analysis of a sample drawn from less than five percent of the original packages, when the lot sampled contains less than 1,000 packages.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1312.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Fertilizer Commission, LR 7:164 (April 1981), amended LR 12:496 (August 1986).

§121. Payment of Penalties

A. Penalties shall be paid by the guarantor to the purchaser of the deficient fertilizer, if known, or to the commissioner of agriculture, if the purchaser is not known.

B. Penalties must be paid by the guarantor, whether payment is made to the purchaser or to the commissioner, within 30 days of the date on which the notice of the penalty is mailed to the guarantor.

C. When the penalty is paid by the guarantor to the purchaser, the guarantor shall provide proof of such payment to the commissioner 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.

D. 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.

E. Penalties paid to the commissioner of agriculture shall be deposited into a special fund in the state treasury which is designated as the Fertilizer Fund as provided for in R.S. 3:1317(1).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1312.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Fertilizer Commission, LR 7:164 (April 1981), amended LR 12:496 (August 1986).

§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 must 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 must agree to the recall.

3. An agricultural inspector must be present when the product is picked up from the purchaser.

4. The guarantor must reimburse the purchaser the full purchase price of the product.

5. The guarantor must 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 must 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 must 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 commissioner of agriculture, 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. 3:1312.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Fertilizer Commission, LR 7:164 (April 1981), amended LR 12:496 (August 1986).

§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. 3:1312.

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 commissioner whenever 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 commissioner.

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 commissioner 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 Fertilizer Commission immediately 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. 3:1312.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Fertilizer Commission, LR 7:164 (April 1981), amended LR 12:496 (August 1986).

§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. 3:1312.

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 Fertilizer 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 Fertilizer 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. Whenever 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. Whenever 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 Fertilizer Commission for a final determination.

3. Whenever 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 Fertilizer 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 Fertilizer 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. Whenever 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 apply to a court of competent jurisdiction, provided that all such matters shall be lodged in the parish in which the Fertilizer Commission is domiciled.

5. Whenever any provisions of these regulations and/or the statutes governing the registration of fertilizers cannot be resolved through the appeal process set forth herein, the commissioner of agriculture shall so certify to the proper prosecuting attorney as provided by R.S. 3:1312. The commissioner shall be required to notify the guarantor or unregistered person or firm against whom such charges are filed of his action in notifying the prosecuting attorney prior to such notification to the attorney.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1312.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Fertilizer Commission, LR 7:164 (April 1981), amended LR 12:497 (August 1986).

§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 Fertilizer Commission, the commissioner, nor any employee of the Department of Agriculture and Forestry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1312.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Fertilizer Commission, LR 7:164 (April 1981), amended LR 12:497 (August 1986).

§135. Penalties for Violations

A. As provided by R.S. 3:1316, the commissioner shall levy a fine of not less than $50 nor more than $500 against any person who violates the provisions of R.S. 3:1311, et seq., or these regulations adopted in accordance therewith, including but not limited to violations as follows:

1. interference with the commissioner, the state chemist, or any of their representatives in the performance of their duties under R.S. 3:1311, et seq.;

2. falsification of a tonnage report;

3. any action to avoid the payment of an inspection fee;

4. placing any false or misleading statement on any bags, packages, containers, or any printed or advertising materials; and

5. adulteration of any lot or shipment of fertilizer sold in this state.

B. Prior to the imposition of a fine as provided in §135.A, hereof, the commissioner shall notify the guarantor, in writing, of his intention to impose a fine.

C. The guarantor may request, and shall be offered the opportunity of an adjudicatory hearing prior to the imposition of a fine as provided in §135.A hereof. In the event that the guarantor requests an adjudicatory hearing, the rules of procedure applicable to adjudicatory hearings conducted under §131 hereof shall apply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1312.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Fertilizer Commission, LR 7:164 (April 1981), amended LR 12:497 (August 1986).

§137. Repeal Prior Rules and Regulations

A. All rules and regulations which were adopted for the enforcement of the Louisiana Fertilizer Law (R.S. 3:1311 et seq.) prior to these rules and regulations are hereby repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1312.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Fertilizer Commission, LR 7:164 (April 1981), amended LR 12:498 (August 1986).

Title 7
AGRICULTURE AND ANIMALS
Part XIII. Seeds

Chapter 1. Louisiana Seed Law

Subchapter A. Enforcement of the Louisiana Seed Law

§101. Definitions

A. The following terms are defined in addition to those in the Act:

*Declaration***C**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**C**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.

*Processing***C**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***C**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.

*Restricted Noxious Weed Seed***C**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***C**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***C**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), repealed and readopted LR 12:825 (December 1986).

§103. Sampling

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), repealed and readopted LR 12:825 (December 1986).

§105. Tolerances

A. The same tolerances published in the latest rules and regulations for testing seed by the Association of Official Seed Analysts shall be recognized in the administration of the Louisiana Seed Law.

B. Germination Tolerances. The following tolerances which are recognized by the Federal Seed Act are adopted and are applicable to the percentage of germination and also to the sum of the germination plus the hard seed.

Found by Test	Tolerance
96 or over	5
90 or over but less 96	6
80 or over but less than 90	7
70 or over but less than 80	8
60 or over but less than 70	9
Less than 60	10

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), repealed and readopted LR 12:825 (December 1986).

§107. Germination Standards for Vegetable Seed

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 (execpt 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), repealed and readopted LR 12:825 (December 1986).

§109. List and Limitations of Noxious Weed Seed

Name	Limitations
1. Field Bindweed (Convulvulus arvensis)	Prohibited
2. Hedge Bindweed (Convulvulus sepium)	Prohibited
3. Nutgrass (Cyperus esculentus, C. rotundus)	Prohibited
4. Itchgrass (Rottboellia exaltata L., R. cochinchinensis)	Prohibited
5. Balloonvine (Cardiospermum halicacabum)	Prohibited
6. Cocklebur (Xanthium spp.)	5 per lb.
7. Spearhead (Rhynchospora spp.)	5 per lb.
8. Purple Moonflower (Ipomoea turbinate)	9 per lb.
9. Red Rice (Oryza sativa var.)	9 per lb.
10. Wild Onion and/or Wild Garlic (Allium spp.)	9 per lb.
11. Canada Thistle (Cirsium arvense)	100 per lb.
12. Dodder (Cuscuta spp.)	100 per lb.
13. Johnsongrass (Sorghum halepense)	100 per lb.
14. Quackgrass (Agropyron repens)	100 per lb.
15. Russian Knapweed (Centaurea repens)	100 per lb.
16. Blueweed, Texas (Helianthus ciliaris)	200 per lb.
17. Bermuda Grass (Cynodon dactylon)	300 per lb.
18. Bracted Plantain (Plantago aristata)	300 per lb.
19. Buckhorn Plantain (Plantago lanceolata)	300 per lb.
20. Cheat (Bromus secalinus)	300 per lb.
21. Hairy Chess (Bromus commutatus)	300 per lb.
22. Corncockle (Agrostemma githago)	300 per lb.
23. Darnel (Lolium temulentum)	300 per lb.
24. Dock (Rumex spp.)	300 per lb.
25. Horsenettle (Solanum carolinense)	300 per lb.
26. Purple Nightsh ade (Solanum eleagnifolium)	300 per lb.
27. Sheep Sorrel (Rumex acetosella)	300 per lb.
28. Morning Glory (Ipomoea spp.)	18 per lb.
29. Wild Poinsettia (Euphorbia heterophylla, E. dentata)	18 per lb.
30. Wild Mustard and Wild Turnips (Brassica spp.)	300 per lb.
31. Hemp Sesbania, Coffeebean, Tall Indigo (Sesbania exaltata)	300 per lb.
32. Curly Indigo (Aeschynomene virginica)	300 per lb.
33. Mexican Weed (Caperonia castaneafolia)	300 per lb.
Sum of total noxious weed (Subject to limitations above)	500 per lb.

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 9:206 (April 1983), repealed and readopted LR 12:825 (December 1986), amended LR 14:605 (September 1988), LR 23:1282 (October 1997).

§111. Tag Requirements

A. The 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 & Variety_____
Where Grown_____Net Wt._____Lot No._____
Pure Seed_____Percent Germination_____ Percent
Inert Matter_____Percent Hard Seed_____ Percent
Crop Seed_____Percent Total Germ & Hard Seed____ Percent
Weed Seed_____Percent Date of Test_____
Name & 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), repealed and readopted LR 12:825 (December 1986).

§113. License Fee; Laboratory Fees

A. The annual fee for a seed dealer's license shall be $50.

B. The following laboratory 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: $4 each (except grasses, mixtures and seed containing high inert: $8 each);

2. complete test (purity and germination): $7 each (except grasses, mixtures and seed containing higher inert: $12 each);

3. Accelerated Aging: $10 each;

4. Texas Cool Test: $8 each;

5. Tetrazolium: $8 each; and

6. Examination of 4-pound rice seed sample for presence of red rice: $2.

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 (May 1981); repealed and readopted by the Department of Agriculture and Forestry, Seed Commission, LR 12:825 (December 1986), amended LR 14:603 (September 1988).

§115. Inspection Fees on Agricultural Seed

A. In addition to the requirements of the Act, any person who sells, distributes, or offers or handles for sale agricultural 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 $.10 for each 100 pounds of agricultural 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).

§117. Standard for Agricultural Seed

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 two and one-half 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), repealed and readopted LR 12:825 (December 1986).

§119. Invoices and Records

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), repealed and readopted LR 12:825 (December 1986).

§121. Labeling of Seed

A. 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: Allethrin, 2ppm; Malathion, 8ppm; Methoxychlor, 2ppm: Piperonyl butoxide, 8ppm on oat and sorghum and 20ppm on all other seeds; and Pyrethrins, 1ppm on oat and sorghum and 3ppm on all other seeds.

B. 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.

C. 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.

D. The label on hybrid corn shall show the state where grown.

E. Abbreviation of names: the name and kind of variety of seed shall not be abbreviated, but shall be written out in full.

F. 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.

G. 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1436, R.S. 3:1444 and R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:105 (April 1978), repealed and readopted LR 12:825 (December 1986), amended LR 16:492 (June 1990).

Subchapter B. General Seed Certification Requirements

§123. Classes of Seed

Breeder Seed—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—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—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—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*—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*—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*—Seed from:

a. natural stands with known geographic source and elevation; or

b. 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), repealed and readopted LR 12:825 (December 1986).

§125. Definitions

*Certification***C**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.

*Germination***C**the percentage of seeds capable of producing normal seedlings under ordinarily favorable growing conditions.

*Hybrid***C**one or more crosses of inbred lines of the same kind of seed.

*Inbred Line***C**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***C**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***C**seeds that are similar in size, shape and weight to the seed offered for certification, which are difficult to remove.

*Isolation***C**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***C**one or more related species singly or collectively known by one common name (examples: corn, beans, wheat).

*Land Requirement***C**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***C**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***C**all weeds designated as "noxious weeds" under ' 145 of these regulations.

Off-Type (mutations) **C**plants or seeds which deviate in one or more characteristics from the breeder description filed with the Department of Agriculture and Forestry.

*Open-Pollination***C**pollination that occurs naturally as opposed to controlled pollination such as by detasseling cytoplasmic male sterility, self-incompatibility or similar processes.

*Originator***C**a person, company, agent or institution developing a new variety of seed.

*Other Weeds/Weed Seeds***C**all weeds and/or weed seeds which have not been designated as "noxious weeds" by the Seed Commission.

*Recertification***C**the official approval of a second or subsequent generation of a certified class of seed.

*Roguing***C**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***C**plants designated by a common name and having common characteristics.

*Unit of Certification***C**any clearly defined field(s) or portion(s) of a field entered for certification.

*Variety***C**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***C**plants of a crop kind or species other than the crop being certified that are present in a field.

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 8:564 (November 1982), repealed and readopted LR 12:825 (December 1986), amended LR 20:642 (June 1994).

§127. General Requirements for Certification

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 §§155-221 for specific requirements. In §§155-221, 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 §129 hereof on or before the date specified in §131 for the crop or variety to be certified. (See §129.B and §143.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 §§155-221 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), repealed and repromulgated LR 12:825 (December 1986), amended LR 20:642 (June 1994), LR 20:1257 (November 1994).

§129. Application for Field Certification

A. The grower must apply for certification on or before the application deadline shown in §131 for the crop or variety to be certified by completing the application form provided by the Department of Agriculture and Forestry.

B. Applications for certification submitted after the deadline specified in §131 will not be accepted unless field inspection(s) can be completed prior to harvest.

C. Information to accompany application:

1. name of variety;

2. copy of the purchase invoice, or statement showing class of seed purchased;

3. 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

4. a map of each field presented for certification.

D. It is the grower=s responsibility to notify the Department of Agriculture and Forestry when the crop or variety to be certified is ready for field inspection.

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), repealed and readopted LR 12:825 (December 1986).

§131. Application Deadlines

A. Corn**C**a minimum of 30 days prior to pollination

B. Onion bulbs and seed, and shallots**C**March 1

C. Clover (crimson, red, white), rescue grass, harding grass, vetch, and Irish potatoes)**C**April 1

D. Oats, wheat, ryegrass, singletary peas **C**April 15

E. Watermelon, , tissue culture sugarcane**C**May 1

F. Sweet potatoes and sweet potato plants

1. Greenhouse plantings (virus-tested)**C**45 days prior to planting.

2. Field plantings**C**June 1

G. Okra—June 15

H. Cowpeas—a minimum of 30 days prior to harvest

I. Rice—July 1

J. Cotton, millet, sesame, sunflower, tree—July 15

K. Soybeans—August 1

L. Bermuda grasses

1. New plantings—minimum of 30 days prior to harvest

2. Established stands (fields certified the previous year)—June 1. Renewal application must be submitted.

M. Turf and Pasture Grass

1. New plantings—at least 15 days prior to land preparation for planting

2. Established stands (fields certified the previous year)—June 1. Renewal application must be submitted

N. Tomatoes (Spring)—June 1, (Fall)—July 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), repealed and readopted by the Department of Agriculture and Forestry, Seed Commission, LR 12:825 (December 1986), amended LR 13:155 (March 1987), LR 12:232 (April 1987), LR 14:603 (September 1988), LR 23:1283 (October 1997), LR 25:1617 (September 1999).

§133. Limitations on Generations

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), repealed and readopted LR 12:825 (December 1986).

§135. Lot of Seed

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), mended LR 9:195 (April 1983), repealed and readopted LR 12:825 (December 1986).

§137. Seed Sampling

A. Seed sampling will be performed at the request of the grower.

B. Except as provided by §137.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 four 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 four 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 eight 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), repealed and readopted LR 12:825 (December 1986), amended LR 19:888 (July 1993).

§139. Listing of Certified Seed Conditioning Plants

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 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 8:565 (November 1982), amended LR 9:197 (April 1983), repealed and repromulgated LR 12:825 (December 1986), amended LR 20:642 (June 1994).

§141. Tagging

A. Each container of all classes of certified seed offered for sale must have an official Department of Agriculture and Forestry tag attached.

B. The lot number of the tag attached to each container must be the same as the lot number marked on the container.

C. The tag shall contain the following information:

1. kind and variety;

2. where grown;

3. percentage of pure seed, crop seed, weed seed and inert matter;

4. name and number of noxious weed seeds per pound;

5. grower's name and address or code number;

6. germination percentage;

7. hard seed;

8. total germination and hard seed percentage;

9. net weight;

10. lot number; and

11. date of test.

D. Tags will be issued only for seed proven by laboratory analysis to meet required germination and purity standards.

E. The number of tags issued will be determined by the inspector's estimate of the quantity of seed at the time of sampling. All unused tags must be returned to the Department of Agriculture and Forestry.

F. Pretagging. In order to permit seedsmen to bag and label seed in advance of final laboratory reports, certification tags 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 pretagged lots fail laboratory analysis standards, all tags 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 pretag privileges.

G. The official certification label may be printed directly on the container with prior approval of the Department of Agriculture and Forestry.

H. Labels other than those printed on the containers shall be attached to containers in a manner that prevents removal and reattachment without tampering being obvious.

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), repealed and repromulgated LR 12:825 (December 1986), amended LR 20: 643 (June 1994).

§143. Fees

A. The application fee for certification shall be $15 for each crop, one variety per application, plus $.60 per acre inspection fee for all crops except sweet potatoes and sugar cane which shall be $.90 per acre and Turf and Pasture Grass which shall be $25 per acre. The application fee shall be due and payable upon filing of the application for certification.

B. The fee for certification on any application submitted after the deadline shown in ' 131 shall be $100.

C. A fee of $25 shall be charged for each reinspection of a field.

D. Fees for issuance of certified seed tags shall be eight cents for the following classes of seed:

1. breeder (white tag);
2. foundation (white tag);
3. registered (purple tag);
4. certified (blue tag);
5. selected tree seed (green tag); and
6. source identified tree seed (yellow tag).

E. Fees for Sweet Potatoes

1. The fee for greenhouse inspections of virus-tested sweet potato plants and mini-roots shall be $50 per crop year.

2. A fee of five cents per 1,000 plants will be collected for each 1,000 sweet potato plants inspected for certification purposes.

F. Fees for Bulk Seed Certification. The fee for issuance of a Bulk Certified Seed Sales Certificate shall be eight cents per hundred-weight.

G. Fees for Phytosanitary Inspection. A fee of $.50 per acre shall be charged for phytosanitary inspections. The application fee for phytosanitary inspection shall be due and payable upon filing of the application for certification.

H. Fees for Re-sampling Certified Seed. 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.

I. Fees for Bulk Sampling. A fee of $25 shall be charged for each bulk sample by vacuum probe, which shall be due and payable when request for bulk sample is initially made.

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); repealed and readopted by the Department of Agriculture and Forestry, Seed Commission LR 12:825 (December 1986), amended LR 14:604 (September 1988), amended LR 16:847 (October 1990), LR 25:1617 (September 1999), LR 26:235 (February 2000).

§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. Field Bindweed (Convulvulus arvensis)	Prohibited
2. Hedge Bindweed (Convulvulus sepium)	Prohibited
3. Nutgrass (Cyperus esculentus, C. rotundus)	Prohibited
4. Itchgrass (Rottboellia exaltata L., R. cochinchinensis)	Prohibited
5. Balloonvine (Cardiospermum halicacabum)	Prohibited
6. Cocklebur (Xanthium spp.)	5 per lb.
7. Spearhead (Rhynchospora spp.)	5 per lb.
8. Purple Moonflower (Ipomoea turbinata)	9 per lb.
9. Red Rice (Oryza sativa var.)	9 per lb.
10. Wild Onion and/or Wild Garlic (Allium spp.)	9 per lb.
11. Canada Thistle (Cirsium arvense)	100 per lb.
12. Dodder (Cuscuta spp.)	100 per lb.
13. Johnsongrass (Sorghum halepense)	100 per lb.
14. Quackgrass (Agropyron repens)	100 per lb.
15. Russian Knapweed (Centaurea repens)	100 per lb.
16. Blueweed, Texas (Helianthus ciliaris)	200 per lb.
17. Bermuda Grass (Cynodon dactylon)	300 per lb.
18. Bracted Plantain (Plantago aristata)	300 per lb.
19. Buckhorn Plantain (Plantago lanceolata)	300 per lb.
20. Cheat (Bromus secalinus)	300 per lb.
21. Hairy Chess (Bromus commutatus)	300 per lb.
22. Corncockle (Agrostemma githago)	300 per lb.
23. Darnel (Lolium temulentum)	300 per lb.
24. Dock (Rumex spp.)	300 per lb.
25. Horsenettle (Solanum carolinense)	300 per lb.
26. Purple Nightshade (Solanum eleagnifolium)	300 per lb.
27. Sheep Sorrel (Rumex acetosella)	300 per lb.
28. Morning Glory (Ipomoea spp.)	18 per lb.
29. Wild Poinsettia (Euphorbia heterophylla, E. dentata)	18 per lb.
30. Wild Mustard and Wild Turnips (Brassica spp.)	300 per lb.
31. Hemp Sesbania, Coffeebean, Tall Indigo (Sesbania exaltata)	300 per lb.
32. Curly Indigo (Aeschynomene virginica)	300 per lb.
33. Mexican Weed (Caperonia castaneaefolia)	300 per lb.

Sum of total noxious weed (Subject to limitations 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 §§155-221 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 §§155-221 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), repealed and readopted LR 12:825 (December 1986), amended LR 14:605 (September 1988), LR 23:1283 (October 1997).

§147. Bulk Certification Requirements

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 §137.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 §147.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 8:566 (November 1982), repealed and readopted LR 12:825 (December 1986), amended LR 23:1283 (October 1997), LR 26:235 (February 2000).

§149. Interagency Certification (Out-of-State Seed)

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), repealed and readopted LR 12:825 (December 1986), amended LR 23:1283 (October 1997).

§151. Violations

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 §135.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), repealed and readopted LR 12:825 (December 1986).

§153. Penalties; Adjudicatory Hearing Required

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 $100 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), repealed and readopted 12:825 (December 1986).

Subchapter C. Certification of Specific Crops/Varieties

§155. Bahia Grass Seed Certification Standards

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), repealed and readopted LR 12:825 (December 1986).

§157. Bermuda and Zoysia Grass Seed Certification Standards

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), repealed and readopted LR 12:825 (December 1986).

§159. Crimson Clover Seed Certification Standards

A. Field Standards

Factor	Breeder	Foundation	Registered	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 8:568 (November 1982), amended LR 9:197 (April 1983), repealed and readopted LR 12:825 (December 1986).

§161. Louisiana White, Louisiana White S 1, Ladino and Other White Clover Seed Certification Standards

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 8:568 (November 1982), amended LR 9:197 (April 1983), repealed and readopted LR 12:825 (December 1986).

§163. Red Clover Seed Certification Standards

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 8:568 (November 1982), amended LR 9:197 (April 1983), repealed and readopted LR 12:825 (December 1986).

§165. Cottonseed Seed Certification Standards

A. Field Standards

Factor	Breeder	Foundation	Registered	Certified
Isolation**		15 ft.	15 ft.	15 ft.
Other Varieties & 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), repealed and repromulgated LR 12:825 (December 1986), amended LR 13:156 (March 1987), LR 13:232 (April 1987), LR 18:624 (June 1992), LR 18:954 (September 1992)

§167. Dallis Grass Seed Certification Standards

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 8:570 (November 1982) amended LR 9:199 (April 1983), LR 10:737 (October 1984), repealed and repromulgated LR 12:825 (December 1986).

§169. Annual Ryegrass Seed Certification Standards

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 8:570 (November 1982) amended LR 9:199 (April 1983), LR 10:737 (October 1984), repealed and repromulgated LR 12:825 (December 1986).

§171. Harding Grass Seed Certification Standards

A. Field Standards

Factor	Foundation	Registered	Certified
Land Requirement	5 yrs.	1 yr.	1 yr.
Other Varieties	None	1.00%	2.00%
Isolation	60 ft.	30 ft.	15 ft.

B. Seed Standards

Factor	Foundation	Registered	Certified
Pure Seed	99.00%	97.00%	95.00%
Inert Matter	1.00%	3.00%	5.00%
Other Varieties	0.10%	1.00%	2.00%
Other Crops	1.00%	1.00%	1.00%
Other Grasses	0.10%	0.10%	0.25%
Noxious Weeds	None	None	None
Germination	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), repealed and repromulgated LR 12:825 (December 1986).

§173. Hybrid Seed Corn Certification Standards

A. Eligibility Requirements. Hybrid corn may be one of the following:

1. *Single Cross***C**the first generation hybrid between two inbred lines.

2. *Double Cross***C**the first generation hybrid between two single crosses.

3. *Three-way Cross***C**a first generation hybrid between a single cross and an inbred line.

4. *Top Cross***C**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***C**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 five percent or more of the female seed parent plants have receptive silk:

i. if more than one percent of the female seed parent plants have shed pollen on one inspection; or

ii.if a total of two 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 two 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), repealed and repromulgated LR 12:825 (December l986), amended LR 13:156 (March 1987), LR 13:232 (April l987), LR 15:613 (August 1989), LR 20:643 (June 1994).

§175. Seed Corn (Open-Pollinated) Seed Certification Standards

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 8:572 (November l982), amended LR 9:197 (April l983), repealed and repromulgated LR 12:825 (December l986), amended LR 23:1284 (October 1997).

§177. Millet Seed Certification Standards

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 8:572 (November l982), amended LR 9:197 (April l983), repealed and repromulgated LR 12:825 (December l986), amended LR 23:1284 (October 1997).

§179. Okra Seed Certification Standards

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 8:572 (November l982), amended LR 9:197 (April l983), repealed and repromulgated LR 12:825 (December l986), amended LR 15:613 (August 1989).

§181. Onion Bulb Seed Certification Standards

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	.50%	.50%	.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 one 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 8:572 (November l982), amended LR 9:197 (April l983), repealed and repromulgated LR 12:825 (December l986), amended LR 15:613 (August 1989), LR 23:1284 (October 1997).

§183. Rescue Grass Seed Certification Standards

A. Field Standards

Factor	Foundation	Registered	Certified
Land Requirement	5 yrs.	2 yrs.	2 yrs.
Other Varieties	None	None	None
*Isolation	900 ft.	900 ft.	330 ft.
Other Crops (inseparable)	10 plants per acre	10 plants per acre	100 plants per acre

*A portion of a field may be certified, provided that an adequate boundary of at least seven feet is established by disking or mowing before harvesting the certified portion of the field.

B. Seed Standards

Factor	Foundation	Registered	Certified
Pure Seed	98.00%	98.00%	95.00%
Inert Matter	2.00%	2.00%	5.00%
Other Crops	None	None	10 seed/lb.
Other Varieties	0.10%	1.00%	2.00%
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 8:572 (November 1982), amended LR 9:197 (April 1983), repealed and repromulgated LR 12:825 (December 1986).

§185. Rice Seed Certification Standards

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), repealed and readopted LR 12:825 (December 1986), amended 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).

§187. Seed Irish Potato Certification Standards

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 & 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 five 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 1982), repealed and repromulgated LR 12:825 (December 1986), amended LR 20:643 (June 1994).

§189. Seed Irish Potato Certification Standards (Out-of-State)

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 (LAC 7:XIII.8785).

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), LR 12:825, amended LR 9:201 (April 1983), repealed and repromulgated LR 12:825 (December 1986), amended LR 14:606 (September 1988), LR 15:78 (February 1989), LR 20:644 (June 1994).

§191. Seed Sweet Potatoes and Sweet Potato Plant Certification Standards

A. Seed Bed Inspection and Standards

1. Seed sweet potatoes must be treated with an approved pesticide prior to planting.

2. Seed beds shall be located at least 100 feet from the previous two years' seed beds, and in such manner that there will be no wash from the previous two years' seed beds, or treated in a manner satisfactory to the Department of Agriculture and Forestry.

3. Inspections shall be made to determine that quality plants, apparently free of insects and disease, are being produced.

B. Field Inspections. At least two field inspections shall be made each year.

C. Field Standards

Factor	Foundation	Registered	Certified
Land Requirement	2 yrs.	2 yrs.	1 yr.
*Isolation	20 ft.	20 ft.	20 ft.
Other Varieties	None	None	10 plants per acre
Mutations (current season)	5 plants per acre	5 plants per acre	10 plants per acre
Harmful Insects: Sweet potato weevil (Cylas formicarius Fab. var. eleganthus Summers)	None	None	None
Harmful Diseases: Stem Rot (Fusarium hyperoxsporum f. batatas)	None	None	5 plants per acre
Soil Rot (Actinomyces ipomoea)	70 plants per acre	70 plants per acre	140 plants per acre
Other Harmful Diseases	None	None	None
*In sweet potato plant certification, the unit of certification shall be a seed bed or seed row, and such unit cannot be divided for the purpose for certification			

D. Storage and Grading Requirements

1. Before sweet potatoes grown for certification can be stored, the storage house must be cleaned and disinfected in a manner approved by the Department of Agriculture and Forestry.

2. Sweet potatoes grown for certification shall be stored in new standard crates or used containers that have been treated with an approved pesticide.

3. Each unit of sweet potatoes that passed field inspection shall be:

a. marked or labeled to correspond with the field unit;

b. treated with an approved pesticide; and

c. separated in storage by an aisle at least two feet wide.

4. Sweet potatoes entered for certification must be well shaped. The minimum size shall be one inch in diameter and four inches in length, 30 ounces maximum weight.

5. Specific grades of sweet potatoes in accordance with federal regulations shall be optional to the grower and purchaser.

6. A minimum of 20 percent of each lot of sweet potatoes entered for certification shall be inspected by the Louisiana Department of Agriculture and Forestry during the storage inspection.

E. Root Standards

Factor	Foundation	Registered	Certified
Off-type (mutations)	0.20%	0.20%	0.50%
Harmful Insects: Sweet potato weevil (Cylas formicarus Fab. var. eleganthus Summers)	None	None	None
Harmful Diseases: Soil Rot (Actinomyces ipomoea)	2.50%	2.50%	5.00%
Black Rot (Ceratostamella fimbriata)	None	None	None
Scurf (Monilochaetes infuscans)	1.00%	1.00%	2.00%
Surface Rot (Fusarium oxysporum)	None	None	5.00%

1. There shall not be more than 10 percent of sweet potatoes of poor quality and/or poor condition, brought about by internal breakdown, lack of latex, excessive bruising, chilling, or any other factor, and not more than a total of 15 percent of the foregoing factors that would cause the sweet potatoes to be of poor quality and/or condition.

F. Tagging and Certificate Tape

1. Each container of seed sweet potatoes and all certified sweet potato plants shall be tagged as follows:

a. foundation (white tag);

b. registered (purple tag); and

c. certified (blue tag).

2. Each tag shall contain the following:

a. kind and variety;

b. year in which grown; and

c. grower's name and address.

3. Sweet potato plants shall be tied in bundles of approximately 100 each with official tape issued by the Department of Agriculture and Forestry.

G. Sweet Potato Weevil Quarantine Area

1. Sweet potato plants grown in a sweet potato-weevil quarantine area will be approved for seed or plant sources within the quarantined area only if:

a. all requirements for certification are met;

b. there are no sweet potato weevils within a two-mile radius of the field or storage house; and

c. all seed and/or plants are fumigated in an approved manner.

2. No certified seed tags or sweet potato tape will be issued to cover sweet potatoes in a sweet potato weevil quarantine area.

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), repealed and readopted LR 12:825 (December 1986), amended LR 22:1210 (December 1996).

§193. Sesame Seed Certification Standards

A. Field Standards

Factor	Foundation	Registered	Certified
Land Requirement	1 yr.	1 yr.	1 yr.
Isolation	1,200 ft.	1,200 ft.	600 ft.
Other Varieties	5 plants per acre	7 plants 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 Varieties	10 seed/lb.	50 seed/lb.	100 seed/lb.
Noxious Weeds: Cheat and Darnel	6 seed/lb.	6 seed/lb.	12 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 8:582 (November 1982), amended LR 9:197 (April 1983), repealed and readopted LR 12:825 (December 1986), amended LR 22:1210 (December 1996).

§195. Small Grain (Oats, Wheat, Rye) Seed Certification Standards

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 9:197 (April 1983), repealed and readopted LR 12:825 (December 1986).

§197. Shallot Seed Certification Standards

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 five 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 one 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 three percent plants or irregular growth and maturity and/or more than three 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 three 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), repealed and readopted LR 12:825 (December 1986).

§199. Singletary Pea Seed Certification Standards

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), repealed and readopted LR 12:825 (December 1986).

§201. Sorghum Seed Certification Standards

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), repealed and readopted LR 12:825 (December 1986).

§203. Soybean Seed Certification Standards

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 8:583 (November 1982), amended LR 9:197 (April 1983), repealed and readopted LR 12:825 (December 1986), amended LR 15:613 (August 1989).

§205. Southern Field Pea (Cowpea) Seed Certification Standards

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
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 8:583 (November 1982), amended LR 9:197 (April 1983), repealed and readopted LR 12:825 (December 1986), amended LR 23:1284 (October 1997).

§207. Sugarcane (Tissue Culture) Certification Standards

A. Limitation of Stand Eligibility

1. Source of foundation stock is limited only to material obtained from the Louisiana State University Agricultural Center 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 thereof.

a. 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 recertification 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. Field Inspections. At least four field inspections shall be made each year to determine if certified seedcane is being produced that apparently meets field standards.

C. Land Requirements. The land shall be fallowed one summer from the previous crop.

D. Field Standards

Factor	Foundation	Registered	Certified
Isolation	10 ft.	10 ft.	10 ft.
Other Varieties (obvious)	None	10.00%	10.00%
Off-type (definite)	None	1.00%	1.00%
Noxious Weeds:			
Johnson grass	None	50 plants/acre	50 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 Mosaic virus	None	5.00%	5.00%
Sugarcane Smut	None	0.50%	0.50%
**Harmful Insects: Sugarcane Borer	None	10.00%	10.00%
*Plants exhibiting symptoms.			
**Determined by percentage of internodes bored.			

E. 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.

F. 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, Seed Commission, LR 12:825 (December 1986), amended LR 23:1284 (October 1997).

§209. Sunflower Seed Certification Standards

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), repealed and readopted LR 12:825 (December 1986).

§211. Tall and Meadow Fescue Seed Certification Standards

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), repealed and readopted LR 12:825 (December 1986).

§213. Tomato Seed Certification Standards

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 & 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).

§215. Tree Seed Certification Standards

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), repealed and readopted LR 12:825 (December 1986).

§217. Watermelon Seed Certification Standards

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), repealed and readopted LR 12:825 (December 1986).

§219. Turf and Pasture Grass Certification Standards

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%
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), repealed and readopted by the Department of Agriculture and Forestry, LR 12:825 (December 1986), amended LR 16:847 (October 1990).

§221. Vetch Seed Certification Standards

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 Self-pollinating Varieties	10 ft.	10 ft.	10 ft.
Cross-pollinating Varieties	400 ft.	400 ft.	400 ft.
Other Varieties & 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), repealed and readopted LR 12:825 (December 1986).

§222. Virus-Tested Sweet Potato Certification Standards

A. Explanation of General Standards as Applied to Sweet Potatoes

1. The general "seed" certification standards as adopted are basic and together with the following specific

standards constitute the standards for certification of virus-tested sweet potatoes.

2. Definitions

Mericlones—all 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—is the art and science of 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.

Vine Cutting—sections preferably 8-12 inches in length cut from vines that can be transplanted in the greenhouse or field. 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.

Virus-Tested—a plant that has been previously tested for the presence of viruses on at least three separate occasions by grafting to the standard indicator plant for sweet potato viruses, the Brazilian morning glory (*Ipomoea setosa*). If the plant is found to be negative (no symptoms developed on the indicator) each time, it is considered *virus-tested* since it is not possible to absolutely prove the absence of any and all viruses.

3. The general standards are further defined as follows to apply specifically to *virus-tested* sweet potatoes. Classes and sources of certified "seed" are defined as follows.

a. *Source Seed*—shall be material entering the Louisiana Agricultural Experiment Station (LAES) seed program obtained by methods acceptable to the Louisiana Department of Agriculture and Forestry (LDAF).

b. *Nuclear Stock Plants*—shall be *source seed* that has been micropropagated, *virus-tested*, apparently free of other pests, and evaluated in field test for trueness to variety. This material shall be maintained under strict isolation in laboratory facilities maintained by LAES and/or any contracted micropropagation provider and approved by LDAF. The facilities shall be in a clean, dust-free building and be separated from any greenhouse or sweet potato storage operations. This building shall be at least 250 feet from any sweet potato field or greenhouse.

c. *Foundation Plants*—shall be greenhouse plants, produced by the LAES from *nuclear stock plants* that are *virus-tested* and recognized by LDAF. These plants must be grown under strict isolation in screen cages in which only plants that are *virus-tested* are grown.

d. *Certified G0*—shall be greenhouse plants produced by certified greenhouse growers from Foundation Plants. *Certified G0* Plants will be propagated as follows.

i. *Mother Plants*—are the plants obtained from LAES. *Mother plants* will be kept isolated in screen cages. *Mother plants* may be cut repeatedly for up to no more than 5 months to produce *daughter plants*.

ii. *Daughter Plants*—are plants produced by cuttings from *mother plants*. *Daughter plants* may be cut repeatedly for up to no more than 5 months to produce additional *daughter plants*.

(a). All plants produced from these propagations will be designated as *certified G0* and may be used to establish *certified Gl* field plantings.

iii. *Mini-Roots*—storage roots produced on plants grown in *certified G0* greenhouses may be used to establish *certified G2* field plantings.

(a). All plants, vine cuttings and roots produced from these mini-roots shall be designated as *certified G2*.

e. *Certified G1* (Field Generation 1)—*certified G1* 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.

i. All vine cuttings and roots produced during this first year of field production shall be designated as *certified G1*.

f. *Certified G2* (Field Generation 2)—*certified G2* 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.

i. All vine cuttings and roots produced during this second year of field production shall be designated as *certified G2*.

g. *Certified G3* (Field Generation 3)—*certified G3* 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.

i. All vine cuttings and roots produced during this third year of field production shall be designated as *certified G3*.

B. Greenhouse Requirements

1. Production

a. *Mother plants* will be kept isolated in screen cages.

b. For Greenhouse production it is required that:

i. entry shall be through double doors;

ii. a system for sanitizing hands and feet shall be in place;

iii. doors shall be kept locked;

iv. yellow sticky traps shall be used to monitor aphids and other insects;

v. screens of such mesh as to prevent entry of aphids shall be placed over all openings (vents, fans, windows, etc.);

vi. greenhouses shall be clearly marked to warn workers that they shall not enter, if they are coming from the field or from other noncertified greenhouses;

vii. aphids, whiteflies or other insects with sucking, mouthparts shall be controlled;

viii. decontaminate cutting tools on a regular basis and always when moving to another group of stock plants or plant lots;

ix. all growing medium (e.g. soil), containers, etc. used in the greenhouse must be sanitized by a method approved by LDAF;

x. all plants shall be removed from the greenhouse and the greenhouse kept free of plants for a minimum of 6 weeks between crop years.

c. Isolation

i. There shall be no plants growing within 10 feet of the greenhouse (grass for stabilization will be permitted, but weeds must be controlled).

ii. No other plants are allowed in the greenhouse.

iii. Greenhouses should be as far away as possible from sweet potato storage sheds, cull piles or other potential sources of sweet potato viruses.

d. Different varieties or mericlones must be clearly identified and separated.

e. LDAF must approve greenhouses before *mother plants* will be released to the grower.

2. Inspections

a. Grower

i. Producer will inspect vines twice weekly. If symptomatic plants are found, they will be removed and destroyed and parent plants will be inspected for disease symptoms. The grower will keep a log showing that inspections were made and if plants were removed.

ii. There will be a weekly inspection in and around the greenhouse perimeters to ensure isolation standards are being met.

iii. If problems are observed during weekly inspections the producer should notify LDAF.

b. LDAF

i. LDAF will 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.

ii. Once shipping of plants begins, final certification will not be allowed if symptomatic plants are found.

3. Inspection Standards

a. General Requirements

i. Unit of Certification shall be the entire greenhouse and such unit cannot be divided for the purpose for certification.

ii. Isolation requirements are described in §222.B.1.c.

iii. Increase requirements are described in §222.A.3.

b. Specific Greenhouse Requirements

Maximum Tolerance Allowed		
Presence or Symptoms of	Foundation (LAES)	Certified GO
Bacterial Stem Rot (*Erwinia chrysanthemi*)*	0	0
Black Rot (*Ceratocystis fimbriata*)*	0	0
Scurf (*Monilochaetes infuscans*)*	0	0
Root-Knot Nemtode (*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
Sweet potato Weevil (*Cylas formicarius* var. *elegantulus*)	0	0
Variety mixture	0	0
Off-types (mutations)	0	0
*Plants or mini-roots exhibiting symptoms		

C. Field Requirements

1. Production

a. All sweet potatoes produced in a field for certification must be grown from virus-tested stock.

b. Virus-tested C1 sweet potato "seed" will not be eligible for certification if produced on land which:

i. has produced sweet potatoes in the last 2 years;

ii. has received manure or sweet potato residue in the last 2 years;

iii. is subject to drainage from fields in which sweet potatoes have been grown in the last 2 years.

c. Isolation

i. Virus-tested sweet potato "seed" production fields shall be 750 feet from other sweet potatoes.

ii. An approved program shall be in place to control perennial plants of morning glories (e.g. *Ipomoea pandurata*, 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 20 feet.

e. Each unit of sweet potatoes that passed field inspection shall be marked or labeled at harvest to correspond with the field unit.

2. Inspections

a. The grower should inspect fields regularly during the growing season and remove any symptomatic plants that are found. LDAF should be informed if any problems are found.

b. At least two inspections by LDAF will be made during the growing season; others will be made if necessary.

i. At least one seed bed inspection will be made when applicable.

ii. First field inspection shall be made before vines have covered the ground so that symptomatic plants may be easily identified. Roguing will consist of pulling up the symptomatic plants, bagging them, and removing them from the field.

iii. Final inspection shall be made near to harvest.

3. Inspection Standards

a. General requirements

i. Unit of certification for production is a field and such unit cannot be divided for the purpose for certification.

ii. Isolation requirements are described in §222.C.1.c.

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. Land requirement for certified C1 fields is subject to §222.C.1.b. Land requirement for certified C2 and C3 fields is 2 years.

b. Specific Field Requirements (Vine Inspection)

Maximum Tolerance Allowed			
Presence or symptoms of:	Certified G1	Certified G2	Certified G3
Bacterial Stem Rot (*Erwinia chrysanthemi*)	none	none	none
Wilt (*Fusarium oxysporum* f. sp *batatas*)	none	none	none
Exotic or Hazardous Pests	none	none	none
Variety Mixture	none	none	none
Off-types (mutations)	0.05%	0.05%	0.10%

D. Storage Requirements

1. Before sweet potatoes grown for certification can be stored, the storage house must be cleaned and disinfected in a manner approved by LDAF.

2. Sweet potatoes grown for certification shall be stored in new containers (crates, pallet boxes, etc.) or used containers that have been disinfected and decontaminated in a manner approved by LDAF.

3. Certified seed roots shall be stored in a separate room from any noncertified roots.

4. Sweet potatoes from different field units shall be separated in storage by an aisle at least two feet wide.

5. A minimum of 20 percent of each lot of sweet potatoes entered for certification shall be inspected by LDAF during the storage inspection.

E. Standards for Plant and Root "Seed"

1. Plants:

a. apparently free of injurious disease, insects, or other pests;

b. true to variety characteristics;

c. of good color, fresh, firm, and strong;

d. of satisfactory size for commercial planting (cuttings approximately 8" - 12" long);

e. cuttings will be loosely packed and shipped in an upright position in boxes;

f. cuttings will not be shipped with other non-program plants.

2. Seed Roots

a. One storage inspection shall be made after harvest.

b. Sweet potatoes for certification must be well shaped. The minimum size shall be one inch in diameter and four inches in length, 30 ounces maximum weight.

c. Specific Seed Root Standards

Maximum Tolerance Allowed			
Presence or Symptoms of:	Certified G1	Certified G2	Certified G3
Surface Rots (*Fusarium* spp.) & Soft Rots (*Rhizopus* spp.)	5%	5%	5%
Bacterial Root Rot (*Erwinia* spp.)	none	none	none
Black Rot (*Ceratocystis fimbriata*)	none	none	none
Scurf (*Monilochaetes infuscans*)	1.0%	1.0%	2.0%
Steptomcyes soil rot (*Streptomyces ipomoeae*)	2.5%	2.5%	5.0%
Root-Knot Nematode (*Meloidgyne* spp.)	5.0%	5.0%	5.0%
Russet Crack (a stain of SPFMV)	none	none	none
Internal Cork (a virus)	none	none	none
Wilt (*Fusarium oxysporum* f. sp. *batatas*)	none	none	none

Sweet potato Weevil (*Cylas formicarius var. elegantulus*)	none	none	none
Exotic or hazardous pests	none	none	none
Variety Mixture	none	none	none
Off-types *(mutations)*	0.20%	0.20%	0.50%

F. Certificate Reporting System

1. The grower will be furnished numbered certificates of certification by the Louisiana Department of Agriculture and Forestry and shall:

a. issue a copy of the certificate to the purchaser for each shipment;

b. send a copy of each issued certificate to the Louisiana Department of Agriculture and Forestry within 10 days after each sale; and

c. maintain a copy of each issued certificate on file.

G. Sweet Potato Weevil Quarantine Area

1. Sweet potato plants grown in a sweet potato-weevil quarantine area will be approved for seed or plant sources for use only within the quarantined area if:

a. all requirements for certification are met; and

b. there are no sweet potato weevils within a two-mile radius of the field or storage house.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Seed Commission, LR 25:1620 (September 1999).

Subchapter D. Approval of Plant Breeders

§223. Authority

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), repealed and readopted LR 12:825 (December 1986).

§225. Definition of Terms Used

*Agricultural Seeds***C**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***C**a person qualified in accordance with the requirements set forth herein and approved by the commission.

*Breeder Seed***C**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***C**an official document signed by the commissioner certifying that the holder is an approved plant breeder.

*Commission***C**the Seed Commission as created in R.S. 3:14.32.

*Commissioner***C**the Commissioner of Agriculture and Forestry of the State of Louisiana.

*Entomologist***C**the entomologist of the Louisiana Department of Agriculture and Forestry.

*Foundation Seed***C**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***C**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, repealed and readopted LR 12:825 (December 1986).

§227. Professional Service for Which an Approved Plant Breeder is Required

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 §229 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, repealed and readopted LR 12:825 (December 1986).

§229. Qualifications for Approved Plant Breeders

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 2;

4. hold a bachelor's degree in general agriculture, but not qualified under either 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 Subsection 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, repealed and readopted LR 12:825 (December 1986).

§231. Conditions Governing the Approval of Plant Breeders

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 §229.

C. Applicants for a certificate qualifying under 1, 2, 3 and 4 of §229 shall supply with their application a copy of his college or university transcript; and in the cases of 2, 3 and 4 affidavits supporting the experience requirements indicated under 2; and under 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), repealed and readopted LR 12:825 (December 1986).

§233. Plant Breeder Examination

A. Applicants to qualify for certification as plant breeders under §229.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), repealed and readopted LR 12:825 (December 1986).

§235. Issuance and Duration of Certificates

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 §231 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), repealed and readopted LR 12:825 (December 1986).

Subchapter E. Repeal of Prior Rules and Regulations

§237. Repeal of Prior Rules and Regulations of the Seed Commission

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), repealed and readopted LR 12:825 (December 1986).

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***C**any designee of the state entomologist who is qualified by training and/or experience to identify plant pests or diseases.

*Certificate***C**a document issued by the state entomologist evidencing apparent freedom of plants, plant products or parts thereof or regulated articles from infestation.

*Certificate Permit***C**a permit which authorizes the movement, sale or offer for sale or storage of plants, plant products or parts thereof or regulated materials.

*Certificate Permit Tag***C**a tag which authorizes the movement, sale or offer for sale or storage of plants, plant products or parts thereof, or regulated materials.

*Commissioner***C**the commissioner of Agriculture and Forestry.

*Container***C**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***C**the Louisiana Department of Agriculture and Forestry.

*Eradication Area***C**any area within a quarantine area in which plants or host material or other equipment are to be eradicated.

*Fumigation Certificate***C**a document evidencing fumigation of plants, plant products or parts thereof or regulated materials.

*Host***C**any plant on or in which any plant pest or plant disease lives for nourishment or protection.

*Host Material***C**any substance which harbors any plant pest or disease.

*Infested Property***C**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***C**a document authorizing the movement of regulated articles to a restricted area for limited handling, utilization, processing or for treatment.

Move, *Movement* or *Moved***C**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***C**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***C**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***C**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***C**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***C**any equipment of any kind, containers for crops, vehicles and other similar properties where plant pests and/or diseases may be found.

*Quarantine***C**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***C**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***C**any property under quarantine or within a one-mile radius of any property under quarantine.

Regulated Materials or *Restricted Materials***C**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*Cthe 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).

§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 similis*	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 orginal 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 2500 square feet or greenhouse area greater than 200 square feet shall be $50 per location per year and all other nursery certificate permittees shall pay a fee of $10 per location per year.

2. There is hereby established and henceforth there shall be a fee of $.05 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 Janurary 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: Promugated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 15:78 (February 1989).

§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, one-half mile from phony infested commercial orchards and one-half mile from urban areas;

3. that all area within a one-half 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).

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 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).

§135. Definitions Applicable to this Subchapter

*Commercial Kiln and Storage Houses***C**any buildings where sweet potatoes produced by different farmers or growers are assembled and stored.

Farm Kiln or *Storage House***C**a building or enclosed structure located on a farm in which sweet potatoes grown solely on said farm are stored.

*Non-sweet Potato Area***C**any area in which the planting, bedding, permitting to grow to maturity or storage of any material which acts as a host for the sweetpotato weevil is prohibited.

*Platform Inspection***C**a visual examination by an inspector of sweet potatoes cleaned and packed/containerized prior to issuing a certificate permit.

*Processing Plants***C**canning, freezing and dehydrating plants.

*Sweet Potato Dealer***C**a person engaged in the sale, offering for sale, movement 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).

§137. Issuance of Certificate Permits, Certificate Permit Tags, and Fumigation Certificates for the Movement of Restricted Material

A. From Sweetpotato Weevil-Free Areas

1. Green certificate permit tags will be issued to persons in that portion of the state designated by the department as sweetpotato weevil-free who possess a valid sweet potato dealer's permit as required under the provisions of '147 hereof, upon request to the state entomologist.

2. Certificate permits authorizing the movement of restricted material from the sweetpotato weevil-free areas to points within and outside of Louisiana will be issued by the state entomologist under the following conditions.

a. The person desiring such movement has a valid sweet potato dealer's permit if required to possess such permit under the provisions of §147 hereof.

b. A platform inspection of the restricted material indicates that the restricted material is free of the sweetpotato weevil.

c. Green certificate permit tags are properly dated with the packing date and are 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.

3. Dated green certificate permit tags shall not be reused and may be declared invalid 30 days following the packing date stamped on each tag.

4. Restricted material moving into that portion of Louisiana or any other state designated as sweetpotato weevil-infested, unless moving under the provisions set forth in §139.D.2.c hereof, shall not be moved back into any Louisiana sweetpotato weevil-free area and shall lose its sweetpotato weevil-free status.

B. From Sweetpotato Weevil-infested Areas

1. Pink certificate permit tags will be issued to persons in that portion of the state designated by the department as sweetpotato weevil-infested who possess a valid sweet potato dealer's permit as required under the provisions of §147 hereof, upon request to the state entomologist.

2. Certificate permits authorizing the movement of restricted material from or within sweetpotato weevil-infested areas will be issued by the state entomologist under the following conditions.

a. The person desiring such movement has a valid sweet potato dealer's permit if required to possess such permit under the provisions of §147 hereof.

b. A platform inspection of the restricted material indicates that the restricted material is apparently free of the sweetpotato weevil.

c. Pink certificate permit tags are properly dated with the packing date and are 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.

d. The regulated material is not moved from a sweetpotato weevil-infested area into a sweetpotato weevil-free area, unless fumigated under the provisions set forth in '138 hereof, or to any state which may prohibit entry of such restricted material.

e. The lot of sweet potatoes, if moving by truck to an area which permits entry of restricted material, is sealed in the truck body by the use of not more than two seals. Tarpaulins or other means used to seal the truck body must be approved by the department in advance of moving sweet potatoes. No seal shall be broken until the truck reaches the destination shown in the certificate permit authorizing the movement of the sweet potatoes. If the truck load is comprised of mixed produce including one or more containers of sweet potatoes, the entire load of produce must be sealed in the truck before leaving the loading point; a certificate permit covering the sweet potatoes must be issued.

f. Certificate permits attesting to sweet potato fumigation and authorizing the movement of restricted material from sweetpotato weevil-infested areas will be issued when such restricted material is inspected, found apparently free of the sweetpotato weevil and fumigated under the provisions set forth in §138 hereof.

3. Dated pink certificate permit tags shall not be reused and may be declared invalid 30 days following the packing date stamped on each tag.

C. §138.A and B do not apply to restricted materials originating from sweetpotato weevil-infested properties, or properties within a one-mile radius thereof, located in that portion of the state designated by the department as sweetpotato weevil-free.

D. No sweet potatoes may be moved or shipped within or out of Louisiana unless a valid certificate permit is issued for each shipment.

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).

§138. Fumigation and Maintenance of Weevil-free Status of Restricted Materials Originating in Quarantined Areas

A. Fumigation Measures. Persons operating storage houses and/or packing sheds who desire to move restricted materials outside of that portion of the state designated by the department as sweetpotato weevil infested shall:

1. fumigate only "quick cured" sweet potatoes;

a. quick cured sweet potatoes must have been cured at approximately 85EF (29.5EC) and 85 percent relative humidity for five to seven days;

b. only good quality sweet potatoes with a minimum of bruises or other skin damage shall be fumigated;

2. enlist the services of a certified fumigator to perform the fumigation;

3. possess a valid fumigation certificate issued by a certified fumigator, indicating that sweet potato 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;

4. fumigate with hydrogen phosphide or any other fumigant approved for use on sweet potatoes and formulated and used in a manner approved by the department. If hydrogen phosphide is used, the fumigant concentration shall be maintained at a minimum of 200 ppm for five days.

B. Maintenance of Weevil-free Status. Restricted materials shall be maintained in such a manner that the integrity of their weevil-free status following fumigation is retained.

1. *Fumigation chamber***C**fumigated sweet potatoes may be stored in a fumigation chamber approved by the department, designed specifically for fumigating and storing sweet potatoes. The chamber shall be airtight with a self contained, screened exhaust system in place; shall possess doors that seal; shall contain a minimum of 1000 cubic feet of space, and larger chambers must be designed to contain an even multiple of 1000 cubic feet; shall be cleaned of all sweet potatoes, parts, and any other restricted 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 is not available, fumigation and storage of restricted materials shall:

a. be in a storage area separate from and in no way connected to any other storage or packing areas containing non-fumigated restricted materials. Storage area must be cleaned of all sweet potatoes, parts, and any other restricted materials between periods of storage;

b. be in a storage area that has 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 must not be used to store any non-fumigated restricted materials;

c. fumigation shall be accomplished by tenting the restricted material with a sealed tarpaulin or other suitable sealable material of adequate thickness and construction for use in fumigation with hydrogen phosphide or other commercial fumigants;

d. restricted 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*Csweet potatoes fumigated, screened and stored according to §138.A.1-4 and B.1-3.d may be washed and packed in the same packing house or shed as non-fumigated sweet potatoes, provided:

a. Packing house or shed and all packing equipment is cleaned of all sweet potatoes, parts, and any other restricted materials prior to washing and packing of fumigated sweet potatoes.

b. 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 §138.A.1-4 and B.1-3.d.

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 quarantined areas shall be cleaned of all sweet potatoes, parts, and any other restricted materials prior to hauling fumigated sweet potatoes. Vehicle compartments previously containing shipments of non-fumigated restricted materials that were moved from or within quarantined areas must be treated with an appropriately labeled chemical and in a manner approved by the department prior to loading fumigated sweet potatoes for shipment. No non-fumigated sweet potatoes shall be 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 sweet potato quarantine regulation requirements and desiring to ship restricted materials that have been properly fumigated from quarantined areas to pest free areas or to states that may prohibit entry of such restricted materials. Permit tags shall be properly dated and attached to or within each container in a load or shipment of fumigated sweet potatoes.

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).

§139. Effect of Quarantine for Sweetpotato Weevil

A. Sweetpotato Weevil-Free Areas of Louisiana

1. The growing and/or storing of restricted material, including seed beds and field plantings of sweet potatoes, or allowing restricted material to grow to maturity, is prohibited in areas declared to be non-sweet potato areas, except under special permit issued by the state entomologist. Non-sweet potato areas include but are not limited to sweetpotato weevil-infested properties, and properties within a one-mile radius thereof, located in that portion of the state designated by the department as sweetpotato weevil-free.

2. Any restricted material found in non-sweet potato areas shall be disposed of in a manner approved by the state entomologist.

B. Sweetpotato Weevil-Infested Areas of Louisiana. Owners and/or persons in charge of properties supporting active infestations of sweetpotato weevil within that portion of the state designated as sweetpotato weevil-infested may save their own seed sweet potatoes, provided that:

1. such seed sweet potatoes are apparently free of the sweetpotato weevil;

2. such seed sweet potatoes are properly treated in a manner approved by the state entomologist at the time of storage;

3. 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.

C. Statewide

1. Sweet potatoes in seed beds 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.

2. All sweet potato fields shall be harvested by December 1 of each year by the owner and/or tenant or renter. Such fields shall be destroyed within 15 days after harvesting, or by 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.

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 state entomologist. 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 state entomologist; 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. Restricted 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 a valid certificate permit 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 restricted 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 §138 hereof, shall enter that portion of Louisiana designated sweetpotato weevil-free unless moving under the provisions set forth in §139.D.2.c hereof.

b. Restricted 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 that portion of Louisiana designated sweetpotato weevil-infested unless moving under the provisions set forth in §139.D.2.c hereof.

c. Movement of restricted material from sweetpotato weevil-infested or sweetpotato weevil regulated areas through that portion 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 restricted material added to the shipment, and shall not be unloaded within the weevil-free area of Louisiana.

d. Restricted material originating in areas designated sweetpotato weevil-free that is moved into any area designated sweetpotato weevil-infested or sweetpotato weevil regulated, except under the provisions of §139.D.2.c hereof, shall not be moved back into any sweetpotato weevil-free area 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).

§141. Handling, Storage and Processing of Sweet Potatoes Within That Portion 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 that portion 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 state entomologist 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 be held in processing plants, warehouses or other storage houses on properties supporting active infestations of sweetpotato weevils; moved in any manner; or 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 §141.A. This provision shall apply to all sweet potatoes even though previously inspected and certified for sale and movement. 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 state entomologist unless a special permit extending the deadline is issued by the state entomologist.

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).

§143. Fees

A. A fee of four cents per bushel shall be charged for each bushel of sweet potatoes moved and/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 five cents per thousand shall be charged for vines, plants, slips or cuttings moved and/or shipped within or out of Louisiana.

D. Time when fees are to be assessed.

1. *Fresh Market***C**assessed at the time a certificate permit is issued to authorize sale, offer for sale, movement, or shipment of the sweet potatoes.

2. *Processing Plants***C**assessed at the time the sweet potatoes are moved into a plant for processing and/or packed to be shipped as nonprocessed 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).

§145. Penalties for Violation of Sweetpotato Weevil Quarantine

A. Any person violating any portion of the sweetpotato weevil quarantine 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 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 will be destroyed at the expense of the person or persons responsible for the plantings.

D. Regulated material found in violation of these regulations shall be destroyed and/or disposed of in a manner approved by the state entomologist at the expense of the person or persons responsible for the restricted 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 11:322 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:705 (July 1992).

§147. Sweet Potato Dealer's Permit

A. All persons, including sweet potato growers and/or farmers, selling or offering for sale sweet potatoes shall not move, clean, grade, pack or repack for sale, or process in any manner sweet potatoes without a valid Sweet Potato Dealer's Permit. Sweet potatoes that are moved, cleaned, graded, packed or repacked for sale and/or processed, and that are sold or offered for sale shall be inspected under the provisions of §137 hereof.

B. Applicants for Sweet Potato Dealer's Certificate Permit shall:

1. complete and file the application required by the department, which shall set forth the following conditions:

a. a guarantee to reimburse any purchase price of sweet potatoes which are confiscated because of sweetpotato weevil infestation or unauthorized sale, offer for sale and/or movement;

b. an agreement to permit, at the dealer's cost, the 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.

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).

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***C**a gin with a pink bollworm kill efficiency rating of 90 percent or better.

Disinfected or *Disinfested Seed***C**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 unmanfactured 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

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.

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. 3:1608.
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), amended LR 23:195 (February 1997).

§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. There is hereby created an eradication zone which shall hereafter be known as the Red River Eradication Zone.

1. The Red River Eradication Zone shall consist of all those territories within the boundaries of the following parishes: Acadia, Avoyelles, Bienville, Bossier, Caddo, Claiborne, DeSoto, East Baton Rouge, Evangeline, Grant, Natchitoches, Pointe Coupee, Rapides, Red River, St. Landry, St. Tammany, Webster, West Baton Rouge, West Feliciana.

2. The effective date of the establishment of the Red River Eradication Zone shall be October 18, 1996.

B. There is hereby created an eradication zone which shall hereafter be known as the Louisiana Eradication Zone.

1. The Louisiana Eradication Zone shall consist of all those territories within the boundaries of all parishes in the state of Louisiana which are not within the Red River Eradication Zone.

2. The effective date of the establishment of the Louisiana Eradication Zone shall be July 15, 1998.

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).

§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 complete a Cotton Acreage Reporting Form provided by the commissioner by April 15 or at sign-up of the current growing season, and shall submit the completed form to the ASCS office responsible for the parish or parishes in which they produce cotton. Such report shall be filed for each year of the program and shall include the intended acreage and location of cotton to be planted during the current growing season.

B. All cotton producers growing cotton in the state of Louisiana shall also complete a Cotton Acreage Reporting Form provided by the commissioner by the later of July 1 or at final certification of the current growing season, and shall submit the completed form to the ASCS office responsible for the parish or parishes in which they produce cotton. Such report 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.

C. Noncommercial cotton shall not be planted in an 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. 3:1607, 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).

§321. Program Participation, Fee Payment and Penalties

A. Upon passage of the referendum, all cotton producers growing cotton in an eradication zone shall be required to participate in the eradication program.

B. Assessments on cotton producers in the eradication zones shall be levied as follows.

1. In the Red River Eradication Zone cotton producers shall each year, during the first five years of the program, submit to the ASCS office the annual assessment as set by the commission following the adjudicatory procedure of the Administrative Procedure Act, which assessment shall not exceed $10 per acre the first year and $35 per acre for each remaining year, for each acre of certified cotton acreage on file with ASCS.

2. In the Louisiana Eradication Zone cotton producers shall each year, during the first five years of the program, submit to the ASCS office the annual assessment as set by the commission following the adjudicatory procedure of the Administrative Procedure Act which assessment shall not exceed $15 per acre for each year or a total of $75 per acre.

3. Cotton producers who request waiver of the assessment on any acre planted in cotton for a crop year may obtain such waiver by destroying all living cotton plants, to the satisfaction of the Boll Weevil Commission, on any such acre prior to July 15 of the crop year for which the assessment is due. All acres on which cotton is destroyed for purposes of obtaining a waiver of the assessment shall remain void of all living cotton plants through December 31 of the same year. Any cotton producer who fails to destroy and maintain such destruction of living cotton plants to the satisfaction of the Boll Weevil Commission shall be liable for the assessment for that crop year.

4. The Commission has the authority to inspect any cotton field in which a cotton producer has claimed to have destroyed their 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 file a completed Cotton Acreage Reporting Form 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 $3 per acre.

F. Beginning with the second year of the program and continuing for subsequent years, any cotton producer whose ASCS certified acreage exceeds his reported acreage by more than 10 percent shall, for each ASCS certified acre in excess of that reported, be subject to a penalty fee of $5 per acre in addition to the assessment fee, payable on or before September 1 of the current growing season.

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.

I. Cotton producers shall destroy cotton stalks in every field location planted to cotton, on or before December 31 of each year. Cotton stalk destruction shall consist of shredding or disking to the extent of eliminating standing cotton stalks. Failure to destroy stalks by December 31 of each year shall be a violation of these regulations.

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 21:17 (January 1995), amended LR 21:669 (July 1995), LR 23:195 (February 1997), LR 24:2231 (December 1998), LR 25:829 (May 1999).

§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. Boll Weevil Eradication Zones: Continuation, Program Participation, Fee Payment and Penalties

A. Upon passage of any referendum that continues a boll weevil eradication zone, all cotton producers growing cotton in the eradication zone shall be required to participate in the eradication program established for that zone.

B. Cotton producers in any boll weevil eradication zone continued by referendum, shall each year, submit to the FSA office the annual assessment as set by the commission in accordance with the Administrative Procedure Act, which assessment shall not exceed $10 per acre for each year.

C. All of the provisions in §321.C-I of these regulations shall apply to each boll weevil eradication zone continued by referendum.

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).

Title 7
AGRICULTURE AND ANIMALS
Part XVII. Commercial Feeds

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. 3:1892(G) 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. 3:1896(1) through R.S. 3:1896(5).

D. Individual chemical compounds and substances are hereby declared exempt from the definition of commercial feed under the provisions of R.S. 3:1892(G). 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***C**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***C**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***C**secondary products produced in addition to the principal product except ingredients which are a primary source of protein.

*Commercial Feed***C**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***C**the Louisiana Feed Commission.

*Commissioner***C**the commissioner of agriculture or his duly authorized representatives acting at his direction.

*Crude Fat***C**the percent ether extract (or other appropriate fat solvent extract) determined by the appropriate official method outlined in *AOAC Official Methods of Analysis (1984)* Sections 7.060-7.065.

*Crude Fiber***C**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 (1984)* Sections 7.066-7.071.

*Crude Protein***C**the percent nitrogen times 6.25 where the percent nitrogen is determined by the appropriate official method outlined in *AOAC Official Methods of Analysis (1984)* Sections 7.010-7.059.

*Customer Formula Feed***C**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***C**to sell, offer for sale or expose for sale or trading.

*Distributor***C**a person who distributes.

*Guaranteed Feeding Units***C**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***C**any of the constituent materials making up a commercial feed.

*Invert Sugar***C**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 (1984)*. The method varies with the type of material being analyzed.

*Label***C**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***C**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***C**horses, mules, cattle, sheep, goats, swine, domestic rabbits, poultry animals identified with aquaculture, game birds and such other animals of agricultural importance as the commissioner may designate.

*Manufacture***C**to grind, mix, blend or further process a commercial feed for distribution.

*Manufacturer***C**a person who manufactures a commercial feed or a customer-formula feed.

*Medication***C**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***C**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***C**a sample of feed taken by the commissioner or his agent in accordance with provisions of R.S. 3:1898(A), (B), (E), or (F).

*Package***C**a parcel, bag or other container.

Percent or *Percentages***C**percentages by weights.

*Person***C**includes individual, partnership, corporation and association, or other legal entity.

*Pet***C**any domesticated animal normally maintained in or near the household of the owner thereof.

*Pet Food***C**any commercial feed prepared and distributed for consumption by pets.

*Premises***C**any place such as, but not exclusively, warehouses, factories, stores, trucks, railroad cars, boats, etc.

*Products Sold Primarily for Sugar Content***C**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)***C**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***C**the person registering a feed with the commission.

Rule, Rules, Regulation, Regulations or *Rules and Regulations***C**those of the commission adopted initially and from time to time to achieve the intent and purposes of R.S. 3:1891, et seq. or to facilitate its administration.

*State Chemist***C**the director of the Agricultural Experiment Station at Louisiana State University and Agricultural and Mechanical College.

*Sugars***C**any of the class of water-soluble crystalline carbohydrates including sucrose and lactose having a characteristically sweet taste.

*Ton***C**a net weight of two thousand pounds avoirdupois.

*Value of the Protein Deficiency***C**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***C**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***C**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. 3:1891 and R.S. 3:1892.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:219 (March 1985).

§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. 3:1894(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**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. 3:1894(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. 3:1894(A)(1) through R.S. 3:1894(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. 3:1894(A)(8) and R.S. 3:1894(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. 3:1894(A)(8) and R.S. 3:1894(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. 3:1894 shall be subordinated or obscured by other statements or designs.

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 exp ressed in accordance with ' 107.D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1893, R.S. 3:1894 and R.S. 3:1892.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:220 (March 1985), amended LR 11:943 (October 1985).

§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. 3:1893, R.S. 3:1894 and R.S. 3:1892.

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**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 one 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. 3:1893, R.S. 3:1894 and R.S. 3:1892.
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. 3:1893, R.S. 3:1894 and R.S. 3:1892.
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. 3:1893, R.S. 3:1894 and R.S. 3:1892.
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. 1893, R.S. 3:1894 and R.S. 3:1892.
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. 3:1891(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. 3:1894 and R.S. 3:1892.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:223 (March 1985).

§117. Adulterants

A. For the purpose of R.S. 3:1896(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. 3:1896 and R.S. 3:1892.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:223 (March 1985).

§119. Good Manufacturing Practices

A. For the purposes of enforcement of R.S. 3:1896(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. 3:1896 and R.S. 3:1892.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:223 (March 1985).

§121. Fees

A. Each application for registration with the commission shall be accompanied by a registration fee of $25.

B. Each registrant filing a label with the commission shall pay to the commissioner a labeling fee of $5 per label for one to 50 products, $4 per label for 51 to 200 products, $3 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. Except as provided in Subsection E of this Section, each registrant who manufactures a commercial or customer-formula feed for distribution in this state shall pay the commissioner an inspection fee of 75 cents per ton on all commercial feed sold in the state. Payment of the inspection fee shall be made on the basis of tonnage reports submitted by the registrants of commercial feeds. If a registrant has 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 representatives 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 judgement 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 the fee has been paid by a previous manufacturer;

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.

F. In the case of a commercial feed which is distributed in this state only in packages of 10 pounds or less, an annual fee of $100 shall be paid in lieu of the inspection fee provided in Subsection D of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1901 and R.S. 3:1892.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:223 (March 1985), amended LR 11:944 (October 1985).

§123. Protein Value

A. For the purpose of assessing penalties for protein deficiencies in feeds, as provided for in R.S. 3:1900(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. 3:1900. 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. 3:1891 and R.S. 3:1892.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:224 (March 1985), amended LR 11:944 (October 1985).

Subchapter B. Official Pet Food

§125. Definitions and Terms

*Principal Display Panel***C**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.

*Ingredient Statements***C**a collective and contiguous listing on the label of the ingredients of which the pet food is composed.

*Immediate Container***C**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.

The commission adopts all definitions of R.S. 3:1891 and those that appear in §101.F of the official feed rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1892.

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. 3:1893, R.S. 3:1894 and R.S. 3:1892.

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. 3:1893, R.S. 3:1894 and R.S. 3:1892.

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. 3:1894(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. 3:1894(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. 3:1893, R.S. 3:1894 and R.S. 3:1892.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:226 (March 1985).

§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. 3:1893, R.S. 3:1894 and R.S. 3:1892.

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. 3:1891(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. 3:1894 and R.S. 3:1892.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:226 (March 1985).

§137. Fees

A. Fees for pet foods shall be the same as for other animal feeds as set forth in R.S. 3:1901 and §121 of the official feed rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1901 and R.S. 3:1892.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:226 (March 1985).

§139. Penalties

A. Penalties for pet food will be the same as penalties for other animal feeds as set forth in R.S. 3:1900 and §123 of the official feed rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1900 and R.S. 3:1892.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:226 (March 1985).

Subchapter C. Processed Animal Waste Products as Animal Feed Ingredients

§141. Definitions and Quality Standards

A. The commission adopts the definitions of R.S. 3:1891 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. 3:1892.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:226 (March 1985).

§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. 3:1893.

B. Application for registration shall be made to the commissioner 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 Louisiana Feed 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 the Office of the Louisiana State Livestock Sanitary Board and these rules and regulations for registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1893 and R.S. 3:1892.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:226 (March 1985).

§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. 3:1896;

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 commissioner 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. 3:1893 and R.S. 3:1892.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:227 (March 1985), amended LR 11:944 (October 1985).

§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. 3:1893, R.S. 3:1894 and R.S. 3:1892.
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. 3:1896.

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 one-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. 3:1896 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. 3:1898 and R.S. 3:1892.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:227 (March 1985).

§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. 3:1901 and R.S. 3:1892.
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. 3:1901 and §121 of the official feed rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1901 and R.S. 3:1892.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:227 (March 1985).

§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. 3:1900 and §123 of the official feed rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1900 and R.S. 3:1892.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:228 (March 1985).

Subchapter D. Probation of Registrants

§157. Probationary Status of Registrants

A. A registrant shall be placed on probation by the commission whenever 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 Subsection A of Section 1900 in the Louisiana Feed Statutes. 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 Chapter 14, Commercial Feeds.

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 Feed Commission immediately 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. 3:1900 and R.S. 3:1892.
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 14:347 (June 1988).

§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 whenever any registrant fails to comply with the requirements of R.S. 3:1891 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. 3:1900 and R.S. 3:1892.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:228 (March 1985).

§161. Appeals From Action of the Feed Commission; Department of Agriculture 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 the Agricultural Chemistry Division. 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 Feed 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. 3:1900 and R.S. 3:1892.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:228 (March 1985).

§163. Appeals Concerning Results of Chemical Analysis

A. Whenever 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 the Agricultural Chemistry Division within 10 days of the date of the report of chemical analysis.

B. Whenever questions concerning the accuracy of the analysis made by the director of the Agricultural Chemistry Division cannot be amicably resolved, the registrant may place his complaint on the agenda at the next meeting of the Feed Commission for a final determination.

C. Whenever 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. 3:1892 and R.S. 3:1900.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:228 (March 1985).

§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 Feed 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 Feed Commission following receipt of the request for a hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1892 and R.S. 3:1900.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:228 (March 1985).

§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. Whenever 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 apply to a court of competent jurisdiction, provided that all such matters shall be lodged in the parish in which the violation occurred.

E. Whenever any provisions of these regulations and/or the statutes governing the registration of feeds cannot be resolved through the appeal process set forth herein, the commissioner of agriculture shall proceed with any judicial remedy available under the provisions of R.S. 3:1891 et seq. The commissioner of agriculture shall be required to notify the registrant or unregistered person or firm against whom such charges are filed of his action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1892, R.S. 3:1900 and R.S. 3:1893.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:228 (March 1985).

§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 Feed Commission, the commissioner of agriculture, nor any employee of the Department of Agriculture.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1901 and R.S. 3:1892.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:228 (March 1985).

Subchapter E. Repeal of Previously Adopted Rules and Regulations

§171. Repeal of Previously Adopted Rules and Regulations

A. This repeals any other feed regulations which may have been adopted pursuant to R.S. 3:1891 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1892.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Feed Commission, LR 11:229 (March 1985).

Title 7
AGRICULTURE AND ANIMALS
Part XXI. Diseases of Animals

Chapter 1. General Provisions

§101. Definitions

*Accredited Herd***C**a herd which has passed at least two consecutive annual tuberculin tests and no other evidence of bovine tuberculosis has been disclosed.

*Accredited Veterinarian***C**a veterinarian approved by the United States Department of Agriculture (USDA) to perform the function involved in connection with the inspection and certification of animals.

*Annual Test***C**tests conducted at intervals of not less than 10 months nor more than 14 months.

*Approved Slaughter Establishment***C**any slaughter establishment that is under state or federal meat inspection.

*Auction Operator***C**a person responsible for the operation of a livestock auction market.

*Auction Veterinarian***C**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***C**an employee of the Livestock Sanitary Board or the USDA.

*Authorized Buyer***C**

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***C**the Livestock Sanitary Board.

*Breeding Purpose***C**all cattle, purebred or grade, that are sold for stocker, feeding, grazing, dairy and/or reproductive purposes.

*Breeding-Type Cattle***C**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***C**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***C**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.

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***C**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***C**

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 Quarantined Area***C**an area or state that is under USDA brucellosis quarantine.

*Brucellosis Qualified Herd***C**a herd located in a brucellosis quarantined area that has been tested and found negative to brucellosis within the last 12 months.

*Brucellosis Quarantined Herd***C**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***C**any animal which is positive to one or more brucellosis tests which indicate the animal is infected with brucellosis.

*Brucellosis Test Eligible***C**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).

*Buyer***C**any individual, partnership, corporation or association which handles EIA positive and/or "S" branded horses.

*Certificate of Approval***C**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***C**a herd that meets the requirements as outlined in the federal Uniform Methods and Rules (brucellosis eradication).

*Commercial Poultry Producer***C**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.

*Complete Negative Brucellosis Herd Test***C**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***C**any infected herd not tested within a period of 120 days is considered delinquent.

*Destroyed***C**condemned under state or federal authority and destroyed by slaughter or by death.

*Digester***C**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***C**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***C**capable of delivering required temperature as a unit designed by Floyd Rush Corporation patent or comparable equipment.

Executive Secretary and/or *State Veterinarian***C**an appointee representing the board to serve in said capacity.

*Federal Inspector***C**an inspector or veterinary medical officer of the Animal and Plant Health Inspection Service, United States Department of Agriculture.

*Form VS 1-27***C**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***C**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***C**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***C**the removal of all cattle in the herd direct to slaughter prior to any restocking of the premises with cattle.

*Hog Cholera***C**the contagious, infectious, and communicable disease of swine.

*Individually Identified***C**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***C**any disease capable of being transmitted from one animal to another, either directly or indirectly.

*Livestock***C**cattle, sheep, swine, goats, horses, mules, burros, asses or other livestock of all ages.

*Livestock Auction Market***C**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***C**an official document issued by the board annually authorizing a person to operate a livestock auction.

*Livestock Dealer***C**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.

*Modified Accredited Area***C**a state or portion thereof which is actively participating in the eradication of tuberculosis and maintains its status.

*Mortgage***C**any mortgage, lien or other security or beneficial interest held by any person other than the one claiming indemnity.

*Moved***C**shipped, transported or otherwise moved, or delivered or received for movement, by any person, via land, water or air.

*Negative Herd***C**

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***C**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***C**calfhood or adult vaccinates as outlined in §319.E and F.

*Official Calf Vaccinates***C**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***C**a legible record of an animal's health recorded on an official form. These certificates are valid for 30 days only.

*Official Pseudorabies Serological Test***C**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***C**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***C**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***C**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***C**a herd in which no animals were classified as reactors or suspects on the herd test.

*Permit***C**a license issued annually by the Livestock Sanitary Board.

*Person***C**any natural person and/or persons, partnership, corporation, unincorporated association and/or any legal entity whatsoever.

*Poultry***C**chickens, ducks, turkeys, pigeons, guinea fowl, geese, peafowl and pheasants and other domestic feathered life, including hatched eggs.

*Quarantined Feedlot***C**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***C**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***C**a slaughter establishment maintaining state or federal meat inspection.

*Rendering Plant***C**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.

*Screwworms***C**the communicable disease (myiasis) of livestock caused by the presence of the screwworms (cochlyomio hominivorax).

*State Inspector***C**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***C**the executive secretary of the Livestock Sanitary Board.

*State-Federal Quarantined Feedlot***C**a feedlot that has obtained a permit from the Livestock Sanitary Board to operate as outlined in §325.

*Sterilized and Dehydrated Foods***C**waste food which has been subjected to sufficient dry heat, 325EF. 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***C**all measures used to detect the presence of tuberculosis in the cattle population.

*Tuberculosis Exposed Herd***C**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***C**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***C**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***C**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 five 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***C**an official brucellosis negative card test.

*Valid 30-day Negative Brucellosis Test Certificate***C**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")**C**a veterinarian employed by the Livestock Sanitary Board or the United States Department of Agriculture, Animal and Plant Health Inspection Service.

*Veterinary Services***C**the Animal and Plant Health Inspection Service, United States Department of Agriculture.

*Waste Food Processor***C**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 12:289 (May 1986), 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).

§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).

§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).

§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 of the week, provided that the board may approve an applicant's request for approval of a sale on the same day of the week as a sale conducted by an established, chartered market within a 50-mile radius if the operator(s) of the established market(s) submits a statement, in writing, to the effect that he has no objections to the board's approval of the same sales day.

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 three inch hot brand on the left jaw with the letter S and all reactor and exposed cattle shall be separated from other cattle, placed in separate quarantine pens or stalls identified by quarantine sign, and shall be sold to an approved slaughter establishment for immediate slaughter only. Exposed cattle may be sold to state-federal approved quarantined feedlots.

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).

§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.

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 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).

§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 by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 23:195 (February 1997).

§121. Requiring the Reporting of Contagious Diseases

A. In order to improve the protection of the livestock industry from the effects of contagious diseases of livestock, all veterinarians licensed in the state of Louisiana, are required to report to the state veterinarian, by telephone or wire, within 24 hours after diagnosis or tentative diagnosis, the occurrence of suspected occurrence of the following contagious diseases: hog cholera, anthrax, vesicular condition, scabies, equine encephalomyelitis, pullorum/typhoid, pseudorabies, Newcastle (OIE List A Diseases), Avian Influenza (OIE) List A Diseases), Ornithosis, Paramyzovirus (Other than Newcastle Disease), Infectious Encephalomyelitis, Infectious Laryngotracheitis (other than vaccine induced), or any other disease condition which may seriously threaten the welfare of the livestock and poultry industry.

B. Reports should include:

1. the name and address of the owner;

2. the location of the premises;

3. the morbidity and mortality rate at the time of reporting;

4. the number of susceptible animals in the immediate area; and

5. the approximate number of livestock or poultry exposed.

C. Reports of disease outbreaks shall not be released to the press until after they have been reported to the state veterinarian.

D. Livestock owners who suspect the occurrence of contagious disease should immediately contact the local practicing Veterinarian or the area veterinarian, district 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 who reported the disease. If necessary to protect the livestock and poultry industry, a quarantine will be imposed on involved and exposed herds and the quarantine will remain in effect until the threat to the livestock and poultry industry 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 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).

§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).

§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).

§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).

§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).

§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).

§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).

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), repromulgated LR 11:615 (June 1985), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 12:500 (August 1986), amended 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, that are offered for sale, are to be identified by an official metal ear tag and to be tested for brucellosis. Exceptions to this Paragraph are:

i. steers and spayed heifers;

ii. cattle consigned from quarantine feedlots that are "S" branded and permitted prior to shipment to the auction barn;

iii. individually identified official brucellosis calfhood vaccinates less than 24 months of age for beef breeds and less than 20 months of age for dairy breeds, that are not preparturient or post-parturient;

iv. 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 animals being offered for sale.

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.

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 brucellosis tested and be official brucellosis vaccinates (calfhood or adult), 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) being tested, must accompany the animal(s) to the stock-yard. All heifers and cows older than 12 months, that are not official brucellosis vaccinates or have not been part of a complete negative brucellosis herd test conducted within the previous 12 months, may be returned to the farm of origin or may be brucellosis tested, "S" branded and sold to a quarantined feedlot or to an approved slaughter establishment and shall be accompanied by a VS Form 1-27. These nonvaccinated "S" branded animals must be delivered to an approved slaughter establishment or to a Louisiana permitted livestock dealer within 72 hours of purchase. The permitted livestock dealer may hold the animals up to seven days at his approved facilities. The animals must move from the Louisiana permitted livestock dealer's premises directly to an approved slaughter establishment or to a Louisiana or USDA approved quarantined feedlot. Exceptions to this Subparagraph are:

(a). 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;

(b). individually identified cattle, moving directly from a certified brucellosis free herd and accompanied by a copy of the last herd test record, which includes the animals being offered for sale.

iii. Effective January 1, 1989, all heifers and cows over 12 months of age, must be brucellosis tested and be official brucellosis vaccinates (calfhood or adult), 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) being tested, must accompany the animal(s) to the stockyard. All heifers and cows older than 12 months, that are not official brucellosis vaccinates or have not been part of a complete negative brucellosis herd test conducted within the previous 12 months, may be returned to the farm of origin or may be brucellosis tested, "S" branded and sold to a quarantined feedlot or to an approved slaughter establishment and shall be accompanied by a VS Form 1-27. These non-vaccinated "S" branded animals must be delivered to an approved slaughter establishment or to a Louisiana permitted livestock dealer, within 72 hours of purchase. The permitted livestock dealer may hold the animals up to seven days at his approved facilities. The animals must move from the Louisiana permitted livestock dealer's premises directly to an approved slaughter establishment or to a Louisiana or USDA approved quarantined feedlot. Exceptions to this Subparagraph are:

(a). 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 postparturient.

(b). individually identified cattle, moving directly from a certified brucellosis free herd and accompanied by a copy of the last herd test record, which includes the animals being offered for sale.

e. Disposition of Animals Tested at an Auction Market:

i. Reactor animals vaccinated or non-vaccinated, disclosed must be branded with a three-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 three-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.6.b. 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 "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 three-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 15:813 (October 1989), LR 17:30 (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).

§309. Governing the Sale of Cattle in Louisiana by Livestock Dealers

All cattle which are sold or offered for sale by livestock dealers must meet the general requirements of §115 and the following specific requirements:

A. Brucellosis

1. No cattle may be sold or purchased from brucellosis quarantined herds, except as provided for in '331.

2.a. All cattle 12 months of age are to be brucellosis test negative 30 days prior to sale. Exceptions 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, 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;

iii. 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;

iv. bulls less than 18 months of age.

b. In instances where brucellosis reactors are found, the reactor animals must be branded with a three-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 three-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:

i. 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.

ii. 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.

3.a. 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.

b. 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.

c. 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.

i. All livestock dealers must identify and record with the Livestock Sanitary Board all of their cattle herds.

ii. All livestock dealers must test all of their cattle herds annually.

iii. 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.

4. 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.

5. 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:

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;

c. individually identified cattle originating in and moving directly from a certified brucellosis free herd;

d. 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.

B. 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), LR 11:651 (June 1985), amended 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).

§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 Paragraph 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), LR 11:615 (June 1985), amended 12:502 (August 1986), LR 13:559 (October 1987), LR 17:31 (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), 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 three 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).

§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 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), 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).

§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 '327.a, b, or c, 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 b, c, or d 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).

§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).

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 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 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 hereof. Exceptions are:

i. untested equine arriving at a Louisiana livestock auction market shall have a blood sample drawn for official EIA testing. A fee of no more than $18 shall be collected from the seller and paid to the testing veterinarian by the auction market. The buyer of the equine shall be charged a $5 identification fee which will be collected by the auction market before the equine leaves the auction market. This fee will be forwarded to the Department of Agriculture and Forestry. After the blood sample is obtained and the fee paid, untested horses may move to the purchaser's premises under a quarantine issued by Livestock Sanitary Board personnel until results of the official tests are received. The seller of any equine whose gross proceeds from the sale are less than $50 will not be required to pay the fee for an official EIA test. If no veterinarian is available for official EIA testing of equine at a Louisiana livestock auction market, the testing shall be done by Livestock Sanitary Board personnel.

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 owners 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 three 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 three 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 three 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 by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 14:223 (April 1988), LR 14:697 (October 1988) LR 20:406 (April 1994), LR 20:1257 (November 1994).

§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***C**a laboratory which is authorized by the board to conduct the EIA test analysis on equine blood samples.

*Board***C**the Louisiana State Livestock Sanitary Board.

*Buyer***C**any person who purchases EIA positive or S branded equine for slaughter.

*Direct to Slaughter***C**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***C**equine that is currently tested for EIA with a negative test result in accordance with these EIA rules and regulations.

*EIA Positive Equine***C**an equine that has completed an EIA test with a positive test result.

*EIA Quarantine***C**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***C**has the same meaning as test for EIA defined hereinafter.

*Equine***C**any member of the family of *Equidae* including horses, mules, burros, donkeys, asses, and zebra.

*Equine Infectious Anemia***C**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***C**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***C**in the presence of an EIA positive equine.

*Foal***C**an equine less than 1 year old.

*In the Presence of***C**coming within 200 yards of the animal or object referred to.

*Owner***C**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***C**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***C**any natural person, partnership, limited partnership, limited liability company, corporation, association or any legal entity whatsoever.

*Premises***C**any immovable or movable property in which or upon which an equine is, was or could be located.

*Public Livestock Market***C**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***C**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***C**an equine which has been branded with the letter S at least 3 inches in height on the left shoulder.

*Stall Barn***C**a building in which equine are customarily housed.

*Test for EIA***C**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***C**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***C**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 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.

B. 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 23:948 (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 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 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 17:874 (September 1991), LR 18:1355 (December 1992), LR 20:550 (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 11:239 (March 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 breeders' 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 by the Department of Agriculture and Forestry, Livestock Sanitary Board, 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, 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).

§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).

§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).

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).

Chapter 15. Alternative LivestockC 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***C**any imported exotic deer and imported exotic antelope, elk and farm-raised white-tailed deer.

*Canned Hunt***C**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.

*Commercial Purpose***C**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***C**the Commissioner of Agriculture and Forestry.

*Department***C**the Louisiana Department of Agriculture and Forestry.

*Elk***C**any animal of the species and genus *cervus canadensis*.

*Farm***C**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***C**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***C**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**B**tailed deer and/or other animals.

*Harvesting***C**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***C**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***C**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***C**the Louisiana Department of Wildlife and Fisheries.

*Person***C**any individual, corporation, partnership or other legal entity.

*Quarantine***C**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).

§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 $50.

2. The farm-raising license renewal fee shall be $50.

3. The department shall waive the farm-raising license fee for any person who obtains a farm-raising license from this department, and who holds a valid game breeders license issued by LDWF for the possession of any alternative livestock at the time these rules and regulations become effective, and who submits a written application within the calendar year that these rules and regulations become effective.

4. The waiver granted in §1507.A.3 applies only to a new farm-raising license and shall not apply to any renewal of a farm-raising license issued by the department under these rules and regulations.

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.

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).

§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 eight 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 farm-raised 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 LAC 7:XXI.107;

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 test for tuberculosis in accordance with the *Tuberculosis Eradication in Cervidae Uniform Methods and Rules* as published by the United States Department of Agriculture, Animal and Plant Health Inspection Service;

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.

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).

§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).

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).

Chapter 23. Pet 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***C**an authorized representative of the Department of Agriculture and Forestry.

*Antibiotic***C**any bactericide or other organic substance which can kill bacteria such as Salmonella and Arizona spp.

*Approved Antibiotic***C**an antibiotic approved by the Department of Agriculture and Forestry for use in the egg immersion method.

*Approved Antibiotic Solution***C**a dissolved antibiotic at a concentration approved by the Department of Agriculture and Forestry for use in the egg immersion method.

*Bactericide***C**any organic or inorganic substance, chemical, or compound that has the capacity to kill microorganisms.

*Certificate of Inspection***C**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***C**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***C**a solution of chlorine at a concentration approved by the Department of Agriculture and Forestry.

*Department***C**the Department of Agriculture and Forestry.

*Department Issued Guidelines***C**a document provided periodically by the Department of Agriculture and Forestry setting forth detailed procedures designed to implement these regulations.

*Dip Solution***C**an approved antibiotic solution as defined above.

*Document***C**any form or document deemed necessary by the department for the operation of a Louisiana Certified Turtle Farm.

*Egg Immersion Method***C**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***C**a machine intended for the washing of turtle eggs, or modified from a machine intended for the washing of eggs of commercial poultry.

*Exporter***C**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***C**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***C**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***C**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***C**a certified laboratory as defined in R.S. 3:2358.3 and which employs at least one microbiologist.

*Licensed Pet Turtle Farmer***C**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***C**turtles with a carapace length of less than four inches that originates from a Louisiana pet turtle farm operated by a licensed pet turtle farmer.

*Pet Turtle Farm***C**any area of land or water used to breed, raise or keep pet turtles.

*Quarantined Area***C**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***C**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***C**any amount (multiple or single units) consisting of less than 40,000 turtles or turtle eggs.

*Turtle Lot***C**any amount of pet turtles or eggs up to 20,000 in number, and may be used interchangeably with the term turtle group.

*Turtles***C**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), repealed and repromulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended by the Office of the Commissioner, LR 25:1567 (August 2000).

§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, Office of Animal Health Services, LR 12:224 (April 1986), repealed and repromulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended by the Office of the Commissioner, LR 26:1568 (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), repealed and repromulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended by the 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 or designee shall inspect the group of turtles or turtle eggs bound for shipment and randomly select turtles or eggs for submission to a certified laboratory for microbiological examination.

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 department-approved laboratories 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, Office of Animal Health Services, LR 12:224 (April 1986), repealed and repromulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:350 (April 1991), amended by the Office of the Commissioner, LR 26: 1569 (August 2000).

§2307. Movement of Pet Turtle Eggs and Pet 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 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 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. All groups of turtles or groups of turtle eggs that are found to be positive for *Salmonella spp*. shall be quarantined and disposed of as provided by law and these regulations. Provided, however, the owner of each group of turtles or group of turtle eggs that test positive for *Salmonella spp*. may, within the time prescribed by law for disposal of such pet turtles, subdivide the affected positive group into a maximum of four equal subgroups. Each such subgroup shall be separately identified, simultaneously randomly sampled and tested by an approved diagnostic laboratory in accordance with normal protocol. The laboratory results of each subgroup of the previously test positive group shall be final. No further testing shall be allowed. Any subgroup which 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 pet 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 treatments, random sampling and tested by an approved diagnostic laboratory.

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 17:351 (April 1991), amended by the Office of the Commissioner, LR 26:1570 (August 2000).

§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 they have been inspected by a department-approved veterinarian and shall state that the veterinarian has found them to be free of visible signs of infectious, contagious or communicable diseases, and a certified laboratory has found them to be free of bacteria pathogenic to humans, domestic animals and aquatic species.

C. Official Louisiana health certificates shall be issued only on turtles or turtle eggs produced by Louisiana licensed pet turtle farmers.

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 and Forestry, Office of Animal Health Services, LR 17:352 (April 1991), amended by the Office of the Commissioner, LR 26:1570 (August 2000).

§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 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 Office of the Commissioner, LR 26:1570 (August 2000).

§2319. Pet 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 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 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 and Forestry, Office of Animal Health Services, LR 17:353 (April 1991), amended by the Office of the Commissioner, LR 26:1571 (August 2000).

§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 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 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 and Forestry, Office of Animal Health Services, LR 17:353 (April 1991), amended by the 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 and Forestry, Office of Animal Health Services, LR 17:353 (April 1991), amended by the 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 four 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 four 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 eat 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).

Title 7
AGRICULTURE AND ANIMALS
Part XXIII. Pesticide

Chapter 1. Advisory Commission on Pesticides

Subchapter A. Authority

§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 adopts the following regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983).

Subchapter B. Definitions

§103. Definitions

*Bulk Storage of Pesticides***C**the storage of any pesticide which is held in an individual container in undivided quantities of greater than 55 U.S. gallons liquid measure or 100 pounds net dry weight.

*Director***C**the director of the pesticide commission or his duly authorized representatives acting at his direction.

*District Office***C**any office of the department other than the Baton Rouge main office.

*Herbicide***C**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***C**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***C**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.

*Phenoxy Herbicides***C**any herbicide as defined above that contains a phenoxy derivative of lower aliphatic acid as an ingredient thereof.

*Public Utility***C**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***C**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.

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 9:169 (April 1983), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February 1989).

Subchapter C. Operation of the Commission

§105. 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, Baton Rouge, Louisiana 70806.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983).

§107. 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 9:169 (April 1983).

§109. 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 9:169 (April 1983).

Subchapter D. Registration of Pesticides

§111. Registration Required

A. No pesticide 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 9:169 (April 1983).

§113. 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 % Guaranteed	Allowable Deviation Below Guarantee
Up to 1.00%	15% of Guarantee
1.01%–19.99%	0.1 plus 5% of Guarantee
20.00%–49.99%	0.5 plus 3% of Guarantee
50.00%–100.00%	1.0 plus 2% 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 11:942 (October 1985).

§115. 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;

iii. the percentage of the inert ingredients in the pesticide;

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. 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 LAC 7:XXIII.115.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 LAC 7:115.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 9:169 (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).

§117. 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 shall assign the application to an ad hoc advisory committee consisting of:

i. director, Pesticides and Environmental Programs, Department of Agriculture and Forestry, or his designee;

ii. assistant commissioner, Office of Agricultural and Environmental Sciences, Department of Agriculture and Forestry, 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.

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 §117.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 §131 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, Advisory Commission on Pesticides, 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3222.
HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February 1989).

§119. 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 9:169 (April 1983).

Subchapter E. Applicators, Salespersons and Agricultural Consultants

§121. 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 points.

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 and Forestry, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 11:943 (October 1985), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February 1989).

Subchapter F. Certification

§123. 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 or pesticides will be given during office hours upon request of the applicant, in Baton Rouge, at the office of Pesticides and Environmental Programs, at any district office of the department, 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 or suspended may renew that certification by attending a recertification meeting or passing an examination as designated 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 and Forestry, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February 1989).

§125. 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.

2. An individual applying for certification in Category 7c (see §125.B.2) 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 Category 8d (see §125.B.2) 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 Category 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 Advisory Commission on Pesticides 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 (§125.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 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 applicators 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 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 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 of Pesticides and Environmental Programs 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, may renew that certification by attending a recertification meeting or training course for that category as designated 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 9:169 (April 1983), amended LR 10:193 (March 1984), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 19:735 (June 1993), LR 20:641 (June 1994), LR 21:928 (September 1995), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 23:193 (February 1997), LR 24:280 (February 1998).

§127. 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 of Pesticides and Environmental Programs, 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, may renew that certification by attending a recertification meeting as designated 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 9:169 (April 1983), amended LR 10:193 (March 1984), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 24:280 (February 1998).

§129. Certification of Agricultural Consultants

A. 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.

B. 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.

C. 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 of Pesticides and Environmental Programs during office hours and shall be administered only after payment of the proper fee.

D. 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:

[NOTE: The classifications in this Subsection reflect national categories as established by EPA.]

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 (Subcategory 1b). Making recommendations for the control of forest plants.

iii. Household, Structural and Industrial Entomology (Subcategory 1c). 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 (Subcategory 1d). Making recommendations for control of arthropods affecting man and animals.

v. Orchard and Nut Tree Entomology (Subcategory 1e). Making recommendations for the control of orchard pests.

vi. Ornamental Entomology (Subcategory 1f). 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 (Subcategory 2a). 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 (Subcategory 2b). 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 (Subcategory 2c). 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 (Subcategory 2d). 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 (Subcategory 3a). 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 (Subcategory 3b). Making recommendations for the control of weeds and grasses in ornamentals, turf areas, cemeteries and other similar areas.

iii. Forest Weed Control (Subcategory 3c). Making recommendations for the control of weeds and grasses in forest lands.

iv. Right-of-Way and Industrial Weed Control (Subcategory 3d). 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 (Subcategory 4a). 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 (Subcategory 4b). Knowledge of all diagnostic procedures pertaining to analysis of soil, water and/or tissue samples.

iii. Agricultural Soil Reclamation (Subcategory 4c). 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 (Subcategory 4d). Knowledge of irrigation scheduling practices and techniques for various enterprises requiring water on a regular or intermittent basis.

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 9:169 (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).

Subchapter G. Fees

§131. Fees

A. Fees required under the pesticide statutes and these regulations are as follows:

1. Annual Registration of Pesticides $300
2. Special Local Need Registration Application Fee $100
3. Annual License Fee
   - Resident $100
   - Non-Resident $200
4. Annual Equipment Inspection (each item) ..... $ 25
5. Annual Field Scout Registration Fee ..... $ 5
6. Consultant Certification Application Fee ..... $ 15
7. Certification Fees
   - Private Applicator—for three years ..... $ 10
   - Employees of Local, State and Federal Government in course of public employment—annual ..... $ 10
   - All other Commercial Applicators—annual ..... $ 15
8. Examination Fees (for each exam—Private Applicator exempt)
   - In Baton Rouge ..... $ 10
   - At Meeting Outside Baton Rouge ..... $ 15
   - At District Offices ..... $ 20
9. Duplicate Licenses and/or Certification Cards ..... same as original
10. Requested Lists and Copies ..... postage + minimum of $1 or postage + 25 cents/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).

Subchapter H. Licensing Requirements

§133. 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 §133.D, 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 specified under §131 prior to issuance of the license.

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 §131 hereof.

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 must be inspected by the department prior to May 31 following issuance of the license, or within 30 days after issuance of any license dated after January 1. The inspector shall affix a decal to all equipment found to be in compliance with these regulations. It is the responsibility of the licensee to make certain that his equipment is inspected and approved, and a decal is affixed prior to May 31, or, if licensed after January 1, within 30 days after the date of the license. Failure to have decals on pesticide application equipment within the time prescribed under this rule shall subject a licensee to immediate suspension or revocation of his license.

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 specified in §129.C, 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 Advisory Commission on Pesticides 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.

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 12:87 (February 1986), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 23:194 (February 1997).

§135. 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 required under §131 hereof 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 required under §131, 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 Advisory Commission on Pesticides 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.

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 9:169 (April 1983), amended LR 10:195 (March 1984).

§137. 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).

§139. 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 under §131 hereof 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. The registration shall remain valid during the scout's employment by the agricultural consultant applying for field scout registration, without renewal, but shall be canceled upon termination of such employment. Each agricultural consultant shall notify the commissioner, in writing, within 30 days after termination of any field scout.

F. Each field scout registered by a licensed agricultural consultant shall be issued a registration card. The field scout shall carry the registration card on his/her person when engaged in field counts and shall display the registration card upon reasonable request.

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 under §131, 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 Advisory Commission on Pesticides 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 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.

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 9:169 (April 1983), amended LR 10:195 (March 1984).

Subchapter I. Regulations Governing Application of Pesticides

§141. General Requirements

A. No person shall apply pesticides as a commercial applicator unless such person is:

1. licensed as required under §133 hereof;

2. employed by a person licensed as required by §133 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 §133.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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:196 (March 1984).

§143. Restrictions on Application of Certain Pesticides

A. The commissioner hereby declares that, in addition to all other pesticides classified by EPA as restricted use pesticides, the pesticides listed in §143.B 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 §143.C, D and E hereof.

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 §143.B shall not be applied by commercial applicators between March 15 and September 15 in the following parishes:

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
14. Madison
15. Morehouse
16. Natchitoches
17. Ouachita
18. Pointe Coupee, Ward 1, 2, 3, 4 and 10
19. Rapides
20. Red River
21. Richland
22. St. Landry, Wards 1, 4, 5, and 6
23. Tensas

11. Franklin
12. Grant
13. LaSalle
24. Union
25. West Carroll
26. Winn, Ward 7

D. The pesticides listed in §143.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 §143.B shall not be applied by commercial applicators in the Parish of Plaquemines.

F. In any application of the pesticides listed in §143.B in any of the areas listed in §143.C, D and E, the wind speed at the time of application shall determine the distance which must separate the center of the swath from the nearest inhabited structure and/or susceptible crop, as follows:

Minimum Distance		
Wind Speed	**Aerial Equipment**	**Ground Equipment**
0 - 3 mph	1/2 mile downwind 1/2 mile crosswind 50 feet upwind	1/2 mile downwind 1/2 mile downwind 20 feet upwind
3 - 6 mph	1 mile downwind 1/2 mile crosswind 50 feet upwind	1/4 mile downwind 1/2 mile crosswind 5 feet upwind
6 - 10 mph	2 miles downwind 1/2 mile crosswind 50 feet upwind	1/2 mile downwind 1/2 mile crosswind 5 feet upwind
Above 10 mph	Prohibited	Prohibited

[NOTE: *Crosswind* means 90 degrees (+ or - 10 degrees from the flight path or the direction of the application.]

G. No commercial applicator may make application of 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, 4^{1}-Bipyridinium (cation) — Paraquat

H. Whenever an inhabited structure at the site of application is located at a distance less than the distance between the swath of the application and an inhabited structure shall not apply when the owner, renter, or lessee occupying the structure grants written authorization for the pesticide application.

I. Hand injections of pesticides are exempt from the requirements of §143.C.

J. If label and labeling requirements relative to wind speed are more restrictive for the pesticide being applied than the restrictions set forth in §143.F, label and labeling requirements shall determine the minimum distance from inhabited structures and susceptible crops.

K. Commercial aerial pesticide applicators who apply mixtures containing 1:1-Dimethyl-4, 4^{1}-Bipyridinium (cation) dichloride, Isopropylamine salt of glyphosate, Sulfosate Trimethylsulfoniumcarboxymethylaminomethyl-phosphonate, 4-(2, 4-Dichlorophenoxy) butyric acid, and 2,4-Dichlorophenoxyacetic acid (commonly known as Gramoxone, Roundup, Touchdown, 2, 4-DB and 2, 4-D, respectively) must register with the department once yearly on department approved forms prior to making any applications of these chemicals. Effective January 1, 1993, N-(3,4-dichlorophenyl) propionamide (commonly known as Propanil) must be registered under the provisions of this Subsection.

L. Commercial aerial pesticide applicators applying any concentrations of the agricultural chemicals shall not apply these chemicals from a height of greater than 18 feet above the target field crops.

M. 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 M:

*Ditch***C**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***C**an area maintained for the purpose of channeling or preventing accumulation of water from surrounding land.

*Easement***C**a designated right to use the property of another for a specific purpose, i.e., drainage, utility easement.

*Median/Neutral Ground***C**the area dividing or separating a roadway and not used for right of passage.

*Right-of-Way***C**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***C**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***C**a right-of-way through or across property belonging to another.

2. Exemptions are hand held manual pump sprayers up to a maximum 3-gallon capacity.

N. Reserved.

O. Reserved.

P. Regulations Governing Aerial Applications of 2,4-D or Products Containing 2,4-D

1. Registration Requirements

a. The commissioner hereby declares that prior to making any aerial application of 2,4-D or products containing 2,4-D, the aerial owner/operator must first register such intent by notifying the Division of Pesticides and Environmental Programs (DPEP) in writing.

b. The commissioner hereby declares that prior to making any aerial application of 2,4-D or products containing 2,4-D, the aerial owner/operator must have in his\her possession and shall be a part of the record keeping requirements, a written permit from the Division of Pesticides and Environmental Programs (DPEP).

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 Laws and Rules and Regulations or to the pesticide label, deem it unsafe to make such applications. Growers found to be in violation of this section shall forfeit their right to use 2,4-D or products containing 2,4-D on their crops, subject to appeal to the Advisory Commission on Pesticides.

3. 2,4-D or products containing 2,4-D Application Restriction. Aerial application of 2,4-D or products containing 2,4-D is limited to only permitted applications annually between April 1 and July 15 in the following parishes: Allen (East of U.S. Highway 165), Avoyelles, Evangeline, Pointe Coupee, Rapides, and St. Landry.

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, approval shall be obtained in writing from the Louisiana Department of Agriculture and Forestry (LDAF). Such approval is good for two days from the date issued. Growers or aerial applicator shall obtain approval from the DPEP.

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 aerial owner/operators shall apply to the DPEP, on forms prescribed by the commissioner, all request for aerial applications of 2,4-D or products containing 2,4-D.

b. Aerial owner/operators shall maintain a record of 2,4-D or products containing 2,4-D applications.

6. 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, he may consider:

i. stop orders for use, sales, or application;

ii. label changes;

iii. remedial or protective orders;

iv. any other relevant remedies.

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 9:169 (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), amended LR 19:791 (June 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).

§145. 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, the chemicals listed in §143.K above shall be applied in a minimum of five gallons of total spray mix per acre. With the following exceptions:

a. insecticides applied in the Boll Weevil Eradication Program, which shall be applied in accordance with their labels, all other agriculture pesticides, unless further restricted by other regulations or labeling, shall be

applied in a minimum of one gallon of total spray mix per acre.

b. malathion insecticide applied with the following conditions to control boll weevil in cotton.

i. The commissioner hereby declares that prior to making any aerial application of ULV Malathion to cotton, the aerial owner/operator must first register such intent by notifying the Division of Pesticides and Environmental Programs ("DPEP") in writing. Upon notification, LDAF shall inspect the aircraft prior to any ULV applications.

ii. Spray shall be applied, handled, and stored in accordance with all conditions specified by State or Federal regulations, including the strict observance of any buffer zones that may be implied.

iii. Aerial applicators shall strictly comply with any and all restrictions or mitigative factors, in regard to sensitive areas, including occupied buildings (churches, schools, hospitals, and homes), lakes, reservoirs, farm ponds, parks, and recreation areas that may be identified by Commissioner, and such restriction and mitigation are to be strictly complied with and observed by said aerial applicators.

iv. Aerial applicators will adjust flight patterns, to the degree possible, to avoid or minimize flying over sensitive areas. This restriction does not apply to overflight between take-off and the commencement of spray operations, or overflight between termination of spray operations and landing.

v. Aerial applicators shall be alert to all conditions that could cause spray deposit outside field boundaries and use their good faith efforts, including adjustment or termination of operations, to avoid spray deposit outside field boundaries.

vi. There shall be no aerial spraying when wind velocity exceeds 10 miles per hour.

vii. Aerial applicators will terminate application if rainfall is imminent.

viii. Insecticide spray will not be applied in fields where people or animals are present. It is the applicator's responsibility to determine if people are present prior to initiating treatment.

ix. Spraying will not be conducted in fields where other aircraft are working.

x. All mixing, loading, and unloading will be in an area where an accidental spill can be contained and will not contaminate a stream or other body of water.

xi. All aerial applications of insecticide shall be at an altitude not to exceed five feet above the cotton canopy. However, in fields that are not near sensitive areas, if infield obstructions make the five-foot aerial application height not feasible, then the aerial height may be extended to such height above the cotton canopy as is necessary to clear the obstruction safely.

xii. The aircraft tank and dispersal system must be completely drained and cleaned before loading. All hoses shall be in good condition and shall be of a chemical resistant type.

xiii. Insecticide tank(s) shall be leak-proof and spray booms of corrosion resistant materials, such as stainless steel, aluminum, or fiberglass. Sealants will be tested before use.

xiv. The tank(s) in each aircraft shall be installed so the tank(s) will empty in flight. Sight gauges or other means shall be provided to determine the quantity contained in each tank before reloading.

xv. A drain valve shall be provided at the lowest point of the spray system to facilitate the complete draining of the tanks and system while the aircraft is parked so any unused insecticide can be recovered.

xvi. A pump that will provide the required flow rate at not less than 40 pounds per square inch (psi) during spraying operation to assure uniform flow and proper functioning of the nozzles. Gear, centrifugal or other rotary types, will be acceptable on aircraft with a working speed above 150 miles per hour.

xvii. ULV spraying systems with a pumping capacity that exceeds the discharge calibration rate shall have the bypass flow return to the tank bottom in a manner that prevents aeration and/or foaming of the spray formulation. Pumps utilizing hydraulic drive or other variable speed drives are not required to have this bypass, provided the pump speed is set to provide only the required pressure and the system three-way valve is used for on/off control at full throw position. Any bypass normally used to circulate materials other than the ULV will be closed for ULV spraying.

xviii. Spray booms will be equipped with the quantity and type of spray nozzles specified by the Boll Weevil Eradication Program. The outermost nozzles (left and right sides) shall be equal distance from the aircraft centerline and the distance between the two must not exceed three-fourths of the overall wing span measurement. For helicopters, the outermost nozzles must not exceed three-fourths of the rotorspan. For both fixed wing and helicopters, the program will accept the outermost nozzles between 60 percent and 75 percent of the wingspan/rotorspan. Longer spray booms are acceptable provided modifications are made to prevent the entrapment of air in the portion beyond the outermost nozzle. Fixed wing aircraft not equipped with a drop type spray boom may require drop nozzles in the center section that will position the spray tips into smother air to deliver the desired droplet size and prevent spray from contacting the tail wheel assembly and horizontal stabilizer. Most helicopters will be required to position the center nozzles behind the fuselage and dropped into smooth air in order to achieve the desired droplet size.

xix. Nozzles, diaphragms, gaskets, etc. will be inspected regularly and replaced when there is evidence of wear, swelling, or other distortion in order to assure

optimum pesticide flow and droplet size. Increasing pressure to compensate for restricted flow is unacceptable. A positive on/off system that will prevent dribble from the nozzles.

xx. A positive emergency shut-off valve between the tank and the pump, as close to the tank as possible. This valve shall be controllable from the cockpit and supplemented by check valves and flight crew training which will minimize inadvertent loss of insecticide due to broken lines or other spray system malfunction.

xxi. Bleed lines in any point that may trap air on the pressure side of the spraying system.

xxii. An operational pressure gauge with a minimum operating range of 0 to 60 psi and a maximum of 0 to 100 psi visible to the pilot for monitoring boom pressure.

xxiii. A 50-mesh in-line screen between the pump and the boom and nozzle screens as specified by the nozzle manufacturer.

xxiv. Aircraft equipped so nozzle direction can be changed from 45 degrees down and back to straight back when it is necessary to change droplet size.

xxv. All nozzles not in use must be removed and the openings plugged.

xxvi. Nozzle tips for all insecticides shall be made of stainless steel.

xxvii. Aircraft shall have an operational Differentially Corrected Global Positioning System (DGPS) and flight data logging software that will log and display the date and time of the entire flight from take-off to landing and differentiate between spray-on and spray-off.

xxviii. Aircraft shall have a DGPS with software designed for parallel offset in increments equal to the assigned swath width of the application aircraft. Differential correction may be provided by fixed towers, portable stations, satellite, Coast Guard, or other acceptable methods. However, the differential signal must cover the entire project area. In fringe areas from the generated signal, an approved repeater may be used. The system shall be sufficiently sensitive to provide immediate deviation indications and sufficiently accurate to keep the aircraft on the desired flight path with an error no greater than 3 feet. Systems that do not provide course deviation updates at one second intervals or less will not be accepted.

xxix. A course deviation indicator (CDI) or a course deviation light bar (also CDI) must be installed on the aircraft and in a location that will allow the pilot to view the indicator with direct or peripheral vision without looking down. The CDI must be capable of pilot selected adjustments for course deviation indication with the first indication at 3 feet or less.

xxx. The DGPS must display to the pilot a warning when differential correction is lost, the current swath number, and cross-track error. The swath advance may be set manually or automatically. If automatic is selected, the pilot must be able to override the advance mode to allow respraying of single or multiple swaths.

xxxi. The DGPS must be equipped with a software for flight data logging that has a system memory capable of storing a minimum of 3 hours of continuous flight log data with the logging rate set at one second intervals. The DGPS shall automatically select and log spray on/off at one second intervals while ferry and turnaround time can be two second intervals. The full logging record will include position, time, date, altitude, speed in M.P.H., cross-track error, spray on/off, aircraft number, pilot, job name or number, and differential correction status. The flight data log software shall be compatible with DOS compatible PC computers, dot matrix, laser, or ink jet printers and plotters. The system must compensate for the lag in logging spray on/off. The system will display spray on/off at the field boundary without a sawtooth effect. Must be capable to end log files, rename, and start a new log in flight.

xxxii. The software must generate the map of the entire flight within a reasonable time. Systems that require five minutes or more to generate the map for a three hour flight on a PC (minimum a 386 microprocessor with 4 MB of memory) will not be accepted. When viewed on the monitor or the printed hard copy, the flight path will clearly differentiate between spray on and off. The software must be capable of replaying the entire flight in slow motion and stop and restart the replay at any point during the flight. Must be able to zoom to any portion of the flight for viewing in greater detail and print the entire flight or the zoomed-in portion. Must have a measure feature that will measure distance in feet between swaths or any portion of the screen. Must be able to determine the exact latitude/longitude at any point on the monitor.

xxxiii. Flight information software provided by the applicator must have the capability to interface with MapInfo (version 3.0 or 4.0). The interface process must be "user friendly", as personnel will be responsible to operate the system in order to access the information.

xxxiv. Application of ULV malathion shall be at an application rate of 12 oz. per acre with no dilutions or tank mixes.

xxxv. Applications of ULV malathion shall not be made prior to May 20.

xxxvi. Applications of ULV malathion shall be restricted to seven day intervals.

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).

§147. Waiver of Restrictions

A. No commercial applicator shall apply any of the pesticides listed in §143.B in the parishes and during the periods specified in §143.C, D and E without written

authorization from the commissioner prior to such application, except as described in §143.P.

B. The commissioner may waive the time restrictions on application of pesticides listed in §143.B upon written request, as follows.

1. Any commercial applicator desiring a waiver of any restriction contained in §143 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 9:169 (April 1983), amended LR 10:197 (March 1984), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 27:279 (March 2001).

§149. 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).

§151. Aerial Application of Pesticides to Rights of Way for Control of Woody Vegetation

A. This rule applies only in parishes whose governing bodies have appeared in public hearing before the Advisory Commission on Pesticides and thereafter secured the approval of the commissioner for enforcement of this rule.

B. The commissioner will notify each owner-operator who is certified in right-of-way pest control, in writing, whenever a parish governing authority is approved to enforce the provisions of this rule.

C. Each applicator intending to make an aerial application of pesticides to control woody vegetation on public utility rights-of-way in such parishes must notify the Office of Pesticides and Environmental Programs, in writing, at least 15 days prior to the anticipated date of the application. That notice shall contain:

1. anticipated dates and times of application;

2. description of the area(s) where the application will be made;

3. a telephone number and address of the applicator's office to which citizens can report sensitive areas to the applicator prior to the scheduled application; and

4. the pesticides to be applied.

D. Within five days after receipt of notice from an applicator, the department shall:

1. notify the governing authority of any parish which has secured the approval of the commissioner for enforcement of this rule, such notice to include all information required under §151.C; and

2. issue a news release to all media within such parish, which news release shall contain all information required under §151.C.

E. The governing authority may make additional publications of the notice by any means considered appropriate by the governing authority. The governing authority shall notify the Office of Pesticides and Environmental Programs of the media utilized for such additional public notice concerning the scheduled application.

F. No commercial applicator may make aerial application of pesticides to control woody vegetation on public utility rights-of-way in any manner inconsistent with label and labeling requirements for the pesticide applied.

G. Before pesticides are applied to rights-of-way for control of woody vegetation, the applicator shall fly a reconnaissance flight over the right-of-way to be sprayed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:197 (March 1984).

§153. 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 control management plan submitted shall be submitted in writing to the department, Director, 24 hours prior to any application.

E. Records of pesticide applications shall be maintained according to §167 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 §167.

F. No pesticides shall be applied for general pest control inside school buildings 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).

§155. Damage Complaints

A. Persons filing damage complaints shall, at the same time the complaint is filed, execute a consent form granting access to the property alleged to have been damaged.

B. Each person filing a damage complaint must notify the commissioner at least 24 hours before the start of harvest of the property alleged to have been damaged.

C. Whenever any person filing a damage complaint fails to provide the required prior notice before the start of harvest, no final production assessment shall be made by the department.

AUTHORITY NOTE: Promulgated in accordance with RS. 3:3203 and R.S. 3:3255.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:197 (March 1984).

Subchapter J. Bulk Pesticides

§157. Bulk Pesticides

A. Definitions

*Bulk Pesticide***C**any registered pesticide which is transported or held in an individual container in undivided quantities of greater than 55 U.S. gallons liquid measure or 100 pounds dry weight.

*Bulk Repackaging***C**the transfer of bulk quantities of a registered pesticide from one bulk container to another bulk container in an unaltered state in preparation for sale to another person.

B. No person shall install or operate facilities engaged in bulk distribution of restricted use pesticides to owner-operators or private applicators in this state unless such person has made written notification of such activity by completing the form prescribed by the commissioner. In

addition, manufacturers are prohibited from selling bulk pesticides to dealers that do not have proper facilities.

C. Storage of Bulk Pesticides

1. Only products registered with the department may be stored in bulk.

2. Bulk pesticide storage facilities shall be located a suitable distance from adjacent buildings, property lines, or public access roads.

3. Bulk pesticides must be stored on a foundation which meets the following requirements:

a. must be solidly constructed of a material sufficiently impervious to contain leaks, spills, and accumulated pesticides and/or rinsate of pesticides;

b. must be free of leaks;

c. must be sloped to facilitate clean-up of inadvertent spills; and

d. must be constructed with a rim of sufficient height to contain runoff from clean-up activities of inadvertent spills and prevent run on of flood waters.

4. Containers and accessory equipment used for storage and handling of bulk pesticides shall be of materials and construction compatible with the pesticide stored and the conditions of storage.

5. Permanent liquid bulk storage container installations shall be constructed with a secondary means of containment.

a. Secondary containment shall be constructed of materials of sufficient thickness, density and composition to contain any discharged material.

b. Secondary containment for outside storage must provide a minimum of 110 percent of the capacity of the largest single container. Suitable measures shall be used for containment of tanks stored under roof or within other enclosures.

c. All rinsate and/or minor spillage in a secondary containment shall be disposed of as provided by the product's label and labeling requirements when feasible or deposited in a closed containment system as herein required. If the pesticide is classified, upon disposal, as a hazardous waste, such rinsate/spillage shall be disposed of in a permitted hazardous waste facility.

6. Bulk storage containers must be equipped with locking devices and other appropriate measures such as lighting or security fencing to discourage ready access by unauthorized persons to the bulk container storage area when unattended.

7. Bulk storage containers shall be equipped with suitable sample points; official samples drawn from such containers shall be accepted without question as being representative of the contents of such containers.

8. The registered product label shall be affixed in a prominent location on the outside of all bulk storage containers.

9. Underground storage of bulk pesticides is prohibited.

D. Transportation of Bulk Pesticides

1. Containers used to transport pesticides must meet all applicable standards of the Department of Transportation and Development.

2. Containers must be secured to prevent significant movement during transportation.

3. A label for the registered pesticide product must accompany each shipment of the pesticide.

E. Loading and Handling of Bulk Pesticides

1. Bulk pesticides shall be handled and/or loaded so as to prevent damage to persons, livestock, crops, and/or environment.

2. Toxicity and volatility of bulk pesticides shall be considered in loading practices.

3. Prior to refilling bulk storage containers, the containers must be thoroughly rinsed, under procedures equivalent to triple-rinsing procedures, except when a container is refilled with the same pesticide.

F. Distribution of Bulk Pesticides

1. Transfer of a registered bulk pesticide from one size container to another for sale or delivery in bulk quantities may be made, provided:

a. the person making such transfer has filed the bulk pesticides notification form prescribed by the commissioner; and

b. there is no change in the pesticide formulation, the product label (except addition of the required EPA establishment number and net contents statement), or the party responsible for maintaining the integrity of the product.

2. Bulk pesticides may be repackaged for sale only in containers which meet the requirements of this rule.

3. Scales or meters used for sales of bulk pesticides shall meet the specifications of the department's Weights and Measures Division; appropriate measures shall be taken to prevent contamination of the product during transfer with scales or meters.

G. Notification of Spills. If any spill of bulk pesticides occurs, immediate telephone notification must be made to the director. The telephone notification must be confirmed in writing within three days after the spill.

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).

Subchapter K. Mechanically Powered Pesticide Application Equipment

§159. 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.

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).

Subchapter L. Monitoring of Commercial Applicator Operations

§161. 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 under §§167, 169 and 171;

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).

Subchapter M. Other Access Requirements

§163. 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 §169 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).

§165. Agricultural Consultants

A. The commissioner, upon reasonable request, shall be permitted access to the records required under §171.

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).

Subchapter N. Record Keeping Requirements

§167. Owner-Operators, Non-Fee Commercial Applicators, and Commercial Applicators

A. Any person applying pesticides for a fee and commercial applicators described in §125, with the single exception of applicators listed in §125.B.2 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 §125.B.2, 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.14113 and §167.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 and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), amended LR 21:929 (September 1995).

§169. 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 §143.B, except when sales of pesticides listed in §143.B are:

a. sold in concentrations of two 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).

§171. 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).

Subchapter O. Penalties

§173. 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 Advisory Commission on Pesticides. 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 Advisory Commission on Pesticides 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 Advisory Commission on Pesticides 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 1981).

Subchapter P. General Requirements for Pesticide Waste

§175. Waste Water Classified as Hazardous Waste

A. Waste water which, upon disposal, is classified as a hazardous waste.

1. On or before December 31, 1984, all commercial applicators applying pesticides which, upon disposal, are classified as a hazardous waste must implement a containment system for reuse or apply the waste immediately to the site of application.

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).

Subchapter Q. Handling Spills by Commercial Applicators

§177. Handling Spills by Commercial Applicators

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. Commercial applicators are responsible for the cost of cleanups resulting from pesticide spills in their operations.

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 1981).

Subchapter R. Handling of Pesticide Containers

§179. Procedures Governing Handling of Pesticide Containers by Commercial Applicators (Except Bulk Pesticide Containers)

A. Storage Areas for Full or Partially Full Pesticide Containers

1. Pesticide containers must be stored in a secure, locked enclosure.

2. Pesticide containers must be free of leaks.

3. The storage area must be maintained in good condition, without unnecessary debris.

B. Empty containers must be stored in a secured area. Empty containers may be kept for no more than 90 days after the end of the spraying season.

C. Metal, Glass and Plastic Containers

1. All metal, glass and plastic containers must be triple-rinsed immediately after the pesticide is removed by the following, or equivalent procedures:

a. Using a solvent capable of removing the pesticide, fill each container with solvent equal to approximately 10 percent of the volume of pesticides originally contained in the container.

b. Agitate the solvent thoroughly on all interior surfaces' of the container. Agitation may be accomplished by use of agitation equipment approved by the department or by manual agitation of the solvent.

c. Repeat the above procedure three times.

d. If the rinsate containing the solvent can be used again in subsequent applications of the pesticide without reducing the effectiveness of the pesticide, place the rinsate in the containment tank specified for that pesticide. If the rinsate is not classified as a hazardous waste upon disposal, it may be placed in an approved surface impoundment.

2. Upon completion of the above triple-rinsing procedures, containers may be disposed of as follows:

a. by disposal in any permitted solid waste facility (sanitary landfill), provided that, prior to disposal in a solid waste facility, the pesticide applicator must pierce all metal and plastic containers in both ends;

b. by prior agreement, by return (for credit or otherwise) to the pesticide sales agent or the pesticide manufacturer;

c. by resale to a third party for recycling or reconditioning; or

d. by return to the person contracting for the pesticide application.

D. Paper and Plastic Bags. All pesticides shall be removed from paper and plastic bags to the maximum extent possible when the pesticide is initially mixed for application. Thereafter, containers shall be disposed of as follows.

1. Cut all sides of the container and open the container fully, without folds or crevices, on a flat surface; shake any pesticides remaining in the opened container into the pesticide mix.

2. After cutting and flattening such pesticide containers, dispose of containers in a solid waste facility (sanitary landfill).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:398 (May 1984).

Subchapter S. Unused Portions of Pesticides and/or Rinsate of Pesticides Classified as Hazardous Wastes

§181. Constructive Recycling

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.

B. Applicators of pesticides covered under this rule may recover and constructively reuse any unused portions of such pesticides and/or any rinsate of such pesticides by one of the following methods:

1. by immediate reapplication of the unused portion of the pesticide and/or the rinsate in accordance with label and labeling requirements for that pesticide;

2. by transferring to a closed containment system meeting the requirement of §183; or

3. by disposal in a permitted hazardous waste facility.

C. All unused pesticides and/or rinsate from pesticides, classified as a hazardous waste upon disposal, must be removed from containment tanks in less than 90 days after deposit therein.

D. In less than 90 days after the final application for the season of a pesticide which, upon disposal, is classified as a hazardous waste, the applicator must remove the contents of each containment tank; triple-rinse the containment tank by procedures equivalent to triple-rinsing; and apply such tank contents and rinsate in accordance with label and labeling requirements governing the initial application of the pesticide.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:398 (May 1984), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 24:282 (February 1998).

Subchapter T. Closed Containment Systems

§183. Closed Containment Systems of Commercial Applicators

A. Commercial applicators electing to install closed containment systems for a pesticide which, upon disposal, is classified as a hazardous waste must have such systems completed and operational on or before December 31, 1984. Following the effective date of this rule, any commercial applicator who is certified or licensed after January 1, who elects to install a closed containment system for a pesticide which, upon disposal, is classified as a hazardous waste must have such system completed and operational before the issuance of the certification or license.

B. Containment Tanks

1. Different containment tanks must be installed for different pesticides and/or rinsate of pesticides, except the same containment tanks may be used for two or more pesticides when such pesticides are physically and chemically compatible and when their mixing is not prohibited by their labels.

2. Each containment tank shall meet the following requirements:

a. must be constructed of material of sufficient strength and be compatible with the pesticide and/or rinsate to be placed within the tank;

b. must be free of leaks, cracks, holes, or other deterioration at all times;

c. must be in good operating order at all times;

d. must be designed to allow drainage of the entire contents and be triple rinsed;

e. must be equipped with stopcocks, at appropriate locations, to prevent any leakage of the contents during storage or transfer of the contents;

f. must be equipped with an opening to allow for sampling.

C. Containment Tank Foundation

1. The containment tank foundation shall be solidly constructed of a material sufficiently impervious to contain leaks, spills, and accumulated pesticides and/or rinsate of pesticides.

2. The foundation covering must be free of cracks which might allow leakage.

3. The foundation must be sloped to facilitate cleanup of inadvertent spills.

4. The foundation must be constructed with a rim of sufficient height to contain run-off from cleanup activities or inadvertent spills and be protected from flood waters.

5. The foundation must be so constructed as to discharge all liquids into a sump.

6. Tanks must be located at sufficient elevation to allow visual detection of leakage of the contents.

D. Storage Requirements. All containment tank(s) must be located in a secured area and protected from flood waters.

E. Location Requirements; Submission of Preliminary Site Plans. Containment systems must be located a suitable distance from any adjacent buildings, property lines, or public access roads. Site plans showing location of the containment system must be submitted for the approval of the commissioner prior to construction. These plans may be rudimentary; the purpose of such submission is to avoid unnecessary expense by the applicator.

F. Requirements for Final Approval of Containment Systems. Final plans and specifications for construction of a closed containment system must be approved by the commissioner, and must be bed with the department, subject to the approval of the commissioner, prior to the start of construction. In his consideration for approval of such plans and specifications, the commissioner may, at his discretion, be assisted by an ad hoc advisory committee consisting of such experts as may be appointed by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:398 (May 1984), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 24:282 (February 1998).

Subchapter U. Surface Impoundments of Hazardous Wastes

§185. Surface Impoundments of Commercial Applicators: Management of Unused Portions of Pesticides and/or Rinsate of Pesticides

A. Unused portions of pesticides and/or rinsate resulting from the application of a pesticide which, upon disposal, is not classified as a hazardous waste should be handled by one of the following methods:

1. by subsequent, immediate reapplication in accordance with label and labeling requirements for the pesticide;

2. by deposit in a closed containment system which meets the requirements of §173 hereof;

3. by disposal in surface impoundments which meet the requirements of this rule; or

4. by any other methods approved by the commissioner.

B. Surface Impoundment Foundation. Surface impoundments must rest on a foundation or base capable of providing:

1. adequate support for the required liners;

2. sufficient resistance to pressure gradients above and below the liners to prevent failure of the liners due to settlement, compression, or uplift; and

3. double liners must be entirely above the seasonal water table.

C. Surface Impoundment Liners

1. Surface impoundment liners are defined as any continuous layer of material, beneath and on the sides of a surface impoundment, which restricts the downward or lateral escape of pesticides, pesticide rinsate, and/ or any leachate.

2. The bottom and all sides of the surface impoundment must be constructed with two liners separated by a barrier of sand or other porous material which is at least one foot thick.

3. Liners must have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with pesticides and/or pesticide residues, rinsate and/or leachate to which they are exposed, stress of installation, and/or stress of daily operation.

4. Liners must have tight seams and joints and cannot contain tears, punctures, or blisters.

5. Liners must extend to the top of the dike required under §185.E.

D. Leachate Detection System

1. A leachate detection system approved by the department must be placed between the liners required in §185.C.

2. The leachate detection system shall be placed above the lower liner at the lowest point of the excavation to assure that any seepage from the upper layer will percolate to this point.

3. The leachate detection system must be so constructed as to permit sampling from an accessible surface location.

4. The leachate detection system must be monitored weekly by the owner-operator; if a leak is detected the impoundment shall be closed as per §187.D.

E. Levees (Dikes)

1. Surface impoundments must be surrounded by levees (dikes) that are designed, constructed, and maintained with sufficient structural integrity to prevent any failure of the levees (dikes).

2. The base of the levee (dike), at land surface level, must be of sufficient width to support the height of the levee (dike).

3. The height of the levee (dike) must be equal to or greater than the requirements of the U.S. Geological Survey's 100-year flood plain.

F. Surface Impoundment Depth Requirements. Surface impoundments must be of sufficient depth to permit a minimum freeboard of at least two feet below the top surface of the dike at all times.

G. Surface Impoundment Cover and Enclosure Requirements

1. Surface impoundments shall be equipped with a cover of translucent material and must be constructed in compliance with all applicable local building codes.

2. Surface impoundments shall be enclosed within a fence of sturdy material, at least six feet in height, with a locked gate. At the option of the owner-operator, containment tanks and container storage may be placed in the same enclosure.

H. Location of Surface Impoundments. Surface impoundments shall be located 100 feet within property lines, and at least 300 feet from personal dwellings and public facilities.

I. Submission of Preliminary Site Plans Required. Site plans shall be submitted for approval by the commissioner prior to any new construction of surface impoundments. These plans may be rudimentary; the purpose of such submission is to avoid unnecessary expense by the applicator.

J. Requirements for Final Approval for Construction of Surface Impoundments. Final plans and specifications for construction of surface impoundments must be stamped by a licensed engineer who is approved by the commissioner and must be accompanied by the engineer's certification that the surface impoundment to be constructed will meet all requirements of this rule. Final plans and specifications must be filed with the department, subject to the approval of the commissioner, prior to the start of construction. In his consideration for approval of such plans and specifications, the commissioner may, at his discretion, be assisted by an ad hoc advisory committee consisting of such experts as may be appointed by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:399 (May 1984), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 24:282 (February 1998).

Subchapter V. Surface Impoundments by Commercial Applicators

§187. Schedule for Implementation

A. Commercial applicators may continue to use existing surface impoundments:

1. which, upon monitoring, are approved by the commissioner; or

2. which meet all requirements of §185.

B. Surface impoundments in operation at the effective date of these regulations which can be brought into compliance with the requirements of §185 may be upgraded and thereafter used by commercial applicators. Improvements necessary to bring such existing surface impoundments into compliance with §185 must be completed and in place no later than December 31,1984. Plans and specifications for bringing such surface impoundments into compliance with §185 must be stamped and certified by a licensed engineer who is approved by the commissioner; the engineer's certificate shall be to the effect that, after completion of the proposed improvements, the surface impoundment will meet all requirements of §185. Plans and specifications for such modifications to existing surface impoundments must be filed with the department, subject to the approval of the commissioner, prior to the start of construction. In his consideration for approval of such plans and specifications, the commissioner may, at his discretion, be assisted by an ad hoc advisory committee consisting of such experts as may be appointed by the commissioner.

C. Surface impoundments in operation at the effective date of these regulations which, upon monitoring, are not approved by the commissioner and/or which cannot be brought into compliance with the requirements of §185 shall be permanently closed no later than December 31,1984. The contents of such surface impoundments shall be left undisturbed to evaporate; any solid residues remaining after evaporation of all liquids shall be removed and disposed of at a permitted hazardous waste disposal facility; and the excavation shall be filled under the supervision or with the prior approval of the department.

D. Whenever violative levels of pesticides which, upon disposal, are classified as hazardous waste are detected in any sample taken from a surface impoundment, whether the surface impoundment was in operation at the effective date of these regulations or installed after the effective date of these regulations, such surface impoundment may be immediately and permanently closed, and, if closed, all contents thereof shall be removed and disposed of at a permitted hazardous waste disposal facility. The financial responsibility of closing a surface impoundment belongs to the commercial applicator and/or property owner.

E. Insofar as the disposal of a pesticide waste is concerned, commercial applicators who generate hazardous pesticide waste and who do not comply with these regulations shall be subject to the regulations governing hazardous pesticide waste under the jurisdiction of the Department of Environmental Quality until such time as the commissioner of agriculture promulgates regulations governing hazardous pesticide waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:399 (May 1984), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 24:24:282 (February 1998).

Subchapter W. Emergency Procedures Related to Pesticides

§189. 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 Subchapter W of these regulations.

*Complaint***C**any information or report of any pesticide-related problem which could adversely affect human health or the environment.

*Emergency***C**a situation involving pesticides where there is imminent danger to human health or to the environment.

*Environment***C**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).

§191. 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 office of Pesticide and Environmental Programs 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 §203 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).

§193. 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).

§195. 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 §191.

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 Louisiana Department of Agriculture and Forestry 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), LR 20:641 (June 1994).

§197. 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).

§199. Department Training

A. The department shall train its agricultural and environmental specialists in procedures relating to emergencies.

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 Enviromental Sciences, LR 20:642 (June 1994).

Subchapter X. Water Protection

§201. Definitions

*Base Line Conditions***C**the pesticide level found in the water of a site immediately preceding the pesticide application season.

*Maximum Contaminant Level***C**the maximum permissible concentration level of a pesticide in the waters of the state.

*Pesticide Application Season***C**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***C**a condition that is probable to lead to substantive injury to human health or the environment.

*Threat***C**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).

§203. Establishment of Standards for Pesticides in Water

A. The maximum contaminant level standards as published in 40 C.F.R. Parts 141,142, and 143(1991) 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).

§205. 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 be at least monthly during any pesticide application season.

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.

f. The department shall sample and test fish tissues once a year, unless the commissioner determines that more frequent testing is needed.

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).

§207. 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 §189 et seq. 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 Advisory Commission on Pesticides;

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).

Subchapter Y. Pesticide Wastes

§209. Procedures for Monitoring

A. In the course of conducting routine monitoring of pesticide use in accordance with the procedures described in §161, 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 of pesticide and environmental programs.

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).

§211. 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(C) as of the adoption date of these regulations;

c. whether a pesticide concentration exceeds and the degree to which it exceeds the maximum concentration of pesticide contaminants listed in Table 5 of LAC 33:V.4903 as amended through November 1992; and

d. 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).

§213. 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).

§215. Record Keeping

A. In addition to the record keeping requirements under §§167, 169 and 171, or otherwise, 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).

§219. 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).

Subchapter Z. Health Complaints

§221. 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 of Pesticide and Environmental Programs 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).

Title 7
AGRICULTURE AND ANIMALS
Part XXV. Structural Pest Control

Chapter 1. Structural Pest Control Commission

§101. Definitions

Act and/or *Part***C**Title 3, Sections 3301-3317 of the Revised Statutes of 1950, as amended (the Structural Pest Control Law).

*Adjudicatory Proceeding***C**an open public hearing by the commission to determine whether violations of the Act or these rules and regulations have occurred.

*Applicant***C**any person making application for a license to engage in operations coming under the provisions of this Part.

Availability, with reference to direct supervision**C**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***C**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***C**any site, i.e., office, store, warehouse, etc., where any kind of structural pest control services are offered to the general public.

*Business***C**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**C**any person who holds a valid license as herein provided or otherwise known as licensee.

*Certified Fumigation Technician***C**a qualified technician to perform the following:

1. *Structural Fumigation***C**apply and clear fumigants from structures under the supervision of a licensed fumigator.

2. *Ship Fumigation***C**only add additional gas to a ship fumigation after the initial amount of gas has been applied, under the supervision of a licensed fumigator.

3. *Commodity Fumigation***C**apply and clear fumigants commodities under the supervision of a licensed fumigator. This provision will not apply until two years from date of enforcement.

*Commission***C**the Structural Pest Control Commission.

*Commissioner***C**the Louisiana Commissioner of Agriculture and Forestry.

*Commodity Fumigation***C**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 should be in any of the above.

*Contract***C**a written agreement executed by a licensed pest control operator services for the provision of specific pest control services.

*Direct Supervision***C**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).

*Employee***C**any person employed by a licensee with the exceptions of clerical, janitorial or office maintenance employees or those employees performing work completely disassociated with the control of insects, pests, rodents and the control of wood-destroying organisms.

*EPA***C**the United States Environmental Protection Agency.

*FIFRA***C**the Federal Insecticide, Fungicide and Rodenticide Act.

*Fumigant***C**a substance or mixture of substances that is a gas or is rapidly or progressively transformed into a gaseous state through some nongaseous or particulate matter.

*Fumigation***C**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.

*Household Pest***C**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 beetles and termites.

*Insecticides***C**substances, not fumigants, under whatever name known, used for the destruction or control of insects and similar pests.

*Label***C**the written, printed or graphic matter on or attached to a pesticide or device or any of its containers or wrappers.

*Labeling***C**all labels and other written, printed or graphic matter:

1. accompanying a pesticide or device at any time; or

2. 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***C**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:

1. *General Pest Control***C**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.

2. *Commercial Vertebrate Control***C**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.

3. *Termite Control***C**the application of remedial or preventive measures for the control, prevention or eradication of termites and other wood-destroying insects.

4. *Fumigation***C**the use of lethal gases 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.

5. *Wood Destroying Insect Report (WDIR) Inspector***C** 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***C**the person who holds a valid license as herein provided.

*Material Safety Data Sheet (M.S.D.S.)***C**a document which states chemical characteristics and safety precautions regarding a specific chemical.

*Non-Residential Establishment***C**but shall not be limited to, hotels, motels, schools, hospitals and nursing homes.

*Person***C**any individual, trust, firm, joint stock company, corporation (including a governmental corporation), partnership, association, cooperative association or any political subdivision of this state or the United States which engage in the work of structural pest control whether for remuneration or during the course of other work being performed.

*Pest, Household***C**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 organisms

*Place of Business***C**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 license.

*Registered Employee***C**an employee registered as provided by this Chapter.

*Registered Wood Destroying Insect Report (WDIR) Technician***C**an employee qualified to conduct wood destroying insect report inspections.

*Registration Certificate***C**a document issued by the commission staff to a non-licensed employee of a business engaged in structural pest control work.

*Repellents***C**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.

*Restricted-Use Pesticide***C**a pesticide that is classified for restricted use by the administrator of the Environmental Protection Agency under the Federal Insecticide, Fungicide and Rodenticide Act and\or by the Louisiana Department of Agriculture and Forestry.

*Rodent***C**any of several mammals, such as rats and mice, commonly associated with man-made structures characterized by constantly growing incisors adapted for gnawing or nibbling.

*Rodent Control***C**the use of remedial measures such as baits, chemicals, barriers, gases and traps which are acceptable means of controlling rodents.

*Rodenticides***C**substances, not fumigants, under whatever name known, used for the destruction or control of rodents.

*Secretary or Secretary of the Commission***C**the state entomologist.

*Ship Fumigation***C**the fumigation of a vessel capable of transporting or housing people and/or products. It is normally self-powered and must have a crew or living quarters.

Spot Treatment (when used in reference to termite control work)**C**a localized application of chemicals or other substances to control, prevent or eradicate termites in a residence or other structure.

*Structural Fumigation***C**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.

*Structural Pest Control***C**the regulation, control, extermination and eradication of wood-destroying organisms, or fumigation, the identification of infestations or infections, the making of inspections, the use of pesticides, including insecticides, repellants, rodenticides, and fumigants, as well as other substances, mechanical devices

or structural modifications under whatever name known, for the purpose of preventing, prescribing remedies, controlling and eradicating insects, vermin, rodents and other pests in household structures, commercial buildings, vacant structures, other structures or products therein, including adjacent outside areas, as well as all phases of commercial fumigation, including treatment of products by vacuum fumigation, and the fumigation of railroad cars, trucks, ships, airplanes, docks, warehouses and common carriers; nothing in this Chapter shall in anyway affect the control and\or eradication of agricultural pests.

*Termites***C**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:

1. *Subterranean Termites***C**all species of termites which make tubes, but not pellets, and normally require contact with soil; especially species of the genera reticulitermes and coptotermes.

2. *Dry-Wood Termites***C**all species of termites with make pellets, but not tubes, and do not require contact with damp soil; especially species of the genera kalotermes, cryptotermes an incisitermes.

*Termiticide***C**any substance applied to buildings, wood products or soil for the treatment of termites.

*Vertebrate***C**those pests, such as rodents, bats and birds, belonging to the phylum vertebrata.

*Violation***C**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:

1. *Minor Violation***C**any act prohibited by the Act or these rule and regulations which does not result in danger to human health or damage to personal property, including, but not limited to, clerical error failure to make timely reports to the commission.

2. *Moderate Violation***C**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.

3. *Major Violation***C**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 Louisiana Department of Agriculture and Forestry.

*Wood-Destroying Insect Report***C**any document approved by the Structural Pest Control Commission issued by a pest control operator which pertains to wood-destroying insects, but not including a bid, a proposal or a contract for any structural pest control services.

*Wood-Destroying Organisms***C**all species of insects, fungi or other organisms which attack and damage wood in buildings for obtaining food for themselves and perpetuating the species, such as the old house borer, powder post beetles, termites and wood decay.

*Wood-Infestation Report***C**any written document issued by a pest control operator which pertains to subterranean termites, but not including a bid, a proposal or a contract for any structural pest control services.

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 17:251 (March 1991), LR 23:855 (July 1997).

§103. Administration of the Affairs of the Commission; Adoption of Rules and Regulations

A. As provided by R.S. 3:3364, the commissioner of agriculture shall serve as permanent chairman of the commission.

B. The state entomologist 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 certified mail 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.

Q. In addition to the requirements of the Administrative Procedure Act, the commission shall also provide prior written notice of any public hearing for consideration for adoption and/or amendment of any rules and regulations to all licensees at the last address reported by each licensee at least seven days prior to any such hearing.

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).

§105. Permit for Operation of Structural Pest Control Business Required

A. Every place of business engaged in structural pest control work must obtain a permit for operation from the commission prior to engaging in structural pest control work.

B. No permit for operation shall be issued by the commission unless there is a licensee domiciled at the business location for which the permit is sought.

C. Each permit for operation must 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. The fee for renewal 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.

F. 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 must obtain a permit for operation.

G. 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.

H. Whenever a permit is recalled by the commission as provided in §105.G above, no structural pest control work of any kind may be provided by persons domiciled at the location for which the recalled permit has been issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3302 and R.S. 3:3306.

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).

§107. License to Engage in Structural Pest Control Work Required; Qualifications of Applicant; Requirements for Licensure; Phases of Structural Pest Control License; Conditions of the License

A. No person may perform structural pest control work of any kind, or advertise to provide structural pest control services, until licensed to do so by the commission.

B. Each applicant for license must possess one of the following qualifications in order to take the examination(s):

1. a degree from an accredited four-year college or university with a major in entomology; 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 the licensee phase for which the applicant desires to take the examination; or

3. 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

4. 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.

C. Each applicant for a ship fumigation license must 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; or

2. a degree from an accredited four-year college or university 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 must 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 must 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:

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;

4. secure a permit for operation of the business location where he will be domiciled, as required by §105 above, provided that an applicant for license who is connected with a business location for which the commission has already issued a permit for operation need only to advise the commission of the business name and location of the permitted establishment where he will be domiciled;

5. provide a certificate of insurance on a document approved by the Louisiana Department of Agriculture and Forestry of general liability as follows:

a. not less than $250,000, public liability coverage, per accident;

b. not less than $100,000 coverage for property damage;

c. or combined single limits of $350,000;

d. liability insurance must provide coverage under Insurance Code 73421 (fumigation including completed operations) and on Insurance Code 73420 (exterminating including pest control and completed operations excluding fumigation and use of gas of any kind).

e. provision for at least 10 days prior written notice to the commission before cancellation.

6. Provide evidence of a surety or fidelity bond 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 must secure the appropriate coverage prior to issuance of the license.

G. Out-of-state applicants for licensure must meet the educational requirements shown in LAC 7:14107.B.1 above 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
7. wood destroying insect report (WDIR) inspector

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 may 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 may 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. The license must be permanently displayed on the licensee's 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 licensee desiring to utilize a telephone answering service other than at locations holding a place of business permit shall submit a written request and receive permission from the Louisiana Department of Agriculture and Forestry at least 30 days prior to establishing such a telephone answering service.

Q. A licensee can only have one license with all phases for which he possesses issued at one place of business.

R. Persons licensed in termite control on or before September 30, 1997 shall attend a wood destroying insect report training session prior to being qualified to become a licensed WDIR inspector. Said training session must have prior approval by LDAF. Persons licensed on or after October 1, 1997 and persons licensed in termite control on or before September 30, 1997 who do not attend a wood destroying insect report training session, shall complete the requirements set forth in §107.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3308 and R.S. 3:3306 (redesignated 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 19:1009 (August 1993), LR 23:855 (July 1997), LR 23:1493 (November 1997).

§109. Application for Examination; Contents of Application

A. Application for examination for licensure may be made at any time by filing a complete application, on forms to be provided by the commission.

B. A complete application for examination must 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 fee of $50 per examination upon approval by the Structural Pest Control Commission which fee shall be nonrefundable

D. Each application for examination must 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. rducational qualifications. For applicants seeking licensure on the basis of educational qualifications, a certified copy of the applicant's college or university transcript must be provided.

4. proof of practical experience in pest control work

a. Upon the Structural Pest Control Commission's request, 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 must 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 Louisiana Department of Agriculture and Forestry. If the licensee who provided supervision is deceased, or his whereabouts are unknown, at the time of the application, the commission may:

i. waive the requirement for the affidavit to the licensee; or

ii. verify the applicant's supervised experience by whatever means deemed appropriate by the Louisiana Department of Agriculture and Forestry.

E. Any applicant who is not qualified for licensure on the basis of education or experience 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 by the director or the secretary at times or places which have been previously advertised and at no other times or places.

H. The written examination may 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. Each applicant shall be notified in writing within 30 days after completing of the examination of the results thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3302 and R.S. 3:3306.

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 15:955 (November 1989).

§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 Structural Pest Control Commission to demonstrate that the person has the necessary knowledge in the category or categories for which was applying for. The minimum score required for successful completion of the examination is 70 percent.

C. The certified fumigation technician must maintain his registration in current status by:

1. attending a continuing education program at least once every three years;

2. the continuing education program must contain a minimum of six hours of technical training for the category of Fumigation;

3. must 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. 3:3369 and 3:3366.

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).

§113. Registration of Employees; Duties of Licensee and Registered Employee with Respect to Registration

A. Each licensee must register every employee under his supervision with the commission within 30 days after the commencement of the employee's employment.

B. The licensee must complete a registration form for each employee under his supervision, on a form to be provided by the commission.

C. The registration application of each employee must 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. whether the employee will be engaged in sales or service;

6. date of employment of the employee; and

7. two (two inches by two inches) photographs of the employee;

8. date of birth and social security number.

D. 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.

E. Whenever all information required under §113.C above is provided by the licensee, the staff of the Louisiana Department of Agriculture and Forestry shall issue the employee's registration certificate within 20 working days after receipt of the registration form and/or after the applicant has successfully passed the technician examination. All technicians shall make application for registration within 30 days of employment.

F. Each registration certificate is personal to the holder and may 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 registered employee whose name appears on the certificate.

G. A registration certificate is valid only while the registered employee remains under the supervision of the licensee making application for the employee's registration certificate.

H. The licensee must require the registered employee to sign the registration certificate, in the presence of the licensee, within five days after the licensee receives the registration certificate from the Louisiana Department of Agriculture and Forestry.

I. A registered employee must have his registration certificate in his possession at all times while engaging in pest control work and must display his registration certificate upon reasonable request by any employee of the Louisiana Department of Agriculture and Forestry or any person for whom pest control work is being performed.

J. A registered employee may 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 must secure the employee's registration certificate, notify the Louisiana Department of Agriculture and Forestry of the employee's termination and return the registration certificate to the Louisiana Department of Agriculture and Forestry within five working days after the termination.

L. If the licensee is unable to retrieve the registration certificate of a terminated employee, the licensee must notify the Louisiana Department of Agriculture and Forestry 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.

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 withhold from the pay of each employee the amounts which employers are required to withhold from employees by applicable state and federal laws.

P. 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.

Q. Each registered technician shall participate in 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 must be approved in advance by the Louisiana Department of Agriculture and Forestry;

2. each continuing education program must be a minimum of one hour in length per category in which the technician is registered;

3. documentation of the technician attendance and participation must be forwarded to the Louisiana Department of Agriculture and Forestry and a copy retained at the technician's place of employment;

4. any registered technician who fails to attend may be called to a Structural Pest Control Commission hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3302 and R.S. 3:3306.

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).

§115. Registered Wood Destroying Insect Report Technician Requirements

A. Persons, prior to registering as WDIR technicians, shall attend a wood destroying insect report training session and have conducted with licensed or registered WDIR inspector/technician, 40 WDIR inspections, approved by licensee, or shall have a wood destroying insect report training session and a minimum of one year of experience as a registered employee in the termite phase of pest control work under a termite phase licensee; and shall pass the appropriate test with a grade of 70 percent or better. Licensee shall verify in writing of technicians: work experience.

B. The fee for the examination for the WDIR technician shall be $25.

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 23:855 (July 1997).

§117. Obligations of the Licensee

A. The licensee must keep the bond and general liability insurance required under §107.F in full force and effect at all times.

B. The licensee must renew the permit for operation for each business location annually prior to June 30.

C. The licensee must apply for a registration certificate for each employee under his supervision within 30 days after the employee is hired and must comply with all other requirements pertaining to registration of employees set forth in §113.

D. The licensee must follow label and labeling requirements in all applications of pesticides not specifically covered in §141.

E. The licensee shall be responsible for training the employee in the kind of work which he will perform.

F.1. The licensee must maintain his commercial applicator certification in current status by:

a. attending a continuing educational program for recertification approved by the Louisiana Department of Agriculture and Forestry;

b. recertification at least once every three years;

c. a minimum of six hours of technical training which shall include but not limited to the categories of general pest control, termite control, wood destroying insect report (WDIR) inspector and commercial vertebrate control;

d. a minimum of six hours of technical training for the category of fumigation.

2. A licensee attending an approved recertification seminar must attend the entire approved program; otherwise the licensee shall not be recertified at this approved seminar.

3. Time and location for each licensee certification can be obtained by calling or writing to the Louisiana Department of Agriculture and Forestry.

4. a minimum of six hours of technical training for the category of fumigation;

5. a licensee attending an approved recertification seminar must attend the entire approved program, otherwise the licensee shall not be recertified at this approved seminar;

6. time and location for each licensee certification can be obtained by writing to the Louisiana Department of Agriculture and Forestry.

G. The licensee must be available to provide direct supervision over all employees registered under his license on a regular, ongoing basis.

H. The licensee must report all termite contracts and all wood-destroying insect reports and pay all required fees as set forth in §119 hereof.

I. Any person applying pesticides for a fee and the licensee must maintain records according to LAC 7:XXV.117.I, 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 LDAF. These records must 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 must make a copy of these records available to any employee of the Louisiana Department of Agriculture and Forestry for inspection at a reasonable time during normal working hours.

1. Records for Licensee(s) applications of pesticides for wood destroying insects shall contain the following information:

a. place of business name, address, and number;

b. licensee name, address, and certification 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);

k. size of area treated (square feet or linear feet);

l. mixture concentration;

m. total amount of emulsion applied;

n. applicator and certification number.

2. Record keeping for licensee(s) in the general pest and commercial vertebrate phases shall contain the following information:

a. place of business name address, and number;

b. licensee name, address, and certification 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 certification number.

3. Records for licensee(s) in the fumigation phase shall contain the following information:

a. place of business name, address, and number;

b. licensee name, address, and certification 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, certification number.

J. The licensee must renew each category in which he is licensed annually by June 30.

K. The annual fee for licensed pest control operators shall be $5 for each category in which the pest control operator is licensed.

L. The licensee must report to the Louisiana Department of Agriculture and Forestry all termite contracts, termite perimeter applications and wood destroying insect reports completed each month on the form provided by the Louisiana Department of Agriculture and Forestry. The reports listed above are due in Division of Pesticides and Environmental Programs office in Baton Rouge on or before the tenth of the month following the contract or application.

M. The fee per termite contract and wood-destroying insect report is $5 per and/or inspection report issued and is due on or before the tenth day of each month.

N. The licensee must have provisions for spill control including materials and tools on every vehicle transporting pesticides.

O. Signage of Vehicles

*General***C**a motor vehicle being operated by a place of business that is engaged in the transport or application of pesticides must be marked as specified below:

a. magnetic or removable signs may be used;

b. size, shape, location and color of marking. The marking must 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 must be a minimum of two 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 must display the following information: the name or trade name of the place of business operating the vehicle.

P. The only phone numbers that shall be used in any advertisement shall be the place of business permit phone number or the licensee's home phone number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3302 and R.S. 3:3306.

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), LR 21:930 (September 1995), LR 23:855 (July 1997), LR 26:2437 (November 2000).

§119. Contracts for Termite Control Work

A. The licensee must enter into a written agreement for termite work with the property owner employing him, which agreement must:

1. be in a form provided or approved by the commission;

2. guarantee performance for a period of not less than one year after the treatment is made;

3. guarantee treatment of the property in accordance with minimum specifications for termite control work set forth in §141 hereof; and

4. provide for at least one inspection of the property prior to expiration of the agreement;

5. each contract must include an inspection diagram.

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 must guarantee the area treated for a period of one year.

D. The licensee must report to the commission, no later than the tenth day of each month, each contract for termite work which he has entered into and performed during the previous month. If no contracts were entered into or performed during the previous month, the licensee must report this fact to the commission no later than the tenth of each month.

E. The licensee shall pay a $5 fee for each standard contract reported under §119.D above when the required monthly report is filed.

F. Copies of contracts for termite and other wood destroying insect control must be retained for a period of two years after the expiration of applicable contracts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3302 and R.S. 3:3306.

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).

§121. Wood Destroying Insect Report

A. A wood infestation report approved by the Structural Pest Control Commission shall be issued when any inspection is made to determine the presence of wood destroying insects, specifically for acts of sale of structures, but not limited for this purpose.

B. Any wood infestation report or written instrument issued for the transfer of real property, shall be issued by a person who is licensed by the Structural Pest Control Commission as a wood destroying insect report (WDIR) inspector or a registered wood destroying insect technician and is working under the supervision of a person who is licensed by the Structural Pest Control Commission as a WDIR inspector. This instrument shall carry a guarantee that the property will be treated without charge should live wood destroying insects with the exception, the presence of frass will be acceptable as evidence of a live infestation of Power Post Beetles; however, frass must be exuding or streaming from the holes on the outside of the wood, covered by this report, and be found within 90 days from date of inspection.

1. A contract approved by the Structural Pest Control 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 Commission Law.

C. Regulations for completing wood destroying insect reports (LPCA-142). The following numbered sections correspond to the numbered sections on WDIR Form LPCA-142, and shall be completed as follows.

1. Enter HUD/FHA/VA Case number (if available).

2. Enter date of structure(s) inspection.

3A. Enter name of inspection company.

3B. Enter address (including street, city, state, and zip code) of inspection company.

3C. Enter telephone number (include area code) of inspection company.

4. Enter pest control inspector license number.

5A. Enter name and address of property owner\seller at the time of inspection.

5B. Enter address of property inspected (including street, city, state, and zip code).

5C. List only structures located at address in 5B that are part of this report.

5D. Information only. This area shall **NOT** be checked, circled or marked in any way.

6. If any areas of the property 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. This area shall **NOT** be checked, circled or marked in anyway.

9A. 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.

9B. 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.

9C. 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.

9D. Treatment was or will be performed by inspection company? YES or Number 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 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.

10. Additional comments (If necessary, continue on reverse side).

11. Do not mark in this section.

12. Property disclosure statement provided to pest control company prior to or at the time of the inspection. Check Ayes@ if provided, check Ano@ if not.

13. Make no marks in this section.

a. If any of the conditions listed in this paragraph on the WDIR (LPCA-142) are present under or to within 12 inches of the inspected structure(s), list them in Section Number 10 of this report.

14. Signature and registration\licensee number of inspector conducting the inspection.

15. Enter date of inspector signature.

16. Enter name of person requesting the WDIR (if available).

17. Signature of person WDIR received by (if available).

18. Title of person in Number 17 (if available).

19. Date of signature of Number 17 (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 with the Louisiana Structural Pest Control Commission to conduct WDIR inspections or is working under the supervision of a licensed WDIR inspector and is properly registered to conduct WDIR inspections.

2. WDIR inspector\technician shall inspect all unobstructed or accessible areas.

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 23:856 (July 1997), LR 24:631 (April 1998), LR 25:235 (February 1999), LR 25:829 (May 1999).

§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.) must be reported to the commission, in writing, within 14 days after the change in status occurs.

B. When any change in status occurs, provisions must 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 must notify the Louisiana Department of Agriculture and Forestry, in writing, of the name and address of the licensee providing supervision during the interim within 14 days after the change occurs.

C. When the change in status results in no licensee being domiciled at a permitted location, an applicant who is eligible for licensure must 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 deceased's 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 licensee may designate another licensee, certified in the same categories 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 Louisiana Department of Agriculture and Forestry in writing of any such temporary absence giving the name of the substituting certified applicator jointly responsible with the licensee, and the dates of the temporary absence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3302 and R.S. 3:3306.

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 15:957 (November 1989).

§125. Inactive Status of License

A. Upon written notice to the commission, any licensee may place his license on inactive status, with the prior approval of the commission, during any period of time when he will not be directly engaged in pest control work.

B. Notice to the commission must 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. When the commission places a license on inactive status, the licensee shall not be required to maintain liability insurance and/or his bond in full force and effect while the license is on inactive status.

D. The license of any licensee which has been placed on inactive status must be maintained in current status as provided in §117.F. Any license which is not maintained in current status as provided in §117.F may be revoked by the commission upon notice and hearing as required by §127 hereof.

E. When a license has been revoked under the authority of §125.D, the license may not be renewed except upon compliance with all requirements for initial licensing contained in §§107 and 109.

F. 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 enumerated in §127.D.

G. The commission may impose penalties simultaneously when authorizing the return of a license to active status, but only when the licensee on inactive status has been brought to an adjudicatory proceeding as provided by §129 and proven guilty of acts which would have been classified as violations under §127.D if the license had been on active status when the acts were committed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3302 and R.S. 3:3306.

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 15:957 (November 1989).

§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 §129.B above 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3302 and R.S. 3:3306.

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 15:957 (November 1989), LR 23:854 (July 1997).

§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 severe 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. If any violations of the Act or rules and regulations occurs after 24 months of probationary status, the commission shall convene an adjudicatory proceeding leading to the suspension/revocation of the license/registration certificate.

N. In consideration of alleged violations, the commission shall examine the record of the offender during the 24 months previous, to the date of the alleged violation; whenever the licensee/registered employee has been found guilty of a violation of the Act or these rules and regulations in an adjudicatory proceeding at any time during the previous 24 months, the commission shall consider the licensee/registered employee in the light of multiple violations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3312 and R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:329 (April 1985).

§131. Suspension/Revocation of License/Registration Certificate

A. A license/registration certificate 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 certificate for any severe violation without previously imposing a period of probationary status.

C. Any suspension of a license/registration certificate 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 must be met before the license/registration certificate will be reinstated.

E. The licensee/registered employee may 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 certificate for that phase of pest control work has been suspended by the commission.

F. The commission may suspend the license/registration certificate 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 severe violation occurring in only one phase of pest control work.

H. Prior to the expiration of a suspension, the commission shall notify the licensee/registered employee, as provided by §127 , to attend the next regularly scheduled meeting and demonstrate that the violations which caused the suspension have been corrected.

I. If the violations which caused the suspension have not been corrected, the commission may conduct an adjudicatory proceeding and permanently revoke the license/registration certificate.

J. 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.

K. A suspension may not be extended beyond the initial expiration date except upon the unanimous vote of the commission at a properly noticed and conducted adjudicatory proceeding.

L. 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. 3:3312 and R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:329 (April 1985).

§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 Louisiana Department of Agriculture and Forestry, shall be paid for by the person requesting the chemical sample. The fee shall be $100 per analysis, plus the cost for obtaining the samples by the employee of the Louisiana Department of Agriculture and Forestry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3302 and R.S. 3:3306.

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 15:958 (November 1989).

§135. Prohibitions

A. A pest control operator may 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 licensee/registered employee may apply restricted use pesticides unless certified to make such application.

E. No licensee/registered employee may use highly toxic gases inside buildings unless licensed in the fumigation phase of the pest control license.

F. The licensee may not assign a registered employee to regularly perform pest control work in any phase of pest control work for which he is not registered and in which he has not been thoroughly trained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:330 (April 1985).

§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, corporation, association or combination thereof engaged in the manufacture of pesticides, fumigants, insecticides, herbicides, rodenticide, repellants or other similar substances.

C. These rules and regulations do not apply to any person, firm, partnership, corporation, association or other organization or combination thereof engaged in selling products to the general public for the control of household pests and termites, provided that such entities may 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.

D. These rules and regulations do not apply to persons who personally applies pesticides of any kind for the control of household pests or wood-destroying insects on property which they own, rent or lease, provided that such persons must employ such materials in such manner as to avoid any undue hazards to public health safety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3316 and R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:330 (April 1985).

§139. Complaints Against Pest Control Operators

A. Any citizen may file a complaint in writing against any pest control operator by contacting the commission office in Baton Rouge.

B. Upon receipt of a written complaint, the commission staff shall:

1. immediately 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 and enter an item for a status report to the commission on the agenda for the next commission meeting.

D. The commission may bring any matter arising from a citizen's complaint to an adjudicatory hearing if, in the judgement of the commission, 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 must 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 falls 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. 3:3305.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:330 (April 1985).

§141. Minimum Specifications for Termite Control Work

A. Chemicals approved for termite control work shall remain in full force and effect until superseded by a publication of a subsequent full listing.

1. All chemicals registered by the U.S. Environmental Protection Agency and the Louisiana Department of Agriculture are approved by the commission, but only at the chemical compositions approved by the U.S. Environmental Protection Agency.

2. The commission will issue an annual listing of chemicals approved by the commission for termite control work. The listing shall become effective upon publication in the Potpourri section of the *Louisiana Register* and shall remain in effect until changed by the commission. The commission may supplement its listing whenever any new chemical is approved for termite control work and may also remove a previously approved chemical from its approved listing by publication in the Potpourri section of the

Louisiana Register. Upon publication of the listing of chemicals approved for termite control work, all previous listings shall be repealed. The commission delegates to the State Entomologist Department=s Assistant Commissioner of Agricultural and Environmental Sciences the responsibility for publication of the list of chemicals approved by the commission.

3. The commission's annual listing of chemicals approved for termite control work shall also contain the chemical concentration at which each chemical is approved for usage, and the chemicals must be applied in accordance with label and labeling requirements. Chemicals shall not be applied at any less than label and labeling requirements.

4. Proprietary materials may be used for termite control work only if:

a. such materials contain one or more chemicals approved by the commission at the concentrate level required by the commission; and

b. such materials are compatible. Proprietary materials cannot be used for the prevention, control or eradication of structural pests without prior written approval of the commission. Proprietary materials which do not conform to the requirements of the commission must be evaluated on the basis of a field trial prior to approval by the commission.

B. Requirements for Trench and Treat

1. All trenches must be approximately four inches wide at the top angled toward the foundation and sufficiently deep (approximately six inches) to permit application of the required chemical. Apply the emulsion into the trench at the rate and manner prescribed on the label and labeling. Rodding will be acceptable only when trenching will damage 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 must 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 must have concrete or metal-capped bases extending at least three inches above the ground. Creosote or penta pressure-treated piling foundations are exempt from this requirement but should be drilled and pressure treated to the center of the piling.

b. Wood parts which extend through concrete or masonry (such as posts, door frames or stair carriages) must be cut off and set on metal or concrete bases at least three inches above ground level.

c. Wood steps must be placed on concrete or masonry bases which extend at least one inch above ground level, and beyond the steps in all directions. Multiple-course masonry step supports must 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 three inches above ground level and/or trench and treat according to label and labeling.

b. Trench and treat around all pipes.

5. Skirting and Lattice-Work

a. All cellulose skirting and lattice-work must rest on solid concrete or brick extending at least three inches above the outside grade. This base will be trenched and treated.

b. There must be at least three 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 must be no more than 18 inches apart (unless label requires closer distance).

7. Masonry. Apply chemical to all porous areas, 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, in all two-course brick foundations (piers, foundation walls, steps, buttresses, etc.) and thoroughly treat wall voids. L-shaped and T-shaped piers must be drilled a minimum of three times with hole spacings no more than eight inches apart. Holes must be deep enough to reach the center mortar joint and chemical must 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 each block of hollow concrete (or other lightweight aggregate) blocks and apply chemical into the openings at a rate sufficient to treat the area of the bottom of each block. On T-shaped or L-shaped piers the connecting mortar joints (crotches) must 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 must be approximately four inches wide at the top, angled toward the foundation and sufficiently deep (approximately six 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 where trenching will damage flowers and/or shrubs. Maximum distance between rod holes shall be four 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 must 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 [in appendix])

Exception: If, due to construction, it is impractical to break 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 may 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 eight 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 B on Figures 2 and 3 [in appendix])

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.

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 must be approximately four inches wide at the top, angled toward the foundation and sufficiently deep (approximately six 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 where trenching will damage flowers and/or shrubs. Maximum distance between rod holes shall be four inches.

2. Bath Traps

a. An access hole of a minimum of 6 H 8 inches shall be provided to all bathtub plumbing. Specifications must have a waiver of the listed item or items signed by the owner prior to the treatment. A copy of the signed waiver must be filed with the Louisiana Department of Agriculture and Forestry with the monthly Termite Eradication Report.

b. If the soil in a trap does not reach the bottom of the slab, the trap must be filled to within two inches of the top of the slab with soil prior to treatment. Treat bath trap(s) as required by label and labeling.

c. A tar filled bath trap must also be drilled and treated as required by label and labeling.

d. If bath trap is solid concrete pore, it must be drilled and treated as close as practical to the bathtub plumbing.

3. Other Openings in Slab

a. All showers must 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 must be no more than 18 inches (unless label requires closer distance) apart along the above stated areas.

c. All other openings (plumbing. etc.) must be treated as required by label and labeling.

E. Pre-Treatment of Slabs

1. Treat as required by label and labeling.

2. Within 12 months after initial treatment of the outside of the foundation, the perimeter wall will be trenched and treated as required by label and labeling. The licensee shall report the completion of the application to the outside of the foundation to the Louisiana Department of Agriculture and Forestry on the Termite Perimeter application form. Rodding will be acceptable where trenching may damage flowers and/or shrubs. Maximum distance between rod holes shall be 4 inches.

3. If, during the treatment of any area which will be beneath a slab foundation, the operator must leave the site for any reason prior to the completion of the application as specified in §141.E.1. above, the operator must prominently display a poster, to be furnished by the Louisiana Department of Agriculture and Forestry, which states that the treatment of the area under the slab is not complete.

4. All pre-treatment of slabs must be called or faxed in to the Department of Agriculture and Forestry District Office nearest the pre-treatment property, a minimum of one hour prior to beginning the application of termiticides. The information provided shall include a street address, city, directions to the property being pre-treated, and time of beginning the application of termiticides to the property. All pest control operators must keep a log of all pretreats including the information noted. The following is a list of parishes in which the seven Department of Agriculture and Forestry Districts operate. Pre-treatments in those parishes shall be called into the corresponding District Office.

a. Shreveport District**C**Caddo, Bossier, Webster, Claiborne, Bienville, Red River, and Desoto.

b. Monroe District**C**Union, Morehouse, West Carroll, East Carroll, Madison, Richland, Ouachita, Lincoln, Jackson, Winn, Caldwell, Franklin, Tensas, Concordia, and Catahoula.

c. Alexandria District**C**Sabine, Natchitoches, Grant, LaSalle, Avoyelles, Rapides, and Vernon.

d. Crowley District**C**Beauregard, Allen, Acadia, Jefferson Davis, Cameron, Calcasieu.

e. Opelousas District**C**Evangeline, St. Landry, St. Martin, Iberia, St. Mary, Vermillion, and Lafayette.

f. Baton Rouge District**C**Point Coupee, West Feliciana, East Feliciana, St. Helena, Tangipahoa, Washington, St. Tammany, Livingston, St. James, Lafourche, Terrebonne, Assumpton, Ascension, Iberville, West Baton Rouge, and East Baton Rouge.

g. New Orleans District**C**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 must have a waiver of the item or items signed by the owner prior to the treatment. A copy of the signed waiver must be filed with the Louisiana Department of Agriculture and Forestry 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 must include a waiver of minimum specifications and a complete diagram of the area(s) treated.

G. Infested Properties

1. Whenever any agent of the commission finds that any property is infested with termites, the operator who treated the property must retreat within 30 days after receipt of notification from the commission.

2. When the operator completes the re-treatment, he must notify the commission immediately.

H. Responsibility of Operator to Property Owner and Commission

1. The operator should immediately bring to the attention of the property owner the presence of any visible insect damage found in portions of the building that are accessible for inspection.

2. The operator must provide for air space on the water hose used in supplying water to the chemical tank.

I. Waiver of Requirements of Minimum Specifications for Termite Control Work. Whenever it is impossible or impractical to treat any structure in accordance with these minimum specifications, the pest control operator may request a waiver of these requirements. A waiver must be on a form approved by and secured from the Department of Agriculture prior to any treatment in any instance where all requirements of these minimum specifications cannot be complied with. A waiver shall be signed by the owner/agent of the property treated and shall be sent to the department with the company's monthly eradication report.

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 approval of the agenda prior to the program by the Louisiana Department of Agriculture and Forestry. Manufacturer shall

notify LDAF in writing of the licensees and technicians certified.

2. Bait and baiting systems shall be used according to label and labeling.

3. All baits and baiting systems applications shall be contracted and reported according to R.S. 3:3370 and LAC 7:XXV.119.D and pay the fee as described in LAC 7:XXV.119.E.

4. Records of contracts, graphs, monitoring (if required), and bait applications shall be kept according to LAC 7:XXV.117.I.

5. All structures that cannot be treated according to the bait and baiting minimum specifications must have a waiver of the listed item or items signed by the owner prior to the baiting treatment. A copy of signed waiver must be filed with the Louisiana Department of Agriculture and Forestry with the monthly termite eradication reports.

6. 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.

7. At termination of the bait contract, the pest control operator shall remove all components of bait and baiting systems.

8. 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 system products shall be subject to the pilot project for a period of a minimum of one year. The Structural Pest Control 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. monitoring may be used to detect the presence of subterranean termites in the soil. Monitoring may include the use of toxicant delivery systems. All delivery systems shall be inspected at regular intervals, not less than once monthly and data shall be recorded;

e. baits and baiting systems may be used as a stand-alone termite treatment only with written approval by LDAF;

f. baits and baiting systems may be used as a supplement to traditional ground termiticide treatments.

g. monitoring stations shall be placed, where soil is available, a minimum of twenty feet apart around the perimeter of the structure;

h. toxicant delivery following label and labeling shall be placed in or in close proximity to each monitoring station that is infested with live termites.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3302 and R.S. 3:3306.

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).

§143. Termiticide Foam Applications

A. Termiticide foam applications may be used as a supplemental treatment to approved liquid applications on post-construction 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).

§145. Wood-Destroying Beetles

A. The licensee shall inspect the premises to determine whether there is an active infestation of wood-destroying beetles before recommending treatment or sale of a service to control, prevent or eradicate such infestation and such determination shall be made on the basis of the following guidelines.

1. Powder Post Beetle (Anobiidae and Lyctidae)

a. The presence of frass will be acceptable as evidence of an active infestation of powder post beetles; however, frass must be exuding or streaming from the holes on the outside of the wood.

b. The presence of holes alone will not be acceptable evidence of an active infestation of powder post beetles except when live larvae or pupae are found in wood members.

[NOTE: Anobiidae beetles usually infest softwoods, such as pine, and lyctidae usually infest hardwoods, such as oak or pecan.]

2. Old House Borer (Hylotrupes bajulus)

a. The presence of adult beetles or oblong exit holes with frass in pine or other softwoods will be evidence of active infestation of the old house borer.

b. The presence of live larvae or pupae in softwood members will be evidence of active infestation of the old house borer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:332 (April 1985).

§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 three-mile limit off the coast of Louisiana.

2. The licensee must not only comply with the Structural Pest Control Commission Rules and Regulations but must 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 must 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 must 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 licensee must give notice, in writing, to be received by the commission at least 24 hours prior to structural fumigation. If sent through the U.S. Postal Service, the notice must be mailed at least five working days prior to such fumigation and proof of mailing should be obtained in order to assure timely delivery to the commission. Notice to the commission must 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 gas 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 may be given by phone but must be confirmed in writing, to be received by the commission within 24 hours after the telephone notice.

3. Before commencing fumigation of a residential structure, office building, church, school or any other building frequented by people, the structure may be inspected by an inspector of the Structural Pest Control Commission. Within five working days, fumigation may commence.

4. A licensed fumigator must personally inspect all structures that are to be fumigated while they are being tented or sealed after the structure has been evacuated.

5. A licensed fumigator or his certified fumigation technician must 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.

6. A licensed fumigator or his certified fumigation technician must 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.

7. 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.

8. Two test lines with at least 1/4 inch outside diameter must be appropriately located on the first floor of the structure(s) being fumigated to permit sufficient readings of the gas concentrate to determine its efficacy in destroying insects. They must be on opposite sides of the building. In multi-story buildings the lines should be on different floors. A written record of gas level readings must be maintained during progress of job and will become part of job file.

9. A licensed fumigator must post a guard(s) to prevent entry by an unauthorized person into the area being fumigated. The guard, who may or may not be an employee of the licensee, is not required to be a licensed pest control operator or registered employee.

10. Whenever one unit of a complex containing more than one unit is to be fumigated, all units of the building to be fumigated must be evacuated during fumigation and until such time as the fumigated area is declared safe for occupancy. A licensed fumigator must inspect all units of a complex.

11. A licensed fumigator or his certified fumigation technician must 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 person, trained in fumigation in addition to the above, must be present when the fumigant is released and immediately prior to the time when the fumigation area is declared safe for occupancy.

12. A licensed fumigator or his certified fumigation technician must 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.

13. No one shall be permitted to enter a fumigated area after fumigation until a licensed fumigator or certified fumigation technician has inspected the area and declared it safe for human occupancy.

C. Requirements for Shipboard Fumigation

1. A licensed fumigator must 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 must:

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 must 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 licensee must 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).

§149. Repeal of Prior Rules and Regulations of the Commission

A. Upon promulgation of these rules and regulations, all rules and regulations of the Structural Pest Control Commission adopted prior to the effective date of these rules and regulations shall be repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:334 (April 1985).

§151. General Requirements for Pesticide Waste

A. Waste, Water, Which Upon Disposal, is Classified as a Hazardous Waste. All commercial applicators applying pesticides which, upon disposal, are classified as a hazardous waste must implement a containment system for reuse or apply the waste immediately to the site of application.

B. Handling Spills by Commercial Applicators

1. All uncontained spills of more than one gallon liquid or four pounds dry weight must be reported to the director of Structural Pest Control Commission within 24 hours by telephone and by written notice within three days.

2. Commercial applicators are responsible for the cost of cleanups resulting from pesticide spills in their operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 12:285 (May 1986).

§153. Procedures Governing Handling of Pesticide Containers by Commercial Applicators (Except Bulk Pesticide Containers)

A. Storage Areas for Full or Partially Full Pesticides Containers

1. Pesticide containers must be stored in a secure, locked enclosure.

2. Pesticide containers must be free of leaks.

3. The storage area must be maintained in good condition, without unnecessary debris.

B. Empty containers must be stored in a secured area. Empty containers may be kept for no more than 30 days.

C. Metal, Glass and Plastic Containers

1. All metal, glass and plastic containers must be triple-rinsed, immediately after the pesticide is removed by the following, or equivalent procedure.

a. Using a solvent capable of removing the pesticide, fill each container with solvent equal to approximately 10 percent of the volume of pesticide originally contained in the container.

b. Agitate the solvent thoroughly on all interior surfaces of the container. Agitation may be accomplished by use of agitation equipment approved by the department or by manual agitation of the solvent.

c. Repeat the above procedure three times.

d. If the rinsate containing the solvent can be used again in subsequent application of the pesticide without reducing the effectiveness of the pesticide, place the rinsate in the containment tank specified for that pesticide. If the rinsate is not classified as a hazardous waste upon disposal, it may be placed in an approved surface impoundment.

2. Upon completion of the above triple-rinsing procedures, containers may be disposed of as follows:

a. by disposal in any permitted solid waste facility (sanitary landfill), provided that, prior to disposal in a solid waste facility, the pesticide applicator must pierce all metal and plastic containers in both ends;

b. by prior agreement, by return (for credit or otherwise) to the pesticide sales agent or the pesticide manufacturer; or

c. by resale to a third party for recycling or reconditioning.

D. Paper and Plastic Bags. All pesticides shall be removed from paper and plastic bags to the maximum extent possible when the pesticide is initially mixed for application. Thereafter, containers shall be disposed of as follows:

a. Cut all sides of the container and open the container fully, without folds or crevices, on a flat surface,

shake any pesticides remaining in the open container into the pesticide mix.

b. After cutting and flattening such pesticide containers, dispose of containers in a solid waste facility (sanitary landfill).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 12:285 (May 1986).

§155. Procedures for Constructive Recycling by Commercial Applicators of Unused Portions of Pesticides and/or Rinsate of Pesticides Which, Upon Disposal are Classified as Hazardous Wastes Under EPA Regulations

A. The commission 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.

B. Applicators of pesticides covered under this rule may recover and constructively reuse any unused portions of such pesticides and/or any rinsate of such pesticides by one of the following methods:

1. by immediate reapplication of the unused portion of the pesticide and/or the rinsate in accordance with label and labeling requirements for that pesticide;

2. by transferring to a closed containment system meeting the requirement of §157; or

3. by disposal in a permitted hazardous waste facility.

C. All unused pesticides and/or rinsate from pesticides classified as a hazardous waste upon disposal must be removed from containment tanks in less than 30 days after deposit therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 12:285 (May 1986).

§157. Containment System

A. Containment Tanks

1. Different containment tanks must be installed for different pesticides and/or rinsate of pesticides, except the same containment tanks may be used for two or more pesticides when such pesticides are physically and chemically compatible and when their mixing is not prohibited by their labels.

2. Each containment tank shall meet the following requirements:

a. must be constructed of material of sufficient strength and be compatible with the pesticide and/or rinsate to be placed within the tank;

b. must be free of leaks, cracks, holes or other deterioration at all times;

c. must be in good operating order at all times;

d. must be designed to allow drainage of the entire contents and be triple rinsed;

e. must be equipped with stopcocks, at appropriate locations, to prevent any leakage of the contents during storage or transfer of the contents; and

f. must be equipped with an opening to allow for sampling.

B. Containment Tank Foundation

1. The containment tank foundation shall be solidly constructed of a material sufficiently impervious to contain leaks, spills and accumulated pesticides and/or rinsate of pesticides.

2. The foundation covering must be free of cracks which might allow leakage.

3. The foundation must be sloped to facilitate cleanup of inadvertent spills.

4. The foundation must be constructed with a rim of sufficient height to contain run-off from cleanup activities or inadvertent spills and be protected from flood waters.

5. The foundation must be so constructed as to discharge all liquids into a dump.

6. Tanks must be located at sufficient elevation to allow visual detection of leakage of the contents.

C. Storage Requirements. All containment tank(s) must be located in a secured area and protected from flood waters.

D. Location Requirements; Submission of Preliminary Site Plans. Containment systems must be located a suitable distance from any adjacent buildings, property lines, or public access roads. Site plans showing location of the containment system must be submitted for the approval of the commission prior to construction. These plans may be rudimentary; the purpose of such submission is to avoid unnecessary expense by the application.

E. Requirements for Final Approval of Containment Systems. Final plans and specifications for construction of a closed containment system must be approved by the commissioner and must be filed with the Department of Agriculture, subject to the approval of the commission, prior to the start of construction. In consideration for approval of such plans and specifications, the commission may, at their discretion, be assisted by an ad hoc advisory committee consisting of such experts as may be appointed by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 12:285 (May 1986).

§159. Management of Unused Portions of Pesticides and/or Rinsate of Pesticides which, upon Disposal, are not Classified as Hazardous Wastes Under EPA Regulations

A. Unused portions of pesticides and/or rinsate resulting from the application of pesticides not classified as a hazardous waste upon disposal should be handled by one of the following methods:

1. by subsequent, immediate reapplication in accordance with label and labeling requirements for the pesticide;

2. by deposit in a closed containment system which meets the requirements of §157 hereof;

3. by disposal in surface impoundments which meet the requirements of this rule; or

4. any other methods approved by the commission.

B. Whenever violative levels of pesticides classified as a hazardous waste upon disposal are detected in any sample taken from a containment tank, whether the containment tank was in operation at the effective date of these regulations or installed after the effective date of these regulations, such containment tank may be immediately and permanently closed and, if closed, all contents thereof shall be removed and disposed of at a permitted hazardous waste disposal facility. The financial responsibility of closing a surface impoundment belongs to the commercial applicator and/or property owner.

C. Insofar as the disposal of a pesticide waste is concerned, commercial applicators who generate hazardous pesticide waste and who do not comply with these regulations shall be subject to the regulations governing hazardous pesticide waste under the jurisdiction of the Department of Environmental Quality until such time as the commissioner of Agriculture promulgates regulations governing hazardous pesticide waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 12:285 (May 1986).

§161. List of Approved Termiticides

Termiticide	Percentage
Biflex TC	.06% - .12%
Demon	.25% - .50%
Dragnet FT	.50% - 1.0%
Dursban TC	1.0%
Equity	.75% - 1.0%
Chlorpyrifos TC	1.0%
Prevail	.30% - .60%
Pryfon	.75%
Tenure	.75% - 1.0%
Torpedo	.50% - 1.0%
Tribute	5.0% - 1.0%

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3306.

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 20:644 (June 1994), LR 21:671 (July 1995).

§163. Donation of Structural Pest Control Work

A. Structural pest control operators licensed by the Structural Pest Control Commission may donate, in accordance with this Section, structural pest control services 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 Structural Pest Control 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 pest control services to individuals or organizations that are in need of, but unable to afford such services.

C. Any plan submitted to the Structural Pest Control Commission must 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 Louisiana Department of Agriculture and Forestry shall suspend:

1. the fee for termite contracts required under LAC 7:XXV.117.M; and

2. the requirements of LAC 7:XXV.119 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.

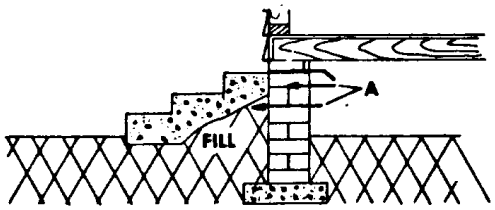
G. A copy of the approved plan, showing the list of specific eligible locations and the beginning and ending dates of the program shall be published in the potpourri section of the *Louisiana Register* at least 30 days prior to the beginning of the program.

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).

Appendix

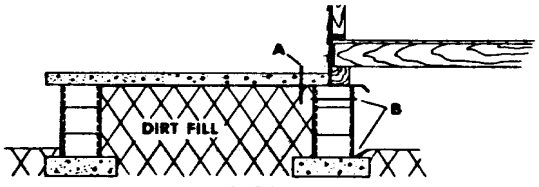
Figure 1. Excavation of Dirt Filled Porches



AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculure, Structural Pest Control Commission, LR 11:334 (April 1985).

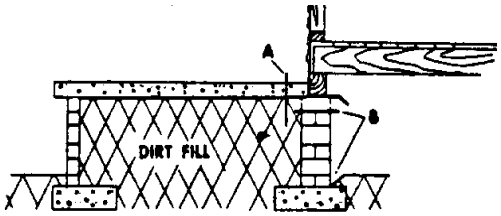
Figure 2. Dirt Filled Porch (Hollow Block)



AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:335 (April 1985).

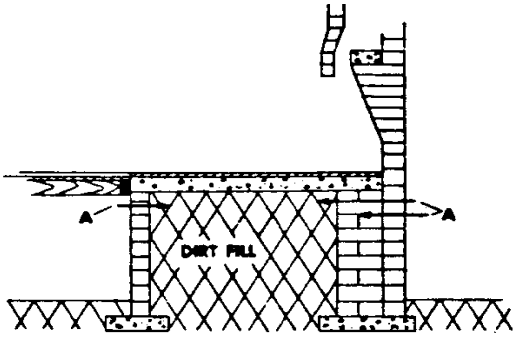
Figure 3. Dirt Filled Porch (Multi-Course Brick)



AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:335 (April 1985).

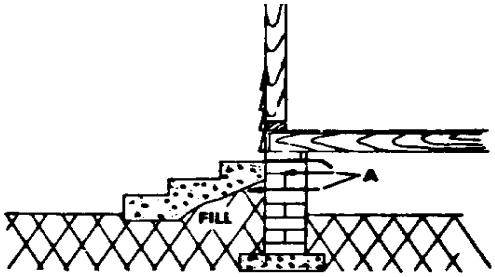
Figure 4. Chimney Base



AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:335 (April 1985).

Figure 5. Dirt Filled Step



AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:335 (April 1985).

Title 7
AGRICULTURE AND ANIMALS
Part XXVII. Agricultural Commodity Dealer and Warehouse Law

Chapter 1. Agricultural Commodities Commission

Subchapter A. General Provisons

§101. Definitions

*Act***C**the Agricultural Commodities Dealer and Warehouse Act (LSA 3:3401-3425).

*Advance***C**a partial payment against total proceeds due to a seller.

*Adjudicatory Proceeding***C**an open public hearing by the commission 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.).

*Agricultural Commodities***C**sugar, all agricultural products commonly classed as grain (rice, corn, wheat, oats, rye, soybeans, barley, milo, and grain sorghum), and any other agricultural commodity which the commission may declare to be an agricultural commodity subject to regulation under the Act.

*Applicant***C**any person making application for a license to engage in any of the activities regulated under the Act or anyone who requests official grain inspection services and/or grain weighing services of the department.

Audited, with respect to a financial statement**C**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***C**a statement executed before a notary public and at least two witnesses.

*Authorized Agent***C**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 be recognized by the commission as entitled to act for or on behalf of a warehouse or grain dealer.

*Bid Contract***C**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***C**all of the area of a licensee which is in any kind of protected enclosure.

*CCC***C**Commodity Credit Corporation.

*Certified***C**with respect to the financial statements required under the Act, a written statement signed by the independent certified public accountant preparing the financial statement.

*Commission***C**the Louisiana Agricultural Commodities Commission.

*Commissioner***C**the Louisiana Commissioner of Agriculture and Forestry

*Compilation***C**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***C**the date on which the bid contract was confirmed.

*Confirmed***C**the bid contract has been agreed to. 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***C**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***C**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***C**a financial statement containing all of the documents listed in §107.B and presenting financial position as of the close of the applicant's or licensee's most recent fiscal year.

*Deferred Price Commodities***C**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 should 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***C**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***C**the Louisiana Department of Agriculture and Forestry.

*Director***C**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 the Act.

*Farm Products***C**products employed directly in the cultivation, production, or harvesting of any agricultural commodities or containers for agricultural commodities or farm products.

*Fee***C**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) for official grain inspections and weighing services provided by the department.

*Field Warehouse***C**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***C**

1. the initial time when title to agricultural commodities or farm products passes from a seller to a buyer;

2. the time when agricultural commodities or farm products are removed from storage; or

3. the time when agricultural commodities are placed under CCC loan.

*Grain***C**corn, wheat, oats, rye, soybeans, barley, milo and grain sorghum.

*Grain Dealer***C**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**C**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.

*Independent Certified Public Accountant***C**a person who has completed all requirements established by the American Institute of Certified Public Accountants and the state Society of Certified Public Accountants. To be recognized as an independent public accountant, the accountant, members of his immediate family, and his accounting business associates must be totally free of any obligation to or interest in the client, its management, or its owners.

*Licensee***C**any person holding a license as a warehouse or grain dealer issued by the commission.

*Licensed Capacity***C**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.

Open or *Open Position***C**the grain dealer's contracts for purchase or sale of agricultural commodities which are unhedged.

*Person***C**any individual, partnership, company, firm, association, corporation, cooperative association, or any other legal entity engaged in any of the activities regulated under the Act.

*Producer***C**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***C**any person who purchases rice from a producer under a bid contract.

Review (with respect to a financial statement)**C**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***C**the loss potential to the grain dealer resulting from bringing his open position to market.

*Scale Ticket***C**the document issued to a producer when agricultural commodities are delivered to a warehouse or grain dealer.

Spot or *Spot Sale***C**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***C**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***C**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***C**any person or other entity operating a warehouse.

*Warehouse Receipts***C**may be negotiable or non-negotiable and are defined as follows:

1. *Non-Negotiable Warehouse Receipts***C**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. 3:3403, R.S. 3:3404, R.S. 3:3406 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agricultural, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:287 (May 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commidities Commission, LR 12:287 (May 1986), LR 19:1299 (October 1993), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:624 (April 1998).

§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 is 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. 3:3403, R.S. 3:3404, R.S. 3:3406 and 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).

§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. sugar;

2. all agricultural commodities commonly classed as grain, including:

   a. rice;

   b. rough rice;

   c. wheat;

   d. corn;

   e. oats;

   f. rye;

   g. soybeans;

   h. barley;

   i. milo;

   j. grain sorghum;

3. 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. Whenever commission warehouse receipts are issued to cover any of the following farm products while in storage, the following farm products shall be regulated by the commission:

1. pesticides;

2. fertilizers;

3. containers for agricultural commodities listed in §105.A and B and farm products listed in this rule.

D. Warehouses storing cotton are not required to be governed by these regulations.

E. Commodities and farm products enumerated in §105.B, C and D above shall be subject to all requirements set forth in these regulations whenever commission warehouse receipts are issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3402 and 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 Commidities Commission, LR 29:1300 (October 1993), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:624 (April 1998).

Subchapter B. Application for Warehouse and Grain Dealer License

§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 must be filed 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 must be furnished on the application form provided by the commission:

1. type of application:

   a. warehouse;

   b. grain dealer;

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 phone number;

7. name of the person in charge (e.g., manager, warehouseman, principal dealer, etc.) and his residence address and phone 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. names and address of the owner of the business, if not shown under §107.A.7, 8, and 9. Owner must be identified;

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. address;

   b. total capacity;

   c. capacity to be licensed, if different from total capacity;

   d. names and residence address of person in charge of each facility;

   e. prior experience in storing or trading agricultural commodities of each person in charge (by years of experience);

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;

17. names and residence addresses of all authorized agents;

18. if business previously operated under another name, name and address of previous business;

19. names and addresses of at least three references, by persons not in the employ of the applicant, as to the applicant's record, character, and business standing;

20. a statement that the applicant will abide by the requirements of the Act and these regulations;

21. a certified statement that all representations contained in the application and in all required attachments are true and correct;

22. indication of the type of record storage available (fireproof, etc.);

23. grain dealer applicants only:

a. aggregate amount paid to producers during applicant's most recent fiscal year;

b. name of person on grain dealer's staff who is certified as a grain sampler and/or grader;

24. warehouse applicant only:

a. date (month and year) of last inspection by Weights and Measure Division of the department;

b. name and license number of weighmaster for each location covered by the warehouse license;

c. name and certificate number of employee certified as a pesticides applicator;

25. cotton applicants only:

a. name and written, notarized agency agreements of cotton agents buying cotton in the state.

b. application for acceptance into the self-insurance fund, if applicable.

B. For initial licensure under the Act, each applicant must 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 Public Accountants.

2. The financial statement presented for initial licensure under the Act may be any of the following:

a. compilation;

b. review;

c. audited.

3. The financial statement must 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.2.e 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.

4. Multi-state and/or multi-national corporations with subsidiary divisions located in Louisiana must either:

a. submit a full 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 must be prepared and signed by an accountant, as defined in §107.B.1, and must 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 must 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 must 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 must file a financial statement conforming to the requirements of §107.B above within 90 days after the close of the licensee=s fiscal year.

D. Each applicant must also provide the following information, in addition to completing the required application form and providing a financial statement:

1. 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 of the board of directors naming each person, other than the owner or president, whose name is listed as an authorized agent;

2. bond which meets the requirements set forth in §115 (warehouse license applicants) or §123.G (grain dealer license applicants);

3. evidence of provisional stock insurance which meets the requirements set forth in §117 (warehouses) or §123 (grain dealers);

4. copy of Scale Ticket. Applicants who do not use scale tickets in their business operations must certify to that effect in lieu of filing a scale ticket;

5. applicants who apply under corporate status must provide evidence of compliance with Louisiana's Corporation Laws;

6. applicants for warehouse license must also provide a copy of the warehouse's current schedule of tariffs or charges.

E. A fee of $100, as required by the Act, must 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. location of all licensed facilities;

3. licensed capacity of all locations;

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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3408, R.S. 3:3409, R.S. 3:3410, R.S. 3:3411 and R.S. 3:3405.

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 Commidities 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).

§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 does not possess a good reputation;

2. the applicant cannot demonstrate to the satisfaction of the commission that he is competent to operate the business for which the license is sought;

3. the applicant cannot demonstrate a $100,000 net worth;

4. the applicant has failed to provide all of the information required in the application for license;

5. the applicant has previously refused to permit audit of his records;

6. the applicant has not or cannot secure the bond required by the Act;

7. the applicant has not or cannot secure the insurance required by the Act;

8. if an applicant for a warehouse license: the facilities in which the business will be operated are not suitable for storage of agricultural commodities;

9. if an applicant for a grain dealer license: the applicant has failed to hedge his obligations to producers as required by the Act and these rules and regulations;

10. the applicant for a grain dealer license does not have a staff member who is certified as a grain sampler and grader.

B. Any 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. 3:3412 and R.S. 3:3405.

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 Commidities Commission, LR 12:287 (May 1986), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:625 (April 1998).

Subchapter C. Warehouse Licenses

§111. Requirements Applicable to All Warehouses

A. No person shall operate a warehouse subject to regulation under the Act 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 the Act:

1. any facility offering storage as defined in §101 hereof;

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 must 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 the Act but are subject to all other requirements of the Act,

including the duty to collect and remit assessments levied on producers.

C. No warehouse, whether licensed under this act 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 must 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 must 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 date of issue.

I. For initial and continuing licensure, the facility must meet all requirements of §113.

J. The warehouse must meet all bonding and insurance requirements set forth in §§115 and 117 hereof prior to issuance of the license. Failure to maintain the required bond and insurance in full force and effect for six months beyond the license period shall subject the license to revocation of his license.

K. The staff of each warehouse unit (excluding warehouses licensed under the U.S. Warehouse Act) must include a weighmaster licensed by the Weights and Measures Division of the department who must be physically present at the facility during all normal business operations. The commission may waive this requirement for any facility which does not normally weigh the agricultural commodities or farm products stored in the facility.

L. The staff of each warehouse unit must include a person certified as a commercial or private pesticide applicator. The commission may waive this requirement for facilities which employ licensed pest control firms.

M. The person in charge of each warehouse unit must possess the following qualifications:

1. must be of legal age;

2. must 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.

N. Provisions Relative to the Schedule of Tariffs or Charges

1. Each warehouse must 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 must 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 must indicate whether charges are made on the basis of barrels, bushels, or hundredweights.

5. The tariff should contain all fees routinely charged to depositors.

6. The tariffs or charges must be the same for the same class of services to each customer of the warehouse.

O. Each warehouse must maintain a daily inventory report on forms to be provided by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3409, R.S. 3:3410, R.S. 3:3411, R.S. 3:3420 and R.S. 3:34305.

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 Commidities Commission, LR 19:1301 (October 1993).

§113. Standards for Approval of Facilities for Storage of Agricultural Commodities

A. The building must be of sound construction, in good physical condition, and suitable for storage of the agricultural commodities to be stored therein.

B. The building must be weathertight so as to protect the commodities stored in it from the elements at all times.

C. The building and the surroundings must be reasonably clean and free of debris of any kind.

D. There must be safe ingress and egress to all storage units.

E. Storage units having entrances more than 20 feet above ground or floor level must be equipped with a safe and adequate lift or ladder.

F. All catwalks must be equipped with railings, must be structurally sound, and must be kept free of all grain or other matter which might endanger human life.

G. The facility must maintain reasonable provisions for rodent and insect control.

H. Commodities or farm products stored in containers rather than in bulk must 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 must be separated by a substantial partition.

J. When a warehouse license covers more than one facility, each warehouse unit must 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 must 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 must 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 must be securely attached to all bins and when commodities are placed under receipt, an identification card showing the following information must 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. 3:3409 and R.S. 3:3405.

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).

§115. Bond Required for Warehouse License; Provisions Relative to Licensed Capacities

A. Each applicant must execute and file a bond, on bond forms provided by the commission, which bond must be issued by a company authorized to do business in Louisiana prior to issuance of the license.

B. Each bond must be conditioned upon:

1. the faithful performance of all duties and obligations to patrons of the warehouse; and

2. compliance with all requirements of the Act and these regulations.

C. The amount of the bond shall be established on the basis of the capacity 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 he disagrees with the capacity figures established by the commission for his facility.

2. All facilities which commingle agricultural commodities must bond 100 percent of their available capacity, subject to the exemptions contained in §115.C.5 and 6.

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 must be increased if commodities in storage exceed the licensed capacity.

4. All capacity under one roof must 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. 20 cents per bushel for the first million bushels of licensed capacity**C**up to $200,000 for a licensed capacity of 2 million bushels;

2. plus 15 cents per bushel for the second million bushels of licensed capacity**C**a total of $350,000 for a facility with a licensed capacity of 2 million bushels;

3. plus 10 cents per bushel for all bushels over 2 million bushels up to 3.5 million bushels of licensed capacity**C**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 for facilities licensed during the period of January 1,1983, through June 30, 1983.

H. Each bond must 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 must 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 150 percent of the required bond. For example, alternate security for facilities containing 125,000 bushels or less licensed capacity would be $37,500, and alternate security for facilities containing 3.5 million or more bushels, licensed capacity would be $750,000.

2. Alternate security may be offered only by:

a. pledging of certificates of deposit or similar negotiable instruments;

b. filing of an irrevocable letter of credit, which shall be non-cancelable for a period of one year.

3. Alternate security is subject to the approval of the commission and must be so approved prior to issuance of a license.

4. All alternate security instruments shall be assigned to the commission and maintained in the commission 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 intention 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. 3:3410 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:282 (May 1983), amended LR 10:75 (February 1984), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commidities Commission, LR 19:1301 (October 1993).

§117. Provisional Stock Insurance Required for Warehouse License

A. At all times, each warehouse must carry sufficient provisional stock insurance to assure protection against fire and other hazards for all agricultural commodities in storage. Provisional stock insurance records are subject to examination by the commission during audit of the facility.

B. The provisional stock insurance must be written for a period of at least one year by an insurance company authorized to do business in Louisiana and must provide for 30 days written notice to the commission prior to cancellation.

C. A copy of the insurance policy or a certificate of insurance must be filed with the commission prior to issuance of the license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:299 (May 1983).

§119. Amendment to License Required When Change of Status Occurs

A. The licensee must 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 must give prior written 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 must 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 his license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410 and R.S. 3:3405.

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 Commidities Commission, LR 19:1301 (October 1993).

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 must 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 must obtain a separate license.

E. Each grain dealer license issued by the commission shall expire on June 30 following date of issue.

F. The applicant must be of legal age and must be able to demonstrate knowledge of the practical facts of keeping accurate records regarding the trading of agricultural commodities.

G. The applicant must 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 must be conditioned upon:

1. the faithful performance of all duties and obligations to producers; and

2. compliance with all requirements of the Act and these regulations. The bond is subject to the approval of the commission and must 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 his license.

H. The commission may accept alternate security in an amount of $75,000 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.

2. All alternate security instruments must 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 intention 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 must be so approved prior to issuance of the license.

I. The applicant must demonstrate net worth which is reasonably sufficient to assure his ability to meet his obligations to producers. The commission shall be the final judge of the sufficiency of each applicant's net worth.

J. Each grain dealer must maintain a daily risk position report on forms to be provided by the commission.

K. Each grain dealer shall adopt and post in a prominent place a policy for sampling and grading grain within 72 hours from the time the grain is delivered to the grain dealer.

L. No grain dealer license shall be issued unless the grain dealer staff includes a certified grain sampler and grader.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3411, R.S. 3:3409, R.S. 3:3413, R.S. 3:3419 and R.S. 3:3405.

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).

§125. Risk Position Requirements

A. Each grain dealer must 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, his loss potential should 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 his 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 where his risk position will be less than 30 percent of his current net worth.

2. The grain dealer may appear in his own behalf or may be represented by counsel at the hearing, and may show cause why such lower maximum risk position should 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.

E. Any grain dealer whose risk position is established by the commission at less than 30 percent of his net worth may request reconsideration of the established risk position whenever his financial position changes. Such request shall be made in writing, setting forth the reasons therefor, 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. 3:3413 and R.S. 3:3405.

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 Commidities Commission, LR 19:1301 (October 1993).

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.

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, and, where no assessable sale has previously occurred, each warehouse shall collect the assessments set forth in this rule and in R.S. 3:3422 when commodities or farm products are removed from storage.

C. Commodities placed in CCC storage shall be subject to the assessment provided under this rule and R.S. 3:3422, and said assessment shall be due and payable on the date such commodities are placed under CCC loan or purchased by CCC.

D. The statutory assessment must be paid on agricultural commodities covered by a Payment-in-Kind (PIK) certificate, and such assessment shall be due and payable at the first point of sale as defined in §101.

E. 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 weighted in barrels shall be converted to bushels by multiplying the barrel weight times 3.6.

F. Rates of Assessments

1. Assessments on regulated commodities listed in §105.B and D and farm products listed in §105.C shall be at rates comparable to the rates set forth in §127.E above. The exact assessment on each commodity and farm product 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.E above.

2. Rates of assessments to be levied at the first point of sale of agricultural commodities:

Rough Rice	$.008 per hundredweight
Rice	$.008 per hundredweight
Sugar	$.008 per hundredweight
Corn	$.005 per bushel
Soybeans	$.005 per bushel
Oats	$.005 per bushel
Milo or Sorghum	$.005 per bushel
Wheat	$.005 per bushel

Cotton	$.10 per bale
Canned/Frozen Fruits/Juices/Vegetables	$.015 per case/carton
Molasses/Syrup	$.05 per 100 gallons
Oil	$.10 per 100 gallons
Pecans: Shelled	$.01 per 30 lb. carton
Pecans: Unshelled	$.20 per 130 lb.
Peppers: Barrels	$.24 per barrel
Peppers: Cisterns	$.20 per cistern

3. All assessments collected by licensees of the commission must be remitted to the commissioner of agriculture, together with the report form required by the commission, no later than the 15th 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.

G. The grain dealer or warehouse shall be responsible for payment of the assessment set forth in this rule on all commodities purchased from out-of-state sellers for which no assessment has been paid to the commission by the seller.

H. CCC-owned commodities which remain in storage for more than one year shall be subject to the statutory assessment annually on the anniversary date of each warehouse receipt covering such commodities.

I. Each grain dealer and warehouse must 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 15th day of each month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3422 and R.S. 3:3405.

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 Commidities Commission, LR 19:1301 (October 1993), repromulgated LR 20:154 (February 1994).

§128. Fees: Amount, Time of Payment

A. Fees are due and payable upon receipt of 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 6 am. to 4:30 pm., Monday through Friday, except holidays. Holidays and all other hours shall be considered as overtime. The following shall be designated as holidays: New Year's Day, Mardi Gras, Good Friday, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Christmas Day, Election Day (every two years), and any other day the governor proclaims as a legal holiday.

2. The hourly rate shall be $25 per hour, including travel time. Overtime hours shall be billed at $15 per hour plus inspection fee assessed in quarter-hour increments.

3. Mileage shall be billed at the rate established under the Division of Administration, Policies and Procedures Memorandum Number 49.

4. Official Services (including sampling except as indicated).

Online D/T sampling inspection service (sampling, grading and certification), per regular hour	$25.00
Overtime hourly rate, per hour	$40.00
Unit Inspection Fees:	
Hopper car, per car	$20.00
Boxcar, per car	$15.00
Truck/trailer, per carrier	$10.00
Barge, per 1,000 bushels	$ 2.50
Submitted sample inspection	$12.00

D. Moisture Meter Registration and Inspection Fee

1. There is hereby established and henceforth there shall be a registration fee of $10 per meter and an inspection fee of $20 per meter to 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 device shall be registered with the Louisiana Department of Agriculture and Forestry.

2. Registration shall be required on or before May 15, 1988 and thereafter within two business days of acquisition of a new or additional unregistered moisture measuring device for the purpose set forth in Paragraph 1 of this Section. Such registration shall be on forms provided by the department and shall at a minimum disclose 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.

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 12:287 (May 1986), amended LR 14:527 (August 1988), LR 19:889 (July 1993), LR 23:196 (February 1997).

Subchapter F. Scale Tickets

§129. Scale Tickets: Filing, Contents, Maintenance in Records

A. On or before the effective date of these regulations, each warehouse and each grain dealer must file a copy of the scale ticket currently used by the warehouse or grain dealer with the commission. Scale tickets which conform to the requirements of this rule will be approved by the commission for continued use.

B. Immediately upon deposit with a licensed warehouse or a licensed grain dealer of any agricultural commodity or farm product regulated under the Act, the warehouse or grain dealer must issue a scale ticket which conforms to the requirements of this rule to the depositor. Warehouses licensed under the U.S. Warehouse Act may use scale tickets approved by the federal licensing agency.

C. Each scale ticket must 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's 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 warehouseman or grain dealer.

D. Scale tickets must be sequentially pre-numbered and must be issued to depositors in numerical order. Different scale ticket books may be used for different scales.

E. 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.

F. Whenever a scale ticket must be 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's or grain dealer's records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3415, R.S. 3:3419 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agricultural Commodities Commission, LR 9:304 (May 1983).

Subchapter G. Warehouse Receipts

§131. Warehouse Receipts: Required Form; Completion, Distribution, and Maintenance Requirements; Form of Nonnegotiable Receipts; Use of State Warehouse Commission Receipt Forms

A. Except as herein provided, all warehouses shall use, only, sequentially pre-numbered warehouse receipt forms furnished by the commission.

B. Warehouses licensed under the U.S. Warehouse Act may use receipt forms approved by the federal licensing agency.

C. Receipts must be issued in triplicate and distributed as follows:

1. green copy (original, negotiable)**C**delivered to the person storing the agricultural commodities or farm products;

2. pink copy (non-negotiable)**C**mailed to the commission on the day issued;

3. yellow copy (non-negotiable)**C**retained by the warehouse in numerical order as a part of the warehouse records.

D. Whenever a warehouse receipt must be 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 must be maintained in proper sequence in the warehouse's receipt records and the pink copy must be mailed to the commission on the day voided.

E. A warehouse may issue receipts from only one receipt book at a time. However, when a warehouse operation consists of more than one location, a separate receipt book may be used at each location, with the prior approval of the commission.

F. All information required for completion of a warehouse receipt must be typewritten or entered legibly in indelible ink.

G. All spaces on the warehouse receipt must be filled in with appropriate information or crossed out (xxxxx).

H. Warehouse receipts may be signed only by authorized agents of the warehouse.

I. Facsimile signatures may not be affixed to warehouse receipts.

J. If the warehouse ceases to operate as a licensed warehouse for any reason, all unused warehouse receipts must be immediately surrendered to the commission.

K. Any warehouse desiring to issue non-negotiable warehouse receipts shall make application to the commission for non-negotiable warehouse receipts in the required form.

L. Warehouses may procure supplies of warehouse receipts without cost by request to the commission.

M. Warehouses which have on hand a supply of warehouse receipt forms issued by the State Warehouse Commission may continue to issue such receipts until their supply of forms is exhausted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3416, R.S. 3:3419 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:305 (May 1983).

§133. Warehouse Receipt: Issuance; Open Storage; Partial Delivery; Duplicate Receipts; Delivery of Commodities Covered by Receipts; Cancellation; Receipts on Company-owned Commodities; Non-negotiable Receipts; Cessation of Business; Other Applicable Laws

A. Issuance of Receipts

1. Each warehouse must, 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 uncancelled warehouse receipt, except as provided by §133.D.

3. No warehouse may issue a warehouse receipt covering commodities which are not actually stored in the warehouse.

B. Open Storage. A warehouse which has commodities under open storage must, 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.

C. Partial Delivery

1. When only a portion of commodities covered by a warehouse receipt is to be removed from storage, the warehouse and the holder of the warehouse receipt must jointly execute a numbered Partial Release form which is provided by the commission.

2. Agents of the commission shall note the issuance of all partial releases, by number of each such partial release, on the original receipt.

D. Issuance of Duplicate Negotiable Warehouse Receipt

1. If a negotiable warehouse receipt is lost or destroyed, the warehouse must 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. he has not negotiated or assigned the lost or destroyed warehouse receipt; and

c. reporting how the original was lost or destroyed.

3. A duplicate negotiable warehouse receipt issued to replace a lost or destroyed receipt must:

a. be marked *duplicate*;

b. be distributed as required under §131.C;

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.

E. 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 must 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 must, 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.

F. Cancellation of Warehouse Receipt

1. When commodities or farm products are removed from storage, the warehouse must promptly and plainly cancel the warehouse receipt covering such commodities or farm products.

2. 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.

3. 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.

G. Warehouse Receipt on Company-owned Commodities. 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 these regulations.

H. 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.

I. Cessation of Business. Whenever any warehouse ceases to operate as a licensed warehouse, for any reason, the warehouse must satisfy all outstanding obligations to producers and all outstanding warehouse receipts must be canceled. The requirement for cancellation does not, however, apply when the warehouse is unable, for any reason, to satisfy obligations to producers.

J. Other Applicable Laws. In any circumstances surrounding the issuance of warehouse receipts which are not covered by this rule or the Act, the provisions of Chapter 7 of Title 10 of the Louisiana Revised Statutes of 1950 shall control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3416, R.S. 3:3417, R.S. 3:3418, R.S. 3:3419 and R.S. 3:3405.

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 Commidities Commission, LR 19:1302 (October 1993).

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 must submit an application on a form which shall be provided by the commission.

2. All applicants must pass an examination which shall be given by the department. The examination fee shall be $5 and must be submitted with the application. If the applicant successfully completes the examination, he will be required to pay $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. 3:3414.3, R.S. 3:3406 and 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 LR 12:288 (May 1986).

§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 grain inspections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3414.3 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 12:288 (May 1986).

§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 should 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 warehouseman, 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 warehouseman, the warehouseman may dispose of the commodities as authorized by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3406 and 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).

Subchapter I. Records and Reports

§139. Contracts Required to be in Written Form

A. All contracts, other than contracts for spot sale, in which title shall pass shall be evidenced in writing and maintained in the permanent records of the grain dealer or warehouse. Such contracts shall be available for examination by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3414, R.S. 3:3406 and 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).

§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. daily position report;
9. settlement or distribution sheets;
10. weight sheets;
11. perpetual inventory record;
12. insurance file, including copies of monthly reports to the carrier;
13. record of all assessments collected and remitted;
14. copies of all outstanding contracts;
15. copies of all outstanding notes and mortgages affecting the business;
16. 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. 3:3419, R.S. 3:3414.3 and 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 LR 12:288 (May 1986), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:625 (April 1998).

§143. Reports Required

A. Each 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 must 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 grain dealer shall file a copy of his daily position report for the preceding month and 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 the Act, each grain dealer and each warehouse shall file a financial statement, containing all of the information required under §107.B hereof, no later than 90 days after the last day of the warehouse's or grain dealer's fiscal year.

D. Each grain dealer and each warehouse shall file such unaudited financial statements as and when required by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3419 and R.S. 3:3405.

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 Commidities Commission, LR 19:1302 (October 1993).

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 warehouseman, cotton merchant, or grain dealer shall provide the necessary assistance required for any inspection, examination, and/or audit made in accordance with the Act.

C. Each warehouse and all grain dealers 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. 3:3406, R.S. 3:3414.3, R.S. 3:3405 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 by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:625 (April 1998).

Subchapter K. Posting Requirements

§147. Posting Requirements

A. Each licensee shall post the original of his license issued by the commission in a conspicuous location at his principal place of business. A copy of the license shall be posted at all other locations covered by the license.

B. Each warehouse shall post, so that it is clearly visible at the main entrance to the facilities, a sign showing that it is a bonded warehouse licensed by the commission. When only a portion of the facilities is licensed by the commission, that portion licensed by the commission must be clearly marked.

C. The warehouse schedule of tariffs or charges must be posted in a conspicuous location at the facilities.

D. Grain dealers who are not licensed by the commission or under the U.S. Warehouse Act must post a sign reading as follows: This facility is not licensed to store agricultural commodities for producers title must pass from the producer upon delivery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3409, R.S. 3:3411, R.S. 3:3420 and R.S. 3:3405.

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).

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 the Act or these regulations 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 the Act or these regulations 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 hereof, or any other violation of the Act or these regulations, 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 the Act or these regulations 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 the Act or these regulations 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 must 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 the Act.

K. Any licensee may appeal any action taken by the commission to suspend/revoke a license or 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 commission's determination, under either the Administrative Procedure Act or other applicable laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3407, R.S. 3:3410, R.S. 3:3411, R.S. 3:3417, R.S. 3:3424 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:211 (May 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commidities 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).

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. 3:3406 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:312 (May 1983).

§153. Voluntary Inspection Service

A. Warehouses which require more frequent inspection and verification of contents, for whatever reason, may secure such services by making application therefor 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 $.008 per cwt for commodities normally weighed by hundredweight, $.005 per bushel (or barrel weight converted to bushels as provided by R.S. 3:3422 and §127.E 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.

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, R.S. 3:3422 and R.S. 3:3405.

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 Commidities Commission, LR 19:1303 (October 1993).

Subchapter N. Exemptions

§155. Exemptions

A. These rules and regulations 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. the Cotton Classification Service conducted by the New Orleans Cotton Exchange;

4. 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 the Act. 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).

Subchapter O. Prompt Payment

§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 12:228 (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 P. Agriculture Commodity Commission Self-Insurance

§101. Definitions

A. As used in this Part:

Applicant—any person, firm, corporation, or other legal entity seeking the issuance of a warehouse license, cotton merchant, or grain dealer license from the commission or a renewal therof.

Claim—a written notice and/or proof of loss which is filed with the Agricultural Commodities Commission Self-Insurance Program.

Claimant—any person or entity who is writing alleges a loss covered under the Agriculture Commodities Commission Self-Insurance Program.

Fee (with respect to the self-insurance fund)—the charge imposed by the Louisiana Agriculture Commodities Commission for participation in the self-insurance program, as contemplated in R.S. 3:3410.1(c).

Insurance (with respect to the self-insurance program)—will provide to each warehouse and grain dealer licensee participating in the program.

Licensee—any person holding or required to hold a license as a warehouse or grain dealer issued by the commission.

Loss—a licensee's failture to perform one or more legal obligations directly related to licensee's business, which failture results in damages to one or more producers, one or more holders of warehouse receipts or the Commodities Credit Corporation.

Self-Insurance Fund—the special fund created in the state treasury for the Agricultural Commodity Commission fees or assessments collected by the commission for participation in the self-insurance fund.

B. All other definitions given in R.S. 3:3402 and in the regulations are applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 13:234 (April 1987), 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, Office of the Commissioner, LR 24:625 (April 1998).

§103. The Fund

A. There is hereby created, pursuant to the authority granted in R.S. 3:3410.1, a fund to be used for the purposes described in the following subsection hereof and said fund shall be known as the Agricultural Commodity Commission Self-Insurance Fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 13:234 (April 1987), amended LR 19:1303 (October 1993).

§105. Purpose

A. The self-insurance fund is established to guarantee the faithful performance of all duties and obligations of licensed grain dealers, cotton merchants, and licensed warehouses to agricultural producers and holders of state warehouse receipts for agricultural commodities and previous holders of state warehouse receipts released in trust in order to have commodities shipped (open storage), included but not limited to Commodity Credit Corporation, banks and lienholders, provided however that this fund does not apply to federal warehouses with regard to the requirements for federal warehouse license and bond.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 13:234 (April 1987), 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, Office of the Commissioner, LR 24:625 (April 1998).

§107. Fees

A. Fees for participation in said fund may be determined and announced annually by the commission and the commission in doing so shall consider the self-insurance fund's experience and current market conditions affecting the financial status of licensees.

B. Each applicant for a warehouse license and/or cotton merchant and/or a grain dealer license who participates un the self-insurance fund shall be assessed an annual fee for participation in the self-insurance program. Said fee must accompany the application for a license, and is not refundable unless the license application or renewal is denied and, in that event, the fee will be refunded on a pro rata basis with the commission retaining a proportionate amount for any period during which coverage was provided to the applicant.

C. An applicant who does not pay said fee on or before April 30 of the new license year shall pay an additional sum equal to 10 percent of the annual fee.

D. The amount of the annual fee shall be $500 for a grain dealer or cotton merchant licensee. The annual fee for a warehouse licensee shall be determined first by calculating

the amount of bond required of a license under R.S. 3:3410 (C) and (D). If the required bond is $25,000, then the fee shall be $135. If the required bond is over $25,000, then the fee shall be $135 plus $4 for each additional $1,000 of coverage required.

E. Whenever the licensed warehouse capacity increases, the amount of the fee shall be amended to conform with the current licensed capacity of the facility of the facility or facilities covered by the fee.

F. For licensees entering the self-insurance fund during the license year, the fee shall be based on a pro rata basis for each month of coverage provided.

G. The commission may require applicants who are participating in the self-insurance fund for the first time to pay two times the normal fee assessment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 13:234 (April 1987), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1304 (October 1993), amended by the Department of Agriculture, Office of the Commissioner, LR 24:625 (April 1998).

§109. Insurance Coverage

A. Insurance coverage available to the user of a licensed operation shall be limited to the amount of the bond required by R.S. 3:3411, and shall be accepted in lieu of said bond as follows:

1. each licensed grain dealer or cotton merchant shall be insured in the total aggregate amount of $50,000, for all claims in each licensed year;

2. each licensed warehouse shall be insured, in an amount not less than $25,000 and not more than $500,000, in the total aggregate amount in each licensed year as follows:

a. $.20 per bushel for the first million bushels of licensed capacity;

b. $.15 per bushel for the second million bushels of licensed capacity;

c. $.10 per bushel for all bushels over two million;

3. for purposes of this Section, one CWT shall equal 2.22 bushels and one barrel shall equal 3.6 bushels.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 13:234 (April 1987), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:626 (April 1998).

§111. Claim Provisions

A. The monies in the Agricultural Commodity Commission Self-Insurance Fund shall be used solely for the administration and operation of this program of self-insurance.

B. Any claimant who wishes to assert a claim must provide under oath written and notarized proof of a loss covered under this program within 30 days of the loss.

C. Said written claim shall include the following information:

1. name and address of claimant;

2. name of the licensee(s) against whom claimant is asserting a loss;

3. nature of the relationship and transaction between claimant and licensee(s);

4. the date of the loss which shall be defined as the date on which the claimant knew or should of 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 will 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. Where any loss is or may be covered by other insurance or bond the other insurance is primary and the commission may require the claimant to exhaust his remedies as to the other insurer before considering the payment of the claim.

G. Once a proof of loss has been filed against a licensee(s), the commission may make a complete inspection of the licensee's physical facilities and the contents thereof, as well as an audit of all books and records of the licensee and/or claimant, subject to the confidentially requirements of R.S. 3:3421.

H. Once proof of loss has been filed against a licensee(s), any other claimants alleging a loss caused by said licensee(s) will have a period of 60 days within which to post and thereby file a written claim. The said 60 day period will 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. The purpose of said notice is to determine whether there are multiple claims, and in the event of multiple claims which exceed the amount of insurance, then the proceeds available for losses of said licensee(s) will be prorated.

I. The commission shall provide a notice, by published advertisement, in the official local journal for legal notices or the print publication with the highest circulation in the area serviced by the licensee of the failure of a warehouse and/or grain dealer licensee and all claims pursuant thereto must be filed within 60 days of the published advertisement.

J. The commissioner may, at his option, represent the producers and the patrons of a licensee in their claim against a licensee.

K. When claims against different licenses are filed timely and approved by the commission and the aggregate amount claimed exceeds the amount in the fund, those claims filed first will be paid before other claims until the fund is exhausted. However, the commission may for good cause shown permit the payment of any claim or claims over a period of years as it shall determine.

L. The fiscal year for the self-insurance fund shall be from July 30 through June 30 of each year. However, any claims received by the commission on or before August 15 of any calendar year shall be deemed as a claim on the self-insurance fund of the previous fiscal year. Claims against a licensee which are posted or received by the commission within 60 days of the advertisement of the first claim shall be considered as received on the same date as the first claim.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 13:234 (April 1987), amended LR 19:1303 (October 1993).

§113. 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 withing 30 days of the mailing of the decision of the commission to the affected party.

B. Said 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. 3:3410.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 13:235 (April 1987).

§115. Subrogation

A. Whenever a claim is paid by the commission from the self-insurance fund, the claimant, by accepting said payment, subrogates his rights to the commission up to the full amount of payment and the commission shall have the right to recover such payments from any responsible person or entity as it shall determine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 13:235 (April 1987).

§117. Limit of Self-Insurance Fund

A. The maximum amount necessary to sustain the self-insurance fund is $10,000,000. When the self-insurance fund has $10,000,000 available for payment of claims no further fees or assessments will be collected until said fund is reduced by payment of claims or as otherwise provided for herein, provided that every participant in the fund shall have paid fees into the fund for a minimum of 15 years before any such suspension of fees are applicable to said participant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 13:235 (April 1987).

§119. First Year of Operation

A. During the operation of the self-insurance fund, the commission may utilize an underwriter to underwrite said fund.

B. The commission may collect the annual fee or levy an assessment, to be paid by all warehouse and grain dealer licensees in the state of Louisiana, at any time during the fiscal year from July 1, 1986 through June 30, 1987 by giving 30 days written notice to all licensees or applicants. However, no licensee who has obtained a surety bond or alternate security in accordance with R.S. 3:3410(A) and/or R.S. 3:3411(F) shall be required to pay a fee or an assessment during the fiscal year from July 1, 1986 through June 30, 1987.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 13:235 (April 1987).

§121. Participation in the Self-Insurance Fund

A. Participation in the agricultural commodity self-insurance fund shall be voluntary; however, for good cause shown the commission may require a licensee to provide other security, in accordance with R.S. 3:3410(A) and/or R.S. 3:3411(F), in lieu of or in addition to participation in the self-insurance fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 13:235 (April 1987).

§123. Prohibited Acts: Criminal Penalties

A. Any claimant who provides the commission with false information regarding an alleged loss may be denied payment of the claim on that basis alone.

B. Any warehouse, cotton merchant or grain dealer licensee who Intentionally provides the commission with false information regarding a claim, or regarding any other matter pertaining to the self-insurance program, shall be subject, upon conviction, to the penalties for perjury established under R.S. 14:123.

C. Any warehouse, cotton merchant or grain dealer licensee who intentionally provides the commission with false information regarding a claim, or regarding any other matters pertaining to the self-insurance fund, shall be subject to a fine of up to $10,000, imprisonment for not more than 10 years, or both, for each occurrence proven at a hearing conducted in accordance with Chapter 13 of Title 49.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3410.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 13:234 (April 1987), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1305(October 1993), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:626 (April 1998).

§125. Validity of Rules

A. If any part of this regulation 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. 3:3410.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 13:236 (April 1987).

§127. Pending Litigation; 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. 3:3405 and R.S. 3:3410.1

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 17:955 (October 1991), amended LR 19:1304 (October 1993).

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

*Arborist***C**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.

*Landscape Architect***C**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]

[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).

§103. Enforcement

A. Hearings

1. Investigative hearings shall be for the purpose of investigating alleged violations of the horticulture laws, rules and regulations.

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).

§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 contractor, 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 contractor, 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;

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 above. 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 above 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. Applicants for a landscape architect's license who are applying through reciprocity shall submit evidence of successful completion 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).

§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. Retail Florist

1. Applicants who desire to take the examination for retail florist must file the completed application, together with the fee required under §109.A, at the commission's state office in Baton Rouge. The application must be postmarked or received no later than 45 days preceding the scheduled examination date.

2. Any applicant for licensure as a retail florist who successfully completes either the design phase or the written phase of the examination but does not successfully complete both phases of the examination will not be required to submit to re-examination in the phase which was successfully completed. In such cases, the applicant may apply to retake only that portion of the examination which was not successfully completed.

3. Both phases of the examination for licensure as a retail florist must be successfully completed within one year after successful completion of one phase. In any case where more than one year has elapsed since the applicant successfully completed one phase of the examination, the applicant must apply, and pay the fee required under §109.A.1, to retake the entire examination.

C. 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.

D. Wholesale Florist, Arborist, Utility Arborist, Horticulturist, Landscape Contractor

1. Applicants who desire to take the examination for wholesale florist, arborist, utility arborist, horticulturist, or landscape contractor 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).

§109. Fees for License or Permit and Renewal Thereof

A. Retail Florist

1. The fee for examination for licensure as a retail florist shall be $100.

2. The fee for re-examination in the written phase of the examination shall be $25.

3. The fee for re-examination in the design phase of the examination shall be $75.

B. Landscape Architect

1. The fee for complete examination for licensure as a landscape architect shall be the cost of the examination plus and administrative fee of $50.

2. The fee for examination or re-examination in the various sections for licensure as a landscape architect shall be the cost for each section plus one administrative fee of $50.

3. The fee for examination in only the state section for licensure as a landscape architect shall be the administrative fee of $50.

C. Wholesale Florist, Horticulturist, Arborist, and Landscape Contractor. The fee for examination or re-examination for licensure as a wholesale florist, horticulturist, arborist, utility arborist and landscape contractor shall be $35.

D. Renewal of License. The fee for renewal of the licenses enumerated in §109.A, B, and C, above shall be $35 each, annually.

E. The fee for issuance or renewal of a nursery stock dealer's permit shall be $65 annually.

F. The fee for issuance or renewal of a cut flower dealer's permit shall be $35 annually.

G. A late fee of $25 shall be charged on and after the fifteenth working day after a license or permit has expired for the renewal thereof.

H. 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).

§111. Minimum Examination Performance Levels Required

A. The minimum performance level for satisfactory completion of all examinations for licensure, except the examination for landscape architect, shall be 70 percent. The minimum performance level for satisfactory completion of the retail floristry exam shall be 70 percent for the written segment and 70 percent for the design segment of the examination.

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 and Forestry, Horticulture Commission, LR 8:184 (April 1982), amended LR 20:153 (February 1994).

§113. Examination Schedule

A. Retail Florist

1. Examinations for licensure as a retail florist shall be given by the commission at least once during each quarter but may be given more frequently.

2. The commission shall publish the time and location of each examination for retail florist in the issue of the *Louisiana Register* to be published immediately prior to the examination date and shall also disseminate information concerning the scheduled examination to all interested applicants.

3. Re-examination for the written segment of the retail floristry exam will be administered in the commission's state office building in Baton Rouge and in district offices of the Department of Agriculture upon request or at the next scheduled testing site for the retail floristry exam.

B. 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.

C. Wholesale Florist, Horticulturist, Arborist, Utility Arborist, and Landscape Contractor. Examinations for licensure as wholesale florist, horticulturist, arborist, utility arborist, and landscape contractor 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 and a date for the examination will be established for each applicant.

D. Interim Required Prior to Re-Examination. Whenever any applicant fails to successfully complete all phases of an examination for licensure, he may not apply to re-take the section of the examination which was not successfully completed 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 and Forestry, Horticulture Commission, LR 8:185 (April 1982), amended LR 14:8 (January 1988), LR 18:250 (March 1992), LR 20:640 (June 1994).

§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. 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)**C**shall be free from bahia grass, torpedo grass, and Florida betony. Shall not contain more than five plants per 100 square feet of any other grasses, broadleaf weeds, or sedges.

b. Class B (Good Quality)**C**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)**C**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

LA - Landscape Architect

RF - Retail Florist

HS - Horticulturist

LC - Landscape Contractor

WF - Wholesale Florist

UA - Utility Arborist

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 14:7 (January 1988), LR 20:640 (June 1994), LR 21:548 (June 1995).

§117. Required Standards of Practice

A. General Requirements for Retail Florist

1. All flowers or greenery sold or offered for sale, whether singly, in bunches, or in designs, 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. 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 to the general public.

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.

4. 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.

B. General Requirements for Landscape Architect

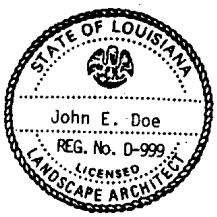
1. Without good cause, all designs must make use of plant materials commonly found growing in Louisiana or which are suitable for growth in Louisiana's growing conditions.

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.

C. General Requirements for 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. General Requirements for Horticulturist

1. Any nursery stock leased or sold, or offered for lease or sale, must be of high quality and free from injurious insects, diseases, and other pests.

2. Nursery stock which is leased must be maintained in high quality and free from injurious insects, diseases, and other pests.

3. All recommendations must incorporate sound horticultural practices.

4. All sod sold or recommended shall be classified as provided in §115.D.

5. Recommendations and maintenance practices shall meet the standards outlined in the *Louisiana Nurserymen's Manual for the Environmental Horticulture Industry* published by the Louisiana Association of Nurserymen.

E. General Requirements for 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 *International Society of Arboriculture Certification Manual* and the *Louisiana Nurserymen's Manual for the Environmental Horticulture Industry* published by Louisiana Association of Nurserymen.

F. General Requirements for Landscape Contractor

1. All nursery stock used in landscaping shall be of high quality and free from any injurious insects, diseases, and other pests.

2. All plant beds must be properly prepared and must allow for proper drainage.

3. All sod used in landscaping shall be classified as provided in §115.D.

4. Licensees must display their license at all times in a location accessible to the general public or any representative of the commission.

5. Landscape contractors who prepare drawings to indicate the planting and location and arrangement of plant materials by that landscape contractor shall place his name, the words "Landscape Contractor," and his license number on each drawing prepared by him. Drawings prepared by a landscape contractor may be used only by that landscape contractor and no one else in connection with the submission of a bid proposal.

6. Recommendations and planting practices shall meet the standards outlined in the *Louisiana Nurserymen's Manual for the Environmental Horticulture Industry* published by the Louisiana Association of Nurserymen.

G. General Requirements for 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.

H. General Requirements for 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.

I. General Requirements for 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 Pruning Trees Near Electric Utility Lines**C**A Field Pocket Guide for Qualified Line-clearance Tree Workers*, by Dr. Alex Shigo.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3808, and R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185, 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).

§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 under R.S. 3:1621-1642 by the Department of Agriculture and Forestry.

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.

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).

§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 subsections §121.C.1-4 above 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. Clarifications

A. 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3808 and R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:187 (April 1982).

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 70F. 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 (Subsection 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 one-tenth of one 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 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 one-tenth 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 point 15 percent, the calibration shall not be deemed acceptable. The variation between simple averages of all tests performed shall not exceed point zero 3 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 point zero 3 percent, an additional control sample shall be tested. Should the variation continue to exceed point zero 3 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 point zero 2 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	.05%
Homogenized Milk	.05%
Skim Milk	.05%
Buttermilk	.05%
Chocolate Milk	.10%
Half and Half Cream	.10%
Light Cream	.10%
Heavy Cream	.20%
Sour Cream	.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 1985).

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***C**R.S. 3:4101 et seq., the Dairy Stabilization Law.

*Administrative Cost***C**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***C**an employee of the Department of Agriculture and Forestry or any person authorized to act on behalf of the commissioner.

*Board***C**the Dairy Stabilization Board created by R.S. 3:4106.

*Bulk Milk***C**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***C**the transportation of dairy products within a limited geographicial area, such as delivery of dairy products from the processor to the retailer or distributor.

*Commerce***C**any act for which a license from the board is required.

*Commissioner***C**the commissioner of Agriculture and Forestry of the state of Louisiana.

*Cost***C**

a. *Cost to the Retailer***C**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***C**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 three percent of the invoice cost.

c. *Cost to the Processor***C**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***C**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***C**the Department of Agriculture and Forestry of the state of Louisiana.

*Discount***C**any reduction, direct or indirect, in the price of dairy products.

*Disruptive Trade Practice***C**any of the Acts more fully defined in §317 hereof.

*Distributor***C**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, coopertative 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***C**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***C**all cost of transportation of dairy products such as delivery of products to and from the retailer or distributor.

*Frozen Dessert(s)***C**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.

*Institution***C**a school, hospital, state agency, religious organization, charitable organization, or nursing home.

*Illicit Payment***C**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.

*Invoice***C**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***C**any person licensed or required to be licensed under the Act or these rules and regulations.

*Markup***C**an amount added to the invoice or replacement cost of dairy projucts to establish a reasonable sales price.

*Milk***C**the lacteal secretion of one or more cows (including such secretions when raw, cooled, pasteurized, standarddized, homogenized, recombined, or concentrated) which meets applicable requirements of the statee health officer.

*Market Area***C**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.

*Milk Case(s)***C**the wood, metal, or plastic container utilized for transportation and/or delivering cartons, bottles, jugs, or other packages of dairy products.

*Person***C**any licensee, individual, partnership, corporation, cooperative association, governmental agency, or any entity.

*Price***C**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***C**a person who proceses 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***C**with respect to the board, four members of the board.

*Retailer***C**any person who is engaged in transferring title to daily products to consumers at a fixed business location within the state.

*Slotting Allowance***C**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***C**processors and distributors, including wholesale grocers and cooperative grocery associations.

*Volume Discount***C**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***C**the 12 months commencing on April 1 and ending on March 31.

*Wholesaler***C**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 $.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%
$1,500.01 to $2,500.00	4%
$2,500.01 to $3,500.00	5%
$3,500.01 to $4,500.00	6%
$4,500.01 and over	7%

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-Consumber 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-Consumber 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-Consumber 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 one-half 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 §321.4;

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 9:8 (January 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumber 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 9:8 (January 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumber 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 three fluid ounces;

b. in the case of frozen desserts, the quantity must be limited to one 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).

Title 7
AGRICULTURE AND ANIMALS
Part XXXIII. Meat and Poultry Inspections

Chapter 1. Meat and Poultry Inspection Program

§101. Adoption of Federal Meat and Poultry Inspection Regulations

A. The Louisiana Cooperative Federal/State Meat and Poultry Inspection Program will be governed by the rules and regulations contained in the Meat and Poultry Inspection Regulations of the Meat and Poultry Inspection Program of the U.S. Department of Agriculture, in effect as of the effective date of these regulations, as follows:

1. Meat Inspection Regulations: Title 9, Chapter III, Subchapter A, *Code of Federal Regulations*;

2. Poultry Inspection Regulations: Title 9, Chapter III, Subchapter C, *Code of Federal Regulations*;

3. Humane Slaughter of Livestock Regulations: Title 9, Code III, Subchapter D, *Code of Federal Regulations.*

B. The Louisiana Cooperative Federal/State Meat and Poultry Inspection Program will be governed by the requirements in the June 1975 edition of the U.S. Department of Agriculture Handbook 191. Copies of Handbook 191 may be obtained from the Superintendent of Documents, U.S. Printing Office, Washington, D.C. 20204.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2300 and R.S. 40:2290.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:708 (December 1980).

§103. Definitions

*Adulterated***C**any carcass, part of a carcass, meat or meat food product which:

1. contains any substance injurious to health;

2. contains any pesticide or pesticide residue, food additive or color additive which the commissioner of agriculture deems unsafe or which the commissioner of agriculture prohibits by regulations;

3. has been prepared, packed or held under unsanitary conditions;

4. is, in whole or in part, the product of an animal which has died other than by slaughter;

5. is held in any container which is composed, in whole or in part, of any poisonous or deleterious substance;

6. has been subjected to radiation at tolerances which exceed the tolerances established in regulations of the commissioner of agriculture;

7. was prepared with a valuable constituent omitted or taken out;

8. was prepared with any substitute for a required constituent;

9. has been damaged, and the damage or inferior quality is or has been concealed;

10. contains any substance which has been added thereto or mixed or packaged therewith so as to increase its bulk or weight, reduce its quality or strength, or make it appear better or of greater value than it is.

*Combination Custom Slaughtering and Processing Facility***C**a person, firm, corporation, association or educational program which provides both slaughter and processing services solely for the owners of animals.

Custom Processor any person, firm, association, educational program or corporation which prepares, processes, and/or transports intrastate the meat of animals slaughtered for the owners of such animals.

*Custom Slaughterer***C**any person, firm, corporation, educational program or association which offers to the public the service of slaughtering cattle, sheep, poultry, swine, goats, horses, mules or other equines for the owners thereof.

*Establishment***C**the principal place of business of a permit holder or a business subject to inspection.

*Intrastate commerce***C**with respect to these rules and regulations, means any type of business in which meat and/or meat food products are prepared and/or transported in Louisiana and such products are sold only in the State of Louisiana.

*Meat Broker***C**a person, firm or corporation 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, who receives a commission or other financial reimbursement; who negotiates such purchases or sales on behalf of some person, firm or corporation other that himself or a firm or corporation in which he has a financial interest; and who does not personally handle the product in any manner, either personally or through activities of others under his control, or change the form of such product in any manner.

*Meat Jobber***C**a person, firm or corporation 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, who receives a commission or other financial

reimbursement; who negotiates such purchases or sales on behalf of some person, firm, or corporation other than himself or a firm or corporation in which he has a financial interest; who attains physical custody of the product by receiving, retaining, and subsequently shipping out, but who receives the product intact and who does not subsequently change the form of the product in any manner.

Meat Processor any person, firm, or corporation 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 §303.1.d.2.ii, Federal Meat and Poultry Inspection Regulations):

1. cattle, 300 pounds;
2. calves, 37.5 pounds;
3. sheep, 27.5 pounds;
4. swine, 100 pounds;
5. goats, 25 pounds;

Prepared—slaughtered, canned, salted, rendered, boned, cut up or otherwise manufactured or processed.

Primal Cut—the first or main cut. See Figure 6 in appendices.

Restaurant—any place of business:

l. where products are prepared solely for sale or service, as meals or entrees, directly to individual consumers at such establishments, and

2. 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—

1. cutting up, slicing and trimming carcasses, halves, quarters or wholesale cuts into retail cuts such as steaks, chops and roasts, and freezing such cuts;
2. grinding and freezing products made from meat;
3. curing, cooking, smoking, rendering or refining of livestock fat or other preparation of products, except slaughtering or retort processing of canned products;
4. breaking bulk shipments of products;
5. wrapping or re-wrapping of products.

USDA—the United States Department of Agriculture.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2271 and R.S. 40:2300.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:709 (December 1980).

§105. Establishments Required to Register

A. The following types of persons, firms, associations, corporations or educational programs must register with the Meat and Poultry Inspection Program prior to conducting intrastate 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. any persons, firms, associations, and/or corporations which buy, sell or transport any dead, dying, disabled or diseased animals or parts of carcasses of such animals;
5. meat brokers;
6. meat jobbers;
7. meat processors;
8. slaughter plants, including custom slaughter plants;
9. processing plants, including custom processing plants;
10. custom plants, including educational programs where carcasses or parts of carcasses are slaughtered and/or processed;
11. any combination of the above.

B. All persons, firms, corporation, associations or educational programs listed in Subsection A must apply for registration within 90 days of the effective date of these rules. Any person, firm, corporation, association or educational program entering into any of the business activities listed in Subsection A after the effective date of these rules shall apply for registration prior to engaging in such business. All persons, firms, corporations, association or educational programs shall be registered by category as shown in Subsection A above.

C. All applicants shall pay an annual registration fee of $25 by April l of each fiscal year to cover the costs of processing of registrations and issuance of certificates of registration.

D. All persons, firms, associations, corporations or educational programs listed in Subsection A must submit the following information in their applications for registration:

1. names and addresses of each 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 required in Subsection A 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, i.e., $25.

F. Each registrant shall receive a certificate of registration within 30 days after registration is filed.

G. Penalties for failure to register and/or renew registration annually shall be assessed in accordance with R.S. 40:2296.

H. Any person, firm, association, corporation or educational program registering in accordance with this Section shall be subject to investigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2288 and R.S. 40:2300.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:709 (December 1980), amended LR 11:247 (March 1985).

§107. Permits for Establishments Coming Under Inspection

A. All slaughter, processing, custom and combination establishments must obtain a permit from the Louisiana Cooperative Federal/State Meat and Poultry Inspection Program prior to conducting intrastate commerce.

B. All establishments applying for permits shall meet the basic minimum facility requirements outlined in USDA Handbook 191.

C. All new applications for permits shall consist of a completed Form 401 (available on request from the state office (Baton Rouge) of the Federal/State Meat and Poultry Inspection Program).

D. All new applications for permit must include three copies of plant blueprints and three copies of construction specifications as part of the initial application.

E. The applicant's name and address must be shown on each page of the blueprints and each page of the specifications.

F. Applications for permits, including blueprints and specifications, shall be submitted to the Federal/State Meat and Poultry Inspection Program, Office of Animal Health Services, State Department of Agriculture, Box 1951 (or 12055 Airline Highway), Baton Rouge, Louisiana 70821.

G. A permit number shall be assigned to each establishment upon approval and the permit 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. combination of 1, 2 and/or 3 above

H. All establishments receiving permits shall display the permit at a prominent location in the principal place of business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2300.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:710 (December 1980).

§109. Application for Approval of Addition and/or Renovation of Previously Approved Establishments

A. Additions and/or renovations of previously approved establishments must be in conformance with the requirements of USDA Handbook 191.

B. Applicants for approval of an addition and/or renovation to a previously approved establishment must submit:

1. plot plan of entire premises;

2. floor plan, identifying each department as to use;

3. plan of plumbing system for entire establishment, particularly the point of discharge into the main sewer lines;

4. three copies of blueprints for the addition and/or renovation, which must be drawn to scale with the blueprints of the existing facility and labeled on each page with the applicant's name and address;

5. three copies of specifications for the addition and/or renovation, which must be labeled on each page with the applicant's name and address.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2300.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:710 (December 1980).

§111. Change of Ownership of Previously Approved Establishments

A. Whenever the ownership of a previously approved establishment changes, the new owner must submit an application for a permit to the State Department of Agriculture at least 30 days prior to the scheduled sale date.

B. New owners are required to meet all of the requirements of USDA Handbook 191.

C. Applicants for a permit after change of ownership must submit the following:

1. certified copy of act of sale;

2. three copies of blueprints and specification if any changes are made to the physical plant of the establishment, submitted in accordance with the requirements of §109 hereof;

3. evidence that sanitary conditions are or have been maintained throughout the interim during the change of ownership.

AUTHORITY NOTE: promulgated in accordance with R.S. 40:2300.

HISTORICAL NOTE: promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:710 (December 1980).

§113. Exemptions

A. The following persons, firms, associations or corporations are exempt from these regulations, except as provided in §§115 and 117 hereof:

1. any owner of cattle, sheep, swine or goats who slaughters, prepares and/or transports intrastate any animal or parts of animals for the sole use of himself, his family or his non-paying guests or employees;

2. any person, firm, association or corporation which slaughters, prepares and/or transports intrastate any cattle, sheep, poultry, swine, goats, horses, mules or other equines, or parts thereof, for the owners of such animals, provided that such person, firm, association, or corporation meets all of the requirements set forth in §115 hereof;

3. operators of retail stores or outlets and/or restaurants when sale or service is made in normal retail quantities to customers at such establishments (i. e., across-the-counter, or at a dining facility located at the establishment), provided that such retail stores or outlets meet all of the requirements set forth in §117 hereof;

4. poultry owners who slaughter sound and healthy poultry on their own premises for distribution directly to household consumers, restaurants, hotels and/or boarding houses, provided that such products must be identified with the name and address of the producer. This exception shall not apply to poultry producers who buy and/or sell poultry, or to those who slaughter more than 5,000 turkeys or more than 20,000 other types of poultry per annum, or to farmers who slaughter more than 250 turkeys or more than 1,000 other types of poultry per annum.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2284, R.S. 40:2284.1 and R. S. 40:2300.

HISTORICAL NOTE: promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:710 (December 1980).

§115. Custom Slaughter Facility, Combination Custom Slaughter and Processing Facility and Custom Processing Facility

A. To assure the continuing certification of the Louisiana Cooperative Federal/State Meat and Poultry Inspection Program, all custom facilities defined in §103 hereof must meet the applicable requirements of Handbook 191 and the applicable requirements of the federal meat and poultry inspection regulations, provided that custom facilities are not required to provide an inspector's office.

B. All custom facilities are subject to periodic review by inspectors of the federal/state meat and poultry inspection program.

C. All custom establishments must be operated in a sanitary manner and kept free of objectionable odors. Outside premises must be kept clean and free of harborage for rodents and vermin. Sanitary dressing procedures must be followed to avoid adulteration of any product.

D. All products must be protected from contamination from any source during handling, storage, loading and unloading at the custom facility.

E. The custom slaughterer must take a blood sample from any cattle which are not accompanied by an official Department of Agriculture document proving that a blood sample has been taken within the 30 day period immediately preceding the slaughter date. The custom slaughterer must properly affix an official backtag, to be provided by the Department of Agriculture, on any cattle which is received at the slaughter establishment without a backtag. Each blood sample must be clearly identified by back-tag number, name and address of owner and such additional information as may from time to time be required by the Department of Agriculture. Records of such samples shall be on forms provided by the Department of Agriculture. The custom slaughterer shall maintain and transmit the blood samples and completed forms as instructed by the Department of Agriculture. In any situation not clearly described by this rule, the custom slaughterer shall contact the state office of the Meat and Poultry Inspection Program prior to slaughter.

F. Fresh pork shall be kept separated, in coolers, and handled and/or stored so as to prevent any direct contact with any other meat or meat products.

G. Equipment (i.e., grinders, saws, tables, knives, pans, hooks, etc.) which is used to handle and/or process fresh pork and/or wild animals must be broken down, thoroughly cleaned and sterilized before any other meat or meat products are processed with or come into contact with the equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2300, R.S. 40:2277, R.S. 40:2285 and R.S. 40:2287.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:711 (December 1980).

§117. Retail Stores and/or Outlets and Restaurants

A. In order to assure the continuing certification of the Cooperative federal/state meat and poultry inspection program, retail outlets and restaurants must qualify as such under the definitions set forth in the applicable sections of the federal meat and poultry inspection regulations.

B. Retail outlets or stores which do not qualify as such under the federal meat and poultry inspection regulations will be subject to investigation or review.

C. Meat processors which supply retail stores or outlets must be under inspection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2300.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:711 (December 1980), amended LR 10:199 (March 1984).

§119. 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 problem.

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 Meat and Poultry Inspection Program except following a public hearing on the matter conducted in accordance with 27 hereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2291, R.S. 40:2275, 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).

§121. Inspection Brands; Hot Brands; Replacement Brands

A. The Meat and Poultry Inspection Program 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 registered in the state office of the Meat and Poultry Inspection Program.

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 §121.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 state office for destruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2300.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:711 (December 1980).

§123. Stamping of Carcasses

A. All beef, calf and veal carcasses must be stamped with not less than seven 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 attached immediately following.

B. All swine carcasses must be stamped with not less than five 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.

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).

§125. 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 therefrom, 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. 40:2272, R.S. 40:2273, R.S. 40:2274 and R.S. 40:2300.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:711 (December 1980).

§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. Official establishments shall be provided inspection service, without charge, up to a 40 hours workweek Sunday**C**Saturday.

B. Official establishments shall pay the Department of Agriculture $15.50 per hour per department employee to reimburse the department for the cost of the inspection service furnished for more than 40 hours in any workweek Sunday through Saturday.

C. Overtime holidays for state employees shall be New Year's Day, January l; Independence Day, July 4; Labor Day, the first Monday in September; Thanksgiving Day, the fourth Thursday in November; and Christmas Day, December 25.

D. Each recipient of overtime or holiday inspection service shall be billed at the rate established in §133.B, in increments of quarter hours. For billing purposes, 15 or more minutes shall be considered a full half hour. Billings will be for each half hour service rendered by each department employee.

E. Establishments requesting and receiving the services of a department employee after he has completed his day's assignment and left the premises, or called back to duty during any overtime or holiday period, shall be billed for a minimum of two hours overtime or holiday inspection service at the established rate.

F. Bills are payable upon receipt and become delinquent 30 days from the date of the bill. Overtime or holiday inspection will not be performed for anyone having a delinquent account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2300.

HISTORICAL NOTE: Promulgated by the Department of Agriculture LR 11:247 (March 1985).

§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 .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**C**$3,757,266; Travel**C**$69,064; Operating Expenses**C**$620,122; Professional Services**C**$7,590; Other Charges**C**$612.665; Capital Outlays**C**$20,580; Indirect Costs**C**$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.

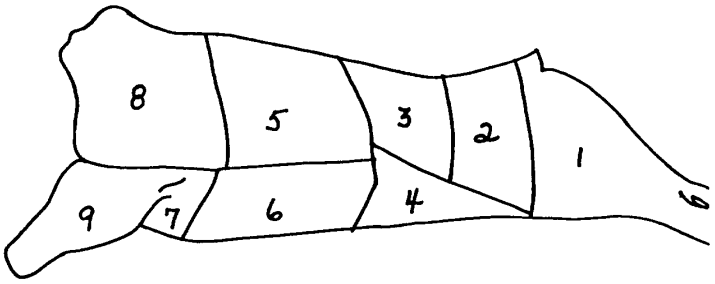
F. If any part of the regulation is determined to be invalid for any reason whatsoever then, in that event, the validity of the remainder of said regulation shall nevertheless not be adversely affected thereby. This rule and the repeal of the existing emergency rule is effective July 10, 1988.

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).

Appendix

Figure 6. Practical Meat Cutting and Merchandising C Volume 1 C 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

Identification of Beef Cuts by Geographical Location and Trad

	New York Area	New England Area	Restuarant 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 1981).

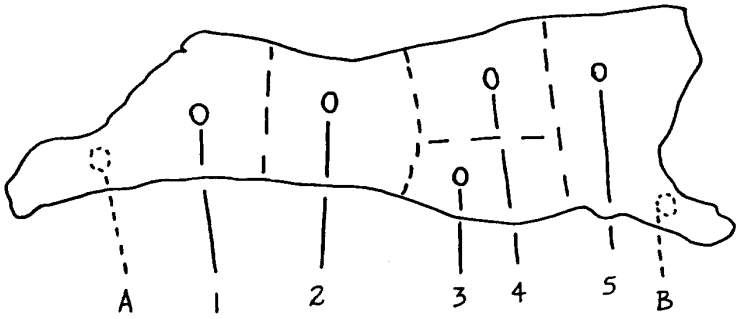
Figure 7. Proper Stampling—Primal Cuts
Side of Beef

A. Hind Shank

B. Fore Shank

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

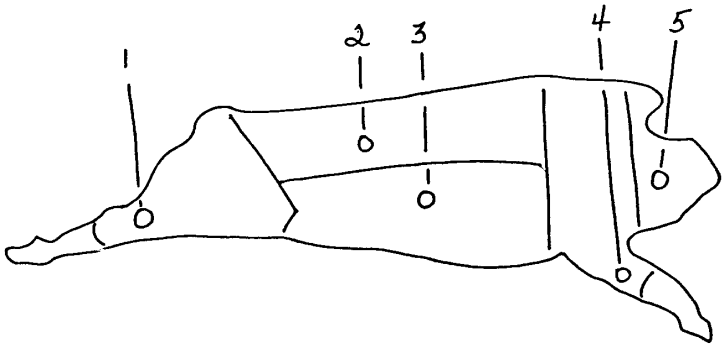


AUTHORITY NOTE: Promulgated in accordance with R. S. 40:2300.

HISTORICAL NOTE: Promulgated by the Department of Agriculure, LR 6:712 (December 1981).

Figure 8. Proper Stampling—Primal Cuts
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 1981).

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. The commissioner of Agriculture and Forestry, under authority conferred by the Louisiana Revised Statutes of 1950, Title 3, Section 4608, and for the enforcement of requirements applicable to the equipment therein referred to, hereby adopts by reference all rules, regulations, standards, specifications and tolerances as contained in the National Institute of Standards and Technology Handbook H-44, and amendments thereto, entitled *Specifications, Tolerances, and Regulations for Commercial Weighing and Measuring Devices*, and as contained in the National Conference on Weights and Measures Publication 19 entitled *Examination Procedure for Price Verification***,** but only insofar as the Louisiana Revised Statutes of 1950, as amended, may provide.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4606 and R.S. 3:4608 (formerly R.S. 55:4 and R.S. 55:6).

HISTORICAL NOTE: Adopted by the Department of Agriculture, Commission of Weights and Measures, April 1953, amended and 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 Weights and Measures Commission, LR 24:1495 (August 1998).

§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***C** 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***C**

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***C** the Commission of Weights and Measures established in R.S. 3:4603.

*Compound Weighing Device***C** a weighing device that in its operation utilizes either more than one load receiving element and/or more than one primary indicating element.

*Correct***C** conformance to all applicable requirements for weighing and measuring devices. Any other device is incorrect.

*Hand-Held Scanning Device***C** 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***C** 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***C** 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***C** 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***C** 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***C** 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***C** 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***C**a unique symbol that consists of a machine-readable code and human-readable numbers.

Weights, Measures, or *Weighing and Measuring Devices***C**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 19:1531 (December 1993), amended 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 one avoirdupois ounce or less.

2. all packages of food weighing one 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 19:1531 (December 1993).

§107. Crawfish; Live; Boiled; Peeled

A. *Crawfish***C**freshwater crustaceans of the genera *Cambarus* or *Astacus* common to Louisiana.

1. Live or Boiled Crawfish

a. *Live Crawfish***C**any crawfish which are live at the time of purchase.

b. *Boiled Crawfish***C**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 §107.A.4 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***C**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 three bushels, a sack containing one and one-half bushels or a one and one-half 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***C**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***C**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***C**includes chickens, turkeys, ducks, geese, pigeons, guineas, and any other kind of domesticated bird commercially processed and sold for human consump tion.

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***C**a steelyard especially adopted for the weighing of bales of cotton.

B. *Normal Position***C**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***C**the value of the minimum graduation on a cotton beam shall not exceed one pound.

D. *Sealing Cotton Beam Poise***C**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 six inches thick of reinforced concrete. If piers are used, they shall be imbedded in ground not less than 36 inches, or three 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	$ 2.00	$ 4.00
2. Weights over 10 pounds or 5 kilograms and including 100 pounds or 60 kilograms	5.00	10.00
3. Weights over 100 pounds or 60 kilograms and including 1000 pounds or 500 kilograms	25.00	50.00
4. Weights over 1000 pounds or 500 kilograms	50.00	75.00

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	$25.00
2. Weights over 3 kilograms or 5 pounds and including 30 kilograms or 50 pounds	50.00

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 tp 25	$100
C	Over 25	$150

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 19:1534 (December 1993), amended LR 23:857 (July 1997).

§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 13:158 (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).

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***C**the Agricultural Ethanol Production Law.

*Adjudicatory Proceeding***C**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***C**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***C**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***C**a person who applies for designation as a certified market participant.

*Authorized Agent***C**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***C**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***C**the Agricultural Industry Board established by R.S. 3:3704.

*Capital Costs***C**all expenditures made for the acquisition of land, equipment, buildings, engineering, construction interests and other expenses necessary to build an ethanol facility.

*Central Registry***C**the public filing and listing of security devices encumbering agricultural crops, commodities or products maintained by the commissioner.

*Certified Market Participant***C**an applicant approved by the board to participate in a cooperative endeavor authorized under this Chapter.

*Certified Market Participant Confidential Business Plan***C**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***C**a contract or cooperative endeavor between the board and a certified market participant relating to the production of ethanol.

*Commissioner***C**the Louisiana Commissioner of Agriculture and Forestry or his duly authorized representative.

*Controlling Interest***C**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***C**a contractual relationship between the state of Louisiana through the board with a person for a public purpose.

*Ethanol***C**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***C**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***C**

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***C**the Agricultural Industry Incentive Fund established by R.S. 3:3706.

*Gasohol***C**a fuel that contains not more than 90 percent gasoline and at least 10 percent ethanol.

*Gasohol Multiplier***C**the number 10, which reflects the fact that 10 gallons of gasohol contains at least one gallon of ethanol.

*Grain Dealer***C**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***C**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***C**any person holding a license as a warehouse or grain dealer issued by the Louisiana Agricultural Commodities Commission.

*Person***C**any individual, partnership, association, corporation or other legal entity.

*Principal Managers***C**the individuals or persons responsible for the daily operation of an ethanol facility.

*Principal Office***C**the location where the records of the certified market participant will be maintained in the State of Louisiana.

Principal Stockholders or *Owners***C**any individual who owns directly or indirectly 10 percent of an ethanol facility operated by a certified market participant.

*Producer***C**a farmer, individual or person that engages in the production of agricultural commodities or products.

*Producer Contracts***C**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***C**written evidence of the ethanol produced daily by a certified market participant.

Rules or *Regulations***C**the rules or regulations adopted by the Agricultural Industry Board under the authority granted by the Act.

*Security Device***C**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.

*Scale Ticket***C**the document issued to a producer when agricultural commodities or products are delivered to intermediaries such as a warehouse or grain dealer.

*Settlement Sheets***C**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***C**the written evidence of ethanol produced and shipped by a certified market participant.

*Sold for Use in Gasohol***C**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***C**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***C**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***C**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***C**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***C**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);

ii. 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.

§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 _____, 19____, 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***C**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***C**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***C**any person engaged in the business of receiving any farm product for sale, on commission, or for or on behalf of another person.

*Commissioner***C**the Louisiana Commissioner of Agriculture and Forestry, or his duly authorized agent.

*Creditor***C**any person who holds a security interest in a farm product.

*Crop Year***C**

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***C**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***C**any person who owns or has an ownership interest in farm products which are subject to a security interest of creditors.

*Department***C**the Louisiana Department of Agriculture and Forestry.

*Effective Financing Statement (EFS)***C**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***C**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***C**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)***C**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***C**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***C**actual knowledge.

*Person***C**any individual, partnership, corporation, trust or any other business entity.

*Registrant***C**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***C**any day that the department is open for routine business.

*Secured Party***C**a creditor with a security interest in farm products.

*Security Device***C**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***C**an interest in or encumbrance upon farm products that secures payment or performance or an obligation.

*Selling Agent***C**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 13:560 (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 13:560 (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 13:560 (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 13:560 (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), amended LR 13:560 (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 13:50 (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 13:560 (October 1987), LR 14:529 (August 1988), amended 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)**C** $8.

NOTE: This includes $5 filing fee and $3 prepaid cancellation fees.

2. Encumbrance certificates**C** $5 per encumbrance certificate.

3. Certified copies of security devices**C** $2 plus $.25 per page of the security device.

4. Registration (initial and renewal)**C** 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**C** $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 13:560 (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 18:6 (January 1992), LR 19:611 (May 1993), LR 20:408 (April 1994), LR 21:930 (September 1995), 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), 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.

1.	Improved Pine Seedlings	$ 32 per thousand
2.	Advanced Generation Pine Seedlings	$ 42 per thousand
3.	Special Pine Seedlings	$ 52 per thousand
4.	Hardwood Seedlings	$185 per thousand
5.	Baldcypress Seedlings	$175 per thousand

B.1. Volume discounts for bulk lobolly/slash pine seedling orders and contracts shall be as follows.

Order/Sale Volume (Number Seedlings)	Proposed Discounted Prices
- 1,000,000	$ 32.00/M
1,000,001 - 2,000,000	$ 31.50/M
2,000,001 - 3,000,000	$ 31.00/M
3,000,000 - 4,000,000	$ 30.50/M
4,000,000 - 5,000,000	$ 30.00/M
5,000,000 - 6,000,000	$ 29.50/M
6,000,001 +	$ 29.00/M

The Office of Forestry seed costs shall be deducted from these prices when seedlings are produced from seed supplied by the customers.

2. When there is a surplus of seedlings above planned or expected sales, a more accelerated rate of price reductions will be considered, subject to approval of the state forester and\or commissioner of Agriculture and Forestry.

3. This accelerated rate of discount will be applied no earlier than 30 days prior to the anticipated end of the annual lifting season.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1503, redesignated 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 10:458 (June 1984), amended by the Department Agriculture and Forestry, Office of Forestry, and the Louisiana Forestry Commission, LR 13:432 (August 1987), LR 19:610 (May 1993), LR 21:671 (July1995), LR 22:1210 (December 1996), LR 26:2437 (November 2000).

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 Fees (Day Use)	$3/per vehicle with up to six occupants. Additional $ .50 per person for additional occupants.
2. Regular Campsite	$12/day
3. Pull-through Campsite	$16/day
4. Primitive Campsite	$7/day
5. Pavilion Rental	$35/day
6. Boat Launch	$3/per boat
7. 30-day Off-season Rate for Regular Campsite (Oct. - Feb. only)	$180/month
8. 30-day Off-season Rate for Pull-through Campsite (Oct. - Feb. only)	$240/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).

Chapter 7. Forest Landowner Assistance

§701. Management Service Fees

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.

A. Basic Services. Performed on an as-requested basis in all Office of Forestry Districts.

1.	Prescribed Burning Services	
	a. Reforestation (cutover areas)	$10/acre plus $60/hour for fireline establishment. Minimum $100
	b. Afforestation (pasture, etc.)	$7/acre Minimum $100
	c. Helicopter Assisted Burns	$5/acre plus $60/hour for fireline establishment. Minimum $100
	d. Other Prescribed Burns (fuel reduction, hardwood control, wildlife habitat, etc.)	$7/acre. Minimum $100
2.	Timber Marking	$15/acre

B. Special Services. Performed when approved on a case-by-case basis.

1.	Tree Planting*	$42/acre
2.	Direct Seeding*	$5/acre
3.	Tractor Work	$60/hour

*Seedlings or seed not included.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1476 [renumbered R.S. 3:4276] and R.S. 3:4274.

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).

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-Height 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 one inch caliper and five 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 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).

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—a 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 five 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 ten thousand dollars 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 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)	$40/acre
02	Hardwood (planting and seedling cost)	$70/acre
03	Labor Only (pine or hardwood)	$23/acre
04	Longleaf Pine (planting and seedling cost)	$65/acre
	DIRECT SEEDING	
05	Pine (seed and labor cost)	$12/acre
06	Hardwood (seed and labor cost)	$28/acre
	SITE PREPARATION	
11	Light (discing, mowing, or sub-soiling)	$10/acre
12	Burn Only (cut-over areas or agricultural lands)	$8/acre
13	Chemical and Burn (aerial, ground, or injection)	$60/acre
14	Mechanical and Burn	$60/acre
15	Post-site Preparation (aerial, ground, or injection)	$45/acre
FPP2	**SITE PREPARATION FOR NATURAL REGENERATION**	
21	Burning Only	$8/acre
22	Chemical or Mechanical	$45/acre
23	Chemical and Burning	$60/acre
FPP3	**CONTROL OF COMPETING VEGETATION**	
31	Chemical Release (aerial, ground, or injection)	$45/acre
32	Precommercial Thinning (mechanical)	$41/acre
33	Burning Only (longleaf pine)	$4/acre

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).

§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 five 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 ten 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 five 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 ten 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 eighteen months to complete the forestry practice or practices authorized by the cooperative agreement. A landowner may apply, in writing, for an extension of up to six months in which to complete the practice or practices. The department may grant the extension if it determines that the practice or practices were not completed as a result of circumstances beyond the landowner=s control.

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).

§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. 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 of four years.

B. Each loaders log must contain the following information:

1. loader make and model**C**each loader used must be identified on the loaders log book by make and model;

2. load number**C**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**C**the parish or county and state where the timber was severed;

4. landowner's name**C**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**C**the date and time the forest product is loaded on the truck;

6. product**C**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**C**pine logs; PP**C**pine pulp; HWL**C**hardwood logs; HWP**C**hardwood pulp; C&S**C**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**C**the first wood-receiving facility that the forest product is being transported to;

8. loader's name**C**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**C**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 26:31 (January 2001).

§1503. Scale/Load Tickets: Required Information; Distribution; Maintenance of Records

A. 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 four 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**C**each scale ticket issued at a wood receiving facility must be numbered;

2. parish/county and state**C**the parish/county and state where the timber was harvested;

3. date and time Cdate and time that the forest product was received (required on scale ticket only);

4. type and quantity of forest product delivered:

a. type Cdescription of forest product received;

b. quantity Cboard feet, tonnage, or cords;

(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 Cowner 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 Cname 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 Ccompany or individual who is responsible for harvesting the timber;

8. load number Cthe load number designated by the loaders log book;

9. driver's signature Csignature 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 26:31 (January 2001).

§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 26:32 (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 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 26:32 (January 2001).

Title 7
AGRICULTURE AND ANIMALS
Part XLIII. Organic Farming

Chapter 1. Organic Certification Program

§101. Definitions

A. For the purpose of this Chapter, the following terms shall have the following meanings:

*Act***C**Act 825 of 1989, as amended.

*Agricultural Product***C**any agricultural commodity or product, whether raw or processed, including any commodity or product derived from livestock that is marketed for human or livestock consumption.

*Certified Organic Farm***C**a farm or portion of a farm or a site where agricultural products or livestock are produced, that is certified by the department as utilizing a system of organic farming.

*Commissioner***C**the commissioner of the Louisiana Department of Agriculture and Forestry.

*Department***C**the Louisiana Department of Agriculture and Forestry.

*EPA***C**the United States Environmental Protection Agency.

*Farm Plan***C**a plan of management of an organic farm that has been agreed to by the producer or handler and the department and that includes written plans concerning all aspects of agricultural production or handling including all practices required under LAC 7:XLIII.

*FDA***C**the United States Food and Drug Administration.

Greenhouse Unit or *Unit***C**a structure intended or used for the production of agricultural products.

*Handler***C**any person engaged in the business of handling agricultural products, except such term shall not include final retailers of agricultural products, that do not process agricultural products.

*Livestock***C**any cattle, sheep, goats, swine, poultry, equine animals used for food or in the production of food, fish used for food, wild or domesticated game, or other nonplant life.

*Louisiana Organic Materials and Practices (LOMP)***C**a list of approved and prohibited substances and practices as adopted by the commissioner.

*Louisiana Organic Standards Advisory Council (LOSAC)***C**the advisory group appointed by the commissioner to make recommendations on organically produced commodities and livestock such as:

a. crop, livestock, and dairy production standards;

b. manufacturing, processing, packaging, and labeling standards;

c. a materials list of permitted and prohibited substances;

d. procedures governing the certification process; and

e. standards and procedures for approving out of state organic products and ingredients.

*Organic Farming***C**a food production system based on farm management methods or practices that rely on building soil fertility by utilizing crop rotation, recycling of organic wastes, application of unsynthesized minerals, and, when necessary, mechanical, botanical, or biological pest control.

*Organic Food***C**a food which is labeled as organic or organically grown and which has been produced, transported, distributed, processed, and packaged without the use of synthetic pesticides, synthetically compounded fertilizers, synthetic growth hormones, or artificial radiation and which has been verified by the department as complying with all provisions of this Chapter.

*Organically Managed or Produced***C**an agricultural product that is produced and handled in accordance with R.S. 40:608.3 and these regulations.

*Person***C**an individual, group of individuals, corporation, association, organization, cooperative, or other entity.

*Pesticide***C**any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest and any substance or combination of substances intended for use as a plant regulator, defoliant, desiccant, or any substance the commissioner determines to be a pesticide.

*Processing***C**cooking, baking, heating, drying, mixing, grinding, churning, separating, extracting, cutting, fermenting, eviscerating, preserving, dehydrating, freezing, or otherwise manufacturing and includes the packaging, canning, jarring, or otherwise enclosing food in a container.

*Producer***C**a person who engages in the business of growing or producing food, feed, ornamental plants, and livestock.

*Prohibited Substances, Fertilizers, Materials, Pesticides***C**those substances, fertilizers, materials, pesticides or practices prohibited by the Act or these regulations from use in a certified organic farming operation.

*Restricted***C**substances and practices whose use is limited or qualified as such by the commissioner.

*Tolerance***C**the amount of a pesticide permitted on raw or processed agricultural commodities.

*USDA***C**the United States Department of Agriculture.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:393 (April 1994).

§103. Certification

A. Any producer who sells or intends to sell organic food shall make application to the department for certification in accordance with the requirements of this Chapter.

B. An applicant for certification must document that the land, individual field, or greenhouse units to be certified will be managed organically. Documentation for certification shall be in the form of a detailed, three-year farm plan for land, fields or units and in a format acceptable to the department. The application will be reviewed by the Organic Farming Certification Program coordinator.

C. The farm plan must include:

1. three-year rotation and nutrient-stabilization plans for each field or unit under organic management;

2. one-year, agronomic field-by-field crop practice and spray plans for each field or unit of the farm which is organically managed;

3. a map of the field to be organically managed which also indicates all buffer zones and their width, with at least a 30-foot buffer zone separating land managed organically from other cultivated agricultural land and at least a 15-foot buffer zone separating greenhouse units managed organically from other units;

4. a description of facility and methods that will be used to keep organically managed crops and livestock from postharvest commingling with nonorganically managed crops and livestock;

5. a description of facilities and methods that will be used to keep farm equipment from contaminating organically managed fields;

6. a description of facilities and methods that will be used to store and handle prohibited materials separately from permitted materials.

D. A crop grown in an organically managed field, any part of which is located within 30 feet of a field to which a prohibited pesticide has been applied, must be tissue-tested for residues of that pesticide before the harvest of the organic crop.

E. The department shall not certify a field as organically managed that is part of a farm unless there exist distinct, defined boundaries between fields under organic management and other fields.

F. The department may not certify land that has no previous history as cultivated cropland, orchard or improved pasture, and that is being converted to organic for the sole purpose of replacing land abandoned because of chemical contamination or depleted fertility resulting from previous farm-management practices.

G. In order to be certified, greenhouse units must be used solely for organically produced agricultural products in compliance with the provisions of the Act and these regulations.

H. An applicant for certification must present soil fertility test results for each field or greenhouse unit to be certified initially and every third year thereafter.

I. An applicant must also present the results of water, residue, and plant-tissue tests as required by the department.

J. The department shall reserve the right to use a certification rating system in evaluating the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:394 (April 1994).

§105. Certification; Evaluation

A. Every precaution shall be taken to avoid pesticide or other contaminating residues on agricultural products sold or labeled as organic. In cases of unavoidable environmental contamination, residues shall not exceed five percent of the FDA action level or of the EPA established tolerance. For any substance not currently regulated by federal law, the LOSAC may recommend action levels to the department for approval.

B. The department shall sample a percentage of organic raw agricultural commodities and organic processed food products as part of the state pesticide residue monitoring program. Results obtained from organic produce and organically processed product samples shall be compiled in a separate annual report and submitted to the USDA.

C. If a pesticide residue or residue of another prohibited substance is found on an organic raw agricultural commodity or an organically processed product by a state pesticide residue monitoring program, the department may conduct an investigation of the appropriate handler, producer, or processor.

D. The department may conduct periodic residue testing of agricultural products sold as organic in the following situations:

1. in cases of pesticide drift;

2. when farm or handling facility inspection leads to suspicion of residue problems;

3. suspicion that the soil harbors contaminants;

4. suspicion that irrigation water or rainfall contains residues;

5. during the 36-month period immediately following treatment of a certified organic farm by a state or federal emergency spray program;

6. in response to complaints; or to follow up on positive residue testing results from federal, state, or local government testing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:394 (April 1994).

§107. Certification; Transitional Period

A. The department may certify a crop as organic only if harvest occurs at least three years after the most recent use of a prohibited pesticide and at least two years after the most recent use of a prohibited fertilizer.

B. Farmers, growers, or producers may be certified as "transition to organic" within the three-year period required for being certified as organic pursuant to §107.A. A "transition to organic" certification shall not exceed three consecutive years for the same farm or unit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:395 (April 1994).

§109. Recertification

A. If a certified farm, field, or greenhouse unit is removed from organic management, it may be recertified after passage of three years without the application of a prohibited pesticide and two years without the application of a prohibited fertilizer or other prohibited material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:395 (April 1994).

§111. Required Records; Verification

A. The following records must be kept for each farm, field, or other agricultural production unit for which application for certification is made:

1. copy of farm questionnaires devised by the department and completed by applicants for certification;

2. field-by-field or unit-by-unit fertilization, cropping, and pest management histories;

3. records of all laboratory analyses performed for a farm, including soil tests, plant-tissue tests, forage tests, bacteria counts, and residue tests for toxic contaminants in soil, water, or crops for at least three years and made available for review by the department;

4. if a crop is produced from more than one field or unit, records should show via lot, bin, or shipment numbers and dates which field a particular lot came from;

5. a producer of both organic produce and other produce on the same farm must keep separate records for each of these two categories. The records shall include verification documents such as questionnaires, farm plans, affidavits, inspection reports, laboratory analyses, and documents showing the path taken by an organic food product through postharvest handling and distribution;

6. other documentation required to complete the application for certification or recertification as required under §105;

B. The following records shall be kept for processors:

1. the department devised questionnaire covering all nonfarm aspects of food processing and manufacturing, if applicable, to be prepared for each stage of the processing where a food is substantially changed from its previous state and covering every aspect of the product relevant to the department's certification standards;

2. notarized affidavits and agreements declaring that the information they provide is accurate.

C. verification inspection of producers and processors.

1. the department may conduct at least one on-site inspection per year of every farm or processing facility for which a questionnaire is required;

2. these inspections shall be reported on a form signed by a department inspector that includes the following information:

a. observations about the condition of the farm or processing facility;

b. comments about the use of restricted or prohibited practices;

c. an optional certification rating of the operation.

D. The department may conduct unannounced inspections of certified producers and certified processors.

AUTHORITY NOTE: Promulgated in accordance with RS. 40:608.3.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:395 (April 1994).

§113. Auditing

A. The department may conduct or provide for audits of all documents that it uses to verify that certified products meet organic standards.

B. These audits shall include, where appropriate:

1. an inventory audit, listing percent accuracy in labeling, the amount bought and sold per product and producer or destination, and the number of vendors and amount of product per vendor; or

2. a farm audit, listing the amounts sold per product, date and destination, and the area and location planted of each product, with dates of harvest.

C. Information contained in audit records that is exempt under the Public Records Law of Louisiana shall remain confidential. Such exempt, confidential information shall include but not be limited to:

1. information that, if released, would give advantage to competitors or bidders; and

2. trade secrets and commercial or financial information obtained from a person and privileged or confidential by statute or judicial decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:395 (April 1994).

§115. Louisiana Certified Organic Mark

A. Application

1. Applications submitted under this Section shall be in writing on a form prescribed by the department.

2. A separate application shall be submitted for each farm, farm unit, processing plant, distribution facility, or retail operation.

3. Applications and verification documents shall be submitted to the Louisiana Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, P.O. Box 3596, Baton Rouge, Louisiana 70821-3596.

B. Inspection. The department shall inspect the facility of each applicant who fulfills initial screening requirements.

C. Retailers and Distributors. The department shall authorize retailers to use the Louisiana certified organic mark upon satisfactory completion and approval of a department application form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:395 (April 1994).

§117. Conditions of Retail Sale

A. The following conditions apply generally to the retail sale of organic products.

1. Any person selling organic products shall be certified by the department on a one-time basis and shall abide by the provisions of this Chapter.

2. A certified retailer may use the department-approved mark to identify only certified organic or transition to organic food produced in Louisiana by a department certified producer.

3. Products bearing a Louisiana certified organic mark must be easily identifiable to consumers and must be clearly distinguishable from similar products that are not Louisiana certified organic.

4. A certified retailer may sell or hold out for sale as organic those agricultural products which have been certified as organically produced by the official certifying agent for the state of origin.

B. Contamination or Commingling. A retailer or distributor shall have in place physical facilities and management procedures adequate to prevent commingling of organic food or organic products with other nonorganic or contaminated food or products during distribution or stocking.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:396 (April 1994).

§119. Drugs and Medicinal Claims

A. The department shall not certify drugs or drug ingredients under this Chapter.

1. No person may use a Louisiana certified organic mark in connection with, nor represent as Louisiana certified organic, any product or any ingredient of a product that is regulated as a drug or that has been determined by a state or federal agency of competent jurisdiction to be subject to regulation as a drug.

2. No person may use a Louisiana certified organic mark or represent any product or ingredient as Louisiana certified organic in an advertisement (including, but not limited to, a printed or broadcast advertisement, "advertorial," flier, point-of-purchase material, signage, or other printed material) that makes medicinal claims.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.
HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:396 (April 1994).

§121. Enforcement and Complaint Investigation

A. The department shall perform inspections of certified producers, processors, retailers, distributors, and applicants for certification at a time when normal production or sales activity can be observed.

B. The department may issue a stop sale on products which falsely or erroneously claim to be organic. The stop sale may be lifted at such time as the seller can show:

1. that the products were organically managed in compliance with the Act and these regulations or that of the state of origin; or

2. that he agrees to drop any claim that the products were organically produced.

C. The department may conduct unannounced inspections in cases of suspected violations of standards.

D. Any person with cause to believe that any provision of this Chapter has been violated may file a written or oral complaint with the department setting forth the facts of the alleged violation.

E. The department shall maintain for three years records of all complaints, investigations, and remedial actions. These

records shall become part of the reviewing record of any proceeding involving a certified person or applicant for certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:396 (April 1994).

§123. Organic Certification Inspection Fees

A. Producers and processors participating in the department's organic certification program will be charged an inspection fee and an annual renewal fee. Retailers and distributors will be charged an application fee for the initial inspection conducted by the department in accordance with these regulations.

B. The inspection fee shall be paid by the new applicant and those applicants renewing certification, and shall be paid in accordance with the following schedule:

Producer: Initial application		**Renewal**	**Greenhouse producer: Initial application**		**Renewal**
Less than 5 acres	$ 50	$ 25	Less than 250 sq. ft.	$ 50	$ 25
5 to 25 acres	$ 75	$ 50	250 to 1,000 sq. ft.	$ 75	$ 50
Over 25 acres	$150	$ 50 plus $2.50 per acre of production	Over 1,000 sq. ft.	$150	$150
Distributors: Initial application		$150	Renewal		$150/year
Processor (other than producer/processor): Initial application		$500	Renewal		$500/year
Retailer: Initial application					$100

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:396 (April 1994)

§125. Louisiana Organic Standards Advisory Council

A. There is created within the department the Louisiana Organic Standards Advisory Council (LOSAC). This council shall be advisory in nature.

B. It shall be the responsibility of the LOSAC to advise and assist the commissioner in the compilation of the Louisiana Organic Materials and Practices (LOMP), and to advise the department on the certification of organic farming and the issuing of the Louisiana organic certification logo to organic producers, handlers, distributors, and sellers of Louisiana certified organic products.

C. The Louisiana Organic Standards Advisory Council will consist of members appointed by the commissioner. Council members shall be appointed for four-year terms to run concurrent with that of the commissioner. The membership shall consist of:

1. the commissioner of the Louisiana Department of Agriculture and Forestry or his representative, who shall serve as chairman;

2. the director of Louisiana Cooperative Extension Service or his representative;

3. three persons who are Louisiana certified organic producers;

4. one person who is a certified organic processor; and

5. one person who is a retailer of Louisiana certified organic products.

D. Procedures

1. The members of the council at their first meeting shall organize by electing a vice chairman and a secretary, and shall adopt rules of procedure governing their deliberations. The terms of such officers shall be for one year.

2. The council shall meet at the call of its chairman, at the request of a majority of its membership, at the request of the department, or at such times as may be prescribed by its rules, but at least once a year.

3. A majority of the members of the council constitutes a quorum for all purposes and an act by a majority of the quorum at any meeting constitutes an official act of the council.

4. Members of the Louisiana Organic Standards Advisory Council shall receive no compensation for their services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:397 (April 1994).

§127. Prohibited Acts

A. The labeling, advertising, or otherwise representing of food to be organic by any producer, handler, distributor, or retailer, unless the food complies with all of the provisions of R.S. 40:608.3 or this Chapter.

B. The selling or offering for sale of food as organic which does not comply with all of the provisions of R.S. 40:608.3 or this Chapter.

C. The buying, selling, or offering for sale of any organic food by any handler, distributor, or retailer in violation of R.S. 40:608.3 or this Chapter.

D. The use, employment, adoption, or utilization of the Louisiana certified organic mark in the selling, advertising, marketing, packaging, or other commercial handling of food and fiber products without prior application to and approval by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:397 (April 1994).

§129. Penalties

A. The department may enter an order imposing one or more of the following penalties against any person who violates any of the provisions of this Chapter or the rules promulgated under this Chapter or who impedes, obstructs, hinders, or otherwise prevents or attempts to prevent the department from performing its duty in connection with the provisions of this Chapter:

1. issuance of a warning letter;

2. imposition of an administrative fine, by the commissioner, of not more than $500 per violation, as set forth in R.S. 40:608.3, after the issuance of a warning letter and a hearing held in conformance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:608.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 20:397 (April 1994).

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