

AUTHORIZATION FOR PROMULGATION OF FINAL RULE

LOUISIANA DEPARTMENT OF AGRICULTURE & FORESTRY
OFFICE OF AGRO-CONSUMER SERVICES

RE: Office of Agro-Consumer Services – Weights & Measures Commission
LAC 7:XXXV.103, 117

I, Mike Strain, DVM, Commissioner of Agriculture and Forestry, have proposed for promulgation the above-cited rules and regulations. The steps required by the Administrative Procedure Act, La. R.S. 49:950, et seq., for promulgation of these rules and regulations have been substantially complied with, except for the steps of formal submission of the final rule and publication in the State Register.

The Notice of Intent to take the proposed action was published in the State Register at LR 48:1, pages 81-83 (January 20, 2022). More than 90 days, but less than one year, has elapsed since the publishing of the Notice of Intent.

Therefore, I, in my official capacity as commissioner of agriculture and forestry, hereby authorize these rules and regulations to be submitted for promulgation, which become effective when published in the State Register.



MIKE STRAIN, DVM
COMMISSIONER OF AGRICULTURE AND FORESTRY

each of the department's eight district offices. Pretreatments in a parish shall be called into the corresponding district office:

a. Shreveport District—Caddo, Bossier, Webster, Claiborne, Bienville, Jackson, Winn, Lincoln, Red River, and Desoto;

b. Monroe District—Union, Morehouse, West Carroll, East Carroll, Madison, Richland, Ouachita, Caldwell, Franklin, Texas;

c. Alexandria District—Sabine, Natchitoches, Grant, LaSalle, Catahoula, Concordia, Avoyelles, Rapides, and Vernon;

d. Crowley District—Beauregard, Allen, Acadia, Jefferson Davis, Cameron, Calcasieu;

e. Opelousas District—Evangeline, St. Landry, St. Martin, Iberia, St. Mary, Vermilion, and Lafayette;

f. Baton Rouge District—Pointe Coupee, West Feliciana, East Feliciana, St. James, Lafourche, Terrebonne, Assumption, Ascension, Iberville, West Baton Rouge, and East Baton Rouge;

g. Hammond District—Livingston, St. Helena, Tangipahoa, Washington, and St. Tammany;

h. New Orleans District—St. John the Baptist, St. Charles, Jefferson, Orleans, St. Bernard, and Plaquemines.

F. - L.4. ...

5. The treatments of structures required in this Section shall be called or faxed to the department's district office in which the treatment occurs, a minimum of one hour prior to beginning the application of termiticides. The information provided shall include: treatment company name; treatment structure street address, city, parish; directions to the property being pre-treated; date and time of beginning the application of termiticides to the property; square or linear footage of the each structure to be treated; and number of structures. Permittees or licensees shall keep a log of all pretreats including the information noted. The following is a list of parishes in each of the department's eight district offices. Treatments in a parish shall be called into the corresponding district office:

a. Shreveport District—Caddo, Bossier, Webster, Claiborne, Bienville, Jackson, Winn, Lincoln, Red River, and Desoto;

b. Monroe District—Union, Morehouse, West Carroll, East Carroll, Madison, Richland, Ouachita, Caldwell, Franklin, Texas;

c. Alexandria District—Sabine, Natchitoches, Grant, LaSalle, Catahoula, Concordia, Avoyelles, Rapides, and Vernon;

d. Crowley District—Beauregard, Allen, Acadia, Jefferson Davis, Cameron, Calcasieu;

e. Opelousas District—Evangeline, St. Landry, St. Martin, Iberia, St. Mary, Vermilion, and Lafayette;

f. Baton Rouge District—Pointe Coupee, West Feliciana, East Feliciana, St. James, Lafourche, Terrebonne, Assumption, Ascension, Iberville, West Baton Rouge, and East Baton Rouge;

g. Hammond District—Livingston, St. Helena, Tangipahoa, Washington, and St. Tammany;

h. New Orleans District—St. John the Baptist, St. Charles, Jefferson, Orleans, St. Bernard, and Plaquemines.

L.6. ... M.4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:330 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:958 (November 1989), LR 20:644 (June 1994), LR 21:931 (September 1995), LR 23:1285 (October 1997), LR 25:235 (February 1999), LR 25:1620 (September 1999), LR 26:2437 (November 2000), LR 27:1180 (August 2001), LR 29:1063 (July 2003), LR 30:1145 (June 2004), repromulgated LR 30:1614 (August 2004), amended LR 35:207 (February 2009), LR 35:1469 (August 2009), repromulgated LR 35:1872 (September 2009), amended, LR 37:286 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:301 (February 2013), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:1413 (June 2013), LR 41:333 (February 2015), LR 42:214 (February 2016), LR 46:1542 (November 2020), LR 47:1100 (August 2021), LR 48:994 (April 2022).

Mike Strain, DVM
Commissioner

2204#012

RULE

Department of Agriculture and Forestry Office of Agro-Consumer Services

Weights and Measures
(LAC 7:XXXV.103 and 117)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., and pursuant to the authority set forth in R.S. 3:4603 and 4608, the Department of Agriculture and Forestry ("Department") and the Weights and Measures Commission have adopted the rule changes set forth below by amending LAC 7:XXXV. 103 and 117. The amendments to Section 103 and 117 add definitions that are currently contained in statute (La. R.S. 3:4602), and updates current definitions to include correct language. Further, the amendments to Section 117 modify the language used in the Rule to be consistent with the new language in Section 103. This Rule is hereby adopted on the day of promulgation.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 1. Weights and Measures

§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. The following words and phrases shall have the following definitions ascribed to them:

Basket—a one and one-half bushel circular container that may be used for the measurement of unshucked oysters to be sold or purchased.

Commercial Weighing and Measuring Device—weights, measures, and weighing and measuring devices, instruments, elements, and systems or portion thereof, used or employed in establishing the measurement or in computing any basic charge or payment for services rendered on the basis of

weight or measure. As used in this definition, measurement includes the determination of size, quantity, value, extent, area, composition (limited to meat and poultry), constituent value (for grain), or measurement of quantities, things, produce, or articles for distribution or consumption, purchased, offered, or submitted for sale, hire, or award.

* * *

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

Commodity—any service or item, or any combination of items, forming a distinctive product, sold in commerce which is affected by any determination of weight, measures, or count.

* * *

Department—the Louisiana Department of Agriculture and Forestry.

Director—the director of the weights and measures commission, appointed by the commissioner.

* * *

Net Weight—the weight of the commodity excluding any materials, substances, or items not considered to be part of the commodity. Materials, substances, or items not considered to be part of the commodity include but are not limited to containers, conveyances, bags, wrappers, packaging materials, labels, individual piece coverings, decorative accompaniments, and coupons.

NIST—the National Institute of Standards and Technology.

NTEP—National Type Evaluation Program administered through the National Conference on Weights and Measures.

NTEP Certificate of Conformance—a document issued by the National Conference on Weights and Measures, based on evaluation in participating laboratories. The document constitutes evidence that the device described in the certificate is capable of conformance with the requirements of the National Institute of Standards and Technology Handbook 44.

Package—any commodity packed or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale.

Person—includes individuals, partnerships, corporations, companies, societies, and associations.

Petroleum Product—any refined hydrocarbon mixture including motor oil, kerosene, gasoline, gasohol, diesel fuel, aviation fuel, heating kerosene, and any blend of two or more refined hydrocarbon mixtures except liquefied petroleum gas and natural gas. For purposes of enforcement of the provisions of R.S. 47:818.111 et. seq., regarding taxes on special fuels, the term petroleum product shall include compressed natural gas, liquefied natural gas, and liquefied petroleum gas, as those terms are defined in R.S. 47:818.2.

* * *

Rack—a mechanism for delivering motor fuel from a refinery, terminal, marine vessel, or bulk plant into a transport vehicle, railroad tank car, or other means of transfer that is outside the bulk transfer/terminal system.

Sale or Sell—includes barter and exchange.

Scanner or Scanning Device—an electronic system that employs a visual code reading device to retrieve the item's price electronically.

Service Agency—any person who, for hire, award, commission, or any other payment of any kind, installs, services, repairs, tests, calibrates, or reconditions any commercial weighing or measuring device and is registered under this Part.

Service Technician—any individual who for hire, award, commission, or any other payment of any kind, installs, services, repairs, tests, calibrates, or reconditions any commercial weighing or measuring device and is registered under this Part.

* * *

Weighmaster—any person who weighs, measures, or counts any commodity and issues a certificate of weight, measure, or count, except retailers who weigh, measure, or count commodities for sale at retail directly to consumers, or a person engaged in the business of public weighing or measuring for hire.

Weight—as used in connection with any commodity means net weight; except where the label declares that the product is sold by drained weight, the term means net drained weight.

Weights, Measures, or Weighing and Measuring Devices—all weights, scales, scanners, taxi meters, beams, measures of every kind, instruments and mechanical devices for weighing or measuring, and any appliances and accessories connected with any such instruments. However, it does not include or refer to devices used to meter or measure, other than by weight; water, natural or manufactured gas, or electricity.

Visual Code Reading Device—a device that reads visual machine-readable codes that allows for comparison of the advertised price to the price for the item in the point-of-sale database.

Visual Machine-Readable Code—a unique symbol or symbols that may be read by a visual code reading device including, but not limited to, bar codes and QR codes.

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 Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1530 (December 1993), LR 23:857 (July 1997), LR 48:995 (April 2022).

§117. Visual Machine-Readable Code Devices and Labels

A. The price of a commodity or item offered for retail sale which is recorded utilizing a visual code reading device 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. - C. ...

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), LR 48:996 (April 2022).

Mike Strain, DVM
Commissioner

2204#017