

Title 7
AGRICULTURE AND ANIMALS
Part XV. Plant Protection and Quarantines
Chapter 3. Boll Weevil

§301. Maintenance Inspection Fee

A. In accordance with R.S. 3:1655(D), the state entomologist is authorized to assess fees to defray the costs of inspections or the issuance of certificates or permits for the shipment of agricultural products, commodities, packaging, or equipment. There is hereby established a fee for the inspection and certification of cotton for the presence of the boll weevil to ensure the marketability of cotton in commerce and maintain Louisiana's boll weevil-free status. The fee shall be \$4 per acre for each acre of cotton planted in the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1604.1, 1652, and 1655.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, amended LR 40:1517 (August 2014), LR 42:1644 (October 2016), LR 45:1167 (September 2019).

§303. Definitions Applicable to Boll Weevil

A. The words and terms defined in R.S. 3:1603 are applicable to this Chapter.

B. The following words and terms are defined for the purposes of this Chapter.

APHIS—the Animal and Plant Health Inspection Service of the United States Department of Agriculture.

ASCS—the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture, now known as FSA (Farm Service Agency).

Boll Weevil Eradication Program—a program which includes the survey, inspection, and monitoring of all regulated articles for the presence of boll weevil, and the subsequent activities, which include but are not limited to the issuance of certificates or permits, required to maintain Louisiana's boll weevil-free status and eradicate the boll weevil should one or more be detected.

Compliance Agreement—a written agreement between the department and any person engaged in growing, dealing in or moving regulated articles wherein the latter agrees to comply with specified provisions to prevent dissemination of the boll weevil.

Cotton Acre—any acre of land devoted to the growing of cotton, regardless of row width or planting pattern.

FSA—the Farm Service Agency of the United States Department of Agriculture (formerly ASCS).

Gin Trash—all material produced during the cleaning and ginning of seed cotton, bollies or snapped cotton, except lint, cottonseed or gin waste.

Maintenance Inspection Fee—the fee paid by cotton producers to finance, in whole or in part, a program to inspect cotton for the presence of the boll weevil in the state and to issue certificates or permits in accordance with R.S. 3:1655(D). The charge to the producer is calculated at the rate of \$4 per acre for each acre of cotton planted in the state.

Penalty Fee—the fee assessed against a cotton producer for late reporting of acreage, underreporting of acreage, or late payment of maintenance inspection fees. It does not refer to penalty or fine assessed for any violation of the regulations.

Premises—any parcel of land, including any buildings located thereon, irrigation systems and any other similar locations where the boll weevil is, may be, or where conditions are conducive to supporting the boll weevil.

Seed Cotton—cotton as it comes from the field prior to ginning.

Used Cotton Equipment—any equipment used previously to harvest, strip, transport or process cotton.

Waiver—a written authorization which exempts a person from compliance with one or more requirements of these regulations and the Boll Weevil Eradication Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1604.1, 1652, and 1655.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:17 (January 1995), amended LR 23:195 (February 1997), LR 37:2583 (September 2011), LR 40:1517 (August 2014), LR 42:1644 (October 2016), LR 45:1167 (September 2019).

§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. The commissioner may issue certificates for the movement of regulated articles 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 judgment of the commissioner, no infestation would be transmitted; or

d. have been examined by the commissioner and found to be free from infestation.

2. The commissioner may issue permits for the movement of noncertified regulated articles in order to allow 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 commissioner may grant a certificates, permit or written waiver. Any person who claims 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. The commissioner may cancel any certificate, permit or written waiver 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), amended LR 40:1518 (August 2014).

§309. Compliance Agreements

A. The commissioner may, as a condition of issuance of a certificate, permit or written waiver, require a compliance agreement stipulating one or more 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. The commissioner may cancel any compliance agreement 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. The commissioner may cancel or void any compliance agreement 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), amended LR 40:1518 (August 2014).

§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 this Chapter and may destroy or otherwise dispose of any infested cotton where the destruction of the 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), amended LR 40:1518 (August 2014).

§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. 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.

2. The cotton producer shall promptly take all steps necessary to convey title to the commissioner. In the event that the cotton producer fails to take all steps necessary to convey title to the commissioner within 10 days of receipt of a written 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.

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 that 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 this Chapter.

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), amended LR 40:1518 (August 2014).

§314. Boll Weevil Eradication Zone: Creation

A. One boll weevil eradication zone is hereby created within the state of Louisiana consisting of all the territory within the state of Louisiana.

B. This boll weevil eradication zone shall be known as the Louisiana Eradication Zone.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1609.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 23:195 (February 1997), amended LR 24:2231 (December 1998), LR 30:2443 (November 2004).

§315. Quarantine: Authority and Procedures

A. The commissioner is hereby authorized to issue Quarantine Orders to affected parties whenever he determines that a quarantine is necessary to effectuate the purposes of the boll weevil eradication program.

B. Quarantine Orders shall be written and shall describe with particularity the regulated articles or premises being quarantined, the nature of the restrictions on the regulated articles or premises, the reasons for the issuance of the Quarantine Order and the method for affected parties to seek a review of the order.

C. A Quarantine Order shall be issued for the purpose of preventing the movement, disturbance, or noncontainment of an actual or suspected boll weevil infestation or the prevention of a boll weevil infestation.

D. Any affected party may request and receive a hearing on the issuance and maintenance of a Quarantine Order before the commission in accordance with the Louisiana Administrative Procedure Act provided the affected party requests the hearing within 30 days of receipt by the affected party of notice of the Quarantine Order.

E. The notice provisions contained in this Section are in addition to those notice provisions contained in R.S. 3:1609(E).

F. All persons and all parties affected by a quarantine shall cooperate in the affectation of the quarantine and shall do nothing to cause a breach 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), amended LR 40:1519 (August 2014).

§317. Aiding and Abetting

A. Any person who aids and abets another person in any act or omission which constitutes a violation of the Boll Weevil Eradication Law or these regulations shall be in violation of the Boll Weevil Eradication Law and these regulations. Each act or omission of aiding and abetting shall be a separate offense and each day on which the underlying violation which was aided and abetted occurs shall also be a separate offense, but two violations may not result from one act or omission which occurred on a single day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1612.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:20 (January 1995).

§319. Reporting of Cotton Acreage

A. All cotton producers growing cotton in the state of Louisiana shall certify their planted cotton acreage by the later of July 15 or at final certification of the current growing season at the FSA office responsible for the parish or parishes in which they produce cotton. The certification shall be filed for each year of the program and shall include the actual acreage and location of cotton planted during the current growing season.

B. All cotton producers growing cotton in the state of Louisiana shall, for each year of the program, also complete and sign a cotton acreage reporting and payment form provided by the commissioner and return the signed and completed form to the department along with FSA Form 578 at the time that the maintenance inspection fee is paid to the department.

C. Noncommercial cotton shall not be planted in the Louisiana Eradication Zone unless an application for a written waiver has been submitted in writing to the commissioner stating the conditions under which such written waiver is requested, and unless such written waiver is granted by the commissioner. The commissioner's decision to grant or deny a written waiver for noncommercial cotton shall include consideration of the location, size, pest conditions, accessibility of the growing area, any stipulations set forth in any compliance agreement between the applicant and the commissioner, and any other factors deemed relevant to effectuate the boll weevil eradication program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1604.1, 1607, 1609, and 1652.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:20 (January 1995), amended LR 23:195 (February 1997), LR 37:2583 (September 2011), LR 40:1519 (August 2014).

§321. Maintenance Inspection Fees, Payment and Penalties

A. The annual maintenance inspection fee on cotton producers in the Louisiana eradication zone shall be \$4 per acre for each acre of cotton planted in the state. Each cotton producer shall pay his annual maintenance inspection fee directly to the department no later than July 15 or final certification with the FSA for that growing season, whichever is later. The signed and completed cotton acreage reporting and payment form with FSA Form 578 attached shall be submitted with the annual payment of the maintenance inspection fee.

B. A cotton producer may request a waiver of all or part of the maintenance inspection fee for any crop year in which he plants cotton in accordance with the following procedure. The decision to grant a waiver of all or part of any maintenance inspection fee for a crop year is within the discretion of the commission.

1. A cotton producer who requests a waiver of the maintenance inspection fee for a crop year must submit a written request for a waiver to the commission.

2. The commission must receive the written request, through mail, fax or other form of actual delivery, on or before 4:30 p.m. central time on August 1 of the crop year for which the waiver is requested. A written request for a waiver will be deemed to be timely when the papers are mailed on or before the due date. Timeliness of the mailing shall be shown only by an official United States postmark or by official receipt or certificate from the United States Postal Service made at the time of mailing which indicates the date thereof. A fax will be deemed to be timely only upon proof of actual receipt of the transmission.

3. The written request for a waiver must show the name of the cotton producer, the field number, the number of acres for which a waiver is requested, the date the acres were failed, the reasons the waiver is being requested and a certification that all living cotton plants and cotton stalks were destroyed prior to July 15 of the crop year and that the acreage will remain void of all living cotton plants through December 31 of the same crop year.

4. Each cotton producer who has filed a timely request for a waiver with the commission shall be notified of the date, time and place that the commission is scheduled to consider the request for a waiver at least 10 days prior to the commission meeting. The commission shall not consider an untimely written request.

5. A cotton producer, whose timely request for a waiver is denied by the commission, shall be entitled to pay his maintenance inspection fee without imposition of a per acre penalty fee if he pays the maintenance inspection fee within 30 days after receiving written notification of the commission's decision.

6. The commission has the authority to inspect any cotton field in which a cotton producer has claimed to have destroyed the cotton crop. Failure of the cotton producer to allow inspection shall be a violation of this Chapter.

C. Any cotton producer planting a fraction of an acre shall be assessed at a prorated maintenance inspection fee rate for that fractional acre.

D. Any cotton producer failing to certify his planted cotton acreage by the later of July 15 or the date of final certification of the current growing season shall, in addition to the maintenance inspection fee and other applicable penalties, be subject to a penalty fee of \$2 per acre.

E. Any cotton producer failing to pay all maintenance inspection fees by the later of July 15 or the date of final certification of the current growing season shall, in addition to the maintenance inspection fee and other applicable penalties, be subject to a penalty fee of \$1.50 per acre.

F. Reserved.

G. Failure to pay all program costs, including maintenance inspection fees and penalty fees, shall be a violation of this Chapter. Any cotton growing on a cotton producer's acreage which is subject to the maintenance inspection fee shall be subject to destruction by the commissioner should the cotton producer fail to pay all program costs, including maintenance inspection fees and penalty fees, within 30 days of notification of the default.

H. The commissioner shall have the right to collect some or all of the program costs, including maintenance inspection fees and penalty fees, by contracting with another entity, public or private, for collection. The commissioner shall provide notification of any such decision to all affected parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1604.1, 1609, 1610, 1612, 1652, and 1655.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:20 (January 1995), amended LR 21:669 (July 1995), LR 23:195 (February 1997), LR 24:2231 (December 1998), LR 25:829 (May 1999), LR 29:859 (June 2003), LR 30:1142 (June 2004), LR 30:2443 (November 2004), LR 37:2583 (September 2011), LR 40:1519 (August 2014), LR 42:1644 (October 2016), LR 45:1167 (September 2019).

§323. Program Participation [Formerly §327]

A. All cotton producers growing cotton in Louisiana shall participate in the boll weevil eradication program in accordance with the Louisiana boll weevil eradication law and these regulations.

B. Cotton producers shall destroy cotton stalks in every field planted in cotton, on or before December 31 of each crop year. Cotton stalk destruction shall consist of shredding or disking in a manner that destroys standing cotton stalks. Cotton stalks that come up in a failed field must also be destroyed by December 31 of the crop year. Failure to destroy stalks by December 31 of each crop year shall be a violation of this Chapter.

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

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Commission, LR 27:280 (March 2001), amended LR 30:2444 (November 2004), LR 40:1520 (August 2014).