RULES
OF THE
MISSISSIPPI DEPARTMENT OF AGRICULTURE AND COMMERCE

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SUBPART 3
CHAPTER 13-Boll Weevil Eradication Rule

100 The purpose of this Rule as set out in Section 69-37-1 thru Section 69-37-37, Mississippi Code 1972 is to secure the suppression or eradication of the boll weevil in cotton. To meet these ends this Rule imposes quarantines and certifies a cotton grower's organization to cooperate with other state and federal agencies.

Definitions

101 For the purpose of this Rule, the following definitions shall apply:

1. APHIS, United States Department of Agriculture, Animal and Plant Health Inspection Service.
2. FSA, United States Department of Agriculture, Farm Service Agency.
3. Assessment. The amount per acre to be charged each cotton grower to finance, in whole or part, a boll weevil suppression, pre-eradication or eradication program in various cotton regions within this state. Such assessments would be based on scientifically sound data regarding the level of boll weevil infestation within each region and the anticipated cost of conducting the proposed program.
4. Boll Weevil, *Anthonomus grandis* Boheman in any stage of development.
5. Certified Cotton Growers Organization. A cotton grower's organization certified by the Bureau of Plant Industry for the purpose of entering into agreements with the state of Mississippi, other states, federal agencies, and any other agency of Mississippi or another state as may be necessary to carry out the purposes of this Rule.
6. Bureau. The Bureau of Plant Industry within the regulatory office of the Mississippi Department of Agriculture and Commerce.
7. Certificate. A document issued or authorized by the Commissioner indicating that a regulated article is not contaminated with boll weevils. Such articles may be moved to any destination.
8. Commissioner. The Commissioner of Agriculture and Commerce or his designated representative.
9. Compliance Agreement. A written agreement between the Mississippi Department of Agriculture and Commerce and any person engaged in growing, dealing in, or moving regulated articles where the latter agrees to comply with specified provisions to prevent dissemination of the boll weevil.
10. Cotton. Any cotton plant or cotton plant products upon which the boll weevil is dependent for completion of any portion of its life cycle.

11. Department. The Mississippi Department of Agriculture and Commerce.
12. Eradication Area. That portion of Mississippi where eradication of the boll weevil is undertaken as an objective.
13. Eradication Program. Any unified regional or statewide program designed to eliminate the boll weevil as an economic pest within the specified area.
14. Gin trash. All material produced during the cleaning and ginning of seed cotton, bolls or snapped cotton except lint and cottonseed.
15. Grower. Any person who is responsible for production and sale of cotton on any individual farm.
16. Host. Any plant or plant product upon which the boll weevil is dependent for completion of any portion of its life cycle.
17. Infested. Actually infested with a boll weevil or so exposed to infestation that it would be reasonable to believe that an infestation exists.
18. Non-Commercial cotton. Cotton intended for purposes other than processing.
19. Permit. A document issued or authorized by the Commissioner to provide for the movement of regulated articles to restricted destination for limited handling, utilization, or processing.
20. Person. Any individual, corporation, company, society, association, or other business entity.
21. Region. A specific cotton growing area within the state as defined by the Technical Advisory Committee of the Certified Cotton Growers Organization.
22. Regulated Area. Any county, parish, township, city or other civil division or part thereof in any state or territory listed in this Rule being placed under quarantine, and such other areas as may become infested or deemed to present a hazard of spread of the boll weevil.
23. Seed Cotton. Cotton as it comes from the field prior to ginning.
24. Used Cotton Equipment. Any cotton equipment previously used to harvest, strip, transport, or process cotton.
25. Waiver. A written authorization which exempts an individual from compliance with one or more specific requirements of this Rule.

Quarantine Imposed

102 Based upon the purpose set out in Section 69-37-1 thru Section 69-37-37, Mississippi Code 1972, it is hereby ordered, under the provisions of said bill that a quarantine be imposed upon the articles, pests and areas set out in this Rule, subject to the conditions imposed by this Rule.
(Adopted November 12, 1993.)

Regulated Areas

103 The following areas are hereby regulated:
1. The entire state of Mississippi.
2. All states and portions thereof infested with the boll weevil.
(Adopted November 12, 1993.)

Eradication Areas

104.01 The eradication area of Mississippi designated as Region IV shall consist of Alcorn, Tishomingo, Tippah, Prentiss, Union, Pontotoc, Lee, Itawamba, Monroe, Lowndes, Clay, Oktibbeha, Winston, Noxubee, Neshoba, Kemper, Lauderdale, Jasper, Clarke, Jones, Wayne, Forrest, Perry, Green, Stone, George, Harrison, Chickasaw and Jackson Counties.
(Adopted November 12, 1993.)

104.02 The eradication area of Mississippi designated as Region III shall consist of Adams, Amite, Attala, Benton, Calhoun, Carroll, Choctaw, Claiborne, Copiah, Covington, Desoto, Franklin, Grenada, Hancock, Hinds, Humphreys - The portions of T. 17 N., T. 16 N. T. 15 N., R. 1 W. and R. 2 W. lying east of the Yazoo River north of the Choctaw boundary line, Holmes, Issaquena - that portion of Issaquena lying south of R. 7 W. known as the Choctaw Base Line, Jefferson Davis, Jefferson, Lafayette, Lamar, Lawrence, Leake, Lincoln, Madison, Marion, Marshall, Montgomery, Newton, Panola, Pearl River, Pike, Rankin, Scott, Simpson, Smith, Tallahatchie - that portion of the county east of the west boundary of R. 2 E., Tate, Walthall, Warren, Webster, Wilkerson, Yalobusha, and Yazoo - that portion of the county east of Highway 49 E. to Yazoo City, then that portion to the south and east of the Highway 49 by-pass to the intersection of Highway 49 west and intersects the east levee of the Yazoo Canal, turns southwest and continues along the east levee road of the Yazoo Canal until it intersects with the Yazoo County line and the northern county line of Warren County.
(Adopted November 12, 1993.)

104.03 The eradication area of Mississippi designated as Region II shall consist of Sharkey, that portion of Humphreys lying west of the Yazoo River, and that portion east of the Yazoo River lying south of the Choctaw boundary line, that portion of Issaquena lying north of R. 6 W., R. 7 W., and R. 8 W. known as the Choctaw Base line, and Yazoo that portion of the county lying west of Highway 49 E. to Yazoo City, then that portion to the south and west of the Highway 49 by-pass to the intersection of Highway 49 west and intersects the east levee of the Yazoo canal turns southwest and continues along the east levee road of the Yazoo canal until it intersects with the Yazoo County line and the northern county line of Warren.
(Adopted November 12, 1993.)

104.04 The eradication area of Mississippi designated as Region I-A shall consist of Leflore, Quitman, Sunflower, Tallahatchie - that portion of the county lying west of the west line of R. 2 E. and Tunica.
(Adopted November 12, 1993.)

104.05 The eradication area of Mississippi designated as Region I-B shall consist of Bolivar, Coahoma, and Washington counties.

(Adopted November 12, 1993.)

Regulated Articles

105 The following articles shall be regulated by this Rule:

1. The boll weevil, *Anthonomus grandis* Boheman, in any living stage of development.
2. Gin trash.
3. Seed cotton
4. Cotton plants, bolls.
5. Used cotton equipment.
6. Any other products, articles, means of conveyance, or any other item whatsoever which is determined by the Commissioner to present a hazard in the spread of the boll weevil and the person in possession of such item has been so notified.

(Adopted November 12, 1993.)

Conditions Governing Movement of Regulated Articles

106.01 Certificate or Permit Required

1. Regulated articles moving from a regulated area into or through the eradication area of the State of Mississippi shall be accompanied by a certificate or permit issued by an authorized regulatory official of the State where such articles originated.
2. Regulated articles originating outside a regulated area may be moved into or through Mississippi including the eradication area, without a certificate or permit, if accompanied by documentation of the point of origin, and if, to the satisfaction of the Commissioner, such articles have been adequately protected from boll weevil infestation during movement through all regulated areas.

(Adopted November 12, 1993.)

106.02 Issuance of Certificates and Permits

1. Certificates for movement of regulated articles may be issued by the commissioner when such articles:
   a. Originated in non-infested premises in the State of Mississippi and have not been otherwise exposed to infestation,
   b. Have been treated to destroy infestation in accordance with approved procedures,
   c. Have been grown, manufactured, stored, or handled in such a manner that, in the judgment of the Commissioner they would not transmit infestation, and
   d. Have been found, upon examination by the Commissioner, to be free of any infestation.

2. Permits may be issued by the Commissioner to allow the movement of non-certified regulated articles to locations outside regulated areas for particular

handling, utilization, processing, or treatment in accordance with approved procedures, when the Commissioner has determined that such movement will not result in spreading of the boll weevil.

(Adopted November 12, 1993.)

106.03 Certificates and permits shall be handled as follows:

1. Certificates and permits, when required, shall be securely attached to the outside container in which regulated articles are moved, provided that when the regulated articles are adequately described on the shipping document, the certificate or permit may be attached to the shipping document.
2. Copies of all certificates and permits shall be furnished by the carrier to the consignee at the final destination.

(Adopted November 12, 1993.)

106.04 Any certificate or permit may be canceled by the Commissioner upon his determination that the holder thereof has failed to comply with any condition for the use of such permit or with any term of the compliance agreement.

(Adopted November 12, 1993.)

Movement For Scientific Purposes

107.01 Regulated articles may be moved for experimental or scientific purpose provided a permit issued by the Commissioner specifying guidelines by which such articles must be handled is obtained prior to movement.

(Adopted November 12, 1993.)

107.02 Producers in designated experimental areas may be exempted from specified requirements of this Rule, provided they abide by criteria as stipulated by the Commissioner in a compliance agreement. The experiments in these areas must contribute to the development of scientific knowledge deemed of importance to the production of cotton.

(Adopted November 12, 1993.)

Compliance Agreements

108.01 As a condition of issuance of certificates or permits for the movement of regulated articles, any person engaged in purchasing, assembling, exchanging, handling, processing, utilizing, treating, or moving such articles may be required to sign a compliance agreement stipulating

1. That he will maintain such safeguards against the establishment and spread of infestation,
2. Comply with such conditions as to the maintenance of identity, handling and subsequent movement of such articles, and
3. The cleaning and treatment of means of conveyance and containers used in the transportation of such articles as may be required by the Commissioner.

(Adopted November 12, 1993.)

108.02 Any compliance agreement may be canceled by the Commissioner whenever he finds, after notice to and opportunity for response by the holder, that such holder has failed to comply with any condition of the agreement. Any compliance agreement may be canceled or voided by the Commissioner when, in his opinion, it is not longer required.
(Adopted November 12, 1993.)

Transportation and Disposal

109 The Commissioner is authorized to stop any person and to inspect the article or means of conveyance moving into, within, or from the State of Mississippi when he has reasonable grounds to believe that such items are infested with the boll weevil; and such the Commissioner is authorized to seize, destroy, or otherwise dispose of any articles found to be moving in violation of these rules.
(Adopted November 12, 1993.)

Reporting and Location of Cotton Acreage

110.01 All growers in an eradication area shall complete a cotton acreage reporting form as required by FSA of the current growing season at
the County Farm Service Agency (FSA) Office in each county in which they produce cotton. Such report shall be filed for each year of participation in the program, and shall indicate the actual FSA certified acreage under production during the current growing season.

(Adopted November 12, 1993.)

110.02 Non-commercial cotton shall not be planted in an eradication area without a waiver issued in writing by the Commissioner. Application for a waiver shall be submitted in writing and the Commissioner's decision to grant or deny the waiver shall be based on the following:

1. Location of growing area.
2. Pest conditions in the growing area.
3. Size of the growing area.
4. Accessibility of the growing area.
5. Any stipulations set forth in a compliance agreement between the applicant and the Commissioner that are necessary for the effectuation of the program.

(Adopted November 12, 1993.)

Program Participation; Fee Payment; Penalties; and Credits

111.01 Upon passage of the grower referendum conducted under the provisions of Section 69-37-17, Mississippi Code 1972, all cotton growers in the eradication area designated as Region IV as set out in subsection 103.01 shall be required to

participate in the boll weevil eradication program as follows: For years 2009 through 2011, all growers shall be assessed no more than $12.00 per acre. A total of no more than $12.00 per acre shall be payable on or before August 1 of each year as based on certified acres reported from the Farm Service Agency in each county where cotton is grown.

(Adopted November 12, 1993.)

111.02 Upon passage of the grower referendum conducted under the provisions of Section 69-37-17, Mississippi Code 1972, all cotton growers in the eradication area designated as Region III as set out in subsection 103.02 shall be required to participate in the boll weevil eradication program as follows: For years 2009 through 2011, all growers shall be assessed no more than $12.00 per acre. A total of no more than $12.00 per acre shall be payable on or before August 1 of each year as based on certified acres reported from the Farm Service Agency in each county where cotton is grown.

(Adopted November 12, 1993.)

111.03 Upon passage of the grower referendum conducted under the provisions of Section 69-37-17, Mississippi Code 1972, all cotton growers in the eradication area designated as Region II as set out in subsection 103.03 shall be required to participate in the boll weevil eradication program as follows: For years 2009 through 2012, all growers shall be assessed no more than $12.00 per acre. A total of no more than $12.00 per acre shall be payable on or before August 1 of each year as based on certified acres reported from the Farm Service Agency in each county where cotton is grown.

(Adopted November 12, 1993.)

111.04 Upon passage of the grower referendum conducted under the provisions of Section 69-37-17, Mississippi Code 1972, all cotton growers in the eradication area designated as Region I-A as set out in subsection 103.04 shall be required to participate in the boll weevil eradication program as follows: For years 2009 through 2013, all growers shall be assessed no more than $12.00 per acre. A total of no more than $12.00 per acre shall be payable on or before August 1 of each year as based on certified acres reported from the Farm Service Agency in each county where cotton is grown.

(Adopted November 12, 1993.)

111.05 Upon passage of the grower referendum conducted under the provisions of Section 69-37-17, Mississippi Code 1972, all cotton growers in the eradication area designated as Region I-B as set out in subsection 103.05 shall be required to participate in the boll weevil eradication programs as follows: For years 2009 through 2013, all growers shall be assessed no more than $12.00 per acre. A total

of no more than $12.00 per acre shall be payable on or before August 1 of each year as based on certified acres reported from the Farm Service Agency in each county where cotton is grown.

(Adopted November 12, 1993.)

111.06 All fees paid by the grower shall be collected by the Mississippi Department of Agriculture and Commerce, Bureau of Plant Industry, and made payable to the Bureau of Plant Industry.
(Adopted November 12, 1993.)

111.07 Failure to pay annual assessments on or before the August 1 deadline will result in a penalty fee of $5.00 per acre. Failure by a grower to pay all program costs by July 15 shall be a violation of this Rule.
(Adopted November 12, 1993.)

111.08 In addition to other remedies for the collection of assessments including, Penalties, the Commissioner shall have a special lien on cotton which shall be superior to any other lien provided by law. Provided, however, that the buyer of cotton shall take free of such lien if he has not received written notice of such lien from the Commissioner, or if he has paid for such cotton by a check in which the Department is named as joint payee. Failure to make the Department a joint payee shall make the buyer of cotton liable for such assessments and/or penalties. A buyer of cotton other than a person buying cotton from the grower takes free of such lien.

111.09 A farm operator may apply for a waiver requesting to be exempted from penalties and requesting delayed payment of assessments under conditions of financial hardship. Any farm operator applying for a waiver shall make application in writing to the Commissioner on a form prescribed by the Commissioner. No exemption of penalties shall be granted to any cotton grower who after the amount of assessments and penalties otherwise due has been subtracted from his taxable net income, has a net income exceeding fifteen thousand dollars ($15,000.00) for the year in which he seeks an exemption. “Taxable net income” shall have the same meaning as “net income” defined in Section 27-7-13, Mississippi Code/Title 27 Taxation and Finance/Chapter 7 Income Tax and Withholding/Article 1 as follows: “Net income means the gross income as defined therein, less allowable expenses incurred in the taxpayer’s regular trade or profession.” However, be it further noted that a taxpayer’s regular trade or profession shall, in the case of a cotton grower, not be limited to farming, whereby net profit shown on Schedule F of the Federal Tax Return is not his/her only source of income. Taxable net income shall be considered the amount shown on Form 1040, 1040A or 1040EZ as “taxable income” after all allowed expenses, deductions and adjustments are made to gross income regardless of whether the tax return has been filed jointly or in partnership. However, cotton growers who have sold real estate or other assets within the last tax year to pay

farming debts in order to avoid bankruptcy may request in writing an additional adjustment to taxable net income. In such case, the amount of indebtedness expended toward being debt free during the taxable year may be subtracted from taxable net income in addition to assessments owed and penalties otherwise due. In support of such, applicable tax documents and a letter of support from the grower's banking or financial institution must be submitted explaining the sale of such assets to avoid filing bankruptcy proceedings. Failure to pay any fees or file a completed waiver request for delayed payment on or before August 1 of the current growing season will result in a penalty fee of five dollars ($5.00) per acre. All farm operators granted waiver requests for financial hardship will be charged interest payable at a rate equal to 1% above prime per annum. The decision whether or not to waive all or part of these requirements shall be made by the Certified Cotton Growers Association and notification given to the farm operator within two weeks after receipt of such application.

111.10 At such times as are profitable to the boll weevil eradication program, the Certified Cotton Growers Organization may authorize credits for early cotton stalk destruction. Such credits shall be applied to the sub-sequent year's assessment as determined by the Certified Cotton Growers Association. In order to claim such credits:

1. The grower must complete the stalk destruction verification form. Such forms must be completed in the county in which the cotton was produced at the FSA office.
2. The stalk destruction must be verified by an authorized representative of the Southeastern Boll Weevil Eradication Foundation, Inc.
3. The stalk destruction verification form must be received at the Department no later than December 1 of the current growing season.

(Adopted November 12, 1993.)

Purchase of Cotton For Effectuation of Program Objectives

112 The Commissioner may purchase growing cotton when he deems it in the best interest of the program. Purchase price shall be based on the FSA farm established yield for the current year. Purchase of growing cotton shall be based on consent of the executive committee of the Certified Growers Organization.

(Adopted November 12, 1993.)

Cotton Stalk Destruction

113.01 All growers in the eradication area are hereby required to destroy cotton stalks in every field location planted to cotton on or before March 15 of each year. Such cotton stalk destruction shall consist of shredding or disking to the extent of eliminating standing cotton stalks.

(Adopted November 12, 1993.)

113.02 Failure to destroy cotton stalks on or before March 15 of each year will result in a

$10.00 per acre penalty fee. There shall be no waiver from this requirement. (Adopted November 12, 1993.)

Penalties

114.01 Any person who shall violate any of the provisions of this regulation or who shall alter, forge, or counterfeit or use without authority any certificate or permit or other document provided for in this regulation shall be guilty of a misdemeanor. (Adopted November 12, 1993.)

114.02 Any person who, except in compliance with this regulation shall move any regulated article into this state from any other state, which the bureau found in such regulations is infested by the boll weevil, shall be guilty of a misdemeanor. (Adopted November 12, 1993.)

(Adopted November 12, 1993, Amended May 12, 1995; amended June 27, 1997; amended February 5, 1999; amended June 14, 2001; amended April 15, 2002; amended September 1, 2004; amended November 14, 2005.)

Adopted :

Date: December 4, 2008

Commissioner of Agriculture and Commerce

Date: December 4, 2008

Director, Bureau of Plant Industry