

ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES  
PLANT INDUSTRY  
ADMINISTRATIVE CODE

CHAPTER 80-10-12  
BOLL WEEVIL ERADICATION

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80-10-12-.01      Purpose.

The purpose of this chapter as set out in Code of Ala. 1975, §2-19-120, is to secure the suppression or eradication of the boll weevil in cotton. To meet these ends this chapter imposes quarantines and certifies a cotton grower's organization to cooperate with other state and federal agencies.

**Author:** Charles H. Barnes

**Statutory Authority:** Code of Ala. 1975, §2-19-128.

**History:** Filed March 13, 1986.

80-10-12-.02      Definitions.

For the purpose of this chapter, the following definitions shall apply:

- (a) **FSA.** United States Department of Agriculture, Farm Service Agency.

(b) **Boll Weevil.** *Anthonomus grandis* Boheman in any stage of development.

(c) **Foundation, The Boll Weevil Eradication Foundation of Alabama, Inc.** A cotton grower's organization certified by the State Board of Agriculture and Industries for the purpose of entering into agreements with the State of Alabama, other states, federal agencies, and any other agency of Alabama or another state as may be necessary to carry out the purposes of this Chapter.

(d) **Certificate.** A document issued or authorized by the Commissioner, or regulatory official of the state of origin, indicating that a regulated article is not contaminated with boll weevils, or has been treated in such a manner as to eliminate boll weevils. Such articles may be moved to any destination.

(e) **Commissioner.** The Commissioner of Agriculture and Industries or his designated representative.

(f) **Compliance Agreement.** A written agreement between the Alabama Department of Agriculture and Industries 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.

(g) **Elimination Area.** That portion of Alabama where eradication of the boll weevil is undertaken as an objective.

(h) **Gin Trash.** All material produced during the cleaning and ginning of seed cotton, bollies or snapped cotton except lint, cottonseed or gin waste.

(i) **Grower.** Any person who is engaged in and has an economic risk in the business of producing or causing to be produced for market, cotton.

(j) **Infested.** Actually infested with a boll weevil or so exposed to infestation that it would be reasonable to believe that an infestation exists.

(k) **Non-Commercial Cotton.** Cotton intended for purposes other than processing.

(l) **Person.** Any individual, corporation, company, society, association, or other business entity.

(m) **Regulated Area.** Any county, parish, township, city or other civil division or part thereof in any state or territory listed in this Chapter as being placed under quarantine, and such other areas as may become infested or deemed to present a hazard of spread of the boll weevil.

(n) **Seed Cotton.** Cotton as it comes from the field prior to ginning.

(o) **Used Cotton Equipment.** Any cotton equipment previously used to harvest, strip, transport, or process cotton.

(p) **Waiver.** A written authorization which exempts an individual from compliance with one or more specific requirements of this Chapter.

**Author:** S. Shawn Sibley

**Statutory Authority:** Code of Ala. 1975, §2-19-128.

**History:** Filed March 13, 1986. **Amended:** Filed August 24, 1990.

**Amended:** Filed November 17, 1998; effective December 22, 1998.

### 80-10-12-.03 Quarantine Imposed.

Based upon the purpose set out in Rule 80-10-12-..01, it is Hereby Ordered, under the provisions of Code of Ala. 1975, §2-19-125, that a quarantine be imposed upon the articles, pests and areas set out in this chapter, subject to the conditions imposed by this chapter.

**Author:** Charles H. Barnes

**Statutory Authority:** Code of Ala. 1975, §2-19-128.

**History:** Filed March 13, 1986.

### 80-10-12-.04 Regulated Areas.

The following areas are hereby regulated: All states and portions thereof infested with the boll weevil.

**Author:** S. Shawn Sibley, Robert J. Russell

**Statutory Authority:** Code of Ala. 1975, §2-19-128.

**History:** Filed March 13, 1986. **Amended:** Filed November 17, 1998; effective December 22, 1998. **Amended:** Filed August 20, 2007; effective September 24, 2007.

### 80-10-12-.05 Elimination Area (Repealed 9/24/07).

(Repealed)

**Author:** S. Shawn Sibley, Robert J. Russell

**Statutory Authority:** Code of Ala. 1975, §2-19-128.

**History:** Filed March 13, 1966. **Emergency rule** filed August 12, 1987. **Amended:** Filed November 25, 1987. This rule was amended on August 10, 1993, to reflect current program activities. **Amended:** Filed October 21, 1993; effective November 25, 1993. **Amended:** Filed November 17, 1998; effective December 22, 1998. **Repealed:** Filed August 20, 2007; effective September 24, 2007.

**80-10-12-.06      Regulated Articles.**

The following articles shall be regulated by this chapter:

- (a) The boll weevil, *Anthonomus grandis* Boheman, in any living stage of development.
- (b) Gin trash.
- (c) Seed cotton.
- (d) Cotton plants, bolls.
- (e) Used cotton equipment.
- (f) 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.

**Author:** S. Shawn Sibley

**Statutory Authority:** Code of Ala. 1975, §2-19-128.

**History:** Filed March 13, 1986. **Amended:** Filed August 24, 1990.

**Amended:** Filed November 17, 1998; effective December 22, 1998.

**80-10-12-.07      Conditions Governing Movement Of Regulated Articles.**

(1) Certificate Required

(a) Regulated articles moving from a regulated area into or through the State of Alabama shall be accompanied by a certificate issued by an authorized regulatory official in the State where such articles originated.

(b) Regulated articles originating outside a regulated area may be moved into or through Alabama without a certificate, 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.

(2) Issuance of Certificates

(a) Certificates for movement of regulated articles may be issued by the Commissioner when such articles:

1. Originated in non-infested premises in the State of Alabama and have not been otherwise exposed to infestation.
2. Have been treated to destroy infestation in accordance with approved procedures.
3. Have been grown, manufactured, stored, or handled in such a manner that, in the judgment of the Commissioner they would not transmit infestation, and
4. Have been found, upon examination by the Commissioner, to be free of any infestation.

(3) Certificates shall be handled as follows:

(a) Certificates, 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 may be attached to the shipping document.

(b) Copies of all certificates shall be furnished by the carrier to the consignee at the final destination.

(4) Any certificate may be cancelled 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.

**Author:** S. Shawn Sibley

**Statutory Authority:** Code of Ala. 1975, §2-19-128.

**History:** Filed March 13, 1986. **Amended:** Filed August 24, 1990.

**Amended:** Filed November 17, 1998; effective December 22, 1998.

**80-10-12-.08**

**Movement For Scientific Purposes.**

(1) Regulated articles may be moved for experimental or scientific purposes provided a certificate issued by the Commissioner specifying guidelines by which such articles must be handled is obtained prior to movement.

(2) Cotton planted for research purposes may be exempt from assessments.

**Author:** S. Shawn Sibley

**Statutory Authority:** Code of Ala. 1975, §2-19-128.

**History:** Filed March 13, 1986. **Amended:** Filed November 17, 1998; effective December 22, 1998.

**80-10-12-.09      Compliance Agreements.**

(1) As a condition of issuance of certificates 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:

(a) That he will maintain such safeguards against the establishment and spread of infestation,

(b) Comply with such conditions as to the maintenance of identity, handling, and subsequent movement of such articles, and

(c) The cleaning and treatment of means of conveyance and containers used in the transportation of such articles as may be required by the Commissioner.

(2) Any compliance agreement may be cancelled 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 cancelled or voided by the Commissioner when, in his opinion, it is no longer required.

**Author:** Charles H. Barnes

**Statutory Authority:** Code of Ala. 1975, §2-19-128.

**History:** Filed March 13, 1986. **Amended:** Filed August 24, 1990.

**Amended:** Filed November 17, 1998; effective December 22, 1998.

**80-10-12-.10      Transportation And Disposal.**

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

**Author:** Charles H. Barnes

**Statutory Authority:** Code of Ala. 1975, §2-19-128.

**History:** Filed March 13, 1986. **Amended:** Filed August 24, 1990.

**80-10-12-.11      Reporting And Location Of Cotton Acreage.**

(1) All growers in an elimination area shall complete a cotton acreage reporting form by a date established by the Foundation during the current growing season at the county 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 intended acreage to be planted during the current growing season.

(2) All growers in an elimination area shall also complete a cotton acreage reporting form by a date established by the Foundation during the current growing season at the 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.

(3) Non-commercial cotton shall not be planted in an elimination 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:

- (a) Location of growing area,
- (b) Pest conditions in the growing area,
- (c) Size of the growing area,
- (d) Accessibility of the growing area,
- (e) Any stipulations set forth in a compliance agreement between the applicant and the Commissioner that are necessary for the effectuation of the program.

**Author:** S. Shawn Sibley

**Statutory Authority:** Code of Ala. 1975, §2-19-128.

**History:** Filed March 13, 1986. **Amended:** Filed August 24, 1990.

**Amended:** Filed November 17, 1998; effective December 22, 1998.

**80-10-12-.12      Program Participation, Fee Payment, Penalties And Credits.**

Upon passage of a grower referendum conducted under the provisions of §2-19-132, Code of Ala. 1975, all cotton growers in an elimination area as set out in Rule No. 80-10-12-.05 shall be required to participate in the boll weevil eradication program and to pay an assessment as established by the Foundation. Such

assessment shall not exceed the cap established by the most recent referendum.

(1) All fees paid by the grower shall be paid at the county FSA office and made payable to the Foundation.

(2) Failure to pay all assessments on or before the deadlines established by the Foundation for the current growing season will result in a penalty fee of \$3.00 per acre. Failure by a grower to pay all program costs by the deadlines established by the Foundation shall be a violation of this Rule. A grower who fails to pay all assessments, including penalties, within thirty days of notice of penalty, must destroy any cotton plants growing on his acreage which are subject to the assessment within 10 days of notification by the Commissioner. Failure to meet the above requirements shall be handled as provided in §2-19-135, Code of Ala. 1975.

**Author:** S. Shawn Sibley, Reginald L. Sorrells

**Statutory Authority:** Code of Ala. 1975, §2-19-128.

**History:** Filed March 13, 1986. **Emergency rule** filed August 12, 1987. **Amended:** Filed November 25, 1987; August 24, 1990. This rule was amended on August 10, 1993, to reflect current program activities. **Amended:** Filed October 21, 1993; effective November 25, 1993. **Amended:** Filed November 17, 1998; effective December 22, 1998. **Amended:** November 27, 2001; effective January 1, 2002.

#### **80-10-12-.13      Purchase Of Cotton For Effectuation Of Program Objectives.**

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.

**Author:** S. Shawn Sibley

**Statutory Authority:** Code of Ala. 1975, §2-19-128.

**History:** Filed March 13, 1986. **Amended:** Filed November 17, 1998; effective December 22, 1998.

#### **80-10-12-.14      Cotton Stalk Destruction.**

(1) All growers in the elimination area shall be required to destroy cotton stalks only when so notified in writing by program personnel. Such notification shall indicate name and address of the producer, fields to be destroyed, the deadline of February 1 for such destruction, and must be provided to the grower no later than December 1. Such cotton stalk destruction shall consist of shredding or disking to the extent of eliminating standing cotton stalks.



(2) Failure to destroy cotton stalks on or before February 1 of each year will result in a \$3.00 per acre penalty fee. In fields with cotton stalks left standing after February, the Commissioner shall have authority to hire the destruction of standing stalks and assess the grower for actual costs of such destruction in addition to penalty fees. Any grower applying for a waiver shall make application in writing to the Commissioner stating the conditions under which he requests such a waiver. The decision of whether or not to waive this requirement shall be made by the Commissioner and notification given to the farm operator within two weeks after receipt of such application. Decision shall be based on the following:

(1) Meteorological conditions,

(2) Economic conditions, and

(3) Any other uncontrollable destructive forces.

**Author:** Charles H. Barnes, Reginald L. Sorrells

**Statutory Authority:** Code of Ala. 1975, §2-19-128.

**History:** Filed March 13, 1986. This rule was amended on August 10, 1993, to reflect current program activities. **Amended:** Filed October 21, 1993; effective November 25, 1993. **Amended:** November 27, 2001; effective January 1, 2002.

#### 80-10-12-.15

#### **Foundation To Establish Policies And Procedural Rules.**

In order to fully accommodate the intent of Sections 2-19-120, et seq., Code of Ala. 1975, and to the fullest extent provided by law, the Foundation shall be empowered to adopt specific procedural rules to provide for the proper collection of assessments and penalties as closely as possible in the manner in which tax liens are collected by the State against delinquent taxpayers. Such rules shall be known as "Rules Concerning the Collection of Assessments and Penalties Relating to the Eradication of Boll Weevils in Cotton." The rules shall be certified to the Commissioner as adopted by the Board of Directors of the Foundation and be considered by the Board of Agriculture and Industries for the purpose of the promulgation of such rules as official rules of the Board of Agricultural and Industries as provided by law. Amendments shall be certified, adopted and promulgated in like manner, or as otherwise provided by law. The Foundation shall be empowered to establish policies regarding waiver of assessments and penalties and payment of credits and refunds not specifically set out in the referenced procedural rules or this chapter.

**Author:** S. Shawn Sibley, Robert J Russell

**Statutory Authority:** Code of Ala. 1975, §2-19-128.

**History: New Rule:** November 17, 1998; effective December 22, 1998. **Amended:** Filed February 12, 2004; effective March 18, 2004.