CIRCULAR 11 **Agency # 209.02**
Revised: December, 2012

REGULATIONS ON PLANT DISEASES AND PESTS

This circular is issued in September, 1997, by the **Arkansas State Plant Board**. Other regulations issued by the Plant Board are covered in other circulars. Address correspondence to State Plant Board, P.O. Box 1069, Little Rock, AR 72203.

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Approved and Issued by:

ARKANSAS STATE PLANT BOARD

Under Authority of:
The Plant Act (A.C.A." 2-16-201 through 214)
Emergency Plant Act (A.C.A. " 2-16-301 to 310)
Nursery Fraud Act (A.C.A. " 2-21-101 through 113)
Arkansas Boll Weevil Suppression Eradication Act (A.C.A “2-16-601 through 617)

PROPOSED

SECTION I. PUBLIC NUISANCE DECLARED. The following plant diseases, insect pests and noxious weeds, under the provisions of the Arkansas Plant Act (A.C.A. ' 2-16 - 201 et seq) are hereby declared to be a public nuisance, including anything infected, infested or contaminated therewith. The extent to which these plant diseases, insect pests and noxious weeds are regulated is covered in this and other Plant Board circulars. Italicized pests are intent of horticulture inspections.

A. **Plant Disease Pests Listed**

1. *Chestnut blight* (chestnut and chinquapin)
2. *Phony peach, peach mosaic and peach rosette*
3. Fusiform and other gall rusts of pines
4. Texas root rot (cotton and other plants)
5. *Oak wilt (oak, chestnut and other trees and shrubs*)
6. *Cedar-apple rust*
7. *Fire blight (pear, apple and other plants)*
8. *Root knot nematode*
9. *Soybean cyst nematode*
10. *Foliar nematodes (Aphelenchoides besseyi and others)*
11. *Crown gall and other infectious galls*
12. *Hairy root of apple and rose*
13. *Bacterial spot of peach*
14. *Strawberry dwarf*
15. *Red stele of strawberry*
16. *Virus diseases on horticultural crops*
17. *Strawberry yellows (genetic)*
18. *Infectious cankers*
19. *Bacterial spot of tomato*
20. *Alternaria and septoria leaf spots of tomato*
21. *Late blight of tomato*
22. *Camellia petal blight*
23. *Azalea petal blight*
24. Hoja blanca disease of rice
25. *Internal cork of sweet potato*
26. *Black rot of sweet potato*
27. *Stem rot of sweet potato*
28. *Anthracnose on various host plants*
29. *Pink root of onion*
30. Sting nematode
31. *Blights and leaf spots damaging to plants*
32. *Collar rot*
33. *Dutch Elm disease*
34. *Phloem necrosis*
35. *Bud rot on strawberries*
36. *Fusarium wilt of tomatoes (all races)*
37. *Blueberry nursery stock diseases*
38. *Pinewood nematode*
39. Blackleg of rape
40. *Rose Rossette*

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B. **Insect Pests Listed**

1. Pink bollworm (cotton and okra)
2. *Sweet Potato weevil*
3. Fruit flies (fruit and vegetable) does not apply to Drosophila
4. Khapra beetle and other stored grain insects
5. Bruchids and other pest of seeds (seeds of crops and other plants)
6. *Japanese Beetle (trees, fruits, vegetables and other plants)*
7. *Gypsy and Browntail moths and other leaf-feeding insects (trees, shrubs and other plants)*
8. *Fire ant, Argentine ant, carpenter ant and other injurious ants*
9. *Vegetable weevil*
10. *White-fringed beetle*
11. European chafer
12. Termites
13. Powderpost beetles
14. *San Jose scale and other scale insects*
15. *Wooly Aphis*
16. *White flies*
17. *Strawberry crown borer*
18. *Pine tip moth and other insects attacking pine shoots*
19. Oriental fruit moth
20. *Borers of all kinds*
21. *European red mite and other spider mites*
22. *Bagworms and other leaf-eating insects*
23. *Thrips*
24. *Aphids*
25. Harlequin bugs
26. Roaches and other household insect pests
27. *Elm leaf beetle*
28. Cereal leaf beetle
29. Southern pine beetle
30. *Brown garden snail, or any other plant destroying snail*
31. Asian Ambrosia Beetle

C. **Noxious Weeds Listed**

1. Field bindweed **(Convolvulus arvenis)**
2. *Nut grass* **(Cyperus rotundus)**
3. *Wild onion and/or wild garlic* **(Allium spp.)**
4. Johnson grass **(Sorghum halapense)**
5. Dodder **(Cuscuta spp.)**
6. Bermudagrass **(Cynodon dactylon)**
7. Cheat or Chess **(Bromus secalinus)**
   and/or **(Bromus commutatus)**
8. Darnel **(Lolium temulentum)**

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9. Corncockle **(Agrostemma githago)**
10. Horsenettle **(Solanum carolinense)**
11. Purple nightshade **(Solanum elaeagnifolium)**
12. Buckhorn plantain **(Plantago lanceolata)**
13. Bracted plantain **(Plantago aristata)**
14. **Rumex** spp.
15. Blueweed **(Helianthus ciliaris)**
16. Morning Glory **(Ipomea spp.)**
17. Hedge Bindweed **(C. sepium)**
18. Red rice **(Oryza sativa var.)**
19. Curly indigo **(Aeschynomene indica)**
20. Tall indigo or coffee bean **(Sesbania exaltata)**
21. Giant foxtail **(Setaria faberi)**
22. Witchweed **(Striga spp.)**
23. Crotalaria **(Crotalaria spp.)**
24. Cocklebur **(Xanthium spp.)**
25. Moonflower **(Calonyction muricatum)**
26. Alligatorweed **(Alternanthera spp.)**
27. Balloonvine **(Cardiospermum halicacabum)**
28. Itchgrass **(Rottboellia exaltata)**
29. Thistle **(Carduus, Cirsium, Onopordum, Silybum, Scolymus, Salsola and other genera)**
30. Serrated Tussock **(Nassella trichotoma)**
31. *Purple Loosestrife* **(Lythrum salicaria)**
32. Barnyardgrass **(Echinochloa crusgalli)**
33. Water Hyacinth **(Eichornia crassipes, E. azurea)**
34. Japanese Blood Grass **(Imperata cylindrica)**
35. Tropical Soda Apple (**Solanum viarum)**

Any foreign insect, plant disease or weed which may be brought into Arkansas and whose habits and injuriousness under the conditions of agriculture in Arkansas are unknown, is regarded as dangerous and is declared to be a public nuisance.

PROHIBITED PLANT LIST

Plants contained on the following list present such a danger to the natural ecosystems in the state that they are hereby declared prohibited. No plant, seed or any reproductive structure may be sold or utilized in plantings in Arkansas.

1. Purple Loosestrife (Lythrum salicaria)
2. Giant salvinia (Salvinia molesta)
3. Water Hyacinth (Eichornia crassipes, E. azurea)
4. Japanese Blood Grass (Imperata cylindrica)

SECTION II. REGULATIONS ON VEGETABLE AND SMALL FRUIT PLANTS.

PROPOSED

A. Regulations on the Sale of Vegetable Garden Plants including Sweet Potato and Strawberry Plants. Any person selling, offering for sale, or transplanting for sale any vegetable garden plants including sweet potato and strawberry plants for planting purposes within or into the State of Arkansas shall meet the following requirements. Vegetable plants grown in soil-less media are exempt from these regulations.

1. Sale in bulk is prohibited, except at production site to a local consumer.

2. Each container in which plants are offered for sale shall be conspicuously labeled in legible English language with the following:

   a. Name and address of producer

   b. Arkansas Permit Number

   c. Varietal name

   d. If sold in bundles:

      1. Number of plants per bundle

      2. Number of bundles in container

3. The above information may be stenciled, engraved or embossed on the containers, printed or rubber stamped on tags or labels attached to the containers, or on stakes displayed in each container, or displayed in any combination of these methods desired by the producer.

4. In addition to the above, each bundle of sweet potato plants shall also carry an individual label showing the producer's name and address. Bundle labels shall be supplied by the producer.

5. Every container or bundle which does not display complete labeling as described above shall be subject to an immediate Stop-Sale Order.

6. No Arkansas Permit Number shall be issued for sweet potato plants or vine cuttings originating in an area in which the sweet potato weevil is known to exist.

7. **Securing Arkansas Permit Numbers.**

   a. **Arkansas Producers.** Permit Numbers will be assigned to Arkansas producers upon receipt of Plant Board application forms and the required inspection fees. Even though a Permit Number has been assigned, no sales shall be made until a producer's plants have been inspected and found reasonably free of insects, diseases and noxious weeds. The Plant Board shall cancel a Permit Number anytime the producer's plants are found infested with insects, plant diseases and noxious weeds which may be disseminated with the plants, as declared in Section 1.

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Producers who wish to have their own rubber stamps, printed labels, special tags or stakes made with their Permit Number included thereon shall file applications early enough to allow time for this. The Plant Board does not supply labels or tags of any kind for plants.

B. **Out-of-State Producers.** Arkansas Permit Numbers may be obtained by out-of-state producers by filing:

a. Application forms provided by the Plant Board

b. Official certificates of inspection of state of origin

c. Appropriate Annual Registration fees

If early application, before inspections have been made, should be necessary to allow time for the preparation of rubber stamps, printed labels, special tags or printed stakes with the Arkansas Permit Number included thereon, the application shall be accompanied by a statement from a Plant Regulatory Official of the state involved certifying that the producer's plants will be kept under periodic inspection during the shipping season and that certificates of inspection will be filed with the Plant Board as inspections are made. The statement shall also certify that anytime a producer's plants do not pass inspection the State Plant Board shall be notified so the Arkansas Permit Number can be canceled.

By special permission of the Director, plants may be brought into Arkansas without Permit Numbers, to be inspected by Plant Board inspectors at a specified destination point on arrival, and Permit Numbers issued if plants are found to be reasonably free of diseases, insects and noxious weeds.

For fees or charges by the Plant Board, See Section IV, Fees.

Special Regulations for the Production of Non-Certified Strawberry Plants.

1. **Filing Application**. Application on forms furnished by the Plant Board may be made by either the grower or by shipper contracting for grower's plants, and must be made at least 10 days before inspection is desired and must be accompanied by necessary fees. To help insure against the red stele disease, no application will be accepted on a field known to have been exposed to red stele, for example, by drainage from a known-infested field, or if the mother-plants have come from a known-infested field. If possible, applications should be made by September 1. If application is made by the contractor, a copy of the contract must accompany the application. Also verification must be made as to variety, source, quantity and quality of plants used to plant fields to be inspected.

2. **Field Inspections.**

a. **First-year fields** set with either Arkansas or out-of-state certified plants will be given fall inspection, and then certified for digging, up to February 15, after which date if any plants are still undug a red stele inspection will be made, and if found satisfactory, will be reapproved.

b. **1st-year fields** set with non-certified plants can be given fall inspection, **plus** red stele inspection after March 15 or sooner if conditions are such that a satisfactory inspection can be made before that date, and then be approved.

c. **1st-year fields** set with non-certified plants, if they average 3 rooted runner-plants per mother-plant at blooming time, can be inspected for red stele at blooming time, and again in the fall and then be approved.

d. **2nd-year fields**, regardless of source of plants, can be inspected for red stele at blooming time, and again in the fall and then be approved.

e. **Fall inspection** will be made as nearly as possible between September 1 and October 31. Inspectors will dig and examine not less than 100 plants per acre, taking plants from not less than 15 places per acre, well distributed. (a) Fields will be condemned if more than 3% of plants show root-knot nematodes, or if more than 3% of new plants show crown borer signs, or if more than 10% of old and new plants combined show crown borer signs. (b) Fields will be condemned if more than 3% of the plants are affected with either summer dwarf, yellows, or bud rot, except that fields containing not more than 10% of any of these, if rouged down to the 3% tolerance and reinspected, will be passed. (c) Fields generally or severely infested with leaf spot or scorch will be condemned. (d) Fields containing noxious weeds, such as wild garlic or nut grass, which might be spread in the bundles of plants, will be condemned. On fields which pass fall inspection, **strawberry plant certificates** will be issued, dated to expire February 15, under which plants from said fields may be sold up to that time. This applies to fields set with inspected plants only.

f. **Red Stele Inspection.** If fall-inspected and-passed fields are not dug by February 15, another inspection must be made before they are sold, and if the plants are then found free of disease, a new certificate will be issued which will be valid for the remainder of the shipping season, expiring June 30. Inspectors will dig and examine not less than 100 plants per acre, taking plants from a number of places well-distributed. The location of places of digging plants shall be at the discretion of the inspector. He will make every effort to dig plants in area where red stele is likely to be most evident. Plants will be examined by slicing several roots on each plant so that the stele of the root is exposed. Should even 1 plant show red stele, this will disqualify the entire field (suspected plants will be sent to the University of Arkansas, Plant Pathology Department for confirmation).

3. **Certificates**.(1) Strawberry plant certificates, both those expiring February 15 and those expiring June 30, will be issued only to the growers of the plants, for use on their own plants that are inspected and approved. (2) **Nursery Certificates** (or dealer's certificates), instead of strawberry plant certificates, will be issued to growers or contractors who deal in bought strawberry plants, in addition to their own plants, or who grow other nursery stock in addition to strawberry plants. A complete record of all sales must be kept by the applicant and shall be made available to the Plant Board upon request.

Note: For Regulations governing the production of certified, that is, Foundation, Registered,

PROPOSED

Certified Blue Tag, or Certified Green Tag strawberry plants, contact the Plant Board office.

For fees charged, see Section IV, Fees.

C. **Special Regulations for the Production of Certified Seed Sweet Potatoes and Sweet Potato Plants.**

1. **Filing Application**. Growers desiring to produce certified seed sweet potatoes must file application on forms furnished by the Plant Board, along with the necessary fees, by June 15 of each year. Applications for the certification of sweet potato plants must be filed at least 30 days prior to the bedding of the seed, along with the necessary fees.

   Application forms will be furnished for this purpose. Applicants must agree to get prior approval of bedding sites, bed only Arkansas certified seed, and sell only Arkansas certified plants.

2. **Inspections**. Fields for the production of certified seed shall be inspected twice during the growing season by Plant Board inspectors to determine freedom from diseases, insects and noxious weeds. To qualify, fields must be in a reasonably good state of cultivation and free enough from weeds and grass so that a complete observation of the sweet potatoes can be made at each inspection. Also, fields must be apparently free of disease, insects and noxious weeds as declared in Section 1 that might be disseminated with the seed.

   At least one or more inspections of plant beds shall be made during the selling season, and to qualify plants must be reasonably free of diseases, insects, and noxious weeds as declared in Section 1, that may be disseminated with the plants.

   At least one storage or bin inspection shall be made on seed potatoes for certification. Potatoes shall be so stored that they are accessible for a complete inspection, and no chance of contamination by other potatoes. If potatoes are found to be free of disease and insects and have qualified in other respects they are eligible for certifications.

3. **Grade Standards**. Seed sweet potatoes which are sold as certified shall meet the following standards. They must be smooth, free from dirt, breaks, cracks, serious crooks, bruises, decay, decayed spots, disease sign, and insect damage or signs. They must be from one inch to three and one-half inches in diameter, and at least three inches and not over nine inches long, and not over 5% may be round, or oval shaped, unless the buyer specifies "field run" in which case any potatoes over one-half inch in diameter may be included. They must be packed in new containers.

4. **Records**. Applicants shall keep a complete set of records in regard to sales and upon request records shall be made available to the Plant Board.

   For fees charged, see Section IV, Fees.

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SECTION III. REGULATIONS FOR NURSERY STOCK, NURSERYMEN, NURSERY DEALERS, NURSERY AGENTS AND NURSERY LANDSCAPE CONTRACTORS. Nursery stock as defined in the Nursery Fraud Act (ACA ' 2-21-101 to 113) shall include all field-grown florist stock, trees, shrubs, vines, cuttings, grafts, buds, fruit pits and other seeds of fruit and ornamental trees and shrubs, and other plants and plant products for propagation, except field, vegetable and flower seeds.

A. **Sale and Transportation of Nursery Stock.**

1. All nursery stock sold or transported within or into the State of Arkansas shall have attached to the outer container thereof either a certificate of inspection or a dealer's certificate. If transported within or into the State of Arkansas by means other than a common carrier, the driver of the vehicle must have in his possession either a certificate of inspection or a dealer's certificate, a copy of which shall be given to the person or to each of the several persons to whom the nursery stock is delivered.

2. Any person desiring to ship nursery stock into Arkansas shall:
   a. File with the Plant Board an official certificate of inspection showing that the nursery has been inspected and found reasonably free of insect pests, plant diseases and noxious weeds. Or, this information may be certified to the Plant Board by the nursery inspection official of the state of origin.

   b. Attach a valid copy of the certificate of inspection of the state of origin to each package, box or bundle of nursery stock shipped into Arkansas. On multiple-order shipments, a certificate must be attached to each individual order as well as to the outer package. On container-grown or balled and burlapped bulk shipments, a certificate may be attached to the invoice covering each delivery.

3. No fee shall be charged out-of-state nurserymen or dealers who deliver nursery stock to Arkansas nurserymen and dealers, or who ship directly from their out-of-state locations to Arkansas purchasers.

4. Any person who is selling nursery stock in person within the state directly to the consumer must obtain either a nursery dealer, nurseryman, agent or nursery landscape contractor license and pay the prescribed annual fee.

B. **Inspection of Nurseries, Dealer's Stocks and Sales by Agents and Nursery Landscape Contractors.**

1. All nurseries shall be inspected at least once each year for insect pests, plant diseases, and noxious weeds, and a written notice of the findings of such inspection shall be given by the Plant Board to the owner or manager of each nursery. Upon the inspection of the nursery and proper fulfillment by the nurseryman in charge thereof of the requirements and conditions contained in said notice and upon full payment of the fees and costs hereinafter prescribed, the Plant Board shall issue a certificate of inspection. Application for inspection of nurseries must be made by August 15 of each year.

2. Nurseryman's License. Nursery dealers and/or agents are required by law to have a valid license issued by the State Plant Board prior to offering for sale or selling nursery stock in Arkansas. Stock of nursery dealers and that sold by nursery agents shall be inspected from time to time, inspections to be made in heel yards, in transit, and/or after stock has been sold. Dealers must provide facilities for keeping nursery stock in viable condition, either outdoors or indoors, and inspectors will check such facilities for compliance, as well as infestation of insect pests, plant diseases and noxious weeds.

3. Nursery Dealers License. Any dealer who holds a nursery dealers license under the provisions of the Arkansas Nursery Fraud Act 1919, as amended, may secure a dealer's certificate by filing with the Board an affidavit stating that he will keep the Director informed of the names and addresses of the nurserymen from whom he secured his nursery stock and that he will not ship under his dealer's certificate any nursery stock unless the grower of said nursery stock is in possession of a valid certificate or permit issued by the Board.

4. Nursery Landscape Contractors. Those nursery dealers involved in the installation of ornamental or horticultural plants, or offering for sale, or selling nursery stock in Arkansas, through the planting of nursery stock for compensation, are considered to be nursery landscape contractors. If not already holding a valid Arkansas Nurseryman or nursery dealers license, nursery landscape contractors will be required to obtain a valid nursery landscape contractor license issued by the State Plant Board to perform such services.

   Stock of nursery landscape contractors shall be inspected from time to time with inspections to be made in heelyards, in transit and/or after stock has been planted. Inspectors will check for viability of stock, infestations of insects, plant disease and noxious weeds.

   Nursery landscape contractors that do not maintain a heelyard shall submit a list of no more than 10 contract jobs, which have been completed within the last 12 months, so that inspection of plant materials can be made on site. This list of jobs must be submitted to the Arkansas State Plant Board by May 15th of the preceding licensed year.

5. Nurserymen, Nursery Dealers, Agents or Nursery Landscape Contractors. Must Make Records Available Upon Request. Nurserymen, nursery dealers, agents or nursery landscape contractors must make available invoices and applicable quarantine certificates on all sales of nursery stock upon request of the Authorized State Plant Board Designees.

6. Limited Nurseryman License**.** This category is required to have a valid license issued by the State Plant Board prior to offering for sale or selling nursery stock in Arkansas. The Limited Nurseryman License is defined by selling only plants which are propagated and produced by that grower. They are not allowed to broker other regulated plants, which were produced by another grower, nor are they allowed to supply another business to sell their plant materials. The Limited Nurseryman License status will be limited to those producing less than 500 square feet of nursery stock per year. This license does not include contracting or installation of nursery stock.

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C. Green-Colored Wax on Nursery Stock. The sale or offering for sale of rosebushes or their nursery stock covered with green-colored wax is prohibited in Arkansas.

D. Licensing. All licenses for Nurseryman, Nursery Dealer and Landscape Contractor must be renewed annually. The licenses are valid from November 1 of the current year until October 31 of the following year. License fees are $10.00 and all facilities must be inspected before a license will be issued. See Section IV for fee charges. License renewal applications should be submitted to the Plant Board to allow time for inspections, processing and issuance to take place prior to the October 31 deadline.

1. Late Fees: Any application postmarked after October 31 will be subject to a late charge of fifty (50%) percent of the license and inspection fees.

For fees charges, see Section IV, Fees.

SECTION IV. FEES. The following annual and/or item fees shall apply to plants and nursery stock as covered by these regulations:

Limited Nurseryman License	$75.00	Includes: Container or field grown stock solely propagated by themselves of no more than 500 square feet per year. To qualify for the Limited Nurseryman License, please see Section III #6.
Nurseryman:		
Level 1 Inspection Fee including License Fee	$150.00	Includes: Container Grown Stock- Less than 3 acres. Field Grown Stock - Less than 10 acres**.**
Level II Inspection Fee including License Fee	$300.00	Includes: Container Grown Stock -More than 3 acres up to and including 10 acres. Field Grown Stock - More than 10 acres up to and including 25 acres.
Level III Inspection Fee including License Fee	$450.00	Includes:

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		Container Grown Stock-More than 10 acres up to and including 40 acres. Field Grown Stock- More than 25 acres and up to including 70 acres
Level IV Inspection Fee including License Fee	$600.00	Includes: Container Grown Stock: More than 40 acres. Field Grown Stock - More than 70 acres Nurseries having additional heelyards in locations or towns other than at nursery must obtain dealer's or agent's license for each sales outlet.
Nursery Certificate Tags	15¢	each
Nursery Dealers: (& Agents)		
Level I Inspection Fee	$140.00	
Level I License Fee	$10.00	Includes: Container Grown Stock- Up to and including 5000 sq.ft. heelyard or display area.
Level II Inspection Fee	$290.00	
Level II License Fee	$10.00	Includes: More than 5,000 sq. ft. Up to and including 15,000 sq. ft. of heelyard or display area.
Level III Inspection Fee	$440.00	
Level III License Fee	$10.00	Includes: More than 15,000 sq. ft. Dealers having more than one sales outlet or display area must obtain dealer's or agent's license for each separate location.
Nursery Certificate Tags	15¢	each
Nursery Landscape Contractors:		
Level I Inspection Fee	$140.00	
Level I License Fee	$10.00	Includes: If Landscape contractor maintains a

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		heelyard this covers first 5,000 sq. ft. of that heelyard or display area. Also covers planting site inspection of plants where landscape contractor does not maintain a heelyard or display area.
Level II Inspection Fee	$290.00	
Level II License Fee	$10.00	Includes: Heelyard of more than5,000 sq. ft. Up to and including 15,000 sq. ft.
Level III Inspection Fee	$440.00	
Level III License Fee	$10.00	Includes: Heelyards over 15,000 sq. ft.
Out-of-State Nurseries:		
Registration Fee		Not required unless the state in which the nursery is located requires a registration fee of Arkansas nurseries. In such cases an equivalent fee will be charged.
License Fee	$10.00	(These fees apply only if nursery has agents selling within the state. In such cases planting site inspections will be made.)
Inspection Fee		
Inspection fee structure will be the same as in state.		
Horticultural:		
Advice Certificate	1.00	
Strawberry Inspection: State Inspected		
Application Fee	25.00	Not required when grower is also a nurseryman and has paid nursery fees.
Inspection Fee	1.50	per each 1/4 acre
Strawberry Inspection: Certified		
Application Fee	50.00	
Inspection Fee	2.00	per each 1/4 acre
Certification Tags	15¢	each
Sweet Potato Certification - Seed		
Inspection Fee	25.00	for 1st acre, plus $6.00 for each

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		additional acre
Certification Labels	15¢	each

Sweet Potato Certification - Plants

Inspection Fee	10.00	plus 2 cents per square foot
Certification Labels	15¢	each

Non-Certified Sweet Potato Plant Beds:

Inspection Fee	10.00	plus 2 cents per square foot

Sweet Potato Weevil Inspection:

Inspection Fee:	10.00	per acre
Trapping		
Fumigated Sweet Potatoes	5¢	for each bushel
Unfumigated Sweet Potatoes	5¢	for each bushel

Vegetable, Garden, Truck and Strawberry Plants: (if grown in a medium containing soil)

Inspection Fee	20¢	per sq. ft. for plants to be sold from beds or in pots.
	50¢	for each crate, box, bucket, or basket of bundled plants
	20.00	Minimum Fee

Out-of-State Vegetable, Garden, Truck and Strawberry Plants: (if grown in a medium containing soil)

Registration Fee	50¢	for each crate, box or basket of bundle plants.
	100.00	Minimum Fee
		Fees shall be calculated on the basis of previous sales in Arkansas or on anticipated sales (Subject to Audit) for new producers.

Permits for plants brought

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into state under special permission	50¢	each. Plants are inspected at destination. No registration fee is required.

Phytosanitary Certificates (State Certificate)

Issuing Fee	15.00	each certificate
Sampling Fee (State or Federal)	7.50	each certificate when Plant Board must take sample.

Reinspection Fee: When an extra trip is made necessary because of late application, because of findings of a previous inspection, or for other reasons, an additional charge may be made as follows: $30.00 for first one-half day or fraction thereof for each inspector, plus $10.00 per hour for each inspector's time in excess of the one-half day.

SECTION V. Stop-Sale Notices.

Stop-Sales Notices. Plant Board inspectors will check for compliance with the regulations contained in Circular 11, as well as the laws under which they are promulgated. Stop-Sale Notices shall be issued for the following reasons:

a. Selling, offering for sale, or transporting within or into Arkansas plants and nursery stock as herein regulated without being officially covered by a license and/or certificate or permit.

b. Failure to label in accordance with the law and regulations as herein outlined.

c. Selling, offering for sale or transporting within or into Arkansas for sale, plants and nursery stock as herein regulated that are diseased, insect-infested, containing noxious weeds, dead, or in weak condition.

d. Mislabeled or misrepresented as to variety, count, size, quality, grade or condition.

e. Shipped or moved from an area either within or outside Arkansas that is covered by a quarantine of the Federal or State government, without having been officially cleared and so documented.

When a stop-sale notice is issued, a copy shall be given to the person in possession of the stock in question. **As specified in the law, it shall be unlawful to sell, transport or dispose of in any way, plants and nursery stock covered by a stop-sale notice, without first having been authorized in writing by the Plant Board.** The Plant Board reserves the right to publish a notice of quarantine of stock in the local newspaper against any person when it is deemed necessary for failure to comply with the proper disposal of condemned stock.

SECTION VI. **Regulations Governing the Movement of Sweet Potatoes into the State from Areas Infested or Suspected of Being Infested with Sweet Potato Weevil.**

PROPOSED

A. Sweet potatoes, or plants or vines thereof, which have been grown or stored in counties or parishes now or hereafter known to be infested with the sweet potato weevil, must not be transported into or stored, used, or distributed within the state of Arkansas, except as follows:

1. Sweet potatoes must be moved only to consignee who holds a valid permit (issued on request) from the Arkansas State Plant Board, authorizing said consignee to receive shipments of fumigated potatoes between July 1 and January 31 of each year.

2. Sweet potatoes must be fumigated with methyl bromide immediately prior to shipment in a manner approved by the Director of the Arkansas State Plant Board. (a) Only sweet potatoes which have been inspected and found apparently free of weevils will be eligible for fumigation. (b) Fumigation certificates signed by an authorized plant quarantine official, showing number of bushels, car number, dosage, time of exposure, temperature, name and address of consignor and consignee and any other information required by the Director, must be mailed to the Plant Board at Little Rock when the shipment is made. (c) Duplicate copy of certificate must be attached to waybill, or be in possession of the driver of vehicle. (d) Each container in the shipment must bear an official fumigation tag. (e) Sweet potatoes must be moved into Arkansas immediately after fumigation.

3. Permit-holder (consignee) must notify the Plant Board, Little Rock, immediately on arrival of each shipment. With said notification, permit-holder must remit to the Plant Board a one-cent fee for each bushel of sweet potatoes in said shipment.

4. Sweet potato plants or vines must not be transported into Arkansas under any condition.

The Plant Board will inspect on arrival as many of the fumigated shipments as possible. Should living stages of sweet potato weevil be found in any shipment, or should it be found that any of the provisions of this rule are not being complied with, the Director may invalidate any or all permits issued under this rule. The Director may cause to be destroyed, refumigated or removed from the state, any shipment in which live stages of the weevil are found.

B. **Exception for Canning Plants**. Sweet potatoes fumigated as described in Paragraphs 2 and 3 may be brought to canning plants for immediate canning at any time, provided culls and refuse are sterilized at the plant.

"Unfumigated sweet potatoes may be brought to canneries at any time provided the canner and broker or hauler has a signed Compliance Agreement on file with the Plant Board binding him to the following:

1. Special permission shall be obtained from the Director of the Arkansas State Plant Board before bringing weevil-area potatoes into the state. Permission shall be restricted to the following area and purpose:

   a. **Area -** That section of Northwest Arkansas included in the following counties: Baxter, Benton, Boone, Carroll, Cleburne, Conway, Crawford, Faulkner, Franklin, Fulton,

Independence, Izard, Jackson, Johnson, Lawrence, Madison, Marion, Newton, Pope, Pulaski, Randolph, Searcy, Sebastian, Sharp, Stone, Van Buren, Washington and White. Prohibited elsewhere in the state.

b. **Purpose -** Immediate canning only. Seed, bedding, table use, etc., prohibited, entire state.

2. Each load shall be accompanied by an official certificate of the state of origin showing apparent freedom from weevils.

3. Each load shall be officially sealed by the originating inspector and remain sealed until opened for canning.

4. Certificates and seals from each load shall be kept by cannery and surrendered to inspector upon request.

5. If shipped by rail at any time or truck between January 1 and July 1, certificates must show treatment of load with a pesticide recommended and registered for such use.

6. Shipment must be in tight rail cars or van-type trucks with vents screened. Tarpaulin-covered loads will not be accepted.

7. Potatoes must be canned immediately upon arrival. In emergency cases potatoes may be unloaded and stored for not more than 48 hours in such a way that weevils, if present, cannot escape and cause infestation.

8. No potatoes may be carried away from canning plant, and all must be canned except culls.

9. Culls, wastes and cleanings must be:
   a. Processed through lye vat at regular plant speed and temperature and flushed down drain, or

   b. Collected in a tank covered with hot lye solution (Minimum 185 degrees F.), allowed to soak for 1 hour, then either buried 2 feet deep, flushed down drain, or fed to livestock immediately.

10. After canning, plant premises must be thoroughly cleaned and sprayed with an insecticide to kill any live weevils thereon.

11. Trucks and rail cars after unloading and before leaving premises must also be cleaned and sprayed as in number 10 above, and cleanings disposed of as in number 9 above.

12. Plant Board inspectors will make periodical, unannounced inspections to check for conformity with all items stipulated herein, but will not necessarily remain through entire canning process each visit.

13. Inspectors will recommend cancellation of this Agreement and withdrawal of the Director's special permission if serious discrepancies with the stipulations are noted.

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14. An inspection fee of 5 cents per bushel will be charged, based upon duplicate load certificates, which are received by the Plant Board office from the out-of-state inspector. These certificates and seal numbers must match those kept by the canner from each load and surrendered to Plant Board inspector."

C. Sweet potatoes grown in counties or parishes which are free or which have been declared free of potato weevil will be admitted into Arkansas without fumigation, provided each load is accompanied by a certificate of the quarantine officer of the state where grown, giving name and address of grower, number of bushels in the load, destination of load, name of county or parish where grown, and certifying that said county or parish is free of sweet potato weevil, and the date issued.

SECTION VII. MISCELLANEOUS REGULATIONS

1. Sale or Transportation of Seed Irish Potatoes is prohibited within the state (Irish potatoes which are represented orally or in writing as being suitable for planting purposes) unless the potatoes have been inspected in the field and certified as true to variety and free from disease, by the official certification agency of the state in which they were grown; and the official certification tag of said state must be sealed to each bag or container thereof.

   Use of Misleading Words Prohibited. Seed Irish potatoes must not be accompanied by tags, labels, or other devices on which are used the words "Inspected or Certified" or on which are used any other word or words which might suggest a similar meaning, unless said potatoes have in fact been certified as to freedom from disease and as to varietal purity by the official certification agency of the state in which they were grown.

2. **Texas (Phymatotrichum) Root Rot**. Nursery stock, strawberry plants and vegetable plants grown or originating in the counties of Miller and Little River, and in any other counties in which the phymatotrichum root disease is hereafter found to exist, which are affected with said disease, shall be prohibited from moving into any other portion of the state or into other states.

3. The Director may refuse further services of the Plant Board to anyone who owes the Board for fees, until the fees are paid or until satisfactory arrangements are made for paying them.

4. **Phytosanitary Certificates**. For sampling, inspecting or analyzing, and issuing phytosanitary certificates for soybeans, rice, small grains, cottonseed, cottonseed meal, soybean meal, lumber and other plant products or plants, the charge will be $15.00 per certificate.

5. **Plant Destroying Snails**. The Brown Garden Snail, **Helix aspersa**, has been reported in Arizona, California, Florida, Louisiana and South Carolina. It is a plant feeder and very destructive to many host plants. It is readily transported on infested nursery stock. The shipment, therefore, of nursery stock into Arkansas from infested states, or from any state hereafter found infested with this or any other snail know to be a serious plant pest, shall be subject to the following:

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A. Nurseries in infested states who desire to ship plants into Arkansas shall file certificates of inspection with the Arkansas State Plant Board. As part of such certificate, or attached to it, there shall be a declaration signed by the state's regulatory officer stating that the nursery concerned has been inspected and found free of the Brown Garden Snail, **Helix aspersa.**

Amended certificates of inspection will also be accepted for nurseries which ship only:

1) Bare root nursery stock free of soil.

2) Cured bulbs free of soil.

3) Nursery stock from tightly enclosed greenhouses or other structures where official inspections are made to assure the enclosures are free of snails.

A valid copy of the state of origin certificate of inspection shall be attached to each package, box or bundle of nursery stock shipped into Arkansas, or to the invoice accompanying each bulk delivery of balled and burlapped or container-grown stock.

B. Infested nurseries may ship plants into Arkansas under either of the following conditions:

1) **Fumigation**. Certificates and invoices shall accompany each load showing that the stock has been fumigated in a gastight chamber with methyl bromide, 2 1/2 pounds per 1,000 cubic feet, 70 degrees F. or above, for 2 hours; or with HCN, 25cc per 100 cubic feet, 50 to 85 degrees F., for 1 hour.

2) **Quarantine Area Certification**. Nursery stock will be accepted if accompanied by certificates and invoices showing that the plants have, under official supervision, been:

a. Held in a separate, designated quarantine area for at least 30 days.

b. Treated intermittently with baits and sprays.

c. Inspected and reinspected for Brown Garden Snail.

d. Completely free of harmful snails for at least 30 days.

C. Nursery stock or plant material arriving in Arkansas from an infested state without proper certification will be held under Stop-Sale Order until properly certified, or returned to the shipper at his expense, unless found infested with living Brown Garden Snails or other snails known to be serious plant pests.

D. Nursery stock or plant material found infested with Brown Garden Snail or any other dangerous plant pest will be destroyed, or fumigated at the shipper's expense,provided the infestation can be eliminated without hazard of spread of the pest during treatment.

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6. **Fusarium Wilt of Tomatoes**. A new race of the tomato fusarium wilt organism (**Fusarium oxysporum f.** sp **lycopersici** race 2) has been found in the pink tomato section of Southeast Arkansas. This organism is a serious threat to commercial tomato production anywhere in the state. To prevent the spread of Race 2, or other new races which may hereafter develop, the following regulations shall apply to all producers of vegetable plants in Bradley and Drew Counties, and in every county where Race 2 or other new races may subsequently be found.

   The movement of tomato plants within or from the above described regulated area is prohibited, except when such plants are produced under inspection of the State Plant Board and in compliance with the following special regulations:

   A. Soil used in beds, pots, cups, flats, pot-beds and cold frames for plant production, or to rest containers upon, shall be obtained from areas where tomatoes have not been grown in the past.

   B. Soil and/or soil-media mixtures shall be decontaminated by one of the following methods before use in plant production:

      1) Methyl Bromide fumigation (4 pounds per 100 cubic feet of soil for a minimum of 24 hours at 40 degrees F. or above).

         a. Bulk soil shall be confined on a concrete slab or sheet of polyethylene plastic over the ground surface during fumigation.

         b. Bulk soil shall be no more than 12 inches deep to assure gas penetration.

         c. Holes shall be punched in the soil at 12 inch centers to facilitate gas penetration.

         d. Soil in pot-beds, coldframes and holding areas shall be loosened as deep as practicable to assure gas penetration.

         e. Fumigation covers shall be air tight (no holes).

         f. Special care shall be taken when removing the cover to prevent recontamination with untreated soil.

      2) Heat sterilization shall be acceptable if performed according to Extension Service recommendations (Misc. Publication 64, "Control of Disease and Insect Pests in the Plant Bed").

      3) Artificial media (new or unused peat, perlite, vermiculite, etc.) may be used without decontamination if reasonable precautions are taken against contamination with untreated soil (i.e., mixing on sterilized surfaces, etc.).

   C. All flats, boxes, pots, cups, tools, etc., which have been used in plant production or which have come in contact with untreated soil must be decontaminated, preferably by Methyl Bromide fumigation.

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D. Plant house interior surfaces must be decontaminated (all surfaces of benches, timber supports, heating and ventilating equipment, walls, ceilings, floors, etc.).

1) This shall also apply to surfaces of coldframes, pot-beds and holding areas.

2) An effective decontaminant spray or drench may be prepared with 50% commercial Clorox, or with 1 gallon commercial formaldehyde to 18 gallons water. After using either material, ventilate until fumes can no longer be detected before growing plants (a few hours to several days for Clorox, longer for formaldehyde, depending upon conditions).

E. Direct traffic from tomato fields to plant production areas must not be permitted.

1) Wash hands with soap and decontaminate shoes with 50% Clorox before entering the plant house, coldframes or holding areas.

F. Locally grown seed shall not be planted.

1) A tag or invoice showing purchase of seed from an established seed firm must accompany application for inspection.

2) In cases of dire necessity locally grown seed may be used if hot water treated (122 degrees F. for 25 minutes). Advance permission must be obtained from Director of Plant Industry Division.

G. These regulations shall apply in addition to and do not replace any other regulations now given in "Regulations On Plant Diseases and Pests" (Circular 11).

7. **Blueberry Nursery Stock**. The production of blueberries is a new and growing industry in Arkansas. Diseases such as red ringspot, necrotic ringspot, stunt and phytophthora root rot pose a serious threat to the blueberry industry, especially in its developing stages. To prevent the spread of these and other diseases by blueberry nursery stock the following regulations shall apply to all blueberry plants produced in Arkansas for sale.

A. **Mother Blocks**. All blueberry plants produced in Arkansas shall be grown from cuttings taken from mother blocks which have been established as prescribed by these regulations and kept under rigid inspection and rouging by the State Plant Board. Mother blocks shall be established by one of the following methods:

1) Transplanting or clearly designating and setting apart plants which have been inspected and found to be free of serious diseases, including the above, or

2) Setting plants which have been indexed or otherwise officially determined to be free of harmful diseases, or

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3) Setting plants which have been produced in an approved official certification program in Arkansas or another state, or

4) Setting plants which have been produced from cuttings from an officially approved mother block established and maintained as set out in these regulations.

5) **New Varieties**. When it appears advantageous to the Arkansas blueberry industry to bring in a promising new variety which does not qualify for entry under (a) through (d) above, cuttings, rooted cuttings or plants may be brought into Arkansas and grown in isolation under inspection, indexing or other testing until officially determined to be free of harmful insects and diseases. When such official determination has been made, said plants shall be eligible for the establishment of mother blocks as in (a) and (b) above.

   Proof of origin in the form of affidavits or sales invoices or certification tags, shall be required for cuttings, rooted cuttings or plants which are to be used in establishing approved mother blocks if from a source other than the applicant nurseryman's own blocks.

B. **Mother Blocks:**

1) Shall not be fruited for production purposes.

2) Shall be clearly designated and set apart from fruiting fields and when possible located where they will not receive drainage from fruiting fields.

3) Shall be inspected by the State Plant Board as often as necessary and at optimum times for the detection of such diseases as red ringspot, necrotic ringspot, other virus diseases, stunt, phytophthora root rot, fungus cankers, crown gall, and harmful insects and mites.

   a. All obviously diseased or seriously infested plants found in a mother block shall be removed and destroyed within 10 days of inspection.

   b. Plants suspected of being diseased or infested shall be submitted to the appropriate department at the University of Arkansas for an official determination. Those plants officially determined to be diseased or seriously infested shall be removed and destroyed when such is determined to be necessary.

C. **Production of Nursery Stock.**

1) **Cuttings** taken from a mother block shall be:

   a. Rooted in beds on raised benches or raised gravel to break contact with the soil. If the bedding medium contains soil or is being reused the medium shall be fumigated with an approved fumigant according to label directions. Heat sterilization performed according to directions in Extension Circular 540, "Control of Diseases and Insect Pests in the Plant Bed," shall be acceptable. Artificial media (**new** peat, perlite, vermiculite, washed sand, etc.) may be used without fumigating or heat treating if reasonable precautions are taken against contamination.

b. Rooted in beds located where they will not receive drainage from fruiting fields or mother plant blocks.

2) **Rooted Cuttings**. Rooted cuttings shall be transplanted to:

a. Fields which have been fumigated with an approved fumigant according to label directions, or

b. Containers in which the growing medium, if it contains soil or is being reused, has been fumigated or heat treated as in III (a) 1 above. Artificial media (**new** peat, perlite, vermiculite, washed sand, etc.) may be used without fumigating or heat treating if reasonable precautions are taken against contamination. Used containers shall be decontaminated by washing with 30% clorox solution before reusing. Containers shall be placed on raised benches or on raised gravel beds in such manner as to avoid contact of the plants or containers with contaminated soil or water. Container blocks or field blocks shall be located where they will not receive drainage from fruiting fields or mother plant blocks.

3) **Nursery Stock**. Blueberry nursery stock when produced as prescribed herein may be sold as:

a. Cuttings.

b. Rooted Cuttings.

c. Field-grown plants.

d. Container-grown plants.

Proof of origin must be provided to the purchaser if the cuttings, rooted cuttings or plants are to be used in the establishment of new mother blocks or for the production of rooted cuttings or container-grown or field-grown plants for sale.

D. **Application of Regulations**. These regulations shall apply in addition to and do not replace any regulations covering nursery stock now in effect as covered by Plant Board Circular 11, "Regulations on Plant Diseases and Pests," nor do they replace or supersede any requirement of the Arkansas Plant Act or the Arkansas Nursery Fraud Act.

E. **Fees**. The nursery license and inspection fees described in Circular 11, Section IV shall apply.

F. **Effective Date**. To avoid penalizing plant production by current methods while mother blocks are being established, these regulations shall become effective in two stages. Present plant production practices may be continued until December 31, 1984, after which date all cuttings shall be taken and started as prescribed in these regulations. After December 31, 1986 all cuttings, rooted cuttings and

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plants produced in Arkansas for sale shall be produced as set forth in these regulations.

8. **Lythrum Species (Including but not limited to Purple Loosestrife).** All Lythrum species including any hybrid cross thereof is hereby declared to be a public nuisance and designated a noxious weed. It is prohibited to transport, buy, sell, offer for sale, or to distribute Lythrum species inter or intra state. The planting of plants and/or plant parts including seed is strictly prohibited in the State of Arkansas.

9. **Rules and Standards For Certification of Certified Blackberry Plants.** The production of blackberry nursery stock is an important industry in Arkansas. Diseases such as rust, anthracnose, crown gall and viruses, as well as pests such as cane borers and nematodes pose a threat to the blackberry nursery industry. To prevent the spread of these problems by nursery stock, the following certification regulations shall apply to the production and sale of certified blackberry nursery stock in Arkansas.

I. Definitions
II. Certifying agency issuance of certificate
III. Blackberry certification standards
IV. Requirements for production of foundation, registered and certified blackberry stock
V. Inspections
VI. Inspection standards
VII. General requirements for plants
VIII. Blackberry certification fees
IX. Certified planting stock pre-marketing, identification and grade
X. Blackberry tagging or stamping and plant inspection
XI. Application of regulations

I. Definitions

Board means the Arkansas State Plant Board.

Blackberry means cultivated *Rubus* species and related plants that are considered blackberry botanically.

Cane cutting is a cane section of two or more nodes or buds (length 4-6 inches) to be transplanted to produce a plant.

Crown is the persistent (perennial) base of the plant; the junction between canes and roots (some varieties have buds that arise primarily from the crown).

Director means the director of the State Plant Board or his duly appointed representative.

Hardwood cutting is taken from a mature woody stem for the purpose of propagation.

Indicator plant means any herbaceous or woody plant used to index or determine virus infection.

Indexing is a procedure to determine virus or other pathogen infection by inoculation from the plant to

be tested to an indicator plant (grafted onto plant to be tested) or by any other approved method.

Mericlones are plants clonally propagated from a single meristem tip.

Micropropagation is plant multiplication *in vitro*. Blackberry is propagated in tissue culture by aseptic transfer of meristem tip cultures to produce Nuclear stocks.

Nodal cutting is a cane cutting with a single node to produce a plant.

One-year-old plants means well rooted plants that have developed during one growing season.

Primocane (succulent plants) is the current season's growth that develops from root or basal crown buds.

Root cuttings is a root section with one or more buds.

Softwood cutting is taken from a green, immature, actively growing stem of a woody plant during spring or early summer for the purpose of propagation.

Succulent plant means a small, actively growing plant that is developing from root buds, not having passed through a dormant period.

Virus infected (affected) means presence of a virus (es) or yellows disease agent in a plant or plant part. The word "virus" shall be used hereafter to include yellows disease.

Virus-like means a disorder of genetic or non transmissible origin, or a graft-transmissible disorder resembling a virus disease, including but not limited to diseases caused by viroids and phytoplasmas

II. Certifying agency issuance of certificate

A. The issuance of a certified state of Arkansas plant tag or stamp under this chapter affirms solely that the tagged or stamped blackberry stock has been subjected to certification standards and procedures by the department. The Board disclaims all expressed or implied warranties, including without limitation, implied warranties of merchantability and fitness for particular purpose, regarding all plants, and plant materials under this chapter.
B. The Board is not responsible for disease, genetic disorder, off-type, failure of performance, mislabeling, or otherwise, in connection with this chapter. No grower, nursery dealer, government official, or other person is authorized to give any expressed or implied warranty, or to accept financial responsibility on behalf of the Plant Board regarding this chapter.
C. Participation in the blackberry planting stock certification program is voluntary.

III. Blackberry certification standards The following specific rules constitute the requirements and standards for classes and sources of blackberry certified stock:

Nuclear stock shall be derived from plants that have been micropropagated, indexed, apparently free from other pests, and evaluated in field tests for trueness-to-variety. Nuclear stock may exist as

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in-vitro tissue culture plantlets or potted plants in a screened greenhouse. Sources of plants grown as nuclear stock must be approved by the State Plant Board.

Foundation stock is produced from Nuclear stock and grown in a greenhouse or screenhouse to exclude insects.

Registered stock is produced from Foundation stock in greenhouse, screenhouse, or field.

Certified stock is produced from Registered stock in greenhouse, screenhouse, or field.

IV. Requirements for the production of foundation, registered and certified blackberry stock

A. Facilities (greenhouse, screenhouse, water, equipment, etc.) for plant production must be approved by the Board before Foundation stock is procured by the producer.

B. Foundation stock

1. Foundation plants may be maintained indefinitely if grown in an insect-proof facility (greenhouse), in sanitized substrate, and indexed every three years by the United States Department of Agriculture or other personnel approved by the Board.
2. Growers may use micro-propagation techniques to multiply foundation plants prior to planting in a foundation greenhouse provided the micro-propagated plants are isolated from other non-indexed blackberry plants, and the micro-propagation facilities are approved by the Board.
3. In greenhouse or screenhouse, Foundation plants shall be produced in separate sanitized containers with labeling of cultivar name and lot number (if applicable).
4. Non-certified *Rubus* species must not exist within 152 meters (500 feet) of the perimeter of the greenhouse. Weeds that host disease of major concern must be controlled within 152 meters (500 feet) of the perimeter of the greenhouse. Insects that vector diseases of major concern should be controlled in isolation areas.
5. Non-certified *Rubus* species must not exist within the greenhouse or screenhouse.
6. Blossoms shall be removed before the blossoms open**.**

C. Registered stock

1. Registered plants may be maintained indefinitely if grown in an insect-proof facility (greenhouse), in sanitized substrate, and indexed every three years.
2. In greenhouse or screenhouse, Registered plants shall be produced in separate sanitized containers with labeling of cultivar name and lot number (if applicable).
3. Non-certified *Rubus* species must not exist within 152 meters (500 feet) of the perimeter of the greenhouse. Weeds that host disease of major concern must be controlled within 152 meters (500 feet) of the perimeter of the greenhouse. Insects that vector diseases of major concern should be controlled in isolation area.
4. Non-certified *Rubus* species must not exist within the greenhouse or screenhouse.
5. For field production, soil treatment is required with an approved method (ex. solid soil fumigation with methyl bromide + chloropicrin). Weeds that host diseases of major concern will be controlled. Insects that vector diseases of major concern should be controlled in isolation area.
6. Non-certified *Rubus* species must not exist within 152 meters (500 feet) of the perimeter of the field used to produce certified blackberry stock. Each lot and/or different cultivars

are labeled and separated by a distance of 4.25 meters (14 feet) or a physical barrier that prevents intermingling of roots.

7. Field produced Registered stock shall not be harvested beyond one year.
8. Blossoms shall be removed before the blossoms open.

C. Certified stock

1. Certified plants may be maintained indefinitely if grown in an insect-proof facility (greenhouse), in sanitized substrate, and indexed every three years.
2. In greenhouse or screenhouse, Certified plants shall be produced in separate sanitized containers with labeling of cultivar name and lot number (if applicable).
3. Non-certified *Rubus* species must not exist within 152 meters (500 feet) of the perimeter of the greenhouse. Weeds that host disease of major concern must be controlled within 152 meters (500 feet) of the perimeter of the greenhouse. Insects that vector diseases of major concern should be controlled in isolation area.
4. Non-certified *Rubus* species must not exist within the greenhouse or screenhouse.
5. For field production, soil treatment is required with an approved method (ex. solid soil fumigation with methyl bromide + chloropicrin). Weeds that host diseases of major concern will be controlled. Insects that vector diseases of major concern should be controlled in isolation area.
6. Non-certified *Rubus* species must not exist within 152 meters (500 feet) of the perimeter of the field used to produce certified blackberry stock. Each lot and/or different cultivars are labeled and separated by a distance of 4.25 meters (14 feet) or a physical barrier that prevents intermingling of roots.
7. Field-produced Certified stock shall not be harvested beyond one year.
8. Blossoms shall be removed before blossoms open.

D. Documentation of soil treatments and use of plant protectants shall be made available to the Board.

E. A map identifying cultivars and lots must be provided to the Board.

V. Inspections

A. Greenhouse/Screenhouse

1. Grower will regularly inspect plants. All plants that are symptomatic of disease will be removed and destroyed. The grower will keep a logbook recording cultivar and number of destroyed plants and make it available to Board inspectors.
2. Grower will inspect in and around the greenhouse perimeters to ensure isolation standards are being met.
3. Board inspectors must inspect and approve any greenhouse that has not been used for successful production of indexed blackberry plants.
4. During the production of certified plants, Board inspectors will do at least one inspection during the growing period when plants are likely to express symptoms of virus infection, crown and cane gall infections and other disorders. The Board may conduct additional inspections if deemed necessary.
5. All plants that are of off-types, crown gall infected, virus infected, or exhibiting virus-like symptoms during inspections will be flagged by Board inspectors.
6. Grower will remove all flagged plants immediately after inspection by the Board inspector.

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Effective roguing techniques must include removing the undesirable plant and all of its roots.

B. Field
   1. The grower should inspect fields regularly during the growing season and rogue all plants with symptoms of disease, etc. The Board should be informed if any problems are found.
   2. The Board inspector will perform three inspections of fields for certified plant production; 1) first inspection during April, 2) second inspection during July, 3) third inspection during October. Additional inspections may be performed if deemed necessary.
   3. All plants that are of off-types, crown gall infected, virus infected, or exhibiting virus-like symptoms during inspections will be flagged by Board inspectors.
   4. Grower will remove all flagged plants immediately after inspection by the Board inspector. Effective roguing techniques must include removing the undesirable plant and all of its roots as well as all the plants and plant parts within ten feet of the undesirable plant.

VI. Inspection standards

A. Greenhouse, General Requirements
   1. Unit of certification shall be the entire greenhouse.
   2. Isolation: Non-certified *Rubus* species must not exist within the greenhouse. Non-certified *Rubus* species must not exist within 152 meters (500 feet) of the perimeter of the greenhouse. Weeds that host disease of major concern must be controlled within 152 meters (500 ft) of the perimeter of the greenhouse. Insects that vector diseases of major concern should be controlled in isolation area.

B. Field, General Requirements
   1. Unit of certification shall be the field or a portion of field. Any portion of the field that does not meet inspection standards may be delimited if it will not jeopardize the remainder of the field.
   2. Isolation: Non-certified *Rubus* species must not exist within 152 meters (500 feet) of the certified plants. Weeds that host diseases of major concern must be controlled within 152 meters (500 feet) of the certified plants. Insects that vector diseases of major concern should be controlled in isolation area.

C. Specific Greenhouse and Field Tolerance, maximum % of factor

Factor	**Foundation Stock**	**Registered Stock**	**Certified Stock**
Anthracnose	**0**	**2.0**	**5.0**
Crown and cane gall	**0**	**0.1**	**1.0**
Nematodes	**0**	**0.05**	**0.1**
Rust, systemic	**0**	**0**	**0**
Virus diseases	**0**	**0.05**	**0.5**
Other diseases	**0**	**0.2**	**0.5**
Varietal mixture	**0**	**0**	**0**
Root, cane or crown inhabiting insects	**0**	**0.05**	**0.1**

VII. General requirements for plants

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A. Growers may sell Foundation, Registered or Certified stock as certified plants.
B. An official certificate will accompany each sale of certified Blackberry plants or stock. This certificate will list the viruses indexed and other details. Each container/plant will be labeled with variety and certification information.
C. A complete record of the number of certified Blackberry plant/stock sales will be maintained and made available to the official certifying agency. The record will include (a) class, (b) cultivar, (c) date of shipment, (d) number of plants or stock shipped.
D. General Inspection Standards for Plants:
   1. Apparently free of biotic and abiotic diseases, insects, and other pests.
   2. True-to-variety characteristics.
   3. Good leaf color and plant size.
   4. Satisfactory plant size to meet the expectations of the customer.
   5. Plants will not be shipped with non-certified plants.

VIII. Blackberry certification fees

A. Blackberry certification application fee. Applicant will be required to obtain a valid Nurserymans license and pay the required fees as prescribed for the Nurseryman category. The blackberry certification application and fee is in addition to the Nurseryman fee. The certification fee is assessed for the sole purpose of defraying expenses incurred in the additional inspection and certification requirements protocol. The applicant must furnish all information requested on the Application for Inspection Form and must allow the inspector to take samples of plants or plant parts from any certified planting for inspection and testing purposes. A separate application is required and a $50.00 fee shall be paid for each cultivar/variety unit entered for certification. Each lot or field of each cultivator shall be listed separately on the application. Application for certification inspection for the following year must be filed with the Arkansas State Plant Board, Post Office Box 1069, Little Rock, Arkansas 72203 by **Oct. 31**, accompanied by the appropriate fees.
B. A grower desiring to produce certified blackberry plants as herein provided shall establish with the Board facts evidencing sufficient experience to produce healthy, high quality stock.
C. The Board will remove any applicant failing to renew certification by the designated due date of the certification program. Failure to pay fees by the designated due date shall also result in removing the applicant from the certification program.
D. The Board will not accept applications from growers owing the Board for previous services.

IX. Certified planting stock pre-marketing, identification and grade

A. All blackberry planting stock meeting the requirements of this chapter can be identified by the State Plant Board tag or stamp issued under by the Board.
B. All containers must be new and marked with the name and address of the grower, class of certified stock, variety and lot number.
C. The quality and grading of the stock is the responsibility of the grower.

X. Blackberry tagging or stamping and plant inspection

A. "Certified" stock shall be identified with the state of Arkansas official certified blackberry plant tag or stamp under the supervision of the Board after plants have passed inspection.
B. Only plants meeting Arkansas standards for blackberry plants shall be tagged or stamped.
C. All containers shall be marked with the name and address of the grower, grade or class of stock, and variety.

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XI. **Application of regulations.** This certification program is strictly voluntary and these regulations shall apply in addition to and do not replace any regulations covering nursery stock now in effect as covered by Plant Board Circular 11, "Regulations on Plant Diseases and Pests", nor do they replace or supersede any requirement of the Arkansas Plant Act of 1917, A.C.A. 2-16-201 thru 214 or the Arkansas Nursery Fraud Act of 1919, A.C.A. 2-21-101 thru 113.

11. RULES AND REGULATIONS FOR THE ARKANSAS BOLL WEEVIL ERADICATION PROGRAM

Section I Purpose. Pursuant to Ark. Code Ann. § 2-16-605, the purpose of these rules is to develop and establish procedures for the eradication of Boll Weevil within and applying uniformly to the whole State of Arkansas, to establish per acre annual Assessments that offset program costs, to provide procedures for the collection of such Assessments, to specify conditions for the movement of regulated articles, and to provide penalties for violations of these rules.

Section II Declaration of Boll Weevil as a Plant Pest. Pursuant to Ark. Code Ann. § 2-16-602(a), the Boll Weevil (*Anthonomus grandis* Boheman) is declared to be a plant pest and a nuisance, as is any plant or other regulated article infested therewith or that has been exposed to infestation and is likely to lead to additional infestation.

Section III Definitions. For the purpose of these rules, the following definitions shall apply:

1. " APHIS" means United States Department of Agriculture, Animal and Plant Health Inspection Service.

2. "Arkansas Cotton Grower's Organization, Incorporated, d/b/a Arkansas Boll Weevil Eradication Foundation" means the nonprofit organization comprised of Arkansas Cotton Growers to provide guidance and assist in policy decisions during the eradication program, and certified by the Plant Board pursuant to Ark. Code Ann. § 2-16-612.

3. "Assessment" means the amount charged to each Cotton Grower to finance, in whole or part, a program to suppress or eradicate the Boll Weevil in this state and calculated on a per-acre basis pursuant to Ark. Code Ann. § 2-16-614(b).

4. "Boll Weevil" means *Anthonomus grandis* Boheman in any stage of development.

5. "Boll Weevil Eradication Program" means the program initiated under Ark. Code Ann. § 2-16-601 et seq.

6. "Certificate" means a document issued or authorized by the Plant Board indicating that a regulated article is not contaminated with Boll Weevils.

7. "Grower's Compliance Certificate" means a document issued or authorized by the Plant Board indicating that a Cotton Grower has complied with the requirements of these rules and the Cotton Grower's cotton may be ginned in Arkansas.

8. "Compliance Agreement" means a written agreement required between the Plant Board and any person engaged in growing cotton, dealing in, or moving regulated articles wherein the latter agrees to comply with specified provisions to prevent dissemination of the Boll Weevil.

9. "Cotton" means any cotton plant or cotton plant product upon which the Boll Weevil is dependent for completion of any portion of its life cycle.

10. "Cotton Grower" means any person, other than a cash rent landlord, who is engaged in or has as economic risk in the business of producing, or causing cotton to be produced, for market.

11. "Eradication Zone" means a geographical area designated by the Plant Board in which the Boll Weevil Eradication Programs will be undertaken and managed pursuant to Ark. Code Ann. § 2-16-610.

12. "Exposed" means any area or location subjected to Boll Weevil infestation.

13. "Gin Trash" means all waste material produced during the cleaning and ginning of seed cotton. It does not include the lint, cottonseed, or gin waste.

14. "Gin Waste" means all forms of unmanufactured cotton fiber (including gin motes) produced at cotton gins, other than baled cotton lint.

15. "Infested" means actually infested with a Boll Weevil or so exposed to infestation that it would be reasonable to believe that an infestation exists.

16. "Inspector" means any employee of the Plant Board or any other person authorized by the Plant Board to enforce the provision of these rules.

17. "Non-Commercial Cotton" means cotton intended for any purposes other than sale or scientific purposes under Section XII of these rules.

18. "Permit" means a document issued or authorized by the Plant Board to provide for the movement of regulated articles to restricted designation for limited handling, utilization, or processing.

19. "Person" means any individual, partnership, corporation, company, society, or association, or other business entity.

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20. "Plant Board" means the Arkansas State Plant Board, which is the agricultural plant regulatory agency of the State of Arkansas.

21. "Quarantine Area" means any portion of the State of Arkansas designated as such pursuant to Ark. Code Ann. § 2-16-609.

22. "Regulated Area" means any portion of an eradication zone designated for any purpose necessary to the execution of the Boll Weevil Eradication Program.

23. "Regulated Article" means any article of any character carrying or capable of carrying the Boll Weevil, including, but not limited to, cotton plants, seed cotton, cottonseed, other hosts, gin trash, gin equipment, mechanical cotton pickers, and other equipment associated with cotton production, harvesting, or processing.

24. "Seed Cotton" means cotton as it comes from the field prior to ginning.

25. "Shipment or Shipments" means the items to be transferred or moved, or the act or process of transferring or moving items from one point to another.

26. "USDA" means the United States Department of Agriculture.

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

28. "Waiver" means a written authorization which exempts a Person or any organization from compliance with one or more requirements of these rules.

Section IV **Eradication Zones.** The eradication zones for the State of Arkansas are defined as follows:

Southwest Zone shall consist of the following counties: Bradley, Calhoun, Clark, Cleveland, Columbia, Dallas, Garland, Grant, Hempstead, Hot Springs, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Ouachita, Pike, Polk, Saline, Scott, Sevier, and Union.

Southeast Zone shall consist of the following counties: Arkansas, Ashley, Chicot, Conway, Crawford, Desha (that portion lying south of the Arkansas river), Drew, Faulkner, Franklin, Jackson, Jefferson, Johnson, Lincoln, Logan, Lonoke, Perry, Phillips, Pope, Prairie, Pulaski, Sebastian, St. Francis, Woodruff, and Yell.

Central Zone Area 1shall consist of the following counties: Baxter, Benton, Boone, Carroll, Cleburne, Desha (that portion lying north of the Arkansas river), Fulton, Izard, Lawrence, Lee, Madison, Marion, Monroe, Newton, Poinsett ((that portion lying east of the St. Francis River (administered as central zone but operationally handled as part of the Northeast Ridge zone)), Randolph, Searcy, Sharp, Stone, Van Buren, Washington and White.

Central Zone Area 2 shall consist of the following counties: Crittenden, Cross, and Independence.

Northeast Ridge Zone shall consist of the following counties: Clay, Craighead (that portion lying west of the St. Francis river), Green and Poinsett (that portion lying west of the St. Francis river.)

Northeast Delta Zone shall consist of the following counties: Craighead (that portion lying east of the St. Francis river) and Mississippi.

Zones have been designated in accordance with the Boll Weevil Eradication and Suppression Act (Ark. Code Ann. §§ 2-16-601 *et seq*.)

Section V Submission of Reporting Forms, Assessments, Penalties for Late Payment, Cotton Destruction, and Exemptions.

1. Pursuant to Ark. Code Ann. § 2-16-608, upon passage of the grower referendum, all Cotton Growers in the eradication zones shall be required to participate in the eradication program as set forth herein. Pursuant to Ark. Code Ann. § 2-16-610, where mandated, all Cotton Growers in an eradication zone shall be required to participate in the eradication program as set forth herein.

2. Cotton Acreage Reporting. Each Cotton Grower shall submit annual cotton acreage reporting information, listing the acreage and location of all cotton being grown by the Cotton Grower in this state. Personnel of the Cotton Grower's Organization will be responsible for determining by use of global positioning systems or other appropriate technology the exact amount of acreage planted by individual growers.

3. Cotton Acreage. Cotton Growers shall report their cotton acreage to the Plant Board, or its designated agent, no later than June 15 of each year in which field operations of the Boll Weevil Eradication Program are in effect in their eradication zone ("Cotton Acreage**").** The Plant Board may formulate and institute a method of assessing and collecting the fees associated with the Cotton Acreage. Any Cotton Grower who fails to file the Cotton Acreage report in the manner prescribed by the Plant Board by June 15 shall be subject to a penalty of up to Three Dollars ($3.00) per acre. Failure to pay the cotton acreage assessment could result in late payment fees of Three Dollars ($3.00) per acre if payment is not received by the deadline set by the invoice.

4. Assessments. The per acre Assessment shall be as determined by the applicable referendum or by action of the State Plant Board. The per acre Assessment payable by the Cotton Grower shall be based on the Cotton Grower's Cotton Acreage report. As of the date of these rules, the Assessment for each eradication zone may be or have been up to the amounts shown below.

	Southwest	Southeast	Central 1	Central 2	NE Ridge*	NE Delta
Year 1	$15.00	$15.00	$15.00	$15.00	$10.00	$8.00
Year 2	$35.00	$35.00	$30.00	$25.00	$25.00	$14.00
Year 3	$35.00	$30.00	$35.00	$30.00	$24.00	$14.00
Year 4	$25.00	$35.00	$35.00	$30.00	$24.00	$TBD
Year 5	$20.00	$35.00	$35.00	$30.00	$22.00	$TBD

- NE Ridge Zone (E. Poinsett assessment is same as NE Ridge but instituted a year later.)

During the years (the maintenance period) following the years specified above, the per acre annual Assessment in the Southwest Zone shall not exceed $10 per acre, and the per acre annual assessment in the Southeast and Central Zones shall not exceed $12 per acre. Maintenance assessments in the NE Ridge zone shall not exceed $8 per acre. Establishment of a maintenance program in the N E Delta zone will be determined at the end of the eradication program.

Upon recommendation of the Arkansas Cotton Grower's Organization, Inc., the Plant Board may adjust the annual Assessments within the limits allowed by the referendum then in effect. In the NE Delta zone, annual assessments will be established by Plant Board action. Assessments for ~~2013~~ **2013 will** ~~and possibly for additional years, will~~ be set at ~~$14.00~~ $8.00 per acre. Such adjustments may be made at the time and in the manner determined by the Plant Board to be in the best interest of the Boll Weevil Eradication Program. In making such adjustments, the Plant Board may consider facts and information it determines to be relevant, including, but not limited to, climate and environmental conditions, finances and the overall state of the cotton industry.

5. Collection of Assessments. Assessments shall be payable by the Cotton Grower in one (1) installment, as provided below:

(a) The payment shall be paid by the payment date established by the appropriate invoice. The payment shall be an amount equal to the Cotton Grower's Cotton Acreage multiplied by the per acre assessment fee or such amount as is established by the appropriate invoice. A**ll**~~LL~~ Cotton Growers ~~in the Southwest, Southeast, Central, and NE Ridge zones~~ shall make such payments payable ~~to the "Arkansas Boll Weevil Eradication Foundation" and cotton growers in the NE Delta zone shall make payments~~ to "Arkansas State Plant Board" and deliver the payment to the Plant Board, or its designated agent, no later than the payment date established by the invoice, of each year in which such Assessments are payable. Cotton Growers who fail to make the payment by the payment date established by the invoice**,** shall be subject to a penalty of up to Three Dollars ($3.00) per acre for unpaid acreage, based on planted cotton acreage.

(b) An Assessment will be paid by one person. That person, the producer (the person responsible for planning, managing and/or performing the cultural practices associated with producing the crop), or their respective attorney-in-fact, shall execute the applicable reports prescribed by these rules. All billing information must be provided, by producers, to ~~Cotton Growers Organization employees who will be collecting assessment invoicing information~~ County FSA offices as the producers certified planted acreage report by July 15 of the current crop year~~. The information will be recorded by the Cotton Growers Organization employee on a form developed specifically for this purpose.~~ **.** The producer is responsible for insuring that information delivered to the Plant Board is correct. The Producer is held ultimately responsible for payment of the assessment and will be subject to appropriate penalties and late fees if assessments are not received. Grower's Compliance Certificates, described below, shall not be issued until the entire Assessment, and any applicable penalty, is paid as required.

(c) In the event a Cotton Grower fails to pay Assessments and/or penalties as required under these rules, pursuant to Ark. Code Ann. § 2-16-617(c) and (d) (2), the Plant Board may file a lien with the appropriate county office and the Arkansas Secretary of State on the cotton, subject to such assessments and penalties, and on the Cotton Grower's subsequent cotton crops until all such amounts are paid in full.

6. Cotton Destruction. Pursuant to Ark. Code Ann. §§ 2-16-610(e) and 2-16-617(a), any Cotton Grower who fails to pay all Assessments and/or penalties within thirty (30) days after notice from the Plant Board shall, upon direction of the Plant Board, destroy all cotton plants in which the Cotton Grower has an interest and which are subject to Assessment. Any such cotton plant not destroyed shall be deemed a public nuisance. The Plant Board may apply to any court of competent jurisdiction for the issuance of a judgment and order for condemnation and destruction of the nuisance. The Cotton Grower shall be liable for all court costs, fees, and other expenses incurred in any action taken under this paragraph 9.

7. Grower's Compliance Certificate. Pursuant to Ark. Code Ann. § 2-16-617(d), no gins in the State of Arkansas shall gin any cotton grown in an eradication zone in which field operations of the Boll Weevil Eradication Program are in effect, or from any other state, unless and until that Cotton Grower files with the gin a Grower's Compliance Certificate issued by the Plant Board certifying that said Cotton Grower has paid all fees, Assessments, penalties, and costs imposed and required pursuant to § 2-16-601 et seq., as amended, or proof of exemption there from as provided in paragraph 12 below. It is the responsibility of each Cotton Grower to procure a Grower's Compliance Certificate for the crop year for each FSA farm number on which cotton is planted, or proof that an exemption for

compliance has been granted from the Plant Board. The Cotton Grower must file the Grower's Compliance Certificate with their gin each crop year.

8. Ginner's Penalty. Any gin that gins cotton for any Cotton Grower who has not filed a current valid Grower's Compliance Certificate or proof of exemption issued by the Plant Board shall be subject to a penalty in the amount of $50.00 per bale for each bale ginned for such non-complying Cotton Grower. This provision does not prohibit the movement of seed cotton within the State of Arkansas for protection from loss or efficient storage prior to ginning.

9. Exemption Due to Hardship. Pursuant to Ark. Code Ann. § 2-16-217(e), Cotton Growers may apply for exemption from payment of any Assessment or penalty imposed by these rules, on the basis that such payment will impose undue financial hardship on the Cotton Grower. Criteria for hardship may include, but are not limited to, (a) late or unavailable financing through no fault of the Cotton Grower, (b) regional economic conditions, and (c) regional climate/environmental conditions.

   Any Cotton Grower who wishes to request an exemption from payment of the Assessment or the penalty or both shall apply for the exemption on forms prescribed by the Plant Board. Except for instances beyond the control of the Cotton Grower, the application for this exemption must be received by the Plant Board at least thirty (30) days before the due date of the Assessment for which exemption is requested. A separate application must be filed for each calendar year for which the Cotton Grower seeks an exemption. Each such application shall contain information on which the Cotton Grower relies to justify an exemption on the basis of undue financial hardship. In the event the application for exemption is not filed within the time prescribed herein, the application shall include information that describes the circumstances that prevented a timely filing. The application form shall include an oath or affirmation of the applicant as to the truth of all information contained in or accompanying the application.

   The Plant Board shall forward each completed exemption application form and any information accompanying the form to the Arkansas Cotton Grower's Organization, Inc. The Arkansas Cotton Grower's Organization, Inc. shall determine whether each applicant qualifies for a hardship exemption based on the information contained in or accompanying the application form. If the Arkansas Cotton Grower's Organization, Inc. determines that the payment of the Assessment or the penalty or both would impose undue financial hardship on a Cotton Grower who has applied for an exemption, the Arkansas Cotton Grower's Organization, Inc. may (1) exempt the Cotton Grower from payment of the Assessment or the penalty or both, or (2) permit the Cotton Grower to pay the Assessment or penalty or both on an installment payment plan and prescribe the payment schedule.

   Upon making a determination on any application for exemption, the Arkansas

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Cotton Grower's Organization, Inc. shall notify the Plant Board of its determination, which shall be binding on the applicant. The Plant Board shall then promptly notify the affected Cotton Grower in writing of the determination. If an exemption is denied, the Assessment and penalties for the year in which the application is made will be due at the time they would otherwise have been due if the application had not been filed, or within thirty (30) days after the date of the notice of the determination, whichever is later.

10. Penalties. The Plant Board shall assess Cotton Growers penalties for failure to comply with the reporting and/or payment requirements of these Regulations. Penalties are payable in full to the Arkansas Boll Weevil Eradication Foundation within thirty (30) days of the date of the penalty assessment. Any such penalties assessed must be paid before the Plant Board may issue a Grower's Compliance Certificate under Section V, Paragraph 10 of these Regulations. Penalties must be paid as provided herein even if the Cotton Grower appeals the penalty under subparagraph 14 below.

11. Appeal of Penalties. Unless specifically provided for elsewhere in these rules, any person (Cotton Grower, gin or otherwise) assessed a penalty under these rules may appeal the penalty assessment to the Plant Board within thirty (30) days of the date of the penalty assessment. Such appeal must include all information upon which the appealing party bases its appeal. The Plant Board Director may revoke, modify, or affirm the penalty and shall rule on the appeal within forty-five (45) days of the Plant Board's receipt of the appeal. The Director's ruling shall be in writing and mailed to the appealing party via first class United States mail. Any refunds due on the penalty assessment shall be paid promptly in compliance with the applicable fiscal rules and regulations. The Director may seek the recommendation of the Arkansas Cotton Grower's Organization on any appeals under this Paragraph 14. Provided, however, any such recommendation from the Arkansas Cotton Grower's Organization shall not be binding on the Plant Board Director.

12. Limit on Penalties. Section V provides for various penalties in connection with reporting acreage and paying assessments, each of which is a separate violation and cause for penalty. Notwithstanding the type of penalties imposed under Section V, the total amount of penalties assessed against a particular Cotton Grower shall not exceed $15.00 per acre of cotton for the crop year and acreage in issue.

Section VI Cotton Stalk Destruction Incentive. If during the Boll Weevil Eradication Program seasonal growing conditions promote early maturation and harvesting of cotton in Arkansas, the Plant Board may, upon recommendation from the Arkansas Cotton Grower's Organization, Inc., establish a per acre incentive credit for early stalk destruction. Such incentive credit shall be applied to the Cotton Grower's Assessment for the following year. In the event a Cotton Grower's Certified Acreage in the following year is not sufficient to fully consume the incentive credit in such

following year, the Cotton Grower may apply to the Plant Board for a refund of the unused incentive credit, using forms prescribed by the Plant Board. The rate per acre of any such incentive credit, whether uniform for the entire State, or variable, shall be established and made available to all participating Cotton Growers no later than September 1 of the current growing year. No incentive credit established under this paragraph shall be credited or paid to the Cotton Grower by the Plant Board until the date of the Cotton Grower's stalk destruction has been confirmed to the Plant Board by eradication program personnel.

Section VII Planting Cotton in the Eradication Zone.

1. Prohibited Planting. Pursuant to Ark. Code Ann. § 2-16-610(b)(1), the Plant Board may prohibit the planting of cotton in designated areas where Boll Weevil eradication treatments cannot be effectively or legally applied due to factors concerning the public welfare if determined by the Plant Board that planting cotton jeopardizes the success of the program (Prohibited Planting Area). The Plant Board shall identify all Prohibited Planting Areas no later than March 1 of each year. Notice of the Prohibited Planting Area shall be published in a local newspaper of general circulation covering the Prohibited Planting Area at least once a week for four (4) consecutive weeks in the month of March. In the event a Prohibited Planting Area is not designated by March 1 of the year in issue, the Plant Board's purchase or destruction of cotton shall be in accordance with Section IX below.

2. Notice of Destruction. Pursuant to Ark. Code Ann. § 2-16-611(b), the Plant Board may by written order require the destruction of cotton planted in a Prohibited Planting Area after publication of the first notice required in paragraph 1 above. Said order shall be delivered to the Cotton Grower via certified United States mail. The order shall identify the cotton to be destroyed by Township, Range, and Section, or portion thereof. The order shall specify the date by which the Cotton Grower must destroy the crop at the Cotton Grower's expense, which date shall be at least ten (10) calendar days after the date of the order. The order shall further state that in the event the Cotton Grower does not destroy the cotton by the specified date, the Plant Board will destroy the cotton and assess the cost of destruction against the Cotton Grower. The Assessment under this section shall be payable within thirty (30) calendar days after destruction and shall be treated as any Assessment for purpose of enforcing these rules. Provided, however, the Cotton Grower may appeal an order under this paragraph to the Director of the Plant Board. The appeal must be received by the Plant Board within ten (10) calendar days of the date of the order. The Director of the Plant Board shall issue an order on the appeal within ten (10) calendar days of the Plant Board's receipt of the appeal.

3. Non-Commercial Cotton. Non-commercial cotton shall not be planted in an eradication zone in which field operations of the Boll Weevil Eradication

Program are in effect without a waiver issued in writing by the Plant Board. Application for a waiver shall be submitted in writing and the Plant Board's decision to grant or deny the waiver may 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; and

(e) Any stipulations set forth in a compliance agreement between the applicant and the Plant Board that are necessary to the Boll Weevil Eradication Program.

Section VIII Treatment of Boll Weevil in the Eradication Zones. The eradication of the Boll Weevil in an eradication zone shall be in accordance with the USDA National Boll Weevil Cooperative Control Program and shall be executed by the Plant Board and the Arkansas Cotton Grower's Organization, Inc., with the assistance of the USDA Animal and Plant Health Inspection Service. The Final Environmental Impact Statement, dated 1991, issued by the USDA Animal and Plant Health Inspection Service for the National Boll Weevil Cooperative Program is incorporated into these rules.

Section IX Purchase of Cotton for Effectuation of Program Objectives. Pursuant to Ark. Code Ann. § 2-16-611(a), in the event Prohibited Planting Areas are not identified by the date prescribed in Section VII above, or the Plant Board otherwise determines it to be in the best interest of the Boll Weevil Eradication Program, the Plant Board or the Arkansas Cotton Grower's Organization, Inc. may purchase growing cotton. The Arkansas Cotton Grower's Organization, Inc. shall determine the purchase price for such cotton. After such purchase, the Plant Board may manage or dispose of the purchased cotton as it determines best. If the Cotton Grower objects to the purchase price determined by the Arkansas Cotton Grower's Organization, Inc., the Cotton Grower may appeal the determination to the Plant Board within 15 days of the date of such determination. Such appeal must include all information upon which the appealing Cotton Grower bases its appeal. The Plant Board Director shall rule on the appeal within thirty (30) days of the Plant Board's receipt of the appeal. The Director's ruling shall be in writing and mailed to the Cotton Grower and the Arkansas Cotton Grower's Organization, Inc. via first class United States mail.

Section X Quarantine. Establishing Quarantine. In carrying out the purpose of these rules, the Plant Board may designate a quarantine area in accordance Ark. Code Ann. § 2-16-609.

Section XI Issuance of Certificates and Compliance Agreements, Cancellations, Attachments and Cotton Gin Certificates. Certificates may be issued for the

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movement of regulated articles from, into or through a regulated area, as determined to be necessary by the Plant Board.

Section XII Scientific Purposes. All cotton planted within the state of Arkansas notwithstanding the size of the acreage or plant is subject to the coverage of these rules, provided, however, the Plant Board may designate experimental areas for experiments designed to contribute to the development of scientific knowledge deemed of importance to the production of cotton. Cotton Growers in designated experimental areas and affected thereby, may be exempted from specified requirements of these rules, provided, however, that such Cotton Growers abide by a Compliance Agreement applicable to the experimental areas.

Section XIII Entry of Authorized Personnel Upon Properties. Pursuant to Ark. Code Ann. § 2-16-607(b), Plant Board personnel are authorized to inspect any fields or premises and any property located therein or thereon for the purpose of determining whether such property is infested with the Boll Weevil. Such inspections must be conducted between sunrise and sunset. Such inspections include, but are not limited to, taking of specimens, examining and obtaining records, and applying or supervising treatments to the soil, plants or any regulated articles. This may include removal and destruction of plants, plant parts, or other regulated articles.

Section XIV Restricting Access to Eradication Zone and Regulated Area. Pursuant to Ark. Code Ann. § 2-16-605, the Plant Board may issue rules that restrict entry by unauthorized persons or any other activities affecting, or affected by, the Boll Weevil Eradication Program on any premises in an eradication zone or in any regulated area.

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12. FOREST TREE SEEDLING FUMIGATION.

1) All forest tree seedlings shall meet the requirements of all applicable state and federal plant pest quarantines.
2) All certified tree seedlings offered for sale or imported under permit into the State of Arkansas shall meet the following requirements:
    a. Seedlings shipped within and into the state used for aforestation and reforestation shall be healthy vigorous stock and must be apparently free of injurious plant pests, including but not limited to infectious diseases, nematodes, insects, and quarantined pests.
    b. To aid in ensuring apparent freedom from injurious plant pests, the grower shall make appropriate use of approved pesticides or other alternate practices during the growing of planting stock. This includes, but is not limited to, a pre-sowing tarped soil application of methyl bromide.
    c. All plants shall be field inspected by the state plant inspector prior to the initiation of lifting operations.

13. REGULATIONS FOR THE PRODUCTION OF RICE HAVING COMMERCIAL IMPACT

These regulations are established to carry out the provisions as specified in Act 1238 (An Act to Assign To The Arkansas State Plant Board Specified Powers, Duties and Responsibilities, Including The Duty To Develop And Enforce Regulations Relating To Rice Identified As Having Characteristics Of Commercial Impact; And For Other Purposes.)

I. Definitions.

a. Rice – plants and grain from plants of the genus *Oryza*.
b. Characteristics of Commercial Impact –Characteristics that may adversely affect the marketability of rice in the event of commingling with any other rice and includes, but is not limited to those characteristics: (A) That cannot be identified without the aid of specialized equipment or testing;(B) That create a significant economic impact in their removal from commingled rice; and (C) Whose removal from commingled rice is not feasible.
c. Commingle – the mixing of two or more quantities of grain that have different characteristics. These characters may or may not have direct commercial value but may have an effect on the commercial value of the total commingled lot.
d. Characteristic –a chemical component (including the plant DNA), physical appearance, physical structure or other ingredient that could adversely affect the production and marketing for potential profit by persons involved in crop production.
e. Producer – a person, corporation, partnership, association or other legal entity involved in the production of a crop for the purpose of placing the harvest of that crop in commerce.
f. State Plant Board – the agency charged with developing and enforcing regulations relative to, but not limited to, matters affecting agricultural plant production.
g. Certification – in the context of these regulations, shall mean the approval of specific varieties, strains, selections or lots of rice for production in the state.
h. Scientific Review Committee – a group of individuals each of whom is known by the Plant Board Director to have knowledge of scientific, industrial or business elements that would aid in the evaluation of the material under consideration.
i. Research – activities that involve growing rice plants, harvesting rice grain and/or performing chemical, mechanical or other pertinent operations on the plants and/or grain in order to accurately measure/define/develop the characteristics exhibited by the material.

II. Product Ownership

a. Ownership of the characteristic with commercial impact must be declared in documents filed with the Plant Board. The appropriate forms for making such declaration will be provided by the Plant Board. All regulatory activities will be handled through that declared owner or such other person or entity as dictated by the owner.

III. Eligibility Requirements

a. Eligibility requirements are such that a detailed description of the morphological,

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physiological and other characteristics that distinguish it from other varieties or related processes must be provided to the Plant Board. A suitable test for the purposes of detection/validation of the proposed characteristic must be provided. Information, designated as Confidential Business Information, collected in the process of administering these regulations will be considered exempt from Freedom Of Information Act due to the Trademark Exclusion contained in that act.

b. Rice possessing characteristics of commercial impact must have been registered and received commercial production approval from all appropriate federal agencies that have regulatory interest in the characteristics. These agencies include but may not be limited to 1)Environmental Protection Agency, 2)Department of Agriculture, 3)Food and Drug Administration.

c. Any variety, line, strain or other designated selection of rice that had ever required a USDA or other agency permit for research or production will be required to submit to these regulations.

d. Eligibility for research exemption will be determined by the Plant Board through a review of laboratory management practices and production protocols by Plant Board staff.

IV. Scientific Review Committee

a. A Scientific Review Committee may be appointed by The Plant Board to evaluate applications received under these regulations. The Scientific Review Committee shall consist of producers, not employed by or be on the board of any other entity represented on the committee, scientists from Arkansas educational entities, such as colleges and universities or the University of Arkansas Cooperative Extension Service; representative(s) of rice mills operating in Arkansas; representative(s) from the regulated companies; representative(s) of merchandisers located in Arkansas; the director of the Dale Bumpers National Rice Research Center; and the Director of the Arkansas State Plant Board shall be a permanent ex-officio standing member of the committee.

b. The committee shall review and make recommendations to the board concerning, but not limited to: 1) Identifying rice that has characteristics of commercial impact; 2) Reviewing rice identified as having characteristics of commercial impact upon receipt of a petition from the purveyor of the rice; 3) Recommending rules establishing terms and conditions for planting, producing, harvesting, selling, transporting, processing, storing, or otherwise handling rice identified pursuant to c, 1 of this paragraph, and 4) Reviewing the efficacy of terms, condition, and identity preservation programs imposed on the planting, producing, harvesting, transporting, drying, storing, or other handling of rice identified under section c, 1 of this paragraph using the most current industry standards and generally accepted scientific principles.

c. The criterion for evaluation for suitability for production shall encompass but not necessarily be limited to: 1)The characteristic of economic impact; 2)Potential impact of characteristic on value of other crops; 3)Potential for accidental introduction of characteristic into other crops; 4)Quantity of production requested; 5)Benefit expected to be brought to society from the characteristic; 6) Ability of the owner of the characteristic to comply with all regulations; 7)Ability of the owner of the characteristic to bear financial obligations for fees, fines and regulatory costs if contaminations are discovered;

and 8)Other concerns arising in the committee deliberations.

V. Fees

a. An application fee will be charged to each owner/applicant for each and every characteristic considered, even if the same characteristic had been previously considered for the same or different applicant.
b. The application fee will be established at One Thousand ($1000.00) Dollars and will be due with the appropriate form when application is made to the Plant Board for consideration of production.
c. The application fee is non-refundable in the event the production application is denied or the application abandoned.
d. Fees will be charged for each applicable inspection that is required to comply with these regulations.
e. Inspection fees will be established at One Hundred ($100.00) Dollars per visit. One re-inspection will be provided (for a specific visit) at no additional charge if the initial inspection detects conditions that result in an order to cease operations. Additional inspections that are required due to failure to correct unacceptable conditions will be assessed an inspection charge equal to the initial inspection fee for each and every visit made by the inspector. The frequency of these re-inspections will be determined by the Plant Board. The re-inspections will be scheduled to insure compliance with the regulations and permit conditions.
f. Any rice developed at Public Institutions and/or the research programs from those institutions shall not be subject to application fees as referenced in section (a) above but will adhere to all other items in these regulations.

VI. Permits

a. Production Permit. Application for a production permit shall be made to the Plant Board sufficiently in advance (minimum of four (4) months) of the expected first planting to allow full evaluation by Plant Board staff and, if deemed appropriate by the Plant Board Director, by a Scientific Review Committee.
b. Permit Application Form. The appropriate form will be supplied by the Plant Board for making the application.
c. Functional Permits. Depending on the characteristic of economic impact, a determination may be made by the Plant Board Director that other functions, such as planting, harvesting, transporting, processing and storage, associated with the production of rice having the characteristic, may also need to be permitted. To accommodate this effort, the owner of the characteristic of economic impact should be prepared to identify all parties that are expected to handle any of the rice in any form or function.
d. Fees for Functional Permits. Functions that are deemed to present a risk of causing/allowing a cross contamination to occur and as a result necessitate inspections, may be required to pay a fee for securing the permit and for having the inspections made.
e. Restrictions specific to the characteristic of economic impact will be contained in the permit.

PROPOSED

VII. Violations

a. Failure to secure permit. Failure to secure a permit prior to engaging in activities to initiate any facet of the process of production of a crop, including but not limited to: 1)Marketing of planting seed; 2)Movement of any viable seed containing a target characteristic into Arkansas; 3)Movement of viable seed from storage to an area that might support production of the crop; 4)Placement of a seed lot (bulk, bagged or tote) into any type storage facility in Arkansas; 5)Planting (or placement of viable seed into contact with any substance that might support germination and growth of the resulting plants), will be considered a violation.

b. Non-adherence to any and all conditions of an issued permit, any of the published regulations and any section of the enabling legislation will be considered a violation.

c. Penalties for Violations. Penalties will be administered according to the provisions contained in § 2-15-208 of ACT 1238. The appended Penalty Matrix (Appendix A) outlines the violations and the appropriate penalty for each of those violations. Each day of a continuing violation will be considered a separate violation.

d. Level of Violation. Violations may be judged to be of Major or Minor level for enforcement actions. The enforcement level classification will be determined by any of the following factors individually or in combination: 1)length of time violation occurred before permit was issued (30 days or more is major); 2)nature of the characteristic involved; 3)economic consequences resulting from violation (impacts of more than $1000.00 are major); 4)number of entities impacted by violation (more than 3 would be major); 5)quantity of previously approved rice impacted by the violation (more than 500 bushels would be major); 6)other factors deemed appropriate by the State Plant Board Director.

VIII. ~~2011~~ Planting Seed Testing

a. All seed (including pre-commercial lots of seed, commonly known as breeder seed or parental lines of hybrids prior to production of Foundation Grade seed) used for any planting ~~in 2011~~ shall undergo testing prior to April 1, ~~2011~~ **of the current crop year ,** for the purpose of identifying seed lots that contain variants of LLRice.

1. Testing Labs. All seed samples shall be submitted to a lab that has validated the 35S bar test.
2. Sampling. Any seed sample collected for the purpose of complying with these regulations must be "officially drawn" samples under supervision of Plant Board Inspectors or an employee of another state's AOSCA member. The Plant Board (or cooperating state representative) shall be responsible for submitting the samples for testing, receiving and disbursing test results and maintaining the chain of custody of the samples throughout the sampling and testing process.
3. Seed Source. Any seed anticipated to be used for planting rice must be tested. Seed produced inside Arkansas as well as any seed produced in other states but entering Arkansas through a purchase must be sampled and tested. Purchased seed from other states that has undergone testing under the same protocol as outlined in these regulations and receiving a "not detected within the specified detection limits" and has documentation to present the results shall be exempt from additional testing. All lots of seed, be they bagged or in bulk, shall be subject to these regulations.

PROPOSED

3a. Carryover Seed. Any seed tested in a previous year in a manner compliant with these regulations, held in a sealed bag, is not required to undergo new GMO testing. Any seed, to be used for planting, held over in any container, structure or vessel that is open and/or would not prevent introduction of untested seed (such as but not limited to bins, tote bags, superbags, open barrels, grain trucks, grain wagons, or grain carts) must be re-sampled and undergo current year testing.

4. Participation. Entities having seed, saved from their own production, that is to be used for planting seed, are responsible for contacting the Plant Board and requesting having a sample collected for submission for testing.
5. Testing. The testing protocol (commonly referred to as the 35S bar test) shall be conducted by a lab that uses a validated protocol.
6. Detection Level. Testing shall be conducted to effect detection at the .01% level with a 95% confidence interval. Any sample that has a detection in any portion of the submitted sample shall be ruled as being positive or having a detection within the detection limits.
7. Records Retention. Sample submission forms, results reports and any other records developed in carrying out this testing, shall be retained by the applicant (those entities owning and having the seed lot submitted for testing) and made available for review upon request by a authorized representative of the Arkansas State Plant Board.
8. Transfer of Seed. Copies of testing results for individual lots of seed shall be provided to anyone who purchases any portion of the tested lot. Results for all lots, of which any portion was purchased, shall be provided to the purchaser.
9. Authorized for Sale. Any lot of seed tested, utilizing proper protocols, that received a "not detected within the specified detection limits" result, shall be legal for sale.
10. Failed Seed. Any lot of seed that tests "detected within the specified detection limits" for LLRice shall immediately be removed from the seed market and must be moved through the grain marketing channels with proper identification as containing GMO characteristics or be destroyed.
11. Exemption. "Specialty" rice producers and millers who handle ONLY those rice varieties with characteristics, such as aromatic qualities, that do not enter the grain marketing channels may be exempt from these regulations under specific conditions (including but maybe not limited to):
    a. Their seed source can be documented and verified.
    b. Records that confirm the specialty rice will not~~–~~ enter the long grain market channels.

IX. Rough Rice Testing. Testing of rough rice produced from crops planted with seed subjected to the prescribed testing may be carried out in the normal course of commerce. All positive detections arising from that testing shall be forwarded to the Plant Board. Any and all records pertaining to post harvest rough rice testing by any entity, business or individual, shall be made available to the Plant Board upon request.

PROPOSED

a. Upon notification of a positive test on post harvest rough rice, the Plant Board will immediately initiate an investigation to determine if the source of the LLRice can be isolated.
b. Records relating to testing of planting seed will be reviewed and the testing lab will be contacted to confirm results in hand.
    1. Any errors found in the testing and reporting on the planting seed will be subject to review by the Plant Board and consideration of assessment of civil penalties as outlined in the Enforcement Response Penalty Matrix.
c. The receiving facility, of the positive post harvest rough rice, will be asked to follow any USDA protocol for handling positive rough rice that insures proper disposition/usage of that lot of rough rice.

X. Random Testing. The Plant Board may undertake random sampling of grain holding facilities (including but not limited to farm storage, seed bins or elevator grain bins) and in seed facilities to enforce the prohibition on planting seed with LL traits.

SECTION VIII. QUARANTINES

1. GYPSY MOTH QUARANTINE

Revoked December 9, 1983 after two (2) successive years of negative annual surveys.

2. IMPORTED FIRE ANT QUARANTINE

Whereas, it has been determined, and so declared, that a serious insect pest, the imported fire ant, (**Solenopsis saevissima richteri Forel**), is known to exist in Arkansas, and is known to be a serious pest of humans, crops, livestock, and wildlife.

Whereas, the fire ant may be disseminated by the transportation or movement of the following products or substances: (a) soil and unprocessed sand or gravel, separately or with other things, (b) forest, field, or nursery-grown woody or herbaceous plants with soil attached, (c) plants in pots or containers, (d) grass sod, (e) unmanufactured forest products such as stump wood or timbers if soil is attached, (f) any product or substance which may hereafter be found capable of spreading the imported fire ant.

a. Movement of said products or substances from areas which are now or may hereafter be designated by the U.S. Department of Agriculture as imported fire ant regulated areas is prohibited except under regulations which have been or may hereafter be made by the U.S. Department of Agriculture.

b. Areas which are found infested or which are so situated as to be subject to infestation with the imported fire ant must be treated to eradicate it. In lieu of requiring the property to be treated by the owner, or at the owner's expense, the Board may elect to apply the treatment,

in cooperation with USDA at no cost to the owners. Property owners will be notified when treatment is to begin through newspapers, radio, television, and by personal contact where feasible.

3. **PEACH MOSAIC QUARANTINE**

Revoked November 10, 1972, after eight (8) successive years of negative annual surveys.

4. **PHONY PEACH DISEASE QUARANTINE**

Standard State Quarantine Order No. 2, as Revised June 13, 1951

Effective on and after July 2, 1951

DISEASE: Phony Peach, a virus disease of peach and certain other stone fruits.

State and Counties Currently Affected by Phony Peach Disease

Alabama:	Entire State
Florida:	Entire State
Georgia:	Entire State
Louisiana:	Entire State
Mississippi:	Entire State
Arkansas:	Counties of Arkansas, Ashley, Bradley, Chicot, Columbia, Crittenden, Cross, Desha, Drew, Hempstead, Howard, Jefferson, Lafayette, Lee, Lincoln, Little River, Miller, Monroe, Nevada, Phillips, Pike, Poinsett, St. Francis, Sevier, Union and Woodruff.
Missouri:	County of Dunklin
North Carolina:	Counties of Anson, Cumberland, Gaston, Hoke, Polk, and Rutherford
South Carolina:	Counties of Aiken, Allendale, Bamberg, Barnwell, Cherokee, Chesterfield, Edgefield, Greenville, Lancaster, Laurens, Lexington, Marlboro, Orangeburg, Richland, Saluda,

PROPOSED

	Spartanburg, Sumter and York
Tennessee:	Counties of Chester, Crockett, Dyer, Fayette, Hardeman, Hardin, Lake, Lauderdale, McNairy, Madison and Weakley
Texas:	Counties of Anderson, Bexar, Brazos, Camp, Cherokee, Freestone, Limestone, McLennan, Milam, Rusk, San Augustine, Smith and Upshur.

REGULATED PRODUCTS:

All peach, plum, apricot, nectarine and almond nursery stock.

CONDITIONS GOVERNING SHIPMENT:

Transportation by any means whatsoever of the regulated products from any regulated area either into, or within, or from the State of Arkansas, is permitted only when there is securely attached to the outside of each shipment a valid nursery inspection certificate issued by an authorized official of the state of origin and bearing the name and address of the consignor of the regulated articles contained therein.

REQUIREMENTS FOR CERTIFICATION:

Certificates or permits shall be issued only on the following conditions:

1. That each nursery in the phony peach infested areas producing the regulated products shall apply to the State quarantine official for approval of the proposed nursery-growing site on or before August 15 of each year;

2. Selected nursery sites shall be at least 300 yards from wild or domesticated plum, 1/2 mile from phony-infested commercial orchards, and 1/2 mile from urban area;

3. The one-half environs of the nursery site shall be inspected prior to October 1, and all phony trees found within such environs removed prior to November 1;

4. All budding shall be restricted to the slip-bud method.

PROPOSED

REMOVAL OF AREAS FROM REGULATIONS:

When satisfactory evidence has been presented that no phony peach disease has been found
for a period of three years in any county or state affected by this quarantine, said county or state shall be removed from these regulations.

SHIPMENT OF REGULATED PRODUCTS FOR SCIENTIFIC PURPOSES:

Regulations of this quarantine do not apply to shipments of regulated products to the United States Department of Agriculture or to other recognized institutions for scientific purposes except that a special permit must be secured for the entry into or movement within the State of Arkansas of such products.

5. PINK BOLLWORM QUARANTINE

For information concerning Pink Bollworm quarantine, request Circular 16.

6. SOUTHERN PINE BEETLE QUARANTINE

Revoked December 2, 1982.

7. SOYBEAN CYST NEMATODE QUARANTINE

Revoked December 4, 1981.

8. SWEET POTATO WEEVIL QUARANTINE

Adopted March 11, 1983 after proclamation of a State Emergency by Governor Bill Clinton. For information request a copy of the quarantine.

9. WHITE-FRINGED BEETLE QUARANTINE

Revoked June 30, 1975 at the same time the Federal quarantine was revoked.

10. *GIBBERELLA FUJIKUROI* (BAKANAE STRAINS*)* QUARANTINE

The Arkansas State Plant Board has found and determined and does hereby declare the fungus *Gibberella fujikuroi* (bakanae strains), causal agent of the rice disease **Bakanae**, commonly known as “foolish seedling disease”, a public nuisance, a pest and a menace to the rice industry.

The purpose of this quarantine is to prohibit introduction of the disease and its causal agent into rice production areas of Arkansas. The movement of *Gibberella*

PROPOSED

fujikuroi (bakanae strains) regulated articles from infested areas into Arkansas is hereby restricted.

QUARANTINE IMPLEMENTATION:

The Arkansas State Plant Board will implement the *Gibberella fujikuroi* (bakanae strains)/Bakanae or Foolish Seedling Disease of Rice-quarantine immediately upon adoption of the regulations. Regulatory action will be implemented at the discretion of the Board.

DEFINITIONS:

Certificate-A document issued or authorized by the Arkansas State Plant Board, or regulatory official of the state of origin, indicating that a regulated article is not contaminated with *Gibberella fujikuroi* (bakanae strains), or has been treated in such a manner as to eliminate the organism. Such articles may be moved to any destination.

Compliance Agreement-A written agreement between the Arkansas State Plant Board and any person engaged in growing, dealing in or moving regulated articles wherein the latter agrees to comply with conditions specified in the agreement to prevent the dissemination of *Gibberella fujikuroi* (bakanae strains).

Exemptions-Provisions contained in these Regulations which allow for modifications in conditions of movement of regulated articles from regulated areas under specified conditions.

Farm Operator-Person responsible for the production and sale of a rice crop on any individual farm.

Infected-Presence of the causal organism on or in seed or any plant part that may or may not sustain and support the living and reproduction of the organism.

Infested-Actually infested with the organism or so exposed to infestation that it would be reasonable to believe that an infestation exists.

Inoculum-Spores or any other part of the causal organism that might serve to cause the organism to survive and reproduce on any plant or plant part that it comes into contact with.

Inspector-Any authorized employee of the Arkansas State Plant Board, or any other person authorized by the Arkansas State Plant Board to enforce the provisions of these rules.

Limited Permit-A document issued or authorized by the Arkansas State Plant Board or a designated regulatory official to provide for the movement of regulated articles to

restricted destination for limited handling, utilization or processing or for treatment.

Mill Operator- A person responsible for the operation of a manufacturing plant, and all facilities of that plant, involved in the processing, packaging or handling of rough rice and rice products.

Milled Rice-Rice that has been subjected to processing to produce products from rough rice.

Milling Rice-Rice that has been produced, handled, acquired and destined for processing through a mill.

Person- Any individual, corporation, company, society, association or other business entity.

Regulated Area-Any state or any portion of such state that is known to be infested with *Gibberella fujikuroi* (bakanae strains).

Research Rice-Any rice seed or rice plant parts that are to be used in a recognized research project conducted by a state or federal program under the supervision of a trained and credentialed professional staff that has in place proper safety programs to prevent the accidental release and/or spread of the disease.

Rice Mill-Any manufacturing plants and all associated facilities that are involved in processing rough rice to produce rice related products.

Rice-All parts of rice and wild rice plants of the genera *Oryza.*

Rice Hulls-The outer covering of the rice seed that usually is removed in the milling process.

Rice Production Area-Any area utilized in the growing of rice plants for production of the plant and/or subsequent seed for harvesting.

Rice Products- Any commodity or product that has been produced from any part of the rice plant and may contain parts of the original plant structure or they may be unrecognizable as having originated from the rice plant because of being subjected to additional processing.

Rice Mill Waste-Any trash or discarded material that was originally contained or in contact with rice plants, seed or other plant parts utilized in a milling process.

Rough Rice-Rice seed harvested, handled and transported in the same form it was in immediately following harvest and removal from the rice plant.

Seed Assay-Any test available to be applied to a sample, lot or other quantity of seed

to determine the presence of *Gibberella fujikuroi* (bakanae strains).

Seed Rice-Seed removed from the rice plant and subjected to such processing as to make the seed suitable for use as planting material for subsequent rice crops. This processing may include but is not limited to cleaning, treating and bagging. Depending on the handling and products applied to this seed it may or may not be suitable for human consumption.

Treatment-Any process that may be applied to rice seed or other plant parts in an attempt to modify/or affect the presence of *Gibberella fujikuroi* (bakanae strains).

Used Rice Equipment-Any equipment previously used to harvest, strip, transport, destroy or process rice.

REGULATAED ARTICLES:

The following are regulated under the provisions of this Section:

(1) The causal agent, *Gibberella fujikuroi* (bakanae strains), in any living stage of development;

(2) Rice;

(3) Rough Rice;

(4) Seed Rice;

(5) Research Rice;

(6) Milling Rice;

(7) Rice Hulls;

(8) Rice Mill Waste;

(9) Used Rice Equipment;

(10) Any other products, articles or means of conveyance, not covered by subparagraphs (1) to (9) of this Rule, when determined by an inspector they present a hazard of spread of *Gibberella fujikuroi* (bakanae strains) and the person in possession thereof has been so notified.

CONDITIONS GOVERNING THE MOVEMENT OF REGULATED ARTICLES:

The following conditions govern the movement of regulated articles:

(1) A certificate or limited permit is required to transport regulated articles from a regulated area into or through any rice production area.

(2) A certificate or limited permit for movement of regulated articles may be obtained from the Arkansas State Plant Board or an authorized cooperator/collaborator agency.

(3) A certificate or limited permit may be issued by an inspector if a regulated article:
   a. Has originated in the non-infested area of this state or in a non-infested area of any other state and has not been exposed to infestation at any time; or
   b. Has been treated to eliminate infestation; or
   c. Has been subjected to a seed assay to determine if the causal agent is present and none is found; or
   d. Has been grown, manufactured, stored or handled in such a manner that in the judgment of the inspector no infestation will be transmitted thereby.

(4) Limited permits may be issued by an inspector to allow the movement of non-certified regulated articles for specified handling, utilization, processing or treatment in accordance with approved procedures, provided the inspector has determined that such movement will not result in the spread of *Gibberella ffujikuroi* (bakanae strains).

(5) When certificates or limited permits are required, they shall be securely fastened to the regulated article or to the outside of the container in which the regulated article is being moved.

(6) Any certificate or limited permit which has been issued or authorized may be withdrawn by the inspector if he determines that the holder thereof has not complied with any conditions for the use of such documents or with any conditions contained in a compliance agreement.

(7) Persons requesting certification or a limited permit must request the services from an inspector(s) at least 48 hours before the services are needed. The regulated articles must be assembled at the place and manner in which the inspector designates outside the rice production area. The following information must be provided at the time the request is submitted:

   a. The quantity of the regulated article to be moved,
   b. The location of the regulated article,
   c. The names and addresses of the consignee and consignor,
   d. The method of shipment, and
   e. The scheduled date of shipment.

QUARANTINE AREA:

Any rice production area where *Gibberella fujikuroi* (bakanae strains) and/or Bakanae

PROPOSED

(Foolish Seedling Disease) have been confirmed to occur.

INSPECTION AND DISPOSAL:

An inspector is authorized to stop and inspect any regulated article moving into a rice production area. Any article found to be infested with *Gibberella fujikuori* (bakanae strains) or having originated in an area where *Gibberella fujikuori* (bakanae stains) is known to occur and not certified, shall be subject to treatment or confiscation and destruction, without compensation, as required by the Arkansas State Plant Board.

COMPLIANCE AGREEMENT:

(1) As a condition of issuance of certificates or limited 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 that he/she:

a. Maintain such safeguards against the establishment and spread of any infestation;
b. Comply with such conditions as to the maintenance of identity, handling and subsequent movement of such articles; and
c. Cleaning and treatment of means of conveyance and the containers used in the transportation of such articles as may be require by the inspector.

(2) Any compliance agreement may be cancelled by the inspector who is supervising its enforcement whenever he finds, after notice and opportunity to present views has been accorded to the other party thereto, that such other party has failed to comply with the conditions of the agreement. Any compliance agreement may be cancelled when compliance is no longer required.

VIOLATIONS AND PENALTIES:

Any violation of these rules may be subject to civil penalties under the authority of the Arkansas Plant Act of 1917, A.C. A. Section 2-16-203.

PROPOSED

ADDENDUM "A"

ENFORCEMENT RESPONSE PLAN

PENALTY MATRIX

PROPOSED

NURSERY INSPECTION QUARANTINE SECTION
ENFORCEMENT POLICY
ARKANSAS ADMINISTRATIVE PROCEDURES ACT A.C.A. 25-15-201

Range of $50.00 to $1,000.00

Other: A: License Review
B: Probation
C: Invalidation of License

Minor Violation: A violative incident which does not involve human health, safety, or endanger the environment; or other incidents of non-compliance which do not create a competitive disadvantage for licensees in full compliance.

Major Violation: A violative incident which affects human health, safety, or the environment; or other incidents of non-compliance which create a competitive disadvantage over licensees in full compliance; or a history of repetitive violative incidents.

VIOLATION	VIOLATION LEVEL	1ST Level of Enforcement	2nd Level of Enforcement	3rd Level of Enforcement	4th Level of Enforcement
Failure to Secure a License or Permit Number	Minor	50 - 100	101 - 200	201 - 400	401 - 600
	Major	100 - 400	401 - 600	601 - 800	801 - 1000
	Other			A-B-C	C
Failure to Fulfill Contracts or Other Related replacements or adjustments	Minor	50 - 100	101 - 200	201 - 400	401 - 600
	Major	100 - 400	401 - 600	601 - 800	801 - 1000
	Other			A-B-C	C
Misrepresentation for the purpose of deceiving or defrauding	Minor	50 - 100	101 - 200	201 - 400	401 - 600
	Major	100 - 400	401 - 600	601 - 800	801 - 1000

PROPOSED

VIOLATION	VIOLATION LEVEL	1ST Level of Enforcement	2nd Level of Enforcement	3rd Level of Enforcement	4th Level of Enforcement
	Other			A-B-C	C
Repeated sales of poor quality	Minor	50 - 100	101 - 200	201 - 400	401 - 600
	Major	100 - 400	401 - 600	601 - 800	801 - 1000
	Other			A-B-C	C
Unable to produce required records	Minor	50 - 100	101 - 200	201 - 400	401 - 600
	Major	100 - 400	401 - 600	601 - 800	801 - 1000
	Other			A-B-C	C
Buying, digging, or possessing Ginseng out of season without proper documentation	Minor	50 - 100	101 - 200	201 - 400	401 - 600
	Major	100 - 400	401 - 600	601 - 800	801 - 1000
	Other			A-B-C	C
Shipped or moved regulated articles	Minor	50 - 100	101 - 200	201 - 400	401 - 600
	Major	100 - 400	401 - 600	601 - 800	801 - 1000

PROPOSED

VIOLATION	VIOLATION LEVEL	1ST Level of Enforcement	2nd Level of Enforcement	3rd Level of Enforcement	4th Level of Enforcement
from a quarantine area without proper treatment or certificate	Other	Material will be returned to seller at seller's expense, or treated on site with a labeled and approved pesticide by a licensed Pest Control operator.	Material will be returned to seller at seller's expense, or treated on site with a labeled and approved pesticide by a licensed Pest Control operator.	A-B-C Material will be returned to seller at seller's expense, or treated on site with a labeled and approved pesticide by a licensed Pest Control operator.	C Material will be returned to seller at seller's expense, or treated on site with a labeled and approved pesticide by a licensed Pest Control operator.
Failure to label in accordance with the law and regulations	Minor	50 - 100	101 - 200	201 - 400	401 - 600
	Major	100 - 400	401 - 600	601 - 800	801 - 1000
	Other			A-B-C	C
Selling, transporting or disposing of in anyway, plants and nursery stock covered by a stop-sale notice	Minor	50 - 100	101 - 200	201 - 400	401 - 600
	Major	100 - 400	401 - 600	601 - 800	801 - 1000
	Other			A-B-C	C
Violating a compliance agreement	Minor	50 - 100	101 - 200	201 - 400	401 - 600
	Major	100 - 400	401 - 600	601 - 800	801 - 1000
	Other			A-B-C	C

PROPOSED

PROPOSED

ADDENDUM "B"

ENFORCEMENT RESPONSE PLAN

PENALTY MATRIX

CHENIERE RICE REGULATIONS

PENALTY MATRIX - **Arkansas Rice Certification Act** (Act 1238 of 2005), Cheniere Rice Regulations of 2006

VIOLATION	Violation Level	1st Level of Enforcement		2nd Level of Enforcement		3rd Level of Enforcement		4th Level of Enforcement	
		Enforcement Action	Civil Penalty Fine	Enforcement Action	Civil Penalty Fine	Enforcement Action	Civil Penalty Fine	Enforcement Action	Civil Penalty Fine
1.Sells, offers for sale, plants, produces, harvests, stores, distributes, transports, or processes (conditions) for planting Cheniere or other Rice seed identified as having characteristics of commercial impact.	Minor*	A							
	Major*	A, B	$30,000 - $50,000 per unit per day violation continues	A,B,C	$50,000 - $75,000 per unit per day violation continues	A,B,C	$75,000 - $100,000 per unit per day violation continues	A,B,C	$100,000 per unit per day
2. Transporting any rice seed identified as having characteristics of commercial impact across state lines	Minor	A							
	Major	A,B	$30,000 - $50,000 per unit per day violation continues	A,B,C	$50,000 - $75,000 per unit per day violation continues	A,B,C	$75,000 - $100,000 per unit per day violation continues	A,B,C	$100,000 per unit per day
3.Representing rice seeds/grain which is indistinguishable by seed characteristics to be a variety without characteristics of commercial impact, without having adequate information for such representation.	Minor*	A							
	Major*	A,B	$30,000 - $50,000 per unit per day violation continues	A,B,C	$50,000 - $75,000 per unit per day violation continues	A,B,C	$75,000 - $100,000 per unit per day violation continues	A,B,C	$100,000 per unit per day
4. Failure to obtain required test data on planting rice seed sold, offered for sale or	Minor								

PROPOSED

		1st Level of Enforcement		2nd Level of Enforcement		3rd Level of Enforcement		4th Level of Enforcement	
distributed within or into Arkansas.	Major	A,B	$30,000 - $50,000 per unit per day violation continues	A,B,C	$50,000 - $75,000 per unit per day violation continues	A,B,C	$75,000 - $100,000 per unit per day violation continues	A,B,C	$100,000 per unit per day

***Minor or Major determined by 1) nature of the characteristic involved 2) economic consequences resulting from violation (impacts of more than $1000.00 are major); 3) number of entities impacted by violation (more than 3 would be major); 4) quantity of previously approved rice impacted by the violation (more than 500 bushels would be major); 5) other factors deemed appropriate by the State Plant Board Director.**

Enforcement actions:

A. Seizure, stop-sale, stop-movement
B. Board/Committee Hearing
C. Referral to Prosecuting Attorney

PROPOSED