

Rules and Regulations of the State of Georgia

Excerpts from 40-24-1 BOLL WEEVIL QUARANTINE Related to Non-commercial or Ornamental Cotton

Rule 40-24-1-.01 Purpose and Identification of Pest

This rule is designed to help prevent the reintroduction into Georgia of the boll weevil (*Anthonomus grandis* Boheman). The boll weevil is a destructive pest that nearly destroyed Georgia's cotton industry and cost in excess of \$100 million to eradicate from the state. The Commissioner of Agriculture has determined that the boll weevil is not established in the State of Georgia, is a serious plant pest, and is injurious to the agricultural interests of the state.

Rule 40-24-1-.02 Administration

The Commissioner is authorized to enter into agreements with any person, including the Boll Weevil Eradication Foundation of Georgia, Incorporated; or any State or Federal Agency for the purpose of implementing boll weevil detection and eradication activities or administering and enforcing the provisions of this Act and these regulations.

Rule 40-24-1-.03 Definitions

- (1) "Boll Weevil" means *Anthonomus grandis* Boheman in any stage of development.
- (2) "Boll Weevil Eradication Foundation of Georgia, Incorporated" means a cotton growers' organization certified by the Commissioner for the purpose of entering into agreements with agencies of the State of Georgia, agencies of other States, Federal Agencies, or any other person to carry out the purposes of this Act.
- (3) "Commissioner" means the Commissioner of Agriculture of the State of Georgia or any person designated by him to act on his behalf.
- (4) "Cotton Grower" means the person(s) responsible for production and sale of a cotton crop on any individual farm. Generally, the owner of the crop.
- (5) "Department" means the Georgia Department of Agriculture.
- (6) "Gin Trash" means all material produced during the cleaning and ginning of seed cotton; bolls or snapped cotton. It does not include the lint, cottonseed, or gin waste.
- (7) "Infested Area" means any other State or portion thereof which produces commercial cotton and in which the boll weevil is not eradicated, as determined by that state's department of agriculture or plant regulatory agency. Infested Area may also mean any area where reproducing boll weevils are believed or known to occur.
- (8) "Inspector" means any employee of the Georgia Department of Agriculture or any other person authorized by the Commissioner to enforce the provisions of these rules.

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(9) "Move" means to ship, offer for shipment, receive for transportation, carry, or otherwise transport, move, or allow to be moved.

(10) "Non-Commercial Cotton" means cotton of any color planted on any premise for purposes other than commercial production for lint and includes seeds, bolls, potted plants or any portions of the plant being distributed or offered for sale. This term encompasses cotton planted for educational purposes, as a tourist attraction, for retail or wholesale sale as a growing or dried plant, for individual use or for personal satisfaction. Non-Commercial Cotton also includes cotton plants that result from spilled seed, animal feed or other non-commercial plantings or cotton that has sprouted from inadequate herbicide application, mowing, discing, other mechanical means of destruction.

(11) "Permit" means a document issued or authorized by the Commissioner providing for the movement of noncertified regulated articles to restricted destinations for limited handling, use, or processing.

(12) "Program" means the Boll Weevil Eradication Program.

(13) "Regulated Article" means any article whatsoever carrying or capable of carrying the boll weevil, including but not limited to, cotton plants, seed cotton, hosts, gin trash, and equipment which may be designated by the Commissioner.

(14) "Seed Cotton" means cotton as it comes from the field prior to ginning.

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

(16) "Waiver" means a written authorization which exempts an individual from compliance with one or more specific requirements of this Chapter.

Rule 40-24-1-.04 Regulated Articles

(1) The following articles are regulated under the provisions of this Section:
(a) the boll weevil (*Anthonomus grandis* Boheman) in all living stages;

(b) gin trash;

(c) seed cotton;

(d) used cotton equipment;

(e) cotton plants, including cotton bolls

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(f) any other products, articles, or means of conveyance, when it is determined by an inspector that they present a hazard of spread of the boll weevil and the person in possession thereof has been so notified.

(2) The following articles are prohibited from sale or distribution within the state unless a permit has been issued:

(a) cottonseed, when used for non-commercial purposes; and

(b) individual potted specimens of cotton plants.

Rule 40-24-1-.05 Program Participation Required

(1) It is the responsibility of each cotton grower and non-commercial cotton grower to participate in the boll weevil eradication program. Participation shall include:

(a) timely reporting of acreage and field locations when required;

(b) maintenance of access to the fields for program employees;

(c) compliance with regulations;

(d) payment of required fees; and

(e) ensure that all used cotton harvesting equipment has been thoroughly cleaned and certified in accordance with the requirements of 40-24-1.08 before it is brought into the state.

Any cotton grower or non-commercial cotton grower who fails to follow the requirements above is in violation of this Chapter.

Rule 40-24-1-.07 Assessments and Penalties

(1) The Commissioner or his agent shall publish the per bale or acre assessment on or before July 1 of each growing year, as set by the Board of Directors of the Boll Weevil Eradication Foundation of Georgia, Inc. (BWEF of GA, Inc.)

(2) The Commissioner may assess penalties as set by the Board of Directors of the BWEF of GA, Inc., for failure to make full and/or timely payment.

Rule 40-24-1-.10 Cotton Stalk Destruction

(1) Upon notification in writing by the Commissioner, any cotton may be ordered to destroy standing cotton stalks in his fields when it is deemed that such cotton stalks constitute a potential for harboring overwintering population of boll weevils. Such cotton stalk destruction

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shall consist of mowing, shredding, discing, or other means approved by the Commissioner as necessary to eliminate standing stalks. Such notification will designate which field(s) are subject to stalk destruction. Stalks must be destroyed by February 1.

(2) Any grower who cannot destroy cotton stalks within the required period due to emergency or hardship may apply for a waiver. The application must be made within 30 days after notice by the Commissioner and must state the conditions which may justify the waiver. The Commissioner shall notify the grower of his decision within two weeks after receipt of the waiver request. Waivers shall be approved only if justified by emergency or hardship due to meteorological conditions, serious illness as stated in a doctor's certification, or other causes beyond the control of the grower.

Rule 40-24-1-.12 Inspection and Enforcement

(1) The Commissioner or his agent is authorized to stop and inspect any cotton harvesting equipment or other means of conveyance moving into or within the State of Georgia upon reasonable grounds to believe that such means of conveyance or articles are infested with the boll weevil

(2) Such inspector is authorized to seize, treat, destroy, or otherwise dispose of articles found to be moving in violation of these Regulations.

Rule 40-24-1-.13 Non-Commercial Cotton

(1) Non-commercial cotton shall not be planted without a permit approved by Board of Directors of the Boll Weevil Eradication Foundation of Georgia, Inc. and issued by the Commissioner.

(2) A permit request will include a brief description of the plot size, the purpose for such planting, and its value to cotton growers of the state. The Board of Directors of the BWEF of GA, Inc. will base their decision on:

- (a) benefit to the state's agriculture and cotton growers;
- (b) location of growing area;
- (c) size of intended planting area;
- (d) pest conditions in the growing area;
- (e) costs incurred to the BWEF of GA, Inc.; and

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(f) the applicant's willingness to follow any stipulations or requirements as may be set forth in the permit.

(3) The Commissioner may require the monitoring or destruction of Non-Commercial Cotton resulting from spilled seed, animal feed or other non-commercial actions or cotton that has sprouted from inadequate herbicide application, mowing, discing, other mechanical means of destruction.

(a) Upon notification in writing by the Commissioner, any property owner may be ordered to destroy non-commercial cotton when it is deemed that such cotton constitute a potential for harboring boll weevils. Destruction shall consist of mowing, shredding, discing, or other means approved by the Commissioner as necessary to eliminate standing plants.

(b) Non-commercial cotton must be destroyed within 30 days of receipt of notification.

(4) Any person, business or entity planting and growing non-commercial cotton without a permit issued by the Commissioner is in violation of this Chapter. The commissioner or his agent may destroy or require the destruction of non-commercial cotton plants at cost to grower or landowner.

Rule 40-24-1-.14 Georgia Interior Quarantine Requirements

(1) The Commissioner shall have discretion to establish quarantine boundaries and regulate the movement of Regulated Articles as is necessary to eradicate the boll weevil should any re-infestations occur.

(2) The Boll Weevil Eradication Foundation of Georgia, Inc. is authorized to act upon the Commissioner's behalf for boll weevil eradication activities within the state.

(3) Landowners or tenants must allow access to properties and maintain the property in a condition which will allow Department or Boll Weevil Eradication Foundation of Georgia, Inc. employees to conduct adequate surveys and/or other necessary and appropriate actions to eradicate the boll weevil in quarantined areas.

(4) The Commissioner may declare the boll weevil to be eradicated and remove the quarantine from the area when no boll weevil has been detected for a minimum of two (2) consecutive years.

Rule 40-24-1-.16 Prohibited Action

Any of the following acts will constitute a violation of this Chapter:

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- (1) Bringing boll weevils, in any living stage, into the state without a permit issued by the Commissioner.
- (2) Failure of any cotton grower to participate in the boll weevil eradication program.
- (3) Failure of any gin to collect assessments when required, file prescribed reports, remit assessments collected as described, or use, contract or hire any out-of-state used cotton harvesting equipment unless it has been thoroughly cleaned and certified free of boll weevils.
- (4) Failure to destroy cotton stalks or non-commercial cotton when notified by the Commissioner.
- (5) Bringing used cotton harvesting equipment into the state that has not been thoroughly cleaned, inspected and certified free of regulated articles.
- (6) Planting or growing non-commercial cotton without a permit approved by Board of Directors of the Boll Weevil Eradication Foundation of Georgia, Inc. and issued by the Commissioner.
- (7) Obstructing the Commissioner or his inspector in the performance of his duties.

Rule 40-24-1-.17 Penalties

- (1) Any person violating any provision of this article shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than \$50.00 nor more than \$1,000.00 or by imprisonment not exceeding 12 months, or both, as determined by the court.
- (2) Any cotton grower or the first handler of cotton from a cotton grower who fails to pay any assessment levied under this article when due and upon reasonable notice shall be subject to a penalty of not more than \$25.00 per acre or \$12.50 per bale, such amount to be established by the Commissioner upon recommendation of the Boll Weevil Eradication Foundation of Georgia, Inc., Board of Directors.
- (3) Any cotton grower who fails to pay all assessments, including penalties, within 30 days from the date of notice shall be required to destroy all cotton plants growing on his or her property which are subject to assessment. Any plants not destroyed shall be deemed to be a public nuisance. In such case, the Commissioner is authorized to apply to any court of competent jurisdiction and such court shall issue judgment and order condemnation and destruction of such nuisance. The grower shall be liable for all court costs, fees, and other expenses incurred in such action.

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(4) Any cotton grower who fails to comply with the rules adopted by the Commissioner shall be subject to a civil monetary penalty of \$1,000.00 per violation. Each violation shall constitute a separate offense.