MISSISSIPPI DEPARTMENT OF AGRICULTURE AND COMMERCE
BUREAU OF PLANT INDUSTRY
REGULATIONS
MISSISSIPPI PURE SEED LAW

GENERAL.

The authority for these rules and regulations is under the provisions of the Mississippi Pure Seed Law, §§ 69-3-1 through 69-3-29, Mississippi Code of 1972, and any and all subsequent amendments made thereafter. (Amended July 26, 2005, Amended November 14, 2005).

DEFINITIONS.

Wherever the following terms are used in these regulations, they shall have the following meanings, unless the context clearly indicates otherwise. All of the definitions set forth in Miss. Code of 1972, Sec. 69-3-1 are adopted by reference and made a part hereof.

(a) "Act" means Miss. Code of 1972, Section 69-3-1, et seq.

(b) "Blended Seed" means seed of the same variety, some of which has been produced in different years or has been processed in a different manner, which have been mixed.

(c) "Federal Seed Act" means the laws codified at 7 USCS 1551 et seq., and all regulations promulgated thereunder.

(d) "Commercial Sprigger" means any person, firm, association or corporation that transfers ownership of Bermudagrass plant materials for reproductive purposes.

SECTION I. SEED SAMPLE INFORMATION

This section contains rules and regulations on the sampling and analysis of seed, the identification and size of submitted seed samples, as well as, fee information for submitting samples to the Mississippi State Seed Laboratory. This section also contains information on seed permits and exemptions.

RULE 1. SAMPLING AND ANALYZING SEED

The "Rules for Testing Seeds of the Association of Official Seed Analysts," and the Federal Seed Act 7 U.S.C. § 1551, et. seq., and as either may subsequently be amended, shall be used as a guideline in determining the official method for taking, handling, analyzing, and testing samples of seed and the tolerance used in such determinations.

Promulgated in accordance with Section 69-3-19, Mississippi Code of 1972.

RULE 2. FEES FOR TESTING SEED

Any Mississippi resident farmer is authorized to have one seed sample of each kind tested free, standard procedure, in any calendar year by the State Seed Testing Laboratory. For farmer samples in excess of this number and for all samples submitted by seed dealers, processors and distributors, the following service charges will be assessed. An additional $1.00 per sample will be charged for out-of-state seedsmen, except fescue endophyte tests which shall incur an additional $5.00 per sample charge. The fee for any test requiring the separation of seed from a medium (mat, mulch, strip, etc.) shall include the standard charge for the test requested plus fifteen dollars ($15.00) per hour for the time required to separate seed from the medium. Any fraction or part of an hour required for such separation shall be charged at the full hourly rate.

Fees for Testing Seed**.**

I. $5.00 All samples submitted for germination only.

Complete test

II. $6.00 Austrian Pea, Corn, Cotton, Southern Pea, Peanut, Soybeans and Vegetable seeds.

III. $7.00 Oats, Rice, Rye, Sorghum, Vetch, Wheat, and Wild Winter Peas.

IV. $8.00 Clovers, Grasses, Lespedezas and Millets.

V. $10.00 All two-component mixtures; All Flower seed.

VI. All mixtures of more than two components shall be charged $10.00 plus $2.00 for each extra component.

Seed not listed shall be charged equal to that of a seed with similar difficulty and testing procedures.

Purity-only charges are based on the price for a complete test minus $3.00

Special Tests:

VII. Special Tests:

(a) $5.00 Cool Tests; All kinds.

(b) Tetrazolium Tests

(1) $8.00 Cottonseed

(2) $6.00 - Soybeans, Corn and small grains

(c) $6.00 – Accelerated-aging Test

(d) $6.00 Acid Test on Bahiagrass.

(e) Fescue Endophyte Tests.

(1) $10.00 - Seed Examination

(2) $15.00 - Seed Grow-Out Test

(3) $12.00 - Plant Tissue Analysis Test

(f) Moisture $1.00

(g) Red Rice $3.00

(h) Herbicide Tolerance Test $8.00

(i) Seed Count $4.00

(j) Clorox Test $3.00

(k) Genetically-Modified Organism Strip-Testing - Cost of strip test plus $25.00 per hour personnel fees in ¼ hour increments. ½ hour minimum charge.

Other charges:

(l) Information requested above and beyond normal test results will be accessed a charge of $1.00 per sample.

RULE 3. SEED INSPECTION FEE COLLECTIONS AND REPORTING

In addition to the requirements of Section 69-3-6, Mississippi Code of 1972, every seedsman who sells or distributes seed for sale, whether in bulk or in containers, within or into Mississippi for planting purposes, shall be assessed a seed inspection fee.

(a) Every seedsman must complete and submit a "SEED INSPECTION FEE APPLICATION." Completion of the application requires a complete address and a signature from the permit holder.

(b) All seedsmen shall pay an inspection fee of $0.10 for each 100 pounds of agricultural seed sold, offered for sale, exposed for sale, or otherwise distributed for sale for planting purposes within or into the state of Mississippi.

(c) The inspection fee shall be due on the total pounds of seed sold.

(d) The inspection fee shall be due from the seedsman who makes the first point of sales within or

into the state of Mississippi.

(e) Records must be kept by the seedsman showing the total pounds of each lot identified as to the kind and variety (when applicable), the lot number, pounds of seed, number of containers of seed, invoice number for each distribution of seed, and the person and/or firm to whom the seed was distributed.

(f) Each seedsman shall file with the department a quarterly sworn report, supplied by the department, covering the total pounds of all sales of seed subject to the inspection fee and sold during the preceding quarter. Reports and fees shall be filed with the department no later than 30 days following the end of each quarter.

(g) Each quarter shall cover the following periods: 1st quarter – July, August, and September; 2nd quarter – October, November, December; 3rd quarter – January, February, March; and 4th quarter – April, May, June.

(h) If a seedsman has no sales during a quarter, a report must still be filed with the department indicating there were no sales for the quarter.

(i) A penalty shall be assessed for not filing a report or filing a late quarterly report in the amount of $100.00 or 10% of the amount of the fee due, whichever is greater.

(j) Failure to comply with the provisions of Section 69-3-6, Mississippi Code of 1972 will result in the seedsman's permit being revoked or other penalty as authorized under the provisions of Section 69-3-25, Code of 1972.

(k) All records of seed sales shall be made available for inspection, by the Commissioner of Agriculture and Commerce or his authorized agent, during normal hours of business operation.

Promulgated in accordance with Section 69-3-6, Mississippi Code 1972.

RULE 4. SUBMISSION OF SAMPLES

Seed samples submitted to the State Seed Testing Laboratory should comply with the following:

(a) Identification of samples

(i) Send samples in a substantial container properly packed to arrive intact.

(ii) Send to: Bureau of Plant Industry
State Seed Testing Laboratory
Stone Boulevard; R. H. McCarty Building
P.O. Box 5207
Mississippi State, Mississippi 39762

(iii) Information accompanying the samples should state the following:

(1) Test desired, such as "purity analysis only," "germination test only," "Noxious weed seed determination" or "complete analysis."

(2) Kind and variety of seed.

(3) Lot number or other identification mark.

(4) Name of treatment material, if seeds have been treated.

(5) Complete mailing address of person or firm submitting samples.

(b) Size of samples. The following minimum weights are established for samples of seed submitted to the State Seed Testing Laboratory for analysis.

(i) White clover, bermudagrass, or seed of similar size…1/8 lb.

(ii) Alfalfa, lespedeza, or seed of similar size...1/4 lb.

(iii) Ryegrass, fescue, browntop millet, foxtail millet, or seed of similar size...1/4 lb.

(iv) Pearl millet, proso millet, or seed of similar size...1/2 lb.

(v) Grain sorghum, sudangrass, or seed of similar size...1 lb.

(vi) Corn, oats, cotton, soybeans, or seed of similar size...2 lbs.

(vii) Vegetable seed samples shall consist of at least 1,000 seeds.

Promulgated in accordance with Section 69-3-19, Mississippi Code of 1972.

RULE 5. PERMITS AND EXEMPTIONS

Since seed and mixtures commonly planted for lawn and turf are considered for non-agricultural purposes, it is interpreted that Seedsmen with a permit fee of $5.00, shall qualify to sell lawn and turf seed and mixtures that are packaged in containers not to exceed 25 pounds.

Tubers, bulbs and other vegetative propagating materials are exempt from the Seed Law.

Promulgated in accordance with Section 69-3-3, Mississippi Code of 1972.

SECTION II. LABELING

This section contains specific information, rules and regulations on the labeling of bulk seed, tall fescue

seed, treated seed, tree seed, lawn and turf seed mixtures and the labeling of firm seed.

RULE 1. LABELING SEED IN BULK

Agricultural seeds exposed for sale stored in bulk, shall be labeled by attaching to the bin, tank, box or other container in a conspicuous place, a tag or label stating the information required by the Mississippi Pure Seed Law and the rules and regulations thereunder. Copy of the same shall also be supplied to each purchaser at time of sale.

Vegetable seed and lawn and turf seed sold from bulk containers may be priced and sold by the scoop. A tag or label shall be attached to the container stating the information required by the Mississippi Pure Seed Law and the rules and regulations thereunder. Seed sold by the scoop shall have the price per scoop stated in clear view of the consumer.

Promulgated in accordance with Section 69-3-5, Mississippi Code of 1972.

RULE 2. TALL FESCUE LABELING

Tall Fescue (Festuca Arundinacea) seed offered for sale, exposed for sale or sold in the State of Mississippi shall be labeled with the percentage of Live Fungal Endophyte (Acremonium coenophialum) as determined by laboratory test. The percentage of Live Fungal Endophyte shall be shown on the label in the same area as other quality labeling requirements of the Mississippi Pure Seed Law.

Promulgated in accordance with Section 69-3-5 (xi), Mississippi Code of 1972.

RULE 3. TREATED SEEDS

All seed treated as defined in Section 1 of this Act, shall be labeled to show the following:

(a) A statement in no less than eight (8) point type indicating that the seed has been treated.

(b) The commonly accepted coined, chemical or abbreviated chemical (generic name of the applied substance or a description of the process - other than application of a substance) used in such treatment in type no smaller than eight (8) points.

(c) A caution statement if the substance used in such treatment in the amount remaining with the seed is harmful to humans or other vertebrate animals, as follows:

(i) Seed treated with a mercurial or similarly toxic substance, if any amount remains with the seed, shall be labeled to show a statement such as "Poison," "Poison Treated," or "Treated with Poison." The word "Poison" shall be in red letters on a distinctly contrasting background. In addition, the label shall show a representation of a skull and crossbones at least twice the size of the type used for the name of the substance and the statement indicating that the seed has been treated.

(ii) Seed treated with other harmful substances (other than mercurials or similarly toxic substances), if the amount remaining with the seed is harmful to humans or other vertebrate animals, shall be labeled to show a caution statement, in type no smaller than eight (8) points, such as "Do not use for food, feed or oil."

(d) The classification of chemicals into (1) mercurials and similarly toxic substances and (2) other harmful substances, as set forth in the Rules and Regulations under the Federal Seed Act and any subsequent amendments thereto are adopted for his state.

(e) The required information may be printed on a separate tag, or on the side of the seed tag or label bearing the analysis information, or it may be printed on the side of the container in a conspicuous manner.

Promulgated in accordance with Section 69-3-5 (f), Mississippi Code of 1972.

RULE 4. SEEDS CONTAINING FIRM SEED

The following kinds of seed are recognized as containing "firm ungerminated seed", and may be labeled, accordingly.

(a) Paspalum notatum - Pensacola Bahiagrass
(b) Panicum ramosum - Browntop Millet
(c) Sorghum halepense - Johnsongrass

Promulgated in accordance with §§ 69-3-1 (m) and 69-3-5, Mississippi Code of 1972.

RULE 5. TREE SEEDS

The label for tree seeds shall bear thereon:

(a) Common name of the species of seed (and sub-species, if appropriate)

(b) The scientific name of the genus and species (and sub-species, if appropriate).

(c) Lot identification, including year of collection.

(d) Origin (including county if known).

(e) Purity as a percentage of pure seed by weight.

(f) Number of seed per pound.

(g) For those species for which standard germination testing procedures are prescribed by the State Seed Analyst, the following:

(i) Percentage germination exclusive of hard seed.

(ii) Percentage of filled seeds.

(iii) Percentage of hard seed, if present.

(iv) Calendar month and year test was completed to determine such percentages.

(h) In lieu of 7a, b, c, and d above, the seed may be labeled "Test is in process, results will be supplied on completion of Test."

(i) For those species for which standard germination testing procedures have not been prescribed by the State Seed Analyst, the calendar year in which the seed was collected.

(j) The name and address of the person who labeled said seed or who sells, offers, or exposes said seed for sale within this state.

(k) Information on all seed treatments as prescribed in Regulation No. 9 of the Mississippi Pure Seed Law, 1968, amended version.

Promulgated in accordance with Section 69-3-5 (e), Mississippi Code of 1972.

RULE 6. LAWN AND TURF SEED MIXTURES

The label for seed mixtures for lawn or turf purposes shall bear thereon:

(a) The word "Mixed" or "Mixture."

(b) The headings "Fine-textured Grasses" and "Coarse-textured Kinds" and thereunder in tabular form in type no larger than the heading:

(i) The commonly accepted name, in order of predominance, of the kind and variety of each agricultural seed present in excess of five percent of the whole and determined to be a "Fine-textured Grass" or a "Coarse-textured Kind" in accordance with the classification under this regulation.

(ii) The word "None" shall be printed under the appropriate heading "Fine-textured Grass" or "Coarse textured Kinds" when no kind is listed under either of the headings.

(iii) For each agricultural seed named under (a): the percentage by weight of pure seed; the percentage of germination exclusive of hard or firm seed; the percentage of hard or firm seed, if present; and the calendar month and year the germination tests were completed.

(c) The heading "Other Ingredients" and thereunder in conspicuous type no larger than the heading.

(i) The percentage by weight of all weed seeds.

(ii) The percentage by weight of all agricultural seed other than those listed on the label as "Fine-textured Grasses" or "Coarse-textured Kinds."

(iii) The percentage by weight of inert matter.

(d) The name and rate of occurrence of each kind of noxious weed seed present.

(e) The lot number or other identification.

(f) The name and address or the registered code number of the person who labeled the seed or who sells, offers, or exposes the seed for sale within this state.

For purposes of labeling Lawn and Turf Seed Mixtures, the following classification is adopted:

FINE-TEXTURED GRASSES

Colonial Bentgrass (Agrostis tenuis)
Creeping Bentgrass (Agrostis palustris)
Velvet Bentgrass (Agrostis canina)

Rough Bluegrass (Poa trivialis)
Kentucky Bluegrass (Poa pratensis)
Wood Bluegrass (Poa nemoralis)
Canada Bluegrass (Poa compressa)

Red Fescue (Festuca rubra)
Chewing Fescue (Festuca rubra var. commutata)
Sheep Fescue (Festuca ovina)

Common Bermudagrass (Cynodon dactylon)

COARSE-TEXTURED KINDS - All other kinds not listed above must be listed under the heading "Coarse-textured Kinds."

Promulgated in accordance with Section 69-3-5 (a), Mississippi Code of 1972.

SECTION III. GERMINATION

This section contains information, rules and regulations on the germination standards of agricultural and vegetable seed, as well as, germination test information.

RULE 1. GERMINATION TEST DATE

No seed shall be sold, exposed for sale, or offered for sale within this state when a period of more than

nine (9) calendar months has elapsed, exclusive of the calendar month in which the test was completed, between the germination test date and the time the seed are offered or exposed for sale, except for seed in hermetically sealed containers as provided below.

The nine (9) month limitation on the date of germination test shall not apply in the case of seeds packaged in hermetically sealed containers in accordance with specifications and conditions set forth in the Rules and Regulations under the Federal Seed Act on preconditioning, container characteristics and labeling. The specific labeling for seed in hermetically sealed containers provided for in the Rules and Regulations under the Federal Seed Act shall be in addition to the general labeling requirements specified in Section 69-3-5 of the Act.

Promulgated in accordance with Section 69-3-5, Mississippi Code of 1972.

RULE 2. GERMINATION - AGRICULTURAL SEED

No agricultural seed shall be sold, exposed for sale, or offered for sale in Mississippi, except dallisgrass, unless the combined germination, hard seed and/ or firm seed is at least 60% of the total. Dallisgrass shall not contain less than a minimum of 25% pure live seed.

Promulgated in accordance with Section 69-3-5 (a), Mississippi Code of 1972.

RULE 3. GERMINATION - VEGETABLE SEED

The germination standards for vegetable seed last established by Rules and Regulations under the Federal Seed Act and any subsequent amendments thereto, are adopted for this state. Seeds which germinate less than the standards adopted shall be marked "Below Standard" as required by Section 69-3-5 (b) and (c) of this Act. Provided, that no vegetable seed which germinate less than seventy-five (75) percent of the standards last adopted for such seed shall be sold, exposed or offered for sale for seeding purposes in Mississippi; for example: lima beans germinating more than 52 percent but less than 70 percent may be sold if marked "Below Standard." Lima beans germinating 52 percent or less shall not be sold, offered for sale, or exposed for sale in this state.

The germination standards for vegetable seeds, which shall be construed to include hard seed, are determined and established by §201.31 of the Rules and Regulations of the Federal Seed Act.

Promulgated in accordance with Section 69-3-5 (b) and (c), Mississippi Code of 1972.

SECTION IV. WEEDS

This section contains information, rules and regulations on weed seed and noxious weed seed standards, tolerance levels and listings.

RULE 1. WEED SEED

No seed shall be sold, exposed for sale, or offered for sale in Mississippi which contain more than 1

percent by weight of weed seed including noxious weed seed.

Promulgated in accordance with Section 69-3-5, Mississippi Code of 1972.

RULE 2. NOXIOUS WEEDS

The following is a list of noxious weeds and their maximum permitted rates of occurrence per pound of agricultural or vegetable seed.

NAME	ALLOWED PER POUND
Crotalaria (Crotalaria spp.)	Prohibited
Field Bindweed (Convolvulus arvensis)	Prohibited
Hedge Bindweed (Calystegia sepium)	Prohibited
Nutgrass (Cyperus rotundus and C. esculentus)	Prohibited
Serrated Tussock (Nassella trichotoma)	Prohibited
Tropical Soda Apple (Solanum viarum)	Prohibited
Balloon Vine (Caridospermum halicacabum) (NO TOLERANCE APPLIED)	2
Bermudagrass (Cynodon spp.)	100
Blessed Thistle (Cnicus benedictus)	27
Bracted and Buckhorn Plantain (Plantago spp.)	100
Canada Thistle (Cirsium arvense)	54
Cheat and Chess (Bromus commutatus and Bromus secalinus)	144
Cocklebur (Xanthium spp.) (NO TOLERANCE APPLIED)	2
Corncockle (Agrostemma githago)	100
Darnel (Lolium temulentum)	54
Dock and Sorrel (Rumex spp.)	100
Dodder (Cuscuta spp.)	54
Giant Foxtail (Setaria faberi)	54
Johnsongrass (Sorghum halepense) and Sorghum almum and perennial rhizomatous derivatives of these.	54
Purple Moonflower (Ipomoea turbinata) (NO TOLERANCE APPLIED)	2
Morningglory (Ipomoea spp.	9
(a)When sold in a wildlife reseeding soybean or wildlife mixture	27
Quackgrass (Elytrigia repens)	54
Red Rice (Oryza spp.) (NO TOLERANCE APPLIED)	1
Sicklepod (Senna obtusifolia)	5
Wild Mustards and Wild Turnips (Brassica spp.)	54
Wild Onion and Wild Garlic (Allium spp.) (NO TOLERANCE APPLIED)	5
(a)When sold in mixed wheat	27

Wild Radish (Raphanus raphanistrum)..... 18

Agricultural or vegetable seed which contain in excess of a sum total of 200 noxious weed seed per pound (Subject to above limitations) is prohibited from sale in Mississippi.

Promulgated in accordance with §§ 69-3-1 (z) and (cc), 69-3-5, and 69-3-19 (c), Mississippi Code of 1972.

SECTION V. BLENDS AND MIXTURES

The following section contains information, rules and regulations on the labeling requirements of certain seed mixtures and the disclosure of blending information.

RULE 1. VARIETAL MIXTURES OF SEED

Varietal mixtures of southern peas, oats and wheat may be sold by labeling such mixtures as "Mixed Southern Peas," "Mixed Oats," or "Mixed Wheat." The percentage of pure seed shall represent all varieties of southern peas, oats, or wheat present, and the germination test shall be based on uniform samples of the mixture. Such varietal mixtures may also be sold when the foregoing labeling includes the words "variety not stated" or "VNS."

(a) Varieties of oats or wheat, which are protected by patent or Plant Variety Protection Act, may be sold as a mixture with written permission from the legal owner of the variety.

Promulgated in accordance with Section 69-3-5, Mississippi Code of 1972.

RULE 2. BLENDING COMPONENTS

The seedsman shall keep records of the year of production and blending components of all agricultural or vegetable seed in each lot labeled, distributed or offered for sale within the state. Upon request the records of each lot of seed shall be made available to the purchaser of seed from such lots either through information on the label, the container or other means to provide the requested information within seven calendar days.

Promulgated in accordance with Section 69-3-5, Mississippi Code of 1972.

SECTION VI. SEED ARBITRATION AND PENALTIES

The following section contains information on the rules and regulations of the administrative procedures and penalty guidelines involved in the seed arbitration process. Examples of valid arbitration claims are provided for guidance to the scope and intent of the seed arbitration process.

RULE 1. SCOPE OF SEED ARBITRATION CLAIMS

The Mississippi Department of Agriculture and Commerce and the Seed Arbitration Council, or their duly authorized representative, may investigate, hold informal hearings, and render non-binding judgements

when there is an alleged failure of agricultural seed to perform or produce in accordance with its label or labeling. The Commissioner of Agriculture and the Seed Arbitration Council, pursuant to the provisions of Section 69-3-20 will hear claims within the scope and intent of their duty. Claims within the scope of the Arbitration Council's duties will include any alleged failure of the seed to properly perform or produce, whether related to specific representations on the label or the labeling, product use guides, other information on the seed container, or any other condition attributed to the quality of the seed.

The following are valid conditions and situations which are within the scope and intent of Seed Arbitration proceedings. This is a representation of possible arbitrational claims and does not constitute all possible or valid situations or conditions in which a claim may be heard.

(a) Claims where seed did not establish an adequate plant population when planted under favorable environmental conditions and planted properly in depth and at a proper seeding rate are valid.

(b) Claims where the actual planting seed is responsible for the transmission of any viral, fungal, bacterial or mycoplasmic disease are valid. Transmission of any nematode through the actual planting seed is also a valid claim. This claim must be supported by observational or analytical testing of a representative sample of the seed.

(c) Claims where seed does not meet labeled purity standards concerning pure seed, crop seed, weed seed, and noxious weed seed are valid.

(d) Claims where transgenic seed fails to properly express the trait or characteristic for which it was selected are valid. This pertains to all statements concerning insect or herbicide resistance and any other characteristic for which the seed has been selected. Reasonable cultural practices must have been made in accordance with the guidelines of the Seedsman.

(e) Claims where seed fails to exhibit the represented and labeled resistance to a certain disease are valid. This includes all representations made by the labeler, however it does not apply to representations or claims of moderate or partial resistance or susceptibility or any other phrasing as such.

(f) Claims where seed does not represent labeled traits or characteristics that can be analytically tested or visually identifiable are valid.

NOTE: Representatives of the Mississippi Department of Agriculture or representatives of the Seed Arbitration Council must be able to investigate claims in the field in order to meet the standards set forth by these regulations. If the problem can only be determined by observation or analytical testing of the actual seed, a representative sample must be made available. Fields must be made available for inspection as soon as the problem becomes apparent in order to document and gather evidence. Fields that are not available for investigation are not accepted for arbitration proceedings. All standards set forth in the Mississippi Pure Seed Law must be met before arbitration can be filed.

Representations made by the labeler, concerning an agronomic quality or property of a particular variety must meet the definition of labeling.

Promulgated in accordance with Section 69-3-20, Mississippi Code of 1972.

RULE 2. ADMINISTRATIVE PROCEDURES FOR THE ARBITRATION PROCESS

The Mississippi Pure Seed Law provides for arbitration when a consumer has a complaint alleging failure of seed to produce or perform as represented by the label. The process for filing such a complaint is as follows:

1. The consumer shall file a sworn complaint (signed and notarized) with the Mississippi Department of Agriculture and Commerce. A filing fee of $250 is also required for administrative services. The complaint shall include the name and address of the seedsman, kind and variety of seed, acreage planted and a detailed account of the problem which the consumer is experiencing. The complaint must be accompanied by documentation from a recognized professional verifying that there is a connection between the seed and the performance or production problem.

2. The Department shall send a copy of the complaint to the seedsman.

3. The Seedsman shall file his/her reply within 15 days.

4. The Department shall refer the complaint to the Seed Arbitration Council or an appointed arbitrator, for an investigation. If either party requests that the case be heard by an arbitrator, the party making the request shall pay the arbitrator's fees and expenses in advance of the hearing, failing which, the case shall be heard by the Council.

5. The Seed Arbitration Council or the arbitrator shall conduct an investigation. The Council's inspectors or the arbitrator shall have the authority to enter the consumer's fields without advance notice to inspect the crop and take samples.

6. The hearing is conducted with both parties presenting witnesses, evidence and material to support their case. The Council or arbitrator shall determine the admissibility and relevance of the evidence offered and may exclude evidence deemed to be cumulative or irrelevant. The Council or the arbitrator may require a party to produce any documents or material prior to, or at the hearing.

   Witnesses shall be called upon by each party and shall also submit to questions from the Council or arbitrator and the adverse party. The Council or the arbitrator shall have the power to require the exclusion of any witnesses, other than a party or their attorney, during the testimony of any other witnesses. In its discretion, the Council or the arbitrator may receive the testimony of a witness in the form of a written affidavit. No witness may testify until he/ she has been placed under oath. The hearing shall be open to the public, but the deliberations of the Council concerning the merits of the case shall be closed to the public. Upon completion of the hearing, the Seed Arbitration Council shall make its written findings and recommendations to the Department. The Council or arbitrator has the discretion to vary this procedure, provided that the parties are treated with equality and each party has the right to be heard and is given a fair opportunity to present their case.

7. The Department shall transmit the findings and recommendations of the Council or the arbitrator to the

consumer and seedsman.

8. The consumer and seedsman shall notify the Department of their acceptance or rejection of the recommended terms of settlement within 30 days.

Complaints should be filed with:

Mississippi Department of Agriculture and Commerce
Attention: Director, Bureau of Plant Industry
P.O. Box 5207
Mississippi State, MS 39762

Promulgated in accordance with Section 69-3-20, Mississippi Code of 1972.

RULE 3. SEED ADMINISTRATIVE PENALTY GUIDELINES

The following administrative penalty guidelines have been set forth to inform the regulated public of the possible penalties for violations of the Mississippi Pure Seed Law. The guidelines have been developed to provide consistent, uniform, and fair penalties for violators, but does not limit the Department's authority to increase penalties or levy the maximum penalty for intentional violations or extenuating circumstances.

The penalty increases for subsequent violations. The penalties were established by considering the following criteria: 1) the seriousness of the violation, including but not limited to the nature, circumstances, extent, and gravity of the violation, and the hazard or potential hazard created to the safety or the health of the public; (2) the extent of the damage to property or the environment caused by the violation; (3) the history of previous violations; (4) the penalty necessary to deter future violations; (5) efforts on behalf of the violator to correct the violation; and (6) any other consideration that justice may require.

Penalties may be increased to the maximum as the Department considers the circumstances and facts of each violation.

There are three (3) types of violations set forth in these guidelines:

1. Germination Violations - A violation of a seed product being legal for sale but not within tolerance of the labeled germination information shall incur an initial penalty of $150. For each additional violation involving a different lot of seed, the penalty shall increase $100 per violation. If a seedsman incurs a fifth violation during a consecutive three-year period, then a hearing shall be held to determine if a more severe penalty shall be assessed which may include the maximum civil penalty of $5,000 and/ or the revocation of the seedsman's permit.

A violation of a seed product being illegal for sale because it does not meet the minimum germination requirements for sale in Mississippi as set forth by these regulations shall incur an initial penalty of $250. For each additional violation, the penalty shall be $250 plus an additional $100, with said additional penalties being cumulative. If a seedsman incurs a fifth violation during a consecutive three year period, then a more severe penalty may be assessed, which may include the maximum civil

penalty of $5,000 and/ or the revocation of the seedsman's permit.

2. Purity and Growout Violations - A violation of a seed product, being legal for sale but not within the established tolerance of the label or inconsistent with the labeling, shall incur an initial penalty of $250. For each additional violation involving a different lot of seed, the penalty shall increase $100 per violation. If a seedsman incurs a fifth violation during a consecutive three-year period, then a hearing shall be held to determine if a more severe penalty shall be assessed which may include the maximum civil penalty of $5,000 and/ or the revocation of the seedsman's permit.

A violation of a seed product being illegal for sale because it does not meet the minimum requirements for sale in Mississippi shall incur an initial penalty of $400. For each additional violation, the penalty shall be $400 plus an additional $100, with said additional penalties being cumulative. If a seedsman incurs a fifth violation during a consecutive three-year period, then a more severe penalty may be assessed, which may include the maximum civil penalty of $5,000 and/ or the revocation of the seedsman's permit.

3. Improper Labeling Violations - A violation of a seed product being sold but improperly labeled shall incur an initial penalty of $150. For each additional violation involving a different lot of seed, the penalty shall increase $50 per violation. If a seedsman incurs a fifth violation during a consecutive two-year period, then a hearing shall be held to determine if a more severe penalty shall be assessed which may include the maximum civil penalty of $5000 per violation and/ or the revocation of the seedsman's permit.

Promulgated in accordance with Section 69-3-19, Mississippi Code of 1972.

SECTION VII. BERMUDAGRASS SPRIGGERS

The following section contains information on the rules and regulations pertaining to the transfer of Bermudagrass plant material.

RULE 1. PERMIT REQUIREMENTS

Each person, firm, association or corporation shall on or before July 1 of each year make application for a permit, on an approved form supplied by the Commissioner. The application shall be filled out in full to the satisfaction of the Commissioner before said permit shall be issued. Permit holders that make additional selections of Bermudagrass shall notify the Commissioner in writing to include the name of the Bermudagrass selection and supporting documentation for approval before transfers may be made. The Mississippi Agricultural and Forestry Experiment Station shall be exempt from permit purchase.

RULE 2. RECORD REQUIREMENTS

Each permit holder shall keep records pertaining to all transactions involving the transfer of Bermudagrass ownership for a period of at least 2 years. Records shall include signed agreements or contracts, sales tickets and payment information including copies of checks or other forms of payment,

as well as information pertaining to all Bermudagrass transfers to include amount sprigged and stock field information that indicates which field the Bermudagrass transfer was obtained from. All transaction records must state the name of the Bermudagrass selection transferred exactly as it is submitted and/or stated on the permit application.

RULE 3. COMPLAINT PROCEDURES

If a complaint is filed by a consumer against a permit holder, then the permit holder shall submit all records requested by the Department within 10 working days. The Commissioner or his duly authorized agents shall enter the premise of any permit holder and collect samples of any Bermudagrass material deemed necessary. If a complaint is filed against a permit holder regarding the naming of a selection of Bermudagrass then the Commissioner may hold an informal hearing to hear/obtain evidence and decide the matter. The Commissioner may issue subpoenas to require the attendance of witnesses and the production of documents. Any court of general jurisdiction in this state may enforce compliance with such subpoena. If a complaint is filed against a person, firm or corporation for transferring ownership of Bermudagrass or for advertising Bermudagrass transfer when not holding a permit, then that person firm or corporation shall be subject to a civil penalty, not to exceed Two Hundred Fifty Dollars ($250.00). If a person firm or corporation fails to obtain permit and to make payment of the civil penalty within 30 days of issuance then said person, firm or corporation shall be subject to the Administrative Hearing procedures Section 69-3-29 of the Act. The Commissioner may revoke the permit of any person, firm or corporation that violates a registered Mississippi trademark or mimics the name of a selection with a Mississippi trademark.

RULE 4. BERMUDAGRASS SELECTIONS.

All advertisements for the transfer of Bermudagrass selections shall state the name of the selection exactly as it is submitted and/or stated on the permit application. The Commissioner shall review and approve all selections of Bermudagrass. The Commissioner shall review and approve all new selections of Bermudagrass that may be discovered. The Commissioner may request specific documentation from the permit holder before selection approval is granted. No selection may be sold or advertised without prior approval by the Commissioner. Any person that violates this shall be subject to the Administrative Hearing procedures Section 69-3-29 of the act.

Promulgated in accordance with Section 69-3-4, Mississippi Code of 1972.