RULES
OF THE
MISSISSIPPI DEPARTMENT OF AGRICULTURE AND COMMERCE

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SUBPART 3-BUREAU OF PLANT INDUSTRY
CHAPTER 07- Penalty Assessment Guidelines

Purpose

100.01 These rules are adopted under the authority granted in Miss. Code of 1972, Section 69-25-57. The purpose of these rules is to provide guidance for the reviewing officer and the hearing committee (hereinafter, "hearing officers") of the Bureau of Plant Industry, a division of the Mississippi Department of Agriculture and Commerce, in assessing civil penalties or other punishment for any violations of Miss. Code of 1972, Sections 69-19-1 through 69-19-15, Sections 69-21-101 through 69-21-128, Sections 69-23-1 through 69-23-135, and the rules and regulations promulgated thereunder. In determining the enforcement remedy, the hearing officers shall consider the appropriateness of such penalty for the particular violation, the effect of the penalty on the person's ability to continue in business, and the gravity of the violation. These guidelines are designed to insure consistency, to the extent practicable, for similar violations in the assessment of penalties or other punishment.

Determination of Enforcement Remedy

100.02 The hearing officers must determine whether the violation which is alleged to have been committed would warrant an enforcement action. In deciding on the appropriate enforcement remedy, the hearing officers shall consider the type of violation and the seriousness or gravity of the violation. A written notice of warning may be issued in the event of a minor violation when it appears that the public interest would be adequately served thereby.

Types of Violations

100.03 Types of violations include, but are not limited to the following:

1. Credentials/Licensure: Violations of the licensing, permit, identification card, registered technician, applicator certification, equipment marking, operation, product registration, etc.
2. Pesticide Registration/Labeling: Application, distribution, sale, use and/or recommendations, etc.
   a. Products canceled, suspended, or under stop-sale.

b. The utilization of a product for a use not registered under, or exempted by, state or federal law.
c. Use in a manner inconsistent with its labeling.
d. Prohibited acts/uses.
e. Improper labeling.

3. Records: reporting, contracts, bonds, insurance, sales, inspections, etc.
4. Fraudulent, faulty, careless, negligent acts, etc.
5. Other violations of the acts and regulations, e.g., minimum standards, treatment requirements, determination of active infestations, bonafide employee, storage, disposal, safety requirements.

Gravity Ratings

100.04 The following gravity rating and matrix is intended solely for use as a guideline for consideration by the hearing officers who are not bound by the matrix recommendations.

1. Violation is unintentional, there is no record of a prior similar violation by the accused within the past twenty-four (24) months, and/or there is a low probability of adverse effects, the adverse effects are unknown, or the adverse effects are minimal.
2. The violation is unintentional, there is a record of one or more repeat similar violations by the accused within the past twenty-four (24) months, and/or there is a high probability of major adverse effects, or the adverse effects are major.
3. The violation is intentional, there is no record of a prior similar violation by the accused within the past twenty-four (24) months, and/or there is a low probability of adverse effects, the adverse effects are unknown, or the adverse effects are minimal.
4. The violation is intentional, there is a record of one or more repeat similar violations by the accused within the past twenty-four (24) months, and/or there is a high probability of major adverse effects, or the adverse effects are major.

Penalty Matrix

100.05 Penalty Matrix appears below:

Type Violation	Gravity Rating			
	(1)	(2)	(3)	(4)
(1) Credentials (licensing, permit, identification card, registered technician, applicator certification, equipment marking, operation, product registration, etc.)	1 and/or 6	2 and/or 8	3 and/or 11	4 and/or 12

(2) Pesticides and labeling – usage (i) Canceled/suspended/stop-saled (ii) Non-registered (iii) Inconsistent with labeling (iv) Prohibited acts/use (v) Improper labeling	2 and/or 8	3 and/or 10	4 and/or 11	5 and/or 12
(3) Records, reporting, contracts, insurance, bonds, inspection, etc.	1 and/or 6	2 and/or 8	3 and/or 11	4 and/or 12
(4) Fraudulent, faulty, careless, negligent acts, etc.	2 and/or 8	3 and/or 8	4 and/or 11	5 and/or 12
(5) Other violations, i.e., minimum standards, treatment requirements, storage, disposal, safety requirements, etc.	1 and/or 7	2 and/or 10	3 and/or 11	4 and/or 12

1 = Warning letter and 0 to 30 days licensure suspension/modification.
2 = Warning letter and 0 to 90 days licensure suspension/modification.
3 = 3 to 12 month licensure suspension/modification.
4 = 6 to 12 month licensure suspension/modification or licensure cancellation.
5 = Licensure Cancellation.
6 = Civil penalty of $0 to $250.
7 = Civil penalty of $100 to $500.
8 = Civil penalty of $250 to $1000.
9 = Civil penalty of $500 to $1000.
10 = Civil penalty of $500 to $1500.
11 = Civil penalty of $1000 to $2000.
12 = Civil penalty of $2000 to $5000.