

1. Definitions.
 - a. "Administrative Complaint" means a written document issued to a person or business that contains allegation(s) of violation(s) of the "Petroleum Products Inspection Law" by the person or business named therein.
 - b. "Commissioner" means the Commissioner of Agriculture and Commerce.
 - c. "Dealer" means any person or business that registers for sale petroleum products regulated by the "Petroleum Products Inspection Law".
 - d. "Retailer" means any retail establishment that sells or offers for sale directly to the consumer gasoline, gasoline-oxygenate blends, diesel, biodiesel, biodiesel blends, kerosene or any other petroleum product.
2. Fuel Quality.
 - a. The Department may impose a \$500.00 penalty to a retailer who violates a fuel quality requirement under MISS. CODE ANN. §§75-55-5, 75-55-11, 75-55-22, 75-55-13 and/or those requirements adopted in sections 103, 108 and 113.02 of these regulations. The retailer shall correct the violation as provided in section 107 above.
 - b. The Department may impose a \$1,000.00 penalty to a dealer who violates a fuel quality requirement under the laws referenced in paragraph 2(a).
 - c. The Department may impose a penalty of not more than \$3,000.00 to a retailer or dealer who violates a fuel quality requirement under the laws referenced in subparagraph 2(a) where there are aggregating factors including but not limited to where the retailer or dealer has repeatedly violated the law in a 12-month period, or if the person is shown to have willfully and intentionally violated these requirements.
3. Dispenser Labeling; Documentation to be delivered to retailer.
 - a. The Department shall issue a stop sale order and a warning to a retailer whose fuel dispenser violates the dispenser labeling requirements set out in Miss. Code Ann. §75-55-6(3) and sections 106 and 113 of these regulations, if the violation is not corrected within the time specified by the Department's inspector.
 - b. The Department shall impose a \$500.00 penalty to any dealer who distributes petroleum products to a retailer and does not provide the documentation required by sections 106 and 113.03 of these regulations.
 - c. The Department may impose a penalty of not more than \$3,000.00 on a retailer or dealer who violates a labeling or documentation requirement where there are aggregating factors, including but not limited to, where the retailer or dealer has repeatedly violated the law in a 12-month period, or if the person is shown to have willfully and intentionally violated these requirements.
4. Signage.
 - a. The Department shall issue a warning to any retailer whose fuel storage tank labeling or street signage does not comply with the requirements of Miss. Code Ann. §75-55-9, if the violation is not corrected within the time specified by the Department's inspector.
 - b. Repeated violations. The Department may impose a \$250 penalty to the retailer for a violation as set out in subparagraph 4(a), if the retailer has repeatedly violated the requirements of Miss. Code Ann. §75-55-9 in a 12-month period.

5. Equipment violations. In addition to any enforcement action in section 101, the Department may impose a \$250.00 penalty to the retailer if the Department finds during an inspection that the retailer's equipment does not comply with current NIST Handbook 44, §1.10, ¶G-UR.4.1, "Maintenance of Equipment."
6. Registration of Petroleum Products.
 - a. If a dealer fails to provide all of the information required in section 105 in its application for registration, the Department shall return the application to the dealer as incomplete and notify the dealer that it cannot be registered by the Department without a completed application. If the dealer resubmits an incomplete application, then the Department shall deny the dealer's registration.
 - b. Upon determination at any time of inaccurate information in the dealer's application, the Department shall notify the dealer and allow the dealer 14 days to correct the information. If the dealer fails to correct the information within 14 days of notification, the Department shall impose a \$100.00 civil penalty on the dealer per day that it goes uncorrected. Subsequent and continuous failure to correct the application information may result in increased penalties and/or suspension, revocation or permanent denial of registration.
7. Licensed Petroleum Equipment Repairperson.
 - a. If a licensed repairperson fails to submit a service report and/or a Notice of Violation Repair to the Department within three days after he/she repairs or adjusts a petroleum pump, metering or measuring device or removes an official seal there from or violates any other requirement of Miss. Code Ann. §75-55-38 or rules promulgated in support of that section, then the Department shall issue a warning to the repairperson.
 - b. If a licensed repairperson fails to correct the violation as provided in the warning, then the Department may impose a \$250.00 penalty and/or suspend or revoke the repairperson's license.
 - c. The Department may impose a penalty of not more than \$3,000.00 on a repairperson for violations of the law where there are aggregating factors, including but not limited to, where the repairperson has repeatedly violated the law in a 12-month period, or if the repairperson is shown to have willfully and intentionally violated these requirements.
8. Administrative Hearing.
 - a. Any person who receives an administrative complaint may request an administrative hearing within 30 days from the date of receipt of the notice, except for a stop-sale order which must be appealed within 20 days of issuance per law. The commissioner or his/her designee shall conduct a hearing after giving written notice of the date, time and place of such hearing to the respondent not less than fourteen (14) days prior to the commencing of the hearing. Failure to request a hearing within the allotted time period shall constitute a waiver of the right to a hearing.
 - b. The commissioner or his/her designee may serve as the Hearing Officer in the administrative hearing. Any party may participate in the hearing in person or by a duly authorized representative.
 - c. The Department shall cause the hearing to be recorded by a court reporter. Any party may, at its own expense, request the court reporter to prepare a transcript of the hearing.
 - d. Evidence. The Mississippi Rules of Evidence shall not apply to these proceedings but the Hearing Officer may use them as a guide in the proceedings.

- e. At the conclusion of the hearing, the Hearing Officer shall prepare a written final opinion incorporating his/her findings of facts and conclusions of law. The commissioner may adopt or reject the opinion as the final order of the Department or remand the matter for further proceedings. The respondent shall have 30 days from the date of entry of the final order to pay any penalties that may be imposed.
- f. The decision of the Department may be appealed to the Circuit Court of the First Judicial District of Hinds County. The appealing party shall be responsible for the costs of preparing the record on appeal, including the transcript.

(Section 112 adopted August 1993, amended February 12, 2001, amended October 21, 2002, amended September 22, 2010.)