Title 2: Agriculture and Commerce
Part 1: Rules of the Mississippi Department of Agriculture and Commerce

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Title 2: Agriculture and Commerce
Part 1: Rules of the Mississippi Department of Agriculture and Commerce

SUBPART 1-ORGANIZATION OF THE DEPARTMENT OF AGRICULTURE AND COMMERCE

Purpose of this Subpart

100 In accordance with Section 25-43-2.104 of the Mississippi Administrative Procedures Law, this subpart describes the Department of Agriculture and Commerce's duties and responsibilities, the organization of the Department, and its methods of operation.

Source: *Miss. Code Ann*. §25-43-2.104 (Rev. 2006).

Commissioner of Agriculture and Commerce

101 The Commissioner of Agriculture is an officer of the executive branch of state government elected by the people pursuant to *Miss. Code Ann.* §69-9-1 The Department of Agriculture and Commerce is under the control and management of the Commissioner. The law provides that the Commissioner shall have a competent knowledge of agriculture; mining, manufacturing, statistics and general industries and he or she must be an experienced and practical agriculturist. The law charges the Commissioner with numerous duties in the areas of development and marketing of agriculture and commerce, regulation of related industries and investigation of agricultural crimes.

Source: *Miss. Code Ann*. §69-1-1 *et seq.*

Mississippi Department of Agriculture and Commerce

102 The Department consists of a Deputy Commissioner and other staff who assist the Commissioner in carrying out the responsibilities of the office. The Department is divided into the following:

1. Administrative Services
    a. Accounting
    b. Purchasing
    c. Personnel
    d. Special Projects
2. Livestock Theft
3. Plant Industry
    a. Pesticide
    b. Plant
    c. Seed
4. Regulatory Services
    a. Consumer Protection
    b. Fruits and Vegetables

c. Meat Inspection
d. Petroleum
e. Weights and Measures

5. Marketing Services
   a. Farmers Market
   b. Public Relations and Events
   c. Sales and Community Development
   d. Market Bulletin
6. Management Information Services
7. Museum

Source: *Miss. Code Ann*. §69-1-203.

Delegation of Authority

103 Authority to act on behalf of the Commissioner is delegated to the following positions:

1. Deputy commissioner serves as the principal deputy to the Commissioner and is delegated to act for the Commissioner on all Department matters.
2. Bureau and Division Directors are delegated authority to act for the Commissioner on all matters within their assigned bureau or division.

Source: *Miss. Code Ann*. §69-1-1 *et seq.*

Contacting the Department of Agriculture and Commerce

104 The Department of Agriculture and Commerce may be contacted in person, by U.S. Mail, Courier mail, e-mail, telephone, and telefacsimile. The Department of Agriculture and Commerce maintains and provides interactive services on the Internet at www.mdac.state.ms.us.

1. Location of the Department of Agriculture and Commerce-The Department maintains offices in Jackson and at Mississippi State University at the following locations:
   a. Commissioner's office and Department headquarters, 121 North Jefferson Street, Jackson, Mississippi 39201. This location houses Administrative Services, Livestock Theft, Management Information Services, Marketing Services, and Regulatory Services.
   b. Robert H. McCarty Building, Stone Boulevard, Mississippi State, Mississippi 39762. This office houses the Bureau of Plant Industry.
   c. Mississippi Agriculture and Forestry Museum, 1150 Lakeland Drive, Jackson, Mississippi 39216.
   d. Mississippi Farmers Market, 929 High Street, Jackson, Mississippi 39202.
2. The mailing addresses for the Department of Agriculture and Commerce are:
   a. Post Office Box 1609, Jackson, Mississippi 39215
   b. Post Office Box 5207, Mississippi State, Mississippi 39762
3. Courier Mail should be delivered to the street addresses listed above. The 121 North Jefferson Street is the primary mail distribution point.
4. The Department of Agriculture and Commerce telephone and facsimile numbers are:

a. Commissioner's Office and Main Headquarters (601-359-1100), (800) 551-1830, FAX (601) 354-6290
b. Bureau of Plant Industry (662) 325-3390, (888) 257-1285, FAX (662) 325-8397
c. Mississippi Agriculture and Forestry Museum (601) 713-3365, (800) 844-8687, FAX (601) 982-4292
d. Mississippi Farmers Market (601) 354-6575, FAX (601) 354-7330

Source: *Miss. Code Ann*. §69-1-7.

Subpart 2-Administrative Rules
Chapter 01 Public Records Request Procedure

Scope

100 The following regulation is hereby adopted by the Mississippi Department of Agriculture and Commerce ("Department") as provided by Section 3 of the Mississippi Public Records Act of 1983 ("Act"), for the orderly implementation of said law.

Source: *Miss. Code Ann*. §25-61-1 *et seq.*

Schedule of Fees

101 Personnel. Staff time shall be charged as follows: $10.00 per hour per person for clerical time and $20.00 per hour per person for supervisory or professional time for searching, reviewing and/or duplicating public records. Any part of an hour spent in such activities shall be prorated to the nearest half hour.

Source: *Miss. Code Ann*. §25-61-1 *et seq.*

102 Copies. $.50 per page for each copy. Copies of pages printed on both sides (front and back) shall be considered as two pages for copy charge purposes.

Source: *Miss. Code Ann*. §25-61-1 *et seq.*

103 Packing fee. A $5.00 packing and handling fee shall be charged on all requests for copies of public records to be shipped or mailed.

Source: *Miss. Code Ann*. §25-61-1 *et seq.*

104 Mailing fee. The cost shall be calculated at the applicable rate for each such mailing. If request involves notice to be given to a third party, the cost of mailing such notice via certified mail return receipt requested shall be charged to person requesting such public records.

Source: *Miss. Code Ann*. §25-61-1 *et seq.*

105 Payment of fees. Requestor shall deposit a certified check, money order or cash in escrow with the Department for the estimated costs of answering this request. However, if actual costs exceed the estimated costs, the additional costs shall be paid by the person requesting such records prior to the release of the records.

Source: *Miss. Code Ann*. §25-61-1 *et seq.*

Requests

106 General. No person requesting public records shall be permitted to review Department files, however, copies of all records requested; within limitations imposed by the Act and this regulation, will be furnished such person.

Source: *Miss. Code Ann*. §25-61-1 *et seq.*

107 Where to Send Requests. All requests must be mailed, delivered or transmitted via facsimile to the Department. Oral and telephone requests and email requests will not be accepted.

Source: *Miss. Code Ann*. §25-61-1 *et seq.*

108 Written Request Required**.** Each request must be printed or typewritten, or must be in legible handwriting. Each request must be submitted on standard business letter-size paper (8-1/2 inches by 11 inches). Requests may be in the form of a letter addressed to the Department. All requests must include a specific description, identity and name of the records requested.

Source: *Miss. Code Ann*. §25-61-1 *et seq.*

109 Name, Address and Signature of Requestor. Each request must include the full name, telephone number, and mailing address of the requestor. All requests shall be signed by the person filing the request.

Source: *Miss. Code Ann*. §25-61-1 *et seq.*

110 Department Response.

1. All public records in the possession of the Department not specifically exempt as a public record by the Act, or this Regulation, shall be made available upon written request within seven (7) working days from the date of receipt of said request except as provided in subsections (2), (3) and (4) of this section.
2. If the Department cannot produce the record(s) requested by the requestor by the seventh working day, it will provide a written explanation to the requestor stating:
   a. that the Department will produce the record(s) requested, unless exempt by law, and
   b. the specific reasons that the request cannot be produced within the seven-day period.

   Records produced pursuant to this subsection will be provided no later than 14 working days from the date of the receipt of the request, unless exempt by law.
3. If the requestor and Department agree, a response period longer than 14 working days from the receipt of the request shall be allowed to answer the request.
4. If the request is denied, the Department will notify the requestor in writing that the request is denied and provide the specific reason for the denial.

(Amended June 8, 2010.)

Source: *Miss. Code Ann*. §25-61-1 *et seq.*

Availability of Records

111 The availability of all records in the possession of the Department shall be subject to the following limitations:

1. Any public record specifically declared to be confidential, privileged or exempt by the Act, or any constitutional or statutory law or decision of a court of this state or the United States shall be exempt from the provisions of the Act.
2. Any records furnished to the Department which contain trade secrets or confidential commercial or financial information shall not be subject to inspection, examination, copying or reproduction until forty five (45) days following written notice from the Department to person furnishing such records advising that request has been made for copies of such documents. The notice shall contain a listing of specific documents requested and the name and address of the person requesting such documents or records. Notices shall be mailed certified mail return receipt requested. At the end of the forty five (45) day notice period, copies of all records listed in said notice shall be released to person requesting such records unless person furnishing such records shall have obtained a court order protecting such records as confidential and exempting such records from the provisions of the Act.
3. Personnel records and applications for employment, letters of recommendation for employment or respecting admission to any educational agency or institution in the possession of the Department, except those which may be released to the person who made the application or released upon the prior written consent of the person who made the application, shall be exempt from the provisions of the Act.
4. Test questions and answers in the possession of the Department shall be exempt from the provisions of the Act.
5. Records which represent and constitute the work product of any attorney, district attorney or county prosecuting attorney representing the Department and which are related to litigation made by or against the Department or in anticipation of prospective litigation, including all communications between such attorney made in the courses of an attorney-client relationship shall be exempt from the provisions of the Act.
6. Records in the possession of the Department which would disclose information about a person's individual tax payment or status shall be exempt from the provisions of the Act.
7. Information or records in the possession of the Department which concerns the sale or purchase of real or personal property for public purposes shall be exempt from the provisions of the Act, prior to public announcement of the purchase or sale, where the release of such records could possibly have a detrimental effect on such sale or purchases.
8. Records in the possession of the Department which are not otherwise protected by law, that (a) are compiled in the process of detecting and investigating any unlawful activity or alleged unlawful activity, disclosure of which would harm such investigation; (b) would reveal the identity of informants; (c) would prematurely release information that would impede the Department's enforcement, investigation or detection efforts in such proceedings; (d) would disclose investigatory techniques;

(e) would deprive a person of a right to a fair trial or impartial adjudication; (f) would endanger the life or safety of any Department personnel; (g) are matters pertaining to quality control or PEER review activities shall be exempt from the provisions of the Act.

9. Applications for licensure or test questions that are to be used in future license examinations in the possession of the Department, except that which may be released to the person who made the application or with the prior written consent of the person who made the application, shall be exempt from the provisions of the Act.
10. Commercial and financial information or records of a proprietary nature required to be submitted to the Department by a firm, business, partnership, association, corporation, individual or other like entity, shall be exempt from the provisions of the Act.
11. Records in the possession of the Department as defined by Section 2(b) of the Act, which are not otherwise protected by law, that are compiled by reason of inspection or investigation of specific facilities, organizations, or devices pursuant to any law requiring such inspections or investigations to determine, insure, or enforce compliance with such law, shall be exempt from the provisions of the Act.

Source: *Miss. Code Ann*. §25-61-1 *et seq.*

Effective Date

112 This Regulation shall be in force and effect from and after July 1, 1983.

(Chapter 01 amended June 27, 2005.)

Source: *Miss. Code Ann*. §25-61-1 *et seq.*

Subpart 2-Administrative Rules
Chapter 02- Procedure for Oral Proceedings on Rule-Making

Scope

100 Rules 100-112 are promulgated pursuant to *Miss. Code Ann.* §25-43-3.104(2)(d) of the Administrative Procedures Law, and apply to all oral proceedings held for the purpose of providing the public with an opportunity to make oral presentations on proposed new rules and amendments to rules before the Department pursuant to §25-43-3.104.
(Adopted June 21, 2005.)

Source: *Miss. Code Ann. §*25-43-2.104 (Rev. 2006).

When Oral Proceedings Will Be Scheduled on Proposed Rules

101 The Department will conduct an oral proceeding on a proposed rule or amendment if requested by a political subdivision, an agency or ten (10) persons in writing within twenty (20) days after the filing of the notice of the proposed rule.
(Adopted June 21, 2005.)

Source: *Miss. Code Ann. §*25-43-2.104 (Rev. 2006).

Request Format

102 Each request must be printed or typewritten, or must be in legible handwriting. Each request must be submitted on standard business letter-size paper (8-1/2 inches by 11 inches). Requests may be in the form of a letter addressed to the Department and signed by the requestor(s).
(Adopted June 21, 2005.)

Source: *Miss. Code Ann. §*25-43-2.104 (Rev. 2006).

Notification of Oral Proceeding

103 The date, time and place of all oral proceedings shall be filed with the Secretary of State's office and mailed to each requestor. The oral proceedings will be scheduled no earlier than twenty (20) days from the filing of this information with the Secretary of State.
(Adopted June 21, 2005.)

Source: *Miss. Code Ann. §*25-43-2.104 (Rev. 2006).

Presiding Officer

104 The Commissioner or his designee, who is familiar with the substance of the proposed rule, shall preside at the oral proceeding on a proposed rule.

(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §25-43-2.104 (Rev. 2006).

Public Presentations and Participation

105 At an oral proceeding on a proposed rule, persons may make oral statements and make documentary and physical submissions, which may include data, views, comments or arguments concerning the proposed rule.
(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §25-43-2.104 (Rev. 2006).

106 Persons wishing to make oral presentations at such a proceeding shall notify the Department at least one business day prior to the proceeding and indicate the general subject of their presentations. The presiding officer in his or her discretion may allow individuals to participate that have not previously contacted the Department.
(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §25-43-2.104 (Rev. 2006).

107 At the proceeding, those who participate shall indicate their names and addresses, identify any persons or organizations they may represent, and provide any other information relating to their participation deemed appropriate by the presiding officer.
(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §25-43-2.104 (Rev. 2006).

108 The presiding officer may place time limitations on individual oral presentations when necessary to assure the orderly and expeditious conduct of the oral proceeding. To encourage joint oral presentations and to avoid repetition, additional time may be provided for persons whose presentations represent the views of other individuals as well as their own views.
(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §25-43-2.104 (Rev. 2006).

109 Persons making oral presentations are encouraged to avoid restating matters that have already been submitted in writing.
(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §25-43-2.104 (Rev. 2006).

110 There shall be no interruption of a participant who has been given the floor by the presiding officer, except that the presiding officer may in his or her discretion interrupt or end the partisan's time where the orderly conduct of the proceeding so requires.

(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §25-43-2.104 (Rev. 2006).

Conduct of Oral Proceeding

111 Presiding officer. The presiding officer shall have authority to conduct the proceeding in his or her discretion for the orderly conduct of the proceeding. The presiding officer shall (a) call the proceeding to order; (b) give a brief synopsis of the proposed rule, a statement of the statutory authority for the proposed rule, and the reasons provided by the Department for the proposed rule; (c) call on those individuals who have contacted the Department about speaking on or against the proposed rule; (d) allow for rebuttal statements following all participants' comments; (e) adjourn the proceeding.

(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §25-43-2.104 (Rev. 2006).

112 Questions. The presiding officer where time permits and to facilitate the exchange of information, may open the floor to questions or general discussion. The presiding officer may question participants and permit the questioning of participants by other participants about any matter relating to that rule-making proceeding, including any prior written submissions made by those participants in that proceeding; but no participant shall be required to answer any question.

(Adopted June 21, 2005.)

Source: *Miss. Code Ann*. §25-43-2.105 (Rev. 2006).

Subpart 2-Administrative Rules
Chapter 03-Procedure For Issuing Declaratory Opinion

Scope of Rules

100 This chapter sets forth the Department of Agriculture and Commerce's, hereinafter "Department," rules governing the form and content of requests for declaratory opinions, and the Department's procedures regarding the requests, as required by Mississippi Code Ann. § 25-43-2.103. These rules are intended to supplement and be read in conjunction with the provisions of the Mississippi Administrative Procedures Law, which may contain additional information regarding the issuance of declaratory opinions. In the event of any conflict between these rules and the Mississippi Administrative Procedures Law, the latter shall govern.

(Adopted June 21, 2005.)

Source: *Miss. Code Ann. §*25-43-2.103 (Rev. 2006).

Persons Who May Request Declaratory Opinions

101 Any person with a substantial interest in the subject matter may request a declaratory opinion from the Department by following the specified procedures. "Substantial interest in the subject matter" means: an individual, business, group or other entity that is directly affected by the Department's administration of the laws within its primary jurisdiction. "Primary jurisdiction of the Department" means the Department has a constitutional or statutory grant of authority in the subject matter at issue.

(Adopted June 21, 2005.)

Source: *Miss. Code Ann. §*25-43-2.103 (Rev. 2006).

Subjects That May Be Addressed In Declaratory Opinions

102 The Department will issue declaratory opinions regarding the applicability to specified facts of: (1) a statute administered or enforceable by the Department or (2) a rule promulgated by the Department. The Department will not issue a declaratory opinion regarding a statute or rule that is outside the primary jurisdiction of the Department.

(Adopted June 21, 2005.)

Source: *Miss. Code Ann. §*25-43-2.103 (Rev. 2006).

Circumstances In Which Declaratory Opinions Will Not Be Issued

103 The Department may, for good cause, refuse to issue a declaratory opinion. The circumstances in which declaratory opinions will not be issued include, but are not necessarily limited to:

1. lack of clarity concerning the question presented;

2. there is pending or anticipated litigation, administrative action, or other adjudication which may either answer the question presented by the request or otherwise make an answer unnecessary;
3. the statute or rule on which a declaratory opinion is sought is clear and not in need of interpretation to answer the question presented by the request;
4. the facts presented in the request are not sufficient to answer the question presented;
5. the request fails to contain information required by these rules or the requestor failed to follow the procedure set forth in these rules;
6. the request seeks to resolve issues that have become moot, or are abstract or hypothetical such that the requestor is not substantially affected by the statute or rule on which a declaratory opinion is sought;
7. no controversy exists concerning the issue, as the requestor is not faced with existing facts or those certain to arise that raise a question concerning the application of the statute or rule;
8. the question presented by the request concerns the legal validity of a statute or rule;
9. the request is not based upon facts calculated to aid in the planning of future conduct but is, instead, based on past conduct in an effort to establish the effect of that conduct;
10. no clear answer is determinable;
11. the question presented by the request involves the application of a criminal statute or a set of facts that may constitute a crime;
12. the answer to the question presented would require the disclosure of information that is privileged or otherwise protected by law from disclosure;
13. the question is currently the subject of an Attorney General's opinion request or has been answered by an Attorney General's opinion;
14. a similar request is pending before this Department or any other agency or a proceeding is pending on the same subject matter before any agency, administrative or judicial tribunal, or where such an opinion would constitute the unauthorized practice of law.
15. where issuance of a declaratory opinion may adversely affect the interests of the State, the Department or any of their officers or employees in any litigation, which is pending or may reasonably be expected to arise;
16. the question involves eligibility for a license, permit, certificate or other approval by the Department or some other agency, and there is a statutory or regulatory application process by which eligibility for said license, permit, certificate or other approval would be determined.

(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §25-43-2.103 (Rev. 2006).

<u>Written Request Required</u>

104 Each request must be printed or typewritten, or must be in legible handwriting. Each request must be submitted on standard business letter-size paper (8-1/2 inches by 11 inches). Requests may be in the form of a letter addressed to the Department.

(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §25-43-2.103 (Rev. 2006).

Where to Send Requests

105 All requests must be mailed, delivered or transmitted via facsimile to the Department. The request shall clearly state that it is a request for a declaratory opinion. Oral and telephone requests and email requests will not be accepted for official opinions.
(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §25-43-2.103 (Rev. 2006).

Name, Address and Signature of Requestor

106 Each request must include the full name, telephone number, and mailing address of the requestor. All requests shall be signed by the person filing the request, who shall attest that the request complies with the requirements set forth in these rules, including but not limited to a full, complete, and accurate statement of relevant facts and that there are no related proceedings pending before any other administrative or judicial tribunal.
(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §25-43-2.103 (Rev. 2006).

Question Presented

107 Each request shall contain the following:
1. a clear and concise statement of all facts on which the opinion is requested;
2. a citation to the statute or rule at issue;
3. the question(s) sought to be answered in the opinion, stated clearly;
4. a suggested proposed opinion from the requestor, stating the answers desired by petitioner and a summary of the reasons in support of those answers;
5. the identity of all other known persons involved in or impacted by the described factual situation, including their relationship to the facts, name, mailing address and telephone number; and
6. a statement to show that the person seeking the opinion has a substantial interest in the subject matter.

Source: *Miss. Code Ann.* §25-43-2.103 (Rev. 2006).

Time For Department's Response

108 Within forty-five (45) days after the receipt of a request for a declaratory opinion that complies with the requirements of these rules, the Department shall, in writing:
1. issue a declaratory opinion regarding the specified statute or rule as applied to the specified circumstances;
2. decline to issue a declaratory opinion, stating the reasons for its action; or

3. agree to issue a declaratory opinion by a specified time but not later than ninety (90) days after receipt of the written request.

(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §25-43-2.103 (Rev. 2006).

109 The forty-five (45) day period shall begin running on the first State of Mississippi business day on or after the request is received by the Department, whichever is sooner.

(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §25-43-2.103 (Rev. 2006).

Opinion Not Final for Sixty Days

110 A declaratory opinion shall not become final until the expiration of sixty (60) days after the issuance of the opinion. Prior to the expiration of sixty (60) days, the Department may, in its discretion, withdraw or amend the declaratory opinion for any reason that is not arbitrary or capricious. Reasons for withdrawing or amending an opinion include, but are not limited to, a determination that the request failed to meet the requirements of these rules or that the opinion issued contains a legal or factual error.

(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §25-43-2.103 (Rev. 2006).

Notice by Department to Third Parties

111 The Department may give notice to any person, agency or entity that a declaratory opinion has been requested and may receive and consider data, facts, arguments and opinions from other persons, agencies or other entities other than the requestor.

(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §25-43-2.103 (Rev. 2006).

Public Availability of Requests and Declaratory Opinions

112 Declaratory opinions and requests for declaratory opinions shall be available for public inspection and copying in accordance with the Department's public records request procedure. All declaratory opinions and requests shall be indexed by name and subject. Declaratory opinions and requests that contain information that is confidential or exempt from disclosure under the Mississippi Public Records Act or other laws shall be exempt from this requirement and shall remain confidential.

(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §25-43-2.103 (Rev. 2006).

Effect of a Declaratory Opinion

113 The Department will not pursue any civil or criminal or administrative action against a person who is issued a declaratory opinion from the Department and who, in good faith, follows the direction of the opinion and acts in accordance therewith unless a court of competent jurisdiction holds that the opinion is manifestly wrong. Any declaratory opinion rendered by the Department shall be binding only on the Department and the person to whom the opinion is issued. No declaratory opinion will be used as precedent for any other transaction or occurrence beyond that set forth by the requesting person.

(Adopted June 21, 2005.)

Source: *Miss. Code Ann*. §25-43-2.103 (Rev. 2006).

Subpart 2-Administrative Rules
Chapter 04-Ethanol

Purpose

100 The program's purpose is to provide incentive for ethanol producers to utilize Mississippi-grown corn, biomass, or other resource commodities.

Source: *Miss. Code Ann*. §69-51-5.

Definitions and Terms

101 Wherever the following terms are used in this chapter they will have the following meanings:

1. "Entity" means a particular and distinct unit.
2. "Controlling interest" means the ownership of or right to vote shares, partnership or limited liability company interests, or other incidents of ownership, sufficient to cause the entity to act or refrain from acting in a certain manner.
3. "Producer" means the legal entity that owns the Production Facility.
4. "Production Facility" means a plant or a still located within the State of Mississippi that produces or has the capacity to produce ethyl alcohol through its own fermentation and distillation processes.
5. "Single producer" means an entity with a production facility or facilities that may not exceed payment limitations provided in this chapter.
6. "Fiscal Biennium" means the two-year period commencing with the calendar quarter in which ethanol production that qualifies for payment under this program is first achieved in Mississippi.
7. "Claim for payment" means Application for Ethanol Producers Payment provided by the Mississippi Department of Agriculture and Commerce.
8. "Independent CPA" means a Certified Public Accountant licensed to practice in the state of Mississippi, contracted by the facility submitting the claim to perform an audit to verify the claim.
9. "Application for approval of the new production capacity" means Application for Permit to Participate in State of Mississippi Ethanol Producers Payment Program provided by the Mississippi Department of Agriculture and Commerce.

Source: *Miss. Code Ann*. §69-51-1 & 69-51-5.

Authorization of Payment

102 The Commissioner has the authority, pursuant to the provisions of Sections 69-51-1 et. seq., to approve or deny for any reason any Application for Permit to Participate in State of Mississippi Ethanol Producers Payment Program submitted to the Mississippi Department of Agriculture and Commerce. An Application for Permit approved by the Commissioner shall be required before commencement of any construction on a Production Facility in order for that facility to qualify for payments under this program.

The Commissioner will request approval of appropriations from the State Legislature for amounts sufficient to make full payments to Producers of the first 180,000,000 gallons of ethanol with approved Applications for Permits to Participate in State of Mississippi Ethanol Producers Payment Program during the life of the program.

Source: *Miss. Code Ann*. §69-51-5.

103 The Commissioner requires an audit report of each claim for payment under subsections (1), (2), and (3) of *Miss. Code Ann.* §§69-51-1 *et seq.* be submitted along with the claim. This audit must be conducted by an independent certified public accountant, licensed in the state of Mississippi, to perform these services. It must be performed in accordance with generally accepted accounting procedures to verify the producer production of ethanol and eligibility for the payment in accordance with the governing state laws and rules. The CPA must verify and certify that ethanol produced from "Mississippi grown" feedstock was purchased directly from a Mississippi farm or from a source that acquired Mississippi grown feedstock equal to or greater than the amount in the claim over the period of one year (July 1 through June 30 of each year during the life of this program). Additionally, any request for payment on ethanol produced from non-Mississippi feedstock shall be accompanied by documentation of the plant's goals and procurement efforts pursued to obtain feedstock produced in Mississippi, and a detailed explanation as to why non-Mississippi grown sources were used.

Source: *Miss. Code Ann*. §69-51-5.

104 Payments under subsections (1), (2), and (3) of Section 69-51-5 shall be authorized as meeting one or more of the following criteria:

1. Feedstock is certified as produced in Mississippi.
2. Feedstock derived in Mississippi is unavailable due to drought, flood, insect damage, disease, other natural disaster, or crop failure, as determined by the Commissioner. The presence in feedstock of aflatoxin or other similar toxins in sufficient quantities to render the feed by-products unsuitable for their intended uses (including but not limited to limits specified by the US Food and Drug Administration), shall be sufficient to deem said feedstock "unavailable".
3. Feedstock derived in Mississippi is unavailable due to failure of delivery from contracted source, as documented by the facility and as determined by the Commissioner.
4. Feedstock derived in Mississippi is unattainable due to unreasonable conditions or low supply in the local cash market, as determined by the Commissioner.
5. Feedstock derived out of state is necessary for financial stability of the facility, as documented by the facility and as determined by the Commissioner.

Source: *Miss. Code Ann*. §69-51-5.

<u>Payment Distributions</u>

105 In the event that the total amount for which all producers are eligible for payment under subsections (1) and (2) of Section 69-51-5 in a quarter exceeds the amount available, the Commissioner shall make payments pro rata – in accordance with the payment limitations of subsections (4) and (6) of Section 69-51-5 and funds appropriated by the Mississippi Legislature.

Source: *Miss. Code Ann*. §69-51-5.

106 A single producer with one or more permitted production facilities may receive quarterly payments within the limitations of subsection (6) of Section 69-51-5 and appropriations by the Mississippi Legislature.

Source: *Miss. Code Ann*. §69-51-5.

107 The payments provided for in subsection 9 of Section 69-51-5 over and above the normal 7,500,000 gallon quarterly limit will be made to Producers only to the extent that qualifying production during the previous 7 calendar quarters did not reach the 7,500,000 quarterly payment maximum.

Source: *Miss. Code Ann*. §69-51-5.

Permit Amendments and Ownership Changes

108 An approved Application for Permit to Participate in State of Mississippi Ethanol Producers Payment Program may be amended by the applicant anytime after permit issuance with approval by the Mississippi Department of Agriculture and Commerce Administrative Division.

Source: *Miss. Code Ann*. §69-51-5.

109 The Commissioner has the authority to require a permitted facility(s) to resubmit an Application for Permit to Participate in State of Mississippi Ethanol Producers Payment Program after undergoing ownership changes, at the discretion of the Commissioner.

Source: *Miss. Code Ann*. §69-51-5.

110 Nothing in these regulations shall preclude an entity holding a "controlling interest" in one ethanol plant from owning less than a "controlling interest" in one or more other plants in which the "controlling interest" is owned by other qualified entity(s) for purposes of the Ethanol Producer Payment Program set forth in Section 69-51-5.

Source: *Miss. Code Ann*. §69-51-5.

Subpart 2-Administrative Rules
Chapter 05-Make Mine Mississippi Guidelines

Title and Purpose

100 The Mississippi Agricultural Promotions Program shall operate under the title/logo *Make Mine Mississippi* for the purpose of increasing consumer awareness and expanding markets for Mississippi's agricultural products.

Source: *Miss. Code Ann*. §69-45-9.

Program Administration

101 In accordance with Sections 69-45-1 et. seq., the Mississippi Department of Agriculture and Commerce Market Development Division ("the Division") shall determine and register willing and qualifying companies, organizations, groups, and individuals to become members of the program.

Source: *Miss. Code Ann*. §69-45-9.

102 In order to be qualified, companies must be an active member of the "Make Mine Mississippi" program, which requires 51% of the product to be manufactured, processed, and/or grown in Mississippi.

Source: *Miss. Code Ann*. §69-45-9.

103 Pursuant to Sections 69-45-7 et seq., funds appropriated into the "Mississippi Agricultural Promotions Fund" by the Legislature shall be utilized in a program called the Cooperative Promotions Program.

Source: *Miss. Code Ann*. §69-45-9.

104 A company meeting the Cooperative Promotions Program qualifications may receive an application packet for matching funds, as available and appropriated by the Mississippi Legislature. Matching funds will be made on a reimbursement-basis.

Source: *Miss. Code Ann*. §69-45-9.

105 Ineligible participants in the Cooperative Promotions Program are as follows: government agencies, retailers, media companies/advertisers, and service companies.

Source: *Miss. Code Ann*. §69-45-9.

106 Due to a limited supply of funds, each qualifying member company may not receive funding.

Source: *Miss. Code Ann*. §69-45-9.

107 To be considered, a company seeking matching funds must submit its application within the stated period, as specified by the Division in the application packet.

Source: *Miss. Code Ann*. §69-45-9.

108 Each application, which meets the stated time deadline, will be evaluated and weighted against other applicants with emphasis on the company's product in relation to its impact on Mississippi agriculture, as well as the company's willingness to include logo on product or packaging.

Source: *Miss. Code Ann*. §69-45-9.

109 A company selected to receive funding must send in a claim for reimbursement of eligible funds expended during the current fiscal year by a date to be determined by the Division on an annual basis. The company may be reimbursed up to the allowable amount in accordance with program guidelines.

Source: *Miss. Code Ann*. §69-45-9.

110 For a company's expenditures to be eligible for reimbursement, the company must have applied for the funds and received approval before conducting any activities.

Source: *Miss. Code Ann*. §69-45-9.

111 A selected company must match the funding amount offered by the Division and, in no instance, may the Division's participation exceed 50% of the total funds expended on the approved activity.

Source: *Miss. Code Ann*. §69-45-9.

112 Companies that are funded must display the "Make Mine Mississippi" logo on the promotional product.

Source: *Miss. Code Ann*. §69-45-9.

Subpart 2-Administrative Rules
Chapter 06 - Animal Testing

Definitions

100 Wherever the following terms are used in this chapter they will have the following meanings:

1. Dealer – is defined as a person, firm, association or corporation who breeds or purchases or otherwise acquires dogs and/or cats and seeks to sell, offers for sale, sells or transfers such dogs and/or cats for research.
2. Commissioner- is defined as the Commissioner of Agriculture and Commerce of the State of Mississippi.
3. Director – is defined as the Director of the Agricultural and Livestock Theft Bureau, Mississippi Department of Agriculture and Commerce.
4. Pound – is defined as a shelter or holding facility operated by a municipality, county or other governmental entity.
5. Sale or Transfer (or any derivative of the words "sale or transfer") – is defined as any acquisition of a dog or cat by a dealer and any movement t of such dog or cat from the dealer to another person, business, cooperative, corporation or organization whether for monetary compensation, any other compensation or for no compensation or consideration.
6. The act – is defined as Section 69-29-2 Miss. Code Ann. , as amended.

Source: *Miss. Code Ann*. §69-29-2.

License Required; Fee

101 Application for license required under terms of Section 69-29-2 Miss. Code Ann. , as amended shall be made on forms prescribed and furnished by the Director of the Agricultural and Livestock Theft Bureau, Mississippi Department of Agriculture and Commerce, and the license fee shall be paid to the Director with each application submitted to him. Licenses issued under terms of said code section shall be nontransferable, shall expire on June 30 each year and application for renewal thereof shall be made annually prior to such expiration date. The fee for said license shall be One Hundred Fifty Dollars ($150.00); provided, however, a pound operated by a city, county or other government entity shall be exempt from the payment of such license fee. License issued under term of the at may be suspended or revoked for cause and an application shall be made for a new license if there is any change in the location or ownership of the licensed dealers place of business.

Source: *Miss. Code Ann*. §69-29-2.

Records to be maintained; Penalty for Late Report

102 Information required under terms of Section 69-29-2(3)(a), (b) and (c) Miss. Code Ann. , as amended, including but not limited to the following shall be maintained by the licensee

in a manner acceptable to the Director for a period of two years from the date each dog or cat is sold or transferred for research:

1. The name, social security number or federal tax I.D. number, address and telephone number of the person, firm or corporation from whom each dog or cat was received and to whom each dog or cat was sold or transferred, including a photograph of each side of the animal;
2. A complete description of each dog or cat received, sold or transferred, including a photograph of each side of the animal;
3. An identification number shall be assigned to each dog and/or cat and such number shall be shown on all records including the reverse side of the photograph of each side of the dog or cat.
4. A report shall be filed monthly with the Director. Such report shall be postmarked not later than the tenth (10th) of the month following the month in which all dogs or cats were purchased or otherwise acquired and sold or transferred for research. The date of the postmark shall be adequate proof of late report for purposes of assessing penalties provided herein. Persons failing to file reports as provided herein shall be given notice of such delinquency by the Director. Failure by such person to file all delinquent reports within five (5) days from the date of notice or habitual failure to file reports as provided herein may result in the suspension or revocation of the license of such person for a period of time not to exceed one year at the discretion of the director; Provided, however, the Director shall afford a licensee the opportunity of a hearing prior to the one year suspension of license, to show cause why his license should not be suspended. All such records shall be available for inspection and/or photocopying by the Director or his representative during all reasonable business hours.

Source: *Miss. Code Ann*. §69-29-2.

Subpart 2-Administrative Rules
Chapter 07 - Farmers Market Nutrition Program

Criteria for Participation

100 To be eligible as a farmer participant in the Mississippi FMNP:

1. Be a bona fide farmer who grows and harvests fresh produce on property owned, rented or leased in Mississippi by the farmer; produce grown on land leased or contracted through Extension projects (or experiments) by the farmer. If necessary to supply a market, produce grown or harvested on property in a state that borders counties with authorized market sites may be permitted. (*Proof of the above by the farmer may be requested by MDAC and may include tax receipts for the previous year and/or notarized signed leases between the farmer and owner.)
2. Produce a variety of fruits and vegetables to be sold at the farmers' market on all market days during the program cycle.
3. Not be a wholesaler, unless proof can be shown that vendor also grows and harvests produce. In such a case, the vendor must submit a crop plan and sell only eligible products grown and harvested.
4. Prior to certification for this Mississippi FMNP, submit a crop plan outlining products he/she intends to sell at the market. (The farmer may revise his/her crop plan to reflect increased or decreased planting of different fruits and vegetables.)
5. Must be the person selling the produce or designate an authorized employee or family member to sell produce at market sites during the program period. The farmer certified as a participant in the FMNP shall be accountable for actions of employees or relatives who are either present at the market or performing transactions on behalf of the certified farmers.
6. Agree to abide by the Rules and Procedures for Farmers and sign the Mississippi FMNP Farmer's Participation Agreement.

Source: *Miss. Code Ann*. §69-1-13.

Policy & Procedures for Participating Farmers

101 In order to begin accepting checks at farmers' markets, participating farmers must have received, a certification card, a display poster with the Mississippi Farmers' Market Nutrition Program Participant logo (must be displayed at all times at the Market) and a certification stamp (a stamp containing the farmer's certification number to be utilized when accepting checks).

Source: *Miss. Code Ann*. §69-1-13.

102 Certified participating farmers are issued a certification number upon the completion of training and certification. This number must be stamped on the check prior to deposit at a bank or financial institution.

Source: *Miss. Code Ann*. §69-1-13.

103 Participating farmers may only accept checks for eligible food items as in the Program Guide for Farmers and as agreed to by signing the Farmer Participation Agreement. Purchases for other items not listed must be made with cash or food stamps. (To become authorized to accept food stamps, contact the USDA Food and Nutrition Service at 1-877-823-4369)

Source: *Miss. Code Ann*. §69-1-13.

104 Participating farmers may accept checks **ONLY** at authorized farmers' markets. Farmers ***CANNOT RETURN CHANGE*** for purchases made with checks.

Source: *Miss. Code Ann*. §69-1-13.

105 A certified farmer cannot supplement his/ her produce with that of a neighbor or other means unless the other person or entity registers for the program as well and authorizes their location to be inspected for verification of crop plan. Also, that farmer must authorize the certified farmer to sell their produce. (No money may exchange between farmers for produce, or farmers may not buy from other farmers.)

Source: *Miss. Code Ann*. §69-1-13.

106 Farmers must post prices of produce items when accepting WIC/Senior FMNP checks.

Source: *Miss. Code Ann*. §69-1-13.

107 Farmers must not collect sales tax on FMNP check purchases.

Source: *Miss. Code Ann*. §69-1-13.

108 Farmers shall not seek restitution from FMNP recipients for checks not paid by the FMNP/SFMNP.

Source: *Miss. Code Ann*. §69-1-13.

109 When accepting checks from WIC or senior participants, farmers **MUST** require the participant to **sign** the check. (If FMNP recipient is unable to sign his/her name, a farmer may assist).

Source: *Miss. Code Ann*. §69-1-13.

110 Farmers should not accept checks that have been mutilated or damaged.

Source: *Miss. Code Ann*. §69-1-13.

111 Farmers **may not accept checks for credit** to buy fruits and vegetables at a later market day or for the next year.

Source: *Miss. Code Ann*. §69-1-13.

112 Farmers must accept checks printed and intended for use during the **current year's** program cycle.

Source: *Miss. Code Ann*. §69-1-13.

113 Farmers must not discriminate against WIC/Senior recipients in price, quality, or service, or establish separate produce displays designated solely for WIC/Senior check recipients. Farmers must offer fresh produce to WIC/Senior recipients at no more than the price charged to other customers, and offer the same courtesies extended to other customers.

Source: *Miss. Code Ann*. §69-1-13.

114 The last day farmers may **accept and deposit** checks from WIC and senior recipients will be set by the FMNP Coordinator prior to the start of the program. Refer to the check printed for the program year.

Source: *Miss. Code Ann*. §69-1-13.

<u>Program Violations</u>

115 Actions of a farmer and/or farmers' market which constitute violations of the Rules and Procedures governing the FMNP are divided into Class I and Class II violations.

1. **Class I** violations include:
   a. Failure to display the Mississippi Farmers' Market Nutrition Program Poster.
   b. Knowingly provide false information about the program to check recipients or others.
   c. Accept checks for foods not solely grown by the farmer.
   d. Abuse of WIC/Senior recipients and preventing any FMNP representative from conducting any monitoring visits (market or farm).
2. **Class I** violations will result in a verbal warning from MDAC to the violating farmer and applicable market manager and will be documented in the MDAC's file for that farmer and market. The farmer will be invited to explain the alleged violation; that response and/or any corrective actions taken will also be recorded. The second substantiated instance of a **Class I** violation during a season will constitute a **Class II** violation.
3. **Class II** violations will include the following:
   a. Giving program participants cash change when the value of the participant's purchase is less than the value of the check(s) presented.
   b. Cashing checks for customers or cashing checks under any circumstances, including checks accepted by an unauthorized, suspended or disqualified vendor at the market.

c. Accepting checks for non-food items or for any purchase other than eligible foods.
d. Accepting checks, or indicating willingness to accept checks by posting an authorized Mississippi FMNP poster at any site that is not authorized to accept checks or at a farmers' market or related site where the farmer is not currently authorized to participate.
e. Accepting checks after the expiration date.
f. Participating in the program while selling fruits or vegetables ***solely*** grown by someone other than the participating farmer.
g. Charging higher prices for check sales than for cash sales.
h. Discriminating against a recipient on the basis of race, color, national origin, gender, religion, age, or disability.
i. Continuing to participate in the program during a period of suspension or disqualification, including acceptance or evidence of intent to accept checks.
j. The second substantiated instance of a Class I violation during a season will constitute a Class II violation.

4. **Class II** violations by a farmer/ farmers' market shall result in suspension and/or probation for the remainder of the market period from the Miss. Farmers' Market Nutrition Program.

Source: *Miss. Code Ann*. §69-1-13.

116 Suspensions may be invoked under the following circumstances:
1.The second instance of any Class I violation during the program cycle.
2.The first instance of any Class II violation during the program cycle.

Source: *Miss. Code Ann*. §69-1-13.

117 A second Class II violation within the same market season and/or the following market season will result in disqualification from the FMNP program for up to 5 years. The farmer's certification stamp and participating program poster will be collected immediately by MDAC.

Source: *Miss. Code Ann*. §69-1-13.

118 In the event a farmer in violation of the "Rules and Procedures" redeems checks, the farmer may be required to pay the state agency for the total amount of the transactions in violation. MDAC will send a letter demanding payment. If there is no response after thirty (30) days, the matter will be referred to legal staff.

Source: *Miss. Code Ann*. §69-1-13.

119 Certain violations may constitute a criminal offense, subjecting the recipient, local agency or farmer/farmers' market to prosecution under applicable state or federal laws. Following the investigation of and a finding resulting in an adverse action, MDAC will

notify the farmer or farmers' market of the adverse action to be taken. The farmer or farmers' market will have an opportunity to appeal the adverse action.

Source: *Miss. Code Ann*. §69-1-13.

Administrative Procedure

120 A recipient, local agency or farmer/farmers' market may appeal an adverse action of the Farmers' Market Nutrition Program Division of the Mississippi Department of Agriculture and Commerce (Department), including the denial of its application to participate, imposition of a sanction, or disqualification from participating in the Farmers' Market Nutrition Program (FMNP).

Source: *Miss. Code Ann*. §69-1-13.

121 The Department shall provide the recipient, local agency or farmer/farmers' market with written notification of the adverse action, the causes for the action, and the effective date of the action, including the agency's determination of whether the action shall be postponed if it is appealed. The notification of an adverse action shall be provided by certified mail, return receipt requested, at least fifteen days before the effective date of the action. An adverse action may be postponed, at the Department's option, if the Department finds that recipients would be unduly inconvenienced by the adverse action. In a case where a recipient appeals the termination of benefits, the recipient shall continue to receive FMNP benefits until a final decision is reached by the Department or the expiration of the current FMNP season, whichever occurs first. Applicants who are denied benefits may appeal the denial, but shall not receive benefits while awaiting the decision.

Source: *Miss. Code Ann*. §69-1-13.

122 The recipient, local agency or farmer/farmers' market may appeal the adverse action and request an administrative hearing within thirty (30) days from the date of the notification. The Commissioner of the Department shall appoint an impartial hearing officer, who shall conduct a hearing after giving written notice of the date, time and place of such hearing to the farmer or farmers' market not less than fourteen (14) days prior to commencing the hearing. Failure to request a hearing within the allotted time period shall constitute a waiver of the right to a hearing. Any party may participate in the hearing in person or by duly authorized representative.

Source: *Miss. Code Ann*. §69-1-13.

123 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. The Mississippi Rules of Evidence shall not apply to there proceedings, but the Hearing

Officer may use them as a guide in the proceedings. The parties will have an opportunity to confront and cross examine adverse witnesses.

Source: *Miss. Code Ann*. §69-1-13.

124 At the conclusion of the hearing, the Hearing Officer shall prepare a written recommendation. The Commissioner may adopt or reject the recommendation as the final order of the Department ore remand the matter for further proceedings. The final order shall be issued within sixty (60) days from the date of receipt of the request for a hearing by the Department. The recipient, local agency or farmer/farmers' market shall have thirty (30) days from the date of entry of the final order to pay any penalties that may be imposed. 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 costs of the transcript.

Source: *Miss. Code Ann*. §69-1-13.

125 In addition, all fair hearing procedures are pursuant to **7 CFR §248.16** of th*e WIC Farmers' Market Nutrition Program Consolidated Regulations*

Source: *Miss. Code Ann*. §69-1-13.

100 To participate in the Mississippi Department of Agriculture and Commerce Revolving Fund program, the grower must be a resident of Mississippi.

Source: *Miss. Code Ann*. §69-2-13.

101 (Repealed July 27, 2010.)

Source: *Miss. Code Ann*. §69-2-13.

102 The Mississippi Department of Agriculture and Commerce will only pay the grower for produce that he grew and not produce that he acquired from other growers.

Source: *Miss. Code Ann*. §69-2-13.

103 All sales financed by the Mississippi Department of Agriculture and Commerce will be on a Mississippi Department of Agriculture and Commerce sales invoice.

Source: *Miss. Code Ann*. §69-2-13.

104 The grower will sign a "Mississippi Department of Agriculture and Commerce Revolving Fund Contract Assignment".

Source: *Miss. Code Ann*. §69-2-13.

105 The Mississippi Department of Agriculture and Commerce will not provide quick payment for any sale that is made, unless that buyer (excluding state and federal agencies) is listed in the "Redbook Credit Services" with a good credit rating and an excellent payment record. Sales to a buyer will be made according to the standards set forth in the "Redbook Credit Services" A buyer with 3 or more stars will be limited to an outstanding balance with the Fund up to $100,000.00 and a buyer with 3 stars or less will be limited to an outstanding balance with the Fund up to $50,000.00. All decisions regarding the balance that a buyer may accumulate will be based on the buyer's financial key, or stars, trading practices and pay practices.

Source: *Miss. Code Ann*. §69-2-13.

106 The amount of unpaid invoices attributable to a grower may not exceed $150,000.00 at any given time, no matter how many buyers are involved.

Source: *Miss. Code Ann*. §69-2-13.

107 If the grower request a specific buyer to market his produce, the buyer will have to comply with all of the guidelines in paragraph 6 and the grower will have to get the buyer

to sign a "Buyer's Agreement" with the Mississippi Department of Agriculture and Commerce. The original "Buyer's Agreement will be mailed to the Mississippi Department of Agriculture and Commerce Revolving Fund office.

Source: *Miss. Code Ann*. §69-2-13.

108 All invoices to the Mississippi Department of Agriculture and Commerce submitted by the participating grower will be processed within 5 days of remittance to the Department's Revolving Fund Office in Jackson. All invoice corrections if any (acceptance, count and sale amount) should be made before faxing, mailing or delivering to the Revolving Fund office. If the invoices are not received within this time limit, then the grower will not be paid until the Revolving Fund receives payment from the buyer. (Amended July 27, 2010.)

Source: *Miss. Code Ann*. §69-2-13.

109 All buyers must pay for the commodities within 30 days after receipt and acceptance of the grower's commodities. If payment is not received within the specified time period a "Notice of Intent to Preserve P.A.C.A. Trust Benefits" will be sent to the buyer by certified mail.

Source: *Miss. Code Ann*. §69-2-13.

110 If any buyer defaults on payment of any sale made on a Mississippi Department of Agriculture and Commerce invoice, the grower will assume all responsibility for repayment of any uncollected debt to the Mississippi Department of Agriculture and Commerce Revolving Fund.

Source: *Miss. Code Ann*. §69-2-13.

111 The Mississippi Department of Agriculture and Commerce Revolving Fund will not pay any freight charges for hauling produce.

Source: *Miss. Code Ann*. §69-2-13.

112 The Mississippi Department of Agriculture and Commerce Revolving Fund will not hold out a portion on a grower's check to pay another grower.

Source: *Miss. Code Ann*. §69-2-13.

113 The Mississippi Department of Agriculture and Commerce Revolving Fund does not have the responsibility, or the authority to deduct an assessment fee from a grower's check to pay any fruit or vegetable organization.

Source: *Miss. Code Ann*. §69-2-13.

114 The National Watermelon Promotion Board has advised the Mississippi Department of Agriculture and Commerce Revolving Fund that a 4.0-cent assessment per hundredweight will be mandatory on all watermelon producers who grow 10 or more acres of watermelons per year. This assessment was enacted under the Federal Government "Watermelon Research and Promotion Act" of 1986. This mandatory assessment will be deducted from the grower's check on each watermelon load.

(Adopted May 25, 2005.)

Source: *Miss. Code Ann*. §69-2-13.

Subpart 2-Administrative Rules
Chapter 09 - Grain Dealers

Definitions

100 The following terms shall have the meaning ascribed herein unless the context shall otherwise require:

1. "Person" shall mean any person, firm, association, or corporation.
2. "Grain" shall mean all grains for which standards have been established pursuant to the United States Grain Standards Act as amended, and rice as defined by the Agriculture Marketing Act of 1946, as amended.
3. "Grain Dealer" shall mean any person engaged in the business of buying grain from producers thereof for resale or for milling or processing. A producer of grain buying grain for his own use as seed or feed shall not be considered as being engaged in the business of buying grain for resale or for milling or processing.
4. "Producer" shall mean the owner, tenant or operator of land in this state who has an interest in and receives all or any part of the proceeds from the sale of the grain produced thereon.
5. "Department" shall mean the Mississippi Department of Agriculture & Commerce.
6. "Commissioner" shall mean the Commissioner of the Mississippi Department of Agriculture & Commerce, or his designated representative.
7. "Date of Delivery of Grain to the Dealer" shall mean the date that such grain is physically delivered to the dealer for the purpose of sale to the dealer. It does not mean the date that the grain is delivered for the purpose of storage; if the grain is in storage, then the delivery date is the date the Warehouse Receipt is cancelled.
8. "Location" shall mean any site other than the principal office where the grain dealer engages in the business of purchasing grain from producers.
9. "Accountant" shall mean any person qualified in the skills of practicing Accounting.
10. "Certified Public Accountant" shall mean a Public Accountant who is licensed in the State of Mississippi.
11. "Daily Grain Transaction Report" shall mean a record of the daily transactions of a grain dealer showing the amount of all grain received, shipped, and on hand at day's end.
12. "Price Later Contract," "Basis Contract," "Deferred Price Contract," "Delayed Price Contract," "Growers Option Contract" or similar agreement means a complete written contract and it constitutes a bona fide sale and a change in ownership when either the price for the grain or the formula for determining the price has been agreed upon and the contract obligation is either paid in full or carried as an account payable.

Source: *Miss. Code Ann*. §75-45-313.

Application of Rules and Regulations

101.01 These rules and regulations apply to all persons who buy grain from producers in the State of Mississippi and are subject to change and modification as the Department may

from time to time deem advisable, and to such exceptions as may be considered just and reasonable in individual cases.

101.02 Any person buying grain in substantial amounts from producers for reasons, such as livestock feeding or seed for resale, are determined to be grain dealers and are covered by these rules and regulations.

101.03 Every grain dealer domiciled outside the State of Mississippi, who does not maintain an office or place of business in Mississippi, who buys grain from producers in Mississippi, shall be covered under the Act and these rules and regulations for that part of his business that comes from Mississippi.

Source: *Miss. Code Ann*. §75-45-313.

Application for License

102.01 All applications for a license to operate as a grain dealer shall be made on forms supplied by the Department, with all information furnished as required and the application sworn to under oath as required by the Act and these Rules and Regulations.

102.02 The application shall include all addresses of locations where the grain dealer engages in the business of buying grain and shall identify the principal location that such business is engaged in.

102.03 The grain dealer's application shall be accompanied by a chart showing the locations of all facilities to be used by the dealer, including a bin chart assigning each bin a number, and listing the measurements including length, width and depth, the capacity and the bushels per foot.

102.04 The application shall be accompanied by a current financial statement, prepared by an accountant who is not in the employment of, related to or directly associated with the grain dealer's business.

102.05 If the applicant applies for waiver of bond in excess of the $25,000 minimum, the financial statement must be certified by a certified public accountant, with an unqualified opinion thereon.

102.06 The age of all accounts receivable shall be shown on the financial statement.

102.07 On request for waiver of bond in excess of the $25,000 minimum, the financial statement shall show that the fixed assets are covered by insurance and must indicate the total dollar amount of coverage. The method of insuring the grain inventory shall be described.

102.08 An application for renewal of a license must indicate changes in locations and/or facilities from the prior year.

Source: *Miss. Code Ann*. §75-45-313.

Surety Bond

103.01 Before a license is issued to the applicant, he shall file with the Department a surety bond in accordance with Section 75-45-305 of the Act. The bond must be executed on forms supplied by the Department and made payable to the people of the State of Mississippi with the Commissioner of the Department as trustee.

103.02 The name and address of the grain dealer on the surety bond shall correspond with the name and address in the application.

103.03 Every bond must be signed by the grain dealer in the same manner as the application, and if the applicant is a corporation, the corporate seal shall be affixed thereto.

103.04 Every bond so filed shall contain a provision that it may not be cancelled by the principal or surety company, except on 60 days prior notice in writing, by certified mail to the Commissioner. A copy of such notice shall be mailed on the same day to the principal. The cancellation shall not affect the liability accrued or which may accrue under such bond before the expiration of the 60 days. The notice shall contain a proposed termination date.

103.05 If, at the end of the 60 days prior notice of cancellation, the grain dealer has not replaced the bond, he shall immediately notify all of the producers from whom he is currently buying grain and the holders of "price later contracts" that his bond has been cancelled and that he is no longer a licensed grain dealer.

103.06 The effective date of the bond shall be the date that it is issued.

103.07 All grain dealers must furnish a minimum $25,000 bond. To be eligible for waiver of any bond requirement in excess of the $25,000 minimum bond, the grain dealer's net worth and net assets over and above all other obligations must be equal to at least (3) three times the amount of the original bond requirement.

103.08 During the first year of operation, if a grain dealer has purchased an amount of grain equal to his initial estimate, he shall re-adjust the estimate and immediately furnish the Department with sufficient additional bond to cover the additional projected purchases.

Source: *Miss. Code Ann*. §75-45-305.

Fees

104.01 A filing fee of $50 shall accompany the application for a license or renewal thereof.

104.02 When applicable, a fee of $10 for each certificate that a license has been issued or renewed and a bond filed shall accompany the application. These certificates must be

posted in each location and carried in each truck or tractor-trailer unit used to pick up grain from the producers for a grain dealer.

Source: *Miss. Code Ann*. §75-45-307.

Right of Examination, and Required Records.

105.01 Each grain dealer shall permit any officer or authorized representative of the Department to enter all locations listed in accordance with subsection 102.02 of this chapter and inspect or examine all contents, facilities, equipment, records, books and accounts relating thereto. Such inspection and/or examination may be made on any business day, during usual business hours. The grain dealer shall provide the necessary assistance required for any inspection or examination made in accordance with the Act and these rules and regulations.

105.02 A consecutive page numbered permanent record of purchase receipts and shipments will be maintained and these records will be used to maintain the Daily Grain Transaction Report. This report must clearly indicate all grain which has been sold by means of a "price later contract." In cases where the grain dealer is also a licensed warehouseman, the Daily Position Report can be used in lieu of the Daily Grain Transaction Report and must be a consecutive page numbered permanent record.

105.03 A "price later contract" shall be made out in duplicate on a form approved by the Department. One copy shall be given to the producer and the other copy kept for the grain dealer's files. The statement that the grain is covered by the grain dealer's bond for only 270 days from the date of delivery shall be printed on the contract directly above the place for the producer to sign. To validate the contract, both the producer and the grain dealer shall sign this agreement. This contract must be written and contain a clear agreement between the two parties involved as to how the price will be determined.

105.04 Regardless of the type of record system used, it must be kept up-to-date. There shall not be a lag of more than 7 days in posting to this record. All records must be maintained for a period of not less than one year.

105.05 To retain his license, a grain dealer must maintain a liquid position throughout the year. There shall be no evidence of post-dated checks, checks returned by a bank due to nonsufficient funds, or that a producer has been asked not to cash a grain dealer's check until a specified date. Any evidence that indicates a non-liquid position shall be grounds for the suspension or revocation of the grain dealer's license.

105.06 The Department may require the grain dealer to report the number of bushels and kind of grain under price later contract at the end of any month. Such report shall be requested by the Department prior to the end of the month in question and shall be forwarded to the Department by not later than the 10th day of the following month.

105.07 The Department may require the grain dealer to provide a current profit and loss statement and balance sheet; the total bushels of grain and kind sold by means of price later contracts; a Daily Grain Transaction Report; a report of hedging activities; and a review of the activities of the hedging account for the past 60 days. Such information will be furnished to the Department within 10 days upon request.

105.08 Any person buying grain in the field from producers for a grain dealer must have a certificate from the grain dealer authorizing him to do so.

105.09 The grain dealer must give the producer a document indicating the weight, grade, dockage, and the price of the grain upon settlement.

105.10 The document representing grain delivered to the grain dealer shall be clearly marked "Sold" and the price indicated thereon, unless it has been sold by means of a price later contract. In such case, the document will be marked "Sold Price Later Contract" or similar wording. This document does not replace or substitute for any other requirement of the Act or these rules and regulations.

Source: *Miss. Code Ann*. §75-45-309.

Posting of Notices

106 The Department may from time to time require the grain dealer to conspicuously display certain notices or other information as the Department may deem necessary.

Source: *Miss. Code Ann*. §75-45-313.

Subpart 2-Administrative Rules
Chapter 10 - Grain Warehouses

Definitions

100 As used in these regulations, unless the context otherwise clearly requires:

1. "Act" shall mean the "Mississippi Grain Warehouse Law," Title 75, Chapter 44, Section 1-71, Miss. Code Ann. , as amended.
2. "Bin" shall mean a bin, tank, interstice, or other container in a warehouse in which bulk grain may be stored.
3. The term "Commissioner" shall mean the Commissioner of the Mississippi Department of Agriculture and Commerce, or his designated representative.
4. "Grain" shall mean all grains for which standards have been established pursuant to the United States Grain Standards Act as amended, and rice as defined by the Agriculture Marketing Act of 1946, as amended.
5. "Grain Bank Grain" shall mean grain owned by a depositor and held temporarily by the warehouseman for use in the formulation of feed to be returned to the depositor on demand.
6. "Inspector" shall mean a person authorized by the warehouseman to weigh, inspect, grade and/or certificate the weight and grade of grain stored or to be stored in a grain warehouse.
7. "License" shall mean a license issued under the Act to a warehouse or warehouseman.
8. "Person" includes individuals, corporations, partnerships and all associations of two (2) or more persons having a joint or common interest.
9. "Grain Warehouse" shall mean any building, structure or other protected enclosure in the state used for the purpose of storing grain for a consideration.
10. "Grain Warehouseman" shall mean any person who operates a grain warehouse as herein defined.
11. "Station" shall mean two (2) or more warehouses, which do not exceed eight (8) miles in distance, operated by one (1) person.
12. "Stored grain" shall mean any grain received in any public grain warehouse, located in this state, if same is not purchased and beneficially owned by the grain warehouseman.
13. "Warehouse receipt" shall mean a negotiable grain storage receipt and/or a nonnegotiable scale ticket by a grain warehouse.

Source: *Miss. Code Ann*. §75-44-5 and §75-44-7.

Application of Rules and Regulations

101 These rules and regulations apply to all persons engaged in the business of storing grain, whether or not any of the grain therein is owned by the person, as defined by the" Mississippi Grain Warehouse Law" and are subject to change and modification as the Commissioner may from time to time deem advisable and to such exceptions as may be considered just and reasonable in individual cases.

Source: *Miss. Code Ann*. §75-44-7.

Licensing Requirements

102.01 Any person engaged in, or desiring to establish a grain warehouse business shall make application to the Mississippi Department of Agriculture and Commerce on forms prescribed by the Commissioner. Each application shall be accompanied with an application fee of $150.00 and a license fee as provided for. The license fee will be returned if a license is refused.

102.02 A chart showing the location of all facilities to be licensed, including a bin chart assigning a number to each bin or compartment, will be attached to the application.

102.03 Each application for license or renewal thereof shall be accompanied by a financial statement prepared by an independent public accountant and the grain warehouseman. The accountant, in addition to preparing the financial statement, must check and certify to the accuracy of the accounts receivable and listed inventories. Such financial statement to include, but not limited to, a balance sheet and operating statement as of the close of the most recent fiscal year. A warehouse may furnish a detailed listing of insurable assets such as buildings, machinery, equipment and merchandise inventory listing the current market value of such assets and the extent that such assets are protected by insurance against loss or damage. A Certificate of Insurance on the insurable assets, providing that no cancellation shall be effective unless thirty (30) days advance notice of such cancellation is given to the Commissioner is to be furnished to comply with the net asset requirement of Section 75-44-21 of the Act.

102.04 Each application for license or renewal thereof shall be accompanied by a Certificate of Issuance of Insurance. Such insurance to at all times keep the grain stored in the grain warehouse insured for its full market value against loss by fire, inherent explosion, lightning and windstorm. All policies shall provide that no cancellation shall be effective unless thirty (30) day prior notice is given to the Commissioner.

102.05 Every grain warehouseman shall file, with his application for license, a copy of his schedule of charges for storage and other services. The schedule of charges shall be kept conspicuously posted and shall be strictly adhered to.

102.06 Before any person is granted a license, such person shall give a bond to the Commissioner executed by the grain warehouseman as principal and by corporate surety licensed to do business in this state as a surety. The bond shall be in favor of the Commissioner for the benefit of all persons interested, their legal representative, attorneys or assigns, conditioned upon the faithful compliance by the grain warehouseman. The amount of bond to be furnished for each grain warehouse is detailed in Section 75-44-31 of the Act.

102.07 Immediately upon the receipt of his license, the grain warehouseman shall keep it posted in a conspicuous place in the office of the public warehouse where receipts issued by such grain warehouseman are delivered to depositors.

Source: *Miss. Code Ann*. §§75-44-7.

Examinations

103.01 Each licensed warehouse or warehouseman shall permit any officer or authorized representative of the Mississippi Department of Agriculture and Commerce to enter and inspect or examine, on any business day, during usual business hours, the grain warehouse's business, mode of conducting the same, facilities, equipment, inventories, property, books, records, accounts, papers and minutes of proceedings held at such grain warehouse, and any other records deemed relevant to the operation of the grain warehouse. The warehouseman shall provide the necessary assistance required for any examination made in accordance with the Act.

103.02 All scales used for the weighing of property in grain warehouses shall be subject to test by a scale inspector of the Weights and Measures Division of the Mississippi Department of Agriculture and Commerce.

103.03 Every grain warehouse shall be examined at least yearly by a representative of the Commissioner of Agriculture and Commerce. Additional examinations may be made at any time, at the discretion of the Commissioner.

Source: *Miss. Code Ann*. §75-44-7.

Bonding

104.01 Each applicant for a warehouse license shall, as a condition to the granting thereof, file or have on file with the Commissioner a current and effective bond, running to the Commissioner, executed by the applicant as principal, and by a corporate surety licensed to do business in this state, as surety.

104.02 The bond shall be on the form provided by the Commissioner.

104.03 1. The bond shall be conditioned upon

a. the faithful performance of all obligations of a warehouseman under the law and these regulations from the effective date of the bond until the earlier of the time the license is revoked or the bond is canceled, and

b. such faithful performance from the effective date of the bond and thereafter, whether or not the warehouse or warehouses operated by the warehouseman exist on the effective date of the bond or are assumed subsequent to that date but prior to the earlier of the time the license of the warehouseman is revoked or the bond is canceled.

2. The determination as to whether the obligations of the warehouseman have been faithfully performed shall be made at a hearing before the commissioner or his designated representative. At that hearing, to be held in accordance with the provisions of the Act, interested parties shall be deemed to include the warehouseman, corporate surety, the holders of outstanding and uncanceled receipts and scale tickets and any other person or party claiming any rights under the bond. At such hearing, the Commissioner or his designated representative shall hear evidence and determine whether a loss has occurred. Upon a determination that a loss has occurred, the presiding officer shall determine the date of the loss, the fair market value at the place of loss or in the region immediately surrounding the place of loss, whether payments should be made by the corporate surety and, if so, to what parties and in what amounts. Recovery under the bond shall be prorated by the Commissioner or his designated representative when the claims exceed the liability of the corporate surety under the bond. The burden of establishing such proration shall be on the corporate surety as a matter of defense. The final determination as to liability under the bond and as to payment to interested parties who are claiming under the bond shall be final, binding and conclusive on all parties.

104.04 If a warehouseman elects to file a single bond for all warehouses operated by him, the entire amount of the bond shall be held on behalf of any depositor of any warehouse operated by him. Any person claiming any rights under the bond, which rights are asserted with respect to one warehouse operated by a warehouseman who operates more than one warehouse, shall be entitled to recover the entire amount of the warehouseman's bond for such claim.

104.05 The total and aggregate liability of the surety on any bond required by law shall be limited to the amount specified in the bond.

104.06 The surety bond shall be effective on the date of issue, shall not affected by the expiration of the license period and shall continue in full force and effect until cancelled. The continuous nature of the bond shall in no event be construed as allowing the liability of the surety under a bond to accumulate for each successive license period during which the bond is in force but shall be limited in the aggregate to the bond amount stated or changed by appropriate endorsement or rider.

104.07 Any corporate surety licensed to do business in this state which acts or intends to act as a surety on an undertaking required by the Act shall maintain at all times on file with the Commissioner a correct statement appointing and authorizing an individual to act as such corporate surety's attorney-in-fact and to execute on behalf of and to bind such corporate surety bonds filed under this Act. Only one such appointment and authorization shall be required for each corporate surety and that shall relate to and be effective with respect to all bonds signed by such attorney-in-fact on behalf of the corporate surety. The power-of-attorney granted such attorney-in-fact may be modified or terminated only upon ten (10) days prior notice to the Commissioner.

Source: *Miss. Code Ann*. §§75-44-7.

Insurance

105.01 Each applicant for a warehouse license shall, as a condition to the granting thereof, file or have on file a current and effective certificate of insurance evidencing a current and effective policy of insurance issued by an insurance company authorized to do business in this state insuring in the name of the applicant all commodities which are or may be in such warehouse for their full market value against loss by fire, inherent explosion, lightning and windstorm.

105.02 In the event that fire, inherent explosion, lightning or windstorm destroys or damages any commodities in a licensed warehouse, the warehouseman shall, upon demand by the depositor and upon being presented with the receipt, ticket or other evidence of ownership, make settlement, after deducting the warehouseman's charges and advances, at the market value of the commodity based on the value at the average price for the commodity of the same grade and quality on the date of the loss at the location of the warehouse. In the event such settlement is not made within sixty (60) days from the date of such demand, the depositor shall have the right to seek recovery from the insurance company.

105.03 In the event of a dispute regarding (1) the date of loss or (2) the market value of the commodity, the parties to such dispute shall submit the issue or issues in dispute to the Commissioner or his designated representative who shall resolve such dispute after a hearing, provided that such hearing shall be an informal hearing unless otherwise requested by a party to the dispute.

Source: *Miss. Code Ann*. §§75-44-7.

Cancellation of Bond/Insurance

106.01 No warehouseman may cancel an approved bond or approved insurance without the prior written approval of the Commissioner and his approval of substitute bond or insurance. The surety on a bond may cancel a bond required by the Act only after the expiration of thirty-five (35) days from the date the surety shall have been mailed to the Commissioner, by registered or certified mail, with return receipt, a notice of intent to cancel such bond. An insurance company may cancel insurance required by the Act only after the expiration of a thirty (30) day period from the mailing to the Commissioner, by registered or certified mail, with return receipt, of notice of intent to cancel such insurance. The surety and the insurance company shall, at the time of giving notice to the Commissioner, send a copy of such notice to any other governmental agency requesting it. Upon receipt of any such notice, the Commissioner shall promptly notify the affected warehouseman.

106.02 Notwithstanding any other provisions of the Act, the license of a warehouse shall automatically be suspended for failure

1. to file a new bond within the thirty-five (35) day period as provided in subsection 106.01 of this chapter, or

2. file new evidence of insurance within the thirty (30) day period as provided in the Act, or
3. maintain at all times a bond and insurance as provided in the Act.
   Such suspension shall continue as long as any such failure exists.

106.03 Not later than eighteen (18) days prior to the date upon which the bond cancellation becomes effective and not later than fifteen (15) days prior to the date upon which the insurance cancellation becomes effective, the warehouseman shall give written notice to the Commissioner that he has obtained a new bond or insurance coverage which will become effective and is to be in full force and effect on and after the date upon which his existing bond or insurance, as the case may be, is to be cancelled.

Source: *Miss. Code Ann*. §§75-44-7.

Warehouse Receipts

107.01 Except as provided in additional regulations, the issuance of receipts by grain warehouses shall be governed by Section 75-44-47 through 75-44-67 of the Act.

107.02 The Commissioner shall prescribe the form of warehouse receipts to be used and no other character or form of receipt shall be issued except those so authorized. Warehousemen shall procure receipt forms by submitting their order, in lots of fifty (50) forms, to the Commissioner accompanied by a check or money order for the cost of printing, payable to the Mississippi Department of Agriculture and Commerce.

107.03 When several warehouses are operated by one grain warehouseman, each such warehouse will be numbered. This numerical designation will be on all receipts.

107.04 Receipts from only one receipt book will be issued for commodities stored, or received for storage, in any one warehouse. When all of the receipts of any one book have been issued, a new book will be substituted for it. No receipt will be issued from a book pertaining to one warehouse for commodities stored in another warehouse.

107.05 Receipts of each grain warehouse must be issued in numerical sequence and executed in at least quadruplicate. The first (original-negotiable) to the depositor, the second (copy-non-negotiable) to the depositor, the third (copy-non-negotiable) to the Mississippi Department of Agriculture and Commerce within seven (7) calendar days from date of receipt, and the fourth (copy-non-negotiable) to be retained in the receipt book and not to be removed therefrom.

107.06 If a warehouseman or manager of a grain warehouse omits any information from a receipt, for which a blank space is provided, he shall indicate by an "X" in such space that the information was intentionally omitted. However, this requirement shall not be interpreted as encouraging or approving the omission of any requisite information.

107.07 Each grain warehouse shall file with the Commissioner the name and specimen of signature of each person authorized to sign warehouse receipts for the grain warehouse. The use of facsimile signature stamps is prohibited on receipts. Any changes or additions to such authorization shall be immediately brought to the attention of the Commissioner by the grain warehouseman.

Source: *Miss. Code Ann*. §75-44-7.

Scale Tickets

108.01 Upon the deposit in a licensed warehouse facility of any agricultural commodity, the warehouseman shall issue a scale ticket which conforms to the provisions of this regulation.

108.02 Each warehouseman shall have sequentially pre-numbered scale tickets which shall have an original and not less than one (1) copy.

108.03 Each scale ticket shall contain the following information:

1. The name and location of the licensed warehouse facility where delivered.
2. The name and other information sufficient to identify the owner of the grain.
3. The type, quantity, and grade or applicable grade factors necessary to determine the net value of the grain received.
4. The date the grain was delivered.
5. One of the following, as appropriate:
   a. If the grain is to be deposited for market, the phrase "MARKET or SALE."
   b. If the grain is to be deposited for storage, the phrase "STORAGE."
   c. If the grain is to be deposited for processing, the phrase "PROCESSING."
   d. If the grain is to be deposited for contract, the phrase "CONTRACT."

108.04 A current copy of the form of scale ticket used by the warehouseman shall be kept on file with the Commissioner.

108.05 A copy of all scale tickets shall be maintained in numerical sequence as part of the warehouseman's records.

Source: *Miss. Code Ann*. §75-44-7.

Lost Receipts

109.01 In the case of lost or destroyed warehouse receipts, a new receipt upon the same terms, subject to the same conditions, and bearing on its face the number and the date of the receipt in lieu of which it is issued and a plain and conspicuous statement that it is a duplicate receipt issued in lieu of a lost or destroyed receipt, may be issued upon compliance with this regulation.

109.02 Before issuing such new or duplicate receipt the warehouseman shall require the depositor or other person applying therefor to make and file with him:

1. an affidavit showing that the applicant is lawfully entitled to the possession of the original receipt, that he has not negotiated or assigned it, how the original receipt was lost or destroyed, and if lost, that diligent effort has been made to find the receipt without success, and
2. a bond in an amount double the market value, at the time the bond is given, of the grain represented by the lost or destroyed receipt. Such bond shall be in a form approved for that purpose by the Commissioner, shall be conditioned to indemnify the warehouseman against any loss sustained by reason of the issuance of such receipt, and shall be executed by the depositor as principal and by a corporate surety licensed to do business in this state, as surety.

109.03 Upon receipt of such affidavit and bond, the warehouseman shall send copies thereof to the Commissioner.

109.04 The original affidavit and bond shall be retained by the warehouseman not fewer than five (5) years after the duplicate receipt is cancelled.

Source: *Miss. Code Ann*. §75-44-7.

Issuing of Warehouse Receipts

110.01 Each lot of grain received in any warehouse for which there has not been a bona fide sale shall be considered as received for storage. Grain Bank grain is considered stored grain and there will be a non-negotiable warehouse receipt issued.

110.02 A warehouseman shall issue a warehouse receipt only upon actual delivery of grain into storage. The receipt must be issued from the warehouse of storage, except as otherwise provided. The warehouseman shall not issue more than one receipt for the same lot of grain, except where partial receipts are desired. The total of the aggregate receipts of a particular lot shall be no greater than the total of the original lot unless additional grain is deposited. Should the depositor desire to consolidate several receipts into one, the warehouseman may issue a new consolidated receipt, but only after the original receipts have been cancelled.

110.03 A warehouseman or his employee shall not issue, cause to be issued, or assist in issuing warehouse receipts for grain that has not been delivered to a warehouse or not under their control as otherwise provided in the statute or rules and regulations. The issuer of such a receipt and the receiver of such a receipt shall be subject to the penalty provision of the Act.

Source: *Miss. Code Ann*. §75-44-7.

Transfer and Redeposit of Grain

111.01 Licensed warehousemen may transfer and redeposit grain in another licensed warehouse or a warehouse licensed by the U. S. Government. The warehouseman redepositing grain must increase his performance bond (surety bond) to cover the redeposited grain.

111.02 If the warehouseman issues warehouse receipts to depositors for redeposited grain, the warehouseman shall stamp across the face of the warehouse receipt received for the redeposited grain "Non-negotiable" and stamp across the face of warehouse receipts issued to depositors of the redeposited grain this phrase, "Grain represented by this receipt has been redeposited."

Source: *Miss. Code Ann*. §75-44-7.

Delivery of Grain and Cancellation of Warehouse Receipt

112.01 The holder of a warehouse receipt for grain in a warehouse may request the grain to be delivered to him. The grain must be delivered in the quantity and grade as designated on the warehouse receipt. The warehouse receipt holder, upon delivery of grain, must surrender the warehouse receipt properly endorsed and pay storage, warehouseman's liens, and any other charges.

112.02 The warehouseman shall take a sample of each lot or truckload of grain so delivered and shall grade it or have it graded by a licensed grain inspector or competent person. When grain is delivered from storage or sold to the warehouseman where stored, receipts must be cancelled, date cancelled, and shall be so marked across the face of receipts.

112.03 The settlement sheet non-negotiable warehouse receipt must indicate each transaction of grain delivered in lots from a grain bank. The depositor in a Grain Bank is entitled to grain of the same quality as the grain deposited, except as necessary to keep the grain in condition as required by the Act.

112.04 The depositor of grain in a Grain Bank shall pay upon delivery the storage, drying charges, and other liens for services.

112.05 If only a portion of the commodity represented by a receipt is delivered, the original receipt must be returned to the issuing warehouseman at or before the time of such delivery and must be cancelled as provided in this regulation. At the time of cancellation, a new receipt shall be issued covering the balance or undelivered portion of the commodity, which new receipt shall state in the remarks section that it represents grain which was previously evidenced by the original receipt and giving the number thereof.

112.06 Receipts voided by the warehouseman for any reason shall be so marked, signed, and dated and all copies of the voided receipts shall be held in the same manner and for the same period as are cancelled receipts.

Source: *Miss. Code Ann*. §75-44-7.

Grain Bank

113.01 Grain Deposited for Grain Bank purposes must be accounted for in a separate record on an approved non-negotiable warehouse receipt listing each lot of grain deposited and withdrawn showing a net balance.

113.02 The warehouseman will furnish a statement to each depositor monthly or after each transaction indication the current balance. Grain Bank obligations will be determined by the total amount due depositors in bushels or pounds or both.

Source: *Miss. Code Ann*. §75-44-7.

Surrender of Warehouse Receipts

114 When a license is revoked, cancelled, or has expired, and at the direction of the Commissioner, upon the suspension of a license, all unused receipts under such license shall be immediately surrendered to the Commissioner or the designated representative. Upon the revocation, cancellation, or expiration of a warehouse license and, at the direction of the Commissioner, upon the suspension of a license, all receipts which have been issued that are still outstanding shall immediately be recalled and, upon delivery of the commodity, such receipts shall be marked cancelled, signed and dated by the warehouseman who shall notify the Commissioner that such receipts have been recalled and cancelled.

Source: *Miss. Code Ann*. §75-44-7.

Stored Grain

115.01 Every warehouseman shall maintain stored grain inventories of sufficient quantities, qualities, and grade to meet at all times his storage obligations.

115.02 Grain evidenced by outstanding and uncancelled warehouse receipts shall be maintained in the specific warehouse facility shown on the warehouse receipt issued when the grain was deposited originally. For the purposes of this regulation each separate warehouse facility must maintain such an inventory for receipts issued by it at that location; thus the operation of two or more warehouses as a station shall not allow one warehouse facility to hold warehouse-receipted grain on behalf of another facility even though they constitute a single station.

Source: *Miss. Code Ann*. §75-44-7.

Price Later contracts

116.01 “Price Later Contract,” “Basis Contract,” “Deferred Price Contract,” “Delayed Price Contract,” “Growers Option Contract” or similar agreement means a complete written contract and it constitutes a bona fide sale and a change in ownership when either the

price for the grain or the formula for determining the price has been agreed upon and the contract obligation is either paid in full or carried as an account payable.

116.02 A "price later contract" shall be made out in duplicate on a form approved by the Department. One copy shall be given to the producer and the other copy kept for the warehouseman's files. A statement that the grain is not covered by the warehouse bond shall be printed on the contract directly above the place for the producer to sign. To validate the contract, both the producer and the warehouseman shall sign this agreement. This contract must be written and contain a clear agreement between the two parties involved as to how the price will be determined.

Source: *Miss. Code Ann*. §75-44-7.

Out of Condition Grain

117.01 If any warehouseman considers that any portion of the commodities stored in his warehouse is out of condition, or is becoming so, he shall direct a grain inspector to examine the commodity in question. If the grain inspector finds such commodity to be out of condition or becoming so and he is of the opinion that by conditioning, the commodity can be brought back into condition, or that further deterioration can be prevented, such warehouseman shall immediately, in his warehouse to the extent to which it has equipment suitable for the purpose or, upon giving notice to the Commissioner in another warehouse so equipped to the extent to which his warehouse is not equipped with suitable equipment, subject the commodity to such conditioning.

117.02 Notice of out of condition grain.

1. If the warehouseman with the approval of the grain inspection, shall determine that further deterioration of any commodity cannot be prevented by reconditioning or after treating it in accordance with subsection 117 of this chapter, it is still out of condition, the warehouseman shall give immediate notice of that fact.
2. The notice shall state:
   a. The warehouse in which the commodity is stored,
   b. The quantity, kind, and grade, if determined, of the commodity at the time the notice is given.
   c. The actual condition of the commodity as nearly as can be ascertained, and the reason, if known, for such condition,
   d. Either:
      i. receipts or tickets relating to the kind of commodity out of condition, other than sacked or specially binned commodities, upon which the commodity will be delivered, giving the number and date of each such receipt or ticket and the quantity, the kind and grade of the commodity as stated on such receipts or tickets, or
      ii. the outstanding receipts or tickets relating to the kind of commodity out of condition, the identity of which was to have been preserved, giving the number and date of each such receipt or ticket and the designation of the bin, container, or location of such commodity as stated thereon, and

e. That such commodity will be delivered upon the return and cancellation of the receipts or ticket therefor.

3. A copy of the notice shall be delivered in person or shall be sent by mail
   a. to the persons holding the receipts or tickets covering the kind of commodity in question mentioned in paragraph (2) (d) of this subsection, if known to the warehouseman,
   b. to any other person, including the persons mentioned in paragraph (4) of this subsection, known by the warehouseman to be interested in the commodity, and
   c. to the Commissioner.
   d. If the holders of the receipts or tickets and the owners of that kind of commodity are known to the warehouseman cannot, in the regular course of the mails, be reached within twelve (12) hours, the warehouseman shall, whether or not requested to do so, also immediately notify such person by telegraph or telephone at their expense.
   e. Public notice shall also be given by posting a copy of such notice in a conspicuous place in the main office of the warehouse where the receipts or tickets are issued.
4. Any person interested in any commodity or the receipt or ticket covering such commodity stored in a warehouse, may notify the warehouseman operating such warehouse, in writing, of the fact and nature of his interest, and such warehouseman shall keep a record of such written notices. If such person requests, in writing, that he be notified regarding the change in condition of any such commodity and agrees to pay the cost of any telegraph or telephone toll charge, such warehouseman shall notify such person in accordance with such request.

117.03 Nothing contained in this regulation shall be construed as relieving the warehouseman from properly caring for any commodity and the warehouseman shall be liable and held accountable for his failure to do so.

117.04 If the commodity, advertised in accordance with the requirements of subsection 117.02 of this chapter has not been removed from storage by the depositor thereof or other arrangements made under the supervision of the Commissioner or his designated representative within ten (10) days from the date of notice of its being out of condition, the warehouseman in whose warehouse such commodity is stored may sell the same at public auction or as may be authorized by the Commissioner or his designated representative for the account of the depositor.

Source: *Miss. Code Ann*. §75-44-7.

<u>Duties of the Warehouseman</u>

118.01 Each grain warehouse shall employ, during all regular business hours, a grain inspector who shall be responsible for the accuracy of weights and grades noted on all warehouse receipts.

118.02 All licensed grain storage facilities shall be maintained in such a manner as to be suitable for proper and safe storage of grain. Safe and adequate means of ingress and egress to the various storage bins and compartments of the warehouse shall be provided and

maintained by the warehouseman. Storage bins and compartments having an entrance above ground on floor level shall be equipped with a fixed ladder or a safe and adequate lift. When equipped with a fixed ladder, such ladder shall have side rails and rungs; the rungs to be spaced not to exceed one foot centers. There shall be sufficient space between ladder rungs and face of the bin or compartment to permit safe foothold. Catwalks, walkways, lifts, and ladders shall be kept clean and free of grain and other foreign matter. Storage facilities failing to meet these standards will be brought to the attention of the warehouseman. It shall be his responsibility to immediately make the necessary corrections to bring his storage facility into compliance.

118.03 Each licensed warehouseman shall keep his warehouse reasonably clean at all times, free from rubbish, accumulation of dust and grain, or material that would increase fire hazards or interfere with proper handling and storage of grain.

118.04 Each warehouse shall be kept open for the purposes of receiving grain for storage and delivering out of storage every business day, except those warehouses which are open only for certain periods (example – harvest time). Every warehouseman shall post in a conspicuous place in his office and warehouse a notice stating the days of the week and the hours of each business day that he will remain open. Warehouses which are open only for certain periods shall have posted the name, address and telephone number of a responsible contact.

118.05 License; posting requirements.

1. There shall be posted in a conspicuous place in the office of each warehouse the warehouse license and schedule of storage rates. Before making any changes in the schedule of rates, the warehouseman shall submit to the Department in writing the proposed changes at least thirty (30) days in advance of such change.
2. Each licensed warehouse must have a permanent sign, not smaller than sixteen(16) inches high and thirty-six (36) inches wide, posted at or near the main entrance to the warehouse so as to be visible at such main entrance, which shall include the following in letters or type not smaller than three (3) inches high:
   a. The name under which the licensed warehouse is operated.
   b. The following: “STATE BONDED WAREHOUSE”

118.06 The operator of a warehouse shall keep all grain in his warehouse in condition by whatever means so deemed necessary to prevent the quality of such grain from deteriorating. When an operator discovers or is advised that grain in storage in his warehouse is out of condition, he shall immediately comply with the requirements of section 117 of this chapter.

118.07 The warehouseman shall immediately give written notice to the Commissioner upon the occurrence of any of the following:

1. Loss or damage to stored grain or licensed storage facilities.
2. The death or legal incapacity of an individual or any member of a partnership operating a licensed warehouse.

3. Change of ownership of a licensed warehouse, including a change in the members of a partnership, firm or association.
4. Change in shareholders or the relative amount of stock held by stockholders where the licensee is a corporation with twenty (20) or fewer share holders.
5. Change in name under which a licensed warehouse is operated.
6. Any major structural change to a bin or storage facility licensed for storage.
7. The termination of a lease on a licensed warehouse, the destruction or removal of storage facilities, or the leasing of such a facility to any other person.

Source: *Miss. Code Ann*. §75-44-7.

Change of Management or Cessation of Operation

119.01 If upon the change of management, cessation of operations, change of partners in a partnership, change of corporate structure of a corporation, or sale, the Commissioner may suspend a warehouse license. It becomes the duty of every licensed warehouse receipts to immediately notify the Commissioner as to such change; and if directed by the Commissioner, to deliver his license and all unused warehouse receipts to the office of the Commissioner together with a notarized statement accounting for all receipts, and setting forth the arrangements made with depositors for final disposition of the grain in storage and for fulfilling the obligations of the retiring warehouseman.

119.02 When there is a change of management or cessation of operations, the Commissioner, when deemed appropriate, may cause an audit and examination to be made. The cost of such audit or examination will be charged to the operator as provided for by the Law.

Source: *Miss. Code Ann*. §75-44-7.

Records and Reporting

120.01 Records of Warehouse Receipts – Every warehouseman shall maintain at his place of business a warehouse receipt register containing the duplicate copy of all issued receipts and a list thereof, each by consecutive number. Upon cancellation of a receipt, the original shall be retained in the warehouseman's files attached to its duplicate, and after cancellation neither the original nor the duplicate shall be removed from the files.

120.02 Records of Transaction –

1. The warehouseman shall maintain at each licensed warehouse facility current and complete records with respect to all agricultural commodities delivered to, withdrawn from, and received, stored, or processed by, the warehouseman for each such licensed warehouse facility. Such records shall include but not be limited to the following:
   a. A perpetual inventory showing the total quantity of each kind and class of grain received and loaded out and the quantity of each kind and class of grain remaining in the warehouse and the total storage obligations for each kind and class of grain. This record shall be kept current as of the close of each business day, provided that if no transaction takes place during a business day a record showing the

actual status as to quantity and storage obligations as of the close of the next preceding business day during which recordable transactions occurred shall be deemed to be current.

b. A rail and/or truck ledger.
c. Prenumbered warehouse receipts.
d. Prenumbered scale tickets.
e. Prenumbered grain bank contracts.
f. A current copy of the periodic insurance report submitted to the insurer.
g. If all issued warehouse receipts and scale tickets do not recite the name and complete address of the owner or owners of stored grain, a current and complete list of the name and complete address of the owner or owners of said grain.

2. On or before the tenth (10th) day of each month, the warehouseman shall send to the Commissioner copies of the following:
   a. The perpetual inventory for the last business day of the preceding month.
   b. The monthly report to the warehouseman's insurance carrier.
   c. A periodic statement on a form prescribed by the Commissioner, which may include but is not limited to a schedule of all warehouse receipts issued or cancelled by the warehouseman, prepared as of close of business at the end of that period if such is required by the Commissioner. If required, a statement must be filed for a calendar month regardless of whether or not the warehouseman has commodities in storage.

Source: *Miss. Code Ann*. §75-44-7.

120.03 Financial Records –

1. In addition to the records required by subsections 120.01 and 120.02 of this chapter, the warehouseman shall maintain such adequate financial records as will clearly reflect his current financial position and as will clearly support such financial information as is required to be submitted to the Commissioner from time to time. Such records shall be brought current not less often than once a month, and shall include a general ledger or its equivalent which provides a summarization of information reflected in detail in subsidiary records.
2. Every warehouseman shall also maintain the necessary journals to sustain the entries recorded in the general ledger, which journals may include:
   a. A general journal in which necessary periodic adjusting entries are recorded;
   b. A cash receipts journal wherein each cash collection is recorded;
   c. A cash disbursements journal which details each disbursement on behalf of the dealer;
   d. Supporting documents and other information.
3. Every warehouseman shall use and maintain:
   a. Prenumbered checks;
   b. Prenumbered grain bank contracts, if the warehouseman is operating a grain bank;
   c. Prenumbered warehouse receipts, if the warehouseman is to issue such receipts;
   d. Prenumbered scale tickets;

e. A periodic detailed aging of accounts receivable; and
f. A periodic listing of accounts payable.

4. If, upon written request of a warehouseman, the Commissioner determines that any of the records called for by these regulations are not necessary to clearly support the warehouseman's current financial condition, he may waive, in writing, the maintenance of such unnecessary records.

120.04 Each contract, instrument, document or record which is to be prenumbered shall be used in numerical order.

120.05 All books, records, and accounts of warehousemen shall be kept and held available for inspection for a period of not less than five (5) years after the close of the period for which such book or record was required.

120.06 All of the books, records and accounts required by this regulation shall be kept separate and distinct from the books, records, and accounts held and maintained by the warehouseman in connection with any other business

120.07 A warehouseman shall keep available for inspection all of his books, records and accounts required by these regulations and any other books, records and accounts relevant to his operation of warehouses as a warehouseman. An inspection may be performed by the Commissioner, his designated representative, or an auditor, and may take place at any time during the normal business hours of the warehouseman, or if prior notice of the inspection is given to the warehouseman, at such time as is prescribed in that notice.

Source: *Miss. Code Ann*. §75-44-7.

Subpart 2-Administrative Rules
Chapter 11 - Smoking Policy

Smoking Policy

100.01 Purpose**.** The purpose of this policy is to accommodate and foster a healthy, comfortable, safe and productive work environment for Department employees, guests, and invitees**.**

100.02 Scope. This policy applies to all Department employees, guests, and invitees.

100.03 Definitions.

1. Commissioner means the Commissioner of the Mississippi Department of Agriculture and Commerce.
2. Department means the Mississippi Department of Agriculture and Commerce and all facilities owned or leased by the Department, including but not limited to, the Department headquarters at 121 North Jefferson Street, Jackson, and the Robert McCarty Building on Stone Boulevard at Mississippi State.
3. Smoke or smoking means the use of a lighted cigarette, cigar, pipe, or other smoking materials, including the carrying or holding of any or the aforementioned products and the act of emitting or exhaling from any of those products.
4. Pool vehicle is a department vehicle assigned to a bureau of the department, which is available for use by department employees in accordance with department rules for department business.

100.04 Policy.

1. Smoking is prohibited in all buildings and indoor work areas utilized by the Department in the furtherance of its mission, except for the specific smoking permitted areas identified by and approved by the Commissioner.
2. Department will post signs using the words "No Smoking" or the international no-smoking symbol on all public entrances or in a position where the sign is clearly visible on entry into the Department.
3. Where the Department has areas designated as smoking-permitted areas, the statement "No Smoking Except in Designated Areas" shall be conspicuously posted on all public entrances or in a position where it is clearly visible on entry into the Department. Areas designated as smoking-permitted areas shall be so marked.
4. Employees who leave their work area during scheduled work time to smoke must ensure that the time taken does not exceed the time allowed under policy for breaks. Employees who smoke shall make every effort to keep the designated smoking areas clean and free of discarded cigarettes and cigars. Employees are prohibited from smoking within 90 feet of the front entrance of any Department building.
5. Smoking is not permitted in department pool vehicles. Smoking is not permitted in state vehicles assigned to individual employees when the vehicle is occupied by individuals in addition to the individual assigned the vehicle.

100.05 Breaches of Policy.

1. Any employee who breaches this policy may be subject to the Department's disciplinary procedure.
2. Any guests or invitees of the Department who are in breach of this policy shall be informed of the policy and asked to discontinue smoking. If a guest or invitee then continues to breach the policy, then someone designated by the Commissioner shall escort them out of the building.

(Section 100 adopted June 7, 1995. Amended June 14, 2005.)

Source: *Miss. Code Ann*. §69-1-13.

Subpart 2-Administrative Rules
Chapter 12-Certified Farmers Market Program Regulations

100 In order to be recognized by the Mississippi Department of Agriculture and Commerce ("MDAC") as a "Mississippi Certified Farmers Market" the following criteria must be met. (This does not prohibit a market from imposing more stringent requirements on its vendors.)
(Adopted May 6, 2010.)

Source: *Miss. Code Ann*. §69-7-109.

101 Definitions:

1. "Certified Farmers Market" means a place, structure or building that is used by **2 or more Mississippi growers** on a frequent basis for the direct sale of their on-farm produce and/or food products to consumers.
2. "Grower" means a person or farming operation that grows or produces agricultural products.
3. "Home processed food products" means food products made in the vendor's home and that:
   a. are processed according to applicable local and state laws; and
   b. are labeled with the vendor's name, address, telephone number, and ingredients and all other requirements of state law.
4. "Vendor" means any individual or farmer who is authorized by a certified farmers market to occupy space within the market.

(Adopted May 6, 2010.)

Source: *Miss. Code Ann*. §69-7-109.

102 Eligibility. A farmers market must meet the following criteria to be certified by the Department:

1. At least 50% of the agricultural products offered for sale must be produced by the grower or under the grower's direction within the State of Mississippi.

2. A grower or grower representative must be present during market hours when his/her products are offered for purchase.

3. Market must be operated by a grower's association; a certified, non-profit organization; or a government entity (state, county, municipal, tribal, etc.).

4. Markets can allow the sale of non-food products (arts, crafts, plants) and other products at the market's discretion.

(Adopted May 6, 2010.)

Source: *Miss. Code Ann*. §69-7-109.

103 MS sales tax rules and exemptions: MS Code Ann. § 27-65-103 (f): Agriculture Exemptions

1. Vendors selling home grown Mississippi produce (grown by the vendor) or Mississippi home processed foods (made by the vendor), from a MDAC certified market, are exempt from the collection of sales tax.

2. Home processed food vendors that are an extension of an established retail food outlet **are not exempt** from remitting sales tax. (example: restaurants, processed food products not made by the vendor)

3. Vendors selling agricultural food products that were not produced in Mississippi, landscape plants, home processed food products not made in Mississippi, and/or arts and crafts must remit sales tax to the Mississippi State Tax Commission.

(Adopted May 6, 2010.)

Source: *Miss. Code Ann*. §69-7-109.

104 Denial or revocation of certification.

1. An applicant may be denied certification if the applicant does not meet the criteria established in these rules. An applicant that is denied certification may request an administrative hearing before the commissioner or his designee. The request should be in writing and filed with the MDAC within 20 days of the date of the denial.
2. A Certified Farmers Market may have its certification revoked if it fails to meet the criteria established in these rules. MDAC may revoke a market's certification after notice and a hearing.

(Adopted May 6, 2010.)

Source: *Miss. Code Ann*. §69-7-109.

Subpart 3-Bureau of Plant Industry
Chapter 01-Plant Diseases, Insects and Weeds

Declaration Of Pests That Are Public Nuisances and/or especially injurious

100 The Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, does declare certain pests to be public nuisances and/or especially injurious. Accordingly, the Bureau establishes two categories or lists for pests of regulatory concern in sections 101 and 102 below.

(Adopted April 3, 1991; amended June 26, 2008.)

Source: *Miss. Code Ann*. §69-25-1.

Regulated Pests of Non-Quarantine Significance (List A)

101 Regulated Pests of non-quarantine significance (List A): Includes pests of such destructive significance that they shall be controlled to meet general certification of nursery stock and/or other commodities for sale or shipment from wholesale and retail establishments. Plants and other commodities found infested/infected with pests in LIST A shall, at the discretion of the inspector, be declared unfit for sale and subject to immediate stop-sale and/or non-certification until treatment and pest control is achieved or the infested material destroyed to the satisfaction of the state entomologist. Plant material being transported into Mississippi from other states found infested/infected with pests in LIST A may be placed under stop-sale, the shipper notified of such, and arrangements made for the material to be treated and returned to the shipper. No additional quarantine measures shall be in effect unless the pest is officially placed on List B. Nursery stock and other commodities in order to meet general certification standards must be apparently free of the following pests:

1. Insects/Arthropods and some plants they will attack:
   a. Asian cycad scale, *Aulacapsis yasumatui*;
   b. Black parlatoria scale, *Parlatoria zizyphus (Lucus)*;
   c. Brown marmorated stink bug, *Halyomorpha halys (Stal)* – Fruit trees (apples, pears, peaches, figs, mulberries, citrus, persimmon), shade trees, ornamentals and soybeans);
   d. Brown soft scale, *Coccus hesperidum (Linnaeus)*
   e. Cereal leaf beetle, *Oulema melanopus (Linnaeus)*- grasses, corn and small grains;
   f. Chaff scale, *Parlatoria pergandii* Comstock – citrus, P.camelliae on camellia;
   g. Chilli thrips, *Scirtotohrips dorsalis* (Hood) – various vegetables, fruits and ornamentals;
   h. Chrysanthemum gall midge, *Rhopalomya chrysanthemi* (Ahlberg) – Chrysanthemum;
   i. Citrus blackfly – *aleurocanthus woglumi* Ashby – avocado, citrus, coffee, guava, mango, and other plants;

j. Citrus mealybug, *Plannococcus citri* (Risso) – begonia, bottle bush, citrus, coleus, cotton, English ivy, ferns, fuchia, oleander, peony, poinsettia, pumpkin, Wandering Jew, and other plants;
k. Citrus red mite, *Panonychus citri* (McGregor) – citrus;
l. Citrus root weevils, *Pachnaeus litus* (Germar), *Pachnaeus opalus* (Olivier), *Pachnaeus azurescens* (Gyllenhal) – citrus;
m. Citrus scale of various species, citrus and other shade trees and ornamental plants;
n. Citrus white fly, *Dialeurodes citri* (Ashmead) – blackberry, ivy, button bush, cape jasmine, cherry laurel, Chinaberry, citrus, honeysuckle, japonica, oleander, Osage orange, pomegranate, smilax, scrub palmetto, trumpet flower, water oak, and other plants;
o. Cloudy-winged whitefly, Dialerurodes, citrifolii (Morgan) – citrus, Indian laurel;
p. Cottony-cushion scale, *Icerya purchase* (Maskell) – acadias, apple, apricot, careless weed, castor bean, citrus, coleus, fig, goldenrod, grapes, locust, magnolia, mulberry, myrtle, nettle, nightshade, oak, peach, pecan, pepper, pine, pomegranate, potato, quince, geranium;
q. Cuban laurel thrips, *Gynaikorthrips ficorum* (Marchal) – *Ficus retusa* L, F. *microcarpa*, viburnum citrus, F. *axillaris*, F. *aurea*, F. *benjamina*, F. *elastica*, F. *retusa*, *Codiaeum variegatum*, *Melicocca bijuga*, N*icotiana tabacum*, *Viburnum suspensum*, *Eucalyptus*, *Gliricidia*, *Calocarpum* spp. and orchids;
r. Dictyospermum scale, *Chrysomphalus distyospermi* (Morgan) – arborvitae, camphor, cape jasmine, citrus, rose, and other plants;
s. Dogwood borer, *Thamnosphecia scitula* (Harris) – chestnut, dogwood, hickory, oak, and pecan;
t. European corn borer, *Ostrinia nubilalis* (Huber) – favorite food plant is corn, but also feeds on any succulent plant;
u. Florida red scale, *Chrysomphalus aonidum* (Linnaeus) – banana, begonia, camphor, citrus, japonica, oleander, palm, rose, rubber plant, and other plants;
v. Florida wax scale, *Ceroplastes floridensis* (Comstock) – citrus, euonymus, myrtle, oleander, pomegranate, quince, and other plants;
w. Glover scale, *Lepidosaphes gloverii* (Packsard) – citrus, magnolia, fuscata, and other plants;
x. Green shield scale, *Pulvinaria psiddii* (Maskell) – citrus, fig, loquat, and other plants;
y. *Gynaikothrips uzelli* – pest on Ficus;
z. Hemispherical scale, *Saisetia coffaea* (Walker) – camellia, ferns, jasmine, oleander, orange, sago palm and other plants;
aa. Obscure scale, *Melanaspis obscura* (Comstock) – Oak and pecan;
bb. Oriental fruit moth, *Grapholitha molesta* (Busck) – apple, cherry, peach, pear, plum, and quince;
cc. Peach tree borer, *Samninoidea exitosa* (Say) – peach and plum;
dd. Pear thrips, *Taeniothrips inconsequens* (Uzel) – Pear;
ee. Pecan bud moth, *Gretchena bolliana* (Slingerland) – hickory and pecan;

ff. Pecan leaf casebearer, *Acrobasis juglandis* (LeBaron) – Hickory, pecan, walnut and wild crab;

gg. Pecan nut casebearer, *Acrobasis caryae* Grote – Pecan;

hh. Plumeria Whitefly, *Paraleyrodes perseae* (Quintance);

ii. Purple scale, *Lepidosaphes beckii* (Newman) – Citrus, eleagnus, fig, oak, olive, and other plants.

jj. Putnam scale, *Aspidiotus ancylus* (Putnam) – Apple, ash, beech, cherry, currant, hackberry, linden, maple, oak, Osage orange, peach, pear, pecan, plum, quince, snowball, and willow.

kk. Pyriform scale, *Protopulvinaria pyriformis* (Cockerell) – Cape jasmine, English ivy, and other plants.

ll. Red-banded thrips, *Selenothrips rubrocinctus* (Giard) – Avocado, guava, and mango.

mm. San Jose scale, *Aspidiotus perniciosus* (Comstock) – Acacia, alder American linden, apple, apricot, ash, black walnut, citrus trifolioata, crab apple, dogwood, elm, English willow, euonymus, gooseberry, huckleberry, Japan walnut, laurel, lemon, lime, Lombardy poplar maple, orange, Osage orange, peach, pear, pecan, persimmon, poplar, plum, quince, raspberry, rose, snowball, spirea, spruce, strawberry, sumac, willow, and other plants.

nn. Six-spotted mite, *Eotetranychus sexmaculatus* (Riley) – Citrus.

oo. South American rice leaf miner, *Hydrellia wirthi* Korytkowski – Rice.

pp. Strawberry crown borer, *Tyloderma fragariae* (Riley) – Citrus.

qq. Strawberry root aphid, *Aphis forbesi* Weed.

rr. Strawberry root weevil, *Brachyrhinus ovatus* (Linnaeus) – Strawberry.

ss. Striped citrus root weevil, *Exophthalmus vittatus* (Linnaeus) – Citrus.

tt. Sugarcane borer, *Diatraea saccharalis* (Fabricius) – Sugar cane, corn, sorghum, and grasses.

uu. Sugarcane mealybug, *Pseudococcus boninsis* – Sugar cane.

vv. Sugarcane rootstalk weevil/Diaprepes root weevil, *Diaprepes abbreviatus* – Sugar cane.

ww. Sweetpotato whitefly, Q biotype, *Bermisia tabaci* (Gennadius) – Various ornamentals, vegetables and agronomic crops.

xx. Walnut scale, *Aspidiotus juglansregiae* (Comstock) – Apple, apricot, cherry, Japan plum, locust, maple, peach, pear, pecan, and walnut.

yy. White-fringed beetles, species of the genus *Graphognathus* – Irish potatoes, peanuts, cotton, tomatoes, velvet beans, snap beans, lima beans, turnips, and many other plants.

zz. Whitefly, *Paraleurodes perseae* (Quaintance) – Citrus and avocado.

2. Diseases and some plants they are likely to infect:

   a. Bacterial citrus Variegated Chlorosis, *Xylella* – Citrus.

   b. Bacteria gumming disease, *Xanthomonas campestris pv. Vasculonum* – Sugarcane;

   c. Begomo viruses – Various

   d. Blueberry shock ilarvir*u* – blueberries;

   e. Burrowing Nematode*, Radopholus similis* (Cobb) *Thorne* – citrus, Ornamental Foliage Plants;

   f. Corn cyst nematode, *Heterodera Zeae* – Corn;

   g. Crown Gall, *Agrobacterium tumefaciens* (Smith and Townsend) – roses and many other hosts;

   h. *Cucurbit yellow stunting disorder crinivirus* – cucurbits;

   i. Downy Mildew, Various *Peronospora spp*., *Bremia spp.*, *Plasmopara spp*., and *Basidiophora spp*. attacking various woody ornamentals;

   j. Fire Blight, *Erwinia amlovora* (Burill) – apple and pear;

   k. Gladiolus rust, *Uromyces gladioli, Uromyces nyikensis, Uromyces transversalis, Puccinia gladioli* – Gladiola;

   l. High Plains virus (sometimes complexed with wheat streak mosaic virus) – Cereals;

   m. Late Blight, *Phytophthora infestans* (Montagne) – tomato and Irish potato;

   n. Lettuce infectious yellows Crinivirus – lettuce and cucurbits;

   o. Maize stripe – corn, wheat, barley and sorghum;

   p. Oak disease, *Phytophthora Quercina sp nov* –oak;

   q. Oak Wilt, *Ceratocystis fagacearum* (Bretz) – Quercus spp;

   r. Pepino mosaic virus – tomato (esp greenhouse), cucumber and Irish potato;

   s. Pine twist rust, *Melampsora pinitorqua* – pine;

   t. Phony peach disease, *Nanus mirabilis* (Holmes) – peach nectarines and other stone fruits;

   u. Root-knot nematode, *Meloidogyne spp*. – many plants;

   v. Scleroderis canker, *Gremmeniella Abietina* – pine, others;

   w. Sweet Potato Russel Crack Virus, Sweet Potato Feathery Mottle Virus – sweet potato;

   x. Tomato Spotted wilt Virus – bedding plants, tomato, peanuts, many others;

   y. Watermelon Fruit Blotch, *Acidovorax avenge subsp. Citrulli* (*Schaed et al.*) – watermelon;

z. Wilt ant root disease, *Leptographium truncatum* – pine.

3. Emergency actions, regulatory stop/sale removal orders may be instituted at the discretion of the state entomologist upon the discovery of other especially injurious pests to prevent their spread until such time they may be officially listed.

(Amended April 3, 1991, amended January 22, 2002; amended June 26, 2008.)

Source: *Miss. Code Ann*. §69-25-7.

Regulated Pests of Quarantine Significance (List B)

102 Regulated pests of quarantine significance (List B): include pests requiring more restrictive actions to meet special requirements in order to prevent the introduction and spread of such pests into, out-of and within Mississippi. Such requirements may include quarantines, surveys, special restrictions on regulated articles, or other emergency actions for which special rules or quarantines may be officially adopted under the Mississippi Plant Act ("Act"). List B includes exotic species not yet detected in Mississippi posing an economic threat to the environment as well as horticultural and agricultural crops in Mississippi and includes additional pests on USDA/APHIS/PPQ's "Regulated Plant Pest List," as determined by the state entomologist to meet the purpose of the Act and the following:

1. Insects/Arthropods and the plants they are likely to infest:

a. Africanized Honeybee, *Apis mellifera scutellata* Lepeletier. (See Mississippi Bee Disease Act, Sections 69-25-101 through Section 69-25-109 and Regulations- Subpart 3 - Bureau of Plant Industry , Chapter 06;

b. Argentine Ant, *Iridomyrmex humilis* (Mayr) (See Regulations - Subpart 3, Bureau of Plant Industry, Chapter 01, Section 129);

c. Asian Longhorned wood borer, *Anoplophora glabripennis* (Motschulsky);

d. Blueberry maggot, *Rhagoletis mendax* Curran – Blueberry;

e. Boll Weevil, *Anothonomus grandis* (Boheman) – Cotton (See Mississippi Boll Weevil Management Act, Sections 69-37-39 and Regulations- Subpart 03 - Bureau of Plant Industry, Chapter 13, Sections 100-114;

f. Brown-tail-moth, *Nygmia phaeorrhoea* (Donovan) – Apple, apricot, ash, beech, cherry, elm, grape, maple, oak, peach, pear, plum, quince, rose and many other trees and plants;

g. Cactus Moth, *Cactoblastis cactorum* (Berg) – Species of cacti;

h. Cotton square weevil (Peruvian), *Anthonomus vestitus* Boheman – Cotton;

i. Emerald ash borer, *Agrilus planipennis* (Fairmaire) – All species of ash trees;

j. European wood wasp, *Sirex noctilio* (Fabricus) – *Pinus* spp;

k. Formosan termite, *Coptotermes formasanus* (Shiraki) (See Regulations - Subpart 3, Bureau of Plant Industry, Chapter 01, Section 134);

l. Gypsy Moth, *Lymantria dispar* (Linnaeus) – Apple, beech, cherry, elm, gum, hickory, maple, oak, pine, pear, willow, and many other trees and plants;

m. Imported fire ant, *Solenopsis saevissima v. richteri* (Forel), Black Imported Fire ant, *Solenopsis richteri* (Forel) – Meadows, pastures, potatoes, okra, and other plants. (See Regulations - Subpart 3, Bureau of Plant Industry, Chapter 01, Section 131);

n. Japanese beetle, *Popillia japonica* (Newman) – Feeds on a large number of fruit, shade and timber trees, small fruit, and ornamental plants, truck and field crops and weeds;

o. Light Brown Apple Moth, *Epiphyas postvittana* (Walker) LBAM has been recorded from over 200 plants in 120 plant genera in 50 families. Some notable trees are apple, pear, peach, apricot, nectarine, citrus, persimmon, cherry, almond, avocado, oak, willow, walnut, poplar, cottonwood, coast redwood, pine, and eucalyptus. Some common shrub and herbaceous hosts are grape, kiwifruit, strawberry, berries (blackberry, blueberry, boysenberry, raspberry), corn, pepper, tomato, pumpkin, beans, cabbage, carrot, alfalfa, rose, camellia, jasmine, chrysanthemum, clover, and plantain;

p. Mediterranean fruit fly, *Ceratitis capitata* (Wiedemann) – Apple, apricot, bean, citrus, eggplant, fig, grape, Japanese persimmon, peach, red peppers, tomato and other plants;

q. Mexican fruit fly, *Anastrepha ludens* (Loew) – Guava, mango, orange, peach, plum, sapodilla, and sweet lime;

r. Pine shoot beetle, *Tomicus piniperda* (Linnaeus) – *Pinus* sp.;

s. Pink bollworm, *Pectinophora gossypiella* (Saunders) – Cotton;

t. Pink hibiscus mealybug, *Maconellicoccus hirsutus* (Green) – Citrus, vegetables, beans, cabbage, cucumber, pumpkin, tomato, various ornamental plants, avocado, fig, mango, sugarcane, peanuts, forest trees;

u. Rice Mite/Rice Panicle Mite, *Steneotarsonemus spinki* (Smiley) – Rice, *Oryza sativa* L., wild rice, *Oryza latifolia* (Desy), Weed: *Schoenoplectus articulatus,* family Cyperaceae;

v. Swede midge/cabbage midge, *Contarinia nasturti* (Keiffer) – Various species of brassica;

w. Sweetpotato weevil, *Cylas formicarium elegantulus* (Summers) – Sweet potato, morning glory and bindweed (See Regulations - Subpart 3, Bureau of Plant Industry, Chapter 01, Section 125);

x. Viburnum leaf beetle, *Pyrrhalta viburni* (Paykull) – Viburnums;

y. West Indian sweet potato weevil, *Euscepes postfasciatus* (Fairmaire) – Sweet Potato;

z. Wooly hemlock adelgid, *Adelges tsugae* – hemlock *spp.;*

2. Diseases and the plants they are likely to infect:

a. Black rot, *Ceratocystis fimbriata* (Ellis and Halsted) – Sweet Potato;

b. Chyrsanthemum white rust, *Puccinia horiana* (P. Henn) – Chrysanthemum spp.;

c. Citrus canker, *Xanthhomonas citri* (Hasse) – Grapefruit, kumquat, lemon, lime, sweet orange, trifoliate orange, and other citrus plants;

d. Citrus greening or Huanglongbing or Yellow Dragon Disease, *Candidatus liberobacter, africanus, asiaticus, American strains* – Citrus;

e. Foolish Seedling Disease of rice/Bakanae disease, *Gibberella fujikuroi* Sawada var. *fujikuroi* – Rice;

f. Golden nematode, *Heterodera rostochiensis* (Wollenweber) – Irish potato, tomato, pepper, eggplant, carrots, and other vegetables;

g. Karnal Bunt, *Tilletia indica* – Wheat;

h. Lethal yellowing disease of palms, (See Regulations - Subpart 3, Bureau of Plant Industry, Chapter 01, Section 130);

i. Ozonium root rot or Texas root rot, *phymatotrichum omnivorum* (Shear) – Cotton;

j. Peach mosaic, *Marmor persicae* (Holmes) – Peach;

k. Pecan bunch disease, (See Regulations - Subpart 3, Bureau of Plant Industry, Chapter 01, Section 128);

l. Philippine Downy Mildew, *Peronosclerospora philippinesis* (W. *Weston*) – Corn;

m. Phony peach disease, (See Regulations - Subpart 3, Bureau of Plant Industry, Chapter 01, Section 127);

n. *Plum Pox Potyvirus* – Stone fruits;

o. Potato cyst nematode, *Globodera pallida*, the white or pale PCN, and *Globodera rostochiensis*, the yellow or golden PCN – Irish potato;

p. Potato wart, *Synchytrium endobiotricum* (Schilbercky) – Irish potatoes;

q. *Ralstonia solanacearum* race 3 biovar 2 – Solanaceous vegetables (egg plant and tomato) and certain ornamentals. Causes brown rot of potato, bacterial wilt of tomato and egg plant, southern wilt of geranium;

r. Red Palm Mite, *Raoiella indica* – Various species of palm;

s. Rice Bacterial leaf blight, *Xanthomonas oryzae pv. Oryzae* – Rice;

t. Scurf, *Monilochaetes infuscans* (Elliott and Halston) – Sweet Potato;

u. Southern wilt, Bacterial wilt, Brown Rot of potato, *Ralstonia solanacearum race 3 biovar 2* – Solanaceous crops, and Petunia, geranium and other ornamentals;

v. Sudden oak death or ramorum dieback, *Phytophthora ramorum*, various oaks (live oak, pin & red oak), rhododendron, azalea, Douglas fir, bay laurel,

buckeye, maple, viburnum, and Japanese magnolia (See Federal order, federal host lists and regulations);

w. Sweet Potato Soil Rot, *Streptomyces ipomoea* (Person and Martin) – Sweet Potato;

x. Sweet Potato Stem Rot, *Fusarium oxysporum f. batatas* (Wollenweber) – Sweet Potato;

y. *Tomato Yellow Leaf Curl Virus Geminivirus* – Tomato and ornamental, vegetable;

z. Wheat stem rust (especially) Ug99, *Puccinia graminis* (especially) Ug99 – Wheat;

aa. X disease of peach, *Carpophthora lacerano* (Holmes) – peach;

3. Mollusks and some plants they are likely to infest:

a. Applesnails, Family Ampullaridae – Nursery stock, rice and other plants, (See Regulations - Subpart 3, Bureau of Plant Industry, Chapter 01, Section 133);

b. Brown Garden Snail, *Helix aspersa* (Muller) – Nursery stock and vegetables, (See Regulations - Subpart 3, Bureau of Plant Industry, Chapter 01, Section 132);

c. Giant African Snails, *Achatina fulica*- Various ornamental plants and agronomic crops;

d. Snails of Genus, *Zachrysia* not known to occur in Mississippi;

4. Other pests as determined by the State Entomologist to be especially destructive for which emergency regulatory/quarantine actions are necessary to protect the agricultural and horticultural interests of the state.

(Amended June 26, 2008, September 11, 2008.)

Source: *Miss. Code Ann*. §69-25-7.

Terms

103 The Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, under provisions of *Miss. Code Ann*. §§69-25-1 to 69-25-47, and more especially *Miss. Code Ann*. §69-25-1 and §69-25-7, does declare the following words or terms to have the following meaning as used in this chapter:

1. Balled and burlapped stock – means that nursery stock which has been removed from the growing site with a ball of soil, containing the root system left intact and encased in burlap or other similar material to hold the soil in place.
2. Bare-root stock – means that nursery stock which has been removed from the growing site with the root system free of soil.
3. Collector of native plants – means any person collecting native wild plants or plants not nursery grown for the purpose of resale.

4. Container stock – means that nursery stock which has been placed in a metal, clay, plastic or other rigid container, in soil or other potting mixture capable of sustaining normal plant growth remaining intact when removed from said container.
5. Nursery – means any grounds or premises on or in which nursery stock is propagated, grown, or procured for resale and held for sale throughout the year.
6. Nursery agent or salesman – means any person who solicits, takes orders, or sells nursery stock in this state for a nurseryman, nursery dealer or grower of nursery stock, but not on the premises or place of business.
7. Nursery dealer – means any person, firm partnership, association, corporation, or company other than a nurseryman who buys or collects nursery stock for the purpose of reselling or reshipping or otherwise dealing in nursery stock on a seasonal basis (usually three of four months each season), independently of the control of any nurseryman or nursery – e.g., chain stores, department stores, grocery stores, etc.
8. Nurseryman – means any person, firm, partnership, association, corporation, or company, owning, leasing, managing or in charge of a nursery.
9. Nursery stock – means all plants commonly known as nursery stock, whether field grown, greenhouse grown, or collected native plants, consisting of palms and woody perennial, trees, shrubs, seedlings, vines, roses, strawberry, blackberry and other brambles, budwood, cuttings, grafts, scions, bulbs, corms, rhizomes, or roots thereof; also other such plants and plant products grown or collected or kept for propagation, sale or distribution; excepting field, vegetable and flower seeds, cut flowers, cut ferns, cut foliage and other plant material not intended for propagation and when apparently free from injurious insect pests and plant diseases.
10. Nursery stock peddler – means any person, firm, partnership, association, corporation or company, who by means of a car, truck, wagon, or other vehicle, or other means of transportation, transports nursery stock from place to place offering it for sale.
11. Packaged stock – means bare-root nursery stock either in bundles or as single plant with the roots in peat, wood shavings, or other moisture retaining material, not toxic to the plants, encased in plastic film or other material designed to retard evaporation and hold the moisture-retaining material in place.
12. Place of business – means each separate nursery, store, stand, sales ground, lot, or any location or vehicle from which nursery stock is being sold, offered for sale, or distributed.

(Amended March 1, 2004.)

Source: *Miss. Code Ann*. §69-25-7.

Advance Written Requests Required For Nursery Inspection

104 Under the provisions of *Miss. Code Ann.* §§ 69-25-1 to 69-25-47 and more especially *Miss. Code Ann.* §69-25-7 and §69-25-19, persons or firms desiring certification of nursery stock shall file a request for inspection with the State Entomologist at Mississippi State, at least sixty days in advance of the date upon which they desire to move or sell such nursery stock. Persons or firms requesting certification on shorter notice may be charged with the fee covering the expenses of inspection and certification as provided for in *Miss. Code Ann.* §69-25-19.

(Amended July 1, 1971.)

Source: *Miss. Code Ann*. §69-25-7 and §69-25-19.

Providing For The Inspection Of Orchards, Nurseries, Etc.

105 Inspectors employed by the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, under provisions of *Miss. Code Ann*. §69-25-7, §69-25-9, §69-25-25, §69-25-35, shall examine trees, plants, and plant products in nurseries, orchards and other places within the State of Mississippi, in order to determine whether such trees, plants and plant products are infested or infected with any insect pest or disease declared to be or listed by the Bureau of Plant Industry as being either a public nuisance or an especially injurious insect pest or disease, and shall report their findings to the State Entomologist of the Bureau of Plant Industry.

(Amended April 3, 1991.)

Source: *Miss. Code Ann*. §69-25-7, §69-25-19, §69-25-25 & §69-25-35.

Conditions For Issuing Nursery Certificate Tags

106 Under provisions of *Miss. Code Ann*. §§69-25-7, 69-25-9, 69-25-17, 69-25-19, and 69-25-25, no certificate shall be issued for the movement of any nursery stock until such stock shall have been inspected by an agent of the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, and found to be apparently free from especially injurious insect pests or diseases. Should any especially injurious insect pest or disease be found, either on the nursery stock or on the premises, no certificate shall be issued until such insect or disease has been suppressed to the satisfaction of the inspector. No certificate shall be issued when the nursery stock is exposed to infestation or infection from any especially injurious insect pest or disease that occurs within one-fourth mile from where any part of said nursery stock is located; provided, however, that the nurseryman may remove such stock under the direction of the inspector, and under such precautions as he may specify, and provided, further, that nothing in this rule shall be construed as preventing the enforcement of quarantines to be greater distance than one-fourth mile in the case of properties declared by the Bureau of Plant Industry to be infested with any insect pests, or diseases declared to be a public nuisance.

(Amended April 3, 1991.)

Source: *Miss. Code Ann*. §§69-25-7, §69-25-9, §69-25-17, §69-25-19 & §69-25-25.

Use Of Nursery Certificate Tags

107 Under the provisions of *Miss. Code Ann*. §§69-25-1 to 69-25-47, and more especially *Miss. Code Ann*. §§69-25-7, 69-25-17, 69-25-19, & 69-25-21, the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, does declare the movement of all trees and plants commonly known as nursery stock, as defined in Regulations - Subpart 3, Bureau of Plant Industry, Chapter 01, Section 102 (9), consisting

of collected native plants, palms and woody perennials (including budwood and scions), strawberry plants, which do not have attached thereto a proper certificate tag, issued by the Bureau of Plant Industry, and which have not been prepared for movement in accordance with the Rules and Regulations of the Bureau, to be prohibited; except on stock which is sold or distributed directly to the customer for planting on his own property within the state. A nursery tag must be issued for all nursery stock which is to be resold.

(Amended April 3, 1991.)

Source: *Miss. Code Ann*. §§69-25-7.

Conditions Under Which Certificates May Be Revoked

108 Any certificate may be revoked and all certificate tags recalled, at any time, for any violation of the provisions of *Miss. Code Ann.* §§69-25-1 to 69-25-47, and more especially *Miss. Code Ann.* §69-25-19, of the Rules and Regulations of the Bureau of Plant Industry, Mississippi Department of Agriculture of the requirements of the Director and/or State Entomologist.

(Amended April 3, 1991.)

Source: *Miss. Code Ann*. §§69-25-7.

Form For Nursery Certificate Tags

109.01 The Director and/or State Entomologist, Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, shall be required to have prepared and shall arrange that any person entitled thereto may obtain, under such conditions as the State Entomologist may name, certificates in proper form, to be affixed to any nursery stock, the movement of which is permissible under the provisions of *Miss. Code Ann*. §§69-25-1 to 69-25-47, and more especially *Miss. Code Ann*. §69-25-17 and §69-25-19.

109.02 The State Entomologist shall be further required to keep in his office exact records covering the issuance of all such certificates, and the persons by whom such certificates have been obtained shall be required to provide the State Entomologist at any time and in such manner as he may designate, with the information necessary for the keeping of such records.

109.03 The State Entomologist shall have the authority to call for the return of any unused certificates at his discretion.

109.04 The cost of printing such certificates shall be paid by the persons requesting same.

109.05 The forms of certificates to be issued to cover the movement of nursery stock from the grower shall be as follows:

MISSISSIPPI DEPARTMENT OF AGRICULTURE AND COMMERCE
BUREAU OF PLANT INDUSTRY
MISSISSIPPI STATE, MISSISSIPPI 39762

NURSERY CERTIFICATE

The undersigned hereby certifies that the _____nursery stock in the nurseries of _____located at _____, Mississippi, has been thoroughly inspected. The stock, premises, and adjacent properties have been found to be apparently free from especially injurious pests and diseases.

The use of this certificate tag upon nursery stock, which has not been inspected by a duly authorized nursery inspector of the Bureau of Plant Industry, is a violation of the law and will be prosecuted.

_____
State Entomologist
(Section 108 amended July 1, 1997.)

Source: *Miss. Code Ann*. §69-25-7.

Requiring Nurserymen To Furnish Lists of Consignees, Contents of Shipments, Etc.

110 Under provisions of *Miss. Code Ann.* §§69-25-7, 69-25-9, 69-25-15, 69-25-17, 69-25-19 and 69-25-35, the owners, officers and employees of any nursery which may be found at any time to be infested or infected with an especially injurious insect pest or disease, or which has heretofore been so infested or infected, shall, on demand of the State Entomologist of the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, furnish a list of all shipments and sales of nursery stock from said nursery from any date set by the State Entomologist up to and including the date of such demand. Said list shall show the names and addresses of all purchasers, the names and addresses of all consignees and a complete description of the stock included in each and every shipment.
(Amended July 1, 1997.)

Source: *Miss. Code Ann*. §69-25-7.

Issuance Of Nursery Agent's Or Salesman's Certificates

111 Under the provisions of *Miss. Code Ann*. §§69-25-1 to 69-25-47 and more especially *Miss. Code Ann*. §69-25-7 and §69-25-19, agents or salesmen representing nursery firms shall register with and obtain an agent's or salesman's certificate from the State Entomologist, Mississippi State, Mississippi, before selling, delivering, or taking orders for nursery stock in Mississippi. Applications by agents or salesmen for registration and a certificate shall be submitted to the State Entomologist, Mississippi State, Mississippi, on form letters furnished by the Bureau of Plant Industry. Two photographs of the applicant, which meet

with the approval of the State Entomologist, shall be submitted with each application for certificate.

(Amended July 1, 1997.)

Source: *Miss. Code Ann*. §69-25-7.

Form For Nursery Dealer Certificates

112 Under the provisions of *Miss. Code Ann.* §69-25-17 and §69-25-19, the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce does declare that any person who buys and resells nursery stock independent of any control of a nursery shall be classed as a nursery dealer. A list of all nurseries from which a dealer will buy stock during the ensuing shipping season must be filed with the State Entomologist at Mississippi State on a blank form furnished by the State Entomologist, and if said list is satisfactory, a Dealer's Certificate may be issued. A new agreement form must be filed with the State Entomologist on or before September 1, each year. Nursery Dealer tags shall be valid until September 1, subsequent to the date of issuance, unless revoked for cause; provided, that 5¢ and 10¢ stores, department stores, and other stores handling nursery stock as a side line shall not be required to use nursery dealer tags, but shall comply with all other nursery dealer requirements of the Bureau of Plant Industry. The nursery dealer tag form shall be as follows:

MISSISSIPPI DEPARTMENT OF AGRICULTURE AND COMMERCE
BUREAU OF PLANT INDUSTRY
MISSISSIPPI STATE, MISSISSIPPI 39762

Nursery Dealer's Certificate

The undersigned hereby certifies that the nursery stock sold by _____ of _____, Mississippi, is apparently free from injurious insect pests and diseases, and that the same may be transported under the provisions of *Miss. Code Ann.* §§39-21-1 thru 69-21-47.

The undersigned further declares that _____ has furnished him with names and addresses of the persons from whom, and the localities where he purchased or obtained the nursery stock sold under this certificate.

VOID AFTER SEPTEMBER 1, _____.

_____
STATE ENTOMOLOGIST

(Amended April 3, 1991.)

Source: *Miss. Code Ann*. §69-25-7.

Use of Quarantine "Q" Tags

113 Under the provisions of *Miss. Code Ann*. §69-25-17 and §69-25-19, the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce does declare that a quarantine tag shall be attached to all shipments of plants passing an inspection in transit, and shall also be used to certify all in-state plant shipments from any person not regularly engaged in the nursery business after such plants have passed a satisfactory inspection. The form shall be as follows:

(Serial Number) Q

MISSISSIPPI DEPARTMENT OF AGRICULTURE AND COMMERCE
BUREAU OF PLANT INDUSTRY
MISSISSIPPI STATE, MISSISSIPPI 39762

Quarantine "Q" Tag

This is to certify that the undersigned has this day inspected the contents of this package from _____ consigned to _____ and has found them apparently free from especially injurious insect pests and diseases. No plants or plant products were found therein, the importation of which is prohibited by the Rules of the Bureau of Plant Industry, under *Miss. Code Ann.* §§69-25-1 to 69-25-47.

All persons are warned, under penalty of law, not to use this certificate tag upon any shipments, or upon any plant products other than those described and inspected as above.

_____ _____
Inspector State Entomologist

(Amended April 3, 1991.)

Source: *Miss. Code Ann*. §69-25-7.

Cottony Cushion Scale-Treatment Required

114 The movement of any and all host plants of cottony-cushion scale from a property on which cottony-cushion scale is known to have been present or from a property in a locality in which cottony-cushion scale is known to have been generally distributed, under provisions of *Miss. Code Ann.* §69-25-7, §69-25-15, §69-25-17, §69-25-19, §69-25-23, §69-25-25 and §69-25-35, it is hereby prohibited, until after such plant or plants have been treated in accordance with recommendations of authorized personnel of the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, and the scale infestation pronounced as having been eradicated.

(Amended April 3, 1991.)

Source: *Miss. Code Ann*. §69-25-7.

San Jose Scale-Treatment Required

115 All apple, pear, plum and peach nursery stock and all other host plants of San Jose scale, if originating from a nursery in which San Jose scale has been found, under provisions of *Miss. Code Ann.* §69-25-7 and §69-25-15, must be thoroughly treated by spraying or dipping the above ground portions of the nursery stock with a 3 percent oil of emulsion or other insecticide approved by a representative of the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce.

(Amended April 3, 1991.)

Source: *Miss. Code Ann*. §69-25-7.

Requiring The Posting Of Properties Infested Or Infected With Insects Or Diseases Which Have Been Declared To Be A Public Nuisance

116 Every grove, field, nursery, or other property in which has been found any disease or insect pest which has been declared a public nuisance by the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce under the provisions of *Miss. Code Ann.* §§69-25-1 to §69-25-47, and more especially *Miss. Code Ann.* §69-25-7, §69-25-9 and §69-25-25, shall be conspicuously posted and signs warning all parties against trespassing, said signs to read as follows: "NO TRESPASSING" to be in letters no less than four inches in height and the words "Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce" to be in letters not less than two and one-half inches in height, such letters to be of prominent bold-faced type, easily read. The mutilation, defacing, removing or destroying of such signs by any parties whomsoever is hereby prohibited. Provided, that the posting of such notices shall not be required in the case of any property which has been declared by the Bureau of Plant Industry to be no longer a danger center.

(Amended April 3, 1991.)

Source: *Miss. Code Ann*. §69-25-7.

Providing For Inspection Of Plants In Transit And Treatment Or Disposition Of Same When Infested Or Infected Or Moved In Violation Of Bureau Of Plant Industry Rules

117 Any and all plants or plant products subject to the provisions of *Miss. Code Ann.* §§69-25-1 to 69-25-47, and more especially *Miss. Code Ann.* §69-25-17, §69-25-19, §69-25-21 and §69-25-25, whether in transit or in the hands of the possessor, may be held for inspection regardless of whether they are certified or not, and if such plants or plant products are found to have been moved or transported in violation of the rules or regulations of the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, or if found infested or infected with any injurious insect pest or disease, such plants or plant products must be deported, sprayed or otherwise treated upon the order of the Director and/or State Entomologist, if in his opinion this is necessary for the protection of the agricultural or horticultural interests of the State.

(Amended April 3, 1991.)

Source: *Miss. Code Ann*. §69-25-7.

Transportation Agents To Notify Bureau Of Plant Industry Regarding Prohibited Shipments

118 It shall be the duty of any common carrier, operating within the State of Mississippi, its agents or employees, to notify the State Entomologist, or his duly authorized agent, immediately upon receipt by such common carrier of any shipment of any article or thing coming under the provisions of *Miss. Code Ann.* §69-25-1 to 69-25-47, and more especially *Miss. Code Ann.* §69-25-7, §69-25-9, and §69-25-17, and offered to such common carrier for transportation and delivery as to which the requirements of *Miss. Code Ann.* §§69-25-1 to 69-25-47, or any of the rules and regulations of the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, have not been complied with; and such common carrier shall not transport or deliver such illegal shipments but shall hold same safe pending instructions from the State Entomologist or his duly authorized representative as to the disposition to be made of such illegal shipment.

(Amended April 3, 1991.)

Source: *Miss. Code Ann*. §69-25-7.

Providing For The Disposition Of Shipments Of Nursery Stock, Etc., Found Infested Or Infected With Injurious Insects Or Diseases

119 Whenever an authorized Inspector of the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, under authority granted in *Miss. Code Ann.* §§69-25-17, 69-25-19, 69-25-21, and 69-25-35, shall find in the possession of any common carrier in this State any shipment, article or product that is infested or infected with any insect pest or disease, the dissemination of which under the law or rules of this Bureau, now or hereafter further transportation or delivery of such shipment, article or product so infested or infected shall cease. Articles determined to be in violation shall be destroyed or otherwise returned to the shipper to be by him dealt with or treated as the law may provide. At the time of such inspection, such inspector shall deliver to such common carrier a certificate in substantially the following form:

REPORT OF PROHIBITED ARTICLES INTERCEPTED IN POSSESSION OF CARRIERS

To _____ and all Whom It May Concern:
(Name of Carrier)

This is to certify that on the _____ day of _____,

19_____, the undersigned inspected while in your possession at _____

_____, Mississippi, a shipment of _____
(Kind and Nature)

consisting of _____ bundles or packages, shipped by _____

_____ of _____

State of _____ to _____ at

_____, State of Mississippi, and found the same to be

infested or infected with _____
(Name of insect pest or disease)

and you are hereby notified that the transportation and delivery of said shipment so infested or infected, within the State of Mississippi, is prohibited by law and the Rules of the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, thereunder, except for the purpose of returning said shipment to the shipper, to be by him dealt with or treated as the law may require.

This _____ day of _____, _____.

_____
(Bureau of Plant Industry Inspector)

(Amended April 3, 1991.)

Source: *Miss. Code Ann*. §69-25-7.

Each Article, Box, Bundle, Etc., Intercepted To Have Attached To It A "Hold Out Tag" Of The Bureau Of Plant Industry; Prohibiting The Movement Or Shipment Of Any Article When A "Hold Out Tag" Is Attached

120.01 Under provisions of *Miss. Code Ann* .§69-25-17, §69-25-19, §69-25-21 and §69-25-35, any article or any box, bundle, parcel or other container which has been intercepted while in transit, by an agent of the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, and is being held subject to examination or determination as to final disposition shall have attached to it a tag clearly indicating to employees of the transportation companies and the public, that the article or container to which the tag is attached is being held subject to the rules and regulations of the Bureau. This tag shall be known as the "Hold Our Tag", and shall be in substantially the following form:

HOLD OUT FOR INSPECTION

Do not remove this package from this station until this tag
has been removed, and the contents of package inspected and
certified by the Inspector of the Bureau of Plant Industry,
Mississippi Department of Agriculture and Commerce.

(Over)

WARNING

This package and its contents are being held in quarantine.
All persons are hereby warned not to open, destroy, or

remove the same under penalty of prosecution.

By order of

_____ State Entomologist
(Name of Current State Entomologist)

_____
(Inspector)

(Over)

The use of this tag or the removal of same from any article or container, to which it is attached, by any person other than an authorized agent of the Bureau of Plant Industry, is forbidden.

(Amended April 3, 1991.)

120.02 Under authority of *Miss. Code Ann*. §§69-25-17, 69-25-19, 69-25-21 and 69-25-35, the movement of or tampering with any article, any box, bundle, parcel or other container having attached thereto a "Hold Out Tag", which has been attached by an agent of the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, is prohibited until such article or the contents of such box, bundle, parcel or other container shall have been inspected, the "Hold Out Tag" removed therefrom and the article or container officially released by an agent of the Bureau.

(Amended April 3, 1991.)

Source: *Miss. Code Ann*. §69-25-7.

Importation Of Plants And Plant Products Into Mississippi

121 The introduction into the State of Mississippi through the ports thereof of plants, fruits, vegetables or other material that is likely to introduce insect pests, or diseases especially injurious to the agricultural and horticultural interests of the State is hereby prohibited under the provisions of *Miss. Code Ann*. §69-25-17, §69-25-21 and §69-25-23, provided, however, that plants, parts of plants, fruits or vegetables, the importation of which into the State has not been specifically prohibited, and which shall be found upon inspection by a properly appointed agent of the Bureau of Plant Industry to be apparently free from such especially injurious insect pests and diseases shall be permitted to enter the State and be transported, sold, or exchanged within the State.

(Amended April 3, 1991.)

Source: *Miss. Code Ann*. §69-25-7.

Prohibited Plants May Enter Mississippi Under Special Permit

122 Under provisions of *Miss. Code Ann*. §§69-25-7, 69-25-17, 69-25-19 and 69-25-35, special permits may be issued by the Bureau of Plant Industry, for the entrance into

Mississippi of any quarantined plants, seeds, or plant products that are needed for experimental purposes by the United States Department of Agriculture or by the Mississippi Agricultural and Forestry Experiment Station. These special permits will be issued only after careful investigation by the State Entomologist of the Bureau of Plant Industry, and only when the State Entomologist is assured that there is no danger in admitting the plants, seeds, or plant products in question.

(Amended April 3, 1991.)

Source: *Miss. Code Ann*. §69-25-7.

Providing For A Review Before The Bureau Of Plant Industry Of Any Rule, Regulation, Etc., On Request Of The Party Affected.

123.01 Any person affected by any rule or regulation made or notice given, pursuant to *Miss. Code Ann. §§* 69-25-1 through 69-25-47, and especially §69-25-37, may have a review thereof, for the purpose of having such rule, regulation or notice modified, suspended or withdrawn, by filing a written request with the Director and/or State Entomologist of the Bureau of Plant Industry, Mississippi Department of Agriculture, stating the particular rule, regulation or notice regarding which action is desired and setting forth the objections to the enforcement of said rule, regulation or notice.

123.02 At the time of filing said written request, the person asking for such review shall deposit a certified check for one-hundred dollars ($100) with the Director and/or State Entomologist of the Bureau of Plant Industry, or, in the case the destruction of property is involved, with the agent of the Bureau responsible for the carrying out of the provisions *Miss. Code Ann. §§*69-25-1 through 69-25-47, in the locality in which the property is located. Said sum of $100 is to be applied towards defraying the expenses of a special meeting of the Bureau providing the Commissioner or the Director considers the exigencies of the case require action before the next regular meeting.

123.03 In case such special meeting is called, the Director and/or State Entomologist of the Bureau shall present an account of the expenses incurred for holding said meeting and if these expenses are less than $100, the balance shall be returned to the person requesting the review.

123.04 On such review, all facts and representatives offered on behalf of the applicant or on behalf of the Bureau may be presented to the Director and/or State Entomologist of the Bureau in the form of affidavits.

123.05 The operation or enforcement of any rule or regulation made or notice given by the Bureau is not to be held in abeyance pending a review thereof but is to remain in full force and effect until modified, suspended or withdrawn by action of the Bureau. Providing, that where the enforcement of a rule requires the destruction of the property of the party making the appeal to the Bureau in the manner aforesaid and the said sum of $100 to cover costs having been deposited with an agent of the Bureau, such destruction shall be suspended until the party shall have had the opportunity of being heard on his

appeal; provided, that the party thus appealing complies with the instruction of the agent of the Bureau to the end that no especially injurious insect pests or diseases shall be disseminated.

(Section 123 amended April 3, 1991.)

Source: *Miss. Code Ann*. §69-25-7.

Regulations Governing Certification Of Mississippi Seed Sweet Potatoes And Plants

124.01 In order to prevent the dissemination of soil rot, stem rot, sweet potato mosaic, black rot, scurf, nematodes, sweet potato weevil and other injurious diseases and insects of the sweet potato, the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, under provisions of *Miss. Code Ann.* §§69-25-7, 69-25-15, 69-25-17, 69-25-19, 69-25-25, and 69-25-37, does hereby promulgate, declare and give public notice hereof of the following regulations governing the movement or shipment within the state of Mississippi of sweet potatoes for planting purposes, sweet potato plants or vines; PROVIDED, that no sweet potatoes, sweet potato plants, or vines within the areas which have been designated by the Bureau of Plant Industry as infested with the sweet potato weevil shall be eligible for certification, except as provided for APPROVED GRADE in section 126(5)(a)

124.02 Application for inspection. Each person or firm growing sweet potatoes in Mississippi and desiring to sell, exchange or give away seed sweet potatoes or sweet potato plants or vines is hereby required to make written application to the Bureau of Plant Industry, Mississippi State, Mississippi, for the necessary inspections on or before June 1 of each year, giving complete instructions for locating premises. All fields must be in a clean state of cultivation and in such condition that all plants can be easily seen by the inspector. The inspector may refuse to make inspection if the crop is not in proper condition.

124.03 Use of and issuing certificate tags and tape. The sale, movement or shipment of seed sweet potatoes, vines, or plants for propagation is prohibited except when a valid certificate tag is attached to each crate or container. Plants or vine cuttings must be tied with official certificate tape in bundles of 50 or 100 plants or vines; such certificate tags and tape to be issued by the Bureau of Plant Industry. The bundles of plants or vine cuttings must be labeled to show the number of plants or vine cuttings per bundle. Individual potted plants or rooted vine cuttings may be offered for sale provided a valid certificate tag is attached to each display crate or container in which individual plants or vine cuttings are displayed, or in lieu thereof, individual potted plants or rooted vine cuttings may be offered for sale provided each pot or growth container has tied around such container official certificate tape as is required for bundles of plants. Certificate tags or tape shall be issued only after the seed sweet potatoes or plants have passed the proper inspections in field, storage, or plant beds and the grower has complied with regulations hereinafter prescribed by the Bureau of Plant Industry to prevent the spread of injurious plant diseases and insects. The provision hereof shall not be construed to prohibit the possession or movement of certified seed, plants or vines for use within the

limits of a farm where grown or of noncertified seed, sweet potatoes, plants or vines for use within the limits of a farm where grown. Certificate tags, tape and dealer tags may be recalled for cause by the Bureau of Plant Industry and are valid for use only by the person to whom issued. The Bureau of Plant Industry shall refuse to issue tags and tape to growers or dealers who fail to make refunds to customers for seed or plants confiscated by Bureau of Plant Industry inspectors on account of injurious diseases and insects.

124.04 Certified seed sweet potatoes, plants, and vines shall be divided into two grades as follows:

1. GRADE A shall be seed, plants or vines which showed no stem rot, soil rot, or mosaic in field inspections and which are visibly free in storage and plant bed inspection from black rot, scurf, soil rot, nematodes, or other serious diseases and insects.
2. MISSISSIPPI CERTIFIED GRADE shall be seed, plants, or vines which shall not exceed the disease and insect tolerances as follows:
   a. Stem rot. No more than one-tenth (1/10) of one (1) percent of the hills found in the field inspections; the vines and tubers of which shall be dug and destroyed by the grower at time of inspection under supervision of the district entomologist of the Bureau of Plant Industry.
   b. Sweet Potato Mosaic. No tolerance.
   c. Black Rot. No more than one (1) percent of sweet potatoes showing black rot in storage inspection.
   d. Scurf. No more than five (5) percent of sweet potatoes showing the presence of scurf in storage inspection.
   e. Soil Rot. No more than one-tenth (1/10) of one (1) percent found in field inspection, the vines and tubers of which must be dug and destroyed by the grower at time of inspection under supervision of the district entomologist and no more than one (1) percent of sweet potatoes in storage inspection.
   f. Nematodes. No more than one (1) percent showing visible presence of nematodes in storage inspection.

124.05 Inspection requirements.

1. Two or more inspections, while growing in the field, must be made of sweet potatoes; provided that only one inspection is required of varieties, which are known to be highly resistant to sweet potato diseases. One or more inspections shall be made of all seed sweet potatoes in storage and one or more plant bed inspections.
2. All fields worked with the same implements and teams shall be considered as one property for the purpose of certification or determination of the proper grade. Areas separated by roads, fences or other barriers which the district entomologist considers satisfactory shall be considered separate fields and the finding of any disease whatever in any field shall prevent any sweet potatoes produced on that property from being classed as Grade A. If more than 50% of the sweet potato acreage of a property fails to pass inspection, the entire property shall be condemned, unless special conditions exist, which in the judgment of the district entomologist warrant the certification of a smaller percentage of the acreage.
3. The storage house or other place, if previously used for storing sweet potatoes, shall be thoroughly cleaned and disinfected before the new crop is stored.

4. If certified seed are stored in a building with other sweet potatoes, they must be separated by a solid wall or walls from all other potatoes. The grower must make such arrangements as are necessary for the seed sweet potatoes to be easily accessible for inspection, or no inspection for certification will be made.
5. The finding of black rot, scurf, soil rot, or nematodes on any sweet potatoes in a storage house or other place where seed potatoes are stored will prevent any potatoes therein from being classed as Grade A.
6. At bedding time, seed sweet potatoes shall be carefully handculled, discarding all potatoes showing black rot, scurf, soil rot, or other diseases, and then treated with a disinfectant approved by the Bureau of Plant Industry. If an old bedding location is used, all of the old soil must be removed and hauled away from the bedding site and the remaining soil treated with a formaldehyde solution prepared by mixing 1 gallon of 40 percent formaldehyde solution in 50 gallons of water and approximately 1 gallon of the diluted mixture applied to each square foot of soil. All of the framing of the bed should be thoroughly soaked also. The treated area should be covered with wet sacks and kept wet for a period of 48 hours. The sacks should then be removed and the soil allowed to dry for approximately 10 days to 2 weeks. A temperature of approximately degrees F or above will be needed for aeration, and a temperature of 50 degrees F or above is necessary for application of the chemical for best results. After treatment is completed, new soil should be placed back in the bed from a noncontaminated source.
7. Plants must be produced from certified seed which has been inspected, handculled, and disinfected as prescribed. Failure to disinfect seed at bedding shall make plants ineligible for certification and issuance of certificate tags and tape. If it is discovered after the issuance of tags and tape, such tags and tape will be recalled.
8. The location and material of the plant beds must be approved by a Bureau of Plant Industry district entomologist. If lumber used in the construction of the beds has been previously used for the same purpose, it must be thoroughly disinfected by being allowed to soak for at least thirty minutes in a solution of copper sulphate, one pound in 25 gallons of water or the formaldehyde solution mentioned in paragraph 5 above, or other disinfectant approved by the Bureau of Plant Industry.
9. Whenever black rot or soil rot is found in sweet potatoes in storage on any property, the handculling, disinfection and bedding of such potatoes shall be done under the supervision of a Bureau of Plant Industry district entomologist. All plants produced on such properties or from such seed must be dipped in a Bordeaux mixture composed of 20 pounds hydrated lime, 20 pounds copper sulphate (bluestone) and 50 gallons water, or other disinfectant approved by the Bureau of Plant Industry.
10. All tools needed in the construction of plant beds, and which have previously come in contact with materials used in old beds, shall be dipped in a solution of the copper sulphate or other approved solution.
11. Beds generally infected with black rot, stem rot, or other serious disease will be condemned and sale of plants prohibited.
12. If black rot or stem rot is found in a limited portion of a bed, the infected potatoes and the soil covering them, and the soil and potatoes not less than two feet from the outermost limits of the infection in all directions must be removed form the infected bed under the supervision of a district entomologist of the Bureau of Plant Industry

and the spot from which soil and potatoes were removed thoroughly disinfected with a solution of copper sulphate prepared by using 1 pound of copper sulphate in 25 gallons of water; or by soaking the affected area with formaldehyde using one quart of formaldehyde in 12 gallons of water. Keep the affected area covered with wet sacks for a period of 48 hours. All plants sold thereafter from the grower's bed must be dipped in the 20-20-50 Bordeaux mixture previously mentioned, or other disinfectant approved by the Bureau of Plant Industry.

13. If a plant grower beds both Grade A and Mississippi Certified seed potatoes, all of the plants certified for him shall be Mississippi Certified Grade.
14. Where more than one variety of sweet potatoes are grown, each variety must be separated in the field a distance of at least fifteen (15) feet, and stored separately in storage and bedded in separate beds. If found mixed in field, storage, or seed beds, such mixtures shall automatically cause the potatoes to be classed as Mississippi Certified Grade and certificate tags issued as mixed varieties.
15. Anyone not growing certified seed, but who wished to sell plants may purchase certified seed from a certified grower and bed them. At time of purchase, he must obtain from the certified grower a certificate tag as proof of source of seed, so the source of seed and bedding location may be approved by a district entomologist of the Bureau of Plant Industry. Such plant grower would be subject to the same requirements of other growers outlined in this regulation.

124.06 The following regulations apply to dealers in seed sweet potatoes and sweet potato plants:

1. Persons or firms in Mississippi engaged in the business of buying and reselling seed sweet potatoes or sweet potato plants grown by others are defined as dealers.
2. Dealers in seed sweet potatoes or sweet potato plants are hereby required to file with the Bureau of Plant Industry an agreement on a form furnished by the Bureau, pledging compliance with rules and regulations applying to the sale of seed sweet potatoes or plants.
3. A dealer's tag shall accompany all seed or plants sold other dealers or shipped by mail express or by other common carrier. The same regulations shall apply to the use of these tags as those prescribed for growers of certified seed and plants.
4. A dealer shall not be required to attach dealer tags to packages of seed or plants sold locally or over-the-counter, provided that the seed or plants remain until sold in the original package as received from the grower and with the grower's certificate attached.
5. Certificate tags from the original growers must be preserved by dealers when seed or plants are sold in lots other than the original package and these tags shall be delivered to the Bureau of Plant Industry upon request.

(Section 124 amended April 3, 1991.)

Source: *Miss. Code Ann.* §69-25-7.

<u>Regulation Governing The Shipment Of Seed Sweet Potatoes And Sweet Potato Plants Into Mississippi</u>

125.01 The movement or shipment into the State of Mississippi of seed sweet potatoes, sweet potato plants and vines, and all morning-glory plants or parts of plants from points outside of the State of Mississippi is prohibited under *Miss. Code Ann.* §69-25-7, §69-25-15, §69-25-17, §69-25-19, §69-25-23, and §69-25-35, except when such shipments have attached to each container a permit certificate tag of the Bureau of Plant Industry. All out-of-state sweet potato plants, vines and cuttings sold in Mississippi must be tied in bundles of 50 or 100 plants or vine cuttings with valid certificate tape issued either by the Bureau of Plant Industry or the proper inspection official of the state of origin. The bundles must be labeled to show the number of plants or vine cuttings per bundle. Individual potted plants or rooted vine cuttings may be offered for sale provided a valid certificate tag is attached to each display crate or container in which individual plants or rooted vine cuttings may be offered for sale provided each pot or growth container has tied around such container official certificate tape as is required for bundles of plants.

125.02 Permit certificate tags and official certificate tape may be obtained by filing with Bureau of Plant Industry a certificate of inspection from the proper inspection official of the state wherein the shipments originate showing that the sweet potatoes, plants, sweet potato fields, beds, and the premises of the person desiring to make shipments have met the same requirements specified by the Bureau of Plant Industry as necessary for the certification of seed sweet potatoes or plants in Mississippi; PROVIDED, that whenever sweet potato diseases become so widely distributed in any state that the Bureau of Plant Industry shall consider shipments from that state as unsafe or dangerous, the Bureau of Plant Industry shall decline to issue permit certificates for the movement of seed sweet potatoes or plants from that state into Mississippi. Permit certificate tags and certificate tape may be recalled for cause by the Bureau of Plant Industry.

(Section 125 amended April 3, 1991.)

Source: *Miss. Code Ann*. §69-25-7.

<u>Sweetpotato Weevil Quarantine</u>

126 Whereas it has been determined that the very serious insect pest known as the sweetpotato weevil *Cylas formicarius elegantulus* (Summers) has been found in the State of Mississippi and certain other states, and under provisions of *Miss. Code Ann.* §69-25-9, has been declared to be a public nuisance. Now, therefore, the Director, Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, by virtue of powers vested in him by the Commissioner, by authority granted under *Miss. Code Ann.* §69-25-7, does establish a quarantine to prevent the spread of sweetpotato weevil and under provisions of *Miss. Code Ann.* §§69-25-15 to –25 and §69-25-35 does declare and give public notice of the establishment of a quarantine (1) Regulated articles; (2) Conditions governing handling, movement and sale of regulated articles from other states; (3) Conditions governing production, handling, movement and sale of regulated articles within Mississippi; and (4) Regulated areas.

1. Definitions. For the purpose of this quarantine the following shall be construed respectively to mean:

a. Certificate (Green Tag). A tag, green in color, issued by the State Entomologist of Mississippi or plant quarantine officials of the state of origin, stating that the sweet potatoes on which such tag is issued were grown, stored and inspected in a sweetpotato weevil free area.

b. Commissioner. The Commissioner of the Mississippi Department of Agriculture and Commerce.

c. Container. A crate, box, basket, sack or any other type of packaging used to handle or move sweet potatoes or other regulated articles.

d. Control area. That portion of any regulated area which is generally infested where control measures are being carried on to retard or prevent the spread of the sweetpotato weevil, but where eradication is not the immediate objective.

e. Compliance agreement. A written agreement between an individual, company concern or other person engaged in growing, dealing in, processing, or moving regulated articles, and the Bureau of plant Industry, wherein the farmer agrees to comply with conditions specified in the agreement to prevent the dissemination and spread of the sweetpotato weevil.

f. Director. Executive Secretary and Director and/or State Entomologist of the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce.

g. Eradication area. That portion of any regulated area where active work and control measures are being applied where eradication is the immediate objective.

h. Fumigation. For the purpose of this quarantine, fumigation means the confinement of sweet potatoes in a gas tight chamber, vault, railroad car, van-type truck or under a gas tight tarpaulin (such as polyethylene plastic) or other satisfactory gas tight enclosure for a period of 4 hours at 70° F. into which methyl bromide is released at a rate of 3 pounds per 1,000 cubic feet and the methyl bromide circulated immediately after release, for a period of 30 minutes by means of an electric fan placed in the enclosure to be fumigated before beginning fumigation or by other approved means of circulation. Sweet potatoes to be fumigated must be well cured and free of rot and must be held in a dry, cool, well aerated place for 24 hours following fumigation.

i. Infestation. The presence of the sweetpotato weevil in any stage of development, or the existence of circumstances which make it reasonable to believe that the sweetpotato weevil is present.

j. Inspector. Any authorized employee of the Bureau of Plant Industry or any other person authorized by the State Entomologist of Mississippi to enforce the provisions of this quarantine.

k. Limited Permit (Manila Tag). A tag, manila in color, issued by the State Entomologist of Mississippi or plant quarantine officials of the state of origin, stating that the sweet potatoes on which such tag is issued were grown in a sweetpotato weevil regulated area, but have been inspected and found free of weevils.

l. Master Certificate. A document issued by an authorized inspector other employee of the Bureau of Plant Industry, or a plant quarantine official of another state, usually covering one shipment or load of sweet potatoes in bulk or in containers destined to a particular point or place in Mississippi for special handling or processing or to cover movement through Mississippi to other states when

permitted by other states. Such Master Certificate shall specify place where grown, name and address of distributor or consignor, car number if by rail, tag number of truck and/or trailer and state or registration if by truck and name and address of consignee.

m. Moved, movement, move. Shipped, deposited for transmission in the mail, offered for shipment, received for transportation, carried, otherwise transported or moved, or allowed to be moved, by any means whatsoever, by any person directly or indirectly.

n. Person. This term includes any corporation, partnership, firm, company, joint stock company, society, or association, as well as any individual.

o. Pest. The insect known as the sweetpotato weevil Cylas formicarius elegantulus (Summers) in any stage of development.

p Regulated area. Any county, parish, township, city, or other civil division or part thereof in any state or territory listed in the regulations supplemental hereto as being placed under quarantine, and such other areas as may become infested or deemed to present a hazard of spread of the sweetpotato weevil.

q. Regulated articles. Sweetpotato weevil, sweet potatoes, plants, roots, tubers, vines or any parts thereof, vines or roots of other plants belonging to the genus Ipomoea, or other products and articles of any character whatsoever, the movement of which is regulated by this quarantine.

r. Scientific permit. A document issued by the Director and/or State Entomologist to allow the movement to a specific destination of regulated articles for scientific purposes.

2. No person shall move from any quarantined area of this or any other state any of the articles listed in this subsection except in accordance with the conditions prescribed in subsections 3 and 4 below.

a. The sweetpotato weevil *Cylas formicarius elegantulus* (Summers) in any stage of development;

b. Sweet potato plants, roots, tubers, vines or parts thereof;

c. Vines or roots of other plants belonging to the genus *Ipomoea*; or

d. Any other articles or means of conveyance of any character whatsoever not covered by the above, when it is determined by an inspector that they present a hazard of spread of the sweetpotato weevil, and the person in possession thereof is so notified.

3. Conditions governing handling, movement and sale of regulated articles from other states:

a. From free areas of other states.

i. Sweet potatoes entering Mississippi from noninfested states or the sweetpotato weevil free areas of other states, must have attached to each container a Certificate (Green Tag) as defined in paragraph (1)(a), of this quarantine, certifying that the sweet potatoes were grown, stored and inspected in a sweetpotato weevil free area. It shall be the duty of each store manager or other person purchasing sweet potatoes to inquire of the seller or distributor, the area or source where the sweet potatoes were produced and stored, and if the sweet potatoes were grown or stored in sweetpotato weevil free areas of other states, such store manager or other person making such purchase shall

not purchase such sweet potatoes unless there is attached to each container a Certificate (Green Tag) as described herein.

ii. Under certain conditions involving the shipment or movement of sweet potatoes from weevil free areas of other states, such as to canning plants, military installations or other designated places for special handling or immediate processing, sweet potatoes may be moved in bulk loads. In such cases, a Master Certificate as defined in paragraph (1)(l.) of this quarantine must be issued on each load.

iii. Sweet potatoes produced, stored, and inspected as outlined in paragraphs a. and b. immediately above, may be moved to any point in Mississippi; PROVIDED, however, that if such sweet potatoes are moved into the sweetpotato weevil Regulated Area of Mississippi or any other state, it shall be unlawful for them to be moved back into the free area of Mississippi.

b. From regulated areas of other states.

i. It shall be unlawful for any person to bring into, or cause to be brought into or knowingly purchase or received sweet potatoes or other Regulated Articles form Regulated Areas of other states except as provided in paragraph b. immediately following.

ii. Sweet potatoes originating in Regulated Areas of other states may enter only Jackson, Harrison, and Hancock counties; PROVIDED, there is attached to each container a Limited Permit (Manila Tag) as defined in paragraphs (1.) and (2.) of this quarantine, stating that such sweet potatoes were grown in a sweet potato weevil Regulated Area, but have been inspected and found apparently free of sweet potato weevil. In the event sweet potatoes moving under such Limited Permit (Manila Tag) are found infested with the sweet potato weevil, such sweet potatoes shall be destroyed immediately at the expense of the owner or possessor, or at his expense may be fumigated as defined in paragraph (1.)(h.) of this quarantine. (Note: Louisiana uses a pink tag on containers of sweet potatoes produced on noninfested farms in their eradication area. As far as Mississippi is concerned, these pink tags shall be considered the same as a Limited Permit (Manila Tag) as described herein).

iii. The transportation through Mississippi of Regulated Articles from Regulated Areas of other states, en route to other states is hereby prohibited, except when transported by common carriers on through bills of lading or by other than common carriers; PROVIDED, however, that in either case the trucks or other means of transportation must be officially sealed and accompanied by a Master Certificate as defined in paragraph (1.)(l.) of this quarantine.

4. Conditions governing production, handling, movement and sale of regulated articles within Mississippi.

a. Sweet potatoes produced in sweet potato weevil free area of Mississippi. No identification of origin is required on sweet potatoes produced in the sweet potato weevil free area of Mississippi so long as they are moved only within Mississippi; PROVIDED, however, that if such sweet potatoes are moved into the Regulated Area of Mississippi or any other state it shall be unlawful for them to be moved back into the free area of Mississippi.

b. Sweet potatoes produced within eradication area and control area of Mississippi shall meet the following conditions:

i. Owners and/or persons in charge of properties within one mile of an infestation of the sweetpotato weevil occurring within the current calendar year and one complete crop year previous shall not save seed sweet potatoes nor produce slips, draws, vines, cuttings or any parts thereof for propagation purposes.

ii. Owners and/or persons in charge of properties infested with the sweetpotato weevil and properties within one mile of an infestation occurring within the current calendar year and the previous complete crop year may make field plantings using the APPROVED GRADE of plants as specified in SECTION V of this quarantine or by using plants certified under the provisions of the section 125 ~~124~~ of this chapter; PROVIDED, however, such owner and/or person agrees to and signs a Compliance Agreement as define in paragraph (1.)(e.) of this quarantine to carry out all recommended sanitary, cultural, or insecticidal procedures as recommended by the Bureau of Plant Industry. Failure to sign and comply with such Compliance Agreement will result in nonplanting restrictions

iii. Owners and/or other persons in charge of infested properties shall not plant sweet potatoes closer than 300 yards of the previous year's field.

iv. All sweet potatoes remaining on infested properties shall be destroyed by February 1. All sweet potatoes within the Regulated Area shall be harvested by December 1, and the fields thoroughly surface cleaned by the owner or tenant within 15 days of the time of harvesting and in addition such fields shall also be thoroughly plowed or disced at least once by January 15 following the year of production.

v. Owners and/or persons in charge of noninfested properties beyond the one mile limit may save and bed his own seed sweet potatoes for use on his own property; PROVIDED, however, such owner and/or person agrees to and signs a Compliance Agreement as defined in paragraph (1.)(e.) of this quarantine to carry out all recommended sanitary, cultural, or insecticidal procedures recommended by the Bureau of Plant Industry. Failure to sign and comply with such Compliance Agreement will result in nonplanting restriction. Plant beds shall be destroyed by July 1.

vi. Owners and/or persons in charge of property in the Eradication Area at least two miles from the nearest infested property are eligible for production of the APPROVED GRADE of seed sweet potatoes and plants under the provisions of paragraph 5 of this quarantine.

vii. Sweet potatoes grown in the Eradication Area, after being inspected and found apparently free of the sweetpotato weevil may be moved (1) to points within the Eradication Area, and (2) to points within the Control Area of Mississippi and to such areas of other states where such movement is permissible; PROVIDED, there is attached to each container a Limited Permit (Manila Tag) as define in paragraph (1)(k) of this quarantine.

viii. Sweet potatoes produced in the Control Area may be sold only within the Control Area of Mississippi (Jackson, Harrison and Hancock counties) and to such areas of other states where such movement is permissible; PROVIDED,

there is attached to each container a Limited Permit (Manila Tag) as defined in paragraph (1)(k) of this quarantine.

ix. Sweet potatoes produced in the Regulated Area may be transported through the free area of Mississippi en route to northern markets when transported by common carriers on through bills of lading or by other than common carriers; PROVIDED, however, that in either case the trucks or other means of transportation must be officially sealed and accompanied by a Master Certificate as defined in paragraph (1)(l) of this quarantine.

x. Sweet potatoes or other regulated articles originating in the Eradication Area, or Control Area of Mississippi may be moved to any point if fumigated as defined in paragraph (1)(h) of this quarantine; PROVIDED, there is attached to each container a certificate tag showing that such sweet potatoes have been fumigated.

5. An "approved grade" of seed sweet potatoes and plants is established as follows:

a. "Approved" seed sweet potatoes and plants

i. In order to allow production of seed sweet potatoes or plants for use only within the Regulated Areas, both Eradication and Control Areas, a special grade of certification for seed and plants is hereby established, to be designated as "APPROVED". Such seed or plants may be produced only in the Eradication Area on noninfested properties at least two miles from the nearest sweetpotato weevil infested property.

ii. This grade of seed or plants is not to be confused with "GRADE A" or "MISSISSIPPI CERTIFIED GRADE" produced in the weevil free area of Mississippi under the provisions of section 125 ~~124~~ of this chapter. Such APPROVED seed or plants shall not be moved, offered for sale, or used outside of the Regulated Area for any purpose and shall be produced under conditions specified below:

A. Growers who expect to produce APPROVED seed or plants must make written application to the Bureau of Plant Industry by June 1, of each year on an official application form furnished by the Bureau of Plant Industry. All sales of APPROVED seed and plants must be accompanied by a sweet potato tag, pink in color, marked APPROVED, and in addition the plants must be tied in bundles of 50 or 100 plants each with valid APPROVED certificate tape, provided the bundles are labeled to show the number of plants per bundle. Individual potted plants or rooted vine cuttings may be offered for sale provided a valid APPROVED grade certificate tag is attached to each display crate or container in which individual plants or vine cutting are displayed, or in lieu thereof, individual potted plants or rooted vine cuttings may be offered for sale provided each pot or growth container has tied around each container official APPROVED certificate tape as is required for bundles of plants. Such APPROVED tags and tape must be obtained from the office of the Bureau of Plant Industry. The APPROVED tag shall give the name and address of the grower and the year of production and shall become void on August 31, of each year.

B. Sweet potato fields from which APPROVED seed are to be produced must be inspected twice during the growing season at about 30 day intervals by

a District Entomologist of the Bureau of Plant Industry. Such fields must be located at least two miles from the nearest known sweetpotato weevil infestation occurring within the current crop year and the previous full crop year. Such fields may be required to be treated with an approved insecticide at rates and intervals recommended by the Bureau of Plant Industry. If, during field inspections, sweetpotato weevils are found or if more than one-tenth (1/10) of one percent (1%) of the plants are found to be infected with stem rot, or soil rot, the sweet potatoes shall be refused certification as APPROVED GRADE.

C. All APPROVED GRADE of seed sweet potatoes at time of storage may be required to be treated with an approved insecticide recommended by the Bureau of Plant Industry. APPROVED seed sweet potatoes shall be inspected at least twice while in storage by a District Entomologist of the Bureau of Plant Industry. If, during storage inspection, sweet potato weevils are found or if more than one percent (1%) by weight is infected with black rot or soil rot, certification as APPROVED seed shall be refused.

D. The location of seed beds for production of APPROVED plants must be approved by a District Entomologist of the Bureau of Plant Industry. In preparing APPROVED seed sweet potatoes for bedding, they shall be carefully handculled, discarding all sweet potatoes showing black rot, soil rot, or other diseases and then treated with a seed treatment approved by the Bureau of Plant Industry.

E. The Bureau of Plant Industry may require treatment of the seedbeds several times with an approved insecticide to prevent the plants from becoming infested with the sweetpotato weevil.

F. Inspection of plant beds must be made at lease once by a District Entomologist of the Bureau of Plant Industry while plants are in production. Plant beds shall be destroyed after plants are no long being pulled and no later than July 1.

6. Conditions under which regulated articles may be removed from quarantine:
   a. Control Area. No property located within the Control Area is eligible to be removed from quarantine until general infestations have been cleared up to such an extent that the Control Area or the portion thereof concerned can be reclassified as an Eradication Area.
   b. Eradication Area. For an area or property within the Eradication Area to be eligible to be removed from quarantine, no sweetpotato weevils shall have been found within a five-mile radius during the current calendar year and one complete crop year previous.
7. Waiver of Liability. In recommending or authorizing the use of chemicals as a basis for control and eradication of the sweet potato weevil, it is understood that no liability shall be attached either to the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, or any of its employees or cooperators in the event of injury to the treated product or to the operator, or any other thing.
8. Sweet Potato Weevil Quarantine. Areas Quarantine or Regulated
   a. Regulated areas of other states.

i. ALABAMA: Counties of Baldwin, Clarke, Coffee, Conecuh, Covington, Dale, Escambia, Geneva, Henry, Houston, Mobile, Monroe, Russell, and Washington.
ii. FLORIDA: The entire state.
iii. GEORGIA: Counties of Appling, Bryan, Camden, Chatham, Colquitt, Decatur, Dougherty, Glynn, Grady, Liberty, Lowndes, McIntosh, Seminole, and Ware
iv. LOUISIANA: Parished of Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Bienville, Caddo, Calcasieu, Caldwell, Cameron, DeSoto, East Baton Rouge, East Feliciana, Evangeline, Grant, Iberia, Iberville, Jackson, Jefferson, Jefferson Davis, Lafayette, Lafourche, Lincoln, Livingston, Orleans, Plaquemines, Point Coupee, Rapides, Red River, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, Washington, West Baton Rouge, and West Feliciana.
v. SOUTH CAROLINA: Counties of Beaufort and Charleston.
vi. TEXAS: Counties of Anderson, Agelina, Aransas, Atascosa, Austin, Bandera, Bastrop, Bee, Bell, Bexar, Blanco, Brazoria, Brasox, Brooks, Burleson, Burnet, Caldwell, Calhoun, Cameron, Chambers, Cherokee, Colorado, Comal, Coryell, DeWitt, Dimmitt, Duval, Edwards, Falls, Fayette, Ft. Bend, Frio, Galveston, Goliad, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Hidalgo, Houston, Jackson, Jasper, Jefferson, Jim Hogg, Jim Wells, Karnes, Kendall, Kenedy, Kerr, Kinney, Kleberg, Lampasas, LaSalle, Lavaca, Lee, Leon, Liberty, Live Oak, Madison, Matagorda, Maverick, McMullen, Medina, Milam, Montgomery, Nacogdoches, Newton, Neuces, Orange, Panola, Polk, Real, Refugio, Robertson, Rush, Sabine, San Augustine, San Jacinto, San Patricio, Shelby, Starr, Travis, Trinity, Tyler, Uvalde, Val Verde, Victoria, Walker, Waller, Washington, Webb, Wharton, Willacy, Williamson, Wilson, Zapata, and Zavalla.

b. Regulated areas of Mississippi:
i. Control Area: Entire counties of Hancock, Harrison, and Jackson
ii. Eradication Area: Counties or parts of counties as follows:

Adams County. The property of Mr. R.W. Benson greenhouse – Sec. 30, T. 8 N., R. 2 W.

Amite County. The entire county.

Clarke County. All of T. 1 N. R. 14 E.; all of T. 10 N., R. 9 W. lying within the county; W. ½ T. 10 N., R. 8 W. lying within the county; secs. 7, 8, 9, 16, 17, 18, 19, 20, and 21, T. 3 N., R. 16 E.; NE ¼, T. 2 N., R. 16 E.; all of Tps. 1 and 2 N., Rs. 17 and 18 E. lying within the county; and those portions of sections 2, 3, 4, 5, 6, and 7, T. 10 N., R. 6 W, lying within the county.

Copiah County. NW. ¼, and secs. 19, 20, and 21, T. 12 N., R. 2 W.; secs. 2, 3, 4, 9, 10, 11, 12, 15, 16, 21, and those portions of secs. 13, 14, 22, and 23 lying within the county, T. 9N., R. 10 E.

Covington County. All of the county lying south of the south line of T. 9 N. and east of the east line of R. 17 W.

Forrest County. The entire county.
Franklin County. All of T. 5 N., R. 4 E.; and secs. 3, 4, 5, 6, 7, 8, 9, 10, 15, 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33, and 34, T. 5N., R. 5 E.
George County. The entire county.
Greene County. The entire county.
Grenada County. The property of Mr. Billy Moss – Sec. 18, T. 22 N., R. 6 E.
Jasper County. T. 2 N., R. 10 E.; W. ½ T. 2 N., R. 11 E.; and all of the remaining portion of the county lying south of the north line of T. 1 n.
Jefferson Davis County. The entire county.
Jones County. The entire county.
Lamar County. The entire county.
Lawrence County. The entire county.
Lincoln County. Secs. 12, 13, and 24, T. 5 N., R. 7 E.; and secs. 7, 8, 17, 18, 19, and 20, T. 5 N., R. 8 E.
Marion County. The entire county.
Pearl River County. The entire county.
Perry County. The entire county.
Pike County. The entire county.
Simpson County. All of T. 1 N., Rs. 2 and 3 E.; the S. ½ of T. 1 N., R. 5 E.; secs. 3, 4, 5, 8, 9, 10, 15, 16, and 17, T. 2 N., R. 4 E.; secs. 23, 24, 25, 26, 35, and 36, T. 2 N., R. 4 E.; secs. 19, 30, and 31, T. 2 N., R. 5 E.; all of the Tps. 9 and 10 N., Rs. 18, 19, 20, and 21 W. lying within the county; secs. 5, 6, 7, 8, 17, 18, 19, 20, 30, 31, and 32, T. 10 N., R. 17 W.; and those portions of secs. 5 and 6, T. 9 N., R. 17 W. lying within the county.
Smith County. Secs 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36, T. 1 N., R. 9 E.; secs. 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, and 36, T. 1 N., R. 8 E.; and those potions of T. 10 N., Rs. 13, 14, and 15 W. lying within the county.
Stone County. The entire county.
Walthall County. The entire county.
Wayne County. The entire county.
Wilkinson County. All of the county lying south of the north line of T. 2 N.
(Amended September 21, 1976, amended April 3, 1991.)

Source: *Miss. Code Ann*. §69-25-7.

<u>Regulation on seed Irish potatoes</u>

127 In order to prevent the further introduction into and dissemination within Mississippi of mosaic, scab, leaf roll, spindle tuber, late blight, wilt, wart, and other diseases of Irish potatoes, under provisions of *Miss. Code Ann. §§*69-25-7, 69-25-15, 69-25-17, 69-25-19, 69-25-25, and 69-25-35, the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, does declare and give public notice thereof that the sale of Irish potatoes for seed purposes in Mississippi is prohibited except when such potatoes

bear certificates from the legally constituted inspection officials of the state in which they were grown, or from such other agencies as may be approved by the Bureau of Plant Industry, to the effect that they have been inspected and found to meet the required certification standards of the state of origin; PROVIDED, that potatoes which have not met the following minimum standards for certification shall not be sold for seed purposes in Mississippi:

1. Field Inspections. At least two field inspections shall be made each year at such time as, in the judgement of the certifying agency, is most appropriate. On each and every such inspection pest tolerance shall not exceed the following percentages:

Pest	Tolerances
Rugose Mosaic	2%
Spindle Tuber	2%
Leaf Roll	2%
Total of above virus disease not to exceed	3%
Mild Mosaic	5%
Other diseases known or suspected to be Of virus origin, such as yellow dwarf, witches' broom, haywire, giant hill, rosette, spinach leaf, curly dwarf	2%
Sclerotium rolfsii blight	1%
Tuber Moth, Potato Wart, Ring Rot, Late Blight	0%

2. Tuber Inspection – at the time of shipment tolerances shall not exceed:

Pest	Tolerances
Stem End Discoloration	4%
Hair Sprout	5%
Spindle Tuber	1%
Scab and Rhizoctonia solani	6% of the tubers by weight, that have more than 5% of the surface covered by scab or rhizoctonia
Net Necrosis	5%
Sclerotium rolfsii blight	1%
Tuber Moth, Late Blight, Nematodes, Potato Wart, Ring Rot	0%

(Amended April 3, 1991.)

Source: *Miss. Code Ann*. §69-25-7.

Phony Peach Disease Quarantine

128 Under provisions of *Miss. Code Ann.* §§69-25-7, 69-25-15, 69-25-17, 69-25-19, and 69-25-35, in order to prevent the further introduction and spread within Mississippi of the virus disease known as the phony peach disease, the Bureau of Plant Industry,

Mississippi Department of Agriculture and Commerce, does hereby declare and give public notice of the establishment of a quarantine on the following states in which the disease has been found:

ALABAMA	MISSISSIPPI
ARKANSAS	MISSOURI
FLORIDA	SOUTH CAROLINA
GEORGIA	TENNESSEE
LOUISIANA	TEXAS

The transportation by any means whatever of peach trees, peach roots, plum trees, plum roots, almond trees, apricots, nectarine trees, nectarine roots, or any tree or shrub budded on peach or nectarine roots from the infected areas heretofore listed into, within, or from the State of Mississippi is permitted only when accompanied by a valid nursery inspection certificate of the state of origin and when in addition, the authorized plant inspection official of the state of origin has certified in advance of each shipping season that all nurseries receiving inspection have met the following requirements:

1. That each nursery in the phony peach infected areas producing the regulated products has applied to the State quarantine official for approval of the proposed nursery-growing site on or before August 15, of each year.
2. That selected nursery sites are a least 300 yards from species of wild or domesticated prunus, one-half mile from phony infected commercial orchards, and one-half mile from urban areas.
3. That the one-half mile environs of the nursery site have been inspected prior to October 1, and all phony infected trees found within such environs removed prior to November 1.
4. That all budding has been restricted to the slip-bud method.
5. That none of the stock has been propagated by means of rooted cuttings.

(Amended April 3, 1991.)

Source: *Miss. Code Ann*. §69-25-7.

<u>Pecan "Bunch Disease" Regulation</u>

129.01 In order to prevent further introduction and dissemination within Mississippi of Pecan Bunch Disease, the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, under provisions of *Miss. Code Ann. §§*69-25-7, 69-25-15, 69-25-17, 69-25-19, 69-25-23, 69-25-25 and 69-25-35, does declare and give public notice hereof that pecan nurseries shall be isolated from bunch disease pecan, hickory and black walnut trees, by a distance of one-half mile and there shall be no record of bunch disease having occurred in the nursery area for a period of at least three years. Owing to the fact that black walnut is known to be a symptomless carrier of bunch disease, no black walnut trees shall be propagated in pecan nurseries.

129.02 Infected trees found within the one-half mile isolation zone from pecan nurseries shall be properly pruned or destroyed, depending on degree of infection.

(Section 129 amended April 3, 1991.)

Source: *Miss. Code Ann*. §69-25-7.

Argentine Ant Quarantine

130 Under *Miss. Code Ann. §*§69-25-7, 69-25-15, 69-25-17, 69-25-19, 69-25-25 and 69-25-35, in order to prevent the further introduction into and spread within Mississippi of the destructive insect known as the Argentine ant *Iridomyrmex humilis* (Mayr), the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce does declare and give public notice thereof that the movement into or within Mississippi of potted plants or any other plants with soil around them, from areas which are known to be infested with the Argentine ant, is hereby prohibited, except when the Bureau of Plant Industry shall receive satisfactory information from the plant inspection officials of the state in which the shipment originates, or shall find by inspection, that the property on which the plants were grown is free from this insect, or the ants are being successfully controlled, and the plants shall in other respects conform to the rules and regulations of the Bureau of Plant Industry.

(Amended April 3, 1991.)

Source: *Miss. Code Ann*. §69-25-7.

Lethal Yellowing Quarantine

131 In order to prevent the introduction and spread within the state of Mississippi of a mycoplasma-like organism (MLO), which apparently causes the Lethal Yellowing disease of palms in certain counties in Florida, and as Lethal Yellowing is not known to occur in the state of Mississippi, the Bureau of Plant Industry under the provisions of *Miss. Code Ann* .§69-25-7, §69-25-11, §69-25-15, §69-25-17, §69-25-19, §69-25-21, §69-25-23, §69-25-29, §69-25-35, §69-25-37 does declare and give public notice thereof that the movement into or within the state of Mississippi of hosts of Lethal Yellowing is hereby prohibited. The following apply to this quarantine:

1. Pest – Lethal Yellowing mycoplasma-like organism.
2. Quarantined Areas – The entire counties in Florida, as designated, and any additional counties that are confirmed to be counties which contain palms infected with Lethal Yellowing: Broward, Collier, Dade, Hendry, Martin, Palm Beach, and portion of Monroe not considered mainland.
3. Regulated Articles – Palm hosts of the Lethal Yellowing MLO, as designated, but not limited to the following:
   a. *Arikuryrob schizophylla* (Mart.) Bailey (Arikury palm)
   b. *Borassus flabellifer L*. (Palmyra palm)
   c. *Caryota mitis Lour.* (Cluster fish-tail palm)
   d. *Chrysalidocarpus cabadae* H. E. Moore (Cabada palm)
   e. *Cocos nucifera L*. (Coconut palm) – all varieties, including Malayan dwarf
   f. *Corypha spp*.

g. *Dictyosperma album* (Bory) H. Wendl. & Drude (Hurricane or Princess palm)
h. *Latania sp.*
i. *Mascarena verschaffeltii* (Wendl.) Bailey (Spindle palm)
j. *Phoenix canariensis Hort. Ex Chab* (Canary Island date)
k. *Phoenix dactylifera L*. (Date palm)
l. *Phoenix reclinata Jacq*. (Senegal date palm)
m. *Pritchardia pacific*a Seem. & H. Wendl.
n. *Pritchardia thurstonii* F. Muell. & Drude
o. *Trachycarpus fortunei* (Hook.) Wendl. (Windmill palm)
p. *Veitchia merrillii* (Becc.) H. E. Moore (Christmas palm, Manila, or Adonidia)
q. And any other palms or other plants that may be confirmed to be host of the Lethal Yellowing MLO.

4. Conditions Governing Shipment – Regulated articles from the quarantined areas will be prohibited entry into the state of Mississippi. All regulated articles originating outside the quarantined areas will be prohibited entry unless each shipment is accompanied by a certificate form the Florida Division of Plant Industry stating the origin of the shipment.
5. Infected Shipments Arriving in Mississippi – Regulated articles shipped into the state of Mississippi in violation of this quarantine regulation are subject to destruction or return to the point of origin at the discretion of the State Entomologist.
6. Revision – This quarantine regulation may be revised or amended at any time as conditions and circumstances warrant.

(Amended April 3, 1991.)

Source: *Miss. Code Ann*. §69-25-7.

Imported Fire Ant Quarantine

132 Whereas it has been determined that the destructive insects known as the black imported fire ant, *Solenopsis richteri* Forel and the red imported fire ant *Solenopsis invicta* Buren formerly *Solenopsis saevissima richteri* Forel have been established in the State of Mississippi and under provisions of *Miss. Code Ann.* §69-25-9, have been declared to be public nuisance. Therefore, the Director, Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, by virtue of powers vested in him by the Commissioner, by authority granted under *Miss. Code Ann.* §69-25-7, does establish a quarantine to prevent the spread of the imported fire ant and under provisions of *Miss. Code Ann.* §69-25-25, does declare and give public notice of the establishment of a quarantine as set forth in the following subsections

1. Definitions. For the purpose of this quarantine and regulations, the following shall be construed respectively to mean:
   a. Approved establishment. Any establishment where the operator enters into a compliance agreement.
   b. Certificate. A document issued or authorized to be issued by an inspector to allow the movement of regulated articles to any destination.
   c. Commissioner. The commissioner of the Mississippi Department of Agriculture and Commerce.

d. Compacted soil. Soil attached to equipment that cannot be removed by brisk brushing and/or washing with water under normal city water pressure.

e. Compliance agreement. A written agreement executed with persons engaged in purchasing, assembling, exchanging, handling, processing, utilizing, treating or moving regulated articles and the Bureau of Plant Industry and/or its cooperators, wherein the former agrees to comply with the requirements identified in the agreement by the inspector or employee who executes the agreement on behalf of the Bureau of Plant Industry and/or its cooperators applicable to the operations of such person.

f. Director. Executive Secretary and Director and/or State Entomologist of the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce.

g. Infestation. The presence of the imported fire ant or the existence of circumstances that make it reasonable to believe the imported fire ant is present.

h. Inspector. Any authorized employee of the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, its cooperators or any other person authorized by the Commissioner or the Director of the Bureau of Plant Industry to enforce the provisions of the quarantine and regulations.

i. Mechanized soil-moving equipment. Mechanized equipment used to move or transport soil, e.g., draglines, bulldozers, road scrapers, and dump trucks.

j. Moved, movement, move. Shipped, deposited for transmission in the soil, offered for shipment, received for transportation, carried, otherwise transported or moved, by any means whatsoever, by any person, directly or indirectly.

k. Permit. A document issued or authorized to be issued by an inspector to allow the movement of noncertified regulated articles to a specified destination for particular handling, utilization or processing, or for treatment.

l. Person. This term includes any corporation, partnership, firm, company, joint stock, company, society, or association, as well as any individual.

m. Pest. The insect known as the imported fire ant, two species *Solenopsis richteri* Forel and *Solenopsis invicta* Buren in any state of development.

n. Regulated articles. Imported fire ants, soil and other products and articles of any character whatsoever, the movement of which is regulated by this quarantine.

o. Regulated or quarantined areas. Any area hereafter described or designated as regulated.

p. Scientific permit. A document issued by the Director and/or State Entomologist or by USDA to allow the movement to a specific destination of regulated articles for scientific purposes.

q. Soil. Soil shall be considered that part of the upper layer of earth in which plants can grow.

2. Regulated articles: No person shall move from any quarantined area of the state any of the articles listed as regulated except in accordance with the conditions prescribed in this section. (See Conditions governing the movement of regulated articles.)

a. The imported fire ant, two species *Solenopsis richteri* Forel and *Solenopsis invicta* Buren in any stage of development;

b. Soil, separately or with other things; (See subsection (3.)

c. Plants with roots with soil attached except house plants grown in the home and not for sale;

d. Grass sod;
e. Hay and straw; (See subsection (3))
f. Used mechanized soil-moving equipment; (See subsection (3))
g. Any other products, articles or means of conveyance of any character whatsoever when it is determined by an inspector that they present a hazard of spread of the imported fire ant and the person in possession thereof has been so notified.

3. Exempted articles - The following articles are exempt from the certification, permit, or other requirements if they meet the conditions prescribed and have not been exposed to infestation after cleaning or other handling.
   a. Potting soil, if commercially prepared, packaged and shipped in original containers.
   b. Hay and straw, if being used for packing or bedding.
   c. Used mechanized soil-moving equipment, if cleaned of all loose, noncompacted soil. (See definition of Compacted Soil).
   d. Transplants, if substantially free of soil.
4. Conditions governing the movement of regulated articles:
   a. Certificate or certificates or permits. A certificate or permit must accompany the movement of regulated articles from any regulated area into or through any point outside thereof. Regulated articles originating outside of a regulated area may be moved without a certificate or permit if the point of origin is clearly indicated on the shipping document accompanying the regulated articles, provided, in the case of articles moved through a regulated area, the regulated articles are protected from infestation, while within regulated area, to the satisfaction of an inspector.
   b. Attachment of certificates or permits. When certificates or permits are required, they shall be securely attached to the outside of the container in which the articles are moved except where the certificate or permit attached to the shipping document and the regulated articles are adequately described on the shipping document or on the certificate or permit, the attachment of the certificate or permit to each of the containers is not required.
   c. Issuance of certificates. Certificates may be issued by an inspector if the regulated articles:
      i. Have originated in noninfested premises in a regulated area and have not been exposed to infestation while within the regulated area; or
      ii. Have been treated to destroy infestation in accordance with approved procedures; or
      iii. Have been grown, manufactured, stored, or handled in such a manner that no infestation would be transmitted thereby.
   d. Issuance of permits. Permits may be issued by an inspector to allow the movement of noncertified regulated articles to locations outside of the regulated areas for particular handling, utilization, processing, or for treatment in accordance with approved procedures, provided, the inspector has determined that such movement will not result in the spread of the imported fire ant.
5. There are no restrictions imposed on the movement of regulated articles within regulated areas unless the articles originate on infested properties and an inspector has determined that a hazard of spread exists and the property owner has been so notified.

A property owner so notified may move the specified regulated articles within the regulated area only under conditions approved by an inspector.

6. In all cases, certificates and permits shall be furnished by the carrier to the consignee at the destination of the shipment.
7. Regulated articles may be moved for experimental or scientific purposes in accordance with specified conditions, provided, a scientific permit is securely attached to the container of such articles or to the article itself.
8. As a condition of issuance of certificates or 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 will maintain such safeguards against the establishment and spread of infestation and comply with such conditions as to the maintenance of identity, handling, and subsequent movement of such articles, and the cleaning and treatment of means of conveyance and containers used in the transportation of such articles as may be required by the inspector.
9. Any properly identified inspector is authorized to stop and inspect, without a warrant, any person or means of conveyance moving within or from the State of Mississippi upon probable cause to believe that such means of conveyance or articles are infested with the imported fire ant, and such inspector is authorized to seize, treat, destroy, or otherwise dispose of articles found to be moving in violation of these regulations.
10 The Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce and its cooperators disclaims liability for any cost incident to inspection or treatment required under provisions of this quarantine, other than for the services of personnel of the Bureau of Plant Industry and its cooperators.
11. The entire state of Mississippi is designated as imported fire ant regulated within the meaning of the provisions of this regulation.

(Amended June 12, 1996.)

Source: *Miss. Code Ann*. §69-25-7.

Brown Garden Snail Regulation

133 In order to prevent the introduction and spread within the state of Mississippi of the destructive plant eating brown garden snail *Helix aspersa* Muller which can seriously affect ornamental and various other types of nursery stock, as well as many other plants, and as it is not known to occur in the state of Mississippi, and in order to eradicate the brown garden snail were it to be introduced, the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce under the provisions of *Miss. Code Ann.* §69-25-7, §69-25-9, §69-25-17, §69-25-19, §69-25-23, §69-25-25, and §69-25-35, does declare and give public notice thereof that the movement of live forms of this pest into or within the state of Mississippi in any stage of development is hereby prohibited. The following paragraphs apply to the movement of the brown garden snail:

1. Pest – Brown Garden Snail *Helix aspersa* Muller
2. Quarantined Area –
   California – The entire state and other states or territories hereinafter which may be found to be infested.

3. Regulated Articles – Ornamentals, nursery stock, or any other plants, soil, sand, peat, or other articles which may be responsible for movement of the brown garden snail.
4. Conditions Governing Shipment –
   a. Regulated articles from the quarantined area will be prohibited entry into the State of Mississippi, unless each shipment is accompanied by a certificate issued by and bearing the signature of the quarantine official of the state where shipment originated, certifying that it has been determined by competent, official survey that the regulated articles contained in the shipment were inspected and found to be free of the brown garden snail and that, further, the pest is not known to exist in the nursery or site from which the shipment or regulated articles originated.
   b. Each shipment of nursery stock from an infested nursery or other regulated articles from an infested site must be accompanied by a standard Phytosanitary Export Certificate issued by the plant quarantine official of the state of origin where the shipment originated certifying that the shipment has been fumigated in a gas tight chamber with methyl bromide at a rate of 2 ½ pounds per 1,000 cubic feet at 70° F. or above for 2 hours, or with HCN at a rate of 25cc per 100 cubic feet for 1 hour at 50° F. to 85° F.
   c. A copy of the Phytosanitary Export Certificate must accompany the shipment with the usual state of origin nursery tag or certificate with one copy of the Phytosanitary Export Certificate being mailed to the State Entomologist, Bureau of Plant Industry, P.O. Box 5207, Mississippi State, Mississippi 39762.
5. Infested Shipments Arriving in Mississippi – Nursery stock or other regulated articles arriving in Mississippi from an infested state without proper certification will be held under quarantine for proper certification or returned to the shipper at his expense unless infested with living brown garden snails or other dangerous plant pests. If infested, the shipment will be destroyed or fumigated at the shipper's expense, provided, the infestation can be eliminated without hazard of spread during treatment. If fumigation is necessary, the Bureau of Plant Industry nor its employees or agents, will in any way be held responsible for injury to regulated articles which might result from such fumigation.
6. Revision – This regulation may be revised or amended at any time as conditions and circumstances warrant.

(Amended April 3, 1991.)

Source: *Miss. Code Ann.* §69-25-7.

Applesnail Regulation

134 In order to prevent the introduction and spread within the State of Mississippi of the destructive plant eating applesnails of the family *Ampullariidae* which can seriously affect ornamental and various other types of nursery stock, as well as many other plants, and in order to eradicate the applesnail were it to be introduced, the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce under the provisions of *Miss. Code Ann. §§*69-25-7, 69-25-9, 69-25-17, 69-25-19, 69-25-23, 69-25-25 and 69-25-35, does declare and give public notice thereof that the movement of live forms of this

pest into or within the State of Mississippi in any stage of development is hereby prohibited. The following paragraphs apply to the movement of the applesnail:

1. Pest – Applesnails of the family *Ampullariidae*.
2. Quarantine Area

   California – The entire state Florida – The entire state
   Texas – The entire state Hawaii – The entire state
   North Carolina – The entire state and other states or territories hereinafter which may be found to be infested.
3. Regulated Articles – No common carrier or other person shall move intrastate from any regulated area any of the following articles, except in accordance with the conditions in this regulation. The applesnails (family *Ampullariidae*) in any living stage of development. Ornamentals, nursery stocks, or any other plants, soil, sand, peat, or any other articles which may be responsible for movement of the applesnail.
4. Conditions Governing Shipment
   a. Regulated articles from the quarantined area will be prohibited entry into the State of Mississippi, unless each shipment is accompanied by a certificate issued by and bearing the signature of the quarantine official of the state where shipment originated, certifying that it has been determined by competent, official survey that the regulated articles contained in the shipment were inspected and found to be free of applesnails and that, further, the pest is not known to exist in the nursery or site from which the shipment or regulated articles originated.
   b. Each shipment of nursery stock from an infested nursery or other regulated articles from an infested site must be accompanied by a standard Phytosanitary Export Certificate issued by the plant quarantine official of the state of origin where the shipment originated certifying that the shipment has been fumigated in a gas tight chamber with methyl bromide at a rate of 2 ½ pounds per 1,000 cubic feet at 70° F. or above for two hours, or with HCN at a rate of 25cc per 100 cubic feet for one hour at 50° F. to 85° F.
   c. A copy of the Phytosanitary Export Certificate must accompany the shipment with the usual state of origin nursery tag or certificate with one copy of the Phytosanitary Export Certificate being mailed to the State Entomologist, Bureau of Plant Industry, P. O. Box 5207, Mississippi State, Mississippi 39762.
5. Infested Shipments Arriving in Mississippi: Nursery stock or other regulated articles arriving in Mississippi from an infested state without proper certification will be held under quarantine for proper certification or returned to the shipper at his expense unless infested with living applesnail or other dangerous plants pests. If infested, the shipment will be destroyed or fumigated at the shipper's expense, provided, the infestation can be eliminated without hazard of spread during treatment. If fumigation is necessary, the Bureau of Plant Industry nor its employees or agents, will in any way be held responsible for injury to regulated articles which might result from such fumigation.
6. Revision: This regulation may be revised or amended at any time as conditions and circumstances warrant.
7. This rule shall take effect and be in force thirty days after filing with Secretary of State.

(Adopted January 22, 2002.)

Source: *Miss. Code Ann*. §69-25-7.

Formosan Subterranean Termite Quarantine

135 Whereas it has been determined the destructive insect known as the Formosan subterranean termite, *Coptotermes formosanus* Shiraki which occurs in limited areas in the State of Mississippi and other species of the genus *Coptotermes* which have the potential for being introduced in the State of Mississippi and under provisions of *Miss. Code Ann.* §69-25-9, have been declared to be public nuisance. Now, therefore, the Director, Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, by virtue of powers vested in him by the Commissioner, by authority granted under *Miss. Code Ann.* §69-25-7 does establish a quarantine to prevent the spread of the Formosan subterranean termite and under provisions of *Miss. Code Ann.* §69-25-25 does declare and give public notice of the establishment of a quarantine as set forth in the following subsections:

1. Definitions: For the purpose of this quarantine and regulations, the following shall be construed respectively to mean:
   a. Bureau. The Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce.
   b. Commissioner. The Commissioner of Agriculture and Commerce or his duly authorized designee.
   c. Formosan termite. *Coptotermes formosanus* and all other termites in the genus *Coptotermes*.
   d. Infested. The presence of live Formosan termites or articles exposed to an infestation with evidence of an infestation.
   e. Inspector. Any authorized employee of the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, its cooperators or any other person authorized by the commissioner or the Director of the Bureau of Plant Industry to enforce the provisions of the quarantine and regulations.
   f. Scientific permit. A document issued by the Director and/or State Entomologist to allow the movement to a specific destination of regulated articles for scientific purposes.
2. No person shall move from any quarantined area of this or any state any of the articles listed as regulated except in accordance with the conditions prescribed in this section. (See paragraph 3 of this section.)
   a. Any stage of development of the Formosan termite, *Coptotermes formosanus* and other species of the genus *Coptotermes*.
   b. Railroad cross ties that have been in contact with soil
   c. Utility poles that have been in contact with soil
   d. Firewood that has been in contact with soil
   e. All cellulose material that has been in contact with soil
   f. Any other products, articles or methods used to transport any type article whatsoever when it is determined by an inspector that they present a risk of spread of the Formosan termite and the person in possession thereof has been notified in writing.

3. Conditions governing handling, movement and sale of regulated articles:
   a. When an inspector deems the article free of Formosan termites.
   b. When the article has been properly fumigated by a licensed and/or commercially certified pesticide applicator and proof of treatment is present with article.
   c. Articles found in violation of these regulations shall be destroyed and/or disposed of in a manner approved by the commissioner at the expense of the person or persons responsible for the regulated article or shipped back to the point of origin. If shipped back to the point of origin, the owner of such materials shall be responsible for payment of all costs associated with the return shipment. Shipments being returned to the point of origin must be sealed in a manner approved by the commissioner and cannot stop until reaching the point of origin.
4. Regulated areas: All counties or parishes within the state or from another state that are known to be infested with Formosan termites:
   a. Mississippi: Adams, Amite, Covinton, Forrest, George, Greene, Hancock, Harrison, Hinds, Jackson, Jasper, Jones, Lamar, Lauderdale, Lincoln, Madison, Marion Pearl River, Rerry, Pike, Rankin, Smith, Stone, Walthall, Wilkinson.
   b. Other States:
      i. Alabama (Counties) - Baldwin, Calhoun, Lee, Mobile
      ii. California (County) - San Diego
      iii. Florida - All of State
      iv. Georgia (Counties) - Chatham, Cobb, Dekalb, Fayette, Gwinnett, Paulding
      v. Hawaii – All of State
      vi. Louisiana (Parishes) - Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Baton Rouge, Iberia, Iberville, Jeff Davis, Jefferson, Lafayette, LaFourche, Orleans, Plaquemines, Quachita, Sabine, St. Benard, St. Charles, St. James, St. John, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terreborne, Vermillion, Washington, and West Baton Rouge,
      viii. North Carolina (Counties) - Brunswick, Rutherford
      ix. South Carolina (Counties) - Beaufort, Berkeley, Charleston, Dorchester, Orangeburg, York
      x. Tennessee (County) - Shelby
      xii. Texas (Counties) – Angelina, Aransas, Bexar, Dallas, Denton, Galveston, Hidalgo, Harris, Jefferson, Liberty, Nueces, Orange, Smith, Tarrant
5. Inspection and actions to correct:
   a. An inspector is authorized to stop and inspect, without a warrant, any person or means of conveyance moving into, within or from the state when probable cause occurs to believe that such means of conveyance or articles are infested with the Formosan termite.
   b. An inspector may seize any articles found to be in violation of these regulations.
   c. An inspector may have the articles properly fumigated, destroyed or disposed of in a manner approved by the commissioner. All costs associated with treatments, destruction or disposal shall be paid by the owner.
6. Regulated articles may be moved for experimental or scientific purposes in accordance with specified conditions; provided, a scientific permit is securely attached to the container or the article itself.

(Adopted January 22, 2002. Amended September 1, 2004.)

Source: *Miss. Code Ann*. §69-25-7.

Regulation of Noxious Weeds

136.01 Effective January 1, 2004, the following weeds shall be considered noxious and subject to regulation as deemed necessary by the Bureau of Plant Industry (the Bureau) and approved by its Advisory Board:

MISSISSIPPI NOXIOUS WEED LIST

Benghal dayflower (Commelina benghalensis)*
Brazilian Satintail (*Imperata braziliensis*) *
Chinese Tallow Tree/Popcorn Tree (*Sapium sebiferum)*
Cogongrass (*Imperata cylindrica*) *
Giant Salvinia (*Salvinia molesta*) *
Hydrilla (*Hydrilla verticillata*) *
Itchgrass (*Rottboellia cochinchinensis*) *
Kudzu (*Pueraria montana var. lobata)* *
Tropical soda apple (*Solanum viarum*) *
* Also listed on the Federal Noxious Weed List.

(Amended March 7, 2007.)

136.02 Procedures for declaring additional weeds as noxious or for deregulation of weeds listed as noxious are as follows:

1. The Bureau shall accept written petitions requesting that weeds not listed above be regulated as noxious or that a currently listed weed be deregulated. Such petition(s) shall provide justification for listing or de-listing to the Bureau.
2. The Advisory Board to the Bureau, shall decide for or against the petition(s) to list a weed as noxious based on factual information as required by the Bureau for each plant proposed to be added to the noxious weed list. The Advisory Board may hear testimonial evidence for or against said listing at Board meetings or hearings.
3. Justification for de-listing a weed may include, but not be limited to: a. recent factual data not previously presented to the Bureau proving that said weed has not adversely affected agricultural/horticultural production or the environment as previously declared; b. data proving said weed no longer can be regulated, is endemic and control/regulatory activities have not been successful; or c. the regulatory program has proven to be cost prohibitive. The Bureau Director and/or State Entomologist shall first review and based on data presented determine whether a submitted petition to de-list a weed meets justification for Advisory Board consideration. The Advisory Board may hear testimonial evidence for or against said de-listing at Board meetings or hearings.
4. Other than as described in this subsection, federal noxious weeds may only be listed in subsection 140.01 after being found in Mississippi or after USDA, APHIS, PPQ or another federal regulatory agency having such authority requests the Bureau's assistance in regulating or surveying for such weeds and provides funding through a cooperative agreement to do so.

136.03 Adoption of regulatory requirements for listed noxious weeds. Should the need prevail, the Bureau and with the approval of its Advisory Board may establish separate rules,

guidelines and policies for each weed so listed. Implementation of such rules shall be done in order to prevent the spread of noxious weeds into and within the state of Mississippi and to other states which adopt quarantine measures. Having such authority and with the approval of the Advisory Board, the Bureau may determine applicable pathways of spread, regulated areas, articles to be regulated and the disposition of such articles found to be in violation.

136.04 Quarantine Imposed. It is hereby declared under the provisions of *Miss. Code Ann*. §§ 69-25-1 through 69-25-47 of the Mississippi Plant Act that with the approval of the Bureau's Advisory Board a quarantine may be imposed upon specific noxious weeds so listed in subsection 136.01 when detected in the State of Mississippi. However, should a need arise dictating an emergency quarantine on a non-listed noxious weed the Bureau may implement such effective for 90 days during which time the Advisory Board may officially declare the weed as noxious and approve a specific final quarantine rule. Unless otherwise determined and specified in such rules, regulated articles may only be moved out of a quarantined or regulated area under special permit or certificate, which has been issued by the Bureau. Also, unless otherwise specified by regulation, regulated articles moved into the state must enter under a special written permit issued by the Bureau or must be accompanied by a certificate from the state of origin. Such certificate shall be issued based upon an inspection of the article(s) by an authorized inspector in the state of origin declaring such article to be apparently free from seed, vegetative forms or any other living stage(s) of plant growth of any noxious weed listed in subsection 136.01.

(Section 136 adopted March 1, 2004.)

Source: *Miss. Code Ann*. §69-25-7.

<u>Fumigation Certificate Required For Shipments Of Pine And Hardwood Seedlings Used For Forestation</u>

137.01 This rule serves to prevent the introduction of exotic plant pests and noxious weeds, including Cogongrass, into and within Mississippi via extensive reforestation and forestation practices common to the state. Any person, firm or entity shipping or transporting pine or hardwood seedlings into or within the state for forestation purposes must furnish the Bureau of Plant Industry proof that all seedlings are apparently free of infectious diseases, injurious pests and noxious weeds.

137.02 The premises of nurseries growing seedlings for forestation purposes must be inspected by an official inspector and declared to be apparently free of pests, including cogongrass and other noxious weeds listed in subsection 136.01 of this chapter. The preferred method of treatment, to insure pest-free plant material, is fumigation using methyl bromide in seedling plant beds prior to seeding. All such treatments shall be done using state and federally-registered pesticides. An official inspector of the Bureau shall issue certificates prior to any shipment of seedlings grown in Mississippi. Each shipment originating from another state must be accompanied by a certificate of inspection issued by the state of origin to verify inspections and/or treatments.

137.03 Shipments of trees intended for ornamental use must be accompanied by a certificate of inspection from the state of origin declaring them to have been inspected and found to be apparently free of infectious diseases, injurious pests and noxious weeds.

(Section 137 adopted March 3, 2005.)

Source: *Miss. Code Ann*. §69-25-7.

Benghal Dayflower (*Commelina benghalensis)* Quarantine

138 Under the authority of the Mississippi Plant Act, *Miss. Code Ann. §§* 69-25-1 through 69-25-49 and section 140 of this chapter adopted there under, this rule serves to prevent new introductions into Mississippi and spread of benghal dayflower/tropical spiderwort (*Commelina benghalensis)* within Mississippi to major agricultural lands. The Mississippi Department of Agriculture and Commerce, Bureau of Plant Industry hereby declares *Commelina benghalensis* to be a noxious weed. This rule also establishes procedures to prevent further introduction and spread of benghal dayflower from infested counties.

1. Notice is hereby given that the movement of regulated articles listed below into or within the state of Mississippi in any stage is hereby prohibited:
   a. All live stages of *Commelina benghalensis,* including seeds, vegetative growth, roots and stolons.
   b. Soil from known infested fields, whether on commodities, seed or equipment.
   c. Farming equipment, excavation equipment and vehicles containing or holding soil or vegetative plant material coming from a known infested field, including but not limited to peanut harvesters, combines, tillage equipment, cotton pickers, bulldozers, backhoes, excavators, dump trucks, etc.
   d. Hay harvested from infested fields, including peanut hay.
2. Quarantined Area
   a. Fields or premises located in George, Jackson or other Mississippi counties wherein detections of *Commelina benghalensis* have been detected and/or declared infested by the State Entomologist.
   b. The entire state of Georgia, known infested counties in Alabama, North Carolina and Florida and counties known to be infested in other states as determined by the State Entomologist.
3. Conditions governing transport or shipment of regulated articles:
   a. Equipment listed in paragraph (1)(c) may be certified to be moved out of a regulated/quarantine area from an infested premises or field by one of the following means: (1) once inspected and found to be free of soil and all live stages of *Commelina benghalensis* by an official inspector of the Bureau of Plant Industry (2) or after all the lands on which the piece of equipment has been operating during the last twelve months have been surveyed and found to be apparently free of *Commelina benghalensis.*
   b. Live stages listed in paragraph (1)(a) may not be moved from an infested premises or field except for research purposes and only with a written permit issued by the Bureau of Plant Industry.

c. Soil may only be moved from an infested field or premises after being fumigated with an approved chemical to kill all life stages of *Commelina benghalensis.*

d. Farmers harvesting hay who are not under a compliance agreement must have a field inspection prior to cutting hay, or in the case of peanuts prior to digging, in order to ship hay out of the regulated area.

e. A copy of certificate or permit issued by an official of the Bureau of Plant Industry or official of the issuing state must accompany each regulated item when moved from a regulated field.

4. Infested or non-certified shipments of regulated articles from a regulated area will be held under quarantine, until certification can be documented, or returned to the shipper at his expense unless live stages of *Commelina benghalensis* are detected in which case it shall be destroyed or fumigated at the owner's expense. If fumigation is required, the Bureau of Plant Industry nor its employees or agents, shall in any way be held responsible for injury to regulated articles which might result from such fumigation.

5. The Bureau of Plant Industry hereby has authority to enter into compliance agreements with affected parties in order to effectively carry out the provisions of this rule.

(Adopted March 7, 2007.)

Source: *Miss. Code Ann*. §69-25-7.

139 Reserved.

Source: *Miss. Code Ann*. §69-25-7.

QUARANTINE REGULATIONS FOR BAKANAE DISEASE OF RICE

140.01 NOTICE OF QUARANTINE: The Bureau of Plant Industry 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. In order to protect the welfare of the public's food supply, the following emergency quarantine is established to prevent the introduction and dissemination of *Gibberella fujikuroi* (bakanae strains) into rice production areas of Mississippi. The movement of regulated articles cited below in section 140.04 from infested areas into Mississippi is hereby restricted. The Commissioner of Agriculture and Commerce through the Bureau of Plant Industry (BPI), in accordance with *Miss. Code Ann.* Section 69-25-7 paragraph (2), Section 25-43-7, and Subpart 3- Bureau of Plant Industry, Chapter 1; section 102(2)(e) of the regulations adopted there under, does declare and give public notice of the establishment of an emergency quarantine setting forth the following:

140.02 QUARANTINE IMPLEMENTATION:

1. The Bureau of Plant Industry will implement the *Gibberella fujikuroi* (bakanae strains)/Bakanae or Foolish Seedling Disease of Rice-quarantine immediately upon adoption of the regulations.

2. Pest - *Gibberella fujikuroi* (bakanae strains)/Bakanae or Foolish Seedling Disease of Rice.

3. Quarantined Areas- The entire state of California and any other state wherein Bakanae disease is found to occur.

140.03 DEFINITIONS:

1. **Certificate-** A document issued or authorized by the Bureau of Plant Industry 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.
2. **Compliance Agreement-** A written agreement between the Bureau of Plant Industry 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).
3. **Exemptions-** Provisions contained in these Regulations which allow for modifications in conditions of movement of regulated articles from regulated areas under specified conditions.
4. **Farm Operator-** Person responsible for the production, sale and distribution of a rice seed, rice straw, rice grain, or other rice plant derivatives on any individual farm.
5. **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.
6. **Infested-** Actually infested with the organism or so exposed to infestation that it would be reasonable to believe that an infestation exists.
7. **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.
8. **Inspector-** Any authorized employee of the Bureau of Plant Industry, or any other person authorized by the Mississippi Department of Agriculture and Commerce to enforce the provisions of these rules.
9. **Limited Permit-** A document issued or authorized by the Bureau of Plant Industry 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.
10. **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.
11. **Milled Rice-** Rice that has been subjected to processing to produce products from rough rice.
12. **Milling Rice-** Rice that has been produced, handled, acquired and destined for processing through a mill.
13. **Person-** Any individual, corporation, company, society, association or other business entity.

14. **Regulated Area-** Any state or any portion of such state that is known to be infested with *Gibberella fujikuroi* (bakanae strains).
15. **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 accredited professional staff person utilizing proper safety programs to prevent the accidental release and/or spread of the disease.
16. **Rice Mill-** Any manufacturing plants and all associated facilities that are involved in processing rough rice to produce rice related products.
17. **Rice-** All parts of rice and wild rice plants of the genera Oryza.
18. **Rice Hulls-** The outer covering of the rice seed that usually is removed in the milling process.
19. **Rice Production Area-** Any area utilized in the growing of rice plants for production of the plant and/or subsequent seed for harvesting.
20. **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.
21. **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.
22. **Rough Rice-** Rice seed harvested, handled and transported in the same form it was in immediately following harvest and removal from the rice plant.
23. **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).
24. **Seed Rice-** Seed removed from the rice plant and subjected to such processing as to make the seed suitable for planting 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.
25. **Treatment-** Any scientifically proven and effective process that may be applied to rice seed or other plant parts to modify/or affect the presence of *Gibberella fujikuroi* (bakanae strains).
26. **Used Rice Equipment-** Any equipment previously used to harvest, strip, transport, destroy or process rice.

140.04 REGULATED AND NON-REGULATED ARTICLES ASSOCIATED WITH RICE:

1. Regulated articles from regulated area(s)
   a. The causal agent, *Gibberella fujikuroi* (bakanae strains), in any living stage of development.
   b. Wild Rice
   c. Rough Rice
   d. Seed Rice
   e. Research Rice
   f. Milling Rice
   g. Rice Hulls
   h. Rice Mill Waste

i. Used Rice Equipment
j. Any other products, articles or means of conveyance, upon notification of the owner of such and after determined by an inspector they present a hazard of spread of *Gibberella fujikuroi* (bakanae strains).

2. Non-regulated articles from regulated area(s).
   a. Milled/processed rice bagged and labeled for human consumption.
   b. Bagged and labeled animal feed containing regulated articles not destined for rice production areas.

140.05 CONDITIONS GOVERNING 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 Bureau of Plant Industry 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.
e. The scheduled date of shipment.

140.06 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 Bureau of Plant Industry.

140.07 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.
   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.

140.08 REMOVAL OF QUARANTINE MAY BE *ACCOMPLISHED* BY ONE OF THE FOLLOWING:
Said quarantine, upon approval by the Advisory Board, may be removed if the Commissioner determines that *Gibberella fujikuori* (bakanae strains) are endemic and no regulatory mechanisms will prove effective in preventing further dissemination of *Gibberella fujikuori* (bakanae strains) within Mississippi.

140.09 PENALTIES:

1. Persons found in violation of state requirements shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one thousand dollars ($1,000) per violation or by imprisonment for not more than six (6) months or by both such fine and imprisonment at the discretion of the court having jurisdiction.
2. Each illegal shipment or sale transaction within the state shall be considered a separate violation and subject to prosecution accordingly.

(Section 140 adopted August 26, 2009.)

Source: *Miss. Code Ann*. §69-25-7.

Subpart 3-Bureau of Plant Industry
Chapter 02- Commercial Feed

Definitions and Terms

100.01 The names and definitions for commercial feeds shall be the Official Definition of Feed Ingredients adopted by the Association of American Feed Control Officials, except as the Commissioner and State Chemist designate otherwise, in specific cases.

100.02 The terms in reference to commercial feeds shall be the Official Feed Terms adopted by the AAFCO, except as the Commissioner and State Chemist designate otherwise in specific cases.

100.03 The following commodities are hereby declared exempt from the definitions of commercial feed, under the provisions of Section 75-45-153 (d) of the Act: Raw meat, hay, loose salt, straw, stover, silages, cobs, husks, and hulls when unground and when not mixed or intermixed with other materials: Provided that these commodities are not adulterated within the meaning of Section 75-45-165 (a) of the Act.

Source: *Miss. Code Ann*. §75-45-157.

Label Format

101.01 Commercial feed, other than customer-formula feed, shall be labeled with the information prescribed in this regulation on the principal display panel of the product and in the following general format:

1. Product name and brand name if any, as stipulated in Section 102(1).
2. If a drug is used, label as stipulated in Section 102(2).
3. Purpose Statement as stipulated in Section 102(3).
4. The guaranteed analysis as stipulated in Section 102(4).
5. Feed ingredients as stipulated in Section 102(5).
6. Directions for use and precautionary statements as stipulated in Section 102(6)
7. Name and principal mailing address of the manufacturer or person responsible for distributing the feed as stipulated in Section 102(7)
8. Quantity statement.
9. The information required in Section 75-45-161(1)(a)-(e) of the Act must appear in its entirely on one side of the label or on one side of the container. The information required by Section 75-45-161(1)(f)-(g) of the Act shall be displayed in a prominent place on the label or container but not necessarily on the same side as the information required by Section 75-45-161. When the information required by Section 75-45-161(1)(f)-(g) is placed on the other side of the label or container, it must be referenced on the front side with a statement such as "see back of label or container for directions for use." None of the information required by Section 75-45-161 of the Act shall be subordinated or obscured by other statements or designs.

101.02 Customer-formula feed shall be accompanied with the information prescribed in this regulation using labels, invoice, delivery ticket, or other shipping document bearing the following information.

1. The name and address of the manufacturer.
2. The name and address of the purchaser.
3. The date of sale or delivery.
4. The customer-formula feed name and brand name if any.
5. The product name and net weight of each commercial feed and each other ingredient used in the mixture.
6. If a drug-containing product is used:
   a The purpose of the medication (claim statement).
   b. The established name of each active drug ingredient and the level of each drug used in the final mixture expressed in accordance with Section 103.04.
   c. The directions for use and precautionary statements as required by Sections 105.01-106.03.

Source: *Miss. Code Ann*. §75-45-157.

<u>Brand and Product Names</u>

102 Commercial feed, other than customer-formula feed, shall be labeled with the information prescribed in this regulation:

1. Product and brand name if any.
   a. The brand or product name must be appropriate for the intended use of the feed and must not be mislabeled. If the name indicates the feed is made for specific use, the character of the feed must conform therewith. A commercial feed for a particular animal class, must be suitable for that purpose.
   b. Commercial, registered brand or trade names are not permitted in guarantees or ingredient listings but only in the product name of feeds produced by or for the firm holding the rights to such a name.
   c. The name of a commercial feed shall not be derived from one or more ingredients of a mixture to the exclusion or other ingredients and shall not be one representing any components of a mixture unless all components are included in the name: provided, that if any ingredient or combination of ingredients is intended to impart a distinctive characteristic to the product which is of significance to the purchaser, the name of that ingredient or combination of ingredients may be used as a part of the brand name or product name if the ingredient or combination of ingredients is quantitatively guaranteed in the guaranteed analysis, and the brand or product name is not otherwise false or misleading.
   d. The word "protein" shall not be permitted in the product name of a feed that contains added non-protein nitrogen.
   e. When the name carries a percentage value, it shall be understood to signify protein and/or equivalent protein content only, even though it may not explicitly modify the percentage with the word "protein": provided, that other percentage values may be permitted if they are followed by the proper description and conform to

good labeling practice. Digital numbers shall not be used in such a manner as to be misleading or confusing to the customer.

f. Single ingredient feeds shall have a product name in accordance with the designated definition of feed ingredients as recognized by the Association of American Feed Control Officials unless the Commissioner and State Chemist designate otherwise.

g. The word "vitamin," or a contraction thereof, or any word suggesting vitamin can be used only in the name of a feed which is represented to be a vitamin as declared in Section 103.03.

h. The term "mineralized" shall not be used in the name of a feed, except for "TRACE MINERALIZED SALT." When so used, the product must contain significant amounts of trace minerals which are recognized as essential for animal nutrition.

i. The term "meat" and "meat by-products" shall be qualified to designate the animal from which the meat and meat by-products are derived unless the meat and meat by-products are made from cattle, swine, sheep and goats.

2. If a drug is used the following information must appear on the label:
   a. The word "Medicated" shall appear directly following and below the product name in type size no smaller than one half the type size of the product name.
   b. The purpose of medication (claim statement).
   c. An active drug ingredient statement listing the active drug ingredients by their established name and the amounts in accordance with Section 103.04.
   d. The required directions for use and precautionary statements or reference to their location if the detailed feeding directions and precautionary statements required by Sections 105.01-106.03 appear elsewhere on the label.
3. Purpose Statement
4. Guarantees – Crude Protein, Equivalent Crude Protein from Non Protein Nitrogen, Amino Acids, Crude Fat, Crude Fiber, Acid Detergent Fiber, Calcium, Phosphorus, Salt and Sodium shall be the sequence of nutritional guarantees when such guarantee are stated. Other required and voluntary guarantees should follow in a general format such that the units of measure used to express guarantees (percentage, parts per million, International Units, as required) are listed in a sequence that provides a consistent grouping of the units of measure.
   a. Required guarantees for swine formula feeds:
      i. Animal Classes:
         A. Pre-Starter - 2 to 11 pounds.
         B. Starter - 11 to 44 pounds.
         C. Grower - 44 to 110 pounds.
         D. Finisher - 110 to 242 pounds (market).
         E. Gilts, Sows and Adult Boars.
         F. Lactating Gilts and Sows.
      ii. Guaranteed Analysis for Swine Complete Feeds and Supplements (all animal classes):
         A. Minimum percentage of Crude Protein.
         B. Minimum percentage of Lysine.
         C. Minimum percentage of Crude Fat.

D. Maximum percentage of Crude Fiber.
E. Minimum and maximum percentage of Calcium.
F. Minimum percentage of Phosphorus.
G. Minimum and maximum percentage of Salt (if added).
H. Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum salt guarantee.
I. Minimum Selenium in parts per million (ppm).
J. Minimum Zinc in parts per million (ppm).

b. Required guarantees for Formula Poultry Feeds (Broilers, Layers and Turkeys):

i. Animal Classes:

A. Layer - Chickens that are grown to Produce eggs for food, e.g., table eggs.
1. Starting/Growing - From day of hatch to approximately 10 weeks of age.
2. Finisher - From approximately 10 weeks of age to time first egg is produced. (Approximately 20 weeks of age).
3. Laying - From time first egg is laid throughout the time of egg production.
4. Breeders - Chickens that produce fertile eggs for hatch replacement layers to produce eggs for food, table eggs, from time first egg is laid throughout their productive cycle.

B. Broilers - Chickens that are grown for human food.
1. Starting/Growing - From day of hatch to approximately 5 weeks of age.
2. Finisher - From approximately 5 weeks of age to market, (42 to 52 days).
3. Breeders - Hybrid strains of chickens whose offspring are grown for human food, (broilers), any age and either sex.

C. Broilers, Breeders - Chickens whose offspring are grown for human food (broilers).
1. Starting/Growing - From day of hatch until approximately 10 weeks of age.
2. Finishing - From approximately 10 weeks of age to time first egg is produced, approximately 20 weeks of age.
3. Laying - Fertile egg producing chickens (broilers/roasters) from day of first egg throughout the time fertile eggs are produced.

D. Turkeys:
1. Starting/Growing - Turkeys that are grown for human food from day of hatch to approximately 13 weeks of age (females) and 16 weeks of age (males).
2. Finisher - Turkeys that are grown for human food, females from approximately 13 weeks of age to approximately 17 weeks of age; males from 16 weeks of age to 20 weeks of age, (or desired market weight).
3. Laying - Female turkeys that are producing eggs; from time first egg is produced, throughout the time they are producing eggs.
4. Breeder - Turkeys that are grown to produce fertile eggs, from day of hatch to time first egg is produced (approximately 30 weeks of age), both sexes.

ii. Guaranteed Analysis for Poultry Complete feeds and Supplements (all animal classes):

A. Minimum percentage of Crude Protein.
B. Minimum percentage of Lysine.
C. Minimum percentage of Methionine.
D. Minimum percentage of Crude Fat.
E. Maximum percentage of Crude Fiber.
F. Minimum and maximum percentage of Calcium.
G. Minimum percentage of Phosphorus.
H. Minimum and maximum percentage of Salt (if added).
I. Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum salt guarantee.

c. Required Guarantees for Beef Cattle Formula Feeds:

i. Animal Classes:

A. Calves (birth to weaning).
B. Cattle on Pasture (may be specific as to production stage; e.g. stocker, feeder, replacement heifers, brood cows, bulls, etc.).
C. Feedlot Cattle.

ii. Guaranteed analysis for Beef Complete Feeds and Supplements (all animal classes):

A. Minimum percentage of Crude Protein.
B. Maximum percentage of equivalent crude protein from Non-Protein Nitrogen (NPN) when added.
C. Minimum percentage of Crude Fat.
D. Maximum percentage of Crude Fiber.
E. Minimum and maximum percentage of Calcium.
F. Minimum percentage of Phosphorus.
G. Minimum and maximum percentage of Salt (if added).
H. Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum salt guarantee.
I. Minimum percentage of Potassium.
J. Minimum Vitamin A, other than precursors of Vitamin A, in International Units per pound (if added).

iii. Guaranteed analysis for Beef Mineral Feeds (if added):

A. Minimum and maximum percentage Calcium.
B. Minimum percentage of Phosphorus.
C. Minimum and maximum percentage of Salt.
D. Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum salt guarantee.
E. Minimum percentage of Magnesium.
F. Minimum percentage of Potassium.
G. Minimum Copper in parts per million (ppm).
H. Minimum Selenium in parts per million (ppm).
I. Minimum Zinc in parts per million (ppm).
J. Minimum Vitamin A, other than precursors of Vitamin A, in International Units per pound.

d. Required Guarantees for Dairy Formula Feeds:
   i. Animal Classes:
      A. Veal Milk Replacer - Milk Replacer to be fed for veal production.
      B. Herd Milk Replacer - Milk Replacer to be fed for herd replacement calves.
      C. Starter - Approximately 3 days to 3 months.
      D. Growing Heifers, Bulls and Dairy Beef.
         1. Grower 1-3 months to 12 months of age.
         2. Grower 2-More than 12 months of age.
      E. Lactating Dairy Cattle.
      F. Non-Lactating Dairy Cattle.
   ii. Guaranteed Analysis for Veal and Herd Replacement Milk Replacer:
      A. Minimum percentage Crude Protein.
      B. Minimum percentage Crude Fat.
      C. Maximum percentage of Crude Fiber.
      D. Minimum and maximum percentage Calcium.
      E. Minimum percentage of Phosphorus.
      F. Minimum Vitamin A, other than precursors of Vitamin A, in International Units per pound (if added).
   iii. Guaranteed Analysis for Dairy Cattle Complete Feeds and Supplements:
      A. Minimum percentage of Crude Protein.
      B. Maximum percentage of equivalent Crude Protein from Non-Protein Nitrogen (NPN) when added.
      C. Minimum percentage of Crude Fat.
      D. Maximum percentage of Crude Fiber.
      E. Maximum percentage of Acid Detergent Fiber (ADF).
      F. Minimum and maximum percentage of Calcium.
      G. Minimum percentage of Phosphorus.
      H. Minimum Selenium in parts per million (ppm).
      I. Minimum Vitamin A, other than precursors of Vitamin A, in International Units per pound (if added).
   iv. Required Guaranteed Analysis for Dairy Mixing and Pasture Mineral:
      A. Minimum and maximum percentage of Calcium.
      B. Minimum percentage of Phosphorus.
      C. Minimum and maximum percentage of Salt.
      D. Minimum and maximum percentage of total Sodium.
      E. Minimum percentage of Magnesium.
      F. Minimum percentage of Potassium.
      G. Minimum Selenium in parts per million (ppm).
      H. Minimum Vitamin A, other than the precursors of Vitamin A, in International Units per pound.
e. Required Guarantees for Equine Formula Feeds:
   i. Animal Classes:
      A. Foal.
      B. Mare.
      C. Breeding.

D. Maintenance.

ii. Guaranteed Analysis for Equine Complete Feeds and Supplements (all animal classes):

A. Minimum percentage of Crude Protein.
B. Minimum percentage of Crude Fat.
C. Maximum percentage of Crude Fiber.
D. Minimum and maximum percentage of Calcium.
E. Minimum percentage of Phosphorus.
F. Minimum Copper in parts per million (ppm).
G. Minimum Selenium in parts per million (ppm).
H. Minimum Zinc in parts per million (ppm).
I. Minimum Vitamin A, other than the precursors of Vitamin A, in International Units per pound (if added).

iii. Guaranteed Analysis for Equine Mineral Feed (all animal classes):

A. Minimum and maximum percentage of Calcium.
B. Minimum percentage of Phosphorus.
C. Minimum and maximum percentage of Salt (if added).
D. Minimum and maximum percentage of Sodium shall be guaranteed only when the total sodium exceeds that furnished by the maximum salt guarantee.
E. Minimum Copper in parts per million (ppm).
F. Minimum Selenium in parts per million (ppm)
G. Minimum Zinc in parts per million (ppm).
H. Minimum vitamin A, other than precursors of Vitamin A, in International Units per pound (if added).

f. Required Guarantees for Goat and Sheep Formula Feeds:

i. Animal Classes:

A. Starter.
B. Grower.
C. Finisher.
D. Breeder.
E. Lactating.

ii. Guaranteed Analysis for Goat and Sheep Complete Feeds and Supplements (all animal classes):

A. Minimum percentage of Crude Protein.
B. Maximum percentage of equivalent crude protein from Non Protein Nitrogen NPN) when added.
C. Minimum percentage of Crude Fat.
D. Maximum percentage of Crude Fiber.
E. Minimum and maximum percentage of Calcium.
F. Minimum percentage of Phosphorus.
G. Minimum and maximum percentage of Salt (if added).
H. Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum salt guarantee.
I. Minimum and maximum Copper in parts per million (ppm) (if added, or if total copper exceeds 20 ppm).

J. Minimum Selenium in parts per million (ppm).

K. Minimum Vitamin A, other than precursors of Vitamin A, in International Units per pound (if added).

g. Required Guarantees for Duck and Geese Formula Feeds:

i. Animal Classes:

A. Ducks.

1. Starter - 0 to 3 weeks of age.
2. Grower - 3 to 6 weeks of age.
3. Finisher - 6 weeks to market.
4. Breeder Developer - 8 to 19 weeks of age.
5. Breeder - 22 weeks to end of lay.

B. Geese.

1. Starter - 0 to 4 weeks of age.
2. Grower - 4 to 8 weeks of age.
3. Finisher - 8 weeks to market.
4. Breeder Developer - 10 to 22 weeks of age.
5. Breeder - 22 weeks to end of lay.

ii. Guaranteed Analysis for Duck and Geese Complete Feeds and Supplements (for all animal classes):

A. Minimum percentage of Crude Protein.

B. Minimum percentage of Crude Fat.

C. Maximum percentage of Crude Fiber.

D. Minimum and maximum percentage of Calcium.

E. Minimum percentage of Phosphorus.

F. Minimum and maximum percentage of Salt (if added).

G. Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum salt guarantee.

h. Required Guarantees for Fish Complete Feeds and Supplements:

i. Animal Species shall be declared in lieu of animal class:

A. Trout.

B. Catfish.

C. Species other than trout or catfish.

ii. Guaranteed analysis for all Fish Complete Feeds and Supplements:

A. Minimum percentage of Crude Protein.

B. Minimum percentage of Crude Fat.

C. Maximum percentage of Crude Fiber.

D. Minimum percentage of Phosphorus.

i.. Required Guarantees for Rabbit Complete Feeds and Supplements:

i. Animal Classes:

A. Grower - 4 to 12 weeks of age.

B. Breeder - 12 weeks of age and over.

ii. Guaranteed analysis for Rabbit Complete Feeds and Supplements (all animal classes):

A. Minimum percentage of Crude Protein.

B. Minimum percentage of Crude Fat.

C. Minimum and maximum percentage of Crude Fiber (the

maximum crude fiber shall not exceed the minimum by more than 5.0 units).

D. Minimum and maximum percentage of Calcium.

E. Minimum percentage of Phosphorus.

F. Minimum and maximum percentage of Salt (if added).

G. Minimum and maximum percentage of total Sodium shall b guaranteed only when total Sodium exceeds that furnished by the maximum salt guarantee.

H. Minimum Vitamin A, other than precursors of Vitamin A, in International Units per pound (if added).

j. The required guarantees of grain mixtures with or without molasses and feeds other than those described in section 102(1)(a)-(i) shall include the following items, unless exempted in subsection k in the order listed:

i. Animal class(es) and species for which the product is intended.

ii. Guaranteed analysis.

A. Minimum percentage Crude Protein.

B. Maximum or minimum percentage of Crude Protein from Non-Protein Nitrogen as required in Regulation 4(e).

C. Minimum percentage of Crude Fat.

D. Maximum percentage of Crude Fiber.

E. Minerals in formula feeds, to include in the following order:

1. Minimum and maximum percentages of Calcium.
2. Minimum percentage of Phosphorus.
3. Minimum and maximum percentage of Salt (if added).
4. Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum salt guarantee.

F. Minerals in feed ingredients, as specified by the official definitions of the AAFCO.

G. Vitamins in such terms as specified in Regulation 4(c).

H. Total Sugars, as Invert, on dried molasses products or products being sold primarily for their molasses content.

I. Viable lactic acid producing microorganisms for use in silages in terms specified in subsection 103.07.

J. A commercial feed (e.g. vitamin/mineral premix, base mix, etc.) intended to provide a specialized nutritional source for use in the manufacture of other feeds, must state its intended purpose and guarantee those nutrients relevant to such stated purpose.

k. Exemptions.

i. A mineral guarantee for feed, excluding those feeds manufactured as complete feeds and for feed supplements intended to be mixed with grain to produce a complete feed for swine, poultry, fish and veal and herd milk replacers, is not required when:

A. the feed or feed ingredient is not intended or represented or does not serve as a principal source of that mineral to the animal; or

B. The feed or feed ingredient is intended for non-food producing animals and contains less than 6.5% total mineral.

ii. Guarantees for vitamins are not required when the commercial feed is neither formulated for nor represented in any manner as a vitamin supplement.

iii. Guarantees for crude protein, crude fat , and crude fiber are not required when the commercial feed is intended for purposes other than to furnish these substances or they are of minor significance relating to the primary purpose of the product, such as drug premixes, mineral or vitamin supplements, and molasses.

iv. Guarantees for microorganisms are not required when the commercial feed is intended for a purpose other than to furnish these substances or they are of minor significance relating to the primary purpose of the product, and no specific label claims are made.

v. The indication for animal class(es) and species are not required on single ingredient products if the ingredient is not intended, represented, defined for a specific animal classes(es) or species.

5. Feed ingredients, collective terms used for the grouping of feed ingredients, or appropriate statements as provided under the provisions of Section 75-45-165(a)(4) of the Act.

a. The name of each ingredient as defined in the Official Publication of the Association of American Feed Control Officials, common or usual name, or one approved by the Commissioner or State Chemist.

b. Collective terms used for the grouping of feed ingredients as defined in the Official Definitions of Feed Ingredients published in the Official Publication of the Association of American Feed Control Officials in lieu of the individual ingredients; Provided that:

i. When a collective term for a group of ingredients is used on the label, the individual ingredients within that group shall not be listed on the label.

ii. The manufacturer shall provide the feed control official, upon request, with a list of individual ingredients, within a defined group, that are or have been used at manufacturing facilities distributing in or into the state.

6. The required directions for use and precautionary statements or reference to the location of the detailed feeding directions and precautionary statements as required by sections 105.01-106.03 if they appear elsewhere on the label.

7. Name and principal mailing address of the manufacturer or person responsible for distributing the feed. The principal mailing address shall include the street address, city, state and zip code; however, the street address may be omitted if it is shown in the current city directory or telephone directory.

8. Quantity statement.

Source: *Miss. Code Ann*. §75-45-157.

<u>Expression of Guarantees</u>

103.01 The guarantees for crude protein, equivalent protein from non-protein nitrogen, crude fat, crude fiber and mineral guarantees (when required) will be in terms of percentage.

103.02 Mineral Guarantees:

1. When calcium and/or salt guarantees are given in the guaranteed analysis such shall be stated and conform to the following:
   a. When the minimum is below 2.5 percent, the maximum shall not exceed the minimum by more than 0.5 percentage point.
   b. When the minimum is 2.5 percent, but less than 5.0 percent , the maximum shall not exceed the minimum by more than one percentage point.
   c. When the minimum is above 5.0 percent, the maximum shall not exceed the minimum by more than 20 percent, and in no case shall the maximum exceed the minimum by more than 5 percentage points.
2. When stated, guarantees for minimum and maximum total sodium, and salt: minimum potassium, magnesium, sulfur, phosphorus and maximum fluorine shall be in terms of percentage. Other minimum mineral guarantees shall be states in parts per million (PPM) when the concentration is less than 10,000 ppm and in percentage when the concentration is 10,000 ppm (1%) or greater.
3. Products labeled with a quantity statement (e.g. tablets, capsules, granules, or liquid) may state mineral guarantees in milligrams (mg) per unit (e.g., tablets, capsules, granules, or liquids) consistent with the quantity statement and directions for use.

103.03 Guarantees for minimum vitamin content of commercial feeds shall be listed in the ordered specified and are stated on the label in milligrams per pound (mg/lb) of feed or in units consistent with those employed for the quantity statement unless otherwise specified :

1. Vitamin A, other than precursors of vitamin A, shall be stated in International or USP units per pound.
2. Vitamin D, in products offered for poultry feeding, shall be stated in International Chick Units per pound.
3. Vitamin D for other users shall be stated in International or USP units per pound.
4. Vitamin E shall be stated in International or USP units per pound.
5. Concentrated oils and feed additive premixes containing vitamins A, D, and/or E may, at the option of the distributor be stated in the units per gram instead of units per pound.
6. Vitamin B-12, in milligrams or micrograms per pound.
7. All other vitamin guarantees shall express the vitamin activity in milligrams per pound in terms of the following: menadione; riboflavin; d-pantothenic acid; thiamine; niacin; vitamin B-6; folic acid; choline; biotin; inositol; p-amino benzoic acid; ascorbic acid; and carotene.

103.04 Guarantees for drugs shall be stated in terms of percent by weight, except:

1. Antibiotics present at less than 2,000 grams per ton (total), of commercial feed shall be stated in grams per ton of commercial feed.
2. Antibiotics present at 2,000 or more grams per ton (total), if commercial feed shall be stated in grams per pound of commercial feed.
3. Labels for commercial feeds containing growth promotion and/or feed efficiency levels of antibiotics, which are to be fed continuously as the sole ration, are not required to

make quantitative guarantees except as specifically noted in the Federal Food Additive Regulations for certain antibiotics, wherein, quantitative guarantees are required regardless of the level or purpose of the antibiotic.

4. The term "milligrams per pound" may be used for drugs or antibiotics in those cases where a dosage where a dosage is given in "milligrams" in the feeding directions.

103.05 Commercial feeds containing any added non-protein nitrogen shall be labeled as follows:

1. For ruminants:
   a. Complete feeds, supplements, and concentrates containing added non-protein nitrogen and containing more than 5% protein from natural sources shall be guaranteed as follows:
      Crude protein, minimum _____%
      (This includes not more than _____% equivalent protein from nonprotein nitrogen).
   b. Mixed feed concentrates and supplements containing less than 5% protein from natural sources may be guaranteed as follows: Equivalent Crude Protein from Non-Protein Nitrogen, minimum _____%.
   c. Ingredient sources of non-protein nitrogen such as Urea, Diammonium Phosphate, Ammonium Polyphosphate Solution, Ammoniated Rice Hulls, and other basic non-protein nitrogen ingredients defined by the Association of American Feed Control Officials shall be guaranteed as follows:
      Nitrogen, minimum _____%
      Equivalent Crude Protein from Non-Protein Nitrogen, minimum _____%
2. For non-ruminants
   a. Complete feeds, supplements and concentrates containing crude protein from all forms of non-protein nitrogen, added as such, shall be labeled as follows: Crude protein, minimum _____%
      (This includes not more than _____% equivalent crude protein which is not nutritionally available to species of animal for which feed is intended.)
   b. Premixes, concentrates or supplements intended for non-ruminants containing more than 1.25% equivalent crude protein from all forms of non-protein nitrogen, added as such, must contain adequate directions for use and a prominent statement: "WARNING: This feed must be used only in accordance with directions furnished on the label."

103.06 Mineral phosphatic materials for feeding purposes shall be labeled with the guarantee for minimum and maximum percentage of calcium (when present), the minimum percentage of phosphorous, and the maximum percentage of fluorine.

103.07 Guarantees for microorganisms shall be stated in colony forming units per gram (CFU/g) when directions are for using the product in grams, or in colony forming units per pound (CFU/lb) when directions are for using the product in pounds. A parenthetical statement following the guarantee shall list each species in order of predominance.

103.08 Guarantees for enzymes shall be stated in units of enzymatic activity per unit weight or volume, consistent with label directions. The source organism for each type of enzymatic

activity shall be specified, such as Protease (*Bacillus subtilis*) 5.5 mg amino acids liberated/minute/milligram. If two or more sources have the same type of activity, they shall be listed in order of predominance based on the amount of enzymatic activity provided.

Source: *Miss. Code Ann*. §75-45-157.

Substantiation of Nutritional Suitability

104.01 A commercial feed, other than a customer-formula feed, shall be nutritionally suitable for its intended purpose as represented by its labeling.

104.02 If the Commissioner and State Chemist have reasonable cause to believe a commercial feed is not nutritionally suitable, the Commissioner or State Chemist may request the feed manufacturer to either submit an "Affidavit of Suitability" or an alternative procedure acceptable to the Commissioner and State Chemist, certifying the nutritional adequacy of the feed. The Affidavit of Suitability or alternate procedure of suitability shall serve as substantiation of the suitability of the feed.

104.03 If an acceptable Affidavit of Suitability, or alternative procedure is not submitted by the feed manufacturer within 30 days of written notification, the Commissioner and State Chemist may deem the feed adulterated under Section 75-45-165(a) of the Act and order the feed removed from distribution in the State.

104.04 The Affidavit of Suitability shall contain the following information

1. The feed company's name;
2. The feed's product name;
3. The name and title of the affiant submitting the document;
4. A statement that the affiant has knowledge of the nutritional content of the feed and based on valid scientific evidence the feed is nutritionally adequate for its intended purpose.
5. The date of submission; and
6. the signature of the affiant notarized by a certified Notary Public.

Source: *Miss. Code Ann*. §75-45-157.

Ingredients

105.01 The name of each ingredient or collective term for the grouping of ingredients, when required to be listed, shall be the name as defined in the Official Definitions of Feed Ingredients as published in the Official Publication of the American Feed Control Officials, the common or usual name, or one approved by the Commissioner and State Chemist.

105.02 The name of each ingredient must be shown in letters or type of the same size.

105.03 No reference to quality or grade of an ingredient shall appear in the ingredient statement of a feed.

105.04 The term "dehydrated" may precede the name of any product that has been artificially dried.

105.05 A single ingredient product defined by the Association of American Feed Control Officials is not required to have an ingredient statement.

105.06 Tentative definitions for ingredients shall not be used until adopted as Official, unless no official definition exists or the ingredient has a common accepted name that required no definition, (i.e. sugar).

105.07 When the word "iodized" is used in connection with a feed ingredient, the feed ingredient shall contain not less than 0.007% iodine, uniformly distributed.

105.08 Mammalian protein products are prohibited as an ingredient in catfish feed produced in Mississippi. Catfish feed, produced in Mississippi, found with mammalian protein in it shall be considered to be adulterated.

Source: *Miss. Code Ann*. §75-45-157.

Direction for Use and Precautionary Statements

106.01 Directions for use and precautionary statement on the labeling of all commercial feeds and customer-formula feeds containing additives (including drugs, special purpose additives, or non-nutritive additives) shall:

1. Be adequate to enable safe and effective use for the intended purposes by users with no special knowledge of the purpose and use of such articles; and,
2. Include, but not be limited to, all information described by all applicable regulations under the Federal Food, Drug and Cosmetic Act.

106.02 Adequate directions for use and precautionary statements are required for feeds containing non-protein nitrogen as specified in Section 107 of this chapter.

106.03 Adequate directions for use and precautionary statements necessary for safe and effective use are required on commercial feeds distributed to supply particular dietary needs or for supplementing or fortifying the usual diet or ration with any vitamin, mineral, or other dietary nutrient or compound.

Source: *Miss. Code Ann*. §75-45-157.

Non-Protein Nitrogen

107.01 Urea and other non-protein nitrogen products defined in the Official Publication of the Association of American Feed Control Officials are acceptable ingredients only in

commercial feeds for ruminant animals as a source of equivalent crude protein. If the commercial feed contains more than 8.75 percent of equivalent crude protein from all forms of non-protein nitrogen, added as such, or if the equivalent crude protein from all forms of non-protein nitrogen, added as such, exceeds one-third of the total crude protein, the label shall bear adequate directions for the safe use of feeds and a precautionary statement: **"CAUTION: USE AS DIRECTED."** The directions for use and the caution statement shall be in type of such size so placed on the label that they will be read and understood by ordinary persons under customary conditions of purchase and use.

107.02 Non-protein nitrogen defined in the Official Publication of the Association of American Feed Control Officials, when so indicated, is an acceptable ingredient in commercial feeds distributed to non-ruminant animals as a source of nutrients other than equivalent crude protein. The maximum equivalent crude protein from non-protein nitrogen sources when used in non-ruminant rations shall not exceed 1.25% of the total daily ration.

107.03 On labels such as those for medicated feeds which bear adequate feeding directions and/or warning statements, the presence of added non-protein nitrogen shall not require a duplication of the feeding directions or the precautionary statements as long as those statements include sufficient information to ensure the safe and effective use of this product due to the presence of non-protein nitrogen.

Source: *Miss. Code Ann*. §75-45-157.

<u>Drug and Feed Additives</u>

108.01 Prior to approval of a registration application and/or approval of a label for commercial feed which contains additives (including drugs, other special purpose additives, or non-nutritive additives) the distributor may be required to submit evidence to prove the safety and efficacy of the commercial feed when used according to the directions furnished on the label.

108.02 Satisfactory evidence of safety and efficacy of a commercial feed may be found to exist:

1. When the commercial feed contains such additives, the use of which conforms to the requirements of the applicable regulations in the Code of Federal Regulations, Title 21, or which are "prior sanctioned" or "generally recognized as safe" for such use, or
2. When the commercial feed is itself a drug as defined in Section 75-45-153(g) of the Act and is generally recognized as safe and effective for the labeled use or is marketed subject to an application approved by the Food and Drug Administration under Title 21 U.S.C. 360(b).
3. When one of the purposes for feeding a commercial feed is to impart immunity (that is to act through some immunological process). The constituents imparting immunity have been approved for the purpose through the Federal Virus, Serum and Toxins Act of 1913, as amended, or
4. When the commercial feed is a direct fed microbial product and:
   a. The product meets the particular fermentation product definition; and

b. The microbial content statement, as expressed in the labeling, is limited to the following: "Contains a source of live (viable) naturally occurring microorganism." This statement shall appear on the label; and

c. The source is stated with a corresponding guarantee expressed in accordance with section 103.07 of this chapter.

5. When the commercial feed is an enzyme product and:

a. The product meets the particular enzyme definition defined by the Association of American Feed Control Officials; and

b. The enzyme is stated with a corresponding guarantee expressed in accordance with section 103.08 of this chapter.

Source: *Miss. Code Ann*. §75-45-157.

Adulterants

109.01 For the purpose of Section 75-45-165(a) of the Act, the terms "poisonous or deleterious substances" include but are not limited to the following:

1. Fluorine and any mineral or mineral mixture which is to be used directly for the feeding of domestic animals and in which the fluorine exceeds 0.20% for breeding and dairy cattle; 0.30% for slaughter cattle; 0.30% for sheep; 0.35% for lambs; 0.45% for swine; and 0.60% for poultry.
2. Fluorine bearing ingredients when used in such amounts that they raise the fluorine content of the total ration (exclusive of roughage) above the following amounts: 0.004% for breeding and dairy cattle; 0.009% for slaughter cattle; 0.006% for sheep; 0.01% for lambs; 0.015% for swine and 0.03% for poultry.
3. Fluorine bearing ingredients incorporated in any feed that is fed directly to cattle, sheep or goats consuming roughage (with or without) limited amounts of grain, that results in a daily fluorine intake in excess of 50 milligrams of fluorine per 100 pounds of body weight.
4. Soybean meal, flakes of pellets or other vegetable meals, flakes or pellets which have been extracted with trichlorethylene or other chlorinated solvents.
5. Sulfur dioxide, sulfurous acid, and salts of sulfurous acid when used in or on feeds of feed ingredients which are considered or reported to be a significant source of vitamin B1 (Thiamine).

109.02 All screenings or by-products of grains and seeds containing weed seeds, when used in commercial feed or sold as such to the ultimate consumer, shall be ground fine enough or otherwise treated to destroy the viability of such weed seeds so that the finished product contains no more than 0 viable prohibited weed seeds per pound and not more than 300 viable restricted weed seeds per pound.

Source: *Miss. Code Ann*. §75-45-157.

Good Manufacturing Practices

110 For the purposes of enforcement of Section 75-45-165(d) of the Act the Commissioner and State Chemist adopt the following as current good manufacturing practices:

1. The regulations prescribing good manufacturing practices for medicated feeds as published in the Code of Federal Regulations Title 21, Part 225, Sections 225.1-225.115.
2. The regulations prescribing good manufacturing practices for medicated premixes as published in the Code of Federal Regulations, Title 21, Part 226, Sections 226.1-226.115.

Source: *Miss. Code Ann*. §75-45-157.

Permitted Analytical Variations From Guaranteed Values

111.01 Pursuant to Section 75-45-165 (m) of the Act, the following set of permitted analytical variations from guaranteed values are established by the Commissioner and State Chemist as guides for determining whether a feed is adulterated within the meaning of *Miss. Code Ann.* Section 75-45-165 (m). Based on an average if two determinations for a given guaranteed component, quality, or ingredient in the feed, a feed will be considered to be deficient, high, or low in said component, quality, or ingredient when the content as determined falls outside the limits shown in the following table from that amount claimed to be present therein.

Permitted Analytical Variations Adopted by AAFCO, 1982 - Percentage of Guaranteed Amount.

Component or Ingredient Determination	Permitted Analytical Variation from Guarantee - (PAV)%
Proximate Analyses*	
Determination	
Moisture	+ 12
Protein, mixed feeds	- 5
Protein, vegetable oil meals	- 3
Fat, Ether Extraction	- 13
Fiber	+ 14
Ash	+ 9
Pepsin Digestible Protein	- 13
Total Sugars as Invert	- 12
NPN Protein Equivalent	+ 10 or - 10 as guaranteed maximum or minimum
Minerals	
Determination	
Calcium	+ 15, - 15
Phosphorous	- 20
Salt, maximum guarantee equal to 10 percent or less	+ 25, - 25*
Salt, minimum guarantee more than 10 percent	+ 10, - 10*

Fluorine (in minerals) ..... + 40
Cobalt ..... - 40
Iodine ..... - 40
Copper ..... - 40
Maganese ..... - 60
Iron ..... - 30
Magnesium ..... - 20
Zinc ..... - 40
Selenium (ppm) ..... - 50

Vitamins

Determination

Vitamin A ..... - 30
Vitamin B12 ..... - 45
Riboflavin ..... - 30
Niacin ..... - 25
Choline Chloride ..... - 30
Pantothenic Acid ..... - 25

Drugs & Antibiotics*

Determination

Amprolium ..... ± 20
Arsanilic Acid ..... ± 25
Carbarsone ..... ± 25
Carbodox ..... ± 20
Clopidol ..... ± 30
Coumaphos ..... ± 65
Ethopabate ..... ± 25
Hygromycin B ..... ± 35
Nicarbazin ..... ± 25
Nitarsone (4-Nitro) ..... ± 30
Nithiazide ..... ± 35
Nitromide ..... ± 25
Piperazine ..... ± 35
Phenothiazine ..... ± 25
Pyrantel Tartrate ..... ± 25
Roxarsone (3-Nitro) ..... ± 30
Sulfamethazine ..... ± 25
Sulfanitran ..... ± 25
Sulfaquinoxaline ..... ± 25
Thiabendazole ..... ± 40
Zoalene ..... ± 25
Bacitracin ..... ± 40
Chlortetracycline ..... ± 30
Monensin ..... ± 30
Neomycin ..... ± 55
Oleandomycin ..... ± 35
Oxytetracycline ..... ± 30

Penicillin ..... ± 35
Streptomycin ..... ± 45
Tylosin ..... ± 30
*(+) To be applied to maximum guarantee, (-) to be applied to minimum. If no maximum is guaranteed the (-) PAV is applicable to guarantee.

111.02 In using the listed PAV values to determine deficiencies or excesses from guaranteed quantities, the State Chemist and Commissioner shall be guided by the rationale for use of such values as published on pages 86-87, OFFICIAL PUBLICATION, 1982, Association of American Feed Control Officials, Incorporated.

Source: *Miss. Code Ann*. §75-45-157.

Penalties

112.01 Pursuant to Sections 75-45-179(a), (b) of the Act, penalties for deviations from guarantees on commercial feeds shall be based on the following guidelines and penalty matrix. Penalties for labeling and misbranding of a feed as described in Section 75-45-163 of the Act, will also be based on the following guidelines and penalty matrix. The penalties will be levied according to procedures in Section 75-45-182.

112.02 These penalties are based on the concept that the official sample and its analyses are representative of a single lot of a given product, and the penalty actions are based on this single encounter with that feed. Repeated violations or continued deviations from the guarantee or quality for a given product are justification for holding a hearing with the distributor to show cause why his registration should not be cancelled for the remainder of the calendar year under authority given in Section 75-45-159(3) of the Act .

112.03 Other penalty action authorized in the Act under Sections 75-45-175 and 75-45-177 and other applicable sections, shall be administered by the Commissioner of Agriculture and Commerce or his representative at his discretion.

112.04 Enforcement Factor Application Guidelines for Penalties

1. Factor 1 – History of Firm
    a. Firm has long history of compliance
    b. No history
    c. Firm has had minor violations
    d. Firm's history shows significant violations or repeated minor violations
2. Factor 2 – Scope of Violation
    a. Very limited quantity & distribution or single lot
    b. Distribution limited to state, one or two products
    c. Large distribution area, large quantities of products or effects large number of animals
3. Factor 3 – Nature of Violation
    a. Minor labeling violation, result of human error or lack of knowledge
    b. Significant labeling – misbranding violation

c. Sample analysis results – deficiency or overage
d. Contamination with hazardous or deleterious materials

4. Factor 4 – Impact of Violation
   a. Minor economic impact
   b. Animal safety concerns
   c. Human health safety concern

5. Penalty Matrix:

Gravity Rating

Violation Category	**1**	**2**	**3**	**4**
Labeling and Misbranding	**Warning Letter and/or Stop Sale**	**Warning Letter and/or Stop Sale and/or Civil Penalty of $50-$250**	**Condemna-tion and/or Seizure and/or Civil Penalty of $250-$500**	**Formal Hear-ing and/or Revoke or Suspend Permit and/or Civil Penalty of $500-$1,000**
Adulteration Sample Analysis Results or Contamination	**Warning Letter and/or Stop Sale and/or Civil Penalty of $50-$250**	**Warning Letter and/or Stop Sale and or Civil Penalty of $50-$500**	**Stop Sale and/or Condemna-Tion and/or Seizure and/or Civil Penalty of $500-$1,000**	**Formal Hearing and/or Revoke or Suspend Permit and/or CivilPenalty of $500-$1,000**

Source: *Miss. Code Ann*. §75-45-157.

Processed Animal Wastes For Animal Feed Ingredient

113.01 It is unlawful to sell or use commercial feed containing animal waste products in violation of this section.

113.02 Processed animal waste is defined as a processed product composed of total excreta, with or without litter, from poultry, ruminants, porcine, equine, or other animals. It may be safely used as a source of nutrients in the feed of livestock and poultry under the following conditions:

1. Licensing and Processing Requirements

a. Persons or firms wishing to offer for sale, exchange or barter such processed animal waste products as a commercial feed under the Act must obtain a permit from the Commissioner of Agriculture and Commerce before engaging in the processing, manufacturing, and selling of processed animal waste products. It is unlawful to process, manufacture, or sell processed animal waste products for animal feed use without obtaining said permit.

b. The applicant shall submit to the Commissioner and the State Chemist a description of the facilities and equipment to be used in the processing and manufacturing of animal waste products, and protocols to be followed during operation. If the Commissioner and State Chemist are satisfied that the facilities, equipment, and protocol are adequate to fulfill the requirements for the product, the Commissioner shall issue the permit, subject, however, to the condition that it may be suspended whenever the Commissioner or State Chemist have reason to believe that the approved procedures are not being complied with or that the product may contain unlawful residues as set forth in sections below.

c. Each process approved by the Commissioner and State Chemist shall result in products conforming to standards set forth below in paragraphs (2) and (3). The Commissioner and State Chemist may require the use of recording devices and thermometers and a periodic schedule of sampling and laboratory examinations, and such other records as are indicated below, and deemed necessary.

2. Nutritional Quality Standards

The product consists of processed animal wastes and/or associated litter derived from the commercial production of livestock and poultry, as more specifically defined below in paragraph (6). The product shall have a moisture content not exceeding 12 percent. Additionally, it shall meet one or more of the following nutritional standards:

a. 10 percent crude protein, minimum (including crude protein from NPN sources)
b. 40 percent crude fiber, maximum
c. 1.5 percent phosphorus, minimum
d. 2.0 percent calcium, minimum

3. Production and Testing Requirements

The product is processed by drying, ensiling, composting, physical and chemical fractionation, or other methods to produce an ingredient meeting the following requirements:

a. Salmonella - Less than 30 percent of 10 random samples of 100 grams each from one day's production run or other identifiable separate unit of the ingredient shall be positive for Salmonella when analyzed in accordance with AOAC or FDA "BAM" (Bacteriological Analytical Manual) methods.

b. Mycotoxins - 10 random 2 kilogram samples from one day's production run or other identifiable separate unit of the ingredient shall be blended together and analyzed by AOAC methods. No more than 20 ppb aflatoxins shall be present.

c. Heavy Metals - 10 random 25 gram samples from one day's production run or other identifiable separate unit of the ingredient shall be blended together and analyzed for mercury, lead, copper, cadmium, arsenic, and fluorine by AOAC methods or other applicable validated methods. Results of such analyses shall be recorded and submitted to the Commissioner and State Chemist, and kept as permanent records. The manufacturer or producer is required to submit the initial sequential

testing results for heavy metals and annual analyses of the same to the Commissioner and State Chemist. These analytical data will be evaluated to assess changes in heavy metal(s) resulting from the recycling process. When necessary, limitations for heavy metals will be established if experience demonstrates that such limitations are required to assure the safety of the ingredient.

d. Feed Medications -

i. The manufacturer of the ingredient shall obtain, and maintain on a current basis, a list of the drugs used in the animals from which the waste material used as a source of the ingredient is obtained.

ii. 10 random samples of 100 grams from one production run of the ingredient blended together shall be analyzed for residues of the drugs listed by the manufacturer under paragraph (d)(i) above. If no such list is maintained, each of the drugs listed in paragraph (d)(iii)(B) shall be analyzed for by AOAC methods or other appropriate analytical procedures. As necessary, the manufacturer or producer of the ingredient shall develop a practical method to determine the amount of drug residue(s) in the ingredient.

iii. The ingredient may be marketed for the following uses:

A. If there is no detectable residue of any drug, the ingredient may be fed to all species of livestock and poultry without a withdrawal period.

B. If there is a detectable residue of any drug(s), and the level of the drug in the ingredient is no greater than the use level shown in the table below, the ingredient may be fed to all species of livestock and poultry except that it

1. Shall not be used within 15 days of slaughter and
2. Shall not be used 15 days prior to or during the food production of dairy animals and laying hens.
3. Shall not be used at levels exceeding 25 percent of the total ration.

Drug in the Processed Animal Waste	Maximum Level of Drug Permitted in Processed Animal Waste (grams/ton)
Aklomide	220
Amprolium	36
Arsanilic Acid or Sodium Arsanilate	45
Bacitracin	3
Bacitracin Methylene Disalicylate	4
Butynorate	180
Zinc Bacitracin	3
Buquinolate	75
Carbarsone	220
Chlortetracycline	10
Clopidol	110
Coumaphos	0.9
Decoquinate	27
Dichlorvos	350
Dimetridazole	130

Erythromycin 4
Ethopabate.....3.5
Hygromcycin B 8
Ipronidazole 57
Levamisole Hydrochloride.....720
Lincomycin 2
Melengestrol Acetate 0.025
Monensin Sodium 90
Nequinate 18
Nicarbazin 90
Nihydrazone 100
Nitarsone 170
Nitromide 220
Nystatin 50
Oleandomycin 1
Oxytetracycline 5
Penicillin 1.5
Pryantel Tartrate.....96
Reserpine.....0.18
Robenidine Hydrochloride.....30
Ronnel 4
Roxarsone 22
Streptomycin 7
Sulfadimethoxine 55
Ormetoprim.....34
Sulfamethazine.....100
Sulfanitran.....270
Sulfathiazole 100
Sulfaquinoxaline 130
Tylosin 4
Zoalene.....36

C. If there is a detectable residue of any drug(s), and the level of the drug in the feed ingredient is greater than the lowest approved use level as shown in the table in paragraph (d)(iii)B, such ingredient shall not be marketed for animal feed use.

e. Pesticide Residues –

i. 10 random samples of 100 grams from one day's production run or other identifiable separate unit of the feed ingredient shall be blended together and analyzed for pesticide residues by AOAC methods of appropriate analytical procedures ("Pesticides Analytical Methods", Food and Drug Administration, or methods promulgated by the Environmental Protection Agency). Multi-residue methods for testing for organochlorine and organophosphate pesticides shall be adequate for determining if the ingredient complies with the requirements for these groups of pesticides.

ii. Action levels for pesticide residues in the feed ingredients are the same as those promulgated by the Food and Drug Administration for finished feeds.

iii. Animal wastes to which a pesticide has been applied directly (as, for example, for fly control) shall not be marketed for animal feed use until such time as the tolerance is established by the Environmental Protection Agency or an action level established by the Food and Drug Administration.

f. Parasite Larvae and Ova-10 random samples of 100 grams from one day's production run or other identifiable separate unit of the ingredient shall be analyzed in accordance with **AOAC International** procedures, by routine flotation and microscopic examination. The material must be negative for parasite larvae and ova.

4. Sampling and Testing Frequency, Reporting and Record Keeping

The manufacturer or producer of any such ingredient shall conform to the following sample and analysis requirements:

a. The analyses specified in paragraph (3) of this section shall be conducted on sequential production runs sufficient to establish that three consecutive daily production runs of the feed ingredient are consistently within the limitations specified.

b. Following the initial sequential testing, periodic analyses shall be conducted sufficient to assure continued compliance with paragraph (3) of this section. The frequency of testing will be determined by the results of the analyses. This frequency may range from 0.5 to 10 percent or more of the production runs and in no event be run less than once each calendar quarter. Less frequent testing will be required where the analytical results show continued uniformity and a wide margin of compliance, whereas more frequent tests will be required where the analytical results show a wide range or show levels close to the limitations established.

c. Sequential testing described in paragraph (4)(a) of this section shall again be required when the periodic analyses required by paragraph (4)(b) of this section or other information available to the manufacturers of the ingredient indicates that:

i. The ingredient is not within the limitations established in paragraph (3) of this section.

ii. Changes are made in the manufacturing process.

iii. New or expanded sources of the raw ingredients are used.

iv. Changes occur in the drug or pesticide used by a supplier of the raw ingredient.

d. All records shall be maintained for at least two years following the production of such ingredient. Such records shall document the source of waste material and levels of the drugs, pesticides, or heavy metals and these records shall contain sequential testing shall be reported to the Commissioner and State Chemist within 30 days. In December of each year, the manufacturer of the ingredient shall submit to the Commissioner and State Chemist the heavy metal analyses conducted pursuant to paragraph (3)(c) of this section.

5. Labeling

The label and labeling of the ingredient shall bear:

a. The name of the ingredient, as specified in paragraph (6) below for the particular product involved. The phrase "For animal feed use" shall appear immediately under the ingredient name. Any product not complying with provisions of paragraph (3) (c) of this section shall not be sold as an animal feed ingredient, but may be diverted for fertilizer use or destroyed. If diverted as a fertilizer, the product shall have the statement "WARNING. DO NOT FEED TO ANIMALS. FOR FERTILIZER USE ONLY" immediately following the ingredient name at the top of the label.

b. The minimum percentage of protein and fat and the maximum percentage of fiber and moisture.

c. The mineral content, if the feed ingredient contains 6.5 percent or more of mineral matter or any label claim is made with respect to mineral content, or if any mineral is added to the ingredient.

d. The vitamin content, if any claim is made with respect to vitamin content or if any vitamin is added to the ingredient.

e. Adequate directions for use as an animal feed ingredient including any limitation required by reason of its content.

f. If it contains any drug residue, the name of the ingredient shall immediately be preceded or followed, in at least half-size type, by the statements: "Contains drug residue(s). Do not use within 15 days of slaughter" and "Do not use 15 days prior to or during the food production period of dairy animals and laying hens."

g. If it contains any drug residue subject to paragraph (3)(d)(iii)(B) of this section, the statement "Do not use this ingredient as more than 25 percent of the total ration" shall be prominently displayed in the directions for use.

6. Specific Definitions and Limits for Allowable Products

All definitions for Recycled Animal Waste Products as listed in the current edition (2001) of the Official Publication of the Association of American Feed Control Officials, Incorporated, and those adopted thereafter by the same Association shall be deemed acceptable in Mississippi under this Regulation.

Source: *Miss. Code Ann*. §75-45-157.

<u>Official Pet Food Regulations</u>

114.01 Definitions and Terms. For the purpose of this section, the following definitions apply:

1. Principal Display Panel means the part of a label that is most likely to be displayed, presented, shown or examined under normal and customary conditions of display for retail sale.
2. Ingredient Statements means a collective and contiguous listing on the label of the ingredients of which the pet food is composed.
3. Immediate Container means the unit, can, box, tin, bag, or other receptacle or covering in which a pet food is displayed for sale to retail purchasers, but does not include containers used as shipping containers.
4. All Life Stages means gestation/lactation, growth and adult maintenance life stages.
5. Family means a group of products which are nutritionally adequate for any or all life stages based on their nutritionally similarity or a lead product which has been

successfully test-fed according to an Association of American Feed Control Officials feeding protocol(s).

114.02 Label Format and Labeling

1. Pet food and specialty pet food shall be labeled with the following information prescribed in this section:
   a. Product name and brand name, if any, on the principal display panel as stipulated in subsection 114.03;
   b. The species of pet or specialty pet for which the food is intended shall be conspicuously designated on the principal display panel;
   c. Quantity statement, as defined in section 75-45-153 (v) of the Act, on the principal display panel;
   d. Guaranteed analysis as stipulated in subsection 114.04;
   e. Ingredient statement as stipulated in subsection 114.05;
   f. A statement of nutritional adequacy or purpose if required under subsection 114.07;
   g. Feeding directions if required under subsection 114.08; and
   h. Name and address of the manufacturer or distributor as stipulated in subsection 114.11.
2. When a pet food or specialty pet food enclosed in an outer container or wrapper is intended for retail sale, all required label information shall appear on the outer container or wrapper.
3. A vignette, graphic, or pictorial representation on a pet food or specialty pet food label shall not misrepresent the contents of the package.
4. The use of the word "proven" in connection with a label claim for a pet food or specialty pet food is not permitted unless the claim is substantiated by scientific or other empirical evidence.
5. No statement shall appear upon the label or labeling of a pet food or specialty pet food which makes false or misleading comparisons between that product and any other product.
6. A personal or commercial endorsement is permitted on a pet food or specialty pet food label provided the endorsement is not false or misleading.
7. A statement on a pet food or specialty pet food label stating "Improved", "New", or similar designation shall be substantiated and limited to six (6) months production.
8. A statement on a pet food or specialty pet food label stating preference or comparative attribute claims shall be substantiated and limited to one (1) year production, after which the claim shall be removed or re-substantiated.

114.03 Brand and Product Names

1. The words "100%", or "All", or words of similar designation shall not be used in the brand or product name of a pet food or specialty pet food if the product contains more than one ingredient, not including water sufficient for processing, decharacterizing agents, or trace amounts of preservatives and condiments.
2. An ingredient or a combination of ingredients may form a part of the product name of a pet food or specialty pet food:

a. When the ingredient(s) derived from animals, poultry, or fish constitutes at least 95% of the total weight of the product. Water sufficient for processing may be excluded when calculating the percentage, however, the ingredient(s) shall constitute at least 70% of the total product weight.

b. When any ingredient(s) constitutes at least 25% of the weight of the product, provided that:

i. Water sufficient for processing may be excluded when calculating the percentage, however, the ingredients(s) shall constitute at least 10% of the total product weight; and

ii. A descriptor is used with the ingredient name(s). This descriptor shall imply other ingredients are included in the product formula. Examples of descriptors include "dinner", "platter", "entree", "formula", and "recipe"; and

iii. The descriptor shall be in the same size, style, and color print as the ingredient name(s).

c. When a combination of ingredients which are included in the product name in accordance with subsection 114.03(2) meets all of the following:

i. Each ingredient constitutes at least 3% of the product weight, excluding water sufficient for processing; and

ii. The names of the ingredients appear in the order of their respective predominance by weight in the product; and

iii. All such ingredient names appear on the label in the same size, style, and color print.

3. When the name of any ingredient appears in the product name of a pet food or elsewhere on the product label and includes a descriptor such as "with" or similar designation, the named ingredient(s) must each constitute at least 3% of the product weight exclusive of water for processing. If the names of more than one ingredient are shown, they shall appear in their respective order of predominance by weight in the product. The 3% minimum level shall not apply to claims for nutrients, such as, but not limited to, vitamins, minerals, and fatty acids, as well as condiments. The word "with," or similar designation, and named ingredients shall be in the same size, style, color and case print and be of no greater size than:

Panel Size, Max "with claim" Type Size
< 5 sq. in., 1/8"
5-25 sq. in., 1/4"
25-100 sq. in., 3/8"
100-400 sq. in., 1/2"
400 sq. in. +, 1"

4. A flavor designation may be included as part of the product name or elsewhere on the label of a pet food or specialty pet food when the flavor designation meets all of the following:

a. The flavor designation:

i. Conforms to the name of the ingredient as listed in the ingredient statement; or

ii. Is identified by the source of the flavor in the ingredient statement; and

b. The word "flavor" is printed in the same size type and with an equal degree of conspicuousness as the name of the flavor designation; and

c. Substantiation of the flavor designation, the flavor claim, or the ingredient source is provided upon request.

5. The product name of the pet food or specialty pet food shall not be derived from one or more ingredients unless all ingredients are included in the name, except as specified by paragraphs 2 and 3 of subsection 114.03 provided that the name of an ingredient or combination of ingredients may be used as a part of the product name if:
   a. The ingredient or combination of ingredients is present in sufficient quantity to impart a distinctive characteristic to the product or is present in amounts which have a material bearing upon the price of the product or upon acceptance of the product by the purchaser thereof; or
   b. It does not constitute a representation that the ingredient or combination of ingredients is present to the exclusion of other ingredients.
6. Contractions or coined names referring to ingredients shall not be used in the brand name of a pet food or specialty pet food unless it is in compliance with paragraphs 2-4 of subsection 114.03.

114.04 Expression of Guarantees

1. The "Guaranteed Analysis" shall be listed in the following order and format unless otherwise specified in these Regulations:
   a. A pet food or specialty pet food label shall list the following required guarantees;
      i. Minimum percentage of crude protein;
      ii. Minimum percentage of crude fat;
      iii. Maximum percentage of crude fat, if required by subsection 114.10;
      iv. Maximum percentage of crude fiber;
      v. Maximum percentage of moisture; and
      vi. Additional guarantees shall follow moisture.
   b. When ash is listed in the guaranteed analysis on a pet food or specialty pet food label, it shall be guaranteed as a maximum percentage and shall immediately follow moisture.
   c. A dog or cat food label shall list other required or voluntary guarantees in the same order and units of the nutrients in the AAFCO Dog (or Cat) Food Nutrient Profiles. Guarantees for substances not listed in the AAFCO Dog (or Cat) Food Nutrient Profiles, or not otherwise provided for in these Regulations, shall immediately follow the listing of the recognized nutrients and shall be accompanied by an asterisk referring to the disclaimer "not recognized as an essential nutrient by the AAFCO Dog (or Cat) Food Nutrient Profiles". The disclaimer shall appear immediately after the last such guarantee in the same size type as the guarantees.
   d. A specialty pet food label shall list other required or voluntary guarantees as required by section 102(4)(j).
2. The sliding scale method of expressing a guaranteed analysis on a pet food or specialty pet food label (for example, "Minimum crude protein 15-18%") is prohibited.
3. The label of a pet food or a specialty pet food which is formulated as and represented to be a mineral supplement shall include:

a. Minimum guarantees for all minerals from sources declared in the ingredient statement and established by an AAFCO-recognized nutrient profile, expressed as the element in units specified in the nutrient profile; or
b. Minimum guarantees for all minerals from sources declared in the ingredient statement expressed as the element in units specified in section 103.02 when no species-specific nutrient profile has been recognized by AAFCO; and provided that
c. Mineral guarantees required by subsection 114.04(3)(a)-(b)may be expressed in milligrams (mg) per unit (e.g., tablets, capsules, granules, or liquids) consistent with those employed in the quantity statement and directions for use; and
d. A weight equivalent (e.g., 1 fl. oz. = 28 grams) for liquid products.

4. The label of a pet food or a specialty pet food which is formulated as and represented to be a vitamin supplement shall include:
   a. Minimum guarantees for all vitamins from sources declared in the ingredient statement and established by an AAFCO-recognized nutrient profile, expressed in units specified in the nutrient profile; or
   b. Minimum guarantees for all vitamins from sources declared in the ingredient statement expressed in units specified in section 103.03 when no species-specific nutrient profile has been recognized by AAFCO; and provided that
   c. Vitamin guarantees required by clauses (a) and (b) of this paragraph may be expressed in approved units (e.g., IU, mg, g) per unit (e.g., tablets, capsules, granules, or liquids) consistent with those employed in the quantity statement and directions for use; and
   d. A weight equivalent (e.g., 1 fl. oz. = 28 grams) for liquid products.
5. When the label of a pet food or specialty pet food includes a comparison of the nutrient content of the food with levels established by an AAFCO-recognized nutrient profile, such as a table of comparison, a percentage, or any other designation referring to an individual nutrient or all of the nutrient levels, the following apply:
   a. The nutrients shall be stated in the units of measurement used in the cited AAFCO-recognized nutrient profile The product shall meet the AAFCO-recognized nutrient profile ; and
   b. The statement in a table of comparison of the vitamin, mineral, or nutrient content shall constitute a guarantee, but need not be repeated in the guaranteed analysis The statement of comparison shall be preceded by a statement that the product meets the AAFCO-recognized profile ; however, the statement that the product meets the AAFCO-recognized nutrient profile is not required provided that the nutritional adequacy statement as per subsections 114.07(1)(a) or 114.07(2)(b)(iii)(A) appears elsewhere on the product label ; and
   c. The comparison may appear on the label separate and apart from the guaranteed analysis. The statement of comparison of the nutrient content shall constitute a guarantee, but need not be repeated in the guaranteed analysis; and
   d. The statement of comparison may appear on the label separate and apart from the guaranteed analysis.
6. When the label of a pet food or specialty pet food includes a comparison of the nutrient content of the food with levels established by an AAFCO-recognized nutrient profile, the following apply;

a. The nutrients shall be stated in the units of measurement used in the cited AAFCO-recognized nutrient profile; and
b. The statement in a table of comparison of the vitamin, mineral, or nutrient content shall constitute a guarantee, but need not be repeated in the guaranteed analysis; and
c. The comparison may appear on the label separate and apart from the guaranteed analysis.

7. The maximum moisture declared on a pet food or specialty pet food label shall not exceed 78.00% or the natural moisture content of the ingredients, whichever is higher. However, pet food and specialty pet food such as, but not limited to, those consisting principally of stew, gravy, sauce, broth, aspic, juice, or a milk replacer, and which are so labeled, may contain moisture in excess of 78.00%.
8. Guarantees for crude protein, crude fat, and crude fiber are not required when the pet food or specialty pet food is intended for purposes other than to furnish these substances or they are of minor significance relative to the primary purpose of the product, such as a mineral or vitamin supplement.
9. Guarantees for microorganisms and enzymes shall be stated in the format as stipulated in subsections 105.07 and 105.08 of this chapter.

114.05 Ingredients

1. Each ingredient of a pet food or specialty pet food shall be listed in the ingredient statement as follows:
   a. The names of all ingredients in the ingredient statement shall be shown in letters or type of the same size;
   b. The ingredients shall be listed in descending order by their predominance by weight in non-quantitative terms;
   c. Ingredients shall be listed and identified by the name and definition established by AAFCO; and
   d. Any ingredient for which no name and definition have been so established shall be identified by the common or usual name of the ingredient.
2. The ingredients "meat" or "meat by-products" shall be qualified to designate the animal from which the meat or meat by-products are derived unless the meat or meat by-products are derived from cattle, swine, sheep, goats, or any combination thereof. For example, ingredients derived from horses shall be listed as "horsemeat" or "horsemeat by-products".
3. Brand or trade names shall not be used in the ingredient statement.
4. A reference to the quality, nature, form, or other attribute of an ingredient shall be allowed when the reference meets all of the following:
   a. The designation is not false or misleading;
   b. The ingredient imparts a distinctive characteristic to the pet food or specialty pet food because it possesses that attribute; and
   c. A reference to quality or grade of the ingredient does not appear in the ingredient statement.

114.06 Drugs and Pet Food Additives

1. An artificial color may be used in a pet food or specialty pet food only if it has been shown to be harmless to pets or specialty pets. The permanent or provisional listing of an artificial color in the United States Food and Drug regulations as safe for use, together with the conditions, limitations, and tolerances, if any, incorporated therein, shall be deemed to be satisfactory evidence that the color is, when used pursuant to such regulations, harmless to pets or specialty pets.
2. Evidence may be required to prove the safety and efficacy or utility of a pet food or specialty pet food which contains additives or drugs, when used according to directions furnished on the label. Satisfactory evidence of the safety and efficacy of a pet food or specialty pet food may be established:
   a. When the pet food or specialty pet food contains such additives, the use of which conforms to the requirements of the applicable regulation in the Code of Federal Regulations, Title 21, or which are "prior sanctioned" or "Generally Recognized as Safe" for such use; or
   b. When the pet food or specialty pet food itself is a drug or contains a drug as defined in section 75-45-153 (g) of the Act and is "generally recognized as safe and effective" for the labeled use or is marketed subject to an application approved by the Food and Drug Administration under Title 21, U.S.C. 360(b).
3. When a drug is included in a pet food or specialty pet food, the format required by section 102(2) of this chapter for labeling medicated feeds shall be used.

114.07 Nutritional Adequacy

1. The label of a pet food or specialty pet food which is intended for all life stages of the pet or specialty pet may include an unqualified claim, directly or indirectly, such as "complete and balanced", "perfect", "scientific", or "100% nutritious" if at least one of the following apply:
   a. The product meets the nutrient requirements for all life stages established by an AAFCO-recognized nutrient profile; or
   b. The product meets the criteria for all life stages as substantiated by completion of the appropriate AAFCO-recognized animal feeding protocol(s); or
   c. The product is a member of a product family which is nutritionally similar to a lead product which contains a combination of ingredients that has been fed to a normal animal as the sole source of nourishment in accordance with the testing procedures established by AAFCO for all life stages, provided that:
      i. The nutritional similarity of the family product can be substantiated according to the Procedures for Establishing Pet Food Product Families developed by AAFCO; and
      ii. The family product meets the criteria for all life stages; and
      iii. Under circumstances of reasonable doubt, the Commissioner or State Chemist may require the manufacturer to perform additional testing of the family product in order to substantiate the claim of nutritional adequacy.
2. The label of a pet food or specialty pet food which is intended for a limited purpose or a specific life stage, but not for all life stages, may include a qualified claim such as

"complete and balanced", "perfect", "scientific", or "100% nutritious" when the product and claim meets all of the following:

a. The claim is qualified with a statement of the limited purpose or specific life stage for which the product is intended or suitable, for example, "complete and balanced for puppies (or kittens)". The claim and the required qualification shall be juxtaposed on the same label panel and in the same size, style and color print; and

b. The product meets at least one of the following:

i. The nutrient requirements for the limited purpose or specific life stage established by an AAFCO-recognized nutrient profile; or

ii. The criteria for a limited purpose or a specific life stage as substantiated by completion of the appropriate AAFCO-recognized animal feeding protocol(s); or

iii. The requirements of a product family which is nutritionally similar to a lead product which contains a combination of ingredients which, when fed for such limited purpose, will satisfy the nutrient requirements for such limited purpose and has had its capabilities in this regard demonstrated by adequate testing, and provided that:

A. The nutritional similarity of the family product can be substantiated according to the Procedures for Establishing Pet Food Product Families developed by AAFCO; and

B. The family product meets the criteria for such limited purpose; and

C. Under circumstances of reasonable doubt, the Commissioner and State Chemist may require the manufacturer to perform additional testing for the family product to substantiate the claim of nutritional adequacy.

3. Dog and cat food labels shall include a statement of nutritional adequacy or purpose of the product except when the dog or cat food is clearly and conspicuously identified on the principal display panel as a "snack" or "treat". The statement shall consist of one of the following:

a. A claim that the dog or cat food meets the requirements of one or more of the recognized categories of nutritional adequacy: gestation/lactation, growth, maintenance, and all life stages. The claim shall be stated verbatim as one of the following:

i. "(Name of product) is formulated to meet the nutritional levels established by the AAFCO Dog (or Cat) Food Nutrient Profiles for _____ ." (Blank is to be completed by using the stage or stages of the pet's life, such as, gestation/lactation, growth, maintenance or the words "All Life Stages"); or

ii. "Animal feeding tests using AAFCO procedures substantiate that (Name of Product) provides complete and balanced nutrition for _____ ." (Blank is to be completed by using the stage or stages of the pet's life tested, such as, gestation/lactation, growth, maintenance or the words "All Life Stages"); or

iii. "(Name of Product) provides complete and balanced nutrition for _____ (Blank is to be completed by using the stage or stages of the pet's life, such as gestation, lactation, growth, maintenance or the words "All Life Stages") and is comparable in nutritional adequacy to a product which has been substantiated using AAFCO feeding tests."

b. A nutritional or dietary claim for purposes other than those listed in paragraphs (1) or (2) of subsection 114.07 if the claim is scientifically substantiated; or

c. The statement: "This product is intended for intermittent or supplemental feeding only", if a product does not meet the requirements of paragraphs (1) or (2) of subsection 114.07 or any other special nutritional or dietary need and so is suitable only for limited or intermittent or supplementary feeding.

4. A product intended for use by, or under the supervision or direction of a veterinarian shall make a statement in accordance with paragraphs (3)(a) or (3)(b) of subsection 114.07.
5. A signed affidavit attesting that the product meets the requirements of paragraphs (1) or (2)(b) of subsection 114.07 shall be submitted to the Commissioner or State Chemist_____ upon request.
6. If the nutrient content of a product does not meet those nutrient requirements established by an AAFCO-recognized nutrient profile, or if no requirement has been established by an AAFCO recognized nutritional authority for the life stage(s) of the intended species, the claimed nutritional adequacy or purpose of the product shall be scientifically substantiated.
7. The following AAFCO-recognized nutritional authority, nutrient profile, and/or animal feeding protocol shall be acceptable as the basis for a claim of nutritional adequacy:
   i. As an AAFCO-recognized nutrient profile or nutritional authority:
      A. For dogs, the AAFCO Dog Food Nutrient Profiles;
      B. For cats, the AAFCO Cat Food Nutrient Profiles;
      C. For specialty pets, the nutrient recommendations approved by the Committee on Animal Nutrition of the National Research Council of the National Academy of Sciences, provided that, this nutrient recommendation is recognized only for the specific specialty pet for which the profile is intended.
   ii. As an AAFCO-recognized animal feeding protocol(s), the AAFCO Dog and Cat Food Feeding Protocols.

114.08 Feeding Directions

1. Dog or cat food, including snacks or treats, labeled as complete and balanced for any or all life stages, as provided in subsection 114.07(3)(a), except those pet foods labeled in accordance with subsection 114.07(4), shall list feeding directions on the product label. These directions shall be consistent with the intended use(s) indicated in the nutritional adequacy statement, unless a limited use or more limited life stage designation is declared elsewhere (e.g., "adult formula"). These directions shall be expressed in common terms and shall appear prominently on the label. Feeding directions shall, at a minimum, state "Feed (weight/unit of product) per (weight only) of dog (or cat)". The frequency of feeding shall also be specified.
2. When a dog or cat food is intended for use by or under the supervision or direction of a veterinarian, the statement: "Use only as directed by your veterinarian" may be used in lieu of feeding directions.
3. Specialty pet food, including snacks or treats, labeled as complete and balanced for any or all life stages, as provided in subsection 114.07(1), shall list feeding directions on the product label. These feeding directions shall be adequate to meet the nutrient

requirements of the intended species of specialty pet as recommended by the AAFCO-recognized nutritional authority. These directions shall be expressed in common terms and shall appear prominently on the label. The frequency of feeding shall also be specified.

114.09 Statements of Calorie Content:

1. Except as required in Section 114.10, the label of a dog or cat food may bear a statement of calorie content when the label meets all of the following:
   a. The statement shall be separate and distinct from the "Guaranteed Analysis" and shall appear under the heading "Calorie Content";
   b. The statement shall be measured in terms of metabolizable energy (ME) on an "as fed" basis and must be expressed as "kilocalories per kilogram" ("kcal/kg") of product, and may also be expressed as kilocalories per familiar household measure (e.g., cans, cups, pounds); and
   c. The calorie content is determined by one of the following methods:
      i. By calculation using the following "Modified Atwater" formula:
         ME(kcal/kg) = 10[(3.5 x CP) + (8.5 x CF) + (3.5 x NFE)]
         Where: ME = Metabolizable Energy
         CP = % crude protein "as fed"
         CF = % crude fat "as fed"
         NFE = % nitrogen-free extract (carbohydrate) "as fed"
         and the percentages of CP and CF are the arithmetic averages from proximate analyses of at least four production batches of the product, and the N<$INFE>FE is calculated as the difference between 100 and the sum of CP, CF, and the percentages of crude fiber, moisture and ash (determined in the same manner as CP and CF); or
      ii. In accordance with a testing procedure established by AAFCO.
   d. An affidavit shall be provided upon request to the _____ , substantiating that the calorie content was determined by:
      i. subsection 114.09(1)(c)(i)_in which case the results of all the analyses used in the calculation shall accompany the affidavit; or
      ii. subsection 114.09(1)(c)(ii)_in which case the summary data used in the determination of calorie content shall accompany the affidavit.
   e. The calorie content statement shall appear as one of the following:
      i. The claim on the label or other labeling shall be followed parenthetically by the word "calculated" when the calorie content is determined in accordance with subsection 114.09(1)(c)(i); or
      ii. The value of calorie content stated on the label which is determined in accordance with subsection 114.09(1)(c)(ii) shall not exceed or understate the value determined in accordance with subsection 114.09(1)(c)(i) by more than 15%.
2. Comparative claims shall not be false, misleading, or given undue emphasis and shall be based on the same methodology for the products compared.

114.10 Descriptive Terms

1. Calorie Terms

a. "Light"

i. A dog food product which bears on its label the terms "light", "lite", "low calorie", or words of similar designation shall:

A. Contain no more than 3100 kcal ME/kg for products containing less than 20% moisture, no more than 2500 kcal ME/kg for products containing 20% or more but less than 65% moisture, and no more than 900 kcal ME/kg for products containing 65% or more moisture; and

B. Include on the label a calorie content statement:

I. In accordance with the format provided in subsection 114.09; and

II. Which states no more than 3100 kcal ME/kg for products containing less than 20% moisture, no more than 2500 kcal ME/kg for products containing 20% or more but less than 65% moisture, and no more than 900 kcal ME/kg for products containing 65% or more moisture; and

III. Include on the label feeding directions which reflect a reduction in calorie intake consistent with the intended use.

ii. A cat food product which bears on its label the terms "light", "lite", "low calorie", or words of similar designation shall:

A. Contain no more than 3250 kcal ME/kg for products containing less than 20% moisture, no more than 2650 kcal ME/kg for products containing 20% or more but less than 65% moisture, and no more than 950 kcal ME/kg for products containing 65% or more moisture; and

B. Include on the label a calorie content statement:

I. In accordance with the format provided in subsection 114.09; and

II. Which states no more than 3250 kcal ME/kg for products containing less than 20% moisture, no more than 2650 kcal ME/kg for products containing 20% or more but less than 65% moisture, and no more than 950 kcal ME/kg for products containing 65% or more moisture; and

C. Include on the label feeding directions which reflect a reduction in calorie intake consistent with the intended use.

b. “Less" or "Reduced Calories"

i. A dog or cat food product which bears on its label a claim of "less calories", reduced calories", or words of similar designation, shall include on the label:

A. The name of the product of comparison and the percentage of calorie reduction (expressed on an equal weight basis) explicitly stated and juxtaposed with the largest or most prominent use of the claim on each panel of the label where the term appears; and

B. The comparative statement printed in type of the same color and style and at least one-half the type size used in the claim; and

C. A calorie content statement in accordance with the format provided in subsection 114.09; and

D. Feeding directions which reflect a reduction in calories compared to feeding directions for the product of comparison.

ii. A comparison between products in different categories of moisture content (i.e., less than 20%, 20% or more but less than 65%, 65% or more) is misleading.

2. Fat Terms

a. “Lean"

i. A dog food product which bears on its label the terms "lean", "low fat", or words of similar designation shall:

A. Contain no more than 9% crude fat for products containing less than 20% moisture, no more than 7% crude fat for products containing 20% or more but less than 65% moisture, and no more than 4% crude fat for products containing 65% or more moisture;

B. Include on the product label in the Guaranteed Analysis:

I. A maximum crude fat guarantee immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in subsection 114.04(1)(a); and

II. A maximum crude fat guarantee which is no more than 9% crude fat for products containing less than 20% moisture, no more than 7% crude fat for products containing 20% or more but less than 65% moisture, and no more than 4% crude fat for products containing 65% or more moisture.

ii. A cat food product which bears on its label the terms "lean", "low fat", or words of similar designation shall:

A. Contain a maximum percentage of crude fat which is no more than 10% crude fat for products containing less than 20% moisture, no more than 8% crude fat for products containing 20% or more but less than 65% moisture, and no more than 5% crude fat for products containing 65% or more moisture; and

B. Include on the product label in the Guaranteed Analysis:

I. A maximum crude fat guarantee immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in subsection 114.04(1)(a); and

II. A maximum crude fat guarantee which is no more than 10% crude fat for products containing less than 20% moisture, no more than 8% crude fat for products containing 20% or more but less than 65% moisture, and no more than 5% crude fat for products containing 65% or more moisture.

b. "Less" or "Reduced Fat"

i. A dog or cat food product which bears on its label a claim of "less fat", "reduced fat", or words of similar designation, shall include on the label:

A. The name of the product of comparison and the percentage of fat reduction (expressed on an equal weight basis) explicitly stated and juxtaposed with the largest or most prominent use of the claim on each panel of the label on where the term appears; and

B. The comparative statement printed in type of the same color and style and at least one-half the type size used in the claim; and

C. A maximum crude fat guarantee in the Guaranteed Analysis immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in subsection 114.04(1)(a).

ii. A comparison on the label between products in different categories of moisture content (i.e., less than 20%, 20% or more but less than 65%, 65% or more) is misleading.

114.11 Manufacturer or Distributor; Name and Address

1. The label of a pet food or specialty pet food shall specify the name and address of the manufacturer or distributor. The statement of the place of business hall include the street address, city, state, and zip code; however, the street address may be omitted if such street address is shown in a current city directory or telephone directory for the city listed on the label.
2. When a person manufactures or distributes a pet food or specialty pet food in a place other than the principal place of business, the label may state the principal place of business in lieu of the actual place where each package of such pet food or specialty pet food was manufactured or package or from where each package is to be distributed.

Source: *Miss. Code Ann*. §75-45-157.

Subpart 3-Bureau of Plant Industry
Chapter 03-Fertilizer

Procedure For Announcement, Adoption and Promulgation of Rules and Regulations.

100.01 Public hearings for the adoption and promulgation of rules and regulations as provided by *Miss. Code Ann.* Section 75-47-7(4) and 75-47-27 of the Mississippi Fertilizer Law of 1970 shall be announced and conducted under procedures established by Section 25-43-7 of the Mississippi Administration Procedures Law.

100.02 Public hearings shall be conducted by the following committee:
The Commissioner of Agriculture and Commerce, Chairman
The State Chemist
The Director of the Mississippi Agriculture and Forestry Experiment Station
Provided, however, each committee member may appoint a representative to serve in his absence.

100.03 All hearings shall be open to all interested parties.

(Section 100 amended April 1989.)

Source: *Miss. Code Ann*. §75-47-27.

Grades and Ratios Committee and Registrations.

101.01 In accordance with Section 75-47-7(4), "Registration," of the Mississippi Fertilizer Law, a Grades and Ratios Committee composed of the Commissioner of Agriculture and Commerce, the State Chemist, and the Director of the Mississippi Agriculture and Forestry Experiment Station is established. This committee will meet annually prior to May 15 to establish minimum amounts of plant nutrients which may be guaranteed and to promulgate ratios and minimum analysis grades of mixed fertilizers adequate to meet the agricultural needs of the state. At such meeting, which shall be open to all interested parties, this Committee may promulgate regulations under the section entitled HEARING RULES FOR PROMULGATION OF REGULATIONS. Adequate notice for the hearing shall be furnished as under the rules governing such open hearings.

101.02 A list of the grades and ratios of fertilizers acceptable for registration and distribution in the state shall be published and furnished to manufacturers of fertilizers and guarantors on or before June 1 of each year. Mailings will be sent by the Commissioner.

101.03 All registrations of fertilizer shall be in effect only from July 1 of any year through June 30 of the following year, when registration must be renewed.

Source: *Miss. Code Ann*. §75-47-27.

Primary Plant Nutrients (Nitrogen, Phosphorus and Potassium)

102.01 No mixed fertilizer shall be sold or offered for sale or distribution unless a minimum of twenty percent (20%) available primary plant nutrients (nitrogen, available phosphoric acid, and potash) shall be present and shown on the tag, except for liming materials fortified, with primary plant nutrients, which are covered in subsections 104.01 to 104.02 of this chapter, and low analysis specialty fertilizers which are covered in section 110 of this chapter.

102.02 No claim or guarantee for available phosphoric acid shall be made unless present to the extent of two percent (2%); or of nitrogen unless present to the extent of three percent (3%); of potash unless present to the extent of three percent (3%) phosphoric acid, nitrogen and potash shall be guaranteed and shown on the tag in whole numbers only.

Source: *Miss. Code Ann*. §75-47-27.

Secondary and Micro Plant Nutrients.

103.01 In Primary Nutrient Fertilizers.

1. Other plant nutrients or elements, when mentioned in any form or manner, shall be registered and shall be guaranteed. Guarantees shall be made on the elemental basis. Sources of the elements guaranteed and proof of availability shall be provided the Commissioner of Agriculture and the State Chemist upon request. Except guarantees for those water soluble nutrients labeled for ready to use foliar specialty liquid fertilizers, hydroponic or continuous liquid feed programs, the minimum percentages which will be accepted for registration are as follows:

ELEMENT	PERCENT
Calcium(Ca)	1.00
Magnesium(Mg)	0.50
Sulfur(S)	1.00
Boron (B)	0.02
Chlorine (Cl)	0.10
Cobalt (Co)	0.0005
Copper (Cu)	0.05
Iron (Fe)	0.10
Manganese (Mn)	0.05
Molybdenum (Mo)	0.0005
Sodium (Na)	0.10
Zinc (Zn)	0.05

If magnesium is guaranteed, the percent water soluble magnesium must also be guaranteed.

2. Only the above listed elements may be guaranteed in addition to nitrogen, phosphorus and potassium. Proposed labels and direction for use of the fertilizer shall be

furnished with the application for registration upon request. Any of the above listed elements which are guaranteed shall appear in the order listed, immediately following guarantees for the primary nutrients, nitrogen, phosphorus and potassium.

103.02 In Fertilizer Products Containing No Primary Plant Nutrients.

1. Products containing one or more plant nutrients or elements and containing no nitrogen, phosphorus and/or potassium shall be registered as required under the terms of Section 75-47-7 and shall be guaranteed. Guarantees shall be made on the elemental basis. Sources of the elements guaranteed and proof of availability shall be provided the Commissioner of Agriculture and Commerce and the State Chemist upon request. The minimum percentages of such elements or nutrients which will be accepted for registration are as follows:

ELEMENT	PERCENT
Calcium (Ca)	3%
Magnesium (Mg)	2%
Sulfur (S)	8%
Boron (B)	0.03%
Chlorine (Cl)	2%
Cobalt (Co)	0.1%
Copper (Cu)	2%
Iron (Fe)	2%
Manganese (Mn)	2%
Molybdenum (Mo)	0.1%
Sodium (Na)	2%
Zinc (Zn)	2%

2. Except that in mixed products where one element meets or exceeds the minimum guarantee other elements may be guaranteed and accept for registration at not less than 50% of the above stated minimum. If two or more of the above elements meet or exceeds the minimum guarantee other elements may be guaranteed and accepted for registration at not less than the minimum levels stated in section 103.01 of this chapter.
3. Only the above elements or nutrients may be guaranteed, claimed or promoted in fertilizer products containing no primary plant nutrients (N), (P_2O_5), or (K_2O) and when guaranteed shall appear in the order listed above.
4. Proposed labels bearing precautionary statements and directions for use of the product shall be furnished with the application for registration.
5. If magnesium is guaranteed, the percent water soluble magnesium must also be guaranteed.

(Amended 4/89).

Source: *Miss. Code Ann*. §75-47-27.

<u>Fortified Liming Materials.</u>

104.01 A "fortified liming material" is a commercial fertilizer containing one or more primary plant food elements and which has a guaranteed liming value in excess of 40 percent calcium carbonate equivalent.

104.02 The guaranteed analysis registered with the Commissioner and State Chemist and shown on the tag shall show the minimum percentage of plant nutrients claimed in the following order and form:

Total Nitrogen (N)	_____ percent
Available Phosphoric Acid (P_2O_5)	_____ percent
Total Phosphoric Acid (if desired)	_____ percent
Soluble Potash (K_2O)	_____ percent

Other guarantees as desired in accordance with Regulation 4.

Degree of fineness	_____
Neutralizing Value	_____lbs.-ton $CaCO_3$

Source: *Miss. Code Ann*. §75-47-27.

Definitions.

105 Except as the Commissioner and State Chemist designate in specific cases, the names and definitions for commercial fertilizers shall be those adopted by the Association of American Plant Food Control Officials.

Source: *Miss. Code Ann*. §75-47-27.

Investigational Allowances.

106.01 A fertilizer shall be deemed to be deficient if the analysis of the major plant food nutrients, nitrogen, available phosphoric acid, and potash is such that the relative commercial value of the fertilizer computed by the use of the schedule of values fixed by the State Chemist shall fall four percentum (4%) below the relative commercial value similarly computed from the guarantee.

106.02 A commercial fertilizer containing two or more of the major plant food nutrients, nitrogen, available phosphoric acid and potash shall be deemed to be deficient when any ingredient falls ten percentum (10%) below the guarantee. In such cases, the sum of the commercial value deficiencies calculated for each deficient nutrient, using values fixed by the State Chemist, shall be the basis for the penalty.

106.03 If a commercial fertilizer is deemed deficient under either of the above provisions of this regulation and subject to penalty as provided by section 75-47-17 Miss. Code Ann. , only the larger penalty shall be assessed. However, in no case shall a penalty of less than twenty-five dollars ($25.00) be imposed.

106.04 The secondary plant nutrient or micronutrient content of a product subject to registration under terms of the Mississippi Fertilizer Law and Rules and Regulations shall be considered deficient if the analysis is below, or excessive if the analysis is above the investigational allowances for such elements or nutrients. A penalty of five dollars ($5.00) per ton in the shipment represented by the sample analyzed shall be assessed when the analyzed element or nutrient content lies outside the investigational allowances. In no case shall a penalty of less than twenty-five dollars ($25.00) be imposed for element or nutrient deficiencies or excesses.

106.05 Investigational allowances for such secondary plant nutrients or micronutrients shall be as follows:

For Guarantees 0.0% - 1.99%

Calcium (Ca)	-10%
Magnesium (Mg)	-10%
Sulfur (S)	-10%
Boron (B)	-20% + 50%
Chlorine (Cl)	-15%
Cobalt (Co)	-50%
Copper (Cu)	-25%
Iron (Fe)	-10%
Manganese (Mn)	-10%
Molybdenum (Mo)	-50%
Sodium (Na)	-10%
Zinc (Zn)	-15%

For Guarantees 2.00% - 100%

All elements	-10%

Source: *Miss. Code Ann*. §75-47-27.

Customer Formula Fertilizer Blending Facility.

107.01 A person or firm who custom mixes fertilizer, materials or mixed fertilizer in any combination to specifications furnished by a consumer prior to mixing shall be called a custom-mixed fertilizer distributor. Such mixtures are not required to conform to an approved grade or ratio. Provided, however, mixtures must meet minimum requirements stated in sections 102.03 to 103.02 of this chapter. Such a custom mixer shall register his operation with the Commissioner of Agriculture and Commerce prior to performing any such mixing, pay the appropriate annual registration fee as outlined below, and shall make application to the Commissioner for a permit to report and pay quarterly the fertilizer inspection fee as required under the Mississippi Fertilizer Law of 1970.

107.02 The amount of the annual registration fee for a custom-mixed fertilizer distributor will be based on the following schedule:

TONNAGE SOLD PREVIOUS 12 MONTHS	ANNUAL REGISTRATION FEE
Less than 500	$50.00
501 - 1,000	75.00
1,001 - 1,500	100.00
1,501 - 2,500	150.00
2,501 - 3,500	200.00
3,501 - 5,000	250.00
5,001 and over	300.00

107.03 The amount of the annual registration fee due will be based on the tonnage custom mixed during the preceding 12 calendar months, commencing with July 1 and ending June 30. The registration fee shall be due as of July 1 each year and payment shall be made not later than July 31 of that year. The initial application for registration shall be based on tonnage sold in the period mentioned, from the applicant's best available records, and the applicant shall certify that the tonnage shown in the application is correct to the best of his knowledge.

107.04 In addition to the annual registration fees for the privilege of doing business as a custom-mixed fertilizer distributor, such a custom mixer will also pay the tonnage inspection fees on all tonnage of materials or mixed fertilizers sold to a nonregistrant.

107.05 The custom-mix fertilizer distributor shall comply with Section 75-47-13 of the Fertilizer Law, Tonnage Reports, as any other distributor of commercial fertilizer in the State.

107.06 Custom mixtures distributed in containers shall be labeled in accordance with provisions of the Fertilizer Law of 1970. The grade must coincide with the guaranteed analysis statement. In the case of bulk shipments, the person making delivery to the customer shall have in his possession two (2) copies of the delivery ticket or invoice showing the customer's name and address, the materials and-or mixed fertilizers and pounds thereof which constitute the mixture, pounds of seed in the mixture, and the whole number guaranteed analysis based on material input; provided, however, as a matter of information to the customer, the actual calculated analysis may also be shown.

107.07 Upon inspection and sampling by a representative of the Commissioner, the person making the delivery shall provide the inspector with one copy of the invoice or delivery ticket. One copy of the delivery ticket or invoice shall be supplied to the purchaser at the time of delivery, if practical. Otherwise, the purchaser shall be mailed such document by United States mail within 24 hours of the time delivery was made.

107.08 A firm may operate both as a custom-mixed fertilizer distributor and as a standard grade fertilizer distributor by paying all appropriate fees, keeping the proper records, and complying with all other provisions of the law and regulations appropriate to each type of operation.

(Section 107 amended 1992.)

Source: *Miss. Code Ann*. §75-47-27.

Distribution of Results of Official Analysis and Portions of Official Samples.

108.01 In accordance with Section 75-47-15 Inspection, Sampling, Analysis (d) of the Mississippi Fertilizer Law, the results of official analysis will be distributed in the following manner: one copy each to the Commissioner, the guarantor, the dealer, and the State Chemist. Extra copies may be obtained on request to the State Chemist.

108.02 A subportion of the retained official sample on any fertilizer labeled as deficient by the State Chemist and Commissioner may be obtained by the guarantor for analysis in his own or commercial laboratories upon request in writing to the State Chemist for such subsample. Requests for such subsamples will be honored only if they are made within 60 days of the date of reporting of the fertilizer analysis from the State Chemist's office.

Source: *Miss. Code Ann*. §75-47-27.

Application and Issuance of Permits.

109 Any manufacturer, importer, jobber, firm, corporation, association of persons or person, shall make application to the Commissioner of Agriculture and Commerce for a permit to report the tonnage of fertilizer or fertilizer materials and pay the inspection fee on all fertilizer and fertilizer materials sold or distributed in Mississippi. All permits shall be conditioned on the applicant's agreeing to keep such records as may be necessary to indicate accurately the tonnage and kind of commercial fertilizer and fertilizer materials sold and as are satisfa ctory to the Commissioner of Agriculture and Commerce, and granting the Commissioner of Agriculture and Commerce or his duly authorized representative permission to examine such records and verify the statement of tonnage.

Source: *Miss. Code Ann*. §75-47-27.

Specialty Fertilizers.

110.01 Specialty Fertilizers as defined in *Miss. Code Ann.* Section 75-47-5(3) may be offered for sale or distribution; provided they comply with all the requirements established for mixed fertilizers in Section 75-47-1 through 75-47-39 and regulations promulgated thereunder; except a specialty fertilizer is not required to conform to an approved grade or ratio, and exceptions to the minimum requirements stated in Sections 102 and 103 of this chapter may be allowed if justified in writing and approved by the Mississippi Fertilizer Grades and Ratios Committee.

110.02 Low analysis specialty fertilizers that comply with all the requirements of a specialty fertilizer except Regulation 3 may be offered for sale or distribution, provided they are prominently labeled, "Low Analysis Fertilizers". The brand name shall contain the grade

numerals in term of primary plant foods, e.g. "African Violet Plant Food 1-1-1". Low Analysis Specialty Fertilizers shall contain not less than 3% total primary plant food, and package size shall not exceed twenty (20) pounds net weight. Provided, however, fish emulsion, bone meal, blood meal, cottonseed meal, hydrolized feather meal, meat meal, poultry meal, fish meal and activated sewage products may be sold without the caption "Low Analysis Fertilizer" and without regard to the twenty (20) pound package size limitation.

110.03 All specialty fertilizers shall be labeled with clear and explicit directions for use of the product, for all appropriate and intended use. Directions shall include adequate warnings and/or safeguards.

110.04 If fertilizers include any seeds, pesticides, chemicals or items other than plant food nutrient sources, they shall be registered, labeled and distributed in accordance with other State laws governing such products in addition to the *Miss. Code Ann.* §§ 75-47-1 through 75-47-39.

Source: *Miss. Code Ann*. §75-47-27.

Manipulated Animal and Vegetable Manures.

111.01 For purpose of administration and enforcement of the terms and conditions of the Mississippi Fertilizer Law as it applies to animal and vegetable manures, the term manipulated or manipulation shall mean "Manures that have been pulverized, shredded, composted or otherwise processed or treated, including drying to a moisture content of less than thirty percent (30%)".
(Adopted 1991.)

111.02 Manipulated animal and vegetable manures shall be registered by brand and grade, with the Commissioner of Agriculture and Commerce and State Chemist and shall be subject to inspection, sampling, reporting, etc. as required for any other commercial fertilizer products.
(Adopted 1991.)

Source: *Miss. Code Ann*. §75-47-27.

Industrial By Product As a Source of Plant Nutrients.

112.01 "Industrial By-Product" means any industrial waste, by-product or co-product containing recognized plant nutrients in an available form and at significant levels to be considered a source of fertilizer material. Acceptable levels of such recognized plant nutrients shall be established by regulation.
(Adopted 1995.)

112.02 Such fertilizer materials declared unsafe by the Mississippi Department of Environmental Quality, Mississippi Department of Health or the U.S. Environmental Protection Agency

shall not be sold, offered for sale, traded, bartered or given away for use on agricultural land or public contact site(s) in this state; except as may be approved for controlled or limited applications by such regulating agencies or other regulating agencies having regulatory jurisdiction in such matters on a case by case basis.

(Adopted 1995.)

112.03 Such industrial waste, by-product or co-product fertilizer materials that have been declared safe for use on agricultural land and public contact site(s), by the appropriate regulatory jurisdiction may be approved for permitting and registration by the Commissioner and State Chemist and shall be subject to inspection, sampling, reporting, etc. as required for any other commercial fertilizer products. Documented approval of the safety of such industrial waste, by-product or co-product fertilizer material by the responsible regulating agency(ies) shall be furnished by applicant to the Commissioner and State Chemist annually at the time of product registration.

(Adopted 1995.)

112.04 The Commissioner and State Chemist shall not issue a manufacturer permit or register any Industrial Waste Product, By-Product or Co-Product fertilizer material which has been permitted and approved for restricted use by the Mississippi Department of Environmental Quality, Mississippi Department of Health or U.S. Environmental Protection Agency or any other agency of the state or federal governments who exercises regulatory authority over such products or the company producing such products.

(Adopted 1995.)

Source: *Miss. Code Ann*. §75-47-27.

<u>Advisory Council Establishment, Composition, and Duties.</u>

113.01 In accordance with Section 75-47-7 (4)(5) and Section 75-47-9 (1)(2) of the Mississippi Fertilizer Law of 1970, the Commissioner and State Chemist do hereby establish an advisory council. The Commissioner, State Chemist, and Director of the Mississippi Agricultural and Forestry Experimental Station may rely on the advisory council as an outside source for assistance in the evaluation and scientific review of fertilizer product guarantees or claims for the establishment of minimum amounts of plant nutrients which may be guaranteed, ratios of fertilizer elements, and minimum analysis grades of mixed fertilizer adequate to meet the agricultural needs of the state.

(Adopted 1995.)

113.02 The Advisory Council shall be composed of scientists and experts in agronomy, horticulture, soil science, plant physiology, and other related agricultural and biochemical disciplines as needed, as recommended to the Commissioner and State Chemist by the Directors of the Mississippi Agricultural and Forestry Experiment Station and the Mississippi Cooperative Extension Service.

(Adopted 1995.)

113.03 Such Advisory Council members may meet with the Commissioner and State Chemist at

hearings called for the purpose of adopting Rules or Regulations as provided under terms of this Law, and at such other times as needed.

(Adopted 1995.)

113.04 Among Advisory Council members' duties, but not to the exclusion of others, as may be requested by the Commissioner and State Chemist, are:

1. Provide scientific review, advice, and independent scientific experimental data where available, on all claims made by applicant(s) for registration of specific products under this law at the time of application for registration, or claims subsequently made by the registrant in labeling and advertising.
2. Provide review, advice, and comment on labels and all labeling (including brochures, newsletters, TV, radio, and other advertising, attached to the product or distributed in the state in any way in connection with any product subject to registration or regulation by this law.
3. Provide recommendations and advice on minimum amounts of plant nutrients which may be guaranteed, fertilizer grades and ratios, and minimum analysis grades of mixed fertilizer or fertilizer ingredients adequate to meet the agricultural needs of the state.

(Adopted 1995.)

Source: *Miss. Code Ann*. §75-47-27.

Subpart 3-Bureau of Plant Industry
Chapter 04- Agricultural Liming Materials

Neutralizing and Screening Standards For Agricultural Liming Materials.

100.01 All agricultural liming materials, except marl, offered for sale, sold, or distributed in this state shall have clearly stated in the guarantee, the actual Relative Neutralizing Value (RNV). RNV is an expression of aglime effectiveness based on the combined effect of Calcium Carbonate Equivalent (CCE) and fineness of grind. The RNV is determined by multiplying CCE by a set of factors based on the particle size of the agricultural liming material. The minimum RNV allowed for sale in Mississippi shall be 63%.

Particle Size	% Effectiveness of aglime material
Larger than 10 mesh	0
Between10 and 50 mesh	50
Less than 50 mesh	100

Computation of Percent Relative Neutralizing Value.

$$\% \text{ RNV} = \text{CCE} \times \frac{(\% \text{ passing 10 mesh} + \% \text{ passing a 50 mesh})}{2}$$

The RNV of 63% is derived by the following formula. For example, an agricultural liming material with a CCE of 90% with 90% of the material passing a 10 mesh screen and 50% passing a 50 mesh screen would calculate as follows:

$$\% \text{ RNV} = .90\left(\frac{90 + 50}{2}\right) + .90\left(\frac{140}{2}\right) = .90(70) = 63\%$$

The actual RNV of the agricultural liming material must be shown prominently on the front face of the label, sales invoice, delivery ticket or bulk ticket.

100.02 Marl offered for sale, sold, or distributed in this state as an agricultural liming material shall have a CCE of not less than 70% and be processed to such a degree of fineness that not less than 90% of the material will pass a 10 mesh screen.

100.03 When an agricultural liming material is mixed with enough water to be applied as a spray and is offered for sale, sold, or distributed in this state, 100% of the material shall pass a 100 mesh screen.

Source: *Miss. Code Ann*. §69-39-19.

Neutralizing Value Requirements of Other Agricultural Liming Materials.

101.01 Burnt lime, hydrated lime, and industrial by-products sold as agricultural liming material shall have a CCE of not less than that guaranteed on the label of the product, expressed on a dry weight basis.

101.02 An agricultural liming material of 100 mesh fineness when mixed with enough water for application as a spray shall have a CCE of 44% or greater on a net weight basis.

Source: *Miss. Code Ann*. §69-39-19.

Penalties for Deficiencies in Screening, Neutralizing Values, and Guarantees

102 If any agricultural liming material sold in this State shall upon official analysis prove to be deficient in meeting the RNV guarantee, as stated on the label, sales invoice, delivery ticket or bulk ticket, the penalties, as hereinafter provided, shall be assessed against the packer or manufacturer. The penalties for such deficiencies shall be as follows:

1. For marl deficient from the minimum calcium carbonate equivalent on the labeling, the penalty shall be $.20 (twenty cents) per ton for each percentage point below the label guarantee with a tolerance of 5%. If the deficiency exceeds the 5% tolerance, then the $.20 (twenty cents) per ton penalty shall be assessed upon the total deficiency.
2. For marl deficient in material passing a 10 mesh screen, the penalty shall be $.20 (twenty cents) per ton for each percentage point below the label guarantee.
3. For an agricultural liming material deficient in RNV, the penalty shall be $1.00 per ton for each RNV unit below the label guaranteed RNV. For agricultural liming material with a guaranteed RNV between 63 and 67, there will be a tolerance of 3 RNV units. For agricultural liming material with a guaranteed RNV of 68 or greater, there will be a tolerance of 5 RNV units. If the RNV deficiency exceeds the tolerance, then $1.00 per RNV unit of deficiency shall be assessed upon the total deficiency. If the RNV is 60 or lower, then the agricultural liming material will be placed on stop sale and cannot be sold in Mississippi.
4. For an agricultural liming material that is mixed with enough water for application as a spray and is deficient in passing a 100 mesh screen, the penalty shall be $.20 (twenty cents) per ton of solution for each percentage point below the label guarantee. For deficiency in required neutralizing value, the penalty shall be $.20 (twenty cents) per ton of solution for each percentage point below the label guarantee.
5. For agricultural liming material deficient in the guaranteed magnesium, available phosphorus (P_2O_5), soluble potassium (K_2O), or other elements guaranteed by the label, the penalty shall be $.50 (fifty cents) per ton for each 10% deficiency from the label guarantee.
6. When the maximum moisture content exceeds the label guarantee a penalty of $.50 (fifty cents) per percentage point per ton shall be assessed.

Source: *Miss. Code Ann*. §69-39-19.

Payment of Penalties.

103 Penalties assessed under terms of section 102 of this chapter shall be paid to the Commissioner within thirty days from the date such penalty shall have been assessed. Penalties which are not paid as herein required shall be considered delinquent and an

additional penalty of ten percent (10%) of the amount of the balance due shall be added to the assessed penalty for each month such penalty continues to be delinquent.

Source: *Miss. Code Ann*. §69-39-19.

Adulterated Liming Material.

104 An agricultural liming material shall be deemed to be adulterated when it contains foreign material including but not limited to the following:

1. If it bears or contains gravel, soil, sticks, wire, nails, stones and/or metal mechanical parts.
2. If it contains any material that has been declared to be unsafe for use on agricultural lands used for crop or livestock production by the Mississippi Department of Environmental Quality, the Mississippi Department of Health, the U.S. Environmental Protection Agency or any other state or federal agency which may be vested with responsibility for such determinations.
3. Any material or substance which lowers the RNV of the agricultural liming material.

Source: *Miss. Code Ann*. §69-39-19.

Industrial By Products.

105.01 Agricultural liming materials, including but not limited to "Industrial By-Product" waste liming material, which have been declared to be toxic and/or unsafe by the Mississippi Department of Environmental Quality, the Mississippi Department of Health and the U.S. Environmental Protection Agency shall not be sold, offered for sale or given away for use on agricultural land or public contact sites in this state; except as may be approved for controlled or limited applications by such regulating agencies or other regulating agencies having regulatory jurisdiction in such matters on a case by case basis.

105.02 Such agricultural liming materials that have been declared safe for use on agricultural land and public contact sites may be approved for permitting by the Commissioner. Documented approval of the safety of such agricultural liming materials by the responsible regulating agency (ies) shall be furnished by the applicant to the Commissioner annually at the time of product registration.

105.03 The Commissioner shall not issue a manufacturer or distributor's permit for the sale or distribution of any "Industrial By-Product" waste liming material which has been permitted and approved for restricted use by the Mississippi Department of Environmental Quality, the Mississippi Department of Health or the U.S. Environmental Protection Agency.

Source: *Miss. Code Ann*. §69-39-19.

Registration

106 Each brand and separately identified liming material shall be registered on or before July 1 of each year. All agricultural liming material registrations will expire on June 30 of the next year.

Source: *Miss. Code Ann*. §69-39-19.

Official Samples; Distribution of Reports; Availability of Portions of Official Samples.

107 The results of all analyses of official samples shall be forwarded by the State Chemist to the person named on the label and to the purchaser. A sub-portion of the retained official sample on any lime product found to be deficient by the State Chemist 910 may be obtained by the guarantor for analysis in his own or commercial laboratories upon written request to the Commissioner. Requests for such sub-samples will be honored only if they are made within 30 days of reporting the lime analysis from the State Chemist's office. Such laboratory determinations shall not alter in any way the results of laboratory tests by the State Chemist or penalties assessed by the Commissioner, except as may be standard procedure for such laboratory testing by the State Chemist.

Source: *Miss. Code Ann*. §69-39-19.

Subpart 3-Bureau of Plant Industry
Chapter 05- Soil and Plant Amendment Law

Administrative Procedures and Hearing Rules for Promulgation of Regulations.

100.01 An announcement of public hearing for promulgation of proposed rules and regulations will be made by the Commissioner and State Chemist in a newspaper of general circulation on two successive weeks at least thirty (30) days prior to the proposed hearing date. This notice will be filed with the Office of the Secretary of State, along with copies of the proposed rules and regulations for mailing to interested parties requesting same.

100.02 A copy of the proposed regulations will be mailed to each firm currently registered to sell soil and plant amendments in the state at least twenty (20) days prior to the hearing date. The proposed regulations will also be mailed to any interested parties requesting same in writing, and to those who have made timely request of the Commissioner of Agriculture and the State Chemist for advance notice of rule-making proceedings in connections with this law. Requests for copies of proposed rules and regulations should be directed to the Commissioner of Agriculture and Commerce, or to the Secretary of State. The Secretary of State shall be reimbursed by the requesting party for the expense of providing such service.

100.03 Interested parties will submit comments or objections in writing (5 copies) postmarked not later than ten (10) days prior to the hearing date. If no written objections to the proposed regulations are received, it will be assumed by the Hearing Committee that such regulations will be acceptable to all concerned, and the Committee shall declare such regulations in force as of thirty (30) days following the hearing date.

100.04 A Hearing Committee shall meet on the assigned date and at the place specified in previous public announcement to hear discussion in support of previously submitted comments. The Committee shall consist of 1. The Commissioner of Agriculture and Commerce, Chairman, 2. The State Chemist, 3. The Director of the Mississippi Agricultural and Forestry Experiment Station, and 4. The Director of the Mississippi Cooperative Extension Service or their designee(2).

100.05 All hearings shall be open to all interested parties.

100.06 A recorder shall be present at hearings to make a full and accurate recording of the proceedings as needed for any subsequent review.

100.07 After all comments and objections, if any, to the proposed regulations have been heard, the Committee will weigh all evidence presented, both orally and in writing. The Committee will decide by a majority vote upon the merits of the objections.

100.08 If the Committee decides that one or more objection(s) to the proposed regulations has merit, it will attempt to reformulate the regulations at that time to satisfy the individual or

firm raising the objection as well as the majority of the Committee. If this can be done, it may then approve the modified regulation by a majority vote.

100.09 All proposed and unmodified regulations approved by a majority of the Committee will be declared in effect and enforceable as of thirty (30) working days following the public hearing date. Notice of such adoption shall be mailed to all parties as shown in subsection 100.02.

100.10 All regulations which are modified by the Committee at the hearing will be distributed as in Subsection (b) of the hearing rules, and comments and/or objections to the modified proposed regulation(s) will be required in writing as in subsection 100.03

100.11 If no objection to the modified proposed regulation(s) are received within thirty (30) days from the date of their distribution as specified above, such modified proposed regulations will then be declared adopted and in effect and enforceable as of ten (10) days following date of adoption, and notice of same shall be mailed out as prescribed in subsection 100.02 above.

100.12 If objection to the modified proposed regulation(s) is received under subsection 100.10 above, the Committee shall set a new date for public hearing of same and proceed as in subsections 100.08 and 100.10 to 100.12.

100.13 At the conclusion of the second hearing, the Hearing Committee shall make its decision as to the adoption or rejection of the rule or regulation. If the decision of the Committee is to adopt the regulation, it shall be declared in effect and enforceable as of ten (10) days following the second public hearing. Notice of such adoption shall be mailed to all parties as prescribed in subsection 100.02.

Source: *Miss. Code Ann*. §69-24-27.

<u>Advisory Council Establishment, Composition and Duties.</u>

101.01 In accordance with Section 69-24-7 (3) and (4) of the Soil and Plant Amendment Law, the Commissioner and State Chemist do hereby establish an Advisory Council.

101.02 The Advisory Council shall be composed of scientists and experts in agronomy, horticulture, soil science, plant physiology, and other related agricultural and biochemical disciplines as needed, as designated to the Commissioner and State Chemist by the Directors of the Mississippi Agricultural and Forestry Experiment Station and the Mississippi Cooperative Extension Service.

101.03 Such Council members will meet with the Commissioner and State Chemist at hearings for promulgation and adoption of Rules and Regulations under this Law, in addition to or in lieu of the Directors of the Mississippi Agricultural and Forestry Experiment Station and the Mississippi Cooperative Extension Service, and at such other times as needed.

Among Advisory Council members' duties, but not to the exclusion of others as requested by the Commissioner and State Chemist, are as follows:

1. Provide scientific review, advice, and independent scientific experimental data where available, on all claims made by applicant for registration of specific products under this law at the time of application for registration, or claims subsequently made by the registrant in labeling and advertising.
2. Provide review, advice, and comment on labels and all labeling (including brochures, newsletters, TV, radio, and other advertising, and the like) associated or distributed in the state in any way in connection with any product covered by this law.
3. Provide recommendations and advice on minimum amounts of all soil or plant amending ingredients present or required for efficacy in any product prior to its registration.
4. Provide advice on appropriate methods of inspection, sampling, and analysis of all products which are accepted for registration under this law by the Commissioner and State Chemist.

Source: *Miss. Code Ann*. §69-24-27.

Investigational Allowances.

102.01 A soil or plant amendment shall be deemed deficient if the analysis of the product shows it to be more than ten percent (10%) below its guaranteed minimum amount in any active ingredient other than recognized plant food nutrients prescribed in the Mississippi Fertilizer Law of 1970, *Miss. Code Ann.* §§ 75-47-1 *et seq.*

102.02 Any plant nutrient or element, recognized as a valid plant nutrient under the Mississippi Fertilizer Law of 1970, *Miss. Code Ann.* §§ 75-47-1 *et seq.*, present in the product and claimed on the label of a registered soil or plant amendment, shall be subject to requirements for labeling, minimum guarantees, analysis, and investigational allowances as prescribed in the Fertilizer Law and Regulations.

Source: *Miss. Code Ann*. §69-24-27.

Analytical Methods For Active Ingredients.

103.01 With applications for registration of any soil or plant amendment(s), the registrant shall submit to the State Chemist specific ingredients. The registrant shall supply one or more reproducible analytical method(s) for determining the quantity of each active ingredient. Such methods of analysis shall be certified by an analytical laboratory acceptable to the State Chemist as having been tested and found to be reliable (relative standard deviation +10%, maximum) for the accurate analysis of the specific active ingredient(s) in question, or adopted by the Association of Official Analytical Chemists (AOAC) as an Official Method.

103.02 The State Chemical Laboratory will test the method(s) submitted by the registration applicant on at least three samples of the product provided by the applicant with the

method(s). If the State Chemist or his scientists are unable to make the method perform satisfactorily, registration will be denied.

103.03 Lack of provision of an acceptable analytical method(s) for measurement of the guaranteed quantity of any active ingredient claimed on the label or labeling shall be sufficient to require deletion of all claims on labels and labeling of that active ingredient. No ingredient shall be claimed which cannot be measured by a valid analytical method.

Source: *Miss. Code Ann*. §69-24-27.

To Define Fortified Potting Soil.

104.01 The term fortified potting soil shall mean a potting soil or growth medium for planting use with fertilizer added. It may contain one or more primary or secondary plant nutrients.

104.02 Fortified potting soil shall be registered by brand and grade with the Commissioner of Agriculture and Commerce and State Chemist and shall be subject to inspection, sampling, reporting, etc. as required for any other Soil and Plant Amendment products.

Source: *Miss. Code Ann*. §69-24-27.

Minimum Standards For Soil and/or Plant Amendment Product Scientific Testing to Support Claims.

105 The following procedures have been developed to provide information to applicants with respect to the efficacy standards that will be used to judge data in support of efficacy claims:

1. Objectives.
   a. To field test the effectiveness of a product and thereby obtain a statement on efficacy.
   b. Greenhouse (plant forcing structures) testing must follow the same steps as field trials.
   c. The objective(s) statement must identify the agricultural benefit(s), hereafter referred to as agronomic (inclusive of agronomic, horticulture and silviculture), that will be derived from the use of the product.
   d. An example of an efficacy claim would be "increases grain yields of wheat". Field trails must be designed to measure the parameter identified in the claim. In this example, wheat yields would have to be measured.
2. Researchers.
   a. Support for efficacy claims should include a minimum of two independent studies in each year of testing, one of which should be conducted by an independent researcher. An independent researcher is one who has no formal affiliation with the applicant. Examples of possible independent researchers include government or industry personnel, as well as private collaborators.

b. The researcher(s) must provide adequate evidence of credentials to allow an assessment of their capacity and then of the credibility of the studies completed. Typical minimum credentials might be a Bachelor's or higher degree in agriculture or a related scientific field, and previous experience in carrying out scientifically sound field trials or agriculture product performance. The researcher(s) qualifications must be substantiated by a resume.

3. Treatments.
   a. Field trials must be designed and conducted in a scientifically sound manner.
   b. The following are examples of treatments that would be the minimum required:
      i. Application of the test product (final formulation) at the rate and by the method specified on the label.
      ii. A check or no application treatment. (In some instances, it may be necessary to apply the carrier as an additional treatment.)
   c. Where label instructions specify the need for modified agronomic practices, the following additional treatments are appropriate.
      i. The company's recommended agronomic program without the test product(s).
      ii. The company's recommended agronomic program with the test product(s). In instances where a comparison forms the basis of an efficacy claim (eg. "maintains yield while reducing the need for nitrogen by 40 #/acre), the following additional treatments are recommended.
      iii. Application(s) of the product or agronomic practice that forms the basis for the comparison. In the example cited above, the nitrogen should be applied at varying rates, (i.e. O, 1/4X, X, 2X, etc.) with and without the product or agronomic practice to form the basis for comparison.
      iv. In some instances it may be appropriate to also apply a product which exhibits a known effect similar to those being claimed for the test product. It is also recommended that initial field trials include applications of the test product at varying rates, (e.g. 1/2X, 2X etc.) so that the optimum rate of application can be determined.
4. Duration of Testing. Ideally all tests will be conducted for a minimum of three growing seasons. In cases in which the activity of the product is well-understood, and sufficient scientific rationale exists to predict that the product will be effective on other crops, a single year's data may be sufficient to extend to another crop.
5. Location of Testing. Both the developer and users of the product should be aware of agronomic and climatic factors that will influence its performance. For this reason, the Region (indicated in appendix I), shall be recognized and acceptable as related to Mississippi conditions.
6. Experimental Design.
   a. All tests must be replicated and randomized in a scientifically recognized manner that will allow for an appropriate statistical analysis of the data. Although the number of replications will vary with the variability in response, a minimum of 4 replications is recommended. The experimental design shall be uniform among sites.
   b. When applicable and probably with most products, it will be necessary to carry out the appropriate soil and tissue analyses prior to initiating the field trials.

7. Plots or (Greenhouse). Plots must be large enough to allow a meaningful sample to be collected and treatments to be independent from one another. The minimum size of the plot will be dependent upon the crop, the agronomic practice being used and the parameter that is being measured.
8. Analysis of Data and Performance Standards.
   a. Efficacy will be assessed on the basis of the statistical analysis. A 95% confidence interval is considered significant. Each year, 60% of all trials must show a statistically significant positive response in order to support an efficacy claim. Deviations from these requirements may be permitted where sufficient scientific rationale exists.
   b. Only those studies carried out in accordance with the label instructions will be accepted and must meet the performance standard. For example, if the label clearly states that the product is not effective in soils where the Ph is below 6, only studies carried out on soils where the Ph was greater than or equal to 6 will be considered when determining the overall performance of the product.
9. Reporting Procedures (Data Required To Support Registration)
   a. Introduction: The introduction should identify:
      i. the product claim;
      ii. the ingredients contained in the product;
      iii. the active ingredients and the associated guarantees;
      iv. the suggested mode of action.
   b. Proposed label: The label shall carry a clear and concise benefit claim and fully describe the manner in which the product is intended for use. In the case of greenhouse application products, the label must show "greenhouse use only". Further labeling requirements are specified in Section 69-24-7 of the Mississippi Soil and Plant Amendment Law.
   c. Materials and Methods: The description of the experimental procedures shall describe the details of the field trails. The description of the plot (including details on soil types results of initial soil tests, and climatic conditions), the experimental design, the treatments, the agronomic practices used, and the manner in which the samples were collected and assessed are among the details that are considered essential.
   d. Results and Discussion: This portion of the report shall contain the appropriate summaries of the data and statistical analyses as well as the interpretation of the results. An explanation of any anomalies such as missing values should also be provided.
   e. In the case of yield data, results must be corrected to a standard moisture. The percent moisture should be included with the raw data.
   f. The raw data and actual statistical analyses should be provided in appendices.
   g. Literature Cited: All references should be listed.
   h. Additional references, to provide background information or technical specifications, are welcome.

Source: *Miss. Code Ann*. §69-24-27.

Industrial Waste, By-Product, or Co-Products as a Source of Soil/Plant Amendment Products Or Ingredients.

106.01 "Industrial Waste, By-Product or Co-Product" means material derived from an industrial process which may possess properties considered to support claims as a source material for soil or plant amendment products.

106.02 Such industrial waste, by-product or co-product material declared unsafe by the Mississippi Department of Environmental Quality, Mississippi Department of Health or U.S. Environmental Protection Agency shall not be sold, offered for sale, traded, bartered or given away for use on agricultural land and public contact site(s) in this state.

106.03 Such industrial waste, by-product or co-product material, which may posses properties considered to support claims as a source material for soil or plant amendment product, that has been declared safe for use on agricultural land and public contact sites may be considered for permitting and registration by the Commissioner and State Chemist; however, applicants must supply scientific information as specified in Regulation 6 of the Mississippi Soil and Plant Law.

Source: *Miss. Code Ann*. §69-24-27.

Subpart 3-Bureau of Plant Industry
Chapter 06-Bee Disease Regulations

Definitions

100 For the purpose of these regulations adopted under the provision of the Mississippi Disease Act of 1920, *Miss. Code Ann.* Sections 69-25-101 through 69-25-109, as amended, the following definitions shall be construed accordingly and unless the context otherwise requires shall mean:

1. "Honey Bee or Bee(s)" – Any insect(s) of the scientific genus and species, *Apis mellifera.*
2. "Apiary" – Any site or location whereby one or more colonies of bees are kept at anytime during the year.
3. "Colony" – A congregation of bees on combs consisting of worker bees and an active viable queen.
4. "Commercial Beekeeper" – Person or persons owning and/or managing 50 or more colonies of bees for the purpose of:
   a. Producing honey
   b. Producing package bees and/or queen bees for sale or use by other beekeepers.
   c. Providing pollination services for a fee
   d. Resale within the year.
   e. Person(s) owning and/or managing less than 50 colonies of bees for any purpose so described above, except for honey production alone shall be deemed a commercial apiarist.
5. "Hives" – Boxes, barrels, logs, skeps or any other receptacles or containers natural or man-made, which may be used as a domicile for bees.
6. "Nuc or Nucleus" – Any division or portion of a colony that contains comb with bees.
7. "Pollination" – The use of bees for the transfer of pollen in the production of an agricultural crop.
8. "Contagious Diseases, Parasites, and Pests" – Unless otherwise specifies shall include the following: American foulbrood, European foulbrood, small hive beetle (*Aethina tumida*), tracheal mites, *Acarapis woodi*, Varroa mite (*Varroa jacobsoni*), Chalkbrood, Africanized honeybee (*Apis mellifera* [adansonii]) or any other disease or parasite so determined by the Bureau of Plant Industry.
9. "Bureau of Plant Industry (BPI)" – An official agency within the Mississippi Department of Agriculture and Commerce including the office of the State Entomologist and State Apiary Inspector.
10. "Certificate of Inspection" – A document issued by an official of the Bureau of Plant Industry or corresponding agency of another state or province which certifies said bees as being apparently free of contagious bee diseases, parasites, Small Hive Beetle, and other designated pests of honey bees.
11. "Registered Location" – A site whereby bee colonies are placed once approved by the State Apiary Inspector constituting said placement of bees within a said forty acre plot.
12. "Application for Registration" – A specific form furnished by the Bureau of Plant Industry for registering Apiaries in Mississippi.

13. "Apiary Registration Number" – A number assigned by the Bureau of Plant Industry to a specific apiary once its registration is approved.
14. "Quarantined" – Prohibition of removal of any bees, combs, hive parts, honey, wax, propalis, etc from an apiary without written permission of the State Apiary Inspector.
15. "Depopulated" – All bees within hives killed under the supervision of BPI Personnel.
16. "Destroyed" – Burned or buried 18" below ground (earth) surface.
17. "Treated" – Administering drugs or using ethylene oxide fumigant for controlling or curing a disease, parasite, or pest infestation.
18. "Transfer Ownership" – To sell, to donate, to trade, to barter, or otherwise delegate ownership to another person or property.
19. "State of Residence/Origin" – The state or providence in which a migratory beekeeper declares as his/her home state in which all inspections for contagious bee disease and parasitic mites shall be conducted by the state agency.
20. "Used Beekeeping Equipment" – Equipment including but not limited to frames, supers, bottoms, tops, and other portions of a bee hive that has been inhabited by bees.
21. "Not actively being cared for" – For quarantine purposes this shall mean that the owner/manager has refused to treat said colonies as described in section 103(1)(b) of this chapter for parasitic mites or if said bees contain more than 2% colony infestation rate of AFB, 5% colony infection rate for EFB.
22. "AFB" – American Foulbrood, a brood disease caused by the spore producing bacteria, *Bacillus larvae.*
23. "EFB" – European Foulbrood, a brood disease caused by the non-spore producing bacteria, *Streptococcus pluton* and associated bacteria, *Bacterium eurydice, Bacilllus alvei, Bacillus laterosporus*, and *Bacillus para-alvei.*
24. "Compliance Agreement" – A written agreement between the Bureau of Plant Industry and a person who moves regulated articles interstate, in which that person agrees to comply with this subpart.
25. "Complier" – A person with whom the Bureau of Plant Industry has entered into a compliance agreement.
26. "Infestation" – The presence of one or more live Small Hive Beetles (larvae, pupae or adult), varroa mite, tracheal mite or other declared pest of honey bees.
27. "Permit" – A document in which an inspector of the Bureau affirms that the regulated article, identified on the document is eligible to move to a specified destination in Mississippi.
28. "Inspector" – Any employee of the Bureau of Plant Industry or other person authorized by the State Entomologist to enforce this subpart.
29. "Quarantined Area" – Any state or portion of a state listed in this subpart.
30. Regulated Articles:
    a. Small Hive Beetle, *Aethina tumida* in all life stages.
    b. All honey bees, live and dead.
    c. Hives (colonies) and the hive equipment, shipping and storage containers, and vehicles used at apiaries.
    d. Combs with or without brood.

e. Pollen

f. Any other articles that BPI shall determine to pose a threat of harboring Small Hive Beetles.

Source: *Miss. Code Ann*. §69-25-103.

Compliance Agreements between BPI and Beekeepers must be established to insure that regulated articles are moved to and from Mississippi in accordance with requirements outlined herein.

101.01 Such agreement shall state that said beekeeper agrees to request permits in writing at least 30 days prior to moving bees after having the necessary inspections completed.

101.02 Said beekeepers shall agree to notify a BPI Inspector within 24 hours upon arrival of bee colonies in Mississippi at which time he/she shall give specific written locations for all apiary locations.

101.03 Said agreement shall specify in writing all states, including counties within said state where bee colonies have been maintained during the preceding 12 months.

101.04 Said beekeeper must agree not to knowingly bring infested/infected colonies into Mississippi.

101.05 Said beekeeper must agree to treat all colonies moved in Mississippi with legally approved chemicals to keep parasitic mite infestations under control as described in section 103(1)(b) of this chapter.

101.06 Said beekeeper must acknowledge in such agreement that he/she understands that any violation of the signed agreement may be grounds for BPI to refuse future issuance of a permit.

101.07 Said beekeeper shall agree to accompany BPI Inspector upon request or designate an employee to do so.

101.08 Said agreement shall expire only when said beekeeper requests such in writing, or the Bureau has proof that said complier has violated the agreement, at which time the agreement becomes void and all permits to the beekeeper are nullified.

101.09 To reinstate a Compliance Agreement, the beekeeper must request a hearing before the Bureau's Advisory Board, at such time its reinstatement must be approved by a majority vote.

Source: *Miss. Code Ann*. §69-25-103.

Registration of Apiaries.

102 Apiaries owned and/or managed by a beekeeper may be registered by legal description with the Bureau of Plant Industry (BPI) each year. Non-commercial beekeepers may also register apiaries which shall meet all requirements and regulations governing commercial apiaries. Registration of each apiary shall be achieved at anytime and shall not expire until written notice from the apiary owner. Registration shall be accomplished by requesting the appropriate application from BPI, completing it and filing it with BPI.

Source: *Miss. Code Ann*. §69-25-103.

Interstate Movement of Nucs and/or Colonies and/or Used Beekeeping Equipment.

103 Beekeepers who choose to transport into, operate, and maintain colonies in Mississippi must:

1. Obtain permits for Entry into the State: Before an entry permit is used a certificate of inspection must be filed thirty days in advance as follows:
   a. Brood Disease Status: Such certificate shall state that 10% of the apiaries owned/operated by the applicant have been inspected within 10 months of the date of the certificate by any state official who found the percent of the colony infections not to exceed 2% for American Foulbrood, or 5% for European Foulbrood or 25% for chalkbrood and that the colonies were inspected at a time when said bees were actively rearing brood; and
   b. Parasitic Mite Treatment Status: Such certificate shall verify or acknowledge that 100% of the apiaries for which a permit is requested for transport into Mississippi have been treated with a technique or miticide for controlling varroa mites and/or said bees have been inspected and found apparently free of parasitic mites.
      i. Certification of treatments shall be based on the use of
         A. "Apistan Strips" or another EPA registered chemical to control varroa and;
         B. "Menthol" crystals, and/or vegetable oil patties or another EPA registered chemical for controlling tracheal mites or;
         C. Any legal non-EPA registered method for controlling tracheal mite and varroa mite.
      ii. Certification of varroa mite treatments shall be based on conducted surveys to verify that mite control has bee achieved. Control of varroa mites shall be evaluated as successful if ether rolls on 100 bees per 5 colonies show no more than 3 mites per roll or if sticky boards under "Apistan Strips" show no more than 10 mite per board.
   c. Small hive beetle status/requirements: Prior to Oct. 1, 1999, no regulated articles as defined in section 100(30) of this chapter shall be moved into Mississippi from the following counties of other states located within 50 miles of a known infestation as marked on the attached maps:
      i. Florida – All counties
      ii. Georgia – All counties
      iii. South Carolina – All counties
      iv. North Carolina – Counties of Moore, Richmond, Scotland, Hoke, Robeson or any two counties surrounding them.

v. Counties within the above states or any counties within other state(s) where infestations are documented.

d. Beginning Oct. 1, 1999, upon the decision of the State Entomologist that quarantines be lifted, beekeepers moving regulated articles from any county with a known infestation must obtain a permit based on a certificate from the state of origin stating that said bees have been inspected within the previous 30 days and found to be apparently free of SHB.

e. If said bees have previously been determined to be infested such certificate must state so, and verify that said bees have been treated with an approved treatment and have been found to be apparently free of SHB after treatment. Said bees shall be inspected by BPI for SHB as soon as possible after placement in Mississippi.

f. At locations to which honey bees are moved from counties designated above for restricted entry due to a known infestation, the soil must be treated prior to placement with and approved and effective chemical. Such treatment shall also cover an area 20 feet around the perimeter of said apiary.

g. If states or counties of origin have no inspection service, a beekeeper must contract with another person, firm, or agency which is bonded to conduct the necessary inspection for SHB. Upon such inspection the certificate issued by the contracted party (other than a state or county official) must be notarized prior to acceptance by BPI. All other certificates may only be accepted if received in an official envelope or fax transmittal of the state or county official.

2. When a beekeeper wishes to move colonies to another state, BPI shall make the necessary inspections which meet that state's entry requirements and issue the proper certificate, if allowable, unless other arrangements have been made between the receiving state and the beekeeper's official state of origin. Such a certificate may be issued with the approval of the receiving state based on treatments for Varroa and/or tracheal mites in lieu of inspection. Such certificate may also be issued by BPI once inspected and found to be apparently free of contagious and infectious bee diseases and parasites.

3. Netting Required: All beekeepers moving bees into or through Mississippi must have them covered by netting to prevent the escape of possible mite infested bees.

Source: *Miss. Code Ann*. §69-25-103.

<u>Certification of Package Bees and Queen Bees.</u>

104 All apiaries belonging to packaged bee and queen producers and nuc producers must be inspected annually for brood disease and parasitic mites. Certificates of inspection declaring apparent freedom from contagious bee diseases and parasites shall be attached securely to each lot of packages or queens being shipped. All lots of packaged bees, queens, or nucs being shipped into Mississippi must be accompanied by such a certificate from the state of origin.

Source: *Miss. Code Ann*. §69-25-103.

<u>Quarantines</u>.

105.01 Quarantine Notices: A quarantine may be instituted by BPI on all apiaries and colonies of bees within this state, wherein American Foulbrood, *Acarapis woodi, Varroa jacobsoni, Apis mellifera adansonii, Aethina Tumida,* or other highly contagious diseases, parasites, or pests of honey bees are found to occur. Such quarantine shall only be issued whenever the Bureau determines that said bees are "not actively being cared for by the owner/manager". And further yet, such quarantine shall become effective immediately upon written notices of quarantines by the Bureau to all beekeepers affected specifying locations and additional restrictions as deemed necessary by BPI. The removal of any and all colonies and/or bees, queen bees, worker bees, drone bees, or other regulated items as defined in section 100. from such quarantined apiary(s) is hereby prohibited until said quarantine is revoked by BPI or unless written permission is granted by BPI for the transport of infected equipment to a location where it can be properly treated by BPI personnel.

105.02 Tracheal Mites: Should an infestation of tracheal mites be detected in Mississippi infested/affected bee yards shall be depopulated or otherwise treated with an approved or accepted chemical . Bee yards found infested with tracheal mites shall remain under quarantine for no less than three weeks after the first treatment has been applied.

105.03 Varroa Mites: Individual colonies found to be infested with Varroa mites may be depopulated to expedite clean-up with the remaining colonies within the apiary and operation to be treated with an approved or acceptable chemical according to label directions. Infested yards shall remain under quarantine until all colonies have been treated for three weeks and reinspected before a certificate may be issued.

105.04 Africanized Bees: Should a colony/colonies of Africanized bees be detected in Mississippi said colonies shall be depopulated and the affected apiary quarantined. All apiaries within a three-mile radius shall be quarantined until an examination for Africanized bees is completed and no other infested/affected yards are detected.

105.05 Quarantine Measures on SHB within Mississippi: Apiary locations found to be infested in Mississippi shall be quarantined immediately. No regulated articles shall be moved from said apiary locations without permission of the State Entomologist. All other bee colonies and used combs belonging to said beekeeper shall be inspected as soon as possible by BPI, as well as other known apiaries within a five mile radius of quarantined apiaries.

1. Infested hives shall be treated with an approved treatment or destroyed by burning, or otherwise treated in a manner as deemed suitable by the State Entomologist in order to eliminate said infestation. The soil within said apiary and for a radius of 20 feet from said apiary shall be treated with an approved chemical to control SHB larvae and pupae.
2. Shipment of packaged bees into Mississippi after Oct. 1, 1999, shall only be allowed from certified producers who are under a compliance agreement with BPI. The Bureau shall have the discretion as to what states such shipments may be allowed from.

3. No restrictions are hereby placed on the shipment of queen bees into Mississippi which do not accompany packaged bees.

105.06 Enforcement: When BPI finds infectious diseases, parasites, or pests repeatedly that exceed standards for certification as outlined in section 103(1) of this chapter in bees shipped from another state under official certificates or receives adequate proof or testimony that said state's certificate standards are inadequate, BPI thereafter shall refuse to recognize certificates of such state until such time as he shall receive satisfactory proof that its inspection service has again become trustworthy.

105.07 At the discretion of the State Entomologist, a quarantine may be placed on an entire state wherein adequate restrictions or regulations are not in force to prevent, contain, or control occurrences of Varroa mite, Africanized bees, Small Hive Beetle, or other contagious bee diseases, parasites, or pests of honey bees.

105.08 The exposure by any person of hives, combs, brood, honey, or bees from colonies or apiaries which have been determined by BPI to be infected/infested with contagious bee diseases, parasites at levels which exceed certification criteria in section 103(1) of this chapter or Africanized bees in such a manner as to expose other bees to the danger of infection/infestation, is hereby prohibited and such exposure shall be considered a violation of Chapter 25, Article 3, Sections 69-25-101 through 69-25-109, *Miss. Code Ann.*

105.09 It shall be unlawful for any person to knowingly purchase, receive or transport bees from quarantined areas or quarantined beekeeping operations whether in-state or out-of-state.

Source: *Miss. Code Ann*. §69-25-103.

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 Ann*. §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 Ann*. 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,	1 and/or 7	2 and/or 10	3 and/or 11	4 and/or 12

etc.				

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.

Source: *Miss. Code Ann*. §69-25-57.

Subpart 3-Bureau of Plant Industry
Chapter 08-Pesticide Law
Subchapter 01- Regulations Governing Registration of Pesticides and Pesticide Products

Definitions

100 Words used in these regulations shall be construed as having the same meaning as in the definitions given in the Act.

1. The term "AAPCO" means the Association of American Pesticide Control Officials.
2. The term "Act" means the Mississippi Pesticide Law of 1975, *Miss. Code Ann.* §§ 69-23-1, et seq.
3. The term "bulk container" means any container holding more than 55 gallons of concentrated/undiluted liquid pesticide or more than 100 pounds of dry pesticide.
4. The term "Bureau" means the Bureau of Plant Industry within the Mississippi Department of Agriculture and Commerce.
5. The term "channels of trade" means distribution channel that a pesticide or pesticide product follows once it leaves the producing establishment.
6. The term "deficient in ingredient" means an active ingredient or functioning agent has been found in a pesticide product which has been packaged, labeled and released for shipment that deviates below AAPCO Standards and Uniform Policy (Adopted March, 1998), or as amended hereafter. In addition, for adjuvants a deviation of more than 10% from the label guarantee shall be considered a violation.
7. The term "discontinued product(s)" means pesticide product(s) for which manufacturing has been halted but may still remain in the channels of trade.
8. The term "establishment" means any place where a pesticide or active ingredient is used to produce a pesticide or pesticide product, or where a pesticide or pesticide product is held for distribution or sale.
9. The term "FDA" means the Federal Food and Drug Administration.
10. The term "formulate" means receiving ingredients for a product individually and then mixing them in order to produce a new product.
11. The term "Notice of warning" or "Notice of non-compliance" means the document sent to an establishment (pesticide producer, distributor, packager, etc.) which notifies said persons of a product that has been found to be in violation of the Mississippi Pesticide Law.
12. The term "pesticide product" means a product that has been packaged, labeled and released for shipment from the producing establishment.
13. The term "pesticidal product report(s)" means the records kept by a pesticide producing facility on the amounts of pesticide products manufactured or repackaged, and/or released for shipment.
14. The term "produce" means to manufacture, prepare, compound, propagate, or process any pesticide or active ingredient used in producing a pesticide or pesticide product.
15. The term "repackaged" means receiving a product in bulk and then packaging and re-labeling it.

16. The term "removed from the channels of trade" means the act of stopping the sale of a pesticide or pesticide product and removing it from the store shelf, inventory list, or warehouse with assurance that it will not be distributed to the end-user.
17. The term "site of application" means a place to which a pesticide can be applied such as soil, types of plants, types of structures, types of crops, etc.
18. The term "wholesale distributor or distributor" means a place of business, which receives pesticide products from the manufacturer for distribution to the retailer or in some cases directly to the end-user.

Source: *Miss. Code Ann*. §69-23-9.

Registration Procedures

101.01 Registration of pesticides or pesticide products shall be on a calendar year basis and all registrations shall expire on December 31 of each year. Renewal of registration shall be made during each December and any previously registered pesticide or pesticide product, which has not been reregistered by December 31, shall be considered as unregistered and subject to the penalties prescribed by the Act.

101.02 The Registration fee for a pesticide or pesticide product, unless partially waived as an additional brand under Section 104 of this chapter, shall be $200 per brand or grade. Registrants may request a rebate of $100 per brand under following two circumstances:

1. For those brands produced and labeled in a Mississippi establishment that is properly registered by the U.S. Environmental Protection Agency (EPA). Requests for rebates must be made on forms provided by the Bureau of Plant Industry and accompanied by proper notarizations of other documents, such as copies of pesticidal product reports sent to the EPA.
2. For those brands produced and labeled in a Mississippi establishment which are not required to be registered by EPA as a pesticide and are not exempted under Mississippi Law. Supportive documents such as notarized statements declaring where said products will be produced must be provided to the Bureau of Plant Industry. In lieu of such documentation an inspection by an official employee of the Bureau of Plant Industry may be made at which time and pesticide production reports must be made available upon request prior to the issuance of requested rebates.

101.03 Registration of discontinued products must be done as follows: If a pesticide or pesticide product is no longer produced, the registrant shall continue to register the pesticide or pesticide product for no less than one additional year. The registrant may register a pesticide or pesticide product as discontinued for longer than one year to insure that all supplies have cleared the channels of trade.

101.04 Fertilizer-Pesticide mixtures shall be registered and must comply with all sections of the Pesticide Law of 1975 and the rules promulgated thereunder.

Source: *Miss. Code Ann*. §69-23-9.

Sampling and Analysis

102.01 An official sample for analysis shall be one collected by an approved employee of the Bureau of Plant Industry and whenever possible from a labeled and unbroken container. Whenever the analysis by the State Chemist shall reveal that a pesticide or pesticide product is deficient in ingredient or otherwise varies from the ingredient statement shown on its label the Bureau of Plant Industry may bring an administrative action for adulteration or misbranding of the product. Enforcement actions on products found to be misbranded shall be conducted according to the administrative hearing procedures of the Bureau of Plant Industry and the Bureau's General Rules of Procedure.

102.02 Upon request by the Bureau of Plant Industry or an official of the Mississippi State Chemical Laboratory a registrant must submit methods of analyses and chemical standards within 30 calendar days to the Mississippi State Chemical Laboratory for use in analyzing samples.

Source: *Miss. Code Ann*. §69-23-9.

Issuance of Non-compliance Notices and Stop-Sale Notices

103.01 Whenever the Bureau of Plant Industry shall find a pesticide or pesticide product being sold or offered for sale which has not been registered or re-registered as required, the producer shall immediately be sent a notice of non-compliance and/or stop-sale notice. Should a pesticide or pesticide product be found adulterated, misbranded, or deficient the Bureau of Plant Industry shall immediately issue to the vendor of the product a "Stop Sale" order, and the dealer shall make no further sales of the pesticide or pesticide product specified until the "Stop Sale" order is canceled by the Bureau of Plant Industry. A copy of the "Stop Sale" order shall be mailed to the manufacturer and distributor of the product, if their identity is known.

103.02 All delinquent fees must be submitted with the application to bring registrations up to date if the pesticide or pesticide product is still currently being manufactured and marketed in Mississippi and registration fees were not paid for prior years as determined by sales records.

103.03 Pesticides or pesticide products found to be not registered at a wholesale distribution point may be placed under stop-sale immediately by the inspector to prevent further distribution. Said pesticides or pesticide products shall remain under stop-sale order until the product is registered or removed from the channels of trade by the producer.

103.04 Enforcement actions on products found to be non-registered shall be conducted according to the administrative hearing procedures of the Bureau of Plant Industry and the General Rules of Procedure.

Source: *Miss. Code Ann*. §69-23-9.

Requirements For Meeting the Additional Brand Classification.

104 Fees are hereby waived for the following products deemed to be additional brands under the following conditions:

1. The manufacturer's number and product number of the EPA Registration Number (the first two series of numbers) must be identical An EPA Registration Number may be 00000-xxxx or 00000-xxxx-yyyyy. To be considered an additional brand the 0 and the x portions of the number must be identical.
2. The ingredient statement must be the same. By law, labels for each additional brand which claim to be an identical brand must bear some designation that they are the same pesticide (identical in active ingredients) before each can be considered an additional brand. A confidential statement of formula must be submitted to meet this requirement of the law. Accordingly the identical common name or the identical scientific chemical name of the active ingredient(s) must be shown in the ingredient statement of each additional brand name.
3. All directions for use must be the same. Neither product's labeling may contain different sites of application.
4. Only those pesticides or pesticide products registered with EPA by the same manufacturer shall be deemed additional brands. However, they may be produced at different facilities. Distributor labels must be labeled as "sold by" or "distributed by" (Name and address of the distributor). An establishment which produces an additional brand product registered by EPA for another company under contract must labe it as "manufactured for" or "formulated for" or "packaged for" (Name and address of the distributor). All additional brand products registered by EPA must have the proper "EPA Establishment Number" printed on the label or the carton.
5. All additional brand products exempt from EPA registration must be labeled as "packaged and sold by" (name and address) or "packaged by (name and address) for" (name and address) or "manufactured by (name and address) for" (name and address).
6. Registrants with currently registered and labeled pesticides or pesticide products shall have until January 1, 2003 to comply with the labeling provisions of this Section; products found to be non-compliant thereafter shall be subject to enforcement actions and/or penalties as provided for under the Administrative Hearing Procedures and General Rules of Procedure.

Source: *Miss. Code Ann*. §69-23-9.

Bonding and Securities

105 Any non-resident vendor, manufacturer or distributor of pesticide products who has been found guilty of two or more pesticide violations within the last 5 years, whether in a judicial or administrative proceeding, shall deliver to the Bureau of Plant Industry a fidelity bond or other security in an amount not to exceed $10,000.00. To secure the faithful performance of his duties under *Miss. Code Ann.* §§69-23-1 *et seq.* no surety bond shall be accepted except from companies approved by the Insurance Department of Mississippi. In lieu of a surety bond, any registrant of whom a bond is required may

deposit with the official depository of the Bureau of Plant Industry negotiable bonds of the United States Government or of the State of Mississippi, having a cash value equal to the amount of the bond required, the said bonds to be held in escrow by the depository for the maximum time for which, the registrants may have pesticides registered, or shall have pending any litigation or claim for damages suffered by any person by reason of the negligence of the principal or his or its agents in the conduct of said business.

Source: *Miss. Code Ann*. §69-23-9.

Additional Requirements For the Registration of Pesticides Declared Exempt From EPA Registration But Not So Under Mississippi Law

106.01 All pesticides or pesticide products declared exempt from registration by EPA under Section 25b of FIFRA, or under other EPA policies and guidelines are hereby declared non-exempt under Mississippi Law. Accordingly such products deemed pesticides under state law must meet the following requirements prior to registration:

1. Labels must meet all labeling requirements under Sections 69-23-3 through 69-23-7.
2. For food uses, registrants must show proof that a food tolerance or an exemption from a food tolerance has been granted by EPA /FDA for all active and inert ingredients.
3. Registrants must upon request by the Bureau of Plant Industry submit good scientific efficacy data. The Bureau of Plant Industry shall determine the integrity and soundness of such data and make a determination if the product meets the claims made on the label.
4. Other proof may also be requested by the Bureau of Plant Industry to show that the product meets all label claims. The registrant must make a written request that confidentiality be kept of any data by the Bureau of Plant Industry.

106.02 Products classified as animal drugs, which make claims to control insects as defined in the Act must be registered as pesticides and comply with labeling requirements under Sections 69-23-3 through 69-23-7.

Source: *Miss. Code Ann*. §69-23-9.

Certain Organisms Declared Pests

107 The Bureau of Plant Industry does declare the following to be pests:

1. Moles (*Scalopus aquaticus*)
2. Snails and Slugs (various species of the *Phylum Mollusca* that are known to damage plants)
3. Blackbirds (various species of crop damaging birds such as grackles, cowbirds, starlings and other birds known to damage field crops)

Source: *Miss. Code Ann*. §69-23-9.

Requirements For Adjuvants

108.01 In the case of adjuvants, surfactants, emulsifiers, wetting agents, and other materials included as adjuvants which have nonionic surfactants as the principal agent, the ingredient statement on the label must show the percentage of the active adjuvant at least by the generic chemical name and, further, that the specific chemical name identifying the hydrophobic and hydrophillic portions of the molecule and the ratio of same must be given on a data sheet that shall accompany the label when application for registration is made, the later being necessary in order that the chemical content may be determined by the State Chemist for regulatory purposes. In the case of products having cationic and anionic surfactants as the principal agent the chemical names of such materials must be stated in the ingredient statement on the labels along with the percentage contents of the principal surfactants.

108.02 In the case of products not involving hydrophobic and hydrophilic portions of the molecule such as in the case of most synergists and other nonsurfactant adjuvants, the chemical name of such material must be used in the ingredient statement on the labels.

108.03 For any adjuvant the registrant may choose to submit a validated method of analysis which may be used instead of the standard method of anaylsis.

Source: *Miss. Code Ann*. §69-23-9.

Special Registrations

109.01 The Commissioner has authority under FIFRA, Sections 24c and 18, to approve and or seek EPA approval of the use of pesticides or pesticide products for specific uses within the state for special local needs and emergencies to control pest problems and to insure the safety of such pesticides to man and the environment. Pesticides or pesticide products with additional sites of application as approved under provisions of FIFRA shall require registration and the appropriate fees shall be paid. The Bureau of Plant Industry shall follow the guidelines as written and/or prescribed by the EPA in registering such products.

109.02 Federal experimental use permits must be registered; however, no fee is necessary unless the product is to be sold to the cooperator or participant in the state. A copy of the EPA approved labeling, permit and restrictions must be submitted with the application for registration. Also, a list of cooperators and participants must be made available to the Bureau of Plant Industry prior to the actual application of the pesticide.

Source: *Miss. Code Ann*. §69-23-9.

<u>Special Requirements For Pesticides Distributed in Bulk Containers</u>

110.01 Bulk containers, including mobile tanks on wheels, must be labeled with appropriate labeling required under Sections 69-23-3 through 69-23-7 and represent the contents thereof.

110.02 All bulk containers must contain sample ports from which samples representing the contents can be procured. Necessary equipment to agitate the contents so as to insure that a representative sample can be obtained must be part of the tank system.

110.03 All bulk tanks must have locking and seal mechanisms to prevent tampering of the contents by unauthorized persons.

110.04 Locations where bulk containers are refilled must be registered as "Pesticide producing establishments" by the EPA.

Source: *Miss. Code Ann*. §69-23-9.

Post-Deprivation Hearing

111 Any stop sale order issued under the terms of the act or these regulations shall be served upon the vendor personally and upon the manufacturer and distributor, if their identity is known, by certified mail. The vendor, manufacturer or distributor ("accused parties") shall then have thirty (30) days after service of the said order upon them within which to request an informal administrative review before the Director of the Bureau of Plant Industry in the Department, or his designee, who shall act as reviewing officer. The accused parties and the Bureau may submit documents in support of their respective positions, as there will be no evidentiary hearing held concerning the charges at the initial stage. This initial informal administrative review will be conducted in accordance with the provisions of *Miss. Code Ann.* § 69-25-51, except that the stop sale order shall serve as the complaint. If the accused parties do not request an informal administrative review within said time, then they will be deemed to have waived their right to same. After the reviewing officer has made his decision, the parties shall have the same rights of appeal and shall follow the same procedures as set forth in *Miss. Code Ann.* §§ 69-25-51, *et seq*.
(Subchapter 01-Amended August 23, 2001).

Source: *Miss. Code Ann*. §69-23-9.

112 (Reserved.)

Source: *Miss. Code Ann*. §69-23-9.

Pesticide Management and Disposal

113.01 Federal Pesticide Management and Disposal Rule, Scope and Definitions, 40 C.F.R. §§165.1-.3, Adopted by Reference. The Department adopts herein by reference the current versions of 40 C.F.R. §§165.1 -.3. A copy of the C.F.R. can be accessed online at www.gpoaccess.gov/cfr or obtained by emailing the Department at publiccomments@mdac.state.ms.us.
(Adopted May 14, 2010.)

113.02 Federal Pesticide Management and Disposal Rule, Standards for Pesticide Containment Structures, 40 C.F.R., Part 165, Subpart E, Adopted by Reference.

The Department adopts herein by reference the current version of 40 C.F.R. Part 165, Subpart E, as the State standards for pesticide containment structures. A copy of the C.F.R. can be accessed online at www.gpoaccess.gov/cfr or obtained by emailing the Department at publiccomments@mdac.state.ms.us.

(Adopted May 14, 2010.)

Source: *Miss. Code Ann*. §69-23-9.

Subpart 3-Bureau of Plant Industry
Chapter 08-Pesticide Law Regulations
Subchapter 02-Regulations Governing Persons Distributing or Offering for Sale Restricted Use Pesticides.

Definitions

200 For the purpose of these regulations, the following words, names and terms shall be construed within the meaning and purpose of *Miss. Code Ann.* Sections 69-23-1 through 69-23-27.

1. "Act" shall mean *Miss. Code Ann.* Sections 69-23-1 through 69-23-27.
2. "Commissioner" shall mean the Commissioner of the Mississippi Department of Agriculture and Commerce.
3. "Competent" shall mean one properly qualified to perform functions associated with distributing, offering for sale and/or selling Restricted Use Pesticides, the degree of capability required being directly related to the nature of the activity and the associated responsibility.
4. "Dealer License" shall mean a document issued by the Bureau indicating that a person is competent to distribute, offer for sale and/or sell Restricted Use Pesticides.
5. "Bureau" shall mean the Bureau of Plant Industry of the Mississippi Department of Agriculture and Commerce created under the provision of *Miss. Code Ann.* Section 69-25-3.
6. "Person" shall mean any individual, partnership, corporation, association, company or organized group of persons whether incorporated or not.
7. "Restricted Use Pesticide" shall mean any pesticide classified for restricted use by the U.S. Environmental Protection Agency or by the Commissioner.

Source: *Miss. Code Ann*. §69-23-9.

Persons Required To Be Licensed.

201 A license shall be required for each location or outlet located within the state from which Restricted Use Pesticides are distributed, sold or offered for sale. Any dealer who has no pesticide outlet licensed within this state who distributes Restricted Use Pesticides directly into this state shall obtain a pesticide dealer license for his principal out-of-state location or outlet. Pesticide applicators selling Restricted Use Pesticides shall be required to secure a dealer license when such sales are not an integral part of their application service.

Source: *Miss. Code Ann*. §69-23-9.

License Application

202 Application for a pesticide dealer license shall be submitted on a regular form furnished by the Bureau.

Source: *Miss. Code Ann*. §69-23-9.

Examination

203.01 Competence in the use and handling of pesticides shall be determined by written examination. The examination shall include but not be limited to pesticide safety, handling, storage, disposal, transportation and applicable state and federal laws and regulations.

203.02 Examination Dates and Locations - Examination dates and locations shall be specified by the Bureau.

Source: *Miss. Code Ann*. §69-23-9.

Issuance of License

204 After all requirements have been met by the applicant, said applicant will then be issued a pesticide dealer license by the Bureau.

Source: *Miss. Code Ann*. §69-23-9.

Records

205.01 Licensed pesticide dealers shall keep complete and accurate records of all transactions involving Restricted Use Pesticides. Records shall include information pertaining to the sale of all Restricted Use Pesticides including:

1. Date of sale;
2. Dates Received;
3. Name and address of licensed applicator or authorized purchase agent purchasing the pesticide product;
4. Certification number of the applicator;
5. Brand name and EPA registration number of each product sold;
6. Size and number of containers of each product sold; and
7. Quantities returned to the formulator or manufacturer with an invoice, receipt or similar document of a proof;
8. Quantities lost due to theft, spillage or other reasons. In cases where Restricted Use Pesticides are stolen the Bureau shall be notified immediately upon discovery of theft.

205.02 The information listed shall be recorded at the time of sale and may be incorporated into billing invoices or other business transaction records.

205.03 All required information shall be retained for a period of two (2) years in a manner that is readily accessible by authorized Bureau representatives.

Source: *Miss. Code Ann*. §69-23-9.

Nonresident Dealers To Designate Agent For Service Or Process

206 Any nonresident pesticide dealer applying for a license under the act and these Regulations shall file a written power of attorney designating the secretary of state as the agent of such nonresident upon whom service of process may be had in the event of any suit against said nonresident person, and such power of attorney shall be prepared and in such form as to render effective the jurisdiction of the courts of this state over such nonresident applicant. Provided; however, that any such nonresident who has a duly appointed resident agent upon whom process
may be served as provided by law shall not be required to designate the secretary of state as such agent. The secretary of state shall be allowed such fees therefore as provided by law for designating resident agents. The Bureau shall be furnished with a copy of such designation of the secretary of state or of a resident agent, such copy to be duly certified by the secretary of state.

Source: *Miss. Code Ann*. §69-23-9.

Denial, Suspension, Revocation and Modification

207.01 The Commissioner with the approval of the advisory board may suspend for not more than thirty (30) days, and then after opportunity for a hearing may deny, suspend, revoke or modify the license issued under the act if he finds that the applicant has knowingly and consistently committed any of the following applicable to him, each of which is declared to be a violation of the act and these regulations.

1. Made false or fraudulent claims through any media misrepresenting the effect of materials or methods to be used;
2. Operated in a faulty, careless or negligent manner or knowingly operated in an unsafe manner that would cause damage to property or person;
3. Refused or after notice neglected to comply with the provisions of the act, these regulations, or any lawful order of the Commissioner;
4. Refused or neglected to keep and maintain records required by the act or these regulations;
5. Made false or fraudulent records, invoices or reports;
6. Use fraud or misrepresentation in making application for a license or renewal for a license;
7. Aided or abetted any person in evading the provisions of the act, allowed one's license to be used by a non-licensed person;
8. Impersonated any state or federal official;
9. Convicted for using or causing another person to use any restricted use pesticide in a manner which is determined to be inconsistent with its labeling;
10. Distribute, sell or offer for sale any pesticide labeled for restricted use to any person, or his agent who is not certified to use or purchase such pesticide;
11. Consistently handled, transported, stored, displayed, distributed or disposed of any pesticide or container in such a manner as to endanger man and his environment;

12. Sold or offered for sale any pesticide on which a stop sale notice has been issued by the Bureau.

207.02 Any person who is denied a license or when a license is suspended, revoked or modified by the Bureau shall be afforded an opportunity for fair hearing before the advisory board in connection therewith upon written application to the Bureau within thirty (30) days after receipt of notice from the Bureau of such denial, suspension, revocation or modification. The Bureau shall set a time and place for such hearing and shall convene the board within five (5) days following receipt of the written application for a hearing. The board shall receive evidence and affirm, modify or reverse the determination of the Bureau within five (5) days.

207.03 Any person aggrieved by the determination of the board may petition the chancery court of the county of residence of such person or the Chancery Court of Hinds County for a review with supersedes. The chancellor shall grant a hearing on said petition and may grant such a review with supersedes; the appellant may be required to post bond with sufficient sureties in an amount to be determined by the chancellor. Upon the review of any such decision, additional evidence may be received and considered by any record made or evidence heard before the board or Commissioner may be submitted. Any such petition by either party from the determination of the chancellor shall proceed as otherwise provided by law.

207.04 When a license has been revoked, said person shall be notified by certified mail.

Source: *Miss. Code Ann*. §69-23-9.

License Expiration and Conditions For Renewal

208 Licenses for pesticide dealers will expire on December 31 of each year and must be renewed annually. Application for renewal shall be submitted on a regular form furnished by the Bureau.

Source: *Miss. Code Ann*. §69-23-9.

Reciprocity

209 The examination for a license may be waived if the applicant is licensed to perform the same services in a state with standards equal to those of Mississippi and that state will honor the Mississippi examination.

Source: *Miss. Code Ann*. §69-23-9.

Exemptions

210 Persons exempt from the requirements of the act and these regulations are (a) licensed pesticide applicators who sell pesticide only as an integral part of their pesticide application

service where such pesticides are applied by said applicator; (b) any federal, state, county, or municipal agency which provides pesticides only for its own programs.

Source: *Miss. Code Ann*. §69-23-9.

Subpart 3-Bureau of Plant Industry
Chapter 09-Pesticide Application Law
Subchapter 01- Regulations Governing the Certification of Private Applicators To Use "Restricted Use" Pesticides.

Definitions

100 For the purpose of these regulations, the following words, names and terms shall be construed within the meaning and purpose of *Miss. Code Ann.* Sections 69-23-101 through 69-23-133.

1. "Advisory Board" shall mean the Advisory Board as defined in Section 69-25-3.
2. "Agricultural Commodity" shall mean any plant, or part thereof, animal or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by man or animal.
3. "Applicant" shall mean an individual who submits an application for certification as a private applicator.
4. "Bureau" shall mean the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, created under the provisions of *Miss. Code Ann.* Section 69-25-3.
5. "Certificate" shall mean a license or permit.
6. "Certification" shall mean the recognition by the Bureau that a person is competent and thus authorized to use or supervise the use of "restricted use" pesticides.
7. "Certified Private Applicator" shall mean any individual who has been found competent to purchase and use "restricted use" pesticides covered by his certification.
8. "Commissioner" shall mean the Commissioner of Agriculture and Commerce of the State of Mississippi.
9. "EPA" shall mean the United States Environmental Protection Agency.
10. "Executive Secretary and/or State Entomologist" shall mean the executive secretary and director and/or state entomologist of the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce as set forth in *Miss. Code Ann.* Section 69-25-5.
11. "FIFRA" shall mean the Federal Insecticide, Fungicide, and Rodenticide Act, as amended.
12. "Person" shall mean any individual, partnership, association, corporation or organized group of persons, whether incorporated or not.
13. "Pest" shall mean:
    a. Any insects, rodents, nematodes, fungi and/or weeds;
    b. Other forms of terrestrial or aquatic plant or animal life or viruses, or viroids, bacteria, or other microorganism (except viruses, bacteria or other microorganism on or in living man or other living animals) which the Commissioner declares to be a pest.
14. "Pesticide" shall mean any substance or mixture of substances intended for preventing, destroying, repelling, mitigating or attracting any pests; and shall also include

adjuvants intended to enhance the effectiveness of pesticides; and any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant.

15. "Private Applicator" shall mean a certified applicator who uses or supervises the use of any pesticide which is classified for restricted use for purposes of producing any agricultural commodity on property owned or rented by him or his employer or (if applied without compensation other than trading of personal services between producers of agricultural commodities) on the property of another person.
16. "Restricted Use Pesticide" shall mean any pesticide classified for restricted use by EPA or by the Commissioner.
17. "Under the Direct Supervision of" shall mean the act or process whereby application of a pesticide is made by a competent person acting under the instructions and control of a certified applicator who is responsible for the actions of that person and who is available if and when needed, even though such certified applicator is not physically present at the time and place the pesticide is applied.
18. "Unreasonable Adverse Effects on the Environment" shall mean any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide.

Source: *Miss. Code Ann*. §69-23-109.

Persons Required To Be Certified

101 Any person who uses or supervises the use of any "restricted use" pesticide for the purpose of producing an agricultural commodity on property owned or rented by him or his employer or (if applied without compensation other than trading of personal services between producers of agricultural commodities) on the property of another person shall be certified as a private applicator.

Source: *Miss. Code Ann*. §69-23-109.

Certification Application; Qualifications

102.01 Application for certification shall be submitted on a regular form furnished by the Bureau.

102.02 Persons who wish to be certified as private pesticide applicators must be 18 years old prior to participating in a certification option. In hardship cases individuals below the age of 18 may be certified by the Board on an individual basis when they demonstrate to the Board by written, or written and oral examination their qualifications as a private pesticide applicator.

102.03 Persons who wish to be certified as private pesticide applicators must verify that they are actively engaged in farming in the State of Mississippi and will use the pesticides purchased under this certification in the production of agricultural commodities.

Source: *Miss. Code Ann*. §69-23-109.

Certification Methods

103.01 Training with examination. Competence in the use and handling of pesticides shall be determined by written examination. This examination will be based upon standards as set forth in the U.S. Environmental Protection Agency's Code of Federal Regulations.

103.02 Examination without training. An Applicant may request and be allowed to take an examination provided by the Bureau for certification. If he satisfactorily passes the examination, he will be certified.

Source: *Miss. Code Ann*. §69-23-109.

Records

104 Applicators certified under this regulation shall keep complete and accurate records of all work performed for at least two years. Such records shall be available for examination by employees of the Bureau during reasonable business hours. Such records shall include:

1. The brand or product name;
2. The EPA registration number;
3. Total amount applied;
4. The size of the area treated;
5. The crop, commodity, stored product or site;
6. The date of the application; and
7. The location of application.

Source: *Miss. Code Ann*. §69-23-109.

Issuance of Certificate

105 If all qualifications and other requirements of the applicant are satisfactory, the Bureau shall issue a certificate. A certificate must be presented to the dealer when purchasing a "restricted use" pesticide.

Source: *Miss. Code Ann*. §69-23-109.

Invalidation of a Certificate

106 The Commissioner with the approval of the advisory board may suspend for not more than thirty (30) days, and then after opportunity for a hearing may deny, suspend, revoke or modify the provisions of any certificate or permit issued under the act if he finds that the applicant or licensee had committed any of the following:

1. Made false or fraudulent claims through any media misrepresenting the effect of materials or methods to be used;
2. Operated in a faulty, careless or negligent manner or knowingly operated faulty or unsafe equipment in a manner as to cause damage to property or person;

3. Refused, or after notice neglected to comply with the provisions of the act, these regulations, or any lawful order of the Commissioner;
4. Used fraud or misrepresentation in making application for a certificate or renewal of a certificate;
5. Aided or abetted any person in evading the provisions of the act, allowed one's certificate to be used by an uncertified person;
6. Impersonated any state or federal official;
7. Convicted of a violation under FIFRA; or
8. Convicted for using any restricted use pesticide in a manner which is determined to be inconsistent with its label or labeling.

Source: *Miss. Code Ann*. §69-23-109.

Renewal of Certification

107 All certificates shall be renewed every five (5) years. The certified applicator must complete one of the certification methods in Section 103 of this chapter within the past twelve (12) months in order for it to be renewed.

Source: *Miss. Code Ann*. §69-23-109.

Enforcement

108 For the purpose of carrying out the provisions of this article the Commissioner or his employees may enter upon any public or private premises at reasonable times in order to have access for the purpose of inspection, sampling, and observation subject to this article.

Source: *Miss. Code Ann*. §69-23-109.

Penalties

109 Any person violating the provisions of the act or these regulations shall be guilty of a misdemeanor, and upon conviction shall be punishable by a fine or imprisonment as provided for in the Mississippi Pesticide Law and/or the Mississippi Pesticide Application Law.

Source: *Miss. Code Ann*. §69-23-109.

Reciprocity

110 The examination for certification may be waived if one of the following conditions are met:
The applicant is already certified in a state with standards equal to those of Mississippi.
A federal employee presents a federal form stating that he or she is competent and certified under the governmental agency plan.

Source: *Miss. Code Ann*. §69-23-109.

Exemptions

111.01 Any person duly licensed and certified under *Miss. Code Ann.* Sections 69-19-1 through 69-19-11, Sections 69-21-1 through 69-21-27, and Sections 69-21-101 through 69-21-125 is exempt from the certification provisions of these regulations.

111.02 Persons exempt from certification requirements by federal regulations promulgated under FIFRA are exempted from certification under these regulations.

(Subchapter 02-Adopted March 25, 1976; Amended June 27, 1997)

Source: *Miss. Code Ann*. §69-23-109.

Subpart 3-Bureau of Plant Industry
Chapter 09-Pesticide Application Law
Subchapter 02-Regulations Governing Certified Applicators Who Are Not Required By Other Mississippi Laws And Regulations To Be Licensed Or Certified

Definitions

200 For the purpose of these regulations, the following words, names and terms shall be construed within the meaning and purpose of *Miss. Code Ann.* Sections 69-23-101 through 69-23-133

1. "Act" shall mean *Miss. Code Ann.* Sections 69-23-101 through 69-23-133.
2. "Bureau" shall mean the Bureau of Plant Industry of the Mississippi Department of Agriculture and Commerce created under the provisions of *Miss. Code Ann.* Section 69-25-3.
3. "Certificate" shall mean a document issued by the Bureau indicating that a person is competent to use or supervise the use of a restricted-use pesticide under the categories listed on said document.
4. "Certification" shall mean the recognition by a certifying agency that a person is competent and thus authorized to use or supervise the use of a restricted-use pesticide.
5. "Certified Applicator" shall mean any person who is certified to use or supervise the use of a restricted-use pesticide covered by certification.
6. "Commissioner" shall mean the Commissioner of the Mississippi Department of Agriculture and Commerce.
7. "Competent" shall mean properly qualified to perform functions associated with pesticide application, with the degree of capability required being directly related to the nature of the activity and the associated responsibility.
8. "Person" shall mean any individual, partnership, corporation, association, company or organized group of individuals whether incorporated or not.
9. "Public Applicator' shall mean any person who applies a restricted-use pesticide as an employee of a state agency, municipal corporation, public utility or other governmental agency. This term does not include employees who work under direct "on-the-job" supervision of a public applicator.
10. "Restricted-Use Pesticide" shall mean any pesticide classified for restricted use by the U.S. Environmental Protection Agency or by the Commissioner.
11. "Under the Direct Supervision of" shall mean the act or process whereby application of a pesticide is made by a competent person acting under the instruction and control of a certified applicator who is responsible for the actions of that person and who is available if and when needed, even though such certified applicator is not physically present at the time and place the pesticide is applied.

Source: *Miss. Code Ann*. §69-23-109.

Persons Required To Be Certified

201 All persons engaging in the supervision, application or use of any pesticide that is restricted by the U.S. Environmental Protection Agency or the Bureau are required to be certified unless exempt in Section 211 of this chapter.

Source: *Miss. Code Ann*. §69-23-109.

Certification Application

202 Application for certification shall be submitted on a regular form furnished by the Bureau. All applicants must be at least eighteen (18) years of age.

Source: *Miss. Code Ann*. §69-23-109.

Exemptions and Categories

203.01 Competence in the use and handling of pesticides shall be determined by written examinations. These examinations will be based upon standards as set forth in the U.S. Environmental Protection Agency's Code of Federal Regulations.

203.02 Examination dates and locations shall be specified by the Bureau of Plant Industry, Mississippi State, Mississippi.

203.03 Categories in which examinations are to be given for certification:

1. Agricultural Plant and Animal Pest Control
2. Forest Pest Control
3. Ornamental and Turf Pest Control
4. Seed Treatment
5. Aquatic Pest Control
6. Right-of-Way Pest Control
7. Industrial, Institutional, Structural and Health-Related Pest Control
8. Public Health Pest Control
9. Regulatory Pest Control
10. Demonstration and Research Pest Control
11. Aerial Application
12. Wood Preservation and Products Treatment
13. Antifoulant Paint
14. Metam-Sodium

Source: *Miss. Code Ann*. §69-23-109.

Certification

204 After all requirements have been met by the applicant, said applicant will then be certified by the Bureau. If the certified applicator changes their mailing address, the Bureau must be notified in writing.

Source: *Miss. Code Ann*. §69-23-109.

Denial; Suspension; Revocation; and Modification

205.01 The Commissioner with the approval of the advisory board may suspend for not more than thirty (30) days, and then after opportunity for a hearing, may deny, suspend, revoke or modify the certification issued under the act if it is determined that the applicant has committed any of the following offenses, each of which is declared to be a violation of this act:

1. Made false or fraudulent claims through any media misrepresenting the effect of materials or methods to be used.
2. Operated in a faulty, careless or negligent manner or knowingly operated faulty or unsafe equipment in a manner as to cause damage to property or people.
3. Refused or after notice neglected to comply with the provisions of this act, the regulations adopted hereunder or any lawful order of the Commissioner.
4. Refused or neglected to keep and maintain records required by this act or to make reports when required.
5. Made false or fraudulent records, invoices or reports.
6. Used fraud or misrepresentation in making application for certification or renewal for certification.
7. Aided or abetted any person in evading the provisions of this act or allowed one's certification to be used by an uncertified person.
8. Impersonated any state or federal official.
9. Convicted of a violation under the Federal Insecticide, Fungicide and Rodenticide Act.
10. Convicted for using any restricted-use pesticide in a manner which is determined to be inconsistent with its labeling.

205.02 Any person who is denied certification or when certification is suspended, revoked or modified by the Commissioner shall be afforded an opportunity for a fair hearing before the advisory board in connection therewith upon written application to the Commissioner within thirty (30) days after receipt of notice from the Commissioner of such denial, suspension, revocation or modification. The Commissioner shall set a time and place for such hearing and shall convene the board within ten (10) days following receipt of the written application for a hearing. The board shall receive evidence and affirm, modify or reverse the determination of the Commissioner within five (5) days.

205.03 Any person aggrieved by the determination of the board may petition the chancery court of the county of residence of such person or the Chancery Court of Hinds County for a review with supersedes. The chancellor shall grant a hearing on said petition and may grant such review with supersedes; the appellant may be required to post bond with sufficient sureties in an amount to be determined by the chancellor. Upon the review of any such decision, additional evidence may be received and considered, but any record made or evidence heard before the board or Commissioner may be submitted. Any such petition by either party from the determination of the chancellor shall proceed as otherwise provided by law.

205.04 When certification has been revoked, said person shall be notified by certified mail.

Source: *Miss. Code Ann*. §69-23-109.

Reporting

206 Applicators certified under this regulation shall keep complete and accurate records of all work performed for at least two years. Such records shall be available for examination by employees of the Bureau during reasonable business hours. Such records shall include location, type of service performed, date performed, chemical used if any, strength, amount, pest controlled and such other information as may be necessary for a complete record.

Source: *Miss. Code Ann*. §69-23-109.

Nonresident Commercial Applicators To Designate Secretary of State As Agent For Service of Process

207 Any nonresident commercial applicator applying for a license under the act to operate in the state shall file a written power of attorney designating the secretary of state as the agent of such nonresident upon whom service of process may be had in the event of any suit against said nonresident person, and such power of attorney shall be prepared and in such form as to render effective the jurisdiction of the courts of this state over such nonresident applicant. Provided, however, that any such nonresident who has a duly appointed resident agent upon whom process may be served as provided by law shall not be required to designate the secretary of state as such agent. The secretary of state shall be allowed such fees therefore as provided by law for designating resident agents. The Commissioner shall be furnished with a copy of such designation of the secretary of state or of a resident agent, such copy to be duly certified by the secretary of state.

Source: *Miss. Code Ann*. §69-23-109.

Issuance of a Certificate

208 After all requirements have been met by the applicant for certification, the Bureau shall then issue said applicant a certificate. Said certificate shall indicate the category or categories under which said applicant is certified. A certificate is not transferable.

Source: *Miss. Code Ann*. §69-23-109.

Certification, Expiration and Conditions For Renewal.

209 A certified applicator's certification shall expire thirty-six (36) months from the date that the certificate was issued. To renew the certificate, the certified applicator must submit a request for renewal on a form prescribed by the Bureau and show knowledge of current

control recommendations, techniques, and changing technology and pesticide usage. To meet these requirements, the certified applicator must have attended a training course within the past twelve (12) months that is approved by the Bureau or successfully complete an examination administered by the Bureau.

Source: *Miss. Code Ann*. §69-23-109.

Reciprocity

210 The examination for certification may be waived if one of the following conditions are met:

1. The applicant is already certified to perform the same professional services in a state with standards equal to those of Mississippi.
2. A federal employee presents a federal form stating that he or she is competent and certified under the governmental agency plan.

Source: *Miss. Code Ann*. §69-23-109.

Exemptions

211.01 Persons conducting laboratory type research involving restricted-use pesticides, and doctors of medicine and doctors of veterinary medicine applying pesticides as drugs or medication during the course of their normal practice are exempt from the certifying provisions of this regulation.

211.02 Public applicators are exempt from requirements set forth in Section 207 of this chapter.

Subchapter 02-Adopted March 25, 1976; amended December 14, 1984; June 27, 1997)

Source: *Miss. Code Ann*. §69-23-109.

Subpart 3-Bureau of Plant Industry
Chapter 10 – Crop Spraying and Licensing of Aerial Applicators
Subchapter 01 – Regulation of Application by Aircraft of Agricultural Substances

Applicability

100 These regulations are adopted pursuant to the authority granted in *Miss. Code Ann.* 69-21-109 and apply to the aerial application of pesticides, fertilizer and see in Mississippi. All persons engaged in such activities must comply with these regulations.

Source: *Miss. Code Ann*. §69-21-109 (Rev. 2009).

Definitions

101.01 As used in these regulations, the following terms shall have the meanings hereinafter ascribed to them.

1. "Aerial application" means the practice of engaging in agricultural aircraft operations.
2. "Agricultural aircraft operation" means: Dispensing any pesticide, fertilizer or seed by aircraft;
3. "Aircraft" means any contrivance now known or hereafter invented that is used or designed for navigation of or flight in the air over land and water, and that is designed for or adaptable for use in agricultural aircraft operations.
4. "Applicator" means any person, as herein defined, who is licensed under this article to engage in agricultural aircraft operations, who may or may not be a pilot.
5. “Agricultural substance” means any seed, fertilizer or pesticide that is used, applied, sprayed or administered by aircraft
6. "Board" shall mean the advisory board of the Bureau of Plant Industry, a division of the Mississippi Department of Agriculture and Commerce.
7. “Bureau” means the Bureau of Plant Industry, a division of the Mississippi Department of Agriculture and Commerce
8. "Chief Pilot" means the person designated by an applicator to serve as chief pilot and the supervisor of agricultural aircraft operations for an applicator.
9. “Commissioner” means the Commissioner of the Mississippi Department of Agriculture and Commerce.
10. “Defoliant” means any substance or mixture of substances intended for causing the leaves of foliage to drop from a plant, with or without causing abscission.
11. “Department” means the Mississippi Department of Agriculture and Commerce.
12. “Desiccant” means any substance or mixtures of substances intended for artificially accelerating the drying of plant tissues
13. "Herbicide" means a chemical used for killing plants or severely interrupting their normal growth processes.
14. "Hormone-Type Herbicide" - shall mean all phenoxy type herbicides and other chemicals or substances which produce physiological changes in plant tissue without producing a burning effect, such as caused by many oils, which the Department may

declare to be extremely hazardous to crops or plants other than those for which the particular herbicide is intended to control, and shall include, but not be limited to the following materials: 2,4-D (2,4-dichlorophenoxyacetic acid) 2,4-DP 2-(2,4-dichlorophenoxypropionic acid in all forms; 2,4-DB 4-(2,4-dichlorophenoxy) butyric acid in all forms; MCPA 4-chloro-2-methyl phenoxyacetic acid in all forms; Dicamba 2-Methoxy-3, 6-dichlorobenzoic acid in all forms, and picloram (4-amino-3,5,6-trichloropicolinic acid) in all forms.

15. "Person" shall mean any individual, corporation, firm, partnership, company, trust, association or other legal entity.

16. "Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, mitigating or attracting any pests; and shall also include adjuvants intended to enhance the effectiveness of pesticides; and any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant.

17. "Pilot" means the operator of an aircraft used in agricultural aircraft operation; provided, however, a pilot may also be a person who is licensed as an applicator under the provisions of these regulations.

18. "Volume Median Diameter (VMD)" means the diameter of a single droplet, whose volume, when multiplied by the total number of droplets in spray, is found to equal the total spray volume. The volume median diameter is calculated by dividing the total spray volume in half.

Source: *Miss. Code Ann*. §69-21-109 (Rev. 2009).

Applicator's License

102 Applicator - Any person who intends to conduct, or engage in the practice of aerial application, as defined above, in the State of Mississippi shall first make application for and obtain an applicator's license from the Department on a form prescribed by the Department and said applicant shall:

1. Designate the name under which the applicant will do business;
2. Submit proof of payment of all ad valorem and other taxes which might be applicable on aircraft and other equipment to be used;
3. Establish proof of residency in accordance with Section 106 or appoint a resident agent for service of process in accordance with Section 107;
4. File a proposal of intended operation or activity;
5. Submit a copy of a photographic identification card.
6. Designate a person who will meets serve as chief pilot and supervisor of operations, which may be the applicant, or some other person;
7. The applicant must demonstrate competency by passing a written examination administered by the Department. The examination will cover aerial application methods and procedures in general, and include the standards for certification of applicators as set forth in Code of Federal Regulations, Chapter 40, Section 171.4 (40 CFR §171.4).
8. Have available the services of at least one aircraft registered by the Department in accordance with Section 202.01(11) and one pilot currently licensed by the

Department in accordance with Section 103.01;

9. Hold a current agricultural aircraft operator's certificate from FAA under FAR Part 137;
10. Submit proof of financial responsibility to the Department, and upon obtaining a license, such person shall maintain proof of financial responsibility at all times while such license is in effect, in accordance with Section 105;
11. Register with the Department all aircraft and pilots used in agricultural aircraft operations in Mississippi.

Source: *Miss. Code Ann*. §69-21-109 (Rev. 2009).

Pilot's License

103.01 Pilot - Each person who intends to personally operate an aircraft engaged in agricultural aircraft operations in or over the State of Mississippi shall first make application for and obtain a pilot's license from the Department on a form prescribed by the Department and said applicant shall:

1. Demonstrate that he is licensed as, or is employed by, a licensed applicator;
2. Provide the name of the firm for which the applicant will act as a pilot;
3. Provide his resume;
4. Present a copy of a photographic identification card;
5. Demonstrate competency by passing a written examination administered by the Department;
6. Present his current commercial or airline transport pilot certificate from FAA;
7. Present evidence of his current medical date and rating for type of aircraft to be operated; and
8. Present a copy of current biennial flight review and current 2nd class medical.

103.02 Retrospective Application. Any valid pilot license issued or chief pilot designated in accordance with Section 69-23-109 (4) will be honored by the Department until March 31, 2010.

Source: *Miss. Code Ann*. §69-21-109 (Rev. 2009).

Chief Pilot Designation

104 Chief Pilot – In order to be designated as a chief pilot by an applicator the designee shall:

1. Be the holder of a current pilot's license issued by the department;

2. Have at least 500 hours of commercial aerial application flying time as pilot-in-command, and two years experience either as a chief pilot or under the direct supervision of a chief pilot in accordance with FAR 137 and in accordance with governing state laws in the state or states where the experience was gained, and

be able to show proof thereof. Proof of experience may consist of a notarized affidavit from one of the following persons who has personal knowledge of the designee's experience: another applicator, a state or federal regulatory official, or an officer of a State or National Agricultural Aviation Association, or any other person as may be acceptable to the Department;

3. Hold a current commercial or airline transport pilot certificate from FAA;

4. Hold/possess a Current Second (2d) Class medical; and

5. Submit proof from FAA that the person has met the knowledge and skill tests requirement and is competent to serve as chief pilot in accordance with FAR 137.

Source: *Miss. Code Ann*. §69-21-109 (Rev. 2009).

Financial Responsibility

105.01 Each applicant for a license as an applicator in Mississippi shall submit proof of financial responsibility to the Department, and upon obtaining a license, such person shall maintain proof of financial responsibility at all times while such license is in effect.

105.02 Proof of financial responsibility shall consist of one of the following:

1. Delivery to the Department of a corporate surety bond in favor of any person or persons who may suffer damage by reason of the operation of an aerial application service, issued by a corporate surety company authorized to do business in this state, which surety bond shall be in the amount not less than $300,000 or;

2. Delivery to the Department proof of an aircraft liability insurance policy issued by an insurance company authorized to do business in this state, insuring the licensee against liability for bodily injury or property damage resulting from the aerial application of agricultural substances, such insurance policy shall be in the minimum amount of $100,000 for bodily injury for any one person, $300,000 for bodily injury for any one occurrence and $100,000 for property damage for any one occurrence for each aircraft registered with the Department.

Beginning January 1, 2010 all applicators must have in force an annual property damage aggregate limit of not less than $500,000 on all liability insurance polices.

Source: *Miss. Code Ann*. §69-21-109 (Rev. 2009).

Proof of Residency

106 Resident applicators must establish proof of residency in the State of Mississippi. Proof

of residency may be established by any one of the following:

1. A statement from the local circuit clerk certifying that the applicant is a qualified elector in that county;

2. A statement from the local tax assessor certifying that the applicant filed for homestead exemption for the current year;

3. A statement from the local sheriff certifying that the applicant owns, and regularly pays taxes on, real or personal property in his home county. If proof of residency cannot be established, it will be necessary for the applicant to appoint a resident agent as outlined for non-resident applicants in Section 207 of this regulation; or

4. Any other proof of residency as may be acceptable to the Department.

Source: *Miss. Code Ann*. §69-21-109 (Rev. 2009).

Licensing of Non-Resident Applicators

107 Any person who is a non-resident of this state shall obtain an applicator's license from the Department before operating as an applicator in Mississippi. In addition to obtaining an applicator's license, a non-resident applicator shall:

1. Designate and maintain a resident agent in Mississippi for service of process. The applicator shall tender to the Department with his application a copy of his Certificate of Authority from the Mississippi Secretary of State indicating the name and address of the applicator's resident agent. An unincorporated applicator shall tender a document stating the name and address of his resident agent, which shall be signed by such resident agent. By engaging in agricultural aircraft operations in the State of Mississippi, the applicator will be considered to have submitted to the jurisdiction of the courts of said state.

Source: *Miss. Code Ann*. §69-21-109 (Rev. 2009).

Fees for Licenses

108.01 A fee of One Hundred Fifty dollars $(150.00 for each aircraft owned, operated, used and employed in aerial application by an applicator shall be paid to the Department for the issuance or annual renewal of a license for an applicator.

108.02 A fee of One Hundred Fifty dollars $(150.00) for each pilot engaged in aerial application shall be paid to the Department for the issuance or annual renewal of a license for a pilot.

Source: *Miss. Code Ann*. §69-21-109 (Rev. 2009).

Issuance of Licenses

109.01 Upon receipt and approval of an application with appropriate related documents and payment of the applicable fees, the Department shall issue licenses as set forth below:

109.02 Each applicator shall be issued a license as an applicator to conduct agricultural aircraft operations in Mississippi in accordance with and subject to the provisions of *Miss. Code Ann.* §§ 69-21-101 through 69-21-128 and the regulations adopted by the Department.

109.03 Each aircraft shall be identified at all times by a decal supplied to the applicator by the Department.

109.04 Each pilot shall be issued a license, which will also serve as an identification card, identifying him or her as a registered pilot and/or chief pilot as the case may be. Each pilot shall have this card in his or her possession at all times when engaged in aerial application activities.

109.05 All licenses shall expire on the 31st of March of the year following their issuance and may be renewed for the ensuing year on or before that date.

Source: *Miss. Code Ann*. §69-21-109 (Rev. 2009).

Additional Aircraft and Pilots, Deletions, and Transfers

110 Licensed applicators may add or delete aircraft and pilots, or transfer the registration fee to substitute aircraft, at any time during the license period in accordance with these guidelines:

1. Additional aircraft may be added by filing a form to register additional aircraft, paying the applicable registration fee, and submitting proof of financial responsibility;
2. Aircraft may be deleted by notifying the Department;
3. The registration fee for a deleted aircraft may be transferred to a substitute or replacement aircraft by requesting such transfer on a form prepared for that purpose and paying a transfer fee of $10.00 for a new decal for the substitute or replacement aircraft;
4. The registration fee and decal for an aircraft may be transferred to a new owner by requesting such transfer on a form prepared for that purpose and paying a transfer fee of $10.00, provided the new owner is a currently registered applicator. The registration fee and decal cannot be transferred to a person who is not a currently registered applicator;
5. Additional pilots may be added by filing a request with the Department on a form prepared for that purpose, provided that the applicant is currently licensed and registered with the Department. If the applicant does not hold a current license from the

Department, the form for adding additional pilots must be accompanied by an application for a pilot's license as outlined in Section 103.01, along with the documentary evidence of compliance and the appropriate fee.
6. A new chief pilot may be designated at any time by filing a designation with the Department on a form prepared for that purpose, provided the new chief pilot is qualified to serve in that capacity.

Source: *Miss. Code Ann*. §69-21-109 (Rev. 2009).

Renewal of Licenses

111 Licenses shall be effective for a period not to exceed one (1) year. Any licensee wishing to have a license renewed must submit an application for renewal with the Department at least thirty (30) days before the expiration of the license. If the applicant submits a timely and complete application for renewal, and the Department, through no fault of the applicant, fails to reissue the license on or before the expiration date of the existing license, the existing license shall remain in effect until final action on the renewal application is taken by the Department. Licenses are subject to modification, revocation or suspension for cause at any time during the effective dates of the license. In addition to submitting an application, a licensee shall:

1. Pay the applicable fees;
2. Provide proof of maintenance of certification on an annual basis, which may consist of attendance at an approved training session, or retesting, to be determined by the Department;
3. Provide proof of financial responsibility (applies only to applicators);

Source: *Miss. Code Ann*. §69-21-109 (Rev. 2009).

Processing of Application, Denial of License

112 Upon receipt of an application for a license, the Department shall review the application for compliance with the act and these regulations, and either approve or disapprove the application. If the Department disapproves the application, the applicant shall be notified in writing of the reasons therefore, and given an opportunity to amend the application. The Department shall be afforded an opportunity and reasonable time to investigate or verify any information or claims made on an application, and may ask the applicant for additional supporting information in order to assure that these regulations and the law are complied with.

Source: *Miss. Code Ann*. §69-21-109 (Rev. 2009).

Records

113.01 Applicators shall keep and maintain for two years all records of any applications of agriculture substances, which shall contain the following information:

1. The date the application was made;
2. The brand name of the agricultural substances applied and the rate of application (lb /acre;quarts/acre);
3. The crop/site to which the application was made;
4. The target pest, if applicable;
5. Number of acres sprayed;
6. Location of site and owner;
7. Wind direction and speed;
8. Name of pilot and N No. of aircraft;
9. Any accidents, aborted loads, or unusual circumstances or occurrences during the application; and
10. EPA registration number of pesticide being applied

113.02 All applicators applying glyphosate prior to January 1, 2010 in the following counties: Bolivar, Carroll, Coahoma, DeSoto, Grenada, Holmes, Humphreys, Issaquena, Leflore, Panola, Quitman, Sharkey, Sunflower, Tallahatchie, Tate, Tunica, Warren, Washington and Yazoo must utilize in each registered aircraft an on-board differentially corrected Global Positioning System (GPS) capable of electronically recording and post processing into hard copies flight information related to each application of glyphosate products. The information recorded shall include the following data:

1. Date and time of day of each application
2. Swath width
3. Physical location (latitude and longitude)
4. Altitude
5. Complete tracking of aircraft from take-off to landing
6. Spray on/off delineation - coordinated on application map
7. Job location/file name
8. Aircraft registration number
9. Pilot identification

Beginning with date of January 1, 2010, this subsection will apply to applications of any and all pesticides applied anywhere in the State of Mississippi.

113.03 The data described in this section shall be provided to the Department in electronic and hard copy format upon request of the Department. Data shall be archived for 24 months from date of application.

113.04 Any applicator who applies glyphosate must maintain a written record of the following information stating the conditions under which all glyphosate applications will be made, for purposes of demonstrating compliance with Section 116.01(2) of this Regulation:

1. specific nozzle type and size, directions of spray as it leaves the nozzle (i.e. straight back = 0º; down-and-back at 45º = 45º; straight down = 90º; etc.);

2. boom pressure, (psi);
3. the name(s) and amount(s) of any additives (amount per 100 gallons of spray) in the spray tank;
4. aircraft speed (mph) while spraying field(s);
5. swath width (ft.);
6. number of nozzles delivering spray; and
7. VMD and source of VMD information.

Source: *Miss. Code Ann*. §69-21-109 (Rev. 2009).

License and Pesticide Violations

114 It shall be unlawful for any person to:

1. Act, operate, or do business as an applicator or pilot, or to engage in agricultural aircraft operations, without first obtaining an applicator's or pilot's license from the Department;
2. Act, operate, or do business as an applicator or pilot in violation of any rule or regulation adopted by the Department in accordance with *Miss. Code Ann.* Section 69-21-109(1); or
3. Violate the provisions of any other applicable law or regulation.

Source: *Miss. Code Ann*. §69-21-109 (Rev. 2009).

Disciplinary Actions for Violations

115 If any person shall violate the terms of *Miss. Code Ann. §§*69-21-101 through 69-21-128 or any of the regulations promulgated thereunder, the administrative procedures described in *Miss. Code Ann.* §§ 69-25-51 to 69-25-63 shall be followed. Disciplinary action may be taken by the Department if it finds that a person has committed any of the following acts or omissions, to-wit:

1. Has made a misrepresentation for the purpose of defrauding;
2. Has made false a statement or representation in his application for issuance or renewal of a license;
3. Has violated any aerial application law or the regulations promulgated by the Department;
4. Has made any application in a careless or negligent manner;
5. Has used or applied any pesticide in a manner which is inconsistent with its labeling;
6. Has neglected or refused to keep and maintain records required by these regulations, or refused or neglected to make reports when required or refused to make such records available to the department.
7. Has made false or fraudulent records, invoices, or reports;
8. Has aided or abetted any person in evading the provisions of any law or regulation, or allowed his license to be used by an unlicensed person;
9. Has violated the Federal Insecticide, Fungicide and Rodenticide Act;

10. Has performed work in a category for which he is not licensed;
11. Has been convicted in any of the courts of this state for a violation of any aerial application law or these regulations;
12. Has refused to yield an agricultural substance sample to the Department or its employees;
13. Has failed to renew the bond or insurance required in these regulations to maintain financial responsibility; or
14. Has applied an agricultural substance in such a manner that allowed it to drift from a target site to a non-target site.

Source: *Miss. Code Ann*. §69-21-109 (Rev. 2009).

Spray Equipment

116.01 In order to minimize spray drift via the wingtip/rotortip vortex, the distance between the outermost nozzles shall not exceed seventy percent (70%) of the wingspan/rotorspan, except for aircraft equipped for standard mosquito control applications and helicopters equipped with nozzles delivering sprays with a 750 micron or larger volume median diameter according to the USDA ARS College Station, TX models, or data from nozzle manufacturers.

116.02 Only equipment, operating conditions, and tank mixes that will produce a volume median diameter droplet size of 300 microns (µm) or larger as determined by use of the appropriate USDA ARS (College Station, TX) atomization model (http://apmru.usda.gov/downloads/downloads.htm), or data from nozzle manufacturers, without consideration of any tank mix adjuvants, will be allowed for applications of glyphosate. This rule does not apply to standard mosquito control applications.

Source: *Miss. Code Ann*. §69-21-109 (Rev. 2009).

Application of Pesticides

117.01 Unless otherwise restricted by regulation or labeling, the application of non-hormone type herbicides is prohibited when the wind speed is over ten (10) miles per hour.

117.02 Any pilot who applies glyphosate products with a fixed wing aircraft must have at least 500 hours of commercial agricultural aerial application flying time.

117.03 All applicators and/or pilots shall have meteorological equipment at each base of operation capable of physically measuring and recording (1) the location of the application site (latitude and longitude), (2) wind speed, (3) wind direction, and (4) temperature or have access to a recognized meteorological reporting station, within a 10 nautical mile radius of each base of operation, for the purpose of providing (1) physical measurement of the station location (latitude and longitude), (2) wind speed,

(3) wind direction and (4) temperature and shall record all applications of agricultural substances utilizing such equipment.

Source: *Miss. Code Ann*. §69-21-109 (Rev. 2009).

Hormone-Type Herbicide Applications

Specifications and Inspection of Spray Equipment on Aircraft for Hormone Type Herbicides

118.01 The spray equipment on an aircraft must have a positive cockpit-operated cutoff control at the tank and the same or equivalent (diaphragm check) at each nozzle and be equipped with functional bleed back systems where booms extend past the last operating nozzle, and must be kept in good operating condition. "Nozzles must be a type and configuration that will deliver a droplet with a volume median diameter of 300 microns or larger". The number of nozzles shall be sufficient to deliver not less than five gallons of water solutions per acre for applications made from April 1 to September 30, or three gallons per acre for applications made from October 1 to March 31. When more than five gallons per acre are to be applied, this may be done by increasing the number of nozzles or the diameter of the orifice openings. So as to reduce the amount of spray drawn into the wing tip vortices, the distance between the outermost nozzles shall not exceed 70% of the fixed wing span or rotor diameter.

118.02 Special Drift Control Spray Systems and Equipment: Any equipment designed for special purposes and drift control, (such as the Microfoil boom, Warnell System, Thru-Valve Boom, or similar equivalent equipment) must be approved before a license is issued. Field operation of the equipment for observation may be required before approval. If it is determined that the equipment is not operating in a safe manner, a license will not be issued.

1. Boom length shall not exceed 70% of the rotor diameter.
2. Inspection and Testing of Equipment: The spraying or application equipment on all aircraft used in applying hormone-type herbicides may be inspected by an employee of the department to see if such equipment will meet with requirements, and may be pattern tested and achieve a coefficient of variation of not greater than 20% across the pattern before approval, and may be spot checked in the field.

118.03 Other special drift control equipment and/or new technology equivalent to the above listed equipment may be approved upon submission of supporting equivalency data by the manufacturer, except for use on rice.

Source: *Miss. Code Ann*. §69-21-109 (Rev. 2009).

Materials and Methods for Application for Hormone-Type Herbicides

119.01 2,4-D, Dicamba, and/or MCPA shall not be applied in any form to any crop or site by fixed wing aircraft between the dates of April 1 and September 30; and

119.02 2,4-D and/or MCPA shall not be applied in any form to rice by helicopter between the dates of April 1 and September 30, except as follows:

1. Helicopter must be equipped with precision type spray system. (Microfoil type)
2. Equipment Specifications and Application Techniques
   a. Boom: No longer than rotor diameter
   b. Nozzles:
      i. .028" Airfoil or larger, or
      ii. .028 Accu Flow, or larger, 32 tube
   c. Volume: 5 gal. minimum total spray volume per acre
   d. Flight Speed: 30 mph maximum in critical areas, and 60 mph maximum in field away from critical areas
   e. System Pressure: Maximum of 30 PSI with very low pressure at tubes
   f. Wind Speed: Not to exceed 5 mph at time of application

   g. Wind Speed and Direction Indicators: Must be used during application
   h. Buffer Zone: Application is prohibited within one-half (½) mile of commercial plantings of cotton or other highly susceptible crops such as grapes, tomatoes, etc., unless the applicator, or person for whom the application is made, furnishes the Bureau of Plant Industry written permission from the owner of those highly susceptible crops at least 24 hours prior to the time the application is made.
3. Insurance: Property damage liability insurance for applications under this section of these regulations must be in the amount of $200,000.00 for each occurrence.
4. Observer: An observer employed by the applicator and/or the rice producer for whom the application is made, must be present at all times to monitor the application and record temperature, wind speed and direction, and other pertinent information. Temperature, wind speed and direction must be measured and recorded immediately prior to application, and monitored consistently during the application with recordings made when changes occur or every 1/4 hour (15 minutes). The time of day shall be recorded for the period of time such data is collected.

   Example of Data to be recorded:
   a. Date, 6/20/90
   b. Time, 10:00 a.m.
   c. Wind Direction, NE or 45°
   d. Wind Speed, 2 mph
   e. Temperature, 86° F.
5. Inspector/Observer: An Inspector/Observer from the Bureau of Plant Industry, may be assigned to each applicator. The Inspector/Observer will monitor and record wind speed and direction, temperature, herbicide use and symptoms of herbicide injury in the vicinity of the treated area, and labeling for the herbicide being applied.
6. Pilot Training: Each pilot making applications must complete an approved training course in proper application.
7. Equipment Inspections: Equipment may be inspected by the Bureau of Plant

Industry. Inspections of equipment may be made at any time during and after the time it is used.

8. Tank Mixes: Tank mixes with other pesticides and/or fertilizers are prohibited.
9. Ester Formulations: Applications of ester formulations are prohibited.

119.03 2,4-D, Dicamba, and/or MCPA applied to other crops or sites between April 1 and September 30 by helicopter shall not be applied within one-half (½) mile of commercial plantings of cotton, or other highly susceptible crops such as tomatoes, snap beans, grapes (and soybeans in the case of Dicamba). Helicopters must be equipped with special spray systems and equipment designed for drift control (such as Microfoil boom, Warnell System, Thru-Valve boom, or similar equivalent equipment) and be approved by the Bureau of Plant Industry following inspection and testing as indicated in subsection 219.02 above.

119.04 Low Volatile Ester formulations of 2,4-D and MCPA shall not be applied from April 1 thru September 30; and

119.05 Drift control agents shall be used in accordance with labeling with all hormone-type herbicides applied between the dates of April 1 and September 30 unless spray system precludes such use.

119.06 Smoke and/or other suitable means shall be used to detect inversion conditions and determine wind direction and speed.

119.07 Applicators shall not use less volume of spray per acre than provided for on the labeling of the herbicide being used and in no case shall the volume of total spray per acre be less than five gallons between April 1 and September 30, or three gallons between October 1 and March 31.

119.08 Applications of hormone-type herbicides shall not be made when a temperature air inversion exists or when air temperatures within the application zone are 90° F., or above.

119.09 The application of high volatile ester formulations is prohibited at any time.

119.10 Transportation of hormone-type herbicides by aircraft other than while treating crops involved is prohibited.

119.11 No hormone-type herbicide shall be discharged at a height greater than 10 feet with fixed wing aircraft and/or 30 feet for helicopters above the tops of the plants being treated except in power line right-of-way work, nor over any crops, or properties other than the crop being treated.

119.12 No hormone-type herbicides applications shall be made in winds of excess of 5 mph.

Source: *Miss. Code Ann*. §69-21-109 (Rev. 2009).

Conflict of Laws

120 Sections 100 through 117.04 of the above regulations cover all agricultural substances including hormone-type herbicides. Sections 118.01 through 119.12 cover only hormone-type herbicides. In the event of a conflict between the regulations covering all agricultural substances and those covering only hormone-type herbicides and a hormone-type herbicide is the material involved, the hormone-type herbicide regulations shall control.

(Subchapter amended Aug. 12, 2010.)

Source: *Miss. Code Ann*. §69-21-109 (Rev. 2009).

(Note: Subchapter 01 was adopted on March 29, 1977, the department amended subchapter 01 on September 18, 1979, June 25, 1980, December 18, 1984, March 30, 1989, April 3, 1991, March 19, 1993, May 12, 1995, June 5, 1998, July 25, 2000, June 14, 2001, September 1, 2004, April 4, 2005, July 26, 2005, July 5, 2007, July 27, 2008, December 4, 2008 and May 20, 2010)

Subpart 3-Bureau of Plant Industry
Chapter 11-Regulation of Professional Services
Subchapter 01- Regulations Governing Commercial Insect, Rodent, Plant Disease, and Weed Control Work

Definitions

100 For the purpose of these regulations, the following words, names and terms shall be construed within the meaning and purpose of *Miss. Code Ann.* Sections 69-19-1 through 69-19-11 and Sections 69-23-101 through 69-23-133.

1. "Act" shall mean *Miss. Code Ann*. Sections 69-19-1 through 69-19-11 and Sections 69-23-101 through 69-23-133.
2. "Advisory Board" shall mean the board established under the provisions of *Miss. Code Ann.* Section 69-25-3.
3. "Bona fide Employee" shall be a person who receives all or part of his salary, pay or commission from a license holder and whose salary, pay or commission is regularly reported by the licensee under the Federal Social Security and/or income tax laws. A bona fide employee must be under the direct supervision of a licensee or a permit holder.
4. "Branch Office" shall mean any place of business other than the office, as defined in these regulations, that has at least one employee capable of answering questions and from which a pest control firm carries out its pest control activities. The maintenance of personnel, pesticides and equipment at these locations, where pest control activities are carried out, constitutes a branch office under this chapter. The branch office must be managed by a license holder or permit holder in which any type of pest control services are offered. A home office may be a branch office. A telephone answering service is not a branch office.
5. "Bureau" shall mean the Bureau of Plant Industry of the Mississippi Department of Agriculture and Commerce created under the provision of *Miss. Code Ann*. Section 69-25-3.
6. "Certification" shall mean the recognition by the Bureau that a person is competent and thus authorized to use or supervise the use of restricted use pesticides in the category or categories listed on said certificate.
7. "Certified Applicator" shall mean a licensee or his employee who has met the requirements for certification.
8. "Commissioner" shall mean the commissioner of the Mississippi Department of Agriculture and Commerce.
9. "Competent" shall mean a person who is capable of performing the various functions associated with pesticide application and pest control; the degree of capability required being directly related to the nature of the activity and the associated responsibility.
10. “Direct Supervision" shall mean daily or routine contact by a licensee or permit holder with all employees registered under his supervision. Supervision includes activities such as giving routine or special instructions, prescribing pesticides,

calculating volume of pesticides to be applied, calibrating equipment and being physically available, whenever and wherever needed.

11. "Entomologist" shall mean a person skilled in the biology of, and remedial measures employed for the control of and eradication of insect pests or rodents.
12. "Fumigation" shall mean the use of a substance or mixture of substances which exist in the gaseous state or from which a gas or gases are liberated or emitted, for the purpose of destroying pests. Aerosols are excluded from this definition.
13. "Insect Pest" shall mean any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, usually winged forms, as for example, beetles, bugs, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as for example: spiders, mites, ticks, centipedes and millipedes.
14. "License" shall mean a document issued by the Bureau which indicates that a person has met the requirements set forth in the Act and these rules and regulations to receive fees for services in the categories indicated on said document.
15. "Mississippi Official Wood Destroying Insect Report" shall mean an inspection performed under subsection 117.01 and reported on the Mississippi Official Wood Destroying Insect Report form.
16. “Office” shall mean the primary place of business managed by a license holder where any types of pest control services are performed.
17. "Pathologist" shall mean a person knowledgeable in the biology of and skilled in the necessary remedial measures to apply for the control and eradication of plant diseases.
18. "Permit” shall mean a document issued by the Bureau indicating that a person has thorough understanding of the pest or pests that a licensee is licensed to control and is competent to use or supervise the use of a restricted use pesticide under the categories listed on said document at any branch office. A permit is not a license.
19. "Permit Holder" shall mean a bona fide employee of a license holder who has passed a permit examination for each category in which work is performed and is responsible for supervising the activities indicated on said permit at a branch office.
20. "Person" shall mean any individual, partnership, corporation, association, company or organized group of persons whether incorporated or not.
21. “Pest” shall mean any insect, rodent, nematode, fungus, weed, bacteria, virus, mycoplasma, viroid (except viruses, bacteria, or other microorganisms on or in living man or other living animals) that either compete with humans for natural resources or transmit disease to humans.
22. "Plant Disease" shall mean the pathological condition in or on plants and plant products caused by fungi, bacteria, nematodes, viruses, mycoplasma and viroids.
23. "Professional Services" shall mean any of the professional services performed as designated by the various categories listed under subsection 104.04.
24. "Real Estate Transaction Inspection" shall mean the inspection of an existing structure for determining factors relating to termites and other wood destroying insects which is required as a condition of sale, financing or refinancing of property.

25. "Registered Technician" shall mean a bona fide employee of a license holder who has completed the verifiable training as described in subsection 114.02 of this chapter and who has obtained a registered technician identification card from the Bureau.
26. "Restricted Use Pesticides" shall mean a pesticide that is classified for restricted use by the Environmental Protection Agency or the Bureau.
27. "Trainer" shall mean a licensed person or a registered technician who has been registered for at least the twelve previous months or a knowledgeable person approved by the Bureau.
28. "Weed" shall mean any plant which grows where it is not wanted.
29. "Weed Control Work" shall mean receiving fees for the actual spraying or other pesticide application methods used for the control or eradication of any weed.

(Amended May 20, 2010)

Source: *Miss. Code Ann*. §69-19-1 & *Miss. Code Ann*. §69-23-109.

Bona fide Employee

101 Services or work performed under any section of these regulations must be performed only by the licensee or his bona fide employee.

(Amended May 20, 2010)

Source: *Miss. Code Ann*. §69-19-1 & *Miss. Code Ann*. §69-23-109.

Persons Required to Secure a License

102 Entomologists, Pathologists and persons performing weed control work must secure a license from the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce in accordance with *Miss. Code Ann.* Section 69-19-9. No person shall advertise in any manner to render professional services or solicit business, or receive a fee for performing these services within the meaning of the Act without first obtaining a license.

(Amended May 20, 2010)

Source: *Miss. Code Ann*. §69-19-1 & *Miss. Code Ann*. §69-23-109.

License Application; Qualifications

103 Application for a license shall be submitted on a regular form furnished by the Bureau, in time to be approved ten (10) days prior to regular scheduled examinations. No application for a license shall be accepted unless the applicant shall furnish written proof that he meets one of the following requirements:

1. Application requirements for insect, rodent and plant disease control work
   a. Must be graduated from a recognized college or university with at least 15 semester hours or the equivalent in the category for which applicant is requesting a license.

b. Must have no less than two years college or university training with special training in the category for which applicant is requesting a license.
c. Must be at least a high school graduate or equivalent and have had, in addition, at least four years experience with a licensed operator within the past six years; PROVIDED, that in special cases where an applicant can submit proof of education, experience and training equal to or exceeding these requirements he shall be allowed to take the required examinations, if qualifying for categories "Wood destroying insect control" or "General pest and rodent control" or "Fumigation pest control" as covered by subsection 104.04(1, 3, 6) of this chapter.
d. Must be at least a high school graduate or equivalent, and having had, in addition, at least one year's experience with a licensed operator within the past two years, if qualifying for categories "Utility pole pest control" or "Orchard pest control" or "Horticultural pest control" or "Domestic animal pest control" or "Agricultural pest control" as covered by subsection 104.04(1, 2, 4, 5, 7) of this chapter.

2. Application requirements for weed control work
a. Must be graduated from a recognized college or university with at least 15 semester hours or the equivalent in the category for which applicant is requesting a license.
b. Must have no less than two years college or university training with special training in the category for which applicant is requesting a license.
c. Must be at least a high school graduate or equivalent, and having had, in addition, at least one year's experience with a licensed operator within the past two years, or if applicant is not a high school graduate or equivalent, proof of at least two years experience working with a licensed operator within the past three years is required if qualifying for categories "Agricultural weed control", "Aquatic weed control", "Right-of-way weed control" and "Horticultural weed control" as covered by subsection 104.04(8, 9, 10, 11) of this chapter.

(Amended May 20, 2010)

Source: *Miss. Code Ann*. §69-19-1 & *Miss. Code Ann*. §69-23-109.

<u>License ; Examination; Categories</u>

104.01 Each person required to secure a license in accordance with the Act shall be examined as follows: When the firm is under the control of one person who is solely responsible for the work, this person alone shall be required to pass the examination. When more than one person is responsible, then each shall be required to pass the examination. A person may designate an employee who is regularly and actively in charge to take the examination and the license will be issued naming the employee as supervisor. Both the employee and the person to whom the license is issued will be held responsible for the professional services rendered.

104.02 The license applicant shall take and pass a written examination. This examination will cover the professional services designated in the application and include the general standards for certification of commercial applicators as set forth in the Environmental Protection Agency Code of Federal Regulations, Title 40, Section 171.4.

104.03 Examination dates. Examinations shall be given at least once each quarter at Mississippi State, Mississippi. The dates for written examinations shall be the second Tuesday in each quarter of the calendar year. If the applicant fails the examination twice in consecutive attempts, the applicant shall wait a full year before taking the examination again. Applicants who have failed any licensing exam twice in consecutive attempts must submit a new application and meet the requirements of subsection 103 of this chapter.
(Amended June 27, 2008)

104.04 Categories in which examinations are to be given and for which licenses will be issued:

1. Wood destroying insect control (WDIL) - This category includes persons engaged in control of termites, beetles, or other wood destroying insects in buildings and other structures, including homes, warehouses, stores, docks and/or other structures. Control of Formosan termites attacking trees is included in this category. An examination may be given and a license issued to include only control of insect pests of utility poles (UPL).
2. Orchard pest control (ORPL) - This category includes persons engaged in the control of insect pests, plant diseases or pest animals of various fruit and nut trees, brambles, vineyards and all plants normally classed as nut trees or fruit orchards. Effective July 14, 2010, the control of pests of pecan orchards license and permit exams will be eliminated and included in the orchard pest control license and permit exams.
3. General pest and rodent control (GRCL) - This category includes persons engaged in control of insect pests or pest animals which may invade homes, restaurants, stores and other buildings, attacking their contents or furnishings or being a general nuisance, but do not normally attack the building itself, as for example: roaches, silverfish, ants, flies, mosquitoes, carpet beetles, clothes moths, fleas, stored food insects, rats, mice, centipedes, etc.
4. Horticultural pest control (HCPL) - This category includes persons engaged in control of insect pests, plant diseases or pest animals of ornamental plants, shade trees (which may include nut or fruit trees if used as ornamental plants or shade trees) and lawns.
5. Domestic animal pest control (DAPL) - This category includes persons engaged in control of insect pests of domestic animals.
6. Fumigation pest control (FUML) - This category includes persons engaged in control of pests by fumigation. A person holding a license or permit shall be present at the time fumigant is released.
7. Agricultural pest control (AGPL) - This category includes persons engaged in control of insect pests, plant diseases, or animal pests of agricultural crops during production. This category includes anyone soliciting and/or receiving a fee for these services who utilize ground application equipment.
8. Agricultural weed control (AGWL) - This category includes control of weeds in field crops, vegetable crops, pastures and rangeland. This category includes anyone

soliciting and/or receiving a fee for these services who utilize ground application equipment.

9. Aquatic weed control (AQWL) - This category includes control of weeds in and around edges of lakes, ponds and streams.
10. Right-of-way weed control (ROWL) - This category includes control of weeds of rights-of-way, forest lands and drainage ditches.
11. Horticultural weed control (HCWL) - This category includes control of weeds in ornamental plants and turf in residential, commercial, public, industrial and manufacturing areas.

(Amended May 20, 2010)

Source: *Miss. Code Ann*. §69-19-1 & *Miss. Code Ann*. §69-23-109.

Issuance of a License

105.01 If the qualifications and other requirements of the license applicant are satisfactory, the Bureau shall then require that said applicant submit a detailed statement of the methods he will employ. He must submit in writing his proposed company name for approval. No license shall be issued for two companies with the same or similar names. If these are approved, said applicant shall then furnish a bond in the proper amount as set forth in subsection 112.01 of this chapter in conformity to *Miss. Code Ann*. §69-19-9. After all requirements have been met by the applicant for licensing, the Bureau shall then issue said applicant a license, PROVIDED, that no license shall be issued any person who fails to disclose to the Bureau the ingredients used in his practice, or who uses any material or method which has not been approved by the Bureau. A license is not transferable. When there is a change in the status of a license holder due to uncontrollable circumstances, ninety (90) days shall be allowed for a qualified person to meet the requirements of section 102 of this chapter.

(Amended June 27, 2008)

105.02 Persons requesting a license must have passed the required examination within the past year or have been actively engaged in the work with no regulatory violations since passing the examination, or be reexamined before the license can be issued or reissued.

105.03 An individual shall not have more than one (1) license to perform the same service at any given time.

105.04 When a license holder changes his mailing address or physical location, the Bureau must be notified in writing within ten (10) working days and required documents for reissuance of license must be submitted.

105.05 When the status of a license holder changes, the license shall be returned to the Bureau within ten (10) working days.

(Amended May 20, 2010)

Source: *Miss. Code Ann*. §69-19-1 & *Miss. Code Ann*. §69-23-109.

Persons Required to Secure a Permit

106 Each branch office shall have at least one license or permit holder for each category for which the licensee is soliciting and/or performing work. Any bona fide employee may hold a permit in one or all of the categories for which the said business is licensed.
(Amended May 20, 2010)

Source: *Miss. Code Ann*. §69-19-1 & *Miss. Code Ann*. §69-23-109.

Permit; Application; Qualifications

107 Application for a permit shall be submitted on a regular form furnished by the Bureau in time to be approved ten (10) days prior to regular scheduled examinations. No permit application shall be accepted unless the applicant furnishes written proof that he is a bona fide employee of a person holding a license in one or more of the categories listed under subsection 104.04 of this chapter and holds a registered technician identification card.
(Amended May 20, 2010)

Source: *Miss. Code Ann*. §69-19-1 & *Miss. Code Ann*. §69-23-109.

Permit Examination; Categories

108.01 The permit applicant shall take a written examination. This examination will cover the professional services designated in the application and include the general standards for certification of commercial applicators as set forth in the Environmental Protection Agency Code of Federal Regulations, Title 40, Section 171.4.

108.02 Examination dates: Examinations for a permit shall be given at least once each quarter at Mississippi State, Mississippi. The dates for written examinations shall be the second Tuesday in each quarter of the calendar year.
(Amended June 27, 2008)

108.03 Categories in which examinations are to be given and for which permits will be issued are the same as the license categories set forth in subsection 104.04 of this chapter, except a permit exam for control of pests of utility poles will not be given.
(Amended May 20, 2010)

Source: *Miss. Code Ann*. §69-19-1 & *Miss. Code Ann*. §69-23-109.

Issuance of a Permit

109.01 After all requirements have been met by the applicant for a permit, the Bureau shall then issue said applicant a permit. A permit is not transferable. When there is a change in the status of the person holding a permit who is supervising a business location, the license

holder shall be allowed ninety (90) days in order to have another bonafide employee meet the requirements of section 106 of this chapter.
(Amended June 27, 2008)

109.02 Persons requesting a permit must have passed the required examination within the past year or have been actively engaged in the work since passing the examination, or be reexamined before his permit can be issued or reissued.

109.03 An individual shall not have more than one (1) permit at any given time.

109.04 When a permit holder changes his mailing address or physical location, the Bureau must be notified in writing within ten (10) working days and required documents for reissuance of permit must be submitted.

109.05 When the status of a permit holder changes, the permit shall be returned to the Bureau within ten (10) working days.
(Amended May 20, 2010)

Source: *Miss. Code Ann*. §69-19-1 & *Miss. Code Ann*. §69-23-109.

Expiration of a License or a Permit and Conditions for Renewal

110.01 All licenses and permits shall expire thirty-six months from the date of issuance. To renew said license or permit, the holder of same shall submit a request for renewal on a form prescribed by the Bureau and show that he is knowledgeable of current control recommendations, techniques and abreast of changing technology and pesticide usage. To meet these requirements, the licensee or permit holder shall have attended a training course approved by the Bureau within the past twelve (12) months or successfully complete an examination administered by the Bureau. It is the responsibility of the licensee or permit holder to know when his/her license or permit expires and to get the license or permit renewed prior to the expiration date.

110.02 Individuals who are valid license and/or permit holders and/or registered technicians for a licensed company in the categories as set forth in subsection 105.04 of the Regulations Governing Commercial Insect, Pest Animal and Disease Control Work, as amended on December 04, 2008 and Regulations Governing Commercial Weed Control Work as amended June 27, 2008 will retain the license and permit category names on their licenses, permits and/or registered technician identification cards until Bureau issues new documents or until their expiration. Category names on valid Bureau issued licenses and/or permits are covered by these regulations. Category name changes do not reflect change in description of work except in the following categories. Individuals with the Control of Pests of Pecan Orchards license or permit will retain it until the Bureau issues new documents or until their expiration, at which time it will be combined with Orchard Pest Control. Individuals with the Industrial Weed Control license or permit will retain it until the Bureau issues new documents or until their expiration, at which time it will be combined with Horticultural Weed Control.

(Amended May 20, 2010)

Source: *Miss. Code Ann*. §69-19-1 & *Miss. Code Ann*. §69-23-109.

Denial; Suspension or Cancellation of a License, a Permit or an Identification Card; Refusal to Issue or Renew Same

111.01 The commissioner, with the approval of the advisory board may suspend for not more than thirty days and then after opportunity for a hearing may deny, suspend, cancel or modify the provisions of a license, a permit, or an identification card if he finds that a person holding a license, a permit, or an identification card has committed any of the following applicable to him each of which is declared to be a violation of the Act and these regulations:

1. Made false or fraudulent claims through any media misrepresenting the effect of materials or methods to be used;
2. Operated in a faulty, careless or negligent manner or knowingly operated faulty or unsafe equipment in a manner as to cause damage to property or person;
3. Refused, or after notice neglected to comply with the provisions of the Act, the regulations adopted hereunder or any lawful order of the commissioner;
4. Refused, or neglected to keep and maintain, or failed to make available to the Bureau, records required by the Act or to make reports when required;
5. Made false or fraudulent records, invoices or reports;
6. Used fraud or misrepresentation in making application for a license or permit;
7. Aided or abetted any person in evading the provisions of the Act, allowed one's license to be used by an unlicensed person;
8. Impersonated any state or federal official;
9. Convicted in a court of law of a violation under the Federal Insecticide, Fungicide and Rodenticide Act;
10. Convicted in a court of law for using any pesticide in a manner which is determined to be inconsistent with its labeling;
11. Misrepresented for the purpose of deceiving or defrauding;
12. Made a false statement with knowledge of its falsity for the purpose of inducing others to act thereon to their detriment;
13. Performed work in a category for which the licensee does not hold a license;
14. If repeated inspections by inspectors of the Bureau reveal that the licensee is not performing services in a manner consistent with the Act and these regulations;
15. Failed to register agents or solicitors or failure to make reports within the time specified in these regulations;
16. Convicted in any of the courts of this state of a violation of the Act or these rules and regulations;
17. Refused to yield a pesticide sample to an employee of the Bureau;
18. Failed to correct work not performed in accordance with the Act and these rules and regulations after sufficient notice;
19. Failure to renew the insurance and bond required in subsections 112.01, 112.02, and 112.03 of this chapter means automatic cancellation.
20. Failure to renew a license or permit prior to the expiration date.

111.02 During the time a license, a permit or an identification card has been suspended or canceled, they shall not be reissued for another company.

111.03 During the time a license holder has his license under suspension; he shall not solicit any new business or perform any new work. He shall be allowed to inspect and/or retreat all properties on which he has current contracts.

111.04 Any person who is denied a license or a permit or whose license or permit is suspended, canceled or modified by the commissioner shall be afforded an opportunity for a fair hearing before the advisory board in connection therewith upon written application to the commissioner within thirty days after receipt of notice from the commissioner of such denial, suspension, cancellation or modification. The commissioner shall set a time and place for such hearing and shall convene the board within ten days following receipt of the written application for a hearing. The board shall receive evidence and affirm, modify or reverse the determination of the commissioner within five days.

111.05 Any person aggrieved by the determination of the board may petition the chancery court of the county of residence of such person, or the Chancery Court of Hinds County, for review with supersedeas. The chancellor shall grant a hearing on said petition and may grant such review with supersedeas; the appellant may be required to post bond with sufficient sureties in an amount to be determined by the chancellor. Upon the review of any such decision, additional evidence may be received and considered but any record made or evidence heard before the board or commissioner may be submitted. Any such petition by either party from the determination of the chancellor shall proceed as otherwise provided by law.

111.06 Any person who is refused a license or a permit or whose license or permit is not renewed, or when the Bureau contemplates invalidation of said license or permit, shall have the right of a hearing by filing a written request for a hearing with the Bureau by registered or certified mail. The person requesting the hearing may appear in person or be represented by an attorney on the date and at the place set by the Bureau.

111.07 When a license has been canceled, the licensee shall be notified in writing. The bonding and insurance companies shall be notified of the action taken, but revoking a license shall in no way invalidate the bond and insurance for the duration of the contract entered into by the licensee. When a permit has been canceled, the person holding said permit shall be notified in writing.

111.08 A license shall automatically become invalid when the person whose name appears on the license ceases to personally supervise and be in direct charge of operations and shall remain invalid until some other person, having met the requirements and been examined in accordance with these rules and regulations becomes licensed in his stead; except as provided for in subsections 105.01-105.05 of this chapter.

111.09 Nothing in these rules and regulations shall be construed as requiring the

commissioner to report for prosecution or for the institution of libel proceedings of minor violations of the Act or these rules and regulations whenever he believes that the public interest will best be served by a suitable notice of warning in writing.
(Amended May 20, 2010)

Source: *Miss. Code Ann*. §69-19-1 & *Miss. Code Ann*. §69-23-109.

Bond and Insurance Requirements

112.01 Before a license shall be issued or reissued to engage in the control of any kind of pests, a bond must be furnished on a form provided by the Bureau. This bond shall be conditioned so as to insure to the purchaser of services from said licensee the fulfillment of any contract or guarantee made by the licensee and that the principal therein named shall conduct honestly such business. Bonding requirements are based on the category of pest control to be performed. For categories involving insect, rodent and plant disease control work this bond shall not be less than $5,000. For categories involving weed control work this bond shall not be less than $2,500. If insect, rodent, plant disease and weed control work are to be performed the bond shall not be less than $5,000. No surety bond shall be accepted except from companies approved by the Commissioner of Insurance of Mississippi.

112.02 Insurance is not required for licensees engaged in the control of weeds. Before a license shall be issued or reissued to engage in the control of insect, rodent and plant diseases, proof of insurance must be furnished on a form provided by the Bureau. This insurance shall be conditioned as to insure against negligent or careless acts. This insurance shall not be less than $100,000 per occurrence, with a minimum annual aggregate of $200,000 for all occurrences. No insurance shall be accepted except from companies admitted to do business in Mississippi, companies that are non-admitted but approved to do business in Mississippi, or risk retention and purchasing groups registered by the Commissioner of Insurance of Mississippi. This $200,000 minimum coverage shall include coverage for pollution and contamination, property damages, bodily injury, errors, and omissions. Those licensed for structural pest control as defined by subsection 104.04(1) of this chapter shall have insurance to include 1. errors and omissions on Mississippi Official Wood Destroying Insect Reports as defined by subsection 100(15) of this chapter and 2. damages caused by structural pests.

112.03 Bonds and insurance shall expire at the same time. The license to engage in such professional services shall be invalid upon expiration of bond and insurance.
(Amended May 20, 2010)

Source: *Miss. Code Ann*. §69-19-1 & *Miss. Code Ann*. §69-23-109.

Recordkeeping, Record access, Pesticide Storage and Transport, Pesticide Tank-mix Sample Tolerances

113.01 Licensed operators shall keep complete and accurate records of all work performed including copies of contracts issued for as long as they are current and for two (2) years after their expiration. Such records shall be available for examination by employees of the Bureau during reasonable business hours. No records shall be maintained at an out-of-state location unless the licensee submits a plan of access for such records on a form prescribed by the Bureau and that plan is approved by the Bureau. Such records shall include location, kind of services performed, date performed, the pest controlled, brand name and EPA registration number of pesticide used, total amount of product used, the pesticide dilution rate, the total volume of diluted pesticide applied, and where applicable, sufficient information to determine termiticide volume and such other information as may be necessary for a complete record.

113.02 The commissioner or his representative may enter upon public or private premises at reasonable times for the purpose of enforcing the Act and these regulations and may investigate complaints of injury or accidents resulting from use of pesticides.

113.03 Persons licensed in accordance with these regulations shall use all pesticides in a manner consistent with the label and consistent with the Environmental Protection Agency and Bureau's rules, notices and guidelines.

113.04 Labeling of Pesticides - It shall be illegal to store or transport any pesticide chemicals, except those in application devices, unless the containers for such chemicals are labeled to show:

1. The name, address, and telephone number of the user's firm;
2. The product name
3. The Environmental Protection Agency registration number of the pesticide;
4. Name and percentage of active ingredients; and
5. Signal word from the registered label.

113.05 Pesticide Tank Mix Sample Tolerances: Values above or below the tank mix concentration stated by the applicator that do not fall within the acceptable range listed in Section 113.06 shall be a use unsuitable, unsafe, or inconsistent with the label. Concentrations and their acceptable ranges are based on Association of American Pesticide Control Officials current guidelines for active ingredients in pesticide formulations and may be subject to change. Concentrations and their acceptable ranges not listed shall be determined through mathematical interpolation from known data points.

113.06 The values expressed shall establish the maximum and minimum tolerance for the analysis of pesticide tank mix samples.

1. Stated concentration is 0.001%.
   Acceptable range is 0.00066% to 0.00168%
2. Stated concentration is 0.005%.
   Acceptable range is 0.0037% to 0.0077%.
3. Stated concentration is 0.010%.
   Acceptable range is 0.0076% to 0.0148%.

4. Stated concentration is 0.06%
   Acceptable range is 0.049% to 0.082%
5. Stated concentration is 0.10%
   Acceptable range is 0.083% to 0.13%
6. Stated concentration is 1.0%.
   Acceptable range is 0.88% to 1.24%.
7. Stated concentration is 6.0%.
   Acceptable range is 5.45% to 7.10%.
8. Stated concentration is 10.0%.
   Acceptable range is 9.15% to 11.70%.
9. Stated concentration is 25.0%.
   Acceptable range is 23.15% to 28.70%.
10. Stated concentration is 50.0%.
    Acceptable range is 46.67% to 56.66%.

(Adopted June 27, 2008; Amended May 20, 2010)

Source: *Miss. Code Ann*. §69-19-1 & *Miss. Code Ann*. §69-23-109.

Identification; Operators; Employees; Equipment

114.01 Identification.

1. All non-licensed owners or employees of a business soliciting pesticide work or who are involved in pesticide application or conduct service inspections must qualify for a registered technician identification card to be obtained from the Bureau. The license or permit holder shall request in writing all identification cards. He shall provide an application, approved by the Bureau.
2. The identification card shall be in the possession of the individual at all times when performing work or soliciting business and shall be presented on request to the person or persons for whom business is performed or solicited.
3. When an identification card holder resigns or is discharged the license or permit holder shall return the identification card to the Bureau for cancellation.
4. No person employed by a license holder shall solicit work, apply pesticides, or conduct service inspections prior to obtaining a registered technician identification card unless he is in the physical presence of a license or permit holder or a registered technician who has held a registered technician identification card for twelve continuous months prior to working with said person.
5. No person shall have more than one identification card at any given time.
6. An identification card will not be issued to any person who has been employed by another operator until his previous card has been returned to the Bureau for cancellation, or the Bureau has been notified in writing by the former employer that the person is no longer employed and that the card was not retrieved from the former employee. Notification to the Bureau must be made within ten (10) working days of person's final date of employment.

(Amended June 27, 2008)

114.02 Registered Technician Training Standards.

Applicants qualifying for a registered technician identification card in the categories "Wood destroying insect control" or "General pest and rodent control" or "Fumigation pest control" as covered by subsection 104.04(1,3,6) must:

1. Receive training of at least eight hours of verifiable classroom training for general pesticide use and eight hours of verifiable classroom training for each category in which the technician is to obtain an identification card which shall include the following:
    a. Eight hours general training:
        i. Pesticide laws and regulations
        ii. Pesticide labels and label comprehension
        iii. Pesticide safety, handling, storage, disposal, emergency procedures, and cleanup
    b. Eight hours specific to the category:
        i. Biology, control, and recognition of pests and pest damage
        ii. Pesticides and specific labels for pest covered by the category
        iii. Pesticide application techniques and equipment
        iv. Environmental and health protection
2. Receive at least 40 hours of verifiable on the job training for each category under the direct supervision, direction and control of a trainer. During the application of pesticides a trainer must be on the job site. This training must include a variety of different types of application situations in each category which the trainee will be registered to perform.
3. The license or permit holder shall verify on an approved form to the Bureau that each applicant for a registered technician identification card has satisfactorily completed the required training and demonstrated competency in each of the subject areas.
4. The licensee shall maintain the training records for as long as the individual is employed and for at least one year after termination of employment. The training records shall be kept on a form approved by the Bureau.
5. Additional training based on need of position and need of registered technician shall be conducted by a trainer.
6. It shall be a violation of these rules and regulations for a license holder to allow any person to perform unsupervised work in a category in which he does not have a registered technician identification card.
7. Licensees and permit holders are exempted from the training requirement of subsection 114.02.

114.03 Equipment - All vehicles and mobile equipment used by persons while engaged in professional services covered by the Act and these regulations shall be marked for easy identification. This marking shall contain the company name.

(Amended May 20, 2010)

Source: *Miss. Code Ann*. §69-19-1 & *Miss. Code Ann*. §69-23-109.

<u>Section 115-120 applicable to wood destroying insect licenses and permits, only.</u>

115 Contracts

1. Persons holding a license in the category "Wood destroying insect control" as covered by subsection 104.04(1) of this chapter shall enter into a written contract with the person employing him. Work performed under the contract shall comply with the regulations set forth in subchapter 01 of this chapter.
2. A contract shall not be issued unless an approved termite treatment is performed, except as covered in subsection 115(15) of this chapter.
3. Said contract for control of and protection from termites and/or other structural pests shall guarantee the performance of the work to the original owner and subsequent owners for at least one year after initial date of contract to the original owner and that said property meets the minimum standards set forth in these regulations for such work, unless an exception of the minimum standards is clearly set forth in a separate statement on the face of the contract. Exceptions of the minimum standards shall not exclude treatment requirements, as stated on the product use label, of the pesticide being used. Exceptions of the minimum standards for such work are limited to structures where treatment is not possible because an area of the structure is inaccessible and/or treatment will result in defacement to the actual structure that is unacceptable to the owner of the property. Exceptions of the minimum standards for such work shall not be allowed unless the owner of the property signs in a space next to each exception on the face of the contract acknowledging that the work is not being performed to minimum standards. Exceptions of the minimum standards do not eliminate the requirement for termite treatment to be performed.
4. A copy of a work order covering a complete plot or diagram showing the location of visible damage and an outline of the work to be carried out shall be given to the property owner and one copy shall be maintained by the operator with a copy of the contract for as long as the contract is in force.
5. The contract must clearly state in bold letters on the face of the contract if damage repairs are included or if only retreatment is provided.
6. The contract issued for pretreatment for termite control, as covered by subsection 118.05 of this chapter, shall clearly state in bold letters on the face of the contract that damage repairs are included and the perimeter treatment, as covered by subsection 118.05(1) of this chapter, is required to be completed within one (1) year of completion of the horizontal barrier treatment.
7. Before the expiration date of said contract and annually thereafter, the operator shall re-examine the property treated for termites and/or beetles and a written report of the reexamination showing the condition of the property with respect to the presence or absence of termites and/or beetles shall be filed with the owner of the property and a copy maintained in the operator's file.
8. The annual reexamination must include an exterior inspection and interior inspection of the structure. However, where the efforts of the pest control operator to schedule an inspection have been unsuccessful because the customer has failed to respond to the pest control operator or to make their premises available for an inspection, the pest control operator shall be relieved of the responsibility to perform the inspection provided the pest control operator has made reasonable efforts to perform the inspection and notified the customer by certified mail the inspection was not

performed. A copy of this notification shall be maintained in the pest control operator's customer file.

9. All subsequent inspections, as provided by the terms of the contract, shall be regularly made by the operator who shall report the results to the homeowner and make them available to the Bureau if such information shall be requested.
10. When a termite control pretreat contract is issued, an inspection before the contract expires is required.
11. A complete plot or diagram giving the dimensions and shape of the property pretreated shall be given to the structure owner and one copy shall be maintained by the licensee.
12. Annual re-treatment of a structure, covered by a contract, is prohibited unless there is clear documented site evidence that re-infestation and/or treatment zone disruption has occurred.
13. When a pest control operator elects not to renew a structural contract, the owner must be notified by certified mail at least thirty (30) days prior to the contract expiration date.
14. For control systems other than a soil barrier, a contract must be issued at the time of initial installation of the system and reported to the Bureau on the monthly report. The contract must specify product, the procedure, a graph of sites of infestation and damage, placement, and frequency of inspections to be performed. This contract must be in force to the original owner and subsequent owners for at least two (2) years after initial date of contract to the original owner and renewable by agreement unless subsequent owners request in writing that the contract be cancelled.
15. Licensed companies acquiring a termite control and protection soil barrier contract from another company must honor the terms of the acquired contract, whether or not a new contract is issued, until the acquired contract expiration date and are required, at no cost to the property owner, to treat the structure identified in the contract to Mississippi's minimum requirements, if there is evidence this was not done. Upon expiration of an acquired soil barrier contract, a new soil barrier contract may be issued. To avoid over-treatment of a previously treated structure, it is prohibited to apply a new soil barrier treatment to the structure named in the acquired contract, unless at least one of the following occurs: there is clear documented site evidence that re-infestation has occurred; there is clear documented site evidence of treatment zone disruption; there is clear documented evidence of pesticide degradation below acceptable efficacy levels; there is relevant published research data that the pesticide may have degraded below acceptable efficacy levels.

(Amended June 27, 2008, May 20, 2010)

Source: *Miss. Code Ann*. §69-19-1 & *Miss. Code Ann*. §69-23-109.

116. Reporting

1. In addition to record keeping requirements as covered by subsection 113.01 of this chapter additional information is required if termiticide pretreat applications are being performed. This includes: beginning time of application, ending time of application, vehicle identification number (VIN) of

vehicle(s) used to transport application equipment to termiticide pretreat site, application volume per minute, application tank(s) size(s), application nozzle type and size, application psi and total volume of diluted termiticide applied. Records, providing proof of purchase of EPA registered products must be maintained for two (2) years after purchase date on invoices.

(Amended June 27, 2008)

2. Persons operating under a license in the category "Wood destroying insect control" as covered by subsection 104.04(1) of this chapter shall by the 20th day of each month remit to the Bureau a report for each property on which a contract has been issued during the previous calendar month on forms furnished or approved by the Bureau. A report shall be filed each month even though no work is performed. If on inspection by the Bureau, it is found that a contract has not been fulfilled, the licensee shall be notified by the Bureau and shall be allowed fifteen calendar days in which to apply such remedial measures as are necessary and shall notify the Bureau in writing that the work has been performed. Additional regulatory action by the Bureau may be taken against the licensee.

(Amended June 27, 2008, May 20, 2010)

Source: *Miss. Code Ann*. §69-19-1 & *Miss. Code Ann*. §69-23-109.

117.01 Wood Destroying Insect Report.

1. All inspection reports issued regarding the presence or absence of termites and other wood destroying insects in connection with a real estate transaction shall be made on a form prescribed and officially adopted by the Bureau. All inspections associated with a real estate transaction shall be performed by an individual licensed for " Wood destroying insect control" as covered by subsection 104.04(1) of this chapter or a bona fide employee under his direct supervision.
2. The Mississippi Official Wood Destroying Insect Report form is adopted by reference, and may be examined in the office of the Bureau of Plant Industry, and copies of the form may be obtained for reproduction and use from the Bureau of Plant Industry, Stone Boulevard, Mississippi State, MS 39762.
3. The inspection shall be based on a thorough visual inspection of accessible areas and provide accurate written disclosure of presence, absence, previous infestation and damage caused by subterranean termites, drywood termites and wood borer beetles and other wood destroying insects such as carpenter ants and carpenter bees. The structures inspected must be clearly identified. Structures which are attached to or contiguous with the structure are considered to be a part of the structure and must be inspected and included in the report.
4. Conditions conducive to wood destroying insect infestations must be noted.
5. Obstructed or inaccessible areas not covered by the inspection must be listed.
6. There is no warranty, express or implied, related to the Mississippi Official Wood Destroying Insect Report form.
7. Any Mississippi Official Wood Destroying Insect Report issued that is not in compliance with the Regulations shall be deemed inaccurate, misleading, or

fraudulent. The licensee and bonafide employee completing the inspection shall be in violation for failure to perform a proper inspection.

8. Consumer complaints about alleged inaccurate, misleading or fraudulent inspections may be investigated by the Bureau. Alterations made to structures that expose insect damage or infestation, or consumer delay in notification to the Bureau of alleged inaccurate, misleading or fraudulent inspections may prevent the Bureau from determining if an inspection is inaccurate, misleading or fraudulent.
9. For each inspection, copies of the completed form shall be prepared for the:
   a. Person who ordered the inspection
   b. Title company or mortgagee and
   c. Business files of inspecting company
10. Upon completion of a real estate transfer inspection, the inspector shall post a durable sign adjacent to the water heater, access opening to crawl space, or beneath the kitchen sink giving the name and address of the licensee, the date of the inspection or treatment, and a statement that the notice should not be removed. It will be a violation of this section for any licensee or their employees to remove or deface a posted inspection notice.

(Amended June 27, 2008)

117.02 Whenever a licensee performs a wood infestation inspection in connection with a real estate transaction, he is required to make a written report on the Mississippi Official Wood Destroying Insect Report form and provide copies to the mortgagee, the seller, the buyer, and the realtor, if these are known. A licensee may refuse to complete the Mississippi Official Wood Destroying Insect Report form after performing an inspection, provided no fee is assessed.

(Amended June 27, 2008, May 20, 2010)

Source: *Miss. Code Ann*. §69-19-1 & *Miss. Code Ann*. §69-23-109.

<u>Approved Pesticides; Minimum Requirements</u>

118.01 Acceptable pesticides for control and/or prevention of pests.

1. All pesticides recommended by the USDA Forest Service, Wood Products Insect Research Unit at Starkville, Mississippi, and registered by the Bureau will be acceptable for use in structural pest control work performed under these regulations.
2. Pesticides applied for control and/or prevention of termites and other structural pests shall be applied in accordance with the label.
3. Pesticides applied for control and/or prevention of termites and other structural pests shall not be applied at concentrations or volumes less than specified on the label of the pesticide product being applied. Special exceptions may be made with prior approval of the Bureau.

118.02 Treatment Requirements - Subterranean Termites - Pier-Type (Crawl Space) Construction

1. Remove all cellulose-bearing debris such as scrap wood, wood chips, paper, stumps, dead roots, etc., from underneath buildings. Large stumps or roots that are too sound

to be removed may be trenched, drilled or rodded and treated provided they are six inches or more from foundation timbers.

2. Remove all wooden contacts between building and soil, both inside and outside. Wooden supports under buildings must rest on a concrete footing, a brick capped with concrete, or other non-cellulose materials. The top of the brick or footing should not be less than six inches above the ground. This includes but is not limited to wood steps, skirting and lattice work, form boards, piers and stiff legs. (Pressure treated piling foundations are exempt from this requirement.)
3. Termite tunnels - Scrape off all termite tunnels from foundation walls and pillars.
4. Trenches - Cut trenches a minimum of four inches wide and deep, but not below top of footing, in contact with masonry around all exterior and interior foundation walls and pillars and apply pesticide according to label directions. Soil injection techniques will be accepted by the Bureau when they are used in accordance with label directions.
5. Pipes - Pipes underneath the structure should be treated by rodding or trenching according to label directions. All non-metal packing around pipes should be saturated with an approved pesticide.
6. Treatment of Masonry and Voids - Approved pesticides shall be applied to porous areas, cracks and voids in foundation walls, piers, chimneys, step buttresses and other structures likely to be penetrated by termites. (1) Flood all cracks in concrete. (2) Drill mortar joints on all two course brick formations such as piers, foundation walls, chimneys, step buttresses, etc., in a horizontal line at sufficient intervals to provide thorough saturation of wall voids but in no case shall the distance between holes exceed 24 inches. Holes shall be deep enough to reach the center mortar joint and shall be flooded under sufficient pressure to flood all cracks and voids therein. Drilling shall not be required when solid concrete footing extends above grade level or when wall is capped with solid concrete. (3) Drill mortar joints on all brick formations with three or more courses of brick on each side of formation at the end of every other brick but with the locations of the holes on each side of the formation alternating as much as is practicable and flood under pressure all cracks and voids therein. Where the outside finish of a three course brick wall makes drilling from each side of wall impractical, this wall can be drilled from one side by extending holes two bricks deep. (4) Drill into the center of each vertical core in a complete row of hollow concrete (or other light weight aggregate) blocks in construction using this type of building material and apply an approved pesticide into the openings. In hollow concrete block construction, drilling will not be required where accessibility to the opening is already available through construction.
7. Dirt Fills - All dirt filled structures such as concrete slab porches, steps, chimneys, porch columns, etc., shall be treated by excavating, trenching, and applying pesticides in the same manner as around pillars and foundations. EXCEPTION: If due to construction, it is impractical to break into and excavate dirt filled areas, a method acceptable to the Bureau such as drilling, flooding or rodding may be employed.
8. Beetles - Approved controls must be applied in accordance with subsections 119.01, 119.02 and 119.03 of these regulations for beetles in timbers, walls and flooring, if beetles are present, unless contract states that protection against beetle injury is not included.

118.03 Existing Slab - Type Construction-

1. Treat the entire perimeter of the slab foundation.
2. Treat all traps, foundation walls, and other openings in the slab.
3. Treat all expansion joints, visible cracks and other voids in slab by rodding under or drilling through slab and thoroughly saturating the area beneath the slab where the above stated conditions exist. When the foundation wall or slab is drilled or rodded, the holes must not be more than 24 inches apart along the above stated areas.
4. Remove all non-pressure treated wood contacting soil and building.

118.04 Use of baiting systems in lieu of chemical barrier for control of subterranean termites shall be in accordance with label specifications of product used. All products must be registered by the United States Environmental Protection Agency and the Bureau.

118.05 Pretreatment For Termite Control -

1. All pretreats shall be made in accordance with label directions as specified on the label of the pesticide being used. All perimeter treatments must be performed within one year of treatment of the horizontal barrier. Upon completion of a perimeter treatment, the technician shall post a weather resistant durable sign to the exterior electrical meter box attached to the structure that was treated. The sign shall be a minimum size of 3.5 inches by 1 inch and give company name, company address, name of licensee or permit holder, the date of the perimeter treatment and a statement that the notice should not be removed. It will be a violation of this section for any licensee or their employees to remove or deface a posted notice.

(Amended December 04, 2008)

2. Wood treatment alone shall not be used for the only termite pretreatment protection. Wood treatment may be used with horizontal barrier, vertical barrier and critical areas soil treatment, or when used as specified in subsection 118.06(3) of this chapter.

(Amended December 04, 2008)

3. Termite bait as a stand-alone pretreatment is only permitted after a written request is received by a licensed structural pest operator from the resident purchaser. A copy of the written request must be retained in the files of the pest control operator.

118.06 Alternative treatments

1. Spot Treatment- for existing structures.
   "Spot Treatment" shall not be done except with permission of the Bureau for residential structures. Existing commercial slab-type construction may be "Spot Treated" when it is impractical to treat the entire slab and where the property owner requests this type of treatment. The face of the contract shall specify "Spot Treatment" and clearly define area treated on the graph. The contract must guarantee the area treated for one year. The monthly structural report shall state "Spot Treatment". If a "Spot Treatment" is requested in association with a wood infestation report, the purchaser must request in writing permission to "Spot Treat".
2. Termidor® 80WG & SC Exterior Perimeter/Localized Interior (EP/LI)
   Post Construction Structural Treatment-
   Termidor® EP/LI treatment may be performed on existing structures according to the Termidor® label instructions. Subsections 118.02 (1), (2), (3), (5) and/or 118.03 (4)

of these regulations must be followed. The face of the contract shall specify "Termidor® Exterior Perimeter/Localized Interior" and the areas treated and the application methods used shall be clearly defined on the graph and application records. Known termite activity at time of treatment must be clearly noted on the graph. The monthly structural report shall state "Termidor® EP/LI." Proof of licensee training in the use of Termidor® EP/LI, as approved by the Bureau, is required prior to the initial use of Termidor® as an EP/LI treatment.

3. Bora-Care® shall be applied, in accordance with product label directions, as a subterranean termite preventative treatment for new slab-type, crawl-space or basement construction. A supplemental exterior soil applied perimeter treatment must be performed within one year of the Bora-Care® treatment. Only EPA registered termiticides with 24(c) supplemental labels approved for this use in Mississippi may be used.

(Adopted December 04, 2008)

118.07 Special Cases. In special cases, where it is apparent that these specifications are either insufficient or more than sufficient to insure adequate protection, the operator shall consult the Bureau for advice before treatment is started.

(Amended May 20, 2010)

Source: *Miss. Code Ann*. §69-19-1 & *Miss. Code Ann*. §69-23-109.

Wood Destroying Beetles; Requirements

119.01 When Treatment Will Be Permitted - After it is determined that an active infestation exists, treatment will be permitted for the control or prevention of reinfestation of the families of beetles which are known to reinfest seasoned wood, i. e., Anobiidae, Lyctidae, Bostrichidae, Cerambycidae (old house borer and flat oak borer only) and Curculionidae. Preventative treatment in the absence of an infestation is not recommended and is prohibited without approval of the Bureau. Treatment is expressly prohibited for the control or prevention of other beetles that may cause damage to seasoned wood in structures such as Ambrosia beetles, Bark beetles, Flat headed borers, long-horned borers, Metallic wood borers, Pin worms, Roundheaded borers other than old house and flat oak borers, Timber beetles, and the Siricidae (woodwasps) or Marine borers except with prior approval of the Bureau and specification of the organism involved on the treatment or service proposal.

119.02 Determining Active Infestations-

1. Determining the activity of Anobiidae (anobiid powder-post) beetles in sub-structures, attached garages or other outbuildings, and stored lumber.
   a. The presence of frass the color of fresh cut wood will be acceptable as evidence of an active infestation of the Anobiidae.
   b. The presence of holes alone or holes and dull-colored frass will not be acceptable evidence of an active infestation of the Anobiidae except in such cases where live larvae and pupae are found in wood members. NOTE: Where numerous holes alone and/or dull-colored frass are found in wood members, this

should encourage the licensee or his representative(s) to check the upper living areas for infestation and to recheck the property during the optimum time for frass production by Anobiidae (March 15 to July 15). It should be pointed out that Anobiidae beetles usually infest products older than ten years and most infestations are confined to softwoods such as pine, whereas the Lyctidae only actively infest recently processed hardwoods such as domestic oak and pecan or foreign woods such as banak, meranti and obeche.

c. Numerous other beetles may cause damage in the products that the Anobiidae and Lyctidae infest. Identification aids for these beetles are: (1) timber beetles and pin worms - no frass in tunnels, tunnel walls stained darker than surrounding wood, no activity in products older than five years, and (2) bark beetles or bostrichids in softwoods - holes few in number in or near bark, larval tunnels beneath bark scoring bark and wood, some of the frass is same color as inner bark.

2. Determining the activity of powderpost beetles (*Lyctidae*) infestations is not required if infested products are less than ten years old. Otherwise, fresh frass and/or live larva or pupae in wood will be acceptable evidence of activity.
3. Determining the activity of old house borer (*Hylotrupes bajulus L.*) infestations.
   a. The presence of adult beetles and oval exit holes with fresh sawdust-like frass in southern pine, Douglas fir, or spruce wood will be evidence of an active infestation of the old house borer.
   b. The presence of live larvae or pupae in the above softwoods will be evidence of an active old house borer infestation, if the frass is sawdust-like.
   c. NOTE: It should be pointed out that other long-horned borers, flat-headed borers, Siricid woodwasps, and marine borers sometimes damage softwood used in building construction. These other long-horned borers produce loosely packed fibrous tobacco like frass, the flat headed borers make tunnels three times wider than high, whereas old house borer tunnels are less than three times wider than high, Siricids make perfectly circular exit holes, and marine borer excavations usually contain whitish calcium deposits but no frass.

119.03 Treatment Procedures –

1. When wood-destroying beetles are present at or below the subfloor level, then control measures should be applied from underneath the structure using an approved pesticide in accordance with label directions.
2. If there is evidence to indicate or reasonable cause to suspect that a substantial active infestation of wood-destroying beetles exists above the subfloor level, then fumigation with an approved fumigant is permitted, provided the property owner has been informed of other alternative treatments such as removal and replacement of infested wood members or treatment of the sub-structure only if it is actively infested. At least 48 hours prior to the scheduled release of the fumigant, the licensee must notify the Bureau of the location and time of treatment and the type of infestation present.

(Amended May 20, 2010)

Source: *Miss. Code Ann*. §69-19-1 & *Miss. Code Ann*. §69-23-109.

Pest Control Advisory Council

120.01 Purpose - To advise the Bureau on matters concerning rules and regulations regarding persons licensed in categories (1) and (3) in subsection 104.04 of this chapter.
(Adopted June 14, 2001)

120.02 Members –

1. This advisory council shall consist of five persons, elected as provided for in subsection 120.03, licensed in categories (1) and (3) under subsection 104.04 of this chapter. Also, one alternate to serve in the absence of another member.
2. Members of the council shall be elected one each from the three Supreme Court districts as set forth in *Miss. Code Ann.* 9-3-1, two from the state at large and one alternate. Each member of the council shall be elected to serve a two-year term. The council members elected to represent districts two and three and the alternate council member shall be elected during every odd-numbered year by the Mississippi Pest Control Association at an appropriate assembly as set forth in subsection 120.03 below. The council members elected to represent district one and the two at large shall be elected during each even numbered year by the Mississippi Pest Control Association at an appropriate assembly as set forth in subsection 120.03 below.
3. In the event that one of the council members is removed pursuant to subsection 120.05 below, or is otherwise unable to fulfill the two-year term, then in that event the alternate will permanently replace the council member so removed for the remainder of the replaced members term. The Board of Directors of the Mississippi Pest Control Association shall replace the alternate and fill any additional vacancies beyond the alternate that may have occurred.
4. The council shall elect officers among its members at the regularly scheduled first quarter meeting.

(Adopted June 14, 2001. Amended June 27, 2008)

120.03 Election of Members - Members shall be elected to represent the following areas, one from each of the three Supreme Court Districts in the State and two from the State at large. Elections will be conducted by the Mississippi Pest Control Association at an appropriate assembly open to all license holders. Persons holding a valid license in categories (1) and (3) of subsection 104.04 of this chapter shall have one vote. Nominations shall be made by the nominating committee named by the Board of Directors of the Mississippi Pest Control Association. Nomination notices shall be sent to all license holders requesting any additional nominations who are qualified and willing to serve. Election results shall be based on popular votes.
(Adopted June 14, 2001)

120.04 Meetings - Will be held quarterly and special meetings as needed.
(Adopted June 14, 2001)

120.05 Conduct. Members may not disclose any names of individuals, companies or situations that might expose those involved in discussions in meetings or information supplied by

the Bureau. All members are required to meet at least three of the four meetings each year. Any absence beyond one shall automatically remove the member from the council. No member may succeed himself in consecutive terms but may be re-elected after a one year absence.

(Adopted June 14, 2001; Amended May 20, 2010)

Source: *Miss. Code Ann*. §69-19-1 & *Miss. Code Ann*. §69-23-109.

(**NOTE**: Subchapter 01 was adopted March 29, 1977. The Department amended this subchapter on September 18, 1979, June 25, 1980, December 18, 1984, March 30, 1989, April 3, 1991, March 19, 1993, January 1, 1995, May 12, 1995, June 5, 1998, July 25, 2000.)

Subpart 3-Bureau of Plant Industry
Chapter 11 – Regulation of Professional Services
Subchapter 02 – Regulations Governing Entomological, Plant Pathological and Weed Control Consultants

Definitions

200 For the purpose of these regulations, the following words, names and terms shall be construed within the meaning and purpose of *Miss. Code Ann*. §§ 69-25-3 and 69-19-1 through 69-19-11.

1. "Act" shall mean Sections *Miss. Code Ann.* 69-19-1 through 69-19-11.
2. "Advisory Board" shall mean the board established under the provisions of *Miss. Code Ann.* Section 69-25-3.
3. "Bonafide Employee" shall be a person who receives all or part of his/her salary, pay or commission from a license holder and whose salary, pay or commission is regularly reported under federal social security and/or income tax laws.
4. "Commissioner" shall mean the Commissioner of the Mississippi Department of Agriculture and Commerce.
5. "Bureau" shall mean the Bureau of Plant Industry of the Mississippi Department of Agriculture and Commerce as set forth under the provisions of *Miss. Code Ann.* §69-25-3.
6. "Entomological Work" shall mean receiving fees for advice or prescriptions for the control or eradication of any insect pest or rodent.
7. "Insect Pests" shall mean any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, usually winged forms, as for example, beetles, bugs, flies and to other allied classes or arthropods whose members are wingless and usually have more than six legs, as for example, spiders, mites, ticks, centipedes and millipedes.
8. "Licensee" shall mean the person who shall be responsible for fulfillment of professional services to be rendered covered by the Act and these regulations.
9. "Person" shall mean any individual, partnership, corporation, association, company or organized group of persons whether incorporated or not.
10. "Plant Disease" shall mean the pathological condition in or on plants and plant products caused by fungi, bacteria, nematodes, mycoplasma, viroid and viruses.
11. "Plant Pathological Work" shall mean receiving fees for advice or prescriptions for the control or eradication of any plant disease.
12. "Professional Services" shall mean any of the professional services performed as designated by the various categories under Section 203 of this chapter.
13. "Rodent" shall mean any animal belonging to the order Rodentia (such as mice, rats, squirrels and beavers).
14. "Weed" shall mean any plant which grows where not wanted.
15. "Weed Control Work" shall mean receiving fees for advice or prescriptions for control or eradication of any weed.

Source: *Miss. Code Ann*. §69-19-1 & *Miss. Code Ann*. §69-25-7 (Rev. 2008).

Persons Required to Secure a License

201 Entomological, plant pathological and weed control consultants must secure a license from the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, in accordance with *Miss. Code Ann.* Sections 69-19-1 and 69-19-9. No person shall advertise in any manner to render professional services or solicit business as entomological, plant pathological and weed control consultants within the meaning of the Act without first obtaining a license.

Source: *Miss. Code Ann*. §69-19-1 & *Miss. Code Ann*. §69-25-7 (Rev. 2008).

License Application; Qualifications

202 Application for a license shall be submitted on a form furnished by the Bureau. No application for a license shall be accepted unless the applicant shall furnish written proof that he/she meets one of the following requirements; provided that in extraordinary cases, these requirements may be waived by the Advisory Board.

1. Masters or Ph.D. degree from an accredited college or university in the field for which a license is requested.
2. Bachelors degree from an accredited college or university in the field for which a license is requested and one (1) year's experience in said field.
3. Must be graduated from an accredited college or university with at least fifteen (15) semester hours or the equivalent in the field for which a license is requested and one (1) year's experience in said field.

Source: *Miss. Code Ann*. §69-19-1 & *Miss. Code Ann*. §69-25-7 (Rev. 2008).

Examinations; License Categories

203.01 Each person to secure a license in accordance with the Act and this regulation shall be examined as follows: When the firm is under the control of one person who is solely responsible for all recommendations, this person alone shall be required to pass the examination. When more than one person is responsible, then each shall be required to pass the examination.

203.02 The applicant shall take an examination which shall be written and, in general, cover the subject of the professional services designated in the application.

203.03 Examination Dates: Examinations shall be given once each quarter at Mississippi State, Mississippi. The dates for written examinations shall be the second Tuesday in each quarter of the calendar year. If the applicant fails the examination for the first time, the applicant may take the examination again after a period of at least ninety (90) days. If the applicant fails the examination the second time, the applicant shall wait a full year before taking the examination the third time.

203.04 Categories in which examinations are to be given and for which licenses will be issued:

1. Entomological Consultant. Categories are as follows:
    a. Agricultural Entomology – Crops – Giving advice or prescriptions for the control of insects or rodents of field crops, vegetable crops, pastures and rangeland.
    b. Forest Entomology – Giving advice or prescriptions for the control of forest insects or rodents.
    c. Household, Structural and Industrial Entomology – Giving advice or prescriptions for the control of household insects or rodents, structural insects (such as termites, powder post beetles, etc.) and industrial insects or rodents (such as insects or rodents in stores, warehouses and transportation facilities including trucks, railroad cars, etc.).
    d. Medical, Veterinary and Public Health Entomology – Giving advice or prescriptions for the control of insects or rodents affecting man and other animals.
    e. Orchard and Nut Tree Entomology – Giving advice or prescriptions for the control of insects or rodents injurious to fruit and nut tree orchards and/or groves.
    f. Ornamental Entomology – Giving advice or prescriptions for the control of insects or rodents injurious to ornamentals, lawns, turf and shade trees.
2. Plant Pathological Consultant. Categories are as follows.
    a. Agricultural Plant Pathology – Giving advice or prescriptions for the control of diseases on field crops, vegetable crops, pastures and rangeland.
    b. Forest Plant Pathology – Giving advice or prescriptions for the control of diseases injurious to forest plants.
    c. Orchard and Nut Tree Plant Pathology – Giving advice or prescriptions for the control of diseases injurious to fruit and nut tree orchards and/or groves.
    d. Ornamental and Shade Tree Plant Pathology – Giving advice or prescriptions for the control of diseases injurious to ornamentals, lawns and shade trees.
3. Weed Control Consultants. Categories are as follows:
    a. Agricultural Weed Control – Giving advice or prescriptions for the control of weeds in field crops, vegetable crops, pastures and rangeland.
    b. Aquatic Weed Control – Giving advice or prescriptions for control of weeds in and around edges of lakes, ponds and streams.
    c. Forest and Right-of-Way Weed Control – Giving advice or prescriptions for the control of weeds on rights-of-way, forest lands and drainage ditches.
    d. Ornamental and Turf Weed Control – Giving advice or prescriptions for control of weeds in ornamental plants, lawns, golf courses, cemeteries and similar areas.
    e. Industrial or Commercial Site Weed Control – Giving advice or prescriptions for control of weeds growing in industrial or commercial sites, such as oil tank storage areas and other areas deemed advisable.

Source: *Miss. Code Ann*. §69-19-1 & *Miss. Code Ann*. §69-25-7 (Rev. 2008).

Issuance of a License

204 If the qualifications and other requirements of the applicant are satisfactory, the Bureau shall then issue a license which shall expire on December 31, following date of issue unless suspended or revoked for cause.

Source: *Miss. Code Ann*. §69-19-1 & *Miss. Code Ann*. §69-25-7 (Rev. 2008).

Invalidation of a License or Identification Card; Refusal to Issue or Renew Same

205.01 Acts which shall be grounds for invalidation or non-renewal of a license shall include but shall not be limited to the following:

1. Misrepresentation for the purpose of deceiving or defrauding.
2. Making of a false statement with knowledge of its falsity for the purpose of inducing others to act thereon to their detriment.
3. Failure of the licensee to supply the Bureau or its authorized representative, upon request, with true and accurate information concerning methods and materials used, or work performed, or other information essential to the administration and enforcement of the Act or these regulations.
4. Performing work in a category for which the licensee does not hold a license.
5. If repeated inspections by inspectors of the Bureau of Plant Industry reveal that the licensee is not performing services in a satisfactory manner.
6. Conviction in any of the courts of this state of a violation of the Act or these rules and regulations.
7. Intentional misrepresentation in any application for a license.

205.02 When a person is refused a license, or when a license is not renewed, or when the Bureau contemplates invalidation of a license, the applicant or licensee shall have the right to a hearing by filing a written request for a hearing with the Bureau by registered or certified mail. The applicant or licensee requesting the hearing may appear in person or be represented by an attorney before the Advisory Board on the date and at the place set by the Bureau. When a license has been revoked, the licensee shall be notified in writing.

Source: *Miss. Code Ann*. §69-19-1 & *Miss. Code Ann*. §69-25-7 (Rev. 2008).

Conditions for Renewal of License

206 In order for a license to be renewed each year, the licensee must submit a request for renewal on a form prescribed by the Bureau and show proof that he/she is knowledgeable of current control recommendations and techniques by either attending an approved training course or passing an examination. No license shall be renewed if the licensee has not engaged in the professional services for a period of three years unless he/she is re-examined.

Source: *Miss. Code Ann*. §69-19-1 & *Miss. Code Ann*. §69-25-7 (Rev. 2008).

Records

207 Licensee shall keep complete and accurate records of all services performed including recommendations for which fees are received. Such records shall be available for examination by employees of the Bureau during reasonable business hours.

Source: *Miss. Code Ann*. §69-19-1 & *Miss. Code Ann*. §69-25-7 (Rev. 2008).

Bonafide Employee

208 Services performed under any section of these regulations must be performed only by the licensee or his/her bonafide employee.

(Subchapter 02 amended Aug. 12, 2010.)

Source: *Miss. Code Ann*. §69-19-1 & *Miss. Code Ann*. §69-25-7 (Rev. 2008).

Subpart 3-Bureau of Plant Industry
Chapter 11-Regulation of Professional Services
Subchapter 03-Regulations Governing Commercial Weed Control Work

(**NOTE**: Subchapter 03 was adopted on March 29, 1977. The Department amended subchapter 03 on September 18, 1979, May 12, 1995, June 5, 1998. The Department repealed subchapter 03 on May 21, 2010.)

Subpart 3-Bureau of Plant Industry
Chapter 11- Regulation of Professional Services
Subchapter 04 - Regulations Governing Landscape Horticulturist

Definitions

400 For the purpose of these regulations, the following words, names and terms shall be construed within the meaning and purpose of *Miss. Code Ann.* Sections 69-19-1 through 69-19-11.

1. "Act" shall mean *Miss. Code Ann*. Sections 69-19-1 through 69-19-11.
2. "Bonafide Employee" shall be a person who receives all or part of his salary, pay or commission from a license holder and whose salary, pay or commission is regularly reported under Federal Social Security and/or income tax laws.
3. "Bureau" shall mean the Bureau of Plant Industry of the Mississippi Department of Agriculture and Commerce created under the provision of *Miss. Code Ann* Section 69-25-3.
4. "Executive Secretary and/or State Entomologist" shall mean the executive secretary and director and/or state entomologist of the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, as set forth in *Miss. Code Ann* Section 69-25-5.
5. "Horticulturist and/or floriculturist" shall mean a person receiving fees for landscaping and setting of plants or for the sale of any plants for which the seller contracts to render future services.
6. "Licensed operator" shall mean the person who shall be responsible for fulfillment of all services to be rendered by a company licensed to perform professional services covered by these regulations.
7. "Person" shall mean any individual, partnership, corporation, association, company or organized group of persons whether incorporated or not.
8. "Professional Services" shall mean any of the professional services performed as designated by the category listed under Subsection 403.02 of this chapter.

Source: *Miss. Code Ann*. §69-19-1.

Persons Required to Secure License

401 Horticulturists and/or floriculturists must secure a license from the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, in accordance with *Miss. Code Ann* Section 69-19-9. No person shall advertise in any manner to render

professional services or solicit business within the meaning of the Act without first obtaining a license.

Source: *Miss. Code Ann*. §69-19-1.

License Application; Qualifications

402 Application for license shall be submitted on a regular form furnished by the Bureau in time to be approved ten (10) days prior to regularly scheduled examinations. No application for a license shall be accepted unless the applicant shall furnish written proof that he meets one (1) of the following requirements:

1. Must be graduated from an accredited college or university with at least 15 semester hours or the equivalent in the field for which he is requesting a license;
2. Must have not less than two (2) years college or university training with special training in the field for which he is requesting a license;
3. Must be at least a high school graduate and have had, in addition, at least one (1) year's experience with a licensed operator within the past two (2) years; or
4. If the applicant does not have a high school education or its equivalence, he must be able to furnish proof that he has had at least two (2) year's experience with a licensed operator within the past three (3) years.

Source: *Miss. Code Ann*. §69-19-1.

Examinations; License Categories

403.01 Each person required to secure a license in accordance with the Act shall be examined as follows: When the firm is under the control of one person who is solely responsible for the work, this person alone shall be required to pass the examination. When more than one person is responsible, then each shall be required to pass the examination. A person may designate an employee who is regularly and actively in charge to take the examination, and the license will be issued naming the employee as supervisor. Both the employee and the person to whom the license is issued will be held responsible for the professional services rendered.

403.02 The applicant shall take an examination which shall be written and, in general, cover the subject of the professional services designated in the application. The examination may be waived if the applicant is already licensed to perform the same professional services in a state with standards equal to those of Mississippi and, provided further, that said state recognizes such examinations given by Mississippi or if he is licensed as a landscape architect in Mississippi in accordance with *Miss. Code Ann.* Sections 73-2-1 through 73-2-25.

403.03 Examination dates: Examinations shall be given once each quarter at Mississippi State, Mississippi. The dates for written examinations shall be the second Tuesday in each quarter of the calendar year. Applicants not passing the examination may take it on the next regularly scheduled examination date.

403.04 Category in which the examination is given and for which a license will be issued:
Horticultural and floricultural work - "Landscape Horticulturist" - This category includes persons engaged in advertising landscaping services and setting plants for which the seller contracts or agrees to render future services.

Source: *Miss. Code Ann*. §69-19-1.

Plant Act Compliance

404 No license will be issued to a person to practice the professional services defined in Section 69-19-5 of the Act unless the provisions of *Miss. Code Ann.* Sections 69-25-1 through 69-25-47, have been compiled with relative to horticultural and/or floricultural plants and plant products being moved and sold under proper certificate tags issued by the Bureau.

Source: *Miss. Code Ann*. §69-19-1.

Issuance of License

405.01 If the qualifications and other requirements of the applicant are satisfactory, the Bureau shall then require that the applicant furnish a bond in the proper amount as set forth in Section 407 of this chapter in conformity to Section 69-19-9, Mississippi Code 1972. The Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, shall then issue a license which shall expire three (3) years from date of issuance unless suspended or revoked for cause.

405.02 A license is not transferable. When there is a change in the status of a license holder due to uncontrollable circumstances, a reasonable period of time shall be allowed for a qualified person to meet the requirements of Section 401 of this chapter.

405.03 A license shall expire three (3) years from date of issuance; renewal shall be on a form provided by the Bureau. Failure of the licensee to notify the Bureau of an address change will invalidate the license.

Source: *Miss. Code Ann*. §69-19-1.

Denial, Suspension or Cancellation of a License

406.01 The commissioner with the approval of the advisory board may suspend for not more than thirty (30) days, and then after opportunity for a hearing may deny, suspend, cancel or modify the provisions of any license issued under the Act if he finds that the applicant or licensee has committed any of the following applicable to him, each of which is declared to be a violation of the Act and these regulations.

1. Made false or fraudulent claims through any media misrepresenting the effect of materials or methods to be used;

2. Operated in a faulty, careless or negligent manner or knowingly operated faulty or unsafe equipment in a manner as to cause damage to property or person;
3. Refused or, after notice, neglected to comply with the provisions of the Act, the regulations adopted hereunder or any lawful order of the commissioner;
4. Refused or neglected to keep and maintain records required by the Act or to make reports when required;
5. Made false or fraudulent records, invoices or reports;
6. Used fraud or misrepresentation in making application for a license or renewal;
7. Aided or abetted any person in evading the provisions of the Act;
8. Allowed one's license to be used by an unlicensed person;
9. Impersonated any state or federal official;
10. Misrepresented for the purpose of deceiving or defrauding;
11. Made a false statement with knowledge of its falsity for the purpose of inducing others to act thereon to their detriment;
12. Performed work in a category covered by the Act for which the licensee does not hold a license;
13. Repeated inspections by inspectors of the Bureau of Plant Industry reveal that the licensee is not performing services in a satisfactory manner;
14. Failed to register agents or solicitors;
15. Convicted in any of the courts of this state of a violation of the Act or these rules and regulations;
16. Failed to correct substandard work; or
17. Failed to renew the bond that is required in Section 407 of this chapter.

406.02 Any person who is denied a license or whose license is suspended, canceled or modified by the commissioner shall be afforded an opportunity for a fair hearing before the advisory board in connection therewith upon written application to the commissioner within thirty (30) days after receipt of notice from the commissioner of such denial, suspension, cancellation or modification. The commissioner shall set a time and place for such hearing and shall convene the board within ten (10) days following receipt of the written application for a hearing. The board shall receive evidence and affirm, modify or reverse the determination of the commissioner within five (5) days.

406.03 Any person aggrieved by the determination of the board may petition the Chancery Court of the county of residence of such person or the Chancery Court of Hinds County for a review with supersedeas. The chancellor shall grant a hearing on said petition and may grant such review with supersedeas; the applicant may be required to post bond with sufficient sureties in an amount to be determined by the chancellor. Upon the review of any such decision, additional evidence may be received and considered but any record made or evidence heard before the board or commissioner may be submitted. Any such petition by either party from the determination of the chancellor shall proceed as otherwise provided by law.

406.04 A license shall automatically become invalid should the licensed operator whose name appears on the license ceases to personally supervise and be in direct charge of operations. The license shall remain invalid until some other person having been

examined in accordance with these rules and regulations becomes certified as the licensed operator in his stead, except as provided for in Section 404 of this chapter.

406.05 When a license has been canceled, the licensee shall be notified in writing. If the licensee is bonded, the bonding company shall be notified of the action taken, but revoking a license shall in no way invalidate the bond for the duration of the contract entered into by the licensee.

Source: *Miss. Code Ann*. §69-19-1.

Bond

407.01 The bond furnished the Bureau by any licensee as provided for in *Miss. Code Ann.* Section 69-19-9, shall be conditioned so as to insure to the purchaser of services from said licensee the fulfillment of any contract or guarantee made by the licensee. No surety bond shall be accepted except from companies approved by the Insurance Department of Mississippi.

407.02 Persons engaged in horticultural and floricultural work (landscaping and setting of plants) may be exempt from bond requirements unless such person contracts or agrees to render future service.

407.03 An annual bond of $1,000 shall be required of any person who shall guarantee his work or contract to render service, and said bond shall be conditioned as to be valid and effective for the maximum time for which the licensee shall issue guarantees or contracts to render future service.

Source: *Miss. Code Ann*. §69-19-1.

Inspections; Records; Reporting; Contracts

408 Licensed operators shall keep complete and accurate records of all work performed including copies of contracts issued for at least two (2) years. Such records shall be available for examination by employees of the Bureau during reasonable business hours. Such records shall include location, kind of services performed, date performed, materials used if there be any, and such other information as may be necessary for a complete record.

Source: *Miss. Code Ann*. §69-19-1.

Identification; Operators; Employees; Equipment

409.01 Operators - All operators or owners engaged in soliciting horticultural and floricultural work or dealing with the public must be provided with an identification card to be obtained from the Bureau of Plant Industry. The licensee shall submit an I.D. card application provided by the Bureau.

409.02 Employees –

1. All employees of licensed operators who solicit business or otherwise represent the operator in dealing with the public must be provided with an identification card to be obtained from the Bureau. An employee of an operator considered as a laborer shall have an I.D. card or be accompanied by an employee who holds a valid I.D. card.
2. The operator shall submit an I.D. card application provided by the Bureau requesting I.D. cards for his employees and himself.
3. When an operator or his employee resigns or is discharged, the licensee shall return the I.D. card to the Bureau for cancellation.
4. The I.D. card shall be in the possession of the operator and his employee at all times when performing or soliciting business and will be presented on request to the person or persons for whom business is performed or solicited.
5. An I.D. card will not be issued to any person who has been employed by another operator until his previous card has been returned to the Bureau for cancellation.

409.03 Equipment - All vehicles and mobile equipment engaged in professional services covered by the Act and these regulations shall be marked for easy identification.

Source: *Miss. Code Ann*. §69-19-1.

Bonafide Employee

410 Services or work performed under any section of these regulations must be performed only by the licensee or his bonafide employee.

Source: *Miss. Code Ann*. §69-19-1.

Exemptions

411 Persons licensed under the "Mississippi Landscape Architectural Practice Law" are exempt from the examination requirement of Subsection 403.01 of this chapter.

Source: *Miss. Code Ann*. §69-19-1.

Effective Date

412 These regulations are effective following approval by the Bureau of Plant Industry Advisory Board, adoption by the Commissioner and filing with the Secretary of State.

(Subchapter 04 adopted March 29, 1977; amended September 18, 1979; May 13, 1994; and May 12, 1995; amended Aug. 12, 2010)

Source: *Miss. Code Ann*. §69-19-1.

Subpart 3-Bureau of Plant Industry
Chapter 11-Regulation of Professional Services
Subchapter 05-Regulations Governing Tree Surgeons

Definitions

500 For the purpose of these regulations, the following words, names and terms shall be construed within the meaning and purpose of *Miss. Code Ann* Sections 69-19-1 through 69-19-11.

1. "Act" shall mean *Miss. Code Ann.* Sections 69-19-1 through 69-19-11.
2. "Bonafide Employee" shall be a person who receives all or part of his salary, pay or commission from a license holder and whose salary, pay or commission is regularly reported under Federal Social Security and/or income tax laws. A bonafide employee must be under the direct supervision of a license holder.
3. "Bureau" shall mean the Bureau of Plant Industry of the Mississippi Department of Agriculture and Commerce created under the provision of *Miss. Code Ann* Section 69-25-3.
4. "Executive Secretary and/or State Entomologist" shall mean the executive secretary and director and/or state entomologist of the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, as set forth in *Miss. Code Ann* Section 69-25-5.
5. "Licensed Operator" shall mean the person who shall be responsible for fulfillment of all services to be rendered by a company licensed to perform any or all of the professional services covered by these regulations.
6. "Ornamental Trees and Shrubs" shall mean a plant grown for the beauty of its form, foliage, flowers or fruit, rather than for food, fiber or other uses.
7. "Person" shall mean any individual, partnership, corporation, association, company or organized group of persons whether incorporated or not.
8. "Professional Services" shall mean the professional services performed as designated by the category listed under Subsection 503.02 of this chapter.
9. "Tree Surgeon" shall mean a person who advertises in a local phone book, newspaper, newsletter, bulletin, the internet or other prominently displayed sign as a licensed or insured tree surgeon and receives compensation for any work or consultation relative to the care, pruning, cabling, bracing, topping, trimming, fertilizing, cavity work and removal of ornamental trees and shrubs in any manner. Nothing shall prevent any person from performing such services as long as their advertising does not include the description licensed or insured.

Source: *Miss. Code Ann*. §69-19-1.

Persons Required to Secure License

501 Tree surgeons must secure a license from the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, only if they advertise as licensed or insured in accordance with *Miss. Code Ann.* Sections 69-19-1 through 69-19-11.

Source: *Miss. Code Ann*. §69-19-1.

License Application; Qualifications

502 Application for license shall be submitted on a regular form furnished by the Bureau in time to be approved ten (10) days prior to regularly scheduled examinations. No application for a license shall be accepted unless the applicant shall furnish written proof that he meets one (1) of the following requirements:

1. Must be graduated from an accredited college or university with at least 15 semester hours or the equivalent in the field for which he is requesting a license,
2. Must have not less than two years college or university training with special training in the field for which he is requesting a license,
3. Must be at least a high school graduate and have had, in addition, at least one year's experience with a licensed operator within the past two years,
4. Holds a valid arborist certification issued by the International Society of Arboriculture, and
5. If the applicant does not have a high school education or its equivalency, he must be able to furnish proof that he has at least two year's experience with a licensed operator within the past three years.

Source: *Miss. Code Ann*. §69-19-1.

Examinations; License Categories

503.01 Each person required to secure a license in accordance with the Act shall be examined as follows: When the firm is under the control of one (1) person who is solely responsible for the work, this person alone shall be required to pass the examination. When more than one person is responsible, then each shall be required to pass the examination. A person may designate an employee who is regularly and actively in charge to take the examination, and the license will be issued naming the employee as supervisor. Both the employer and the person to whom the license is issued will be held responsible for the professional services rendered.

503.02 The applicant shall take an examination which shall be written and, in general, cover the subject of the professional services designated in the application. The examination may be waived if the applicant is already licensed to perform the same professional services in a state with standards equal to those of Mississippi and, provided further, that said state recognizes such examinations given by Mississippi.

503.03 Examination dates: Examinations shall be given once each quarter at Mississippi State, Mississippi. The dates for written examinations shall be the second Tuesday in each quarter of the calendar year. Applicants not passing the examination may take it on the next regularly scheduled examination date.

503.04 Category in which the examination is to be given and for which a license will be issued:

Tree Surgery – This category includes a person who advertises in a local phone book, newspaper, newsletter, bulletin, the internet or other prominently displayed sign as a licensed or bonded or insured tree surgeon and receives compensation for any work or consultation relative to the care, pruning, cabling, bracing, topping, trimming, fertilizing, cavity work and removal of ornamental trees and shrubs in any manner. Nothing shall prevent any person from performing such services as long as their advertising does not include the description licensed or insured.

Source: *Miss. Code Ann*. §69-19-1.

Issuance of License

504.01 After all qualifications and requirements have been met, said applicant must furnish proof of insurance in the proper amount as set forth in Section 507 of this chapter in conformity to *Miss. Code Ann* Section 69-19-9. The Bureau shall then issue a license which shall be valid for an indefinite period unless suspended or revoked for cause.

504.02 A license is not transferable. When there is a change in the status of a license holder due to uncontrollable circumstances, a reasonable period of time shall be allowed for a qualified person to meet the requirements of Section 501 of this chapter. Failure of the licensee to notify the Bureau of an address change will invalidate the license.

504.03 A person requesting a license must have passed the required examination within the past year or have been actively engaged in the work since passing the examination or be reexamined before his license can be issued.

Source: *Miss. Code Ann*. §69-19-1.

Denial, Suspension or Cancellation of a License; Refusal to Issue or Renew Same

505.01 The commissioner with the approval of the advisory board may suspend for not more than thirty (30) days and then after opportunity for a hearing may deny, suspend, cancel or modify the provisions of any license issued under the Act if he finds that the applicant or licensee has committed any of the following applicable to him, each of which is declared to be a violation of the Act and these regulations:

1. Made false or fraudulent claims through any media misrepresenting the effect of materials or methods to be used;
2. Operated in a faulty, careless or negligent manner or knowingly operated faulty or unsafe equipment in a manner as to cause damage to property or person;
3. Refused or, after notice, neglected to comply with the provisions of the Act, the regulations adopted thereunder or any lawful order of the commissioner;
4. Refused or neglected to keep and maintain records required by the Act or to make reports when required;
5. Made false or fraudulent records, invoices or reports;
6. Used fraud or misrepresentation in making application for a license or renewal of a license;

7. Aided or abetted any person in evading the provisions of the Act;
8. Allowed one's license to be used by an unlicensed person;
9 Impersonated any state or federal official;
10. Misrepresented for the purpose of deceiving or defrauding;
11. Made a false statement with knowledge of its falsity for the purpose of inducing others to act thereon to their detriment;
12. Performed work in a category covered by the Act for which the licensee does not hold a license;
13. When repeated inspections by Inspectors of the Bureau of Plant Industry reveal that the licensee is not performing services in a satisfactory manner;
14. Failed to register agents or solicitors;
15. Convicted in any of the courts of this state of a violation of the Act or these rules and regulations;
16. Failed to correct substandard work; or
17. Failed to renew the insurance that is required in Section 507 of this chapter.

506.02 Any person who is denied a license or whose license is suspended, canceled or modified by the commissioner shall be afforded an opportunity for a fair hearing before the advisory board in connection therewith upon written application to the commissioner within thirty (30) days after receipt of notice from the commissioner of such denial, suspension, cancellation or modification. The commissioner shall set a time and place for such hearing and shall convene the board within ten (10) days following receipt of the written application for a hearing. The board shall receive evidence and affirm, modify or reverse the determination of the commissioner within five (5) days.

506.03 Any person aggrieved by the determination of the board may petition the chancery court of the county of residence of such person or the Chancery Court of Hinds County for a review with supersedeas. The chancellor shall grant a hearing on said petition and may grant such review with supersedeas; the appellant may be required to post bond with sufficient sureties in an amount to be determined by the chancellor. Upon the review of any such decision, additional evidence may be received and considered by any record made or evidence heard before the board or commissioner may be submitted. Any such petition by either party from the determination of the chancellor shall proceed as otherwise provided by law.

506.04 A license shall automatically become invalid should the licensed operator whose name appears on the license ceases to personally supervise and be in direct charge of operations. The license shall remain invalid until some other person having been examined in accordance with these rules and regulations becomes qualified as the licensed operator in his stead; except as provided for in Section 504 of this chapter.

506.05 When a license has been canceled, the licensee shall be notified in writing.

Source: *Miss. Code Ann*. §69-19-1.

<u>Insurance</u>

507 Before a license shall be issued or reissued to engage in tree surgery, proof of insurance must be furnished on a form provided by the Bureau. This insurance shall be conditioned as to insure against negligent or careless acts. This insurance shall not be less than $100,000.00. No insurance shall be accepted except from companies admitted to do business in Mississippi, companies that are non-admitted but approved to do business in Mississippi, or risk retention and purchasing groups registered by the Commissioner of Insurance of Mississippi. Those currently licensed to perform tree surgery must obtain the required insurance not to exceed twelve months.

Source: *Miss. Code Ann*. §69-19-1.

Inspections; Records; Reporting; Contracts

508 Licensed operators shall keep complete and accurate records of all work performed including copies of contracts issued for at least two (2) years. Such records shall be available for examination by employees of the Bureau during reasonable business hours. Such records shall include location, kind of services performed, date performed, materials used if there be any, and other information as may be necessary for a complete record.

Source: *Miss. Code Ann*. §69-19-1.

Identification; Operators; Employees; Equipment

509.01 Operators - All operators or owners of firms engaged in tree surgery soliciting work or dealing with the public must be provided with an identification card to be obtained from the Bureau. The licensee shall submit an I.D. card application provided by the Bureau.

509.02 Employees -

1. All employees of licensed operators who solicit business or otherwise represent the operator in dealings with the public must be provided with an identification card to be obtained from the Bureau. An employee of an operator considered as a laborer shall have an I.D. card or be accompanied by an employee who holds a valid I.D. card.
2. The operator shall submit an I.D. card application provided by the Bureau requesting I.D. cards for his employees and himself.
3. When an operator or an employee resigns or is discharged, the licensee shall return the I.D. card to the Bureau for cancellation.
3. An I.D. card shall be in the possession of the operator and his employees at all times when performing work or soliciting business and will be presented on request to the person or persons for whom business is performed or solicited.
4. An I.D. card will not be issued to any person who has been employed by another operator until his previous card has been returned to the Bureau for cancellation.

509.03 Equipment - All vehicles used by persons engaged in professional services covered by the Act and these regulations shall be marked for easy identification to include the company name and license number.

Source: *Miss. Code Ann*. §69-19-1.

Bonafide Employee

510 Services or work performed under any section of these regulations must be performed only by the licensee or his bonafide employees.

Source: *Miss. Code Ann*. §69-19-1.

Effective Date

511 These changes will become effective after adoption by the Commissioner, approval of the Advisory Board and appropriate filing with the Secretary of State.

Source: *Miss. Code Ann*. §69-19-1.

Waiver

512 The Bureau, in cases of natural disaster, may waive any and all provisions of this chapter.

(Subchapter 05 amended August 12, 1994 and May 12, 1995; Amended Aug. 12, 2010)

Source: *Miss. Code Ann*. §69-19-1.

Subpart 3-Bureau of Plant Industry
Chapter 11-Regulation of Professional Services
Subchapter 06-Regulations Governing Soil Classifying Work

Definitions

600 For the purpose of these regulations, the following words, names and terms shall be construed within the meaning and purpose of *Miss. Code Ann* Sections 69-19-1 through 69-19-11.

1. "Act" shall mean *Miss. Code Ann* Sections 69-19-1 through 69-19-11.
2. "Bonafide Employee" shall be a person who receives all or part of his salary, pay or commission from a license holder and whose salary, pay or commission is regularly reported under Federal Social Security and/or income tax laws. A bonafide employee must be under the direct supervision of a license holder.
3. "Soil Classifying Work" shall mean receiving compensation for plotting the boundaries of soils and describing and evaluating the kinds of soil as to their behavior and response to management under various uses.
4. "Commissioner" shall mean the commissioner of the Mississippi Department of Agriculture and Commerce.
5. Competent" shall mean a person who is capable of performing the various functions associated with soil classifying; the degree of capability required being directly related to the nature of the activity and the associated responsibility.
6. "Soil Classifier" shall mean a person skilled in plotting the boundaries of soils and describing and evaluating the kinds of soil as to their behavior and response to management under various uses.
7. "Division" shall mean the Division of Plant Industry of the Mississippi Department of Agriculture and Commerce created under the provision of Section 69-25-3, Mississippi Code 1972.
8. "Division of Plant Industry Advisory Board" shall mean the advisory board created by *Miss. Code Ann* Section 69-25-3.
9. "Executive Secretary and/or State Entomologist" shall mean the executive secretary and/or state entomologist of the Division of Plant Industry, Mississippi Department of Agriculture and Commerce as set forth in *Miss. Code Ann* Section 69-25-5.
10. "License" shall mean a document issued by the Division which indicates that a person has met the requirements set forth in the Act and these rules and regulations to receive fees for services as indicated on said document.
11. "Person" shall mean any individual, partnership, corporation, association, company or organized group of persons whether incorporated or not.
12. "Professional Services" shall mean receiving fees for performing various functions associated with soil classifying work.

Source: *Miss. Code Ann*. §69-19-1.

Persons Required To Secure a License

601 Soil Classifiers must secure a license from the Division of Plant Industry, Mississippi Department of Agriculture and Commerce in accordance with Sections 69-19-1 through 69-19-9, Mississippi Code 1972. No person shall advertise in any manner to render professional services or solicit business within the meaning of the Act without first obtaining a license.

Source: *Miss. Code Ann*. §69-19-1.

License Application; Qualifications

602 Application for license shall be submitted on a regular form furnished by the Division, in time to be approved ten (10) days prior to regular scheduled examinations. The applicant shall furnish the name of one (1) reference as to his character and names of two (2) professional soil classifiers having personal knowledge of his soil classifying experience. No application for a license shall be accepted unless the applicant shall furnish written proof that he has one year's experience in the field of soil classifying in the last five (5) years and that he meets one of the following requirements; provided that in extraordinary cases these requirements may be waived by the Professional Soil Classifiers Advisory Committee.

1. Must have a Bachelor of Science degree in a soil science curriculum from an accredited college or university with at least 15 semester hours or the equivalent in soil science, and 30 semester hours or the equivalent in related agricultural, natural resources, or land use planning courses.
2. Must hold a license for the practice of soil classifying on the basis of comparable qualifications issued to him by a proper authority of another state, possession, or territory of the Unites States and, in the opinion of the Division, meets the requirements of these regulations.

Source: *Miss. Code Ann*. §69-19-1.

Examinations; License; Categories

603.01 Each person required to secure a license in accordance with the Act shall be examined as follows: When the firm is under the control of one person who is solely responsible for the work, this person alone shall be required to pass the examination. When more than one person is responsible then each shall be required to pass the examination.
(Adopted December 18, 1979.)

603.02 The applicant shall take an examination which shall be written and, in general, cover the subject of the professional services designated in the application. The examination may be waived if the applicant is already licensed to perform the same professional services in a state with standards equal to those of Mississippi.
(Adopted December 18, 1979.)

603.03 Examination Dates: Examinations shall be given once each quarter at Mississippi State, Mississippi. The dates for written examinations shall be the second Tuesday in each

quarter of the calendar year. Applicants not passing the examination may take it on the next regularly scheduled examination date.

(Adopted December 18, 1979.)

Source: *Miss. Code Ann*. §69-19-1.

Issuance of License

604 If the qualifications and other requirements of the applicant are satisfactory, the Division shall issue a license which shall expire three years (36 months) from the date of issue.

(Adopted December 18, 1979.)

Source: *Miss. Code Ann*. §69-19-1.

Denial, Suspension Or Cancellation of a License; Refusal To Issue Or Renew Same.

605.01 The commissioner with the approval of the Division of Plant Industry Advisory Board may suspend for not more than thirty (30) days, and then after opportunity for a hearing may deny, suspend, cancel or modify the provisions of any license issued under the Act if he finds that the applicant or licensee has committed any of the following applicable to him, each of which is declared to be a violation of the Act and these regulations.

1. Made false or fraudulent claims through any media misrepresenting the effect of methods to be used;
2. Refused, or after notice, neglected to comply with the provisions of the Act, the regulations adopted hereunder, or any lawful order of the commissioner;
3. Used fraud or misrepresentation in making application for a license or renewal;
4. Aided or abetted any person evading the provisions of the Act;
5. Allowed one's license to be used by an unlicensed person;
6. Impersonated any state or federal official;
7. Misrepresented for the purpose of deceiving or defrauding;
8. Made a false statement with knowledge of its falsity for the purpose of inducing others to act thereon to their detriment;
9. Convicted in any of the courts of this state of a violation of the Act or these rules and regulations;

(Adopted December 18, 1979.)

605.02 Any person who is denied a license or whose license is suspended, canceled, or modified by the commissioner shall be afforded an opportunity for a fair hearing before the Division of Plant Industry Advisory Board in connection therewith upon written application to the commissioner within thirty (30) days after receipt of notice from the commissioner of such denial, suspension, cancellation or modification. The commissioner shall set time and place for such hearing and shall convene the board within ten (10) days following receipt of the written application for a hearing. The board shall receive evidence and affirm, modify or reverse the determination of the commissioner within five (5) days.

(Adopted December 18, 1979.)

605.03 Any person aggrieved by the determination of the Division of Plant Industry Advisory Board may petition the chancery court of the county of residence of such person, or the chancery court of Hinds County, for a review with supersedeas. The chancellor shall grant a hearing on said petition and may grant such review with supersedeas; the appellant may be required to post bond with sufficient sureties in an amount to be determined by the chancellor. Upon the review of any such decision, additional evidence may be received and considered but any record made or evidence heard before the Division of Plant Industry Advisory Board or commissioner may be submitted. Any such petition by either party from the determination of the chancellor shall proceed as otherwise provided by law.
(Adopted December 18, 1979.)

605.04 A license shall automatically become invalid should the licensee whose name appears on the license, cease to personally supervise, and be in direct charge of operations and shall remain invalid until some other person, having been examined in accordance with these rules and regulations becomes certified.
(Adopted December 18, 1979.)

605.05 When a license has been canceled, the licensee shall be notified in writing.
(Adopted December 18, 1979.)

Source: *Miss. Code Ann*. §69-19-1.

Conditions For Renewal of License

606 In order for a license to be renewed, the licensee must submit a request for renewal on a form prescribed by the Division and show proof that he is knowledgeable of current technology by either attending a training course conducted by a qualified agency or organization or passing an examination administered by the Professional Soil Classifiers Advisory Committee.
(Adopted December 18, 1979.)

Source: *Miss. Code Ann*. §69-19-1.

Identification

607 All licensees engaged in or soliciting professional services covered by these regulations shall have in their possession while performing said professional services a valid identification card issued by the Division. A recent picture of the licensee shall be permanently attached to the I.D. card.
(Adopted December 18, 1979.)

Source: *Miss. Code Ann*. §69-19-1.

Penalties

608 Any person violating any of the provisions of this chapter or the rules and regulations made by the commissioner pursuant thereto shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than five hundred dollars ($500.00), or by imprisonment for not more than six months, or by both such fine and imprisonment at the discretion of the court having jurisdiction.
(Adopted December 18, 1979.)

Source: *Miss. Code Ann*. §69-19-1.

Exemptions

609 This act shall not be construed to prevent or affect:

1. The practice of officers and employees of the government of the United States, the State of Mississippi, or of any research or teaching branch of any university in the State of Mississippi while engaged in activities coming within the scope of duties of a "soil classifier."
2. The practice of soil classifying by any person regularly employed to perform soil classifying services solely for his employer or a subsidiary or affiliated corporation of his employer providing the soil classifying performed is in connection with the property or products of his employer.

(Adopted December 18, 1979.)

Source: *Miss. Code Ann*. §69-19-1.

Professional Soil Classifiers Advisory Committee

610.01 This committee shall be composed of:

1. A licensed soil classifier in Mississippi elected at large by the Professional Soil Classifiers Association of Mississippi.
2. The State Soil Survey Leader of the Mississippi Agricultural and Forestry Experiment Station
3. The president of the Professional Soil Classifiers Association of Mississippi

(Adopted December 18, 1979.)

610.02 The duties of this committee shall consist of preparing and rendering the examination for applicants; to screen applicants and make recommendations to the Division of Plant Industry Advisory Board, and to make recommendations on other matters as deemed appropriate by the Division.
(Adopted December 18, 1979.)

Source: *Miss. Code Ann*. §69-19-1.

Subpart 3-Bureau of Plant Industry
Chapter 12-Pure Seed Regulation

Definitions

100 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 Ann*. Sec. 69-3-1 are adopted by reference and made a part hereof.

1. "Act" means *Miss. Code Ann.* Sections 69-3-1, *et seq*.
2. "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.
3. **"**Federal Seed Act" means the laws codified at 7 USCS 1551 et seq., and all regulations promulgated thereunder.
4. "Commercial Sprigger" means any person, firm, association or corporation that transfers ownership of Bermudagrass plant materials for reproductive purposes.

(Amended March 4, 2004.)

Source: *Miss. Code Ann.* §69-3-17.

Sampling and Analyzing Seed

101 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.

Source: *Miss. Code Ann.* §69-3-17.

Fees For Testing Seed

102.01 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.

102.02 Fees for Testing Seed**.**

1. Germination test. $5.00 All samples submitted for germination only.
2. Complete test.
   a. $6.00 Austrian Pea, Corn, Cotton, Southern Pea, Peanut, Soybeans and Vegetable seeds.

b. $7.00 Oats, Rice, Rye, Sorghum, Vetch, Wheat, and Wild Winter Peas.
c. $8.00 Clovers, Grasses, Lespedezas and Millets.
d. $10.00 All two-component mixtures; All Flower seed.
e. All mixtures of more than two components shall be charged $10.00 plus $2.00 for each extra component.

3. Seed not listed shall be charged equal to that of a seed with similar difficulty and testing procedures.
4. Purity-only charges are based on the price for a complete test minus $3.00
5. Special Tests:
   a. $5.00 Cool Tests; All kinds.
   b. Tetrazolium Tests
      i. $8.00 Cottonseed
      ii. $6.00 - Soybeans, Corn and small grains
   c. $6.00 – Accelerated-aging Test
   d. $6.00 Acid Test on Bahiagrass.
   e. Fescue Endophyte Tests.
      i. $10.00 - Seed Examination
      ii. $15.00 - Seed Grow-Out Test
      iii. $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.
6. Other charges: Information requested above and beyond normal test results will be assessed a charge of $1.00 per sample.

Source: *Miss. Code Ann.* §69-3-17.

<u>Seed Inspection Fee Collections and Reporting</u>

103.01 In addition to the requirements of Section 69-3-6, Miss. Code Ann. , 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.
(Adopted July 29, 2005.)

103.02 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.
(Adopted July 29, 2005.)

103.03 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.

(Adopted July 29, 2005.)

103.04 The inspection fee shall be due on the total pounds of seed sold.
(Adopted July 29, 2005.)

103.05 The inspection fee shall be due from the seedsman who makes the first point of sales within or into the state of Mississippi.
(Adopted July 29, 2005.)

103.06 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.
(Adopted July 29, 2005.)

103.07 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.
(Adopted July 29, 2005.)

103.08 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.
(Adopted July 29, 2005.)

103.09 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.
(Adopted July 29, 2005.)

103.10 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.
(Adopted July 29, 2005.)

103.11 Failure to comply with the provisions of Section 69-3-6, Miss. Code Ann. 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.
(Adopted July 29, 2005.)

103.12 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.
(Adopted July 29, 2005.)

Source: *Miss. Code Ann.* §69-3-17.

Submission of Samples

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

1. Identification of samples
   a. Send samples in a substantial container properly packed to arrive intact.
   b. Send to: Bureau of Plant Industry
      State Seed Testing Laboratory
      Stone Boulevard; R. H. McCarty Building
      P.O. Box 5207
      Mississippi State, Mississippi 39762
   c. Information accompanying the samples should state the following:
      i. Test desired, such as "purity analysis only," "germination test only," "Noxious weed seed determination" or "complete analysis."
      ii. Kind and variety of seed.
      iii. Lot number or other identification mark.
      iv. Name of treatment material, if seeds have been treated.
      v. Complete mailing address of person or firm submitting samples.
2. Size of samples. The following minimum weights are established for samples of seed submitted to the State Seed Testing Laboratory for analysis.
   a. White clover, bermudagrass, or seed of similar size…1/8 lb.
   b. Alfalfa, lespedeza, or seed of similar size...1/4 lb.
   c. Ryegrass, fescue, browntop millet, foxtail millet, or seed of similar size...1/4 lb.
   d. Pearl millet, proso millet, or seed of similar size...1/2 lb.
   e. Grain sorghum, sudangrass, or seed of similar size...1 lb.
   f. Corn, oats, cotton, soybeans, or seed of similar size...2 lbs.
   g. Vegetable seed samples shall consist of at least 1,000 seeds.

Source: *Miss. Code Ann.* §69-3-17.

Permits and Exceptions

105.01 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.

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

Source: *Miss. Code Ann.* §69-3-17.

Labeling

106 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.

Source: *Miss. Code Ann.* §69-3-17.

Labeling Seed in Bulk

107.01 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.

107.02 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.

Source: *Miss. Code Ann.* §69-3-17.

Tall Fescue Labeling

108 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.

Source: *Miss. Code Ann.* §69-3-17.

Treated Seeds

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

1. A statement in no less than eight (8) point type indicating that the seed has been treated.
2. 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.
3. 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:
    a. 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.

b. 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."

4. 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 this state.
5. 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.

Source: *Miss. Code Ann.* §69-3-17.

Seeds Containing Firm Seed

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

1. Paspalum notatum - Pensacola Bahiagrass
2. Panicum ramosum - Browntop Millet
3. Sorghum halepense - Johnsongrass

Source: *Miss. Code Ann.* §69-3-17.

Tree Seeds

111 The label for tree seeds shall bear thereon:

1. Common name of the species of seed (and sub-species, if appropriate)
2. The scientific name of the genus and species (and sub-species, if appropriate).
3. Lot identification, including year of collection.
4. Origin (including county if known).
5. Purity as a percentage of pure seed by weight.
6. Number of seed per pound.
7. For those species for which standard germination testing procedures are prescribed by the State Seed Analyst, the following:
   a. Percentage germination exclusive of hard seed.
   b. Percentage of filled seeds.
   c. Percentage of hard seed, if present.
   d. Calendar month and year test was completed to determine such percentages.
8. 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."
9. 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.
10. The name and address of the person who labeled said seed or who sells, offers, or exposes said seed for sale within this state.
11. Information on all seed treatments as prescribed in section 109 of this chapter.

Source: *Miss. Code Ann.* §69-3-17.

Lawn and Turf Seed Mixtures

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

1. The word "Mixed" or "Mixture."
2. The headings "Fine-textured Grasses" and "Coarse-textured Kinds" and thereunder in tabular form in type no larger than the heading:
   a. 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.
   b. 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.
   c. 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.
3. The heading "Other Ingredients" and thereunder in conspicuous type no larger than the heading.
   a. The percentage by weight of all weed seeds.
   b. The percentage by weight of all agricultural seed other than those listed on the label as "Fine-textured Grasses" or "Coarse-textured Kinds."
   c. The percentage by weight of inert matter.
4. The name and rate of occurrence of each kind of noxious weed seed present.
5. The lot number or other identification.
6. 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.

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

1. Fine-textured Grasses.
   a. Colonial Bentgrass (*Agrostis tenuis*)
   b. Creeping Bentgrass (*Agrostis palustris*)
   c. Velvet Bentgrass (*Agrostis canina*)
   d. Rough Bluegrass (*Poa trivialis*)
   e. Kentucky Bluegrass (*Poa pratensis*)
   f. Wood Bluegrass (*Poa nemoralis*)
   g. Canada Bluegrass (*Poa compressa*)
   h. Red Fescue (*Festuca rubra*)
   i. Chewings Fescue (*Festuca rubra var. commutata*)
   j. Sheep Fescue (*Festuca ovin*a)
   k. Common Bermudagrass (*Cynodon dactylon*)
2. Coarse-textured Kinds. All other kinds not listed above must be listed under the heading "Coarse-textured Kinds."

Source: *Miss. Code Ann.* §69-3-17.

Germination

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

Source: *Miss. Code Ann.* §69-3-17.

Germination Test Date

114.01 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.

114.02 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.

Source: *Miss. Code Ann.* §69-3-17.

Germination Standards For Agricultural Seed

115 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.

Source: *Miss. Code Ann.* §69-3-17.

Germination Standards For Vegetable Seed.

116.01 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.

116.02 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.

Source: *Miss. Code Ann.* §69-3-17.

Weed Seed

117 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.

Source: *Miss. Code Ann.* §69-3-17.

Noxious Weeds

118.01 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
1. Crotalaria (*Crotalaria spp.*)	Prohibited
2. Field Bindweed (*Convolvulus arvensis*)	Prohibited
3. Hedge Bindweed (*Calystegia sepium*)	Prohibited
4. Nutgrass (*Cyperus rotundus and C. esculentus*)	Prohibited
5. Serrated Tussock (*Nassella trichotoma*)	Prohibited
6. Tropical Soda Apple (*Solanum viarum*)	Prohibited
7. Balloon Vine (*Caridospermum halicacabum*) (NO TOLERANCE APPLIED)	2
8. *Bermudagrass (Cynodon spp.)*	100
9. Blessed Thistle (*Cnicus benedictus*)	27
10. Bracted and Buckhorn Plantain (*Plantago spp.*)	100
11. Canada Thistle (*Cirsium arvense*)	54
12. Cheat and Chess (*Bromus commutatus and Bromus secalinus*)	144
13. Cocklebur (*Xanthium spp.*) (NO TOLERANCE APPLIED)	2
14. Corncockle (*Agrostemma githago*)	100
15. Darnel (*Lolium temulentum*)	54
16. Dock and Sorrel (*Rumex spp.*)	100
17. Dodder (*Cuscuta spp.*)	54
18. Giant Foxtail (*Setaria faberi*)	54
19. Johnsongrass (*Sorghum halepense*) and Sorghum almum and perennial rhizomatous derivatives of these.	54
20. Purple Moonflower (*Ipomoea turbinata*) (NO TOLERANCE APPLIED)	2

21. Morningglory (*Ipomoea spp.*) 9
(a)When sold in a wildlife reseeding soybean or wildlife mixture 27
22. Quackgrass (*Elytrigia repens*) 54
23. Red Rice (*Oryza spp.*) 1
(NO TOLERANCE APPLIED)
24. Sicklepod (*Senna obtusifolia*) 5
25. Wild Mustards and Wild Turnips (*Brassica spp.*) 54
26. Wild Onion and Wild Garlic (*Allium spp.*) 5
(NO TOLERANCE APPLIED)
(a)When sold in mixed wheat 27
27.Wild Radish *(Raphanus raphanistrum*) 18

118.02 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.

Source: *Miss. Code Ann.* §69-3-17.

Blends and Mixtures

119 The following sections contain information, rules and regulations on the labeling requirements of certain seed mixtures and the disclosure of blending information.

Source: *Miss. Code Ann.* §69-3-17.

Varietal Mixtures of Seed

120 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.

(Amended November 18, 2005.)

Source: *Miss. Code Ann.* §69-3-17.

Blending Components

121 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.

Source: *Miss. Code Ann.* §69-3-17.

Seed Arbitration and Penalties

122 The following sections of this chapter contain 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.

Source: *Miss. Code Ann.* §69-3-17.

Scope of Seed Arbitration Claims

123.01 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 judgments 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.

123.02 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.

1. 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.
2. 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.
3. Claims where seed does not meet labeled purity standards concerning pure seed, crop seed, weed seed, and noxious weed seed are valid.
4. 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.
5. 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.

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

123.03 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.

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

Source: *Miss. Code Ann.* §69-3-17.

<u>Administrative Procedures For the Arbitration Process.</u>

124.01 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.

124.02 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

Source: *Miss. Code Ann.* §69-3-17.

<u>Seed Administrative Penalty Guidelines</u>

125.01 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.

125.02 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.

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

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

1. Germination Violations –
   a. 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.
   b. 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. 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.
   b. 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.

Source: *Miss. Code Ann.* §69-3-17.

<u>Bermudagrass Spriggers</u>

126 The following sections contain information on the rules and regulations pertaining to the transfer of Bermudagrass plant material.

Source: *Miss. Code Ann.* §69-3-17.

Permit Requirements

127 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.

Source: *Miss. Code Ann.* §69-3-17.

Record Requirements

128 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.

Source: *Miss. Code Ann.* §69-3-17.

Complaint Procedures

129 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.

Source: *Miss. Code Ann.* §69-3-17.

Bermudagrass Selections

130 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.

(Adopted March 4, 2004. Amended July 26, 2005.)

Source: *Miss. Code Ann.* §69-3-17.

Subpart 3-Bureau of Plant Industry
Chapter 13-Boll Weevil Containment/Maintenance Rule

100 The purpose of this Rule as set out in *Miss. Code Ann.* Section 69-37-1 thru Section 69-37-37 is to secure the suppression, eradication or containment/maintenance of the boll weevil in cotton. To meet these ends this Rule imposes quarantines and certifies a cotton grower's organization to cooperate with other state and federal agencies.

Source: *Miss. Code Ann.* §69-37-3 (Rev. 2010).

Definitions

101 For the purpose of this Rule, the following definitions shall apply:

1. APHIS, United States Department of Agriculture, Animal and Plant Health Inspection Service.
2. FSA, United States Department of Agriculture, Farm Service Agency.
3. Assessment. The amount per acre to be charged each cotton grower to finance, in whole or part, a boll weevil suppression, pre-eradication, eradication or containment/maintenance program within this state. Such assessments would be based on scientifically sound data regarding the level of boll weevil infestation and the anticipated cost of conducting the proposed program.
4. Boll Weevil, *Anthonomus grandis* Boheman in any stage of development.
5. Certified Cotton Growers Organization. A cotton grower's organization certified by the Bureau of Plant Industry for the purpose of entering into agreements with the state of Mississippi, other states, federal agencies, and any other agency of Mississippi or another state as may be necessary to carry out the purposes of this Rule.
6. Bureau. The Bureau of Plant Industry within the regulatory office of the Mississippi Department of Agriculture and Commerce.
7. Certificate. A document issued or authorized by the Commissioner indicating that a regulated article is not contaminated with boll weevils. Such articles may be moved to any destination.
8. Commissioner. The Commissioner of Agriculture and Commerce or his designated representative.
9. Compliance Agreement. A written agreement between the Mississippi Department of Agriculture and Commerce and any person engaged in growing, dealing in, or moving regulated articles where the latter agrees to comply with specified provisions to prevent dissemination of the boll weevil.
10. Containment/maintenance. Means a statewide program designed to monitor the level of boll weevil infestations to eliminate any re-infestations of boll weevils.
11. Cotton. Any cotton plant or cotton plant products upon which the boll weevil is dependent for completion of any portion of its life cycle.
12. Department. The Mississippi Department of Agriculture and Commerce.
13. Eradication Area. That portion of Mississippi where eradication of the boll weevil is undertaken as an objective.
14. Eradication Program. Any unified regional or statewide program designed to eliminate the boll weevil as an economic pest within the specified area.
15. Gin trash. All material produced during the cleaning and ginning of seed cotton, bolls or snapped cotton except lint and cottonseed.
16. Grower. Any person who is responsible for production and sale of cotton on any

individual farm.

17. Host. Any plant or plant product upon which the boll weevil is dependent for completion of any portion of its life cycle.
18. Infested. Actually infested with a boll weevil or so exposed to infestation that it would be reasonable to believe that an infestation exists.
19. Non-Commercial cotton. Cotton intended for purposes other than processing.
20. Permit. A document issued or authorized by the Commissioner to provide for the movement of regulated articles to restricted destination for limited handling, utilization, or processing.
21. Person. Any individual, corporation, company, society, association, or other business entity.
22. Region. A specific cotton growing area within the state as defined by the Technical Advisory Committee of the Certified Cotton Growers Organization, as those regions existed before July 1, 2010.
23. Regulated Area. Any county, parish, township, city or other civil division or part thereof in any state or territory listed in this Rule being placed under quarantine, and such other areas as may become infested or deemed to present a hazard of spread of the boll weevil.
24. Re-infestation. Re-infestation shall occur when more than one boll weevil is trapped in any cycle or combination of successive cycles or so exposed to infestation with a boll weevil that it would be considered infested and reproduction is occurring according to criteria established by program management and the Mississippi Boll Weevil Management Corporation.
25. Seed Cotton. Cotton as it comes from the field prior to ginning.
26. Used Cotton Equipment. Any cotton equipment previously used to harvest, strip, transport, or process cotton.
27. Waiver. A written authorization which exempts an individual from compliance with one or more specific requirements of this Rule.

Source: *Miss. Code Ann.* §69-37-3 (Rev. 2010).

<u>Quarantine Imposed</u>

102.01 Based upon the purpose set out in *Miss. Code Ann.* Section 69-37-1 thru Section 69-37-37, it is hereby ordered, under the provisions of said bill that a quarantine be imposed upon the articles, pests and areas set out in this Rule, subject to the conditions imposed by this Rule.

(Adopted November 12, 1993.)

102.02 Quarantine Area shall be established as follows: Upon finding an established re-infestation of boll weevil a quarantine notice shall automatically be imposed to include a one (1) mile radius of such infestation. The Bureau of Plant Industry shall adjust the quarantine zone based on the outcome of delimiting surveys and scouting, weevil populations trapped, distance of nearby cotton fields, terrain and other variables that might affect boll weevil movement away from the established re-infestation.

Source: *Miss. Code Ann.* §69-37-3 (Rev. 2010).

Regulated Areas

103 The following areas are hereby regulated:

1. Any area in the state that is re-infested with the boll weevil as delimited and quarantined.
2. All states or portions thereof infested with the boll weevil.

(Adopted November 12, 1993.)

Source: *Miss. Code Ann.* §69-37-3 (Rev. 2010).

Regulated Articles

104 The following articles shall be regulated by this Rule:

1. The boll weevil, *Anthonomus grandis* Boheman, in any living stage of development.
2. Gin trash.
3. Seed cotton
4. Cotton plants, bolls.
5. Used cotton equipment.
6. Any other products, articles, means of conveyance, or any other item whatsoever which is determined by the Commissioner to present a hazard in the spread of the boll weevil and the person in possession of such item has been so notified.

(Adopted November 12, 1993.)

Source: *Miss. Code Ann.* §69-37-3 (Rev. 2010).

Conditions Governing Movement of Regulated Articles

105.01 Certificate or Permit Required

1. Except as described below in 105.02 (3), regulated articles moving from a regulated area/quarantined zone into, through or within the State of Mississippi shall be accompanied by a certificate or permit issued by an authorized regulatory official of the State where such articles originated.
2. Regulated articles originating outside a regulated area may be moved into, through or within Mississippi, without a certificate or permit, if accompanied by documentation of the point of origin, and if, to the satisfaction of the Commissioner, such articles have been adequately protected from boll weevil infestation during movement through all regulated areas.

(Adopted November 12, 1993.)

105.02 Issuance of Certificates and Permits

1. Certificates for movement of regulated articles may be issued by the commissioner when such articles:
   a. Originated in non-infested non-quarantined area in the State of Mississippi and have not been otherwise exposed to infestation,
   b. Have been treated to destroy infestation in accordance with approved procedures,
   c. Have been grown, manufactured, stored, or handled in such a manner that, in the judgment of the Commissioner they would not transmit infestation, and
   d. Have been found, upon examination by the Commissioner, to be free of any infestation.

2. Permits may be issued by the Commissioner to allow the movement of noncertified regulated articles to locations outside regulated areas for particular handling, utilization, processing, or treatment in accordance with approved procedures, when the Commissioner has determined that such movement will not result in spreading of the boll weevil.

3. Movement of cotton in compressed modules or as baled cotton from a quarantined zone to and from local gins outside quarantined zones shall be allowed without a permit or certificate provided that a strict trapping program is established at said gins to detect weevils going into diapause and early spring detection of weevils prior to the onset of squaring.

105.03 Certificates and permits shall be handled as follows:

1. Certificates and permits, when required, shall be securely attached to the outside container in which regulated articles are moved, provided that when the regulated articles are adequately described on the shipping document, the certificate or permit may be attached to the shipping document.
2. Copies of all certificates and permits shall be furnished by the carrier to the consignee at the final destination.

(Adopted November 12, 1993.)

105.04 Any certificate or permit may be canceled by the Commissioner upon his determination that the holder thereof has failed to comply with any condition for the use of such permit or with any terms of the compliance agreement.

(Adopted November 12, 1993.)

Source: *Miss. Code Ann.* §69-37-3 (Rev. 2010).

Movement For Scientific Purposes

106.01 Regulated articles may be moved for experimental or scientific purpose provided a permit issued by the Commissioner specifying guidelines by which such articles must be handled is obtained prior to movement.

(Adopted November 12, 1993.)

106.02 Producers in designated experimental areas may be exempted from specified requirements of this Rule, provided they abide by criteria as stipulated by the Commissioner in a compliance agreement. The experiments in these areas must contribute to the development of scientific knowledge deemed of importance to the production of cotton.

(Adopted November 12, 1993.)

Source: *Miss. Code Ann.* §69-37-3 (Rev. 2010).

Compliance Agreements

107.01 As a condition of issuance of certificates or 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

1. That he will maintain such safeguards against the establishment and spread of infestation,
2. Comply with such conditions as to the maintenance of identity, handling and subsequent movement of such articles, and
3. The cleaning and treatment of means of conveyance and containers used in the transportation of such articles as may be required by the Commissioner. (Adopted November 12, 1993.)

107.02 Any compliance agreement may be canceled by the Commissioner whenever he finds, after notice to and opportunity for response by the holder, that such holder has failed to comply with any condition of the agreement. Any compliance agreement may be canceled or voided by the Commissioner when, in his opinion, it is not longer required.
(Adopted November 12, 1993.)

Source: *Miss. Code Ann.* §69-37-3 (Rev. 2010).

Transportation and Disposal

108 The Commissioner is authorized to stop any person and to inspect the article or means of conveyance moving into, within, or from the State of Mississippi when he has reasonable grounds to believe that such items are infested with the boll weevil; and such the Commissioner is authorized to seize, destroy, or otherwise dispose of any articles found to be moving in violation of these rules.
(Adopted November 12, 1993.)

Source: *Miss. Code Ann.* §69-37-3 (Rev. 2010).

Reporting and Location of Cotton Acreage

109.01 All growers shall complete a cotton acreage reporting form as required by FSA of the current growing season at the County Farm Service Agency (FSA) Office in each county in which they produce cotton. Such report shall be filed for each year of participation in the program, and shall indicate the actual FSA certified acreage under production during the current growing season.

(Adopted November 12, 1993.)

109.02 Non-commercial cotton shall not be planted in an-containment/maintenance area without a waiver issued in writing by the Commissioner. Application for a waiver shall be submitted in writing and the Commissioner's decision to grant or deny the waiver shall be based on the following:

1. Location of growing area.
2. Pest conditions in the growing area.
3. Size of the growing area.
4. Accessibility of the growing area.
5. Any stipulations set forth in a compliance agreement between the applicant and the Commissioner that are necessary for the effectuation of the program.

(Adopted November 12, 1993.)

Source: *Miss. Code Ann.* §69-37-3 (Rev. 2010).

Program Participation: Fee Payment; Penalties: and Credits

110.01 Upon passage of the grower referendum conducted under the provisions of *Miss. Code Ann.* Section 69-37-17, all cotton growers shall be required to participate in the boll weevil eradication program as follows: All growers shall be assessed no more than $12.00 per acre annually. A total of no more than $12.00 per acre shall be payable on or before August 1 of each year as based on certified acres reported from the Farm Service Agency in each county where cotton is grown.

(Adopted November 12.1993.)

110.02 All fees paid by the grower shall be collected by the Mississippi Department of Agriculture and Commerce, Bureau of Plant Industry, and made payable to the Bureau of Plant Industry.
(Adopted November 12, 1993.)

110.03 Failure to pay annual assessments on or before the August 1 deadline will result in a penalty fee equal to amount of the per acre annual assessment. Failure by a grower to pay all program costs by August 1 shall be a violation of this Rule.
(Adopted November 12, 1993.)

110.04 In addition to other remedies for the collection of assessments including, Penalties, the Commissioner shall have a special lien on cotton which shall be superior to any other lien provided by law. Provided, however, that the buyer of cotton shall take free of such lien if the has not received written notice of such lien from the Commissioner, or if he has paid for such cotton by a check in which the Department is named as joint payee. Failure to make the Department a joint payee shall make the buyer of cotton liable for such assessments and/or penalties. A buyer of cotton other than a person buying cotton from the grower takes free of such lien.

110.05 A farm operator may apply for a waiver requesting to be exempted from penalties and requesting delayed payment of assessments under conditions of financial hardship. Any farm operator applying for a waiver shall make application in writing to the Commissioner on a form prescribed by the Commissioner. No exemption of penalties shall be granted to any cotton grower who after the amount of assessments and penalties otherwise due has been subtracted from his taxable net income, has a net income exceeding fifteen thousand dollars ($15,000.00) for the year in which he seeks an exemption. "Taxable net income" shall have the same meaning as "net income" defined in *Miss. Code Ann.* Section 27-7-13/Title 27 Taxation and Finance/Chapter 7 Income Tax and Withholding/Article I as follows: "Net income means the gross income as defined therein, less allowable expenses incurred in the taxpayer's regular trade or profession." However, be it further noted that a taxpayer's regular trade or profession shall, in the case of a cotton grower, not be limited to farming, whereby net profit shown on Schedule F of the Federal Tax Return is not his/her only source of income. Taxable net income shall be considered the amount shown on Form 1040, 1040A or 1040EZ as "taxable income" after all allowed expenses, deductions and adjustments are made to gross income regardless of

whether the tax return has been filed jointly or in partnership. However, cotton growers who have sold real estate or other assets within the last tax year to pay farming debts in order to avoid bankruptcy may request in writing an additional adjustment to taxable net income. In such case, the amount of indebtedness expended toward being debt free during the taxable year may be subtracted from taxable net income in addition to assessments owed and penalties otherwise due. In support of such, applicable tax documents and a letter of support from the grower's banking or financial institution must be submitted explaining the sale of such assets to avoid filing bankruptcy proceedings. Failure to pay any fees or file a completed waiver request for delayed payment on or before August I of the current growing season will result in a penalty fee of five dollars ($5.00) per acre~ All farm operators granted waiver requests for financial hardship will be charged interest payable at a rate equal to 1 % above prime per annum. The decision whether or not to waive all or part of these requirements shall be made by the Certified Cotton Growers Association and notification given to the farm operator within two weeks after receipt of such application.

Source: *Miss. Code Ann.* §69-37-3 (Rev. 2010).

Purchase of Cotton For Effectuation of Program Objectives

111 The Commissioner may purchase growing cotton when he deems it in the best interest of the program. Purchase price shall be based on the FSA farm established yield for the current year. Purchase of growing cotton shall be based on consent of the executive committee of the Certified Growers Organization.
(Adopted November 12, 1993.)

Source: *Miss. Code Ann.* §69-37-3 (Rev. 2010).

Cotton Stalk Destruction

112. All growers in the containment/maintenance area are hereby required to destroy cotton stalks in every field location planted to cotton on or before March 15 of each year. Such cotton stalk destruction shall consist of shredding or disking to the extent of eliminating standing cotton stalks.
(Adopted November 12, 1993.)

Source: *Miss. Code Ann.* §69-37-3 (Rev. 2010).

Penalties

113.01 Any person who shall violate any of the provisions of this regulation or who shall alter, forge, or counterfeit or use without authority any certificate or permit or other document provided for in this regulation shall be guilty of a misdemeanor.
(Adopted November 12, 1993.)

113.02 Any person who, except in compliance with this regulation shall move any regulated article into this state from any other state, which the bureau found in such regulations is infested by the boll weevil, shall be guilty of a misdemeanor.

(Adopted November 12, 1993.)

(Chapter 13 adopted November 12, 1993, Amended May 12, 1995; amended June 27, 1997; amended February 5,1999; amended June 14,2001; amended April 15, 2002; amended September 1,2004; amended November 14,2005; amended December 4, 2008; amended Aug. 12, 2010.)

Source: *Miss. Code Ann.* §69-37-3 (Rev. 2010).

Subpart 4-Bureau of Regulatory Services
Chapter 01-Retail Food Store Sanitation

Sanitation Requirements

100.01 Sanitation regulations.

The sanitation regulations for retail food establishments shall be the same as the sanitation requirements for food establishments published by the U.S. Department of Health and Human Services in the 2005 *Food Code* unless otherwise noted in subsequent regulations. A copy of the 2005 *Food Code* may be obtained by emailing the Department at PublicComments@mdac.state.ms.us or from the Federal Food and Drug Administration's website here: http://www.fda.gov/Food/FoodSafety/RetailFoodProtection/FoodCode/FoodCode2005/default.htm.

(Amended June 30, 2006; November 17, 2008; July 27, 2010.)

100.02 Department inspections:

1. Each retail food establishment will be issued an inspection result summary and an inspection report on each visit.
2. The inspection result summary notifies the consumer of the result of the inspection. There are four inspection results:
   a. Green "Passed" placard. This result indicates that the retail food establishment passed department inspection and had no critical violations as defined by the *Food Code.*
   b. Green "Conditional Pass" placard. This result indicates that the retail food establishment had critical violation/s, as defined by the *Food Code,* that were corrected at the time of inspection. A follow-up inspection will be made at this retail establishment.
   b. Yellow "Inspected" placard. This result indicates that at the time of inspection the retail food establishment had either:
      i. critical violation/s of the *Food Code* uncorrected at the time of inspection; or
      ii. critical violation/s of the *Food Code* repeated from the last inspection, even if they were corrected at the time of inspection; or
      iii. excessive (more than 5), repeated noncritical violations of the *Food Code*.

      A follow-up inspection on critical violations will be made by the department ten days from the date of the inspection. A follow-up inspection on excessive (more than 5), repeated noncritical violations will be made by the department within thirty days from the date of the inspection. All violations must be corrected at that time or administrative action as provided by law may be taken, including administrative fines and/or suspension or revocation of the establishment's license.
   c. Red placard. This result indicates closure of the retail food establishment due to immediate danger to public health and safety.
3. The inspection report documents the information set out in Chapter 8, Subpart 8-405.10, "Documenting Information and Observations" of the current *Food Code*

(Adopted November 17, 2008.)

100.03 Public notification of inspection results:

1. Inspection result summary. The current inspection result summary must be posted by the retail food establishment on the front door/s or in a location conspicuous to consumers as approved by the Department.
2. Inspection report. The current inspection report must be made available to a consumer who requests it from the retail food establishment management.
3. Noncompliance.
   a. The failure to follow this section and its subparts is a violation of the Retail Food Law, and any violator is subject to the penalties therein, including up to a $500.00 fine for the first violation and up to $1,000.00 for subsequent violations and/or suspension or revocation of the retail food establishment's license.
   b. The Department will pursue legal action to collect unpaid fines.

(Adopted November 17, 2008.)

Source: *Miss. Code Ann.* §69-1-18.

<u>Retail Food Salvage Requirements</u>

101 Definitions:

1. "Distressed merchandise" means any food which has had the label lost or which has been subjected to possible damage due to accident, fire, flood, adverse weather, or to any other similar cause, and which may have been rendered unsafe or unsuitable for human or animal consumption or use. Distressed merchandise shall not include food products that fail to meet manufacturer's or packer's specifications, but which do meet applicable federal and state regulation.
2. "Non-salvageable merchandise" means "distressed merchandise," as defined in paragraph (1) which cannot be safely or practically reconditioned.
3. "Reconditioning" means any appropriate process or procedure by which distressed merchandise can be brought into compliance with all Federal and State Regulatory Authority requirements making it suitable for consumption or use as human or animal feed.
4. "Regulatory Authority" means the Mississippi Department of Agriculture and Commerce.
5. "Salvageable merchandise" means any distressed merchandise, as defined in paragraph (1) of this section, which can be reconditioned to the satisfaction of the Regulatory Authority.
6. "Salvaged merchandise" means previously distressed merchandise, as defined in paragraph (1) of this section which when reconditioned meets all Federal and State Regulatory Authority requirements.
7. "Salvage operation" means an establishment engaged in the business of selling or distributing salvaged merchandise or reconditioning distressed merchandise.

Source: *Miss. Code Ann.* §69-1-18.

102 Retail Salvage Food Operation.

1. General. Retail Salvage food operations shall comply with all applicable sections of the current Food Code except as otherwise provided in this section.
2. Handling of Distressed Merchandise.
   a. Segregation of Merchandise. All salvageable merchandise shall be promptly sorted and segregated from non-salvageable merchandise to prevent further contamination of the merchandise to be reconditioned for sale or distribution.
   b. Movement of Distressed Merchandise**.** It shall be the duty of any person owning or having possession of distressed merchandise to make personal contact with the Regulatory Authority within 24 hours after the merchandise becomes distressed and prior to its removal from the place where located when it became distressed merchandise. If emergency removal of distressed merchandise is required, notice to the Regulatory Authority shall be made as soon thereafter as possible. It shall be the duty of the processing facility to make contact with the Regulatory Authority within forty-eight (48) hours whenever distressed merchandise subject to the provisions of this regulation is obtained.
   c. Transporting of Distressed Merchandise**.** Distressed merchandise shall be moved from the site of a fire, flood, wind storm, hurricane area, sewer backup, wreck or other cause as expeditiously as possible after compliance with paragraph (2)(b) above so as not to become putrid, rodent or insect harborages, or otherwise a menace to public health. All distressed and salvageable merchandise of a perishable nature shall, prior to reconditioning, be transported only in vehicles provided with sufficient refrigeration and freezing capabilities if necessary for product maintenance. No interstate movement of known embargoed merchandise shall be made without the prior approval of the Regulatory Authority and the responsible State agency in the State to receive the merchandise. Concurrence shall also be obtained from the U.S. Department of Health and Human Services, Food and Drug Administration prior to interstate movement.
3. Reconditioning of Distressed Merchandise**.**
   a. All metal cans of food offered for sale or distribution shall be essentially free from rust (pitting) and dents (causing any deformation at the rim, end double seams and/or side seams). Leakers, springers, flippers, and swells shall be deemed unfit for sale or distribution. Containers, including metal and glass containers with press caps, screw caps, pull rings or other types of openings which have been in contact with liquid foam, or other deleterious substances, as a result of fire fighting efforts, flood, sewer backups or similar mishaps, shall be deemed unfit for sale or distribution, i.e., nonsalvageable merchandise as defined in section 101(2) of this chapter.
   b. All food in containers, bags or packages where the container, bag or package has been torn or damaged, whereby the contained food has been exposed, except that if the owner of such food can demonstrate that said food was in a clean environment at the time of exposure, the container, bag or package may be repaired or replaced.
   c. All containers of food being sold after the stated expiration date must be in sound condition and the expired date must be visible.
   d. All metal containers of food, other than those mentioned in (a.) above, whose integrity has not been compromised and whose integrity would not be

compromised by the reconditioning, and which have been partially or totally submerged in liquid foam, or other deleterious substance as the result of flood, sewer backup or other reasons shall, after thorough cleaning, be subjected to sanitizing rinse of a concentration of 100 ppm available chlorine for a minimum period of one minute, or shall be sanitized by another method approved by the Regulatory Authority. They shall subsequently be treated to inhibit rust formation.

4. Labeling of Distressed Merchandise.
   a. Label Removal**.** Any cans showing surface rust shall after having their labels removed, be inspected and destroyed if they contain pinholes. If salvageable, they shall then be cleaned by a method approved by the Regulatory Authority before relabeling. Any container of food with the label or mandatory information missing, that cannot be identified and relabeled correctly, shall not be sold. When original labels are missing or illegible, relabeling or overlabeling is required.
   b. Relabeling. All salvageable merchandise shall be labeled to indicate that the merchandise has been salvaged. All salvaged merchandise in containers is to be provided with labels meeting the requirements of the Food, Drug, and Cosmetic Act, Fair Packaging and Labeling Act, National Labeling and Education Act of 1990, and regulations promulgated under these Acts for products in interstate commerce. Where original labels are removed from containers which are to be resold or redistributed, the replacement labels must show as the distributor the name and address of the salvage processing facility as well as the date of reconditioning for sale or distribution.
5. Non-Salvageable Merchandise**.**
   a. Handling. Foods contaminated and/or adulterated by pesticides or other chemicals; potentially hazardous foods (frozen or those requiring refrigeration) which have been exposed to a temperature above 41^0 F (5^0 C); foods found unfit for salvage on examination; and foods packaged in paper or other porous materials which have been subject to contamination shall be deemed to be non-salvageable merchandise, as defined in section 101(2).
   b. Distribution. Non-salvageable merchandise shall not be sold or distributed as human food, but shall be disposed of in a manner approved by the Regulatory Authority.
6. Records**.** All persons or firms engaged in the business of selling or offering to sell food commonly known as salvage food or distressed food shall keep accurate records pertaining to the source and history of all shipments of said food received by them, type of damaged and the salvaged process conducted. It shall include records of the disposition of said food that was later disposed of or destroyed as unsalvageable or adulterated. Said records shall be kept for a minimum of one year and be available for inspections and/or copying during business hours by the Regulatory Authority.

Source: *Miss. Code Ann.* §69-1-18.

<u>Retail Sale of Fresh and Frozen Fish, Meat, Poultry and any Other Potentially Hazardous Foods, with the Exclusion of Seafood and Frozen Desserts, from Mobile Vehicles.</u>

103.01 Definitions:

1. Mobile vehicle is any land vehicle that is capable of being moved from place to place and is not stationary.
2. Transient vendor is a retailer who engages in the selling of (a) fresh fish, meat or poultry or (b) frozen fish, meat, poultry or any other fresh or frozen potentially hazardous food products, excluding seafood and frozen desserts, at any place in the state temporarily and who does not intend to become or does not become a permanent retailer of such place.
3. Fish means fresh fish and other forms of fresh water aquatic life (including alligator, frog, turtle, and the roe of such animals) other than birds or mammals if such animals are intended for human consumption.
4. Meat means the flesh of animals intended for human consumption including the dressed flesh of cattle, swine, sheep, or goats and other edible animals except fish and poultry.
5. Poultry means any domesticated bird intended for human consumption including chickens, turkeys, ducks, geese, or guineas but does not include ratites.
6. Frozen Desserts means any foods which conform to the provisions of the United States Food and Drug Administration, Title 21, Code of Federal Regulation, Part 135, Subpart B. Frozen Desserts shall include such products as ice cream, frozen custard, ice milk, sherbet, frozen yogurt, ice cream sandwiches, bars or cookies.
7. Seafood means edible fish or shellfish from the sea.
8. Potentially Hazardous Food means a food that is natural or synthetic and that requires temperature control because it is in a form capable of supporting: the growth of infectious or toxigenic microorganisms; the growth and toxin production of Clostridium botulinum; or in raw shell eggs, the growth of salmonella enteritis. "Potentially Hazardous Food" includes an animal food (of animal origin) that is raw or heat-treated; a food of plant origin that is heat-treated or consists of raw seed sprouts; and cut melons.
9. Pre-packaged Products mean commodities that are packaged in any manner in advance of sale in units suitable for direct retail sale to the consumer and packaged in a fixed facility under the jurisdiction of a federal (U.S.D.A or FDA) or state (MS Department of Health or MS Department of Agriculture and Commerce) agency.
10. Cold plate means a refrigeration system that uses frozen eutectic plates inside the body compartment to absorb heat as a means of maintaining desired temperature levels. Those passive plates are "refrozen" each day during a 10 (Ten) to 12 (Twelve) hour electrical plug in of the onboard refrigerant compressor.
11. Refrigerated Vehicle means an insulated vehicle (truck or trailer) equipped and used as a refrigerator to transport fresh perishable or frozen products.

(Amended August 2002. Temporary Amendment July 2006. Amended June 10, 2009; March 14, 2011.)

103.02 Retail Sale of Pre-packaged Fresh Fish, Meat, Poultry or other Potentially Hazardous Foods, excluding Seafood from Mobile Vehicles by Transient Vendors.

1. A retail food store license must be obtained for each vehicle in operation prior to putting each vehicle into service. The license shall be conspicuously displayed on the

vehicle during sales. The vendor shall present the vehicle to the Department for inspection prior to the licensing process and once every six months thereafter, for as long as it remains in service. Mobile vehicles and the food storage facility where products are stored may be randomly inspected anytime, during normal business hours, by Department personnel.

2. Any potentially hazardous food that is offered for sale from a mobile vehicle must be from a refrigerated vehicle and have a workable continuous mechanical refrigeration system or cold plate system approved by the department as the refrigeration source. Products shall remain in the vehicle until sold. Product temperature of 41º Fahrenheit or less must be maintained at all times.
3. Floors and walls of the vehicle shall be made of material having a smooth surface and cleaned and maintained in a sanitary condition with the use of a cleaning product recognized by the food industry and used in accordance with the manufacturer's labeling instructions.
4. All food shall be protected from contamination from dust, dirt, foreign or injurious contamination and from cross-contamination by other type food products.
5. The name, address and telephone number of the vendor shall be conspicuously displayed on the vehicle during sales.
6. Advertisements must be completely in accordance with the labeling of the containers. The price per pound of random weight products must be included in the advertisement. Standard weight packages may show a total price only in the advertisement. All products offered for sale shall be labeled in accordance with Chapter 3, Section 3-6 as defined by the U. S. Department of Health and Human Services in the current *Food Code* unless otherwise noted in subsequent regulations.
7. Sample boxes shall not be displayed out of refrigeration. Products sold to customers at locations other than the vehicle must be picked up by the Customer from the vehicle.
8. In addition to the above, applicable parts of the Mississippi Department of Agriculture and Commerce laws, rules and regulations covering foods would also apply.

(Amended August 2002.Temporary amendment July 2006.Amended June 10, 2009; March 14, 2011.)

103.03 Retail Sale of Pre-packaged Frozen Fish, Meat, Poultry or other Potentially Hazardous Foods, excluding Seafood from Mobile Vehicles by Transient Vendors.

1. A retail food store license must be obtained for each vehicle in operation prior to putting each vehicle into service. The license shall be conspicuously displayed on the vehicle during sales. The vendor shall present the vehicle to the Department for inspection prior to the licensing process and once every six months thereafter, for as long as it remains in service. Mobile vehicles and the storage facility where products are stored may be randomly inspected at anytime, during normal business hours, by Department personnel.
2. Any potentially hazardous food that is sold from a mobile vehicle must be from a refrigerated vehicle and have a workable continuous mechanical refrigeration system or an approved cold plate system as the refrigeration source. Products shall remain in a frozen state in the vehicle until sold. All sales must be by unbroken box or package.

3. Floors and walls of the mobile vehicle shall be made of material having a smooth surface and cleaned and maintained in a sanitary condition with the use of a cleaning product recognized by the food industry and used in accordance with the manufacturer's labeling instructions.
4. Advertisements must be completely in accordance with the labeling on the containers. The price per pound of random weight products must be included in the advertisement. Standard weight packages may show a total price only in the advertisement. All products offered for sale shall be labeled in accordance with Chapter 3, Section 3-6 as defined by the U. S. Department of Health and Human Services in the current *Food Code* unless otherwise noted in subsequent regulations.
5. All food shall be protected from contamination from dust, dirt, foreign or injurious contamination and from cross-contamination by other type food products.
6. The name, address and telephone number of the vendor shall be conspicuously displayed on the vehicle at all times during sales.
7. Sample boxes shall not be displayed out of refrigeration. Products sold to customers at locations other than the vehicle must be picked up by the customer from the vehicle.
8. In addition to the above, applicable parts of the Mississippi Department of Agriculture and Commerce Laws, Rules and Regulations covering foods would also apply.

(Amended August 2002.Temporary amendment July 2006.Amended June 10, 2009.)

Source: *Miss. Code Ann.* §69-1-18(2)(a) (2005).

Posting Of Fish Consumption Advisory Notices

104 It is the responsibility of a retail food establishment to post any Fish Consumption Advisory Notice issued to the establishment by the State Department of Environmental Quality or the State Board of Health if that establishment sells fish falling under the coverage of said notice. Notices shall be conspicuously displayed for easy visibility to the consumer. Any retail food establishment in violation of this regulation may be assessed a penalty in an amount of not more than Five Hundred Dollars ($500.00). Any additional violations within a six-month period may be assessed at a penalty of not more than One Thousand Dollars ($1000.00). In addition, or in lieu of such penalties, the commissioner may suspend or revoke the retail food establishment's license.

(Adopted May 31, 2002.)

Source: *Miss. Code Ann.* §69-1-18.

Administrative Procedures; Review; Hearing

105.01 Upon the issuance of a written complaint against any retail food establishment licensed by the Mississippi Department of Agriculture & Commerce for a violation of the law or the regulations, a copy of the complaint and any supporting documentation shall be sent to the accused by any of the methods set forth in Rule 4 of the Mississippi Rules of Civil Procedure or by certified mail. Within thirty (30) days after receipt of the a copy of the

complaint, the accused shall file a written answer with and/or submit supporting documentation to the Reviewing Officer. Failure to file an answer may constitute an admission of the allegation(s).
(Adopted 2002.)

105.02 The Chief of the Bureau of Regulatory Services of the Department, or his designee, shall act as Reviewing Officer. Upon receipt of the response and any supporting documentation from the accused, the Reviewing Officer shall screen all information on file to determine the merit of the complaint or lack thereof. Based on the evidence, the Reviewing Officer shall issue an order and send a copy of if to the accused by certified mail.
(Adopted 2002.)

105.03 Either the accused or the Department shall have thirty (30) days from receipt of the Reviewing Officer's order within which to file a written request for a hearing. If a request for a hearing is made, a hearing shall be scheduled before a Hearing Officer within a reasonable time of receipt of a written request from the accused. Written notice of the date, time and place of such hearing shall be provided to the accused.
(Adopted 2002.)

105.04 The Hearing Officer shall impose necessary restrictions to ensure an orderly and impartial proceeding. The testimony of the witnesses shall be upon oath or affirmation and the witnesses shall be subject to cross-examination. The proceedings shall be recorded.
(Adopted 2002.)

105.05 At the conclusion of the hearing, the Hearing Officer shall prepare a written Recommendation to the Commissioner. The Commissioner shall decide, what, if any, action is to be taken on the recommendation and shall issue an order. The decision of the Commissioner shall be in writing and it shall be delivered to the accused by certified mail.
(Adopted 2002.)

105.06 Either the accused or the Department may appeal the decision of the Commissioner to the circuit court of the county of the residence of the accused, or, if the accused is a nonresident of the State of Mississippi, to the Circuit Court of the First Judicial District of Hinds County, Mississippi. The appellant shall have the record transcribed and filed with the circuit court. The appeal shall otherwise be governed by all applicable laws and rules affecting appeals to circuit court. If no appeal is perfected within the required time, the decision of the Commissioner shall then become final.
(Adopted 2002.)

105.07 The decision of the circuit court may then be appealed by either party to the Mississippi Supreme Court in accordance with the existing law and rules affecting such appeals.
(Adopted 2002.)

Source: *Miss. Code Ann.* §69-1-18.

Retail Sale of Pre-packaged Frozen Desserts from Mobile Vehicles

106.01 Definitions:

1. Mobile vehicle is any land vehicle that is capable of being moved from place to place and is not stationary.
2. Transient vendor is a retailer who engages in the selling of frozen desserts at any place in the state temporarily and who does not intend to become or does not become a permanent retailer of such place.
3. Frozen Desserts means any foods which conform to the provisions of the United States Food and Drug Administration, Title 21, Code of Federal Regulation, Part 135, Subpart B. Frozen Desserts shall include pre-packaged products such as ice cream, frozen custard, ice milk, sherbet, frozen yogurt, ice cream sandwiches, bars or cookies.
4. Cold plate means a refrigeration system that uses frozen eutectic plates inside the body compartment to absorb heat as a means of maintaining desired temperature levels. Those passive plates must be refrozen each day during a 10 to 12 hour electrical plug in of the onboard refrigerant compressor.

(Adopted May 12, 2009.)

106.02 Retail Sale of Pre-packaged Frozen Desserts from Mobile Vehicles by Transient Vendors:

1. A retail food establishment license must be obtained for each vehicle in operation prior to putting each vehicle into service. The license shall be conspicuously displayed on the vehicle during sales. The vendor shall present the vehicle to the Department for inspection prior to the licensing process and once every six months thereafter, for as long as it remains in service. Mobile vehicles may be randomly inspected at anytime by Department personnel.
2. The vehicle's storage areas shall be completely enclosed.
3. Floors and walls of the vehicle and the product containers shall be made of material having a smooth surface and cleaned and maintained in a sanitary condition with the use of a cleaning product recognized by the food industry and used in accordance with the manufacturer's labeling instructions.
4. Advertisements must be completely in accordance with the labeling on the packages or containers. Standard weight packages may show a total price only in the advertisement.
5. Vehicles must have a workable continuous mechanical refrigeration system or an approved cold plate system as the refrigeration source. Frozen Desserts shall remain in a frozen state, under proper refrigeration, until sold. All frozen desserts' products offered for sale shall be labeled, for individual sale, as defined by the current edition of the U.S. Public Health and Human Services-FDA Food Code.
6. All frozen desserts shall be protected from contamination from dust, dirt, foreign or injurious contamination and from cross-contamination by other type food products.
7. The name, address and telephone number of the vendor shall be conspicuously displayed on the vehicle at all times during sales.

8. Sample boxes shall not be displayed out of refrigeration. Frozen Desserts' products sold to customers at locations other than the vehicle must be picked up by the customer from the vehicle.
9. In addition to the above, applicable parts of the Mississippi Department of Agriculture and Commerce laws, rules and regulations covering foods would also apply.

(Adopted May 12, 2009.)

Source: *Miss. Code Ann*. §69-1-18 (Rev. 2005).

107 (Reserved.)

<u>Egg Producers Selling "Unclassified Eggs" of Their Own Production Off the Farm, Directly to Consumers</u>

108 1. Purpose. This regulation provides that egg producers, as defined herein, be licensed by the Department and meet the requirements set out in this section.

2. Definitions:
   a. Unclassified eggs – Eggs that meet, as a minimum, the U.S.D.A. Grade B Quality Standards.
   b. Grade B Quality Standards - The shell must be unbroken, may be abnormal, and may have slightly stained areas. Moderately stained areas are permitted if they do not cover more than 1/32 of the shell surface if localized, or 1/16 of the shell surface if scattered. Eggs having shells with prominent stains or adhering dirt are not permitted. The air cell may be over 3/16 inch in depth, may show unlimited movement, and may be free or bubbly. The white may be weak and watery so that the yolk outline is plainly visible when the egg is twirled before a candling light. The yolk may appear dark, enlarged, and flattened, and may show clearly visible germ development but no blood due to such development. It may show other serious defects that do not render the egg inedible. Small blood spots or meat spots (aggregating not more than 1/8 inch in diameter) may be present.
   c. Egg Producer - A Mississippi egg producer, with 500 or less laying hens or pullets, who sells "unclassified eggs" from his/her own production directly to the consumer off the farm.
   d. Mechanical Refrigeration - A cooler or refrigerator that operates on a/c or d/c power.
   e. Ambient Temperature – Is the temperature surrounding the eggs and not the actual eggs' temperature.
3. Licensing Requirements:
   a. All egg producers shall obtain a "Retail Food Sanitation License-Eggs" by completing the appropriate application and paying the $10.00 license fee.
   b. Licenses shall be renewed annually.
   c. A copy of the "Retail Food Sanitation License-Eggs" shall be displayed and made available to the consumer at the location where the eggs will be offered for sale.
4. The following requirements must be met by all egg producers:

a. Clean Eggs. Egg producers must sell eggs that are cleaned in accordance with Department guidelines or other cleaning methods accepted by industry.

b. Temperature and Storage Requirements.
   i. Clean dry eggs shall be refrigerated within 36 hours after the time of lay.
   ii. Eggs shall be maintained at or below 45°F ambient temperature until sold to the consumer.
   iii. Eggs offered for sale to the consumer shall be stored under mechanical refrigeration.
   iv. During transportation, only, the use of dry ice or commercial ice packs may be used, provided there is no leakage or melting. The use of ice or gel packs is prohibited.
   v. A small NSF approved thermometer shall be kept in the cooler with the eggs to assure that the correct ambient temperature is being maintained at all times.

d. Packing and Labeling Requirements:
   i. The egg container or the label on the container shall have the following:
      A. name and address of the egg producer;
      B. the wording, "Keep Refrigerated;"
      C. the statement "SAFE HANDLING INSTRUCTIONS: To prevent illness from bacteria: keep eggs refrigerated, cook eggs until yolks are firm and cook foods containing eggs thoroughly." This label statement shall appear prominently and conspicuously, with the words "SAFE HANDLING INSTRUCTIONS" in bold type, on the information panel or principal display panel of the container.
      D. the word "eggs,"
      E. the numerical count of the contents; and
      F. the date of pack (examples – 01/01/11, January 1, 2011, Jan. 1, 2011).
   ii. If egg cartons are to be used that were previously labeled and used by an egg company, all labeling of the previous company shall be obscured or blackened out where this information is not visible to the consumer. No labeling shall indicate that the eggs are graded by U.S.D.A.; therefore, the shield must also be obscured, removed or blackened out.

e. Sale of Eggs Prohibited Past Pack Date. No eggs that have exceeded 30 days from the date of pack, including the date of pack, shall be sold by egg producers in the Mississippi channels of trade.

f. Animal Health Requirement. For any eggs sold by an egg producer off the farm at another location, the layers are required to have NPIP (National Poultry Improvement Program) testing by the Mississippi Board of Animal Health.

(Adopted May 3, 2011.)

Source: *Miss. Code Ann*. §69-1-18 (Rev. 2005).

Subpart 4-Bureau of Regulatory Services
Chapter 02-Catfish Labeling

Definitions

100 For the purpose of this regulation, the following terms are defined as:

1. Catfish – means any species within the family Ictaluridae. No other fish may be sold, labeled, distributed, advertised, or marketed under the name "catfish."
2. Farm-raised – The term farm-raised means any fish including fillets, steaks, nuggets and any other flesh from a fish that has specifically been produced under controlled environments according to the usual and customary techniques of commercial aquaculture.
3. Imported Catfish – means any species within the family Ictaluridae raised outside of the United States. No other fish may be sold, labeled, distributed, advertised or marketed under the name "imported catfish".

(Adopted October 10, 2005.)

Source: *Miss. Code Ann.* §69-7-611.

Labeling Information

101.01 In general. All persons who sell catfish products in all forms including individual product, packaged product and bulk product, must label the catfish in English with information identifying it as from the United States of America or as Imported The label must also identify the method of production of the catfish, i.e., farm-raised, river or lake, catfish. The term "wild caught" may be substituted for river of lake catfish. Additional labels in other languages are permissible as long as the requirements of these regulations are met.

(Adopted October 10, 2005.)

101.02 Mississippi or United States of America catfish products. Labels on catfish products must say "Farm-Raised Catfish, A Product of Mississippi," "Farm-Raised Catfish A Product of the United States" or "Farm-Raised USA Catfish." However, the appropriate State or "America(n)" may be inserted in lieu of USA. Mississippi or USA must be printed in the same size, color and type lettering as catfish.

(Adopted October 10, 2005.)

101.03 Imported catfish products. Labels on catfish products from countries outside of the United States of America must say "Imported Catfish" and list the appropriate country in addition to the method of production that is required by the United States Agriculture Marketing Act of 1946. Imported must directly precede or follow the word catfish in all labeling and marketing information and must be printed in the same size, color and type lettering as catfish. The following are some acceptable examples: "Farm-Raised, Imported Catfish" or "River or Lake Imported Catfish". The term "wild-caught" may be substituted for "river or lake" as provided for in the United States Agricultural Marketing

Act of 1946. In addition, the method of production must be in the same locations on the labeling as the words "Imported Catfish" and the same type set to prevent the labeling from misleading the consumer.

(Adopted October 10, 2005.)

101.04 Submission of labels to the department. If requested, the department will review a label or facsimile label, for compliance prior to the product being introduced into the Mississippi Channels of Trade.

(Adopted October 10, 2005.)

Source: *Miss. Code Ann.* §69-7-611.

Location of Labeling Information

102 In general. The information required by section 101 of this chapter must be provided to consumers by means of a label, stamp, mark, placard, or other clear and visible sign on the catfish product or on the package, display, holding unit, or bin containing the catfish product at the final point of sale.

1. Labeled catfish. If the catfish is already individually labeled for retail sale regarding country of origin in a manner that complies with section 101 by the processor or distributor, the person selling the catfish shall not be required to provide any additional information.
2. River or Lake catfish. Any person selling river or lake catfish exclusively and directly to the consumer may have a sign on his premises identifying such product rather than label each container or package as provided in paragraph (1) above. The term "wild caught" may be substituted for river or lake catfish.

(Adopted October 10, 2005.)

Source: *Miss. Code Ann.* §69-7-611.

Sign Requirements

103 If a placard or sign is used on a display, holding unit or bin as permitted in section 102 of this chapter, the sign must be in a prominent position so that the consumer can easily view it. All signs must be placed in such a way that consumers can distinguish which fish the sign is identifying. If a person sells only catfish from one country, one sign stating that fact will suffice as long as it meets the other sign requirements in this section.

(Adopted October 10, 2005.)

Source: *Miss. Code Ann.* §69-7-611.

Record Keeping Requirements and Responsibilities

104 The Commissioner of Agriculture and Commerce may require any person that prepares, stores, handles, or distributes catfish for retail sale to maintain a verifiable record keeping audit trail that will permit the Commissioner to verify compliance with the Catfish

Labeling Law. All records must be legible and maintained in either electronic or hard copy formats. As such, records and other documentary evidence to substantiate origin declarations and designations of wild and/or farm-raised are necessary in order to provide retailers with credible information on which to base origin declarations. Any person engaged in the business of supplying catfish to a retailer, whether directly or indirectly (i.e., harvesters, producers, distributors, handlers, etc.), must make available information to the subsequent purchaser about the country(s) of origin and method(s) of production (wild and/or farm-raised). This information may be provided either on the product itself, on the master shipping container, or in a document that accompanies the product through retail sale provided it identifies the product and its country(s) of origin and method(s) of production, unique to that transaction by means of a lot number or other unique identifier. Any person engaged in the business of supplying catfish to a retailer, whether directly or indirectly, must maintain records to establish and identify the immediate previous source (if applicable) and immediate subsequent recipient of the catfish, in such a way that identifies the product unique to that transaction by means of a lot number or other unique identifier, for a period of 1 year from the date of the transaction. In addition, the supplier of the catfish that is responsible for initiating a country of origin declaration and method of production (wild and/or farm-raised) designation must possess records necessary to substantiate the claim. For imported catfish determined by the US Customs and Border Protection (CBP), the importer must ensure that records: provide clear product tracking from the U.S. port of entry to the immediate subsequent recipient and accurately reflect the country(s) of origin and method(s) of production (wild and/or farm-raised) identified in relevant CBP entry documents and information systems; and maintain such records for a period of 1 year from the date of the transaction. Any intermediary supplier (i.e., not the supplier responsible for initiating a country of origin declaration and method of production (wild and/or farm-raised) designation) handling a covered commodity that is found to be designated incorrectly for country of origin and/or method of production (wild and/or farm-raised) shall not be held liable for a violation of the Act by reason of the conduct of another if the intermediary supplier could not have been reasonably expected to have had knowledge of the violation. Retailers also have record keeping responsibilities. Records and other documentary evidence relied upon at the point of sale by the retailer to establish a product's country(s) of origin and method(s) of production (wild and/or farm-raised), or, if applicable, date of harvest or capture designation, must be available during normal business hours to any duly authorized representatives of the Commissioner for as long as the product is on hand. For pre-labeled products (i.e., labeled by the manufacturer/first handler) the label itself is sufficient evidence on which the retailer may rely to establish a product's origin and method(s) of production (wild and/or farm-raised). Records that identify the retail supplier, the product unique to that transaction by means of a lot number or other unique identifier, and for products that are not pre-labeled, the country of origin and method of production (wild and/or farm-raised) information must be maintained for a period of 1 year from the date the origin declaration is made at retail. Such records may be located at the retailer's point of distribution, warehouse, central offices, or other off-site location. Any retailer handling catfish that is found to be designated incorrectly as to country of origin and/or the method of production (wild and/or farm-raised) shall not be held liable by reason of the conduct of another if the retailer could not have been reasonably expected to have had knowledge of the violation.

(Adopted October 10, 2005.)

Source: *Miss. Code Ann.* §69-7-611.

Subpart 4-Bureau of Regulatory Services
Chapter 03-Tilapia Labeling

Definitions

100 For the purpose of this regulation, the following terms are defined as:

1. Farm-raised – The term farm-raised includes fillets, steaks, nuggets and any other flesh from a fish produced under conditions comparable to those required under the Mississippi Aquaculture Act.
2. Retailer-means any partnership, person, business or corporation who sells tilapia to the ultimate consumer.
3. Distributor-means any person, partnership, business or corporation who supplies tilapia to the retailer.
4. Processor-means any person, partnership, business or corporation who produces tilapia for sale.

(Adopted October 10, 2005.)

Source: *Miss. Code Ann.* §79-22-5.

Labeling Information

101.01 In general. All persons who sell tilapia products in all forms including individual sales, packaged product and bulk product, must label the tilapia in English with information identifying it as from the United States of America or as Imported. Additional labels in other languages are permissible as long as the requirements of these regulations are met.
(Adopted October 10, 2005.)

101.02 Mississippi or United States of America tilapia products. Labels on tilapia products must say "Farm-Raised, Mississippi Tilapia" or "Farm-Raised, USA tilapia." However, the appropriate State or "American" may be inserted in lieu of USA. Mississippi or USA must be printed in the same size, color and type lettering as tilapia.
(Adopted October 10, 2005.)

101.03 Imported tilapia products. Labels on tilapia products from countries outside of the United States of America must say "Imported Tilapia" or list the appropriate country in addition to the method of production that is required by the United States Agricultural Marketing Act of 1946. Imported or the appropriate country must directly precede the word tilapia in all labeling and marketing information and must be printed in the same size, color and type lettering as tilapia. Examples would be "Farm-Raised, Imported Tilapia" or "Wild-caught, Imported Tilapia," or "Farm-Raised, (Name of Country) Tilapia," or "Wild-caught, (Name of Country) Tilapia."
(Adopted October 10, 2005.)

Source: *Miss. Code Ann.* §79-22-5.

Location of Labeling Information

102.01 In general. The information required by section 101 may be provided to consumers by means of a label, stamp, mark, placard, or other clear and visible sign on the tilapia product or on the package, display, holding unit, or bin containing the tilapia product at the final point of sale.
(Adopted October 10, 2005.)

102.02 Labeled Tilapia. If the tilapia product is already individually labeled for retail sale regarding country of origin in a manner that complies with this chapter by the processor or distributor, the person selling the tilapia product shall not be required to provide any additional information.
(Adopted October 10, 2005.)

102.03 Application. These regulations shall apply to all persons who sell tilapia products.
(Adopted October 10, 2005.)

Source: *Miss. Code Ann.* §79-22-5.

100 Date beyond which eggs may not be sold.

1. All eggs offered for sale in consumer packages (cases, boxes, baskets, or containers) shall be legibly dated with the consecutive day of the year that the eggs were packed. Consumer packages may bear an expiration date, provided the expiration date is preceded by "EXP" or a preprinted statement such as "sell by", "not to be sold after date on top or end", or "last sale date on end". Expiration dates shall be calculated from the date the eggs are packed into the consumer package and may not exceed 30 days, including the date of pack. No eggs which have exceeded the expiration date shall be offered for sale or sold as shell eggs for human consumption.
2. Such eggs may only be used for further processing by an egg products manufacturing plant or denatured and disposed of as inedible product.
3. The use of dates indicating the maximum time frame for expected quality on consumer packages by the packer or retailer is optional. Language such as "use before", "use by", "best before", or other similar terms may be used to indicate maximum time frame for expected quality. The dates following these terms must be calculated from the date the eggs are packed into the consumer package and may not exceed 45 days, including the date of pack. No eggs which have exceeded the maximum time frame for expected quality shall be offered for sale or sold as shell eggs for human consumption.
4. Except as provided by Section 69-7-321 Miss. Code Ann. , all eggs packed for sale as shell eggs to consumers shall be packed only by grading facilities approved and registered by the United States Department of Agriculture (USDA) under provisions of the Egg Products Inspection Act.

(Amended October 23, 2001, May 15, 2003.)

Source: *Miss. Code Ann.* §69-7-335.

Subpart 4-Bureau of Regulatory Services
Chapter 05-Syrup Containers Regulation

100 Pursuant to the Mississippi Syrup Containers Law, Miss. Code Ann.§§75-29-201 et seq., any and all subsequent amendments made thereafter, and all such other points of law that may be applicable, the Mississippi Department of Agriculture and Commerce promulgates the following regulations, in accordance with the Mississippi Administrative Procedures Law, as may be necessary to further the provisions of the Act.

Source: *Miss. Code Ann.* §75-29-209.

Cane Syrup

101 Cane Syrup or Sirup is the liquid food derived by concentration and heat treatment of the juice of sugarcane (Saccharum officinarum L.) or by solution in water of sugarcane concrete made from such juice. It contains not less than 74 percent by weight of soluble solids derived solely from such juice. The concentration may be adjusted with or without added water. It may contain one or more of the optional ingredients provided for in section 101 of this chapter. All ingredients from which the food is fabricated shall be safe and suitable.

Source: *Miss. Code Ann.* §75-29-209.

102 The optional ingredients that may be used in cane syrup are:
1. Salt
2. Preservatives.
3. Defoaming agents.

Source: *Miss. Code Ann.* §75-29-209.

103 The name of the syrup or sirup is "Cane Syrup" or "Pure Cane Syrup" or "Sugar Cane Syrup" or "Pure Sugar Cane Syrup" Alternatively, the word "syrup" may be spelled "sirup".

Source: *Miss. Code Ann.* §75-29-209.

104 Label Declaration. Each of the ingredients used in the food shall be declared on the label as required by the applicable sections of parts 101 and 130 of 21CFR168.

Source: *Miss. Code Ann.* §75-29-209.

Sorgum Syrup

105 Sorghum Syrup is the liquid food derived by concentration and heat treatment of the juice of sorghum cane (sorgos) (Sorghum vulgare). It contains not less than 74 percent by weight of soluble solids derived solely from such juice. The concentration may be adjusted with or without added water. It may contain one or more of the optional

ingredients provided for in paragraph (b) of this section. All ingredients from which the food is fabricated shall be safe and
suitable.

Source: *Miss. Code Ann.* §75-29-209.

106 The optional ingredients that may be used in sorghum syrup are:
1. Salt.
2. Chemical preservatives.
3. Defoaming agents.
4. Enzymes.
5. Anticrystallizing agents.
6. Antisolidifying agents.

Source: *Miss. Code Ann.* §75-29-209.

107 The name of the syrup or sirup is "Sorghum Syrup" or "Pure Sorghum Syrup ". Alternatively, the word "syrup" may be spelled "sirup".

Source: *Miss. Code Ann.* §75-29-209.

108 Label declaration. Each of the ingredients used in the food shall be declared on the label as required by the applicable sections of parts 101 and 130 of 21CFR168.

Source: *Miss. Code Ann.* §75-29-209.

Table Syrup

109 Syrup or sirup that contains cane, sugar cane or sorghum but does not meet the definition of cane or sorgum syrup in Sections 100 or 104 of this chapter, shall be labeled as table syrup or sirup as defined in 21CFR168.180.
(Effective March 2004.)

Source: *Miss. Code Ann.* §75-29-209.

Subpart 4-Bureau of Regulatory Services
Chapter 06-Country of Origin Labeling

Purpose

100 This chapter provides the regulations to support the "Mississippi Country of Origin Labeling Law of 2009."
(Adopted November 13, 2009.)

Source: *Miss. Code Ann.* §69-1-313.

Authorization

101 The Department of Agriculture and Commerce is authorized to promulgate these regulations under *Miss. Code Ann.* Section 69-1-313.
(Adopted November 13, 2009.)

Source: *Miss. Code Ann.* §69-1-313.

Definitions

102 The term "retailer" means all retail food establishments licensed by the Department under *Miss. Code Ann.* §69-1-18.
(Adopted November 13, 2009.)

Source: *Miss. Code Ann.* §69-1-313.

Federal Country of Origin Labeling Regulations for Beef, Pork, Lamb, Chicken, Goat Meat, Perishable Agricultural Commodities, Macadamia Nuts, Pecans, Peanuts, and Ginseng, 7 C.F.R. Subpart A, Excluding §65.240, Adopted by Reference.

103 The Department adopts herein by reference the current versions of 7 C.F.R. §§65.110-.500, excluding §65.240 "Retailer," as the regulations for country of origin labeling for beef, pork, lamb, chicken, goat meat, perishable agricultural commodities, macadamia nuts, pecans, peanuts, and ginseng in Mississippi; provided, however, in said regulations the term "Act" shall be construed to mean the "Mississippi Country of Origin Labeling Law of 2009," the phrases United States Department of Agriculture ("USDA") and Agricultural Marketing Service ("AMS") shall be construed to mean the Mississippi Department of Agriculture ("MDAC"), and the term "Secretary" shall be construed to mean the Commissioner of the MDAC. A copy of these regulations may be obtained at http://www.ams.usda.gov/cool or by calling the MDAC's Consumer Protection Division at (601) 359-1100.
(Adopted November 13, 2009.)

Source: *Miss. Code Ann.* §69-1-313.

Federal Country of Origin Labeling Regulations for Fish and Shellfish, 7 CFR 60.101-.400, excluding §60.124, Adopted by Reference.

104 The Department adopts herein by reference the current versions of 7 C.F.R. §§65.110-.500, excluding §65.240 "Retailer," as the regulations for country of origin labeling for fish and shellfish as defined in the Mississippi Country of Origin Labeling Law of 2009;" provided, however, in said regulations the term "Act" shall be construed to mean the "Mississippi Country of Origin Labeling Law of 2009," the phrases United States Department of Agriculture ("USDA") and Agricultural Marketing Service ("AMS") shall be construed to mean the Mississippi Department of Agriculture ("MDAC"), and the term "Secretary" shall be construed to mean the Commissioner of the MDAC. A copy of these regulations may be obtained at http://www.ams.usda.gov/cool or by calling the MDAC's Consumer Protection Division at (601) 359-1100.

(Adopted November 13, 2009.)

Source: *Miss. Code Ann.* §69-1-313.

Subpart 4-Bureau of Regulatory Services
Chapter 07- Meat and Poultry Inspection
Subchapter 01-Rules and regulations promulgated to carry out provisions of "The Meat, Meat Foods and Poultry Regulations and Inspection Law of 1960" and "The Mississippi Meat Inspection Law of 1968."

100 The Meat Inspection Division within the Department of Agriculture is hereby created by the Commissioner of Agriculture and said Division and its employees and authorized agents designated to administer and enforce the provisions of the meat inspection laws of the State of Mississippi and all rules and regulations and requirements thereunder.
(Adopted August 15, 1972.)

Source: *Miss. Code Ann.* §75-33-5, *Miss. Code Ann.* §75-35-17, *Miss. Code Ann.* §75-35-33 & *Miss. Code Ann.* §75-35-201.

Responsibility of owners, managers and operators

101.01 All persons operating establishments are required by law to construct, arrange, equip, manage, and maintain such establishments according to prescribed sanitary standards in order that meat, and/or meat-food products therein prepared, stored, or sold shall not be injuriously affected so as to be rendered unfit for human consumption.
(Adopted August 15, 1972.)

101.02 Each establishment shall be inspected by the Meat Inspection Division according to prescribed standards for all establishments. No establishment shall be used for any other purpose than that for which it is specifically approved.
(Adopted August 15, 1972.)

101.03 No person shall slaughter, butcher, dress, or process for food purposes, any animal or parts of carcasses which is in such condition that the product will be unfit for human consumption.
(Adopted August 15, 1972.)

101.04 Animals which have died or are in a dying condition as a result of disease, injury, poisoning, or accidental causes shall be unfit for human food.
(Adopted August 15, 1972.)

101.05 No person shall sell, offer for sale, expose for sale, manufacture, or prepare for use as food, any unwholesome meat or meat-food product.
(Adopted August 15, 1972.)

101.06 No carcass, meat, or meat-food product shall be received into an establishment from unapproved sources or from establishments not having equivalent inspection.
(Adopted August 15, 1972.)

101.07 The owner, manager, or operator of each establishment shall make, maintain, and

produce such records and information necessary for the Meat Inspection Division as the Commissioner may require.

(Adopted August 15, 1972.)

Source: *Miss. Code Ann.* §75-33-5.

Buildings, facilities, and equipment

102.01 Buildings:

1. All buildings shall be of sound construction and kept in good repair and shall be of such construction as to prevent the entrance or harboring of vermin. All remodeling of buildings or new construction must be of concrete, concrete blocks, tile, or brick or other impervious material. Any remodeling or new construction must have the prior approval of the Commissioner.
2. Outside openings: The doors, windows, skylights, and other outside openings of the plant shall be protected by properly fitted screens or other suitable devices against the entrance of flies and other insects. Screen doors shall open toward the outside of the building. Doors shall be provided with self-closing devices where necessary to prevent the entry of vermin into processing and storage rooms.

(Adopted August 15, 1972.)

102.02 Rooms and Compartments:

1. Rooms and compartments or receptacles used for edible products shall be separate and distinct from inedible products departments and from rooms where live animals are held prior to slaughter. Separate rooms shall be provided, when required, for conducting processing operations in a sanitary manner; and all rooms shall be of sufficient size to permit the installation of the necessary equipment for processing operations and the conduct of each operation in a sanitary manner.
2. Refrigerated rooms, coolers, and freezers, where applicable, shall be of adequate size and capacity to provide ample refrigeration for the meat and meat-food products.
3. Storage and supply rooms shall be in good repair, kept dry and the room and its contents maintained in a sanitary condition.
4. The boiler and machinery or utility room shall be a separate room where necessary to prevent its being a source of dirt or objectionable odors entering any room where edible products are prepared, processed, handled, or stored.
5. Toilet and dressing rooms shall be separated from the rest of the plant by walls extending from the floor to the ceiling and constructed in accordance with provisions of these regulations. Doors shall be solid and self-closing. A vestibule shall be of such size as to permit the closing of one door before opening the other.
6. Lunching, lounging, retail sales, etc., shall not be permitted in processing, packing, and supply rooms. If necessary, separate facilities shall be provided for such purposes.

(Adopted August 15, 1972.)

102.03 Floors, walls, ceiling, etc.:

1. The floors, walls, ceilings, partitions, posts, doors, and other interior structures shall be of such materials, construction, and finish which is impervious to moisture, so that they can be readily and thoroughly cleaned.
2. Floors:
   a. All floors in rooms where exposed products are processed, prepared, or handled shall be constructed of smooth concrete or of tile, or of other similar impervious material and kept in good repair.
   b. All floors throughout the building which are not kept dry shall be graded to permit run-off with no standing water. In new construction and renovated plants, the recommended pitch is one-fourth inch per foot to drains.
3. Ceilings and Walls:
   a. Ceilings must be moisture resistant in rooms where exposed products and utensils are prepared, handled, processed, or stored. They shall also be smooth and tightly sealed to prevent dust or dirt from sifting through and shall be acceptably finished and free of any flaking or peeling paint. If the underside of the roof with or without exposed overhead structures is used as a ceiling, it shall conform to the same sanitary requirements.
   b. All walls, posts, doors, and partitions in rooms where edible products are processed, handled, or stored shall have smooth surface impervious to moisture to enable thorough cleaning. In all new construction, the window ledges shall be set at an angle of approximately 45 degrees and all upper horizontal surfaces shall be kept to a minimum.

(Adopted August 15, 1972.)

102.04 Plumbing and Draining: There shall be an efficient draining and plumbing system for the establishment. The plumbing system in each establishment shall be installed and maintained in compliance with the best plumbing practices and State plumbing code in effect.

1. Drains and Gutters: All drains and gutters shall be properly installed with traps and vents approved by the Commissioner. The drainage and plumbing system must permit the quick run-off of all water from plant buildings, and of surface water around the plant and on the premises; and all such water shall be disposed of in such a manner as to prevent a nuisance or health hazard.
2. Sewage and Plant Wastes:
   a. All sewage and plant wastes shall be disposed of according to recognized and accepted sanitary engineering methods which will not create a public health hazard or unsanitary situation so as to be a nuisance.
   b. The sewage system shall have adequate slope and capacity to remove readily all waste from the various processing operations and equipped with the necessary settling and screening devices to minimize, and if possible, to prevent stoppage and surcharging of the system.
   c. Grease traps which are connected with the sewage system shall be suitably located, but not near any edible products department , or in any area where products are unloaded from, or loaded into vehicles. To facilitate cleaning, such traps should have inclined bottoms and provided with suitable covers.

d. All floor drains shall be equipped with approved traps and vents constructed so as to minimize clogging; and the plumbing shall be installed so as to prevent sewage from backing up and flooding the floors.
e. All toilet soil lines shall be separate from house drainage lines to a point outside the buildings and drainage from toilet bowls and urinals shall not be discharged into a grease catch basin.
f. Floor drainage lines shall be at least 4 inches in diameter or larger depending on the volume of over-flow and shall be properly vented to the outside air and open into main drains at least 2 inches larger in diameter than the floor drain lines.
g. In new construction and remodeling, valley and gutter drains shall have adequate slope and junctions of the sides and the bottoms shall be covered and tightly sealed.
h. All refrigerator drains shall be properly trapped and vented and discharged through an air gap into the sewer system.

(Adopted August 15, 1972.)

102.05 Lavatory, toilets, and other sanitary facilities:

1. Adequate lavatory and toilet accommodations, including, but not being limited to, running hot water and cold water, soap, and approved sanitary towels shall be provided. Such accommodations shall be in, or near toilet and locker rooms and also at such other place in the plant as may be essential to the cleanliness of all personnel handling products.
2. Adequate lockers or other facilities shall be provided for employees' wearing apparel, and for the storing and changing of clothing. Wearing apparel shall not be stored in rooms where processing operations are conducted.
3. Suitable covered containers shall be provided, in sufficient numbers, for storing used towels and other waste.
4. An adequate number of hand washing facilities shall be located in areas where edible products are prepared and shall be operated by other than hand-operated controls, or shall be of a continuous flow type that provides an adequate flow of water for washing hands. All persons employed in preparation handling of food shall use this facility when reporting back to work regardless of previous washing.
5. Durable signs, with letters of not less than one inch in height, shall be posted conspicuously in each toilet room and locker room directing employees to wash their hands before returning to work.
6. Adequate toilet facilities shall be provided and the following formula shall serve as a basis for determining the number required:

PERSONS OF SAME SEX	**TOILET BOWLS REQUIRED**
1 to 15 inclusive	1
16 to 35 inclusive	2
36 to 55 inclusive	3
56 to 80 inclusive	*4
Each 30 persons in excess of 80	1

Urinals may be substituted for toilet bowls but only to the extend of one-third of the total number of bowls stated.

7. All toilets, lavatories, rest rooms and other sanitary facilities shall be kept clean and in good repair.
8. Suitable sanitary drinking water facilities shall be provided.

(Adopted August 15, 1972.)

102.06 Lighting:

1. All rooms and areas in the establishment shall be well lighted by natural and artificial methods according to commercial practices.
2. The following requirements shall be met, and the meeting of such requirements shall be deemed to be in compliance with this section: At least 50-foot candles of light intensity shall be provided in areas where products are examined for cleanliness or wholesomeness. The overall intensity in workrooms should be not less than 20-foot candles, and 10-foot candles in carcass cooler at lowest shank level.

(Adopted August 15, 1972.)

102.07 Ventilation:

1. All rooms and areas in the establishment shall be well ventilated.
1. The following requirements shall be met and the meeting of such requirements shall be deemed to be in compliance with this section.
   a. Sufficient ventilation shall be provided in the establishment to dispel disagreeable odors, condensate, and vapor. For this purpose, ventilating equipment, such as individual fans, hoods, and windows shall be provided where needed.
   b. Employee toilet rooms and dressing rooms shall be adequately vented to the outside air.
   c. Space heaters, gas stoves, water heaters, and any other equipment giving off noxious odors, fumes, or vapors shall be vented to the outside air.
   d. Any mechanical ventilating equipment shall be so located and controlled so as to minimize conditions in which products or processing equipment may be subjected to airborne contamination from nearby or preceding operations or from other sources.
   e. All exhaust outlets from mechanical ventilating devices shall be conducted to the outside air, and shall be so arranged, placed, and extended as to avoid creating a nuisance to adjacent areas, and shall be constructed and maintained according to recognized and approved engineering methods as to prevent any avoidable escape of odors into the air.

(Adopted August 15, 1972.)

102.08 Water Supply:

1. The water supply shall be ample, clean, and potable with adequate pressure and facilities for its distribution in the plant, and its protection against contamination and pollution. A water analysis report, issued under authority of the State Board of Health Department, certifying to the potability of the water supply, shall be obtained by the plant owner or operator, and furnished to the Commissioner of Agriculture when deemed necessary or as required by the Commissioner.

2. Hose connections with steam and water mixing valves or hot water hose connections shall be provided at convenient locations throughout the plant for cleaning purposes and the temperature of the hot water shall be maintained at not less than 180 degrees F.
2. The refuse rooms shall be provided with adequate facilities for washing refuse cans and other equipment and shall be thoroughly cleaned and scalded or steamed after each day's use.
3. Non-potable water is permitted only in those parts of official plants where no product is handled or prepared, and then only for limited purposes such as on condensers not connected with the potable water supply, in vapor lines serving inedible products rendering tanks, and in sewer lines for moving heavy solids in the sewage. Non-potable water is not permitted for washing floors, areas, or equipment, nor is it permitted in boilers, scalders, chill vats, or ice making machines. Non-potable water lines shall be clearly identified and shall not be cross connected with the potable supply line. Any untested water supply in an official establishment shall be treated as a non-potable supply.

(Adopted August 15, 1972.)

Source: *Miss. Code Ann.* §75-33-5.

Equipment and Utensils

103 Equipment and utensils used for the preparation, processing or otherwise handling of any product in the plant, shall be suitable for the purpose intended and shall be of such material and construction as will facilitate their thorough cleaning and insure cleanliness in the preparation and handling of products. In addition, surfaces which contact meat and/or meat products shall be nontoxic, corrosion-resistant, smooth, free from breaks, open seams, cracks, and chipped places. Stainless steel may be required where continued use and heavy corrosion occur. All equipment and utensils shall be maintained in a clean and sanitary condition; adequate washing vats, cleaning facilities and storage space shall be provided for this purpose. Trucks and receptacles used for handling inedible products shall be of similar construction and shall be conspicuously and distinctly marked and shall not be used in handling any edible products. Equipment and utensils used in the plant shall not be used outside the plant except under the conditions as may be approved by the Commissioner.

(Adopted August 15, 1972.)

Source: *Miss. Code Ann.* §75-33-5.

Personnel – cleanliness and hygiene

104.01 All employees coming in contact with meat, exposed edible products, or edible products, handling or wrapping items, shall wear clean garments and keep their hands clean at all times while thus engaged. Acceptable head coverings shall be worn by employees handling edible products. Such persons shall conform to all other hygiene practices while on duty.

(Adopted August 15, 1972.)

104.02 No person who has a discharging or infected wound, sore, or lesion on hands, arms, or any exposed portion of the body shall work in any capacity of the plant which may bring him into contact with edible products. Simple cuts and abrasions or minor injuries shall receive immediate and adequate attention to assure complete protection of the food products.
(Adopted August 15, 1972.)

104.03 The use of tobacco in any form and the practice of any other objectionable personal habit shall not be permitted where exposed edible products are prepared, processed or otherwise handled.
(Adopted August 15, 1972.)

104.04 Every person after each use of toilet or change of garments shall wash his hands thoroughly before returning to duties.
(Adopted August 15, 1972.)

104.05 All employees shall secure a certificate of health from a qualified health authority (County Health Department or Company Physician, etc.). Each establishment is responsible and shall keep on file evidence supporting the freedom from communicable disease of all employees. When the owner, manager, or personnel supervisor has reasonable cause to suspect that any person employed in the establishment has contacted any disease in a communicable form, or has become a carrier of such disease he shall notify the health authority immediately.
(Adopted August 15, 1972.)

Source: *Miss. Code Ann.* §75-33-5.

<u>Housekeeping</u>

105.01 Every practicable precaution shall be taken to exclude vermin, flies, rats, mice, and insects from the establishment. Each establishment shall have an approved continuous extermination program in effect. Dogs, cats, and other pets shall be excluded from processing and storage rooms.
(Adopted August 15, 1972.)

105.02 Only such germicides, insecticides, rodenticides, detergents, or wetting agents, or other similar material may be used as will not contaminate or deleteriously affect the edible product.
(Adopted August 15, 1972.)

105.03 All wastes including inedible by-products, liquid, semi-solid, hard-solid, which are encountered in any and all phases of operation of the establishment shall be promptly disposed of by recognized and accepted means and shall not create a hazard to public health, or unsanitary situation as to be a nuisance.

(Adopted August 15, 1972.)

Source: *Miss. Code Ann.* §75-33-5.

Samples of Products

106 Samples of meat and meat-food products, water, chemicals, spices, or other articles in any establishment, may be taken for laboratory examination by an authorized inspector of the Meat Inspection Division. In such events, samples may be taken as often as necessary but only in quantities sufficient for that particular sample. The establishment management may request and shall be given receipt of same.

(Adopted August 15, 1972.)

Source: *Miss. Code Ann.* §75-33-5.

Labeling and Identification of Products

107 Each shipping container, carcass, or individual package prepared under the authority of these regulations shall bear in distinct legible form the identification of the contents, and the name and address of the processor, or distributor, together with such other necessary information as the Commissioner may require. Labels and stamp markings shall not contain information which is false or misleading and shall be approved as provided by law, regulations, or under uniform inspection procedures.

(Adopted August 15, 1972.)

Source: *Miss. Code Ann.* §75-33-5.

Meat and Meat Products Inspection Procedures

108 It shall be understood that in all inspection and plant procedures, including ante-mortem, post-mortem, processing, marking, branding, labeling, and identifying and handling of meat and meat-food products, the decision as to the disposition of all carcasses, parts of carcasses, and products regulated by the "Meat, Meat-Food, and Poultry Regulation and Inspection Act of 1960" and as subsequently amended shall be done in accordance with these regulations and the applicable portions of the regulations and inspection procedures promulgated under Public Law 90 - 201, 90th Congress, H.R. 12144, December 15, 1967, which is cited as the "Wholesome Meat Act

(Adopted August 15, 1972.)

Source: *Miss. Code Ann.* §75-33-5.

Inspection Procurement

109 Any slaughtering and/or processing establishment to which these laws and regulations apply shall qualify and have the approval of the Department of Agriculture and

Commerce, Meat Inspection Division prior to the construction and operation of the establishment.

(Adopted August 15, 1972.)

Source: *Miss. Code Ann.* §75-33-5.

Adoption of Code of Federal Regulations

110.01 Selected portions of the meat inspection regulations of the United State Department of Agriculture ("U.S.D.A.") for the administration and enforcement of the Federal Meat Inspection Act ("F. M. I. A."), 21 U. S. C. Sec. 601, et seq. and the Poultry Products Inspection Act ("P.P.I.A."), 21 U. S. C. Sec. 451, et seq., which regulations are published in the Code of Federal Regulations, Title 9, Chapter III, Subchapters A and E, entitled Meat and Poultry Inspection Regulations, are hereby adopted by the Mississippi Department of Agriculture and Commerce ("M. D.A. C.") and incorporated herein by reference thereto, as if the same were fully set out herein, as the procedures and requirements which shall be followed by the M.D.A.C. for the implementation, administration and enforcement of the Mississippi meat and poultry inspection statutes.

The specific regulations adopted by reference are as follows: 9 C. F. R. Parts 301, 302, 303, 304, 305, 306, 307, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 325, 329, 352, 354, 355, 362, 381, 416, 417, 424, 430, 441, 442, 500 and all future amendments thereof; provided, however, in said regulations the Food Safety and Inspection Service ("F. S. I. S."), an agency of the U.S.D.A. shall be construed to mean the M.D.A.C., the U.S.D.A. mark of inspection under 9 C.F.R. Part 312 shall be construed to mean the M.D.A.C. mark of inspection, the term "Administrator" shall be construed to mean the Commissioner of the M.D.A.C., the term "federally inspected establishment" shall be construed to mean "state inspected establishment" and all references to the Uniform Rules of Practice, 7 C. F. R. Subtitle A, part 1, subpart H shall be construed to mean *Miss. Code Ann.* Sec. 75-35-325. "Copies of C.F.R. sections available upon request."

(Amended November 18, 2002; January 5, 2007; March 26, 2010.)

110.02 It is hereby intended that the above described rules and regulations of the U. S. D. A., F.S. I. S. for meat and poultry inspection pursuant to the F. M. I. A. and the P. P. I. A. shall be followed by the M. D. A. C. in conducting meat and poultry inspections and in carrying out the other requirements of the meat and poultry inspection statutes of the State of Mississippi.

(Amended November 18, 2002.)

Source: *Miss. Code Ann.* §75-33-5, *Miss. Code Ann.* §75-35-17, *Miss. Code Ann.* §75-35-33 & *Miss. Code Ann.* §75-35-201.

Subpart 4-Bureau of Regulatory Services
Chapter 07- Meat and Poultry inspection
Subchapter 02-Rules and Regulations promulgated to carry out provision of
Senate Bill No. 1973, Regular Session, Mississippi Legislature 1971.

200 Pursuant to the provisions of the herein cited laws providing the authority for the Commission of Agriculture and Commerce to enter into Cooperative Agreements with the United States Department of Agriculture for the inspection of poultry slaughtering and processing plants, the following rules and regulations are hereby promulgated for the proper enforcement of said laws and State-Federal Poultry Inspection Program and other related purposes.
(Adopted May 20, 1971.)

Source: *Miss. Code Ann.* §75-33-5, *Miss. Code Ann.* §75-35-17, *Miss. Code Ann.* §75-35-33 & *Miss. Code Ann.* §75-35-201.

Responsibility of owners, managers, and operators

201.01 All persons operating establishments are required by law to construct, arrange, equip, manage, maintain such establishments according to prescribed sanitary standards in order that poultry, and/or poultry meat-food products therein prepared, stored, or sold shall not be injuriously affected so as to be rendered unfit for human consumption.
(Adopted May 20, 1971.)

201.02 Each establishment shall be inspected by the Meat Inspection Division according to prescribed standards for all establishments. No establishment shall be used for any other purpose than that for which it is specifically approved.
(Adopted May 20, 1971.)

201.03 No person shall slaughter, butcher, dress, or process for food purposes, any poultry or parts of carcasses which is in such condition that the product will be unfit for human consumption.
(Adopted May 20, 1971.)

201.04 Poultry which have died or are in a dying condition as a result of disease, injury, poisoning, or accidental causes shall be unfit for human food.
(Adopted May 20, 1971.)

201.05 No person shall sell, offer for sale, expose for sale, manufacture, or prepare for use as food, any unwholesome poultry or poultry meat-food product.
(Adopted May 20, 1971.)

201.06 No carcass, poultry, or poultry meat-food product shall be received into an establishment from unapproved sources or from establishments not having equivalent inspection.
(Adopted May 20, 1971.)

201.07 The owner, manager, or operator of each establishment shall make, maintain, and produce such records and information necessary for the Meat Inspection Division as the Commissioner may require.
(Adopted May 20, 1971.)

Source: *Miss. Code Ann.* §75-35-33.

Buildings, facilities, and equipment

202.01 Buildings:

1. All buildings shall be of sound construction and kept in good repair and shall be of such construction as to prevent the entrance or harboring of vermin. All remodeling of buildings or new construction must be of concrete, concrete blocks, tile, or brick or other impervious material. Any remodeling or new construction must have the prior approval of the Commissioner.
2. Outside openings: The doors, windows, skylights, and other outside openings of the plant shall be protected by properly fitted screens or other suitable devices against the entrance of flies and other insects. Screen doors shall open toward the outside of the building. Doors shall be provided with self-closing devices where necessary to prevent the entry of vermin into processing and storage rooms.

(Adopted May 20, 1971.)

202.02 Rooms and Compartments:

1. Rooms and compartments or receptacles used for edible products shall be separate and distinct from inedible products departments and from rooms where live poultry are held prior to slaughter. Separate rooms shall be provided, when required, for conducting processing operations in a sanitary manner; and all rooms shall be of sufficient size to permit the installation of the necessary equipment for processing operations and the conduct of each operation in a sanitary manner.
2. Refrigerated rooms, coolers, and freezers, where applicable, shall be of adequate size and capacity to provide ample refrigeration for the poultry and
3. Storage and supply rooms shall be in good repair, kept dry and the room and its contents maintained in a sanitary condition.
4. The boiler and machinery or utility room shall be a separate room where necessary to prevent its being a source of dirt or objectionable odors entering any room where edible products are prepared, processed, handled, or stored.
4. Toilet and dressing rooms shall be separated from the rest of the plant by walls extending from the floor to the ceiling and constructed in accordance with provisions of these regulations. Doors shall be solid and self-closing. A vestibule shall be of such size as to permit the closing of one door before opening the other.
5. Lunching, lounging, retail sales, etc., shall not be permitted in processing, packing, and supply rooms. If necessary, separate facilities shall be provided for such purposes.

(Adopted May 20, 1971.)

202.03 Floors, walls, ceilings, etc.:

1. The floors, walls, ceilings, partitions, posts, doors, and other interior structures shall be of such materials, construction, and finish which is impervious to moisture, so that they can be readily and thoroughly cleaned.
2. Floors:
   a. All floors in rooms where exposed products are processed, prepared, or handled shall be constructed of smooth concrete or of tile, or by other similar impervious material and kept in good repair.
   b. All floors throughout the building which are not kept dry shall be graded to permit run-off with no standing water. In new construction and renovated plants, the recommended pitch is one-fourth inch per foot to drains.
3. Ceilings and Walls:
   a. Ceilings must be moisture resistant in rooms where exposed products and utensils are prepared, handled, processed, or stored. They shall also be smooth and tightly sealed to prevent dust or dirt from sifting through and shall be acceptably finished and free of any flaking or peeling paint. If the underside of the roof with or without exposed overhead structures is used as a ceiling, it shall conform to the same sanitary requirements.
   b. All walls, posts, doors, and partitions in rooms where edible products are processed, handled, or stored shall have smooth surface impervious to moisture to enable thorough cleaning. In all new construction, the window ledges shall be set at an angle of approximately 45 degrees and all upper horizontal surfaces shall be kept to a minimum.

(Adopted May 20, 1971.)

202.04 Plumbing and Draining: There shall be an efficient draining and plumbing system for the establishment. The plumbing system in each establishment shall be installed and maintained in compliance with the best plumbing practices and State plumbing code in effect.

1. Drains and Gutters: All drains and gutters shall be properly installed with traps and vents approved by the Commissioner. The drainage and plumbing system must permit the quick run-off of all water from plant buildings, and of surface water around the plant and on the premises; and all such water shall be disposed of in such a manner as to prevent a nuisance or health hazard.
2. Sewage and Plant Wastes:
   a. All sewage and plant wastes shall be disposed of according to recognized and accepted sanitary engineering methods which will not create a public hazard or unsanitary situation so as to be a nuisance.
   b. The sewage system shall have adequate slope and capacity to remove readily all waste from the various processing operations and equipped with the necessary settling and screening devices to minimize, and if possible, to prevent stoppage and surcharging of the system.
   c. Grease traps which are connected with the sewage system shall be suitably located, but not near any edible products department or in any area where products are unloaded from, or loaded into vehicles. To facilitate cleaning, such traps should have inclined bottoms and provided with suitable covers.

d. All floor drains shall be equipped with approved traps and vents constructed so as to minimize clogging; and the plumbing shall be installed so as to prevent sewage from backing up and flooding the floors.

e. All toilet soil lines shall be separate from house drainage lines to a point outside the buildings and drainage from toilet bowls and urinals shall not be discharged into a grease catch basin.

f. Floor drainage lines shall be at least four (4) inches in diameter or larger depending on the volume of over-flow and shall be properly vented to the outside air and open into main drains at least two (2) inches larger in diameter than the floor drain lines.

g. In new construction and remodeling, valley and gutter drains shall have adequate slope and the junctions of the sides and the bottoms shall be covered and tightly sealed.

h. All refrigerator drains shall be properly trapped and vented and discharged through an air gap into the sewer system;

(Adopted May 20, 1971.)

202.05 Lavatory, toilets, and other sanitary facilities:

1. Adequate lavatory and toilet accommodations, including, but not being limited to, running hot water and cold water, soap, and approved sanitary towels shall be provided. Such accommodations shall be in, or near toilet and locker rooms and also at such other place in the plant as may be essential to the cleanliness of all personnel handling products.
2. Adequate lockers or other facilities shall be provided for employees' wearing apparel, and for the storing and changing of clothing. Wearing apparel shall not be stored in rooms where processing operations are conducted.
3. Suitable covered containers shall be provided, in sufficient numbers, for storing used towels and other waste.
4. An adequate number of hand washing facilities shall be located in areas where edible products are prepared and shall be operated by other than hand-operated controls, or shall be of a continuous flow type that provides an adequate flow of water for washing hands. All persons employed in preparation handling of food shall use this facility when reporting back to work regardless of previous washing.
5. Durable signs, with letters of not less than one inch in height, shall be posted conspicuously in each toilet room and locker room directing employees to wash their hands before returning to work.
6. Adequate toilet facilities shall be provided and the following formula shall serve as a basis for determining the number required:

PERSONS OF SAME SEX	**TOILET BOWLS REQUIRED**
1 to 15 inclusive	1
16 to 35 inclusive	2
36 to 55 inclusive	*3
56 to 80 inclusive	*4
Each 30 persons in excess of 80	1

*Urinals may be substituted for toilet bowls but only to the extent of one-third of the total number of bowls stated.

7. All toilets, lavatories, rest rooms and other sanitary facilities shall be kept clean and in good repair.
8. Suitable sanitary drinking water facilities shall be provided.

(Adopted May 20, 1971.)

202.06 Lighting:

1. All rooms and areas in the establishment shall be well lighted by natural and artificial methods according to commercial practices.
2. The following requirements shall be met, and the meeting of such requirements shall be deemed to be in compliance with this section~~.~~: At least 50-foot candles of light intensity shall be provided in areas where products are examined for cleanliness or wholesomeness; at least 30-foot candles of light intensity on all other working surfaces, and at least 5-foot candles of light at a distance of 30 inches above the floor in all other areas of the establishment.

(Adopted May 20, 1971.)

202.07 Ventilation:

1. All rooms and areas in the establishment shall be well ventilated.
2. The following requirements shall be met and the meeting of such requirements shall be deemed to be in compliance with this section.
   a. Sufficient ventilation shall be provided in the establishment to dispel disagreeing odors, condensate, and vapor. For this purpose, ventilating equipment, such as individual fans, hoods, and windows shall be provided where needed.
   b. Employee toilet rooms and dressing rooms shall be adequately vented to the outside air.
   c. Space heaters, gas stoves, water heaters, and any other equipment giving off noxious odors, fumes, or vapors shall be vented to the outside air.
   d. Any mechanical ventilating equipment shall be so located and controlled so as to minimize conditions in which products or processing equipment may be subjected to airborne contamination from nearby or preceding operations or from other sources.
   e. All exhaust outlets from mechanical ventilating devices shall be conducted to the outside air, and shall be so arranged, placed, and extended as to avoid creating a nuisance to adjacent areas.

(Adopted May 20, 1971.)

202.08 Water Supply:

1. The water supply shall be ample, clean, and potable with adequate pressure and facilities for its distribution in the plant, and its protection against contamination and pollution. A water analysis report, issued under authority of the State Board of Health Department, certifying to the potability of the water supply, shall be obtained by the plant owner or operator, and furnished to the Commissioner of Agriculture when deemed necessary or as required by the Commissioner.
2. Hose connections with steam and water mixing valves or hot water hose connections

shall be provided at convenient locations throughout the plant for cleaning purposes and the temperature of the hot water shall be maintained at not less than 180 degrees F.

3. The refuse rooms shall be provided with adequate facilities for washing refuse cans and other equipment and shall be thoroughly cleaned and scalded or steamed after each day's use.
4. Non-potable water is permitted only in those parts of official plants where no product is handled or prepared, and then only for limited purposes such as on condensers not connected with the potable water supply, in vapor lines serving inedible products rendering tanks, and in sewer lines for moving heavy solids in the sewage. Non-portable water is not permitted for washing floors, areas, or equipment, nor is it permitted in boilers, scalders, chill vats, or ice making machines. Non-potable water lines shall be clearly identified and shall not be cross connected with the potable supply line. Any untested water supply in an official establishment shall be treated as a non-potable supply.

(Adopted May 20, 1971.)

Source: *Miss. Code Ann.* §75-35-33.

Equipment and Utensils

203 Equipment and utensils used for the preparation, processing or otherwise handling of any product in the plant, shall be suitable for the purpose intended and shall be of such material and construction as will facilitate their thorough cleaning and insure cleanliness in the preparation and handling of products. In addition, surfaces which contact poultry and/or meat products shall be nontoxic, corrosive-resistant, smooth, free from breaks, open seams, cracks, and chipped places. Stainless steel may be required where continued use and heavy corrosion occur. All equipment and utensils shall be maintained in a clean and sanitary condition; adequate washing vats, cleaning facilities and storage space shall be provided for this purpose. Trucks and receptacles used for handling inedible products shall be of similar construction and shall be conspicuously and distinctly marked and shall not be used in handling any edible products. Equipment and utensils used in the plant shall not be used outside the plant except under the conditions as may be approved by the Commissioner.

(Adopted May 20, 1971.)

Source: *Miss. Code Ann.* §75-35-33.

Personnel – cleanliness and hygiene

204.01 All employees coming in contact with meat and/or poultry, exposed edible products, or edible products, handling or wrapping items, shall wear clean garments and keep their hands clean at all times while thus engaged. Acceptable head coverings shall be worn by employees handling edible products. Such persons shall conform to all other hygiene practices while on duty.

(Adopted May 20, 1971.)

204.02 No person who has a discharging or infected wound, sore, or lesion on hands, arms, or any exposed portion of the body shall work in any capacity of the plant which may bring him into contact with edible products. Simple cuts and abrasions or minor injuries shall receive immediate and adequate attention to assure complete protection of the food products.
(Adopted May 20, 1971.)

204.03 The use of tobacco in any form and the practice of any other objectionable personal habit shall not be permitted where exposed edible products are prepared, processed, or otherwise handled.
(Adopted May 20, 1971.)

204.04 Every person after each use of toilet or change of garments shall wash his hands thoroughly before returning to duties.
(Adopted May 20, 1971.)

204.05 All employees shall secure a certificate of health from a qualified health authority (County Health Department or Company Physician, etc.). Each establishment is responsible and shall keep on file evidence supporting the freedom from communicable disease of all employees. When the owner, manager, or personnel supervisor has reasonable cause to suspect that any person employed in the establishment has contacted any disease in a communicable form, or has become a carrier of such disease he shall notify the healthy authority immediately.
(Adopted May 20, 1971.)

Source: *Miss. Code Ann.* §75-35-33.

Housekeeping

205.01 Every practicable precaution shall be taken to exclude vermin, flies, rats, mice, and insects from the establishment. Each establishment shall have an approved continuous extermination program in effect. Dogs, cats, and other pets shall be excluded from processing and storage rooms.
(Adopted May 20, 1971.)

205.02 Only such germicides, insecticides, rodenticides, detergents, or wetting agents, or other similar material may be used as will not contaminate or deleteriously affect the edible product.
(Adopted May 20, 1971.)

205.03 All wastes including inedible by-products, liquid, semi-solid, hard-solid, which are encountered in any and all phases of operation of the establishment shall be promptly disposed of by recognized and accepted means and shall not create a hazard to public health, or unsanitary situation as to be a nuisance.
(Adopted May 20, 1971.)

Source: *Miss. Code Ann.* §75-35-33.

Samples of Products

206 Samples of meat and/or poultry and poultry meat-food products, water, chemicals, spices, or other articles in any establishment, may be taken for laboratory examination by an authorized inspector of the Meat Inspection Division. In such events, samples may be taken as often as necessary but only in quantities sufficient for that particular sample. The establishment management may request and shall be given receipt of same.

(Adopted May 20, 1971.)

Source: *Miss. Code Ann.* §75-35-33.

Labeling and Identification of Products

207 Each shipping container, carcass, or individual package prepared under the authority of these regulations shall bear in distinct legible form the identification of the contents and the name and address of the processor, or distributor, together with such other necessary information as the Commissioner may require. Labels and stamp markings shall not contain information which is false or misleading and shall be approved as provided by law, regulations, or under uniform inspection procedures.

(Adopted May 20, 1971.)

Source: *Miss. Code Ann.* §75-35-33.

Poultry and Poultry Products Inspection

208 It shall be understood that in all inspection and plant procedures, including ante-mortem, post-mortem, processing, marking, branding, labeling, and identifying and handling of poultry and poultry products, the decision as to the disposition of all carcasses, parts of carcasses, and products regulated by the "Meat, Meat-Food, and Poultry Regulation and Inspection Act of 1960" and as subsequently amended shall be done in accordance with these regulations and the applicable portions of the regulations and inspection procedures promulgated under Public Law 90 - 492, 90th Congress H.R. 16363, August 18, 1968, which is cited as the "Wholesome Poultry Products Act."

(Adopted May 20, 1971.)

Source: *Miss. Code Ann.* §75-35-33.

Inspection Procurement

209 Any slaughtering and/or processing establishment to which these laws and regulations apply shall qualify and have the approval of the Department of Agriculture and Commerce, Meat Inspection Division prior to the construction and operation of the establishment.

(Adopted May 20, 1971.)

Source: *Miss. Code Ann.* §75-35-33.

Adoption of Code of Federal Regulations

210.01 Selected portions of the meat inspection regulations of the United State Department of Agriculture ("U.S.D.A.") for the administration and enforcement of the Federal Meat Inspection Act ("F. M. I. A."), 21 U. S. C. Sec. 601, et seq. and the Poultry Products Inspection Act ("P.P.I.A."), 21 U. S. C. Sec. 451, et seq., which regulations are published in the Code of Federal Regulations, Title 9, Chapter III, Subchapters A and E, entitled Meat and Poultry Inspection Regulations, are hereby adopted by the Mississippi Department of Agriculture and Commerce ("M. D.A. C.") and incorporated herein by reference thereto, as if the same were fully set out herein, as the procedures and requirements which shall be followed by the M.D.A.C. for the implementation, administration and enforcement of the Mississippi meat and poultry inspection statutes. The specific regulations adopted by reference are as follows: 9 C. F. R. Parts 301, 302, 303, 304, 305, 306, 307, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 325, 329, 352, 354, 355, 362, 381, 416, 417, 424, 430, 441, 442, 500 and all future amendments thereof; provided, however, in said regulations the Food Safety and Inspection Service ("F. S. I. S."), an agency of the U.S.D.A. shall be construed to mean the M.D.A.C., the U.S.D.A. mark of inspection under 9 C.F.R. Part 312 shall be construed to mean the M.D.A.C. mark of inspection, the term "Administrator" shall be construed to mean the Commissioner of the M.D.A.C., the term "federally inspected establishment" shall be construed to mean "state inspected establishment" and all references to the Uniform Rules of Practice, 7 C. F. R. Subtitle A, part 1, subpart H shall be construed to mean *Miss. Code Ann.* Sec. 75-35-325. "Copies of C.F.R. sections available upon request."

(Amended December 2002; January 5, 2007; March 26, 2010.)

210.02 It is hereby intended that the above described rules and regulations of the U. S. D. A., F.S. I. S. for meat and poultry inspection pursuant to the F. M. I. A. and the P. P. I. A. shall be followed by the M. D. A. C. in conducting meat and poultry inspections and in carrying out the other requirements of the meat and poultry inspection statutes of the State of Mississippi.

(Amended December 2002.)

Source: *Miss. Code Ann.* §75-33-5, *Miss. Code Ann.* §75-35-17, *Miss. Code Ann.* §75-35-33 & *Miss. Code Ann.* §75-35-201.

Subpart 4-Bureau of Regulatory Services
Chapter 07-Meat and Poultry Inspection
Subchapter 3-Rules and regulations promulgated to carry out provisions of the Animal and Poultry By-Products Disposal Act of 1964 and as amended

300 The Commissioner of Agriculture or his duly authorized deputies as provided by law are designated to administer and enforce the provisions of the Animal and Poultry By-Products Disposal Act of 1964 and all rules and regulations and requirements thereunder.
(Adopted July 1, 1972.)

Source: *Miss. Code Ann.* §75-33-5, *Miss. Code Ann.* §75-35-17, *Miss. Code Ann.* §75-35-33 & *Miss. Code Ann.* §75-35-201.

Responsibility of owners, managers, and operators

301.01 All persons operating establishments are required by law to construct, arrange, equip, manage, and maintain such establishments according to prescribed sanitary and safety standards in order that human and animal public health dangers, and public annoyances and nuisances which may occur from said rendering or disposal operation shall be prevented or eliminated.
(Adopted July 1, 1972.)

301.02 Each establishment shall be inspected by the Department of Agriculture according to prescribed standards for all establishments. No establishment shall be used for any other purpose than that for which it is specifically approved.
(Adopted July 1, 1972.)

301.03 No animal which has died of a contagious and communicable disease shall be removed from any quarantined premises, or transported over the highways of this State or received into a disposal plant or rendering plant except under the specific supervision and with the expressed consent of the Animal Public Health Authorities.
(Adopted July 1, 1972.)

301.04 The owner, manager, or operator of each establishment shall make, maintain, and produce such records and information necessary for the Department of Agriculture as the Commissioner may require.
(Adopted July 1, 1972.)

Source: *Miss. Code Ann.* §75-35-33.

Buildings, Rooms and Compartments

302.01 Buildings:

1. All buildings shall be of sound construction and kept in good repair and shall be of such construction as to prevent the entrance of harboring of vermin. All remodeling of buildings or new construction must be of concrete, concrete blocks, tile, or brick or other impervious material. Any remodeling or new construction must have the prior

approval of the Commissioner of Agriculture.

2. Outside Openings: The doors, windows, skylights, and other outside openings of the plant shall be protected by properly fitted screens or other suitable devices against the entrance of files and other insects. Doors shall be provided with self-closing devices where necessary to prevent the entry of animals, birds, rodents, and vermin into processing and storage rooms.
3. Sewage, drainage, or waste water of any kind shall be disposed of according to recognized and accepted sanitary engineering methods which will not create a public health or unsanitary situation so as to be a nuisance.

(Adopted July 1, 1972.)

302.02 Rooms and compartments**:**

1. Rooms and compartments or receptacles used for processing products shall be separate and distinct from the unprocessed raw materials. Separate rooms shall be provided, when required, for conducting processing operations in a sanitary manner according to good commercial practice. Storage rooms and bins must be constructed and maintained so that the finished product shall not be contaminated.
2. All equipment installed for use in disposal or rendering plants shall be constructed and maintained according to recognized and approved engineering methods as to prevent any avoidable escape of odors into the air.

(Adopted July 1, 1972.)

Source: *Miss. Code Ann.* §75-35-33.

Vehicles

303.01 Each truck body, trailer body, semi-trailer body or other equipment so used in transportation of said rendering operation shall be of all metal construction, water-tight, and which can be readily cleaned and maintained in a sanitary condition. Cleaning and disinfection of each unit shall be conducted according to methods and procedures as approved or as prescribed by the Department of Agriculture.

(Adopted July 1, 1972.)

303.02 Each vehicle unit, when operated upon the public roads and streets shall be completely and securely covered to repel rain, insects, and to prevent exposure of the cargo to view.

(Adopted July 1, 1972.)

303.03 Any leakage, spillage, or loss of the rendering material or of any fluid content therewith upon the public roads and streets shall be strictly prohibited.

(Adopted July 1, 1972.)

303.04 Each unit shall be presented for inspection by arrangement with the inspector for the Department of Agriculture. Each unit so inspected and approved will be issued a metal identification plate which shall be secured to the front left corner of the unit. The attachment and prevention of its loss or being removed is the responsibility of the owner or responsible agent. The identification plate when issued shall remain the property of the Department of Agriculture and shall be surrendered when the unit ceases to be

registered or approved for in the Law and in these regulations. No unit shall be used without the Department of Agriculture identification plate attached thereon. The identification plate shall not be transferred from one unit to another except by registration, inspection and transfer by the Commissioner of Agriculture, or his duly authorized deputies.

(Adopted July 1, 1972.)

Source: *Miss. Code Ann.* §75-33-5, *Miss. Code Ann.* §75-35-17, *Miss. Code Ann.* §75-35-33 & *Miss. Code Ann.* §75-35-201.

Subpart 4-Bureau of Regulatory Services
Chapter 08-Petroleum Products Inspection Law

Specifications Tolerances, and Other Technical Requirements For Liquid Measuring Devices

100.01 The Commissioner or his agent or employee shall have the authority to test with instruments, devices, standards or provers with calibration traceable to the National Institute of Standards and Technology all devices used in the delivery and sale of petroleum products volume or weight.

100.02 The tolerances for devices used for retail sales of petroleum, products regulated shall be as follows:

1. The maintenance tolerance shall be one cubic inch plus one cubic inch per indicated gallon.
2. The acceptance tolerance shall be one half (1/2) of the maintenance tolerances.
3. The maintenance tolerance for test drafts over 10 gallons shall be 0.3%.
4. The acceptance tolerance for test drafts over 10 gallons shall be 0.2%
5. Applicable testing and technical requirements shall be in accordance with the latest edition of the National Institute of Standards and Technology Handbook 44, except when in conflict with existing or modified rules and regulations or when rejected by the same.
6. Retail devices for motor fuels shall be condemned for repair when the test shows the device to exceed a tolerance of plus or minus 25 cubic inches on a measure of five 5 gallons. Owners or owner's agents of devices and/or petroleum products dispensed having a tolerance exceeding plus 25 cubic inches may request a waiver of condemnation of such device from the Commissioner of Agriculture and Commerce, or from a duly appointed agent.
7. All such pumps found to be giving accurate measure within the tolerance established by regulations of the Commissioner and the State Chemist shall have the adjusting device sealed with an official wire seal applied by an inspector duly authorized by the Commissioner in such a manner that the adjustment cannot be altered without breaking the seal.
8. If any pump shall be found to be giving inaccurate measure in excess of the maintenance tolerance established herein, the inspector shall then and there notify the operator of the pump, whether owner or lessee, to make the necessary adjustments. After the adjustments have been made, the adjusting devices shall be sealed in the manner provided for those pumps found originally accurate. If, after adjustments, the pump is giving short measure in excess of the acceptance tolerance established herein a stop sale order will be issued. Corrections must be made and the Commissioner must be notified of corrections prior to resumption of sales.
9. It shall be unlawful to install or operate any self-measuring pump which can be secretly manipulated in such manner as to give short measure. Such inaccurate self-measuring pump shall be condemned as provided in this , and thereafter it shall be unlawful for any person to sell kerosene, diesel fuel, gasoline or alcohol blended fuel from such pump until it has been made or altered to comply with this part by a

licensed petroleum equipment repairman. The pump shall be inspected and tested for accuracy by an MDAC inspector within thirty 30 days of its repair.

(Amended 2001.)

Source: *Miss. Code Ann.* §75-55-3.

Notice of Violations; Illegal Withold from Sale; Condemned for Repair; Definitions; Compliance

101 The definitions and compliance requirements of petroleum products regulated under terms of the Petroleum Products Inspection Law and Regulations:

1. Notice of Violations shall be issued for defects in equipment having minor impact on quality, quantity, nature, price, display of products sold. Corrective action must be performed within time specified. A Stop Sale Order may result when corrections are not made and/or deficiencies still occur. The Commissioner and State Chemist, upon notification of correction, may permit the resale of said petroleum product prior to subsequent inspection, testing and/or analysis.
2. Stop sale Order is normally issued for violations of product quality. Corrections must be made prior to resumption of sales. The Commissioner and State Chemist, upon notification of correction, may permit the resale of material prior to subsequent inspection, testing and/or analysis.
3. A Stop Sale Order is issued for equipment or devices that cannot be used in conjunction with the commercial sale of petroleum product due to failure to meet requirements of the Petroleum Testing Law and/or Regulations. The equipment or device must be repaired prior to resale of petroleum product material. The equipment or device should be inspected again and resealed as quickly as possible. It shall be unlawful for anyone other than a licensed petroleum equipment repairman or an official petroleum products inspector to remove an official seal from a retail petroleum pump, meter or delivery device. Official seals may be installed on petroleum products pumps, meters or delivery devices only by a licensed petroleum equipment repairman or an official petroleum products inspector and it shall be unlawful to dispense fuel from a retail pump, meter or other delivery device without an official seal properly attached.
4. A Stop Sale Order issued for failure to comply with the above notifications may result in the condemnation of product or devices and other action as provided by the Petroleum Products Inspection Law and Regulations.

(Amended February 12, 2001.)

Source: *Miss. Code Ann.* §75-55-3.

Test Measures: Fill Pipe

102.01 In testing measuring devices, the Inspector shall have authority to draw from each pump sufficient product to determine the accuracy of the dispensing device.

102.02 For this purpose, official and approved test measuring cans or provers shall be used. In order that the Inspector may dispose of the product in the test measure it is hereby made an obligation of the owner or operator of the station to provide containers of sufficient quantity into which the Inspector may empty the product from his test measure in the event that ground level storage tank fill pipes are not present.

102.03 If the design, construction, or location of any device is such as to require a testing procedure involving special equipment, or accessories or an abnormal amount of labor, such equipment, accessories and labor shall be supplied by the owner or operator of the device as required by the Department of Agriculture and Commerce Inspector.

Source: *Miss. Code Ann.* §75-55-3.

Water in Retail Tanks

103.01 Water in Gasoline, Diesel, Gasoline-Ether, and Other Fuels. Water shall not exceed 1 inch in depth when measured with water indicating paste in any tank utilized in the storage of biodiesel, diesel, gasoline, gasoline-ether blends and kerosene sold at retail except as required in Section 103.02. A stop sale order issued on any product in violation of this regulation will not be lifted until the water is removed from the tank containing said product.
(Amended February 12, 2001; October 27, 2008.)

103.02 Water in Gasoline-Alcohol Blends, Aviation Blends, Biodiesel Blends, E85 Fuel Ethanol, Aviation Gasoline, and Aviation Turbine Fuel. No water phase greater than ¼ inch as determined by an appropriate detection paste or other acceptable means, is allowed to accumulate in any tank utilized in the storage of gasoline-alcohol blend, biodiesel, biodiesel blends, E85 fuel ethanol, aviation gasoline, and aviation turbine fuel. A stop sale order issued on any product in violation of this regulation will not be lifted until the water is removed from the tank containing said product.
(Adopted October 27, 2008.)

Source: *Miss. Code Ann.* §75-55-3.

Samples for Laboratory Testing

104 Samples of products regulated under terms of the Petroleum Products Inspection Law shall be drawn by the Commissioner, his agent or employee for testing by the State Chemist or his agent or employee. Each such sample shall not exceed one gallon.

Source: *Miss. Code Ann.* §75-55-3.

Registration of Dealers of Petroleum Products

105 1. a. Every dealer in gasoline, alcohol blended fuel or other petroleum products, before selling or exposing or offering for sale these products, and annually thereafter,

shall be required to register and shall make known to the Commissioner and State Chemist his desire to sell gasoline or alcohol blended fuel or other petroleum products giving the name and manner and kind of pump or pumps he will use at the location of same, and shall display the certificate or certificates of registration issued by the Commissioner of Agriculture and Commerce in a prominent and accessible place in his business where such product is sold. The form of such certificate shall be designated by the Commissioner.

b. Prior to selling any product registered in subparagraph a, every dealer shall identify each retailer to which the dealer sells registered products. The identification shall include the owner of the retailer's name and the owner's address and telephone number. The dealer's identification of the retailers to which the dealer sells registered products shall be made annually.

2. Each registered product and each location where registered product is sold must meet the requirements of the Petroleum Products Inspection Law and the rules and regulations adopted herein in support of the Law before that product will be registered by the Department.
3. Registration should be made at least 30 days before the dealer desires to sell the product in order to give the Department and the State Chemist adequate time to certify that the product and the location meet the requirements of the Petroleum Products Inspection Law and the rules and regulations adopted herein in support of the law.

(Amended April 15, 2008; September 22, 2010.)

Source: *Miss. Code Ann.* §75-55-3.

Labeling requirements – Gasoline Alcohol Blends

106.01 All gasoline, leaded or unleaded kept, offered, or exposed for sale, or sold, at retail containing one percent 1% or more by volume of ethanol, methanol, or an ethanol/methanol mixture shall be identified as "with" or "containing" or similar wording "ethanol", "methanol" or "ethanol/methanol" on the upper fifty percent of the dispenser front panel on a position clear and conspicuous from the driver's position, in a type at least 1/2 inch in height, 1/16 inch stroke width of type. All letters in black with a contrasting background.

106.02 All distributors, processors, refiners and other persons receiving, storing, selling, distributing or transporting gasoline that contains one percent 1% by volume or more of methanol, ethanol, ethanol/methanol or other alcohol must identify the type and percentage of such alcohol on any invoice, bill of lading, shipping paper or other type of documentation used in normal and customary business practice.

Source: *Miss. Code Ann.* §75-55-3.

Petroleum Products Not Meeting Specifications

107.01 Gasoline, alcohol blended fuel, diesel fuel, kerosene, fuel oil or other products regulated under terms of the Petroleum Products Inspection Law found below the prescribed standard shall be placed under an order of "Stop Sale" and disposed of as directed by the Commissioner and State Chemist. Where such product can be reconditioned or successfully blended with or used as another product, the same may be disposed of upon the order of the Commissioner and State Chemist.

107.02 If the product is at a retail service station or bulk plant, it shall be returned to the terminal or refinery or be shipped out of this State. At the terminal, the product may be pumped into storage with sufficient quantities of like product so that the combination meets the required specifications. If returned to the refinery, the product may be blended or reprocessed so that it meets the required specifications.

107.03 When a product under stop sale order is to be shipped out of state, such product shall be loaded under the supervision of the Commissioner or his agent and a report of transport prepared. The report shall be signed by the state scale operator at the time the truck leaves the State.

107.04 The receipt and unloading into storage of a product under stop sale order at a bulk plant, terminal, or refinery shall be done under the supervision of the Commissioner or his agent.

107.05 The report of transport, prepared by the Commissioner or his agent must be filed with any claim for credit on taxes paid on a product which was withdrawn under order of stop sale.

107.06 In no event, will the mixture of a product which does not meet specifications and a like product meeting specifications, which was combined in order to bring the combination up to the required specifications, be sold or dispensed until such combination has been sampled by the Commissioner or his agent at the point of blending, tested by the State Chemist and found to meet the required legal specifications.

107.07 Refiners, terminals, bulk plants shall furnish the Commissioner with the names of all persons who received the product prior to the effective dates of the stop sale order and the quantity received.

107.08 The Commissioner and State Chemist may revoke the permits of any person who sells a product after being notified by a stop sale order or otherwise that the sale of such products was prohibited.

Source: *Miss. Code Ann.* §75-55-3.

<u>Standard Specifications</u>

108.01 The Commissioner and State Chemist hereby adopt by reference, including subsequent amendments and editions, ASTM D 4814, "Standard Specification for Automotive Spark-Ignition Engine Fuel" as standard specification for gasoline with the following

modifications:

1. Applications for temporary exceptions to vapor pressure and vapor/liquid ratio specifications as provided in this Subparagraph may be made to the Commissioner and State Chemist. Said applications shall contain evidence that outlets marketing gasoline in Mississippi cannot be supplied from bulk terminals furnishing specified volatility level gasoline or that customary sources of supply have been temporarily interrupted by product shortage and alternate sources furnishing specified volatility level gasoline are not available. Such temporary exceptions granted shall apply only until the next meeting of the Commissioner and State Chemist at which time the Commissioner and State Chemist shall establish the duration of the exception;
2. Vapor pressure and vapor/liquid ratio seasonal specifications as listed in this Subparagraph may be extended for a maximum period of 15 days to allow for the disbursement of old stocks. However, new stocks of a higher volatility classification shall not be offered for retail sale prior to the effective date of the higher volatility classification.

(Amended February 12, 2001, June 4, 2008.)

108.02 The Commissioner and State Chemist hereby adopt by reference, including subsequent amendments and editions, ASTM D 4814, "Standard Specification for Automotive Spark-Ignition Engine Fuel" as standard specification for alcohol blends with the following modifications:

1. A vapor pressure tolerance not exceeding one pound per square inch for ethanol blends of up to 10 percent;
2. Vapor pressure seasonal specifications as listed in this Subparagraph may be extended for a maximum period of 15 days to allow for the disbursement of old stocks. However, new stocks of a higher volatility classification shall not be offered for retail sale prior to the effective date of the higher volatility classification;
3. Applications for temporary exceptions to vapor pressure specifications as provided in this Subparagraph may be made to the Commissioner and State Chemist. Said applications shall contain evidence satisfactory to the Commissioner and State Chemist that outlets marketing gasoline in Mississippi cannot feasibly be supplied from bulk terminals furnishing specified volatility level gasoline or that customary sources of supply have been temporarily interrupted by product shortage and alternate sources furnishing specified volatility level gasoline are not available. Such temporary exceptions granted shall apply only until the next meeting of the Commissioner and State Chemist at which time the Commissioner and State Chemist shall establish the duration of the exception;
4. The minimum temperature at 50 percent evaporated shall be 150 degrees F (66 degrees C) as determined by ASTM Test Method D 86 for ethanol blends of up to 10 percent;
5. The vapor/liquid ratio specification shall be waived for ethanol blends of up to 10 percent;
6. All blends shall be blended according to the EPA "Substantially Similar" rule or an EPA waiver for unleaded fuel;
7. Water tolerance shall be such that no phase separation occurs when subjected to a temperature equal to the temperatures specified in the table for "Maximum Temperature for Phase Separation, ^{o}C," ASTM D 4814.

(Adopted June 4, 2008.)

108.03 The Commissioner and State Chemist hereby adopt by reference, including subsequent amendments and editions, ASTM D 5798, "Standard Specification for Fuel Ethanol (Ed75-Ed85) for Automotive Spark-Ignition Engines" as standard specification for E85 fuel ethanol.

(Adopted June 4, 2008.)

108.04 The Commissioner and State Chemist hereby adopt by reference, including subsequent amendments and editions, NIST Handbook 130, "Uniform Engine Fuels, Petroleum Products and Automotive Lubricants Regulation," section 2.2.1 "Premium Diesel Fuel" as the standard specification of premium diesel fuels in addition to ASTM D 975. Copies of this document may be obtained at no cost from the NIST Web site - http://ts.nist.gov/WeightsandMeasures/.

(Adopted June 4, 2008.)

108.05 ASTM documents adopted by reference herein may be obtained from ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428-2959 or their Web site - www.astm.org.

(Adopted June 4, 2008.)

Source: *Miss. Code Ann.* §75-55-3.

Gasoline/Alcohol Blends

109 (Repealed June 4, 2008.)

Blending or Compounding Gasoline.

110 The blending of different grades of gasoline, alcohol blended fuel, octane enhancing additives, straight run, casinghead or natural gasoline, naphthous, and other compounds to produce gasoline and alcohol blended fuel is prohibited at retail outlets. Provided, however, a blending pump designed, manufactured and sold for the purpose of blending two or more grades of gasoline, alcohol blended fuel octane enhancing additives, straight run, casinghead or natural gasoline, naphthous and other compounds shall be permitted. The finished product produced by the blending pump or unit shall meet all standards and specifications set forth in *MISS. CODE ANN.* §75-55-5, or any rule or regulation promulgated thereunder.

(Amended 2002.)

Source: *Miss. Code Ann.* §75-55-3.

Severability of provision

111 Should any paragraph, sentence, clause or phrase of these regulations be adjudged invalid or unconstitutional, such adjudication shall affect only that paragraph, sentence, clause,

or phrase specifically covered thereby and shall not affect any other provisions or parts of these regulations.

Source: *Miss. Code Ann.* §75-55-3.

112 Administrative Action

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.)

Source: *Miss. Code Ann.* §75-55-3.

<u>Biodiesel Regulation for B100 and Biodiesel/Petroleum Diesel Fuel Blends</u>
<u>Renewable Diesel and Co-Processed Renewable Diesel</u>

113.01 Definitions: For use in this regulation, the following terms and definitions apply. The word "shall" indicates mandatory requirements of this regulation.

1. Alcohol-means methanol, ethanol, isopropyl alcohol, n-propanol (n-propyl alcohol), and any form of butyl alcohol (butanol).
2. Biodiesel-means an oxygenated fuel comprised of mono-alkyl esters of long chain fatty acids from biologically derived oil and fats and shall be designated B100.
3. Biodiesel Blends-means a fuel comprised of a blend of biodiesel with petroleum-based diesel fuel in a specified ratio and shall be designated as BXX. In the abbreviation BXX, the XX represents the volume percentage of biodiesel fuel in the blend. For the purpose of meeting the fuel specifications in subsection 113.02, any fractional percentage of biodiesel will be rounded up to the next whole number. For instance, a B5.3 product will be required to meet the fuel specifications for B6.
4. Certificate of Analysis (COA) or Certificate of Full Specification Analysis-a document issued by the producer showing that biodiesel and biodiesel blends meet the requirements and specifications set forth in this regulation. The certificate must contain the date of certification and may not be older than 90 days from the date of issue. The testing may be performed by either the producer, importer or an independent laboratory; but, it must be conducted per 300,000 gallons of produced biodiesel and biodiesel blend or every 90 days, whichever comes first. A COA will

not be required for a biodiesel blend if a producer has a current COA for biodiesel and petroleum diesel used to make the biodiesel blend.

5. Cetane number-means a numerical measure of the ignition performance of a diesel fuel obtained by comparing it to reference fuels in a standardized engine test.
6. Co-Processed Renewable Diesel – means renewable diesel that is produced when an oil company adds small amounts vegetable oils or animal fats to the traditional petroleum refining process when producing diesel fuel (co-processing) that meets the fuel specification requirements of ASTM D975 (petroleum diesel fuel) or ASTM D396 (home heating oil). Scheduled to be produced in existing oil refineries.
7. Distributor/Retailer/Marketer-means an entity engaged in the business of the distribution and sale of biodiesel and/or biodiesel blends of B1 or greater.
8. Grade of product-means B100 or BXX.
9. Producer/Blender-means the entity responsible to the first purchaser of biodiesel or biodiesel blend or renewable diesel or renewable diesel blend or co-processed renewable diesel or co-processed renewable diesel blend for that biodiesel or biodiesel blend or renewable diesel or renewable diesel blend or co-processed renewable diesel or co-processed renewable diesel blend meeting the specifications set forth in this regulation.
10. Renewable Diesel – means fuel produced from biological material using a process called "thermal depolymerization" that meets the fuel specification requirements of ASTM D975 (petroleum diesel fuel) or ASTM D396 (home heating oil). Produced in free-standing facilities.

(Adopted August 26, 2009.)

113.02 Standard fuel specifications for diesel fuel used in biodiesel blends, biodiesel, and biodiesel blends.

1. Diesel Fuel. All petroleum diesel fuel used in biodiesel blends shall meet the requirements of the most recent version of ASTM D 975, "Standard Specification for Diesel Fuel Oils" prior to blending with biodiesel.
2. Biodiesel. All biodiesel intended for sale or for blending with diesel shall meet the requirements listed in Table 1 prior to blending with petroleum diesel fuel.
3. Biodiesel Blends. Blends of biodiesel and petroleum diesel fuels shall meet the following requirements:
   a. Blends of B1-B5. The biodiesel is treated in these blends as a performance fuel oxygenate additive to petroleum diesel; therefore, these blends must meet the specifications in ASTM D 975, "Standard Specification of Diesel Fuel Oils".
   b. Blends of B6-B20. These blends shall meet the specification requirements of Table 2.
   c. Blends of B21-B80. These blends shall meet the specification requirements of Table 3.
   d. Blends of B81-B99. These blends shall meet all of the requirements and specifications of B100 as in Table 1. These blends will be considered as B100 fuel with additives that increase the performance of pure biodiesel.
4. Renewable Diesel. Blends of Renewable Diesel and petroleum diesel fuels shall meet the specifications in ASTM D 975, "Standard Specification of Diesel Fuel Oils" or ASTM D 396 "Standard Specification of Home Heating Oil".

5. Co-Processed Renewable Diesel. Blends of Co-Processed Renewable Diesel and petroleum diesel fuels shall meet the specifications in ASTM D 975, "Standard Specification of Diesel Fuel Oils" or ASTM D 396 "Standard Specification of Home Heating Oil".

(Adopted 26, 2009.)

Table 1. Biodiesel specifications.

Property	Test Method[a]	Grade S15 Limits	Grade S500 Limits	Units
Kinematic Viscosity, 104°F	ASTM D 445	1.9-6.0	1.9-6.0	mm^2/s
Sulfated Ash	ASTM D 874	0.020 max	0.020 max	% mass
Sulfur	ASTM D 7220 ASTM D 4294	0.0015 max (15)	0.05 max (500)	% mass (ppm)
Copper strip Corrosion	ASTM D 130	No. 3 max	No. 3 max	
Cetane Number	ASTM D 613	47 min	47 min	
Cloud Point	ASTM D 2500	Report	Report	°F
Cold Filter Plugging Point	ASTM D 6371	Report	Report	°F
Carbon Residue	ASTM D 4530	0.050 max	0.050 max	% mass
Acid Number	ASTM D 664	0.50 max	0.50 max	mg KOH/g
Free glycerin	ASTM D 6584	0.020	0.020	% mass
Total glycerin	ASTM D 6584	0.240	0.240	% mass
Phosphorous content	ASTM D 4951	0.001 max	0.001 max	% mass
Distillation Temperature, Atmospheric equivalent temperature. 90% recovered	ASTM D 1160	680 max	680 max	^{0}F
Water and sediment	ASTM D 2709	0.050 max	0.050 max	% volume
Oxidation Stability	EN 14112	3	3	hours
Flash Point	ASTM D 93	266[b] F min.	266[b] F min	F min
Alcohol content	EN 14110	0.20 max	0.20 max	% mass
Calcium and Magnesium, Combined	EN 14538	5 max	5max	ppm
Cold Soak filterability		360	360	seconds
Sodium and potasium	EN 14538	5 max	5 max	ppm

[a] The indicated test methods are the approved referee methods in Mississippi. Other acceptable substitute methods are accepted if approved by ASTM.

[b]If grade No. 1-D or blends of Grade No. 1-D and grade no.2-D diesel fuel are used, the minimum flash point shall be 100 °F.

Table 2. Detailed Requirements for B6-B20 biodiesel blends.

Property	Test Method[a]	B6 - B20 S15	B6 - B20 S500[b]	B6 - B20 S5000[c]
Acid Number Mg KOH/g, max	ASTM D 664	0.3	0.3	0.3
Viscosity mm^2/s at 104 ^oF	ASTM D 445	1.9-4.1[d]	1.9-4.1[d]	1.9-4.1[d]
Flash Point, ^oF, min	ASTM D 93	125[f]	125[f]	125[f]
Cloud Point ^oF, max	ASTM D 2500	Record	Record	Record
Cold Filter Plugging Point ^oF, max	ASTM D 6371	Record	Record	Record
Sulfur Content, (µg/g) max Mass % max	ASTM D 7039 ASTM D 4294	 0.0015	 0.05	 0.50
Distillation Temperature ^oF, 90% evaporated max	ASTM D 86	649	649	649
Ramsbottom Carbon Residueon 10% Bottoms, mass % max	ASTM D 524	0.35	0.35	0.35
Cetane Number	ASTM D 613	40	40	40
Ash Content, mass % max	ASTM D 1319	35	35	35
Water and Sediments Volume %, max	ASTM D 2709	0.05	0.05	0.05
Copper,Corrosion, 3 hrs @ 122 ^oF, max	ASTM D 130	No. 3	No. 3	No. 3
Biodiesel content, % v/v	EN 14078	6-20	6-20	6-20
Oxidation Stability hrs, min	EN 14112	6	6	6
Ash Content, mass%, max	ASTM D 462	0.01	0.01	0.01

[a] The indicated test methods are the approved referee methods in Mississippi. Other acceptable substitute methods are accepted if approved by ASTM.

[b]Under United States of America regulations, if grade B20 S500 are sold for tax exempt purpose then, at or beyond terminal storage tanks, they are required by 26 CFR part 48 to contain the dye Solvent Red 164 at a concentration spectrally equivalent to 3.9 lb per thousands barrels of the solid dye standard Solvent Red 164, or the tax must be collected.

[c]Under United States of America regulations, Grades B20 S5000 are required by 40 CFR part 8- to contain sufficient amount of the dye Red 164 so its presence is visually apparent. At or beyond terminal storage tanks, they are required by 26 CFR Part 48 to contain the dye Solvent Red 164 at a concentration spectrally equivalent to 3.9 lb per thousand barrels of the solid dye standard Solvent Red 26,
[d]If grade No. 1-D or blends of Grade No. 1-D and grade no.2-D diesel fuel are used, the minimum viscosity shall be 1.3 mm^2/s.
[f]If grade No. 1-D or blends of Grade No. 1-D and grade no.2-D diesel fuel are used, the minimum flash point shall be 100 ^oF.

Table 3 Detailed requirements for B21-B80 biodiesel blends.

Property	**Test Method[a]**	**B21 - B80 S15**	**B21 - B80 S500[b]**	**B20 - B80 S5000[c]**
Acid Number, mg KOH/g, max	ASTM D 664	0.7	0.7	0.7
Kinematic Viscosity mm^2/s at 104 ^oF	ASTM D 445	2.0-6.0	2.0-6.0	2.0-6.0
Flash Point ^oF, min	ASTM D 93	125[d]	125[d]	125[d]
Alcohol Content % mass max	EN 14110	0.20	0.20	0.20
Oxidation Stability hrs, min	EN 14112	6	6	6
Copper Corrosion Max	ASTM D 130	No. 3	No. 3	No. 3
Water and Sediments Volume % max	ASTM D 2709	0.05	0.05	0.05
Cetane Number	ASTM D613	42	42	42
Cloud Point	ASTM D 2500	Report	Report	Report
Cold Filter Plugging Point	ASTM D 6371	Report	Report	Report
Sulfur Content, (µg/g) max Mass % max	ASTM D 7039 ASTM D 4294	15	0.05	0.50
Ramsbottom Carbon Residueon 10% Bottoms, mass % max	ASTM D 524	0.35	0.35	0.35
% Biodiesel	FTIR	21-80	21-80	21-80

[a] The indicated test methods are the approved referee methods in Mississippi. Other acceptable substitute methods are accepted if approved by ASTM.

[b]Under United States of America regulations, if grade B20 S500 are sold for tax exempt purpose then, at or beyond terminal storage tanks, they are required by 26 CFR part 48 to contain the dye Solvent Red 164 at a concentration spectrally equivalent to 3.9 lb per thousands barrels of the solid dye standard Solvent Red 164, or the tax must be collected.
[c]Under United States of America regulations, Grades B20 S5000 are required by 40 CFR part 8- to contain sufficient amount of the dye Red 164 so its presence is visually apparent. At or beyond terminal storage tanks, they are required by 26 CFR Part 48 to contain the dye Solvent Red 164 at a concentration spectrally equivalent to 3.9 lb per thousand barrels of the solid dye standard Solvent Red 26.
[d]If grade No. 1-D or blends of Grade No. 1-D and grade no.2-D diesel fuel are used, the minimum flash point shall be 100 ^{o}F.
(Adopted August 26, 2009.)

113.03 Classification and Method of Sale of Biodiesel B100 and Biodiesel Blends and Renewable Diesel Blends and Co-Processed Renewable Diesel Blends

1. Retail Dispenser Labeling. All B100 biodiesel that is kept, offered or exposed for sale or sold at retail shall conspicuously display the product name and/or brand name being sold therefrom exactly as such name and/or brand name that is registered with the department.
   a. The product shall be named B100 Biodiesel Fuel.
   b. The decal shall be 2" x 6" in size and shall be in a clear and conspicuous place in type of at least one-half (1/2) inch in height, and one-sixteenth (1/16) inch stroke (width of type).
      Example: B100 Biodiesel Fuel

2. **Retail Dispenser Labeling. All biodiesel blends and/or Renewable Diesel blends and/or Co-Processed Renewable Diesel that are kept, offered or exposed for sale or sold at retail shall conspicuously display the product name and/or brand name being sold therefrom exactly as such name and/or brand name that is registered with the department.**
   a. All biodiesel blend dispensers up to B5 shall be identified "may contain up to 5% biodiesel".
   b. All biodiesel blend dispensers B6-B20 shall be identified by the capital letter B followed by the numerical value representing the volume percentage of biodiesel fuel.
      Example: B10, B20.
   c. The product shall be named BXX Biodiesel Fuel Blend.
   d. The decal shall be 2" x 6" in size and shall be in a clear and conspicuous place in type of at least one-half (1/2) inch in height, and one-sixteenth (1/16) inch stroke (width of type).
      Example: B6 Biodiesel Blend
   e. When biodiesel blends greater than 20% by volume are offered by sale, each side of the dispenser where fuel can be delivered shall have a label conspicuously placed that states "Consult Vehicle Manufacturer Fuel Recommendations."
   f. All retail pumps or delivery devices shall be labeled with the appropriate Federal Trade Commission Biodiesel Blend Posting.

3. Retail Dispenser Labeling. All Renewable Diesel blends that are kept, offered or exposed for sale or sold at retail shall conspicuously display the product name and/or brand name being sold therefrom exactly as such name and/or brand name that is registered with the department.
   a. The product shall be named RDXX Renewable Diesel Fuel.
   b. The decal shall be 2" x 6" in size and shall be in a clear and conspicuous place in type of at least one-half (1/2) inch in height, and one-sixteenth (1/16) inch stroke (width of type).
      Example: RD10 Renewable Diesel Fuel
4. Retail Dispenser Labeling. All Co-Processed Renewable Diesel blends that are kept, offered or exposed for sale or sold at retail shall conspicuously display the product name and/or brand name being sold therefrom exactly as such name and/or brand name that is registered with the department.
   a. The product shall be named CPRD10 Co-Processed Renewable Diesel Fuel.
   b. The decal shall be 2" x 6" in size and shall be in a clear and conspicuous place in type of at least one-half (1/2) inch in height, and one-sixteenth (1/16) inch stroke (width of type).
      Example: CPRD10 Co-Processed Renewable Diesel Fuel
5. Documentation for Dispenser Labeling Purposes. At the time of delivery of the fuel, the retailer shall be provided with a declaration of the volume percent biodiesel, renewable diesel, co-processed renewable diesel on an invoice, bill of lading, shipping paper, or other document. This documentation is for dispenser labeling purposes only; it shall be the responsibility of all potential blenders to determine the amount of biodiesel in the diesel fuel.
6. Documentation Content. Every shipment of B100 biodiesel and/or biodiesel blend, renewable diesel, co-processed renewable diesel produced or imported for sale into Mississippi shall be accompanied by an invoice, bill of lading, shipping paper or other documentation. This document shall identify the quantity, the name of the product, the particular grade or blend of the product, the name and address of the seller and the buyer, and the date and time of the sale.
7. In addition to the bill of lading, shipping paper, or other documentation of sale, all biodiesel B100 and/or biodiesel blend, renewable diesel, co-processed renewable diesel produced or imported for sale into Mississippi shall be accompanied by a certificate of analysis or a certificate of full specification analysis.
8. Shipments of biodiesel B100 and/or biodiesel blends, renewable diesel, co-processed renewable diesel which do not have a certificate of analysis shall not be imported into Mississippi. Biodiesel and/or renewable diesel, and/or co-processed renewable diesel produced in Mississippi which does not have a certificate of analysis or a certificate of full specification shall not be sold in Mississippi.

(Adopted August 26, 2009.)

113.04 Product Storage Identification. All filler pipes for petroleum bulk storage tanks and retail station storage tanks shall be identified by painting a sign on the intake pipe cap or within (6) inches thereof in lettering not less than (2) inches in height and not less than one-fourth (1/4) inch in width the following: for B100 biodiesel, the lettering "B100"; for biodiesel blends, the lettering "BXX" (XX indicating blend percentage); for

renewable diesel blends, the lettering "RDXX" (XX indicating blend percentage): for co-processed renewable diesel the lettering "CPRDXX" (XX indicating blend percentage). Nothing in this section shall apply to bulk storage tanks located at marine or pipeline terminals, nor prohibit "color coding" in addition to the lettering, where desired.

(Adopted August 26, 2009.)

113.05 Condemned Product and Illegal Acts. A stop-sale order as provided for in Miss. Code Ann. 75-55-37 shall be issued to retail establishment dealers for biodiesel and all biodiesel blends failing to meet specifications or when a condition exists that causes product degradation.

(Adopted August 26, 2009.)

113.06 Product Registration:

1. Required Information. All producers, importers, wholesalers, and retailers of biodiesel (B100) and biodiesel fuel blends and renewable diesel blends and co-produced renewable diesel blends must register every product imported, sold or offered for sale with the Commissioner on forms prescribed by the Commissioner 30 days prior to when the registrant wishes to engage in sales. All producers or importers of biodiesel (B100) are required to provide final proof of EPA registration as a producer of ASTM D 6751 quality B100. The registration shall include all of the following information required under the Mississippi Code 75-55-6.
2. Renewal. Registration is subject to annual renewal.
3. Re-registration. Re-registration is required 30 days prior to any changes in the required information.
4. Authority to Deny Registration. The Commissioner may decline to register any biodiesel B100 or biodiesel/petroleum diesel fuel blend, and/or any Renewable diesel, and/or any Co-Processed Renewable Diesel that actually or by implication would deceive or tend to deceive a purchaser as to the identity or the quality of these products.
5. Transferability. The registration is not transferable.

(Adopted August 26, 2009.)

Source: *Miss. Code Ann.* §75-55-3.

Packages

100.01 Application. This regulation shall apply to any commodity in package form - that is, any commodity put up or packaged in any manner in advance of sale (except in auxiliary container, not intended to be sold to the consumer intact, enclosing packages that are individually marked in conformance with the requirements of this regulation) and to any item on which there is marked a selling price based on an established price per unit of weight or measure.

100.02 Declaration of Identity. The declaration of identity shall positively identify the commodity in the package by its common or usual name, description, generic term, or the like, unless the commodity may easily be identified through the wrapper or container.

100.03 Declaration of Quantity:

1. Net Quantity. The declaration of quantity shall disclose the net quantity of the commodity - that is, the quantity of commodity in the package exclusive of wrappers and any other material packed with such commodity.
2. Terms - Weight, Measure, Or Count. - The declaration of the quantity of a particular commodity shall be expressed in such terms of weight, measure, or count, or a combination of count and weight, measure, or size, as have been firmly established in general consumer usage and trade custom and as give accurate information as to the quantity of the commodity. But if there exists no firmly established general consumer usage and trade custom with respect to the terms used in expressing such declaration of quantity, the declaration shall be in terms of liquid measures if the commodity is liquid, or in terms of weight if the commodity is solid, semi-solid, viscous, or a mixture of solid and liquid: **Provided,** That, if the commodity is packaged in an aerosol container, the declaration shall be in terms of weight (including the propellant): **And provided further,** That, if the commodity is a textile material, the declaration shall be in terms of linear measure unless the material is one in which there exists a firmly established general consumer usage and trade custom to declare the quantity in terms of weight, in which case the declaration may be in terms of weight.
3. Units - Weight, Measure. - A declaration of quantity:
    a. in units of weights shall be in terms of the avoirdupois pound or ounce;
    b. in units of liquid measure shall be in terms of the United States gallon of 231 cubic inches or liquid-quart, liquid-pint, and fluid-ounce subdivisions of the gallon, and shall express the volume at 68° F (20° C) except in the case of a commodity that is normally sold while frozen or refrigerated, when the declaration shall express the volume at the temperature normally prevailing when such commodity is sold;
    c. in units of linear measure shall be in terms of the yard, foot, or inch; and
    d. in units of dry measure shall be in terms of either the United States bushel of 2,150.42 cubic inches or peck, dry-quart, and dry-pint subdivisions of the

bushel, or the United States standard barrel of 7,056 cubic inches or of three-quarters, one-half and one-third barrel subdivisions: **Provided,** That, in the case of drugs, in lieu of any requirement to the contrary, the declaration of quantity may be in terms of a unit of the apothecaries or metric system of weight or measure: **And provided further,** That, in the case of a commodity packed for export shipment, the declaration of quantity may be in terms of a system of weight or measure in common use in the country to which such shipment is to be exported.

4. Units with two or more meanings. - When any unit of weight or measure having two or more distinct meanings is employed in a declaration of quantity, the declaration shall identify the particular meaning of the term as it is employed in the declaration. For example, distinction shall be made between "avoirdupois" and "fluid" ounces, and between "liquid" and "dry" quarts and pints. However, such distinction may be omitted when, by association of terms (as in "1 pound 4 ounces" or "1 pint 8 ounces"), the proper meaning is obvious.
5. Prescribed Units. - A declaration of quantity shall be expressed in terms of the largest whole unit of weight or measure (for example, 1 quart shall be expressed as "1 quart" and not as "2 pints" or "32 fluid ounces"). However, when this results in a whole number and a fraction, the fraction may be expressed in it's equivalent in the next smaller whole unit (for example, 1 3/4 quarts may be expressed as "1 quart 1 1/2 pints" or "1 quart 1 pint 8 ounces," but not as "1 quart 24 ounces": 1 1/4 pounds may be expressed as "1 pound 4 ounces"): **Provided,** That, if there exists, with respect to a particular commodity, a firmly established general consumer usage and trade custom to express the declaration of quantity as a fraction of a unit of weight or measure larger than the total quantity being declared or as a number of units smaller than the largest whole unit of weight or measure involved, the declaration, if informative to consumers, may be made in accordance with such usage and custom.
6. Reduction of Fractions. - Declarations of quantity may employ only binary-submultiple common fractions or decimal fractions. A common fraction shall be reduced to its lowest terms, and, except in the case of drugs, a decimal fraction shall not be carried out to more than two places: **Provided,** That, if there exists, with respect to a particular commodity, a firmly established general consumer usage and trade custom contrary to the requirement for the use of only binary submultiples of common fractions or for the reduction of a common fraction to its lowest terms, the declaration may be made in accordance with such usage and custom.
7. Supplementary Declarations.
    a. Metric System. - A declaration of weight or measure in U. S. customary units may be supplemented by a declaration in units of the metric system.
    b. Count to be supplemented. - A declaration of quantity in terms of count shall be supplemented by a declaration of the weight, measure, or size of the individual units of the commodity, or of the total weight or measure of the commodity, unless a declaration of count alone is fully informative to the consumer.
    c. Weight or measure to be supplemented. - A declaration of quantity in terms of weight or measure shall be supplemented by a declaration of the count or size

of the individual units of the commodity, unless a declaration of weight or measures alone is fully informative to the consumer.

8. Character of Declaration. - A declaration of quantity shall express average net quantity: **Provided,** That a declaration may express minimum quantity when such declaration is definitely so identified by the addition some such words as "minimum quantity" or "not less than".
9. Qualification of Declaration Prohibited. - In no case shall a declaration of quantity be qualified by the addition of the words "when packed" or any words of similar import, nor shall any unit of weight, measure, or count be qualified by any term (such as "jumbo", "giant", "full" or the like) that tends to exaggerate the amount of commodity.
10. Exceptions. A package shall be excepted from the requirement of section 3 if:
    a. it contains:
        i. in the case of a commodity not a drug or cosmetic, less than 1/2 ounce avoirdupois, less than 1/2 fluid ounce, or less than 6 units,
        ii. in the case of a drug, less than 6 units, or
        iii. in the case of a cosmetic, less than 1/4 ounce avoirdupois, less than 1/8 fluid ounce, or less than 6 units; or
    b. it is an individual packaged commodity put up in a variable weight and size for sale intact, and intended to be weighed and marked at the point of retail sale.; or
    c. It is a multiunit package containing unlabeled individual packages which are not intended for retail sale separate from the multiunit package. In lieu of the requirements of section 3, a multiunit package may contain a declaration of quantity of contents expressing the total quantity of the multiunit package without regard for inner packaging. For such multiunit packages it shall be optional to include a statement of the number of individual packages when such a statement is not otherwise required by the regulation. **Examples:**
    Deodorant Cakes: "5 cakes, Net Wt 113 g (4 oz) each, total Net Wt 566 g (1.25 lb)" or "5 cakes, total Net Wt 566 g (1 lb 4 oz)
    Soap Packets: "10 packets, Net Wt 56.6 g (2 oz) each, total Net Wt 566 g (1.25 lb)" or "Net Wt 56 g (1 lb 4 oz)" or "10 packets, total Net Wt 566 g (1 lb 4 oz)
    (Exceptions involving declarations in terms of count shall be permitted only if the units of commodity can easily be counted without opening the package.)

(Amended August 23, 2001.)

100.04 Declaration of responsibility. Any package kept, offered, or exposed for sale, or sold, at any place other than on the premises where packed, shall bear on the outside of the package the name and address of the manufacturer, packer, or distributor.

100.05 Language. All information required to appear on a package shall appear thereon in the English language.

100.06 Prominence and placement. All information required to appear on a package shall be prominent, definite, and plain, and shall be conspicuous as to size and style of letters and

numbers and as to color of letters and numbers in contrast to color of background. The declaration of identity, if required, and the net quantity statement shall appear on the principal display panel of the package. The name and address of the manufacturer, packer, or distributor shall appear either on the principal display panel or on any other appropriate panel. Any required information that is either in hand lettering or hand script shall be entirely clear and equal to printing in legibility.

100.07 Information required on outside container. All information required to appear on a package shall also appear on any outside container or wrapper that is used, unless such container or wrapper is transparent and the information on the package is easily legible through such outside container or wrapper.

100.08 Variations to be allowed:

1. Variations from declared net quantity. - Variations from the declared net weight, measure, or count shall be permitted when caused by unavoidable deviations in weighing, measuring, or counting the contents of individual packages that occur in good packaging practice, but such variations shall not be permitted to such extent that the average of the quantities in the packages of a particular commodity comprising either a shipment or other delivery of the commodity or a lot of the commodity that is kept, offered, or exposed for sale, or sold, is below the quantity stated, and no unreasonable shortage in any package shall be permitted, even though overages in other packages in the same shipment, delivery, or lot compensate for such shortage. Variations above the declared quantity shall not be unreasonably large.
2. Variations from declared minimum quantity. - Where the minimum quantity is declared, no packaging variations below the declared minimum shall be permitted, and variations above the declared minimum shall not be unreasonably large.
3. Variations resulting from exposure. - Variations from the declared weight or measure shall be permitted when caused by ordinary and customary exposure to conditions that normally occur in good distribution practice and that unavoidably result in change of weight or measure, but only after the commodity is introduced into intra-state commerce: **Provided**, That the phrase "introduced into intra-state commerce" as used in this paragraph shall be construed to define the time and the place at which the first sale and delivery of a package is made within the State, the delivery being made either:
   a. directly to the purchaser or to his agent, or
   b. to a common carrier for shipment to the purchaser, and this paragraph shall be construed as requiring that, so long as a shipment, delivery, or lot of packages of a particular commodity remains in the possession or under the control of the packager or the person who introduces the package into intra-state commerce, exposure variations shall not be permitted.
4. Magnitude of permitted variations. - The magnitude of variations permitted under subsections 1., 2. and 3., of this section shall, in the case of any shipment, delivery, or lot, be determined by the facts in the individual case.

Source: *Miss. Code Ann.* §75-27-19.

Paper Products

101.01 Paper napkins and paper towels. The declaration of quantity on a package of paper napkins or paper towels shall indicate the numerical count and the dimensions of the individual napkins or towels contained in the package.

101.02 Writing paper, notebook paper, envelopes. The declaration of quantity on a package of writing paper, notebook paper, or envelopes shall indicate the number of sheets or envelopes, as the case may be, in the package. When envelopes are included in a package of writing paper, the declaration shall indicate both the number of sheets of paper and the number of envelopes.

101.03 Tablets and books of writing paper. The declaration of quantity on a package of tablets or books of writing paper shall indicate the number of tablets or books in the package.

101.04 Wrapping paper. The declaration of quantity on a package of wrapping paper in sheet form may be in terms of either numerical count or of net weight. If the declaration is in terms of numerical count, it shall indicate both the dimensions of an individual sheet and the number of sheets in the package.

101.05 Facial tissues. The declaration of quantity on a package of facial tissues shall indicate the numerical count of usable units (a sheet of two or three ply shall be considered a single usable unit) and the dimensions of the individual unit.

101.06 Toilet tissues. The declaration of quantity on a package of toilet tissues in roll or sheet form shall indicate the numerical count of usable units (a sheet of two or three ply shall be considered a single usable unit) and the dimensions of the individual unit.

101.07 Supplementary Quantity Declarations. Any declaration or statement relating to the quantity of contents of a package of paper product that is in addition to or supplementary to the declaration required by law or regulation shall be in juxtaposition with and shall be subordinated to the required declaration: **Provided,** That no supplementary declaration of the number of "single-ply sheets" in a package containing a "multiple-ply" product shall be permitted.

101.08 Exemption. Rolls of packages of paper products for industrial use only and not for resale need not be marked individually so long as the container in which such rolls or packages are packed is properly marked to show the quantity of the contents of such container.

101.09 This regulation is additive to valid laws and other regulations pertaining to packages and shall not be construed as superseding any such law or regulation.

Source: *Miss. Code Ann.* §75-27-19.

Roofing and Roofing Materials

102.01 Roofing and roofing materials shall be sold either by the "square" or by the "square foot". The term "square" shall mean the quantity of roofing or roofing material that, when applied according to directions or instructions of the manufacturer, will cover an area of 100 square feet exclusive of side laps or side joints: **Provided,** That, in case of roofing or roofing material of corrugated design, the side lap or side joint shall be one full corrugation.

102.02 The term "square foot" shall mean the quantity of roofing or roofing material that, when applied according to the directions or instructions of the manufacturer, will cover 1 square foot (144 square inches) exclusive of side laps or side joints.

102.03 This regulation is additive to other valid laws and regulations pertaining to packages and shall not be construed as superseding any such law or regulation.

Source: *Miss. Code Ann.* §75-27-19.

Meat, Poultry and Seafood

103.01 Except for immediate consumption on the premises where sold, or as one of several elements comprising a ready-to-eat meal sold as a unit for consumption elsewhere than on the premises where sold, all meat, meat products, poultry (whole or parts), and all seafood except shellfish in natural state, offered or exposed for sale, and sold, as food shall be offered or exposed for sale and sold by weight.

103.02 When meat, poultry, or seafood is combined with or associated with some other food element or elements to form either a distinctive food product or a food combination, such food product or combination shall be offered or exposed for sale and sold by weight, and a quantity representative need not be made for each of the several elements of the product or combination.

Source: *Miss. Code Ann.* §75-27-19.

Butter, Oleomargarine, and Margarine

104 Butter, oleomargarine, and margarine shall be offered and exposed for sale and sold by weight, and only in units of 1/4 pound, 1/2 pound, 1 pound, or multiples of 1 pound, avoirdupois weight.

Source: *Miss. Code Ann.* §75-27-19.

Flour, Corn Meal, and Hominy

105 When in package form and when packed, kept, offered, or exposed for sale, or sold, wheat flour, whole wheat flour, graham flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched self-rising flour, enriched bromated flour, corn flour, corn meal, and hominy grits shall be packaged only in units of 2, 5, 10, 25, 50, or 100 pounds,

avoirdupois weight: **Provided,** That packages in units of less than 2 pounds or more than 100 pounds shall be permitted on authority.

Source: *Miss. Code Ann.* §75-27-19.

Berries and Small Fruits

106 Berries and small fruits shall be offered and exposed for sale and sold by weight, or by measure in open containers having capacities of 1/2 dry pint, 1 dry pint, 1 dry quart, or multiples of a quart: **Provided,** That the marking provisions of section 20 of this Act shall not apply to such containers.

Source: *Miss. Code Ann.* §75-27-19.

Rejected or Condemned Apparatus

107 Weights and measures that have been rejected or condemned under the authority of the director or of an inspector shall remain subject to the control of the rejecting authority until such time as suitable repair or disposition thereof has been made as required by this section. The owners of such rejected weights and measures shall cause the same to be made correct within 30 days or such longer period as may be authorized by the rejecting authority; or, in lieu of this, may dispose of the same, but only in such manner as is specifically authorized by the rejecting authority. Weights and measures that have been rejected shall not again be used commercially until they have been officially re-examined and found to be correct or until specific written permission for such use is issued by the rejecting authority.

Source: *Miss. Code Ann.* §75-27-19.

Checking Prepackaged Commodities

108 The checking procedure as recommended in theNational Bureau of Standards Handbook 133, and as subsequently amended, shall be adopted for checking prepackaged commodities.
(Amended January 2001.)

Source: *Miss. Code Ann.* §75-27-19.

Bread

109 Each loaf of bread or multiple loaf of bread, made or procured for sale, kept, offered, exposed for sale or sold, whether the bread is a whole loaf, or sliced, shall be sold by avoirdupois weight.

Source: *Miss. Code Ann.* §75-27-19.

Schedule of Fees for Laboratory Testing and Adjustment

110 Mass standards are charged for testing and then an adjustment charge if needed. In the tables below the "Test Fee" is followed by the "Test w/Adjustment Fee".

Mass Calibration		
Echelon III Weights (NIST Class F; ASTM Classes 5,6,7; OIML Classes M1, M2, M3		
Nominal Value	**Tolerance Test Fee**	**With Adjustment**
0 - 10 lbs / 0 - 5 kg	$5	$10
>10 - 100 lbs / >5 - 50 kg	$10	$20
>100 - 1000 lbs / >50 kg - 500 kg	$20	$40
>1000 lbs / >500 kg	$50	$100
Weight Carts	$100	$150

Echelon II Weights (ASTM Classes 2 and 3; OIML Classes F1, F2, E2)	
Nominal Value	**Fee for testing only, no adjustment charges. Fee is PER weight**
0 - 10 lbs / 0 - 5 kg	$30
>10 - 20 lbs / >5 - 10 kg	$40
>20 lbs / >10 kg	$50

Volume Transfer	
Nominal Value	**Fee**
0 - 5 Gallons	$40
>5 Gallons	$40 plus $0.75/gallon for each additional gallon over five

(Amended April 6, 2010.)

Source: *Miss. Code Ann.* §75-27-19.

Vehicle Tare Weights

111 Whenever stored vehicle tare weights are employed, the following conditions and requirements shall apply:

1. Allowable differences. The difference between tare weight and stored tare weight must not exceed plus or minus three (3) scale divisions. All stored vehicle tare weights shall be determined to the nearest scale division.
2. Notification. When stored tare weights are used, weight certificates shall identify that fact by placing words such as "stored tare" next to the tare weight. Abbreviations or symbols may be used, provided the terminology is defined and clearly visible elsewhere on the printed ticket.
3. Verification. Stored vehicle tare weights shall be verified by the vehicle's owner/user in three-month intervals. The business employing stored tare weights shall keep

records of verification on each vehicle for the Department to view. If a vehicle is modified, a new tare weight shall be recorded for that vehicle before it is used again.

4. Usage. The use of stored tare weights shall be limited to vehicles moving refuse material.

(Adopted November 1, 2002.)

Source: *Miss. Code Ann.* §75-27-19.

Regulations Governing Bonded Weighmasters

112 Qualifications. Any person who performs any weight determination as a bonded weighmaster, either as an individual licensed as a bonded weighmaster or as the employee of a business which is licensed as a bonded weighmaster, shall meet all qualifications and be subject to examination, either orally or in writing or both by the Commissioner, for the purpose of determining whether such person meets required qualifications imposed by the Bonded Weighmasters Law for licensing as a bonded weighmaster or to perform the duties of such office on behalf of an employer business licensed as a bonded weighmaster.

(Adopted April 2004.)

Source: *Miss. Code Ann.* §75-27-19.

113 Impression Seal Or Electronically Inscribed. A licensed bonded weighmaster, individual or employee acting on behalf of a business licensed as a bonded weighmaster, shall affix the licensees impression seal and license number or inscribe the licensees name and license number electronically upon each weight certificate produced and issued by such person. Weight certificates prepared by a licensed bonded weighmaster or an employee of a business licensed as a bonded weighmaster shall affix the date of expiration of his/her license or the business license as applicable and his/her signature as required by Section 75-27-315(2) (f) and (g).

(Adopted April 2004.)

Source: *Miss. Code Ann.* §75-27-19.

114 Licensing Provisions; Fees; Compensation of Bonded Weighmaster.

Any person, as defined by Section 75-27-303(3), or business, before engaging in business as a public weighmaster, shall obtain a license from the Commissioner.

1. The fee for such license and all subsequent renewals for an individual who is not employed by a business shall be Twenty-five Dollars($25.00).
2. The fee for such license and all subsequent renewals for a business is One Hundred Dollars ($100.00) and such license shall cover all employees of that business. Business with more than one location will need to obtain a license and have a surety bond, as specified in Section 75-27-313, for each physical location. Licenses issued hereunder by the Commissioner shall expire on June 30 of each year and application for renewal thereof shall be made annually, before the expiration date.

(Adopted April 2004.)

Source: *Miss. Code Ann.* §75-27-19.

Regulation for Licensing of Scale Service Repairpersons and Scale Service-Repair Companies.

115.01 Definitions:

1. Service Repairperson. Any individual who for hire, award, commission, or any other payment of any kind installs, services, repairs, or reconditions a commercial weighing or measuring device.
2. Service Repair Company. Any agency, firm, company, or corporation that for hire, award, commission or any other payment of any kind installs, services, repairs or reconditions a commercial weighing or measuring device.
3. Commercial Weighing and Measuring Device. Any weight or measure or weighing or measuring device commercially used or employed in establishing the size, quantity, extent, area, or measurement of quantities, things, produce, or articles for distribution or consumption, purchased, offered, or submitted for sale hire or award or in computing any basic charge or payment for services rendered on the basis of weight or measure. It shall also include any accessory attached to or used in connection with a commercial weighing or measuring device when such accessory is so designed or installed that its operation affects the accuracy of the device.

(Adopted April 6, 2010.)

115.02 License.

1. All scale service repairpersons and scale service repair companies must obtain a license annually from the Department.
2. There shall be an annual fee of $50.00 per Licensed Service Repairperson and $100.00 per Licensed Service Repair Company per Miss. Code Ann. Section 75-27-67. The fee shall be submitted at the time application for license is made.

(Adopted April 6, 2010.)

115.03 Minimum Equipment. Applicants for a license under this regulation must have available sufficient standards and equipment to adequately test devices as set forth in the Notes section of each applicable code in the current NIST Handbook 44, Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices. This equipment will meet the specifications of NIST 105-series standards. This subsection shall not bar the use of additional field standards and/or equipment, as approved by the Commissioner for uniform evaluation of device performance (see subsection 115.04, Examination and Calibration or Certification of Standards and Testing).

(Adopted April 6, 2010.)

115.04 Examination and Calibration or Certification of Standards and Testing Equipment. All field standards that are used for servicing and testing weights and measures devices for which a license under this regulation is required shall be submitted to the Department for initial verification and calibration and annually thereafter. A licensed service

repairperson or service repair company shall not use in servicing commercial weighing or measuring devices any field standards or testing equipment that have not been calibrated or verified by the Department. In lieu of submission of physical standards, the Commissioner may accept calibration and/or verification reports from any laboratory that is formally accredited or recognized by NIST. The Department shall maintain a list of organizations from which it will accept calibration reports. The Department shall retain the right to periodically monitor calibration results and/or to verify field standard compliance to specifications and tolerances when field standards are initially placed into service or at any intermediate point between calibrations.

(Adopted April 6, 2010.)

115.05 Service Report Form.

1. The Department shall furnish each licensee with a supply of report forms to be known as "Service Report Form." Such a form shall be executed and shall include the assigned licensee number, and shall be signed by a licensed service repairperson or by a serviceperson representing a licensed service repair company.
2. Within three days after a device is restored to service or placed in service, the original of the properly executed Service Report Form, together with any official rejection tag removed from the device, shall be forwarded to the Department's Weights and Measures Division either by U.S. mail, P.O. Box 1609; Jackson, MS 39215-1609; electronic mail, wm@mdac.state.ms.us; or to fax number: 601-359-1175.

(Adopted April 6, 2010.)

115.06 Revocation of License.

1. The Department may revoke a license for the violation of any provision of the "Weights and Measures Law of 1964," *Miss. Code Ann.* §75-27-1, *et seq*. and/or any violation of the regulations promulgated there under.
2. The licensee shall be given written notice of the Department's intent to hold a hearing for the purpose of revocation of license. This written notice and any supporting documentation shall be sent to the licensee by any of the methods set forth in Rule 4 of the Mississippi Rules of Civil Procedure or by certified mail. The notice shall include a date, time and place of the hearing and a statement of the licensee's right to be heard. The licensee may file a written answer and supporting documentation, if necessary, with the Department.
3. The Department shall hold the hearing no later than 30 days from the date the written notice is served or received.

(Adopted April 6, 2010.)

Source: *Miss. Code Ann.* §75-27-19.

Adoption of NIST Handbook 44

116.01 The Department adopts current Handbook 44 as published by the National Institute of Standards and Technology as the specifications, tolerances and other technical requirements for weighing and measuring devices in Mississippi, except where modified, amended, or rejected herein. A copy of Handbook 44 may be obtained from the website

of the National Institute of Standards and Technology, http://www.nist.gov/pml/wmd/pubs/h44-11.cfm.
(Adopted June 2011)

116.02 The Department modifies HB 44, Section 2.20. "Scales, UR.2.6. Approaches" by making the following exclusion as indicated by strike through and additions, as indicated by the underlined language:

UR.2.6.1. Vehicle Scales. – On the entrance and exit end(s) of a vehicle scale, there shall be a straight approach as follows:

(a) the width at least the width of the platform,
(b) the length at least one-half the length of the platform but not required to be more than 12 m (40 ft), and
(c) not less than 3 m (10 ft) of any approach adjacent to the platform shall be in the same plane as the platform. Any slope in the remaining portion of the approach shall ensure (1) ease of vehicle access, (2) ease for testing purposes, and (3) drainage away from the scale.

In addition to (a), (b), and (c), scales installed in any one location for a period of 6 months or more shall have not less than 3 m (10 feet) of any approach adjacent to the platform constructed of concrete ~~or similar material~~ to ensure that this portion remains smooth and level and in the same plane as the platform; however, steel grating of sufficient strength to withstand all loads equal to the concentrated load capacity of the scale may be installed in this portion. Any slope in the remaining portion of the approach referred to in (c) above shall be no more than ½ inch per foot and be constructed of concrete.

[Nonretroactive as of January 1, 1976]
(Amended 1977, 1983, 1993, 2006, and 2010)
(Adopted June 2011)

116.03 The Department modifies pertinent sections of HB 44, Section 1.10. "General Code" by making the following additions, as indicated by the underlined language:

1. G-S.5. Indicating and Recording Elements.

A. G-S.5.1. General.–All weighing and measuring devices shall be provided with indicating and/or recording elements appropriate in design and adequate in amount. Primary indications and recorded representations shall be clear, definitive, accurate, and easily read under any conditions of normal operation of the device.

B. G-S.5.6. Recorded Representations. Insofar as they are appropriate and as determined by the Department, the requirements for indicating and recording elements shall also apply to recorded representations. All recorded values shall be printed digitally.

2. G-UR.2. Installation Requirements.

G-UR.2.2. Installation of Indicating and/or Recording Element. - A device shall be so installed that there is no obstruction between a primary indicating and/or recording element and the weighing or measuring element; otherwise there shall be convenient and permanently installed means for direct communication, oral or visual, between an individual located at a primary indicating and/or recording element and an individual located at the weighing or measuring element.

3. G-UR.3. Use Requirements.

G-UR.3.3. Position of Equipment. – A device or system equipped with a primary indicating element and used in direct sales, except for prescription scales, shall be positioned so that its indications may be accurately read and the weighing or measuring operation may be observed from some reasonable "customer" and "operator" position, as determined by the Department. The permissible distance between the equipment and a reasonable customer and operator position shall be determined in each case upon the basis of the individuals circumstances, particularly the size and character of the indicating element.

(Adopted June 2011)

116.04 The Department modifies HB 44, Section 1.10. "General Code" by making the following additions, as indicated by the underlined language:

G-S.5. Indicating and Recording Elements.

A. G-S.5.1. General.–All weighing and measuring devices shall be provided with indicating and/or recording elements appropriate in design and adequate in amount. Primary indications and recorded representations shall be clear, definitive, accurate; and easily read under any conditions of normal operation of the device. Scales must be connected to or equipped with an indicating element and/or recording element that is capable of making a permanent record of the weight for the customer. However, if the weight on the scale indicator or remote display is plainly visible to the customer, the operator is not required to have an indicating element and/or recording element. Any issues that may arise regarding customer readability of the scale indicator or remote display will be resolved by the Department.

(Adopted June 2011)

Source: *Miss. Code Ann*. §75-27-19 (Rev. 2005).

Subpart 4-Bureau of Regulatory Services
Chapter 10-Organic Farming Regulations

100 The authority for these rules and regulations is the "Organic Farming Law" *Miss. Code Ann.* §§69-47-1 *et seq.*, any and all subsequent amendments made thereafter, and all such other points of law that may be applicable. The Mississippi Organic Certification Program and its rules and regulations do not apply to livestock and poultry.
(Adopted October 28, 2002.)

Source: *Miss. Code Ann.* §69-47-3.

101 Definitions and terms:

1. "Act" means the Organic Farming Act.
2. "Product" means any agricultural commodity or product, whether raw or processed, that is marketed for human consumption.
3. "Commissioner" means the Commissioner of the Mississippi Department of Agriculture and Commerce.
4. "Department" means the Mississippi Department of Agriculture and Commerce.
5. "EPA" means the United States Environmental Protection Agency.
6. "FDA" means the United States Food and Drug Administration.
7. "Person" means an individual, group of individuals, corporation, association, organization, cooperative, or other entity.
8. Processing" means cooking, baking, heating, drying, mixing, grinding, churning, separating, extracting, cutting, fermenting, eviscerating, preserving, dehydrating, freezing, or otherwise manufacturing and includes the packaging, canning, jarring, or otherwise enclosing food in a container.
9. "Producer" means a person who engages in the business of growing or producing food, feed, or other commodities for human consumption.
10. "Retailer" means a person who engages in the business of selling food, feed, or other commodities for human consumption including grocery stores, markets, stands, mail-order businesses or other similar operations.
11. "State" means the State of Mississippi.
12. "USDA" means the United States Department of Agriculture.

(Adopted October 28, 2002.)

Source: *Miss. Code Ann.* §69-47-3.

<u>Adoption of USDA Regulations</u>

102 The Department hereby adopts the USDA regulations, more specifically Part 205-National Organic Program (7 *C.F.R.* §§205 *et seq.*).
(Adopted October 28, 2002.)

Source: *Miss. Code Ann.* §69-47-3.

Organic Certification Inspection Fees

103.01 Producers and processors participating in the organic certification program will be charged an inspection fee and an annual renewal fee. Retailers and distributors will be charged an application fee for the initial inspection conducting by the Department in accordance with these regulations and an annual renewal fee.
(Adopted October 28, 2002.)

103.02 Payment of fees is due upon application for certification. Certification will not be granted without payment. Renewal fees are due on January 1 of each year.
(Adopted October 28, 2002.)

103.03 The inspection fee shall be paid by the new applicant and those applicants renewing certification, and shall be paid in accordance with the following schedule:

Applicant/Entity	Initial Application	Renewal
Producer—Less than 5 Acres	$25	$25
Producer—5 to 25 Acres	$50	$25
Producer—Over 25 Acres	$75	$25
Greenhouse Producer—Less than 2500 Square Feet	$25	$25
Greenhouse Producer—2500 to 10000 Square Feet	$50	$25
Greenhouse Producer—Over 10000 Square Feet	$75	$25
Distributor	$50	$50/year
Processor (other than producer/processor)	$50	$50/year
Retailer	$25	$25/year

(Adopted October 28, 2002.)

Source: *Miss. Code Ann.* §69-47-3.

Registration

104.01 All producers, retailers and processors, regardless of any exclusions or exceptions granted in 7 C.F.R. §205.101, must be registered with the Department prior to conducting business within the state.
(Adopted October 28, 2002.)

104.02 A certifying agent must register with the Department prior to conducting activity within the State.
(Adopted October 28, 2002.)

Source: *Miss. Code Ann.* §69-47-3.

Labels

105 All products must have the Mississippi Certified Organic Label, the USDA Certified Organic Label or a label approved by the Mississippi Department of Agriculture and Commerce. Anyone seeking to use a label other than the Mississippi Certified Organic Label or the USDA Certified Organic Label must submit a written request to the Department.

(Adopted October 28, 2002.)

Source: *Miss. Code Ann.* §69-47-3.

Subpart 4-Bureau of Regulatory Services
Chapter 11-Guidelines For Aquaculture Activities

Introduction

100 The purpose of this Act is to improve coordination of aquaculture activities and to enhance related opportunities and benefits to U.S. citizens who are interested in pursuing aquaculture operations in Mississippi. The Act also provides a means of regulating operations in the State that would not only be beneficial to aquaculturists, but also will enhance and conserve a desired quality in our natural aquatic resources. The Act encourages aquaculture activities in Mississippi that enhance existing aquaculture enterprises and the development of new ones to provide increased job opportunities and income for the benefit of Mississippians.

Source: *Miss. Code Ann.* §79-22-13.

Definitions of Aquaculture Activities

101 The following words where used in this chapter have the following meanings

1. AQUACULTURE - the process of growing, farming, cultivating and/or harvesting of cultured aquatic products in marine or freshwater and includes management by an aquaculturist.
2. AQUACULTURIST - a person who is engaged in the cultivating of cultured aquatic products.
3. AQUACULTURE FACILITY - any facility or resource that is used for aquaculture activities and operations in Mississippi.
4. COMMISSIONER - refers to the Commissioner of the Mississippi Department of Agriculture and Commerce.
5. CULTURED AQUATIC PRODUCTS - marine or freshwater plants or animals that are propagated, farmed or cultivated in an aquaculture facility under the supervision and management of an aquaculturist or that are naturally produced in an aquaculture facility that at the time of production are under the active supervision and management of an aquaculturist.
6. CULTIVATION/MARKETING PERMIT - a permit issued by the Department, applicable to design criteria to prevent release of certain cultured aquatic products from an aquaculture facility into the environment. This permit is to provide a mechanism for tracing marketed and cultured aquatic products to verify that they were cultured in an aquaculture facility and were not harvested from wild stocks and to prevent the release of undesirable species into the environment.
7. BROODFISH COLLECTION PERMIT *Miss. Code Ann.* §79-22-15(1) - an approval by the Department of Wildlife, Fisheries and Parks for the collection of gamefish broodstock from natural waters in the State.
8. DEPARTMENT - refers to the Mississippi Department of Agriculture and Commerce (MDAC) as the charge agency for the aquaculture law as per the Aquaculture Act of 1988 as amended.

Source: *Miss. Code Ann.* §79-22-13.

Aquaculture Activities Requiring Permits

102 Cultivation/Marketing permit(s) are required of an aquaculturist who produces and/or markets aquatic products from the following aquatic plants and animals.

1. All non-native aquatic plants and animals
2. All gamefish in Mississippi with the following exceptions:
   a. Black bass, bream, crappie, flathead catfish, walleye and other members of the families *Centrarchidae* and *Percidae* shall not be produced and sold for food consumption, but may be produced and sold for stocking private recreational sportfishing waters only.
3. Endangered, Threatened or Protected Species
4. Genetically modified aquatic plants and animals by means other than cross breeding

Source: *Miss. Code Ann.* §79-22-13.

Aquaculture Activities Not Requiring Permit(s)

103.01 Culture of any currently recognized native aquatic plant, animal and non-game fish. However, marketing permits may be needed to aid in marketing products in other states or countries. The Department shall issue cultivation/marketing permits requested for such reasons.

103.02 Culture of catfish by the catfish industry, where catfish and catfish products are grown, farmed, and processed for sale.

103.03 Culture and retail sales of tropical fish maintained in closed systems utilized by pet shops, hobbyists and their suppliers.

103.04 Culture of minnows by licensed minnow dealers. The activities are covered in 49-7-29 (Department of Wildlife, Fisheries & Parks regulations).

103.05 Operation of fish-out lakes (pay-fishing lakes).

Source: *Miss. Code Ann.* §79-22-13.

Prohibited Species

104 All species of the following animals and plants have been determined to be detrimental to the State's native resources and further sales or distribution are prohibited in Mississippi. No person shall import, sell, possess, transport, release or cause to be released into the waters of the state any of the following aquatic species or hybrids thereof. However, species listed as prohibited may be allowed under a permitting process where environmental impact has been assessed.

- Lampreys	Family Petromyzontidae* ****
- Piranha and pirambebas	Subfamily Serrasalminae ** ****
- Banded tetra	*Astyanax fasciatus*
- Mexican tetra or Silvery tetra	*Astyanax mexicanus*
- Tiger characin or trahira	*Hoplias malabaricus*
- Skinny Tiger characin or biara	*Raphidon vulpinus*
- Pencil or parasitic catfishes	Family Trichomycteridae ****
- Airbreathing or Walking catfishes	Family Clariidae ****
- Bony-tongue fishes	Family Osteoglossidae ****
- Dorados or dourados	Genus *Salminus* ****
- Freshwater stingrays	Family Potamotrygonidae ****
- Nile perches	Genera *Lates* and *Luciolates* ****
- African electric catfishes	Family Malapteruridae ****
- African tigerfishes	Family Alestidae, Subfamily Hydrocyninae ****
- Freshwater electric eels	Family Electrophoridae ****
- Snakeheads	Family Channidae ****
- South American tigerfishes	Family Erythrinidae ****
- Airsac catfishes	Family Heteropneustidae ****
- Peacock bass or Peacock ciclid	*Cichla ocellaris*
- *South American pike characoids*	Family Characidae, all species of the Genus *Acestrorhynchus*; Family Ctenolucidae, all species of the Genera *Ctenolucious* and *Luciocharax (Boulengerella)*
- African Pike characoids	Family Hepsetidae, all species of the Genus *Hepsetus* Family Ichthyboridae, all species
- Rhapiodontid characoids	Family Characidae, Subfamily Rhaphiodontinae, all species of the Genera, *Hydrolycus* and *Raphiodon (Cynodon)*
- Banded knifefish	*Gymnotus carapo*
- Mud carp, Sandhkol carp	Family Cyprinidae, all species of the Genera *Cirrhinus* and *Thynnichthys*
Rudd and Roach	Family Cyprinidae, all species of the Genera *Scardinius* and *Rutilus*
Old World breams	Family Cyprinidae, all species of the Genera *Abramis, Blicca, Megalobrama* and *Parabramis*
Old World chubs, ide & dace	Family Cyprinidae, all species of the Genus *Leuciscus*
Asps and yellowcheek	Family Cyprinidae, all species of the Genera *Aspius, Psedaspius, Aspiolucius,* and *Elopichthys*
Giant Barbs and Mahseers	Family Cyprinidae, all species of the Genus *Tor* and the species *Barbus tor* and *Barbus hexagonolepis*
Catla	Family Cyprinidae, all species of the Genus *Catla*
Whale catfishes	Family Cetopsidae, all species
Pike killifish	Family Poeciliidae, *Belonesox belizanus*

Marine stonefishes	Family Synanceiidae, all species
Ruffes and Schraetzers	Family Percidae, all species of the Genus *Gymnocephalus*
Zanders	Family Percidae, *Stizostedion lucioperca, Stizostedion volgense (volgensis), Stizostedion marinum*
Pike cichlids	Family Cichlidae, all species of the Genera *Crenicichla* and *Batrachops*
Asian pikehead	Family Luciocephalus, all species

Plants

- Hydrilla (Florida Elodea)	*Hydrilla verticillata*
- Egeria (African Elodea)	*Egeria densa*
- Water Hyacinth	*Eichhornia crassipes*
- Rooted hyacinth	*Eichhornia azurea*
- Eurasian Watermilfoil	*Myriophyllum spicatum*
- Water lettuce	*Pistia stratiotes*
- Paperbark (Melaleuca)	*Melaleuca quinquenervia*

Mussels and Crayfish

- Yabbie Lobster	*Cherax destructor*
- Zebra Mussel	*Dreissena polymorpha*
- Tasmanian Giant crayfish	All species of the Genus *Astacopsis*

* - includes Sea lamprey
** - includes all the piranhas
**** - all species

Source: *Miss. Code Ann.* §79-22-13.

Requirements For The Culture Of Non-Native Species

105.01 The culture of Carp Species:

1. The culture of any non-native carp species (such as bighead carp, black carp, grass carp, silver carp and common carp) shall be conducted in a responsible manner that excludes the possibility of escape. It is necessary to construct a barrier that prevents escape of juvenile and adult fishes. Since these species are not known to reproduce in a pond culture situation, it will be acceptable to double screen pond drainpipes with at least one screen being of a mesh size

small enough to prevent the passage of fingerling carp. Window screening material will not be considered adequate.

2. Facilities that spawn carp fry must filter the hatchery effluent to prevent the passage of eggs and/or fry from the facility. A sand or pea gravel filter is the most effective measure to filter eggs and fry.

105.02 The culture of Tilapia Species:

1. Due to the prolific nature of the Tilapia species, a fish barrier shall be designed to prevent the discharge of water containing Tilapia eggs, larvae, juveniles and adults from the permittee's property.
2. Although Tilapia may not overwinter in Mississippi waters, precautions must be taken to limit their escape into native waters. This shall be accomplished by using a 1000-micron mesh screen.

105.03 The culture of all other non-native species: The culture of any non-native species not maintained in a closed system must incorporate a filtering system to prevent the passage of eggs, larvae, juveniles and adults from the applicant's property.

105.04 Release or escape of non-native species: In the event that non-native aquatic organisms are released or escape from a permitted facility into waters of the state, the Department shall notify the Mississippi Department of Wildlife, Fisheries and Parks (MDWFP) as soon as possible. If the MDWFP determines that the presence of these non-native organisms could become or is detrimental to native fishes, MDWFP personnel may attempt to remove or eradicate all non-native organisms. All costs necessary to effect removal or eradication will or may require reimbursement to MDWFP by the aquaculturist responsible for the release or escape, if proved to be the fault of the aquaculturist through neglect and/or mismanagement. The aquaculturist shall not be responsible for acts of nature and/or unforeseen occurrences such as floods, lightning, or sabotage.

Source: *Miss. Code Ann.* §79-22-13.

<u>Permitting Process</u>

106.01 General Aquaculture Permits:

1. The Aquaculturist must procure a permit application from the Department by calling Gene Robertson at 601-359-1102 or writing to the Mississippi Department of Agriculture and Commerce, P.O. Box 1609, Jackson, MS 39215-1609, attention: Gene Robertson.
2. Only U.S. citizens are eligible to receive approved cultivation/marketing permits in Mississippi. Proof of citizenship shall be provided with application.
3. Completed applications along with a permit fee of $100.00 for the first species and $10 for each additional species should be mailed to the Mississippi Department of Agriculture and Commerce, P.O. Box 1609, Jackson, MS 39215-1609, attention: Gene Robertson. The fee for a marketing or cultivation permit issued to a nonresident of Mississippi

shall be $100.00 plus $10.00 per each additional species or the amount imposed on a Mississippi resident by a nonresident state, whichever is greater.

4. The Department will send copies of application to the review agencies and make an on-site inspection. A permit will be issued following all reviews, inspections and receipt of permit fee.
5. Permits are valid for a period of one year from date of issuance. The Department will set permit fees.
6. The cultured aquatic products may be possessed by the Aquaculturist only after approval of the initial application and the issuance of the original permit.
7. Other permits may be required as specified by the Department of Environmental Quality.
8. Permits may be required by other state, federal, city or county agencies.

Source: *Miss. Code Ann.* §79-22-13.

Reporting Requirements

107 The permittee is required to submit the following information upon request to the Department:

1. Aquaculturists shall furnish upon request to the Department a record of sales covering fish and/or plants imported and/or sold, giving the species of each, the number or pounds (or other units of sale) of each, date of shipment, to whom or from whom each was sold or were received and the address and phone number of the supplier or purchaser at the time of billing. If fish and plants have not been sold or received during the year, this shall be reported. Such information shall be kept on site for a period of 3 years.
2. Failure to submit requested information to the Department may result in cancellation of permits within 60 days of written notice.

Source: *Miss. Code Ann.* §79-22-13.

Shipping and Labeling Requirements

108.01 Such permitted aquatic products shall be accompanied by a bill of lading, waybill, invoice or other document detailing the following:

1. Name, address and phone number of both the buyer and the seller.
2. Scientific and common name of product.
3. Quantity (weight and/or number) by species packaged for delivery to buyer.
4. The Cultivation/Marketing permit number issued by the Department.
5. Date of shipment.
6. The permittee shall retain a copy of the bill of lading or similar accountable document for three years and make it available to the Department upon request.

108.02 All dead or live plants and animals specified must conform to one of the following categories.

1. Category I. Live Animals and Plants:
   a. All live animals and plants transported from the permitted facility in containers or boxes shall be clearly labeled with information required under subsection 108.01.
   b. Live animals and plants transported using a live haul vehicle shall be accompanied by information required under subsection 108.01. Said information shall be maintained in the vehicle at all times during transport of the product.
2. Category II. Dead Animals and Plants: Dead plant and animal products shall be packaged in sealed containers and shall contain information stated under subsection 108.01. Containers shall be clearly labeled showing information required under subsection 108.01.
3. Category III. Tagged Animals and Plants: Plants or animals tagged individually by use of tags approved by the Department. (Tags shall be used if previously stated labeling procedures are determined to be ineffective for monitoring marketed cultured aquatic products).
   a. The permitted aquaculture facility shall pay the cost of manufacturing and delivering the tags. (Requests for tags will be made upon permit application).
   b. Each product shall be tagged with consecutively numbered tags from the Department.
   c. The tag sequence shall be present on all invoices and waybills.
   d. Tags shall remain on the individual product until utilized by the end user.
4. Category IV. Gamefish: Gamefish are produced by aquaculturists for the stocking of private recreational sportfishing waters only.
   a. Live fish transported using a live haul vehicle must be accompanied with information stated under subsection 108.01. This information shall be maintained in the vehicle at all times during transport of the product.

Source: *Miss. Code Ann.* §79-22-13.

<u>Broodstock Acquisition</u>

109 Broodstock for aquaculture facilities may be obtained as follows:

1. By legal sportfishing and commercial fishing harvest methods as allowed by existing regulations.
2. By purchase of broodstock from a permitted aquaculture facility.
3. Through use of an approved broodstock collection permit from the Department of Wildlife, Fisheries and Parks.
   a. Broodstock collection permit may be issued on a case-by-case basis determined by the Department of Wildlife, Fisheries and Parks with assured levels of compensation.
   b. Harvest involves taking certain species from natural waters by temporarily approved methods not covered under existing regulations and limits.

c. Collection under this permit requires compensation by:
   i. Stocking waters with a specified size and number of organisms at time(s) and place(s) specified by the Department of Wildlife, Fisheries and Parks.
   ii. Providing a specified level of funds to the Department of Wildlife, Fisheries and Parks for production by the Department or its contractors of a specified number and size of organisms of a given species for stocking natural waters.
d. Determination of the level of compensation, if any, that is required will be made by the Department of Wildlife, Fisheries and Parks on the basis of the probable impact on wildstocks.
e. No broodstock taken from the state waters will be allowed for sale or transport out of the state, except state educational institutions and state and federal agencies may transport such broodstock out of the state.

Source: *Miss. Code Ann.* §79-22-13.

Facility Inspection and Health Certification

110.01 The Mississippi Department of Agriculture and Commerce and the Mississippi Department of Wildlife, Fisheries and Parks reserve the right to periodically inspect each facility for permit compliance.

110.02 Cultivation and marketing permits may include provisions for live animals or plants to be inspected for disease.

Source: *Miss. Code Ann.* §79-22-13.

Aquaculture Building Requirements

111 Construction associated with aquaculture facilities shall not be required to exceed the building requirements specified for agricultural operations.

Source: *Miss. Code Ann.* §79-22-13.

Violations

112.01 When any complaint is made against any person for violating any of the provisions of the Mississippi Aquaculture Act of 1988, Miss. Code of 1972, 79-22-1, et seq. ("act"), or any of the regulations promulgated thereunder, the Director of the Bureau of Regulatory Affairs of the Mississippi Department of Agriculture and Commerce, or his designee, shall act as the reviewing officer. The complaint shall be in writing and shall be filed in the office of the Mississippi Department of Agriculture and Commerce ("Department"). The reviewing officer shall deliver to the accused a copy of the complaint, any supporting documents and a notice of hearing. An informal hearing shall be scheduled before the reviewing officer,

which shall be held no sooner than twenty (20) days after written notice is delivered to the accused. Notification to the accused may be accomplished by certified mail or by any of the methods provided in Rule 4 of the Mississippi Rules of Civil Procedure. The accused may appear personally at said hearing and provide to the hearing officer a written answer and any documents and affidavits in support of his position. The reviewing officer shall explain the charges, and the accused may state his position and defenses. It is anticipated that the only persons making statements at this hearing will be the complainant, the reviewing officer and the accused. If the accused fails to appear at said hearing or to file a written answer, the allegations in the complaint shall be accepted as being true, and the reviewing officer shall enter an appropriate order. If the matter is contested, the reviewing officer shall review all of the evidence to determine the merit of the complaint.

112.02 If the reviewing officer determines that the complaint lacks merit, he may dismiss same. If he finds that there are reasonable grounds to find that a violation has occurred, the reviewing officer may issue a warning, and/or suspend or revoke the permit of the accused and/or impose a civil penalty of no less than $250 nor more than $1,000 for each violation. In the case of violations involving the marketing of non-cultured gamefish, each fish will be counted as a separate violation. The reviewing officer shall rule within a reasonable time after the hearing. A copy of the reviewing officer's decision shall be sent to the accused by certified mail. The accused shall have the right to appeal to the Commissioner of the Department by filing a notice of appeal with the Bureau of Regulatory Affairs within twenty (20) days of receipt of the reviewing officer's decision. Such appeal shall be without supersedeas. If no appeal is taken, said decision shall be final.

112.03 In the event of an appeal, the Commissioner, or his designee, shall conduct an evidentiary hearing relative to the charges. The Commissioner, or his designee, shall receive and hear all the evidence and arguments offered by both parties and shall afford the accused a full opportunity to present all defenses available to him. The testimony of witnesses at the hearing shall be upon oath or affirmation, and they shall be subject to cross-examination. The testimony shall be recorded electronically, but there is no requirement for it to be transcribed. The rules of evidence shall be relaxed.

112.04 Upon the conclusion of the hearing, the Commissioner, or his designee, shall promptly render an opinion, which either affirms, reverses or amends the order of the reviewing officer, in whole or in part. The Commissioner shall notify the accused of his opinion by certified mail. Such opinion shall be final. Any penalty assessed herein shall be due and payable within twenty (20) days after the order in which it is assessed becomes final. The computation of time under this regulation shall be the same as that set forth in the Mississippi Rules of Civil Procedure.

Source: *Miss. Code Ann.* §79-22-13.

<u>Agency Listing</u>

113 Contact information:

1. Mississippi Department of Agriculture and Commerce

P.O. Box 1609
Jackson, MS 39215-1609
601-359-1102

2. Department of Environmental Quality
   Office of Land and Water Resources
   P.O. Box 10631
   Jackson, MS 39289-0631
   601-961-5200
3. Department of Environmental Quality
   Office of Pollution Control
   P.O. Box 10385
   Jackson, MS 39205
   601-961-5171
4. State Department of Health
   State Health Officer's Office
   P.O. Box 1700
   Jackson, MS 39215-1700
   601-960-7634
5. Mississippi Department of Wildlife, Fisheries and Parks
   Fisheries Division
   P.O. Box 451
   Jackson, MS 39205-0451
   601-364-2200
6. Mississippi Department of Marine Resources
   152 Gateway Drive
   Biloxi, MS 39531
   228-385-5860
7. District Engineer
   U.S. Army Engineer
   District Mobile
   Attn: SAMOP-S
   P.O. Box 2288
   Mobile, AL 36628
   205-694-3775
8. District Engineer
   U.S. Army Engineer
   District Vicksburg
   Attn: LMKOD-FE
   4155 Clay Street
   Vicksburg, MS 39180-5191
   601-634-5289

Source: *Miss. Code Ann.* §79-22-13.

Subpart 5-Central Market Board
Chapter 01-Organization of Central Market Board

Purpose of this Subpart

100 In accordance with Section 25-43-2.104 of the Mississippi Administrative Procedures Law, this subpart describes the Central Market Board's duties and responsibilities, the organization of the Board, and its methods of operation.

Source: *Miss. Code Ann.* §69-7-109.

Purpose of the Mississippi Central Market Board

101 The legislature created the Central Market Board for the purpose of establishing and providing facilities for the handling, disposal and sale of farm and other food products in the interest of farmers, consumers, the general public and the State of Mississippi in *Miss. Code Ann.* Section 69-7-101.

Source: *Miss. Code Ann.* §69-7-109.

Mississippi Central Market Board Composition

102 By law, the Board is composed of six members. *Miss. Code Ann*. Section 69-7-103 provides that the Commissioner of Agriculture and Commerce shall be a member along with four other members to be appointed by the governor from each highway commissioner's district and one other member to be appointed from the state at large. The law provides that one member shall be a wholesale groceryman dealing in fruits and vegetables, one retail groceryman dealing in fruits and vegetables, one farmer growing fruits and vegetables and one farmer producing poultry and eggs. Each member is appointed to a four-year term.

Source: *Miss. Code Ann.* §69-7-109.

Chairman

103 The Commissioner of Agriculture and Commerce serves as ex officio chairman of the Central Market Board pursuant to law.

Source: *Miss. Code Ann.* §69-7-109.

Powers of the Central Market Board

104 The law provides for the powers and duties of the Board in *Miss. Code Ann. S*ection 69-7-109. Primarily, the Board is charged with operating a farmers market and doing those things necessary to successfully operate such a market, including but not limited to setting rules for those people that come onto the market, setting hours of operation,

renting and leasing real or personal property under the control of the market and build any facilities on the grounds under control of the Board that will make the market successful.

Source: *Miss. Code Ann.* §69-7-109.

State Market Manager

105 The State Market Manager is an officer of the executive branch of state government appointed by the Board. The law provides that the state market manager have the ability to operate a large business, have knowledge of the problems of growers and distributors, and have had experience in the marketing of perishable vegetables.

Source: *Miss. Code Ann.* §69-7-109.

Duties of the State Market Manager

106 The State Market Manager is charged with managing and controlling the market subject to the supervision of the Board and is authorized to employee personnel necessary for the operation of the market subject to the approval of the Board. The state market manager shall attend all the meetings of the Board and keep the minutes and shall have custody of all of the Board's books, records, papers and accounts.

Source: *Miss. Code Ann.* §69-7-109.

Contacting the Central Market Board

107 The Central Market Board may be contacted in person, by U.S. Mail, Courier mail, e-mail, telephone, and telefacsimile. The Central Market Board maintains and provides interactive services on the Internet at www.mdac.state.ms.us.

1. Location. The Central Market Board's offices are located in Jackson at the following locations:
   a. 929 High Street; Jackson, MS 39202. This is the physical location of the farmers market and the State Market Manager.
   b. 121 North Jefferson Street; Jackson, MS 39201. This is the office of the chairman.
2. The mailing address for the Central Market Board is: P.O. Box 1609; Jackson, MS 39215.
3. The Central Market's telephone and facsimile numbers are:
   a. Market: 601-354-6573, Chairman: 601-359-1100
   b. FAX: 601-354-7330

Source: *Miss. Code Ann.* §69-7-109.

Subpart 5-Central Market Board
Chapter 02-Procedure for Oral Proceedings on Rule-Making

Scope

100 Rules 100-112 are promulgated pursuant to *Miss. Code Ann*. §25-43-3.104(2)(d) of the Administrative Procedures Law, and apply to all oral proceedings held for the purpose of providing the public with an opportunity to make oral presentations on proposed new rules and amendments to rules before the Market pursuant to §25-43-3.104.
(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §69-7-109.

When Oral Proceedings Will Be Scheduled on Proposed Rules

101 The Market will conduct an oral proceeding on a proposed rule or amendment if requested by a political subdivision, an agency or ten (10) persons in writing within twenty (20) days after the filing of the notice of the proposed rule.
(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §69-7-109.

Request Format

102 Each request must be printed or typewritten, or must be in legible handwriting. Each request must be submitted on standard business letter-size paper (8-1/2 inches by 11 inches). Requests may be in the form of a letter addressed to the Market and signed by the requestor(s).
(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §69-7-109.

Notification of Oral Proceeding

103 The date, time and place of all oral proceedings shall be filed with the Secretary of State's office and mailed to each requestor. The oral proceedings will be scheduled no earlier than twenty (20) days from the filing of this information with the Secretary of State.
(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §69-7-109.

Presiding Officer

104 The Chairman or his designee, who is familiar with the substance of the proposed rule, shall preside at the oral proceeding on a proposed rule.

(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §69-7-109.

Public Presentations and Participation

105 At an oral proceeding on a proposed rule, persons may make oral statements and make documentary and physical submissions, which may include data, views, comments or arguments concerning the proposed rule.
(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §69-7-109.

106 Persons wishing to make oral presentations at such a proceeding shall notify the Market at least one business day prior to the proceeding and indicate the general subject of their presentations. The presiding officer in his or her discretion may allow individuals to participate that have not previously contacted the Board.
(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §69-7-109.

107 At the proceeding, those who participate shall indicate their names and addresses, identify any persons or organizations they may represent, and provide any other information relating to their participation deemed appropriate by the presiding officer.
(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §69-7-109.

108 The presiding officer may place time limitations on individual oral presentations when necessary to assure the orderly and expeditious conduct of the oral proceeding. To encourage joint oral presentations and to avoid repetition, additional time may be provided for persons whose presentations represent the views of other individuals as well as their own views.
(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §69-7-109.

109 Persons making oral presentations are encouraged to avoid restating matters that have already been submitted in writing.
(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §69-7-109.

110 There shall be no interruption of a participant who has been given the floor by the presiding officer, except that the presiding officer may in his or her discretion interrupt or end the partisan's time where the orderly conduct of the proceeding so requires.

(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §69-7-109.

Conduct of Oral Proceeding

111 Presiding officer. The presiding officer shall have authority to conduct the proceeding in his or her discretion for the orderly conduct of the proceeding. The presiding officer shall (a) call the proceeding to order; (b) give a brief synopsis of the proposed rule, a statement of the statutory authority for the proposed rule, and the reasons provided by the Market for the proposed rule; (c) call on those individuals who have contacted the Market about speaking on or against the proposed rule; (d) allow for rebuttal statements following all participants' comments; (e) adjourn the proceeding.

(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §69-7-109.

112 Questions. The presiding officer, where time permits and to facilitate the exchange of information, may open the floor to questions or general discussion. The presiding officer may question participants and permit the questioning of participants by other participants about any matter relating to that rule-making proceeding, including any prior written submissions made by those participants in that proceeding; but no participant shall be required to answer any question.

(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §69-7-109.

Subpart 5-Central Market Board
Chapter 03-Procedure for Issuing Declaratory Opinions

Scope of Rules

100 This chapter sets forth the Central Market Board's, hereinafter "Market," rules governing the form and content of requests for declaratory opinions, and the Market's procedures regarding the requests, as required by *Miss. Code Ann.* § 25-43-2.103. These rules are intended to supplement and be read in conjunction with the provisions of the Mississippi Administrative Procedures Law, which may contain additional information regarding the issuance of declaratory opinions. In the event of any conflict between these rules and the Mississippi Administrative Procedures Law, the latter shall govern.
(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §69-7-109.

Persons Who May Request Declaratory Opinions

101 Any person with a substantial interest in the subject matter may request a declaratory opinion from the Market by following the specified procedures. "Substantial interest in the subject matter" means: an individual, business, group or other entity that is directly affected by the Market's administration of the laws within its primary jurisdiction. "Primary jurisdiction of the Market" means the Market has a constitutional or statutory grant of authority in the subject matter at issue.
(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §69-7-109.

Subjects That May Be Addressed In Declaratory Opinions

102 The Market will issue declaratory opinions regarding the applicability to specified facts of: (1) a statute administered or enforceable by the Market or (2) a rule promulgated by the Market. The Market will not issue a declaratory opinion regarding a statute or rule that is outside the primary jurisdiction of the Market.
(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §69-7-109.

Circumstances In Which Declaratory Opinions Will Not Be Issued

103 The Market may, for good cause, refuse to issue a declaratory opinion. The circumstances in which declaratory opinions will not be issued include, but are not necessarily limited to:
1. lack of clarity concerning the question presented;

2. there is pending or anticipated litigation, administrative action, or other adjudication which may either answer the question presented by the request or otherwise make an answer unnecessary;
3. the statute or rule on which a declaratory opinion is sought is clear and not in need of interpretation to answer the question presented by the request;
4. the facts presented in the request are not sufficient to answer the question presented;
5. the request fails to contain information required by these rules or the requestor failed to follow the procedure set forth in these rules;
6. the request seeks to resolve issues that have become moot, or are abstract or hypothetical such that the requestor is not substantially affected by the statute or rule on which a declaratory opinion is sought;
7. no controversy exists concerning the issue, as the requestor is not faced with existing facts or those certain to arise that raise a question concerning the application of the statute or rule;
8. the question presented by the request concerns the legal validity of a statute or rule;
9. the request is not based upon facts calculated to aid in the planning of future conduct but is, instead, based on past conduct in an effort to establish the effect of that conduct;
10. no clear answer is determinable;
11. the question presented by the request involves the application of a criminal statute or a set of facts that may constitute a crime;
12. the answer to the question presented would require the disclosure of information that is privileged or otherwise protected by law from disclosure;
13. the question is currently the subject of an Attorney General's opinion request or has been answered by an Attorney General's opinion;
14. a similar request is pending before this Market or any other agency or a proceeding is pending on the same subject matter before any agency, administrative or judicial tribunal, or where such an opinion would constitute the unauthorized practice of law.
15. where issuance of a declaratory opinion may adversely affect the interests of the State, the Market or any of their officers or employees in any litigation, which is pending or may reasonably be expected to arise;
16. the question involves eligibility for a license, permit, certificate or other approval by the Market or some other agency, and there is a statutory or regulatory application process by which eligibility for said license, permit, certificate or other approval would be determined.

(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §69-7-109.

Written Request Required

104 Each request must be printed or typewritten, or must be in legible handwriting. Each request must be submitted on standard business letter-size paper (8-1/2 inches by 11 inches). Requests may be in the form of a letter addressed to the Market.

(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §69-7-109.

Where to Send Requests

105 All requests must be mailed, delivered or transmitted via facsimile to the Market. The request shall clearly state that it is a request for a declaratory opinion. Oral and telephone requests and email requests will not be accepted for official opinions.

(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §69-7-109.

Name, Address and Signature of Requestor

106 Each request must include the full name, telephone number, and mailing address of the requestor. All requests shall be signed by the person filing the request, who shall attest that the request complies with the requirements set forth in these rules, including but not limited to a full, complete, and accurate statement of relevant facts and that there are no related proceedings pending before any other administrative or judicial tribunal.

(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §69-7-109.

Question Presented

107 Each request shall contain the following:

1. a clear and concise statement of all facts on which the opinion is requested;
2. a citation to the statute or rule at issue;
3. the question(s) sought to be answered in the opinion, stated clearly;
4. a suggested proposed opinion from the requestor, stating the answers desired by petitioner and a summary of the reasons in support of those answers;
5. the identity of all other known persons involved in or impacted by the described factual situation, including their relationship to the facts, name, mailing address and telephone number; and
6. a statement to show that the person seeking the opinion has a substantial interest in the subject matter.

(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §69-7-109.

Time For Market's Response

108 Within forty-five (45) days after the receipt of a request for a declaratory opinion that complies with the requirements of these rules, the Market shall, in writing:

1. issue a declaratory opinion regarding the specified statute or rule as applied to the specified circumstances;
2. decline to issue a declaratory opinion, stating the reasons for its action; or

3. agree to issue a declaratory opinion by a specified time but not later than ninety (90) days after receipt of the written request.

(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §69-7-109.

109 The forty-five (45) day period shall begin running on the first State of Mississippi business day on or after the request is received by the Market, whichever is sooner.

(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §69-7-109.

Opinion Not Final for Sixty Days

110 A declaratory opinion shall not become final until the expiration of sixty (60) days after the issuance of the opinion. Prior to the expiration of sixty (60) days, the Market may, in its discretion, withdraw or amend the declaratory opinion for any reason that is not arbitrary or capricious. Reasons for withdrawing or amending an opinion include, but are not limited to, a determination that the request failed to meet the requirements of these rules or that the opinion issued contains a legal or factual error.

(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §69-7-109.

Notice by Market to Third Parties

111 The Market may give notice to any person, agency or entity that a declaratory opinion has been requested and may receive and consider data, facts, arguments and opinions from other persons, agencies or other entities other than the requestor.

(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §69-7-109.

Public Availability of Requests and Declaratory Opinions

112 Declaratory opinions and requests for declaratory opinions shall be available for public inspection and copying in accordance with the Market's public records request procedure. All declaratory opinions and requests shall be indexed by name and subject. Declaratory opinions and requests that contain information that is confidential or exempt from disclosure under the Mississippi Public Records Act or other laws shall be exempt from this requirement and shall remain confidential.

(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §69-7-109.

Effect of a Declaratory Opinion

113 The Market will not pursue any civil or criminal or administrative action against a person who is issued a declaratory opinion from the Market and who, in good faith, follows the direction of the opinion and acts in accordance therewith unless a court of competent jurisdiction holds that the opinion is manifestly wrong. Any declaratory opinion rendered by the Market shall be binding only on the Market and the person to whom the opinion is issued. No declaratory opinion will be used as precedent for any other transaction or occurrence beyond that set forth by the requesting person.
(Adopted June 21, 2005.)

Source: *Miss. Code Ann.* §69-7-109.

Subpart 5-Central Market Board
Chapter 04-Public Records Request Procedure

Scope

100 The following regulation is hereby adopted by the Mississippi Central Market Board ("Market") as provided by Section 3 of the Mississippi Public Records Act of 1983 ("Act"), for the orderly implementation of said law.
(Adopted May 8, 2007.)

Source: *Miss. Code Ann.* §69-7-109.

Schedule of Fees

101 Personnel. Staff time shall be charged as follows: $10.00 per hour per person for clerical time and $20.00 per hour per person for supervisory or professional time for searching, reviewing and/or duplicating public records. Any part of an hour spent in such activities shall be prorated to the nearest half hour.
(Adopted May 8, 2007.)

Source: *Miss. Code Ann.* §69-7-109.

102 Copies. $.50 per page for each copy. Copies of pages printed on both sides (front and back) shall be considered as two pages for copy charge purposes.
(Adopted May 8, 2007.)

Source: *Miss. Code Ann.* §69-7-109.

103 Packing fee. A $5.00 packing and handling fee shall be charged on all requests for copies of public records to be shipped or mailed.
(Adopted May 8, 2007.)

Source: *Miss. Code Ann.* §69-7-109.

104 Mailing fee. The cost shall be calculated at the applicable rate for each such mailing. If request involves notice to be given to a third party, the cost of mailing such notice via certified mail return receipt requested shall be charged to person requesting such public records.
(Adopted May 8, 2007.)

Source: *Miss. Code Ann.* §69-7-109.

105 Payment of fees. Requestor shall deposit a certified check, money order or cash in escrow with the Market for the estimated costs of answering this request. However, if actual costs exceed the estimated costs, the additional costs shall be paid by the person requesting such records prior to the release of the records.
(Adopted May 8, 2007.)

Source: *Miss. Code Ann.* §69-7-109.

Requests

106 General. No person requesting public records shall be permitted to review Market files, however, copies of all records requested; within limitations imposed by the Act and this regulation, will be furnished such person.
(Adopted May 8, 2007.)

Source: *Miss. Code Ann.* §69-7-109.

107 Where to Send Requests. All requests must be mailed, delivered or transmitted via facsimile to the Market. Oral and telephone requests and email requests will not be accepted.
(Adopted May 8, 2007.)

Source: *Miss. Code Ann.* §69-7-109.

108 Written Request Required**.** Each request must be printed or typewritten, or must be in legible handwriting. Each request must be submitted on standard business letter-size paper (8-1/2 inches by 11 inches). Requests may be in the form of a letter addressed to the Market. All requests must include a specific description, identity and name of the records requested.
(Adopted May 8, 2007.)

Source: *Miss. Code Ann.* §69-7-109.

109 Name, Address and Signature of Requestor. Each request must include the full name, telephone number, and mailing address of the requestor. All requests shall be signed by the person filing the request.

(Adopted May 8, 2007.)

Source: *Miss. Code Ann.* §69-7-109.

110 Market Response. All records or information in the possession of the Market not specifically exempt as a public record by the Act, or this Regulation, shall be made available upon written request within seven (7) working days from the date of receipt of said request.

All requests must include a specific description, identity and name of the records requested. If the Market is unable to produce a public record by the seventh working day after the request is made, the Market must provide a written explanation to the requestor stating that the record requested will be produced, unless exempt by law, and specifying with particularity why the records cannot be produced within the seven-day period. Unless there is mutual agreement of the requestor and the Market, in no event shall the date for the Market's production of the requested records be any later than fourteen (14) working days from the receipt by the Market of the original request. If the requestor and the Market agree, a response period of longer than fourteen (14) working days from the receipt of the request shall be allowed. If the request is denied, the Market shall notify the requestor in writing that the request is denied and provide the specific reason or exemption relied upon by the Market for the denial.

(Adopted May 8, 2007; Revised January 20, 2011.) Source: *Miss. Code Ann.* §69-7-109.

Source: *Miss. Code Ann.* §69-7-109.

<u>Availability of Records</u>

111 The availability of all records in the possession of the Market shall be subject to the following limitations:

1. Any public record specifically declared to be confidential, privileged or exempt by the Act, or any constitutional or statutory law or decision of a court of this state or the United States shall be exempt from the provisions of the Act.
2. Any records furnished to the Market which contain trade secrets or confidential commercial or financial information shall not be subject to inspection, examination, copying or reproduction until forty five (45) days following written notice from the Market to person furnishing such records advising that request has been made for copies of such documents. The notice shall contain a listing of specific documents requested and the name and address of the person requesting such documents or records. Notices shall be mailed certified mail return receipt requested. At the end of the forty five (45) day notice period, copies of all records listed in said notice shall be released to person requesting such records unless person furnishing such records shall have obtained a court order protecting such

records as confidential and exempting such records from the provisions of the Act.

3. Personnel records and applications for employment, letters of recommendation for employment or respecting admission to any educational agency or institution in the possession of the Market, except those which may be released to the person who made the application or released upon the prior written consent of the person who made the application, shall be exempt from the provisions of the Act.

4. Test questions and answers in the possession of the Market shall be exempt from the provisions of the Act.

5. Records which represent and constitute the work product of any attorney, district attorney or county prosecuting attorney representing the Market and which are related to litigation made by or against the Market or in anticipation of prospective litigation, including all communications between such attorney made in the courses of an attorney-client relationship shall be exempt from the provisions of the Act.

6. Records in the possession of the Market which would disclose information about a persons individual tax payment or status shall be exempt from the provisions of the Act.

7. Information or records in the possession of the Market which concerns the sale or purchase of real or personal property for public purposes shall be exempt from the provisions of the Act, prior to public announcement of the purchase or sale, where the release of such records could possibly have a detrimental effect on such sale or purchases.

8. Records in the possession of the Market which are not otherwise protected by law, that (a) are compiled in the process of detecting and investigating any unlawful activity or alleged unlawful activity, disclosure of which would harm such investigation; (b) would reveal the identity of informants; (c) would prematurely release information that would impede the Market's enforcement, investigation or detection efforts in such proceedings; (d) would disclose investigatory techniques; (e) would deprive a person of a right to a fair trial or impartial adjudication; (f) would endanger the life or safety of any Market personnel; (g) are matters pertaining to quality control or PEER review activities shall be exempt from the provisions of the Act.

9. Applications for licensure or test questions that are to be used in future license examinations in the possession of the Market, except that which may be released to the person who made the application or with the prior written consent of the person who made the application, shall be exempt from the provisions of the Act.

10. Commercial and financial information or records of a proprietary nature required to be submitted to the Market by a firm, business, partnership, association, corporation, individual or other like entity, shall be exempt from the provisions of the Act.

11. Records in the possession of the Market as defined by Section 2(b) of the Act, which are not otherwise protected by law, that are compiled by reason of inspection or investigation of specific facilities, organizations, or devices pursuant to any law requiring such inspections or investigations to determine, insure, or enforce compliance with such law, shall be exempt from the provisions of the Act.

(Adopted May 8, 2007.)

Source: *Miss. Code Ann.* §69-7-109.

Subpart 5-Central Market Board
Chapter 05- Rules Governing The Farmers Market

100 Definitions:

1. **Crafts** – Products that have been developed by the handiwork of artisans and crafters to create a value-added good.
2. **Home-based processor-** means a person who, in his or her home, produces or processes whole fruit and vegetables, missed-greens, jams, jellies, sweet sorghum syrup, preserves, fruit butter, bread, fruit pies, cakes or cookies.
3. **Market Manager** – A state employee designated by the Board to supervise the daily operations of the Mississippi Farmers' Market and to implement the guidelines and decisions of the Mississippi Central Market Board.
4. **Mississippi Central Market Board** – Governor appointed individuals in cooperation with the Mississippi Commissioner of Agriculture as outlined in Section 69-7-103 of the Miss. Code Ann. .
5. **Nursery/Landscape** – Horticultural and arboricultural plant materials used for aesthetic purposes.
6. **Potentially hazardous goods**-are those goods as defined in section 1-201.10 of the current U.S. Food Code.
7. **Produce** – Raw, horticultural and agronomic products to include all varieties of fruits, vegetables, herbs, nuts and cut flowers.
8. **Specialty Foods** – Processed goods derived from raw commodities to include but not to be limited to refined, baked, canned and cooked foods, honey, and eggs.
9. **Stall** – Pre-designated space for rent on the market premises.
10. **Vendor** – One who meets the requirements of the Mississippi Farmers' Market certification process and sells produce or other approved products at the Market.

(Amended February 28, 2008.)

Source: *Miss. Code Ann.* §69-7-109.

<u>Purpose</u>

101 The Mississippi Farmers' Market ("the Market") is created to promote and provide a marketplace for Mississippi grown fruits, vegetables, plant materials, and other products made in Mississippi. These rules apply only to the Market on Jefferson Street. The primary objectives of the Market are to offer a diverse product selection, attract a large and repeating customer base, and afford farmers a profitable location to sell produce and other goods.

Source: *Miss. Code Ann.* §69-7-109.

<u>Time Of Operation</u>

102 The Mississippi Central Market Board ("the Board") shall have the authority to establish days and hours of operation of all sectors of the Farmers' Market at the Fairgrounds with monthly reevaluation of such operating guidelines. All participating vendors must adhere to hours of operation.

Source: *Miss. Code Ann.* §69-7-109.

Vendor Certification And Selection Priority

103.01 All vendors must complete the Market Certification Form upon annual application for participation in the Market.

1. Mississippi Department of Agriculture and Commerce staff will evaluate submitted certification forms and approve those deemed eligible.
2. A copy of the approved certificate must be posted in plain view during operation for all vendors at the market.
3. All items intended for sale shall be listed on the certificate, and only those items approved for sale will be allowed.
4. It is the intent of the certification process to ensure all products for sale are produced by those actively involved in the production process and that only those individuals may become eligible vendors at the Market.

103.02 Vendors shall be selected and stalls allocated to promote equity, diversity, and a competitive environment to benefit both vendors and customers.

103.03 Mississippi Department of Agriculture and Commerce staff shall perform inspections on vendor property after certifications have been completed.

Source: *Miss. Code Ann.* §69-7-109.

Operating Guidelines

104 The following guidelines apply to Market operations:

1. The Board shall have the authority to set rent rates for vendors on Market grounds and shall reevaluate such rates on an annual basis. Rates shall be set to support financial stability of the Market and to encourage participation in the Market.
2. Each vendor, whether in cooperation with other growers or not, shall individually pay a stall fee. Rental fees will be paid on a daily basis for each stall space occupied.
3. Vendors must use the space as authorized by the Market Manager.
4. Vendors must notify the Market Manager before delivering, engaging in business, or occupying space on the market grounds.
5. At no time may a vendor's display restrict the view of other vendors at the market.
6. No vendor may sub-lease or sub-let their space at any given time.
7. The Market Manager must approve signage.
8. Vendors may have coolers, as approved by the Market Manager, in the rented space.
9. The Market will provide waste containers and basic electrical service. The Market will not provide electrical cords or other electrical extensions.

10. The Market will also provide water connections for the vendors. The Market will not provide hoses or other connection equipment needed to dispense water.
11. Hoses and other watering apparatuses must be put away and turned off immediately upon termination of use and must not pose a threat to others.
12. Standing water must be swept to the nearest drain.
13. No vendor shall enter into price agreements to raise, lower, or fix prices for products on the Market. Vendors are not to influence other vendors to sell lower or higher other than through natural competition.
14. Each vendor operates privately and separately, and it is the individual responsibility of each vendor to comply with all city, county, state and federal laws and regulations concerning packaging, labeling, taxation, food safety and sanitation, etc.
15. No vendor is to approach customers while at the location of another vendor. No calling out of prices will be permitted.
16. Use of the product label "Organic" must be in accordance with all Federal and State laws, rules, and regulations.
17. No live animals shall be offered for sale at the Market.
18. No smoking or tobacco use shall be allowed in the building.
19. No alcohol, intoxicating beverage or narcotic, nor any person under the influence thereof, shall be allowed on the market premises.
20. Loitering in or around the Market after designated operating hours is prohibited.
21. No eighteen-wheelers shall be allowed on Market grounds.
22. No repairs on vehicles, other than emergency repairs, may be performed on Market grounds.
23. All vehicles belonging to or used by the vendor must be parked directly behind their rented stall or in customer parking, and must be moved on a daily basis (cannot stay after Market closes).
24. No soliciting of products other than approved items will be permitted.
25. No pets are allowed in the building with the exception of dogs aiding the handicapped.
26. No loading or unloading of products in a stall in front of the customer walkway is allowed.
27. No person shall deface or damage the Market building.
28. Vendors are responsible for the actions, behavior, and dress of their representatives, employees or agents. Shoes and shirts must be worn at all times.
29. All vendors and vendor personnel are responsible for a daily proper disposal and removal of refuse, discards, and garbage from their rented space, including, without limitation, the ten feet in front and rear of rented space and five feet on all sides of any vehicle parked at a rented space.
30. Vendor displays and storage must be kept sanitary on a daily basis.
31. The Market is not liable and assumes no responsibility for any personal items or property in or around the stall(s).
32. The Mississippi Department of Agriculture and Commerce has the right to invite any outside vendor for temporary, promotional events with those individuals adhering to only the 'Operational Guidelines.'
33. To the fullest extent allowed by law, each vendor shall indemnify, defend, save, hold harmless, protect and exonerate the Board, its directors, employees, agents,

representatives, the Market Manager, and the State of Mississippi from and against all claims, demands, liabilities, suits, actions, damages and losses for personal injury, death or property damage, including, without limitation, court costs, investigative fees and attorneys' fees arising out of such vendor's operations on the Board's grounds, and whether caused by the vendor or his agents, employees or subcontractors. Each vendor shall be solely responsible for all costs and/or expenses associated with such defense.

34. Vendors may leave their products and other property in the stall space over night only if the rental fee has been paid in advance.
35. Upon departure, all space for which tenant is responsible, as described above, must be left clean.
36. If the vendor has been absent from Market and rent has accrued, tenant must, upon his return to the Market, pay all delinquent rent and/or fees before engaging in business again.
37. The Market Manager reserves the right to eject from the grounds any individual who interferes with the commerce and operation of the Market.
38. If a vendor violates any of these rules, he may be debarred by the Market Manager from operating as a vendor at the Market.
39. If the Mississippi Legislature or the United States Congress fails to appropriate the funds necessary to operate the Market, the Market Manager may debar any or all of the vendors from operating at the Market.
40. The Market Manager may debar any or all of the vendors from operating at the Market at the convenience of the Market Manager.
41. Based on variation in market products and seasonal changes of available products, the Board gives the Market Manager, with the Board's approval, the flexibility to set the ratio of Mississippi producer grown products and the non-MS producer grown products available for sale at the market.
42. No person or organization may solicit money, votes or signatures or engage in a protest, demonstration or political activity/speech, including distribution of written materials, in the Market building or on the sidewalk leading up to or around the building. Such activities must be conducted at least 50 feet from the Market building or in an area specifically designated by the Market Manager. Such person or organization must register with the Market prior to a protest, demonstration or political activity/speech. The Market Manager reserves the right to eject from the grounds any individual who interferes with or disrupts the commerce and operation of the Market.

(Adopted January 20, 2011.)

Source: *Miss. Code Ann.* §69-7-109.

Produce

105 The following rules and regulations are only applicable to those vendors selling fresh produce, nuts, and cut flowers and foliage.

1. A single vendor may rent a maximum of three consecutive stalls, with approval by the Market Manager.

3. Produce products will receive preference for space over plant materials and other goods available at the market.
4. Trees and produce shall not be sold from the same stall.
5. Pre-packaged items sold by weight must be labeled in a manner pursuant to *Miss. Code Ann.* Section 75-27-41 of the Mississippi Weights and Measures Law.

Source: *Miss. Code Ann.* §69-7-109.

Nursery/Landscape

106 The following rules and regulations are only applicable to those vendors selling plant materials classified as either Nursery or Landscape.

1. If available, a single vendor may rent a number of consecutive stalls, with approval by the Market Manager.
2. Vendors, if deemed eligible by the Market Manager, may expand the size of their operation for an additional fee by utilizing the parking area behind the stall. Expansion displays must not block the driving space of other vendors at the market and must adhere to the width and length restrictions of the rented stall(s).
3. At no time may the vendor expand beyond the side and front lines of the stall(s).
4. A tent or other shading structure that has been approved by the Market Manager maybe placed directly behind the stall to expand the rented stall.
5. Re-stocking is permitted. Vendors may be subject to a surcharge in an amount determined by the Board and reviewed annually for every truckload brought in. Payment will be given to the Market Manager immediately upon delivery.
6. The Bureau of Plant Industry must certify all vendors selling nursery plant materials before entering the market. Proof of certification and licensing must be provided and on file with the Market Manager.
7. All plant materials sold at the market must have been grown in Mississippi. Plugs and other starter plants not originating in Mississippi may be considered a Mississippi product if and only if it is finished in the state. For such consideration, the plant material must not be in its original container, and it must have matured in Mississippi for a minimum of four weeks.
8. All plant materials must be disease and pest free.
9. Vendors may water plants as necessary but may not spray fertilizer, pesticides, or any other chemicals at any time at the Market.

Source: *Miss. Code Ann.* §69-7-109.

Specialty Foods and Crafts

107 The following rules and regulations are applicable only to those individuals selling goods that have been processed altered from its original form as well as to those individuals selling farm raised eggs.

1. In the event a stall is vacant and vendors selling produce or nursery/landscape materials are not available or a lack of variety is present at the market, the Market Manager may rent a stall to a vendor selling specialty foods.

2. Government approved methods for preparing, storing, handling, and packaging of food products must be adhered to.
3. All processed foods products are to be packaged, covered, sealed, or wrapped at all times.
4. Complaints regarding quality, unsafe practices, or reports of illness must be given directly to the Market Manager.
5. Only crafts that are handcrafted by the vendor will be allowed.
6. All products are subject to revocation by the Market Manager.

Source: *Miss. Code Ann.* §69-7-109.

Home-based processors

108.01 A home-based processor may sell non-potentially hazardous goods at the Mississippi Farmers' Market provided the following conditions are met:

1. All finished product containers are clean and sanitary and are labeled to show:
   a. the name and address of the home-based processor;
   b. the common or usual name of the food;
   c. if the food is prepared from two or more ingredients, the ingredients of the food product in descending order of predominance by weight;
   d. the net weight, standard measure or numerical count;
   e. the date the product was processed; and
   f. a statement that the product was home processed
2. All goods processed by home-based processors are neither adulterated nor misbranded.
3. Glass containers for jams, jellies, marmalades and similar products are provided with suitable metal covers.

(Adopted February 28, 2008.)

108.02 Potentially hazardous goods may be sold at the market if the vendor has a permit from the State Health Department and meets the labeling requirements in subsection 108.01(1)(a)-(f)).

(Adopted February 28, 2008.)

108.03 The following chart provides examples of what home-based processed products are non-potentially hazardous. The list is not exclusive

Non-potentially hazardous goods
• Jams • Jellies • Sweet sorghum syrup • Preserves • Fruit butter • Fruit pies • Cakes • Cookies

- Breads (that do not contain meat and/or seafood)

(Adopted February 28, 2008.)

Source: *Miss. Code Ann.* §69-7-109.

Subpart 6-Mississippi Livestock Show
Chapter 01-Adoption of Regulations

Adoption of Regulations

100 Regulations for the Livestock Show shall be the same as the rules and regulations found in the current Mississippi State Fair Premium Book and the current Dixie National/Junior Round-up Premium Book unless otherwise noted in subsequent regulations. A copy of the premium books can be obtained by e-mailing greg@mdac.state.ms.us or by calling the Department at (601)359-1100.

(Adopted August 17, 2009; amended July 2010; amended July 2011.)

Source: *Miss. Code Ann*. §69-5-101.