

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.*