

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 label 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 hydrophilic 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 analysis.

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.

109.03 Any 2,4-D or dicamba products labeled and intended for in-crop use on 2,4-D- or dicamba-tolerant cotton or soybeans shall be classified and registered as “state-restricted use.”
(Amended February 26, 2017; Amended December 20, 2019.)

Source: *Miss. Code Ann.* §69-23-9 and 69-23-109.

109.04 Any product containing dicamba as a sole active ingredient in one gallon containers or larger and labeled for agricultural uses shall be classified and registered as “state restricted use.”

(Amended March 1, 2018.)

Source: *Miss. Code Ann.* §69-23-9.

Special Requirements For Pesticides Distributed in Bulk Containers

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 Federal Pesticide Management and Disposal Rule, 40 C.F.R. Part 165, Adopted by Reference. The Department adopts herein by reference the current version of 40 C.F.R. Part 165 as the State standards and requirements for pesticide containers, repackaging pesticides, and 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. Amended December 8, 2011.)

Source: *Miss. Code Ann* §69-23-9 (Rev. 2005).

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.

Sale or Distribution of Certain Auxin-based Herbicides

211 REPEAL