

MISSISSIPPI DEPARTMENT OF AGRICULTURE AND COMMERCE  
BUREAU OF PLANT INDUSTRY  
P.O. BOX 5207  
MISSISSIPPI STATE, MISSISSIPPI 39762

REGULATIONS GOVERNING REGISTRATION OF PESTICIDES AND PESTICIDE  
PRODUCTS IN ACCORDANCE WITH THE MISSISSIPPI PESTICIDE LAW OF 1975

**RULE 1.** (Amended August 23, 2001). The Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, under the provisions of Sections 69-23-7, Mississippi Code of 1972 as amended by Laws of Mississippi 2001, does hereby promulgate, declare and give public notice hereof of the following regulations:

SECTION 1. DEFINITIONS

Words used in these regulations shall be construed as having the same meaning as in the definitions given in the Act.

The term “AAPCO” means the Association of American Pesticide Control Officials.

The term “Act” means the Mississippi Pesticide Law of 1975, Mississippi Code of 1972, Section 69-23-1, et seq.

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.

The term “Bureau” means the Bureau of Plant Industry within the Mississippi Department of Agriculture and Commerce.

The term “channels of trade” means distribution channel that a pesticide or pesticide product follows once it leaves the producing establishment.

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.

The term “discontinued product(s)” means pesticide product(s) for which manufacturing has been halted but may still remain in the channels of trade.

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.

The term “FDA” means the Federal Food and Drug Administration.

The term “formulate” means receiving ingredients for a product individually and then mixing them in order to produce a new product.

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.

The term “pesticide product” means a product that has been packaged, labeled and released for shipment from the producing establishment.

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.

The term “produce” means to manufacture, prepare, compound, propagate, or process any pesticide or active ingredient used in producing a pesticide or pesticide product.

The term “repackaged” means receiving a product in bulk and then packaging and re-labeling it.

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.

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.

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.

## SECTION 2. REGISTRATION PROCEDURES

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 re-registered by December 31, shall be considered as unregistered and subject to the penalties prescribed by the Act.

The Registration fee for a pesticide or pesticide product, unless partially waived as an additional brand under Section 5 of this rule, 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.

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.

Fertilizer-Pesticide mixtures shall be registered and must comply with all sections of the Pesticide Law of 1975 and the rules promulgated thereunder.

### SECTION 3. SAMPLING AND ANALYSES

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.

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.

#### SECTION 4. ISSUANCE OF NON-COMPLIANCE NOTICES AND STOP-SALE NOTICES

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.

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.

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.

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.

#### SECTION 5. REQUIREMENTS FOR MEETING THE ADDITIONAL BRAND CLASSIFICATION

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.

#### SECTION 6. BONDING AND SECURITIES

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 Mississippi Code of 1972, Section 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.

#### SECTION 7. ADDITIONAL REQUIREMENTS FOR THE REGISTRATION OF PESTICIDES DECLARED EXEMPT FROM EPA REGISTRATION BUT NOT SO UNDER MISSISSIPPI LAW

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.

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.

#### SECTION 8. CERTAIN ORGANISMS DECLARED PESTS

The Bureau of Plant Industry does declare the following to be pests:

Moles (*Scalopus aquaticus*)

Snails and Slugs (various species of the Phylum Mollusca that are known to damage plants)

Blackbirds (various species of crop damaging birds such as grackles, cowbirds, starlings and other birds known to damage field crops)

#### SECTION 9. REQUIREMENTS FOR ADJUVANTS

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.

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.

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.

## SECTION 10. SPECIAL REGISTRATIONS

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.

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.

## SECTION 11. SPECIAL REQUIREMENTS FOR PESTICIDES DISTRIBUTED IN BULK CONTAINERS

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.

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.

All bulk tanks must have locking and seal mechanisms to prevent tampering of the contents by unauthorized persons.

Locations where bulk containers are refilled must be registered as "Pesticide producing establishments" by the EPA.

## SECTION 12: POST-DEPRIVATION HEARING.

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 Mississippi Code of 1972, Sec. 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 of 1972, Sec. 69-25-51, et seq.