



The National Agricultural Law Center

The nation's leading source for agricultural & food law research & information

NationalAgLawCenter.org | nataglaw@uark.edu

Requirements for Grain Dealers:

Mississippi



This material is based upon work supported by the National Agricultural Library,
Agricultural Research Service, U.S. Department of Agriculture

A National Agricultural Law Center Research Publication

Requirements for Grain Dealers: Mississippi

Fast find:

- 1) Licensing: [Miss. Code Ann. §§ 75-45-304; 307 to 309](#)
- 2) Bonding: [Miss. Code Ann. §§ 75-45-305; 311](#)
- 3) Auditing: [Miss. Code Ann. § 75-45-309](#)
- 4) Indemnity Fund:
- 5) Failure/Liquidation: [Miss. Code Ann. § 75-45-311](#)
- 6) Prompt Payment:
- 7) Penalties: [Miss. Code Ann. § 75-45-315](#)
- 8) Lien:

[Miss. Code Ann. Title 75, Ch. 45, Art. 7](#)

Current with laws from the 2020 Regular Session effective upon passage as approved through March 31, 2020.

§ 75-45-151. Short title

This article shall be known as the “Mississippi Commercial Feed Law of 1972.”

§ 75-45-153. Definitions

When used in this article the terms:

(a) “Person” includes any individual, partnership, corporation or association.

(b) “Distribute” means to offer for sale, sell, exchange, give away, or barter, commercial feed or to supply, furnish, or otherwise provide commercial feed to a contract feeder.

(c) “Distributor” means any person who distributes commercial feedstuffs as defined herein.

(d) “Commercial feed” means all materials distributed for use as feed or for mixing in feed except unmixed seed, whole or processed, when not adulterated within the meaning of

paragraph (a) of Section 75-45-165. The commissioner and State Chemist by regulation may exempt from this definition, or from specific provisions of this article, commodities such as hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances when such commodities, compounds or substances are not mixed with other materials, and are not adulterated within the meaning of paragraphs (a) through (d) of Section 75-45-165.

(e) "Feed ingredient" means each of the constituent materials making up a commercial feed.

(f) "Mineral feed" means a commercial feed intended to supply primarily mineral elements or inorganic nutrients.

(g) "Drug" means any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than man and articles other than feed intended to affect the structure or any function of the animal body.

(h) "Customer-formula feed" means commercial feed which consists of a mixture of commercial feeds and/or feed ingredients, each batch of which is manufactured according to the specific instructions of the final purchaser.

(i) "Manufacture" means to grind, mix or blend, or further process a commercial feed for distribution.

(j) "Brand name" means any word, name, symbol, or device, or any combination thereof, identifying the commercial feed of a distributor or registrant and distinguishing it from that of others.

(k) "Product name" means the name of the commercial feed which identifies it as to kind, class or specific use.

(l) "Label" means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed, or on the invoice or delivery slip with which a commercial feed is distributed.

(m) "Labeling" means all labels and other written, printed, or graphic matter (1) upon a commercial feed or any of its containers or wrappers (2) accompanying such commercial feed.

(n) "Ton" means a net weight of two thousand (2,000) pounds avoirdupois.

(o) "Percent" or "percentages" mean percentages by weights.

(p) "Official sample" means a sample of feed taken by the commissioner or his agent in accordance with the provisions of subsections (3), (4) and (5) of Section 75-45-173.

(q) "Contract feeder" means a person who as an independent contractor, feeds commercial feed to animals pursuant to a contract whereby such commercial feed is supplied, furnished, or otherwise provided to such person and whereby such person's remuneration is determined all or in part by feed consumption, mortality, profits, or amount or quality of product.

(r) "Pet food" means any commercial feed prepared and distributed for consumption by pets.

(s) "Pet" means any domesticated animal normally maintained in or near the household(s) of the owner(s) thereof.

(t) "Specialty pet" means any domesticated animal pet normally maintained in a cage or tank, including, but not limited to, gerbils, hamsters, canaries, psittacine, birds, mynahs, finches, tropical fish, goldfish, snakes and turtles.

(u) "Specialty pet food" means any commercial feed prepared and distributed for consumption by specialty pets.

(v) "Quantity statement" means the net weight (mass), net volume (liquid or dry) or count.

§ 75-45-155. Administration

This article shall be administered by the commissioner of agriculture and commerce, hereinafter referred to as commissioner, and the state chemist, as specified in the following sections.

§ 75-45-157. Rules and regulations

(1) The commissioner and State Chemist may promulgate such rules and regulations for commercial feeds and pet foods as are specifically authorized in this article and such other reasonable rules and regulations as may be necessary for the efficient enforcement of this article. In the interest of uniformity the commissioner and State Chemist shall adopt by

regulation, unless they determine that they are inconsistent with the provisions of this article or are not appropriate to conditions which exist in this state, the following:

(a) The official definitions of feed ingredients and official feed terms adopted by the Association of American Feed Control officials and published in the official publication of that organization; and

(b) Any regulation promulgated pursuant to the authority of the Federal Food, Drug, and Cosmetic Act (21 USCS Section 301 et seq.); provided, that the commissioner and State Chemist would have the authority under this article to promulgate such regulations.

(2) Before the issuance, amendment, or repeal of any rule or regulation authorized by this article, the commissioner and State Chemist shall publish the proposed rule or regulation, amendment, or notice to repeal an existing rule or regulation in a manner reasonably calculated to give interested parties, including all current registrants, adequate notice and they shall afford all interested persons an opportunity to present their views thereon, orally or in writing, within a reasonable period of time. After consideration of all views presented by interested persons, the commissioner and State Chemist shall take appropriate action to issue the proposed rule or regulation or to amend or repeal an existing rule or regulation. The provisions of this subsection notwithstanding, if the commissioner and State Chemist pursuant to the authority of this article, adopt the official definitions of feed ingredients or official feed terms as adopted by the Association of American Feed Control officials, or regulations promulgated pursuant to the authority of the Federal Food, Drug, and Cosmetic Act, any amendment or modification adopted by said association or by the Secretary of Health and Human Services in the case of regulations promulgated pursuant to the Federal Food, Drug, and Cosmetic Act, shall be adopted automatically under this article without regard to the publications of the notice required by this subsection, unless the commissioner and State Chemist by order specifically determine that said amendment or modification shall not be adopted.

§ 75-45-159. Registration by manufacturers and distributors

(1) No person shall manufacture or distribute a commercial or customer-formula feed for sale in this state, unless he has filed with the commissioner and State Chemist on forms provided by the commissioner, his name, place of business and location of each manufacturing facility, has paid his registration fee of One Hundred Dollars (\$100.00) for each location and has been issued his facility registration permit by the department.

(2) The registration and fee is due on or before January 1 of each year. A late fee of Fifty Dollars (\$50.00) shall be charged for any facility registration that is more than thirty (30) days late. The funds shall be deposited monthly in the State Treasury. A registration shall continue in effect unless it is cancelled by the commissioner and State Chemist pursuant to subsection (3) of this section.

(3) The commissioner and the State Chemist may refuse registration of any feed manufacturing facility not in compliance with this article and to cancel any registration subsequently found not to be in compliance with any provision of this article. No registration shall be refused, cancelled or suspended unless the registrant shall have been given an opportunity to be heard before the commissioner and State Chemist and to amend his application in order to comply with the requirements of this article.

§ 75-45-161. Labeling requirements

A commercial feed shall be labeled as follows:

(1) In case of a commercial feed, except a customer-formula feed, it shall be accompanied by a label bearing the following information:

(a) The quantity statement.

(b) The product name and the brand name, if any, under which the commercial feed is distributed.

(c) The guaranteed analysis, stated in such terms which the commissioner and State Chemist by regulation determine are required to advise the user of the composition of the feed or to support claims made in the labeling. In all cases the substances or elements must be determinable by laboratory methods such as the methods published by the AOAC International.

(d) The common or usual name of each ingredient used in the manufacture of the commercial feed; the commissioner and State Chemist by regulation may permit the use of a collective term for a group of ingredients which perform a similar function, or they may exempt such commercial feeds, or any group thereof, from this requirement of an ingredient statement if they find that such statement is not required in the interest of consumers.

(e) The name and principal mailing address of the manufacturer or the person responsible for distributing the commercial feed.

(f) Adequate directions for use of all commercial feeds containing drugs and for such other feeds as the commissioner and State Chemist may require by regulation as necessary for their safe and effective use.

(g) Such precautionary statements as the commissioner and State Chemist by regulation determine are necessary for the safe and effective use of the commercial feed.

(2) In the case of a customer-formula feed, it shall be accompanied by a label, invoice, delivery slip, or other shipping document, bearing the following information:

(a) Name and address of the manufacturer.

(b) Name and address of the purchaser.

(c) Date of delivery.

(d) The product name and brand name, if any, and the net weight of each registered commercial feed used in the mixture, and the net weight of each other ingredient used.

(e) Adequate directions for use for all customer-formula feeds containing drugs and for such other feeds as the commissioner and State Chemist may require by regulation as necessary for their safe and effective use of the customer-formula feed.

§ 75-45-163. Misbranded feed

A commercial feed shall be deemed to be misbranded:

(a) If its labeling is false or misleading in any particular.

(b) If it is distributed under the name of another commercial feed.

(c) If it is not labeled as required in Section 75-45-161.

(d) If it purports to be or is represented as a commercial feed, or if it purports to contain or is represented as containing a commercial feed ingredient, unless such commercial feed or feed ingredient conforms to the definition, if any, prescribed by regulation by the commissioner and state chemist.

(e) If any word, statement, or other information required by or under authority of this article to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

§ 75-45-165. Adulterated feed

A commercial feed shall be deemed to be adulterated:

(a) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; however, in case the substance is not an added substance, such commercial feed shall not be considered adulterated under this subsection if the quantity of such substance in such commercial feed does not ordinarily render it injurious to health;

(b) If it bears or contains any added poisonous, added deleterious, or added nonnutritive substance which is unsafe within the meaning of Section 406 of the Federal Food, Drug, and Cosmetic Act, other than one which is a pesticide chemical in or on a raw agricultural commodity, or a food additive;

(c) If it is, or it bears or contains any food additive which is unsafe within the meaning of Section 409 of the Federal Food, Drug, and Cosmetic Act; or

(d) If it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of Section 408(a) of the Federal Food, Drug, and Cosmetic Act. However, where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under Section 408 of the Federal Food, Drug, and Cosmetic Act and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of such pesticide chemical remaining in or on such processed feed shall not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice. In such case the concentration of such residue in the processed feed shall not exceed the tolerance prescribed for the raw agricultural commodity. Feeding of such processed feed shall not result, or be likely to result, in a pesticide residue, unsafe within the meaning of Section 408(a) of the Federal Food, Drug, and Cosmetic Act, in the edible product of the animal.

(e) If it is, or it bears or contains, any color additive which is unsafe within the meaning of Section 706 of the Federal Food, Drug and Cosmetic Act.

(f) If it is, or it bears or contains, any new animal drug which is unsafe within the meaning of Section 512 of the Federal Food, Drug and Cosmetic Act.

(g) If it consist in whole or in part of any filthy, putrid or decomposed substance, or it is otherwise unfit for feed;

(h) If it has been prepared, packed or held under unsanitary conditions whereby it may have become contaminated with filth or whereby it may have been rendered injurious to health;

(i) It is, in whole or in part, the product of a diseased animal or of an animal which has died otherwise than by slaughter which is unsafe within the meaning of Section 402(a)(1) or (2) of the Federal Food, Drug and Cosmetic Act;

(j) If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or

(k) If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with the regulation or exemption in effect pursuant to Section 409 of the Federal Food, Drug and Cosmetic Act.

(l) If any valuable constituent has been in whole or in part omitted or abstracted therefrom or any less valuable substance substituted therefor.

(m) If its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling. For the purposes of adjudging adulteration under this paragraph, the commissioner shall be guided by "permitted analytical variations" from the guaranteed value for each feed component or analytically measurable index of the feed quality. Such permitted analytical variations from guaranteed values shall be set forth by regulation by the commissioner and State Chemist.

(n) If it contains a drug and the methods used in or the facilities or controls used for its manufacture, processing, or packaging do not conform to current good manufacturing practice regulations promulgated by the commissioner and State Chemist to assure that the drug meets the requirement of this article as to safety and has the identity and strength and meets the quality and purity characteristics which it purports or is represented to possess. In promulgating such regulations, the commissioner and State Chemist shall adopt the current good

manufacturing practice regulations for Type A medicated articles and Type B and Type C medicated feed established under authority of the Federal Food, Drug, and Cosmetic Act, unless they determine that they are not appropriate to the conditions which exist in this state.

(o) If it contains viable weed seeds in amounts exceeding the limits which the commissioner and State Chemist shall establish by rule or regulation.

§ 75-45-167. Fees for inspection

(1) An inspection fee at the rate of Twenty-five Cents (25¢) per ton shall be paid on commercial feeds distributed in this state by the person whose name appears on the label as the manufacturer, guarantor or distributor, subject to the following:

(a) No fee shall be paid on a commercial feed if the payment has been made by a previous distributor.

(b) No fee shall be paid on customer-formula feeds if the inspection fee is paid on the commercial feeds which are used as ingredients therein.

(c) No fee shall be paid on commercial feeds which are used as ingredients for the manufacture of commercial feeds. If the fee has already been paid, credit shall be given for such payment.

(2) In the case of a commercial feed which is distributed in the state only in packages of ten (10) pounds or less, an annual fee of Twenty-five Dollars (\$25.00) per brand shall be paid on or before January 1 of each year in lieu of the inspection fee specified in subsection (1).

(3) The minimum inspection fee shall be Twenty Dollars (\$20.00) annually.

(4) Any feed manufactured in the state which is used by a distributor or his contract feeders to feed his own livestock, poultry, or fish, or feed which is distributed in tonnage bulk to any commercial grower of an aquatic species, including, but not limited to, catfish, shall be exempt from the inspection fee on both purchased ingredients and finished feed. To qualify for the above exemption, a permit must be obtained from the commissioner annually and the permit used to obtain exemption on feed ingredients. Any services the Mississippi State Chemical Laboratory or the Mississippi Department of Agriculture and Commerce provide for permit holders will be paid for according to mutually agreeable prices between both parties.

§ 75-45-169. Filing of annual statement; penalty fees; records

Each person who is liable for the payment of an inspection fee shall:

(a) File, not later than the last day of January of each year, an annual statement, setting forth the number of net tons of commercial feeds distributed in this state during the preceding calendar year, and upon filing such statement shall pay the inspection fee at the rate stated in Section 75-45-167. Inspection fees which are due and owing and have not been remitted to the Department of Agriculture and Commerce within fifteen (15) days following the due date shall have a penalty fee of ten percent (10%) (minimum Ten Dollars (\$10.00)) added to the amount due when payment is finally made. The assessment of this penalty fee shall not prevent the department from taking other actions as provided in this article.

(b) Keep such records as may be necessary or required by the commissioner to indicate accurately the tonnage of commercial feed distributed in this state; the commissioner shall have the right to examine such records to verify statements of tonnage. Failure to make an accurate statement of tonnage or to pay the inspection fee or comply as provided herein shall constitute sufficient cause for the cancellation of the facilities' permit to sell commercial feeds in Mississippi.

§ 75-45-171. Funds from fees and penalties

The commissioner of agriculture and commerce shall deposit with the state treasurer to the credit of the general fund all funds received by him as registration and inspection fees and, by act of the legislature, such funds shall be used for defraying the cost of the inspection and analysis of commercial feeds as provided herein.

All penalties collected, whether from fines or sales of the condemnation of the articles defined above, shall be deposited with the state treasurer to the credit of the general fund. It shall be the duty of the commissioner of agriculture and commerce to include in his annual report an itemized statement of all such funds so collected and deposited.

§ 75-45-173. Inspections

(1) For the purpose of enforcement of this article, and in order to determine whether its provisions have been complied with, including whether or not any operations may be subject to such provisions, officers or employees duly designated by the commissioner, upon presenting appropriate credentials, and a written or oral notice to the owner, operator, or agent in charge, are authorized: (a) to enter, during normal business hours, any factory, warehouse, or establishment within the state in which commercial feeds are manufactured, processed, packed or held for distribution, or to enter any vehicle being used to transport or hold such feeds; and (b) to inspect during normal business hours and within reasonable limits and in a reasonable manner, such factory, warehouse, establishment or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling thereon. The inspection may include the

verification of only such records, and production and control procedures as may be necessary to determine compliance with the good manufacturing practice regulations established under paragraph (d) of Section 75-45-165.

(2) A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness. Upon completion of the inspection, the person in charge of the facility or vehicle shall be so notified.

(3) If the officer or employee making such inspection of a factory, warehouse, vehicle or other establishment has obtained a sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises or vehicle he, upon request, shall give to the owner, operator, or agent in charge, a receipt describing the samples obtained.

(4) If the owner of any factory, warehouse, vehicle or establishment described in subsection (1), or his agent, refuses to admit the commissioner or his agent to inspect in accordance with subsections (1) and (2), the commissioner is authorized to obtain from any state court a warrant directing such owner or his agent to submit the premises described in such warrant to inspection.

(5) For the purpose of the enforcement of this article, the commissioner or his duly designated agent is authorized to enter upon any public or private premises including any vehicle of transport during regular business hours to have access to, and to obtain samples, and to examine records relating to distribution of commercial feeds.

(6) Sampling and analysis shall be conducted in accordance with methods published by the AOAC International, or in accordance with other generally recognized methods.

(7) 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. When the inspection and analysis of an official sample indicates a commercial feed has been adulterated or misbranded and upon request within thirty (30) days following receipt of the analysis the State Chemist shall furnish to the registrant a portion of the sample concerned.

(8) The commissioner and State Chemist, in determining for administrative purposes whether a commercial feed is deficient in any component, shall be guided by the official sample as defined in paragraph (p) of Section 75-45-153 and obtained and analyzed as provided for in subsections (3), (5), and (6) of this section.

§ 75-45-175. “Withdrawal from distribution” orders

When the commissioner or his authorized agent has reasonable cause to believe any lot of commercial feed is being distributed in violation of any of the provisions of this article or of any of the prescribed regulations under this article, he may, according to his judgment of the gravity of the offense and regulations promulgated by the commissioner and State Chemist issue and enforce a written or printed “withdrawal from distribution” order, warning the distributor not to dispose of the lot of commercial feed in any manner until written permission is given by the commissioner or the court. The commissioner shall release the lot of commercial feed so withdrawn when said provisions and regulations have been complied with. If compliance is not obtained within thirty (30) days, the commissioner may begin, or upon request of the distributor or registrant shall begin, proceedings for condemnation.

§ 75-45-177. Seizure proceedings

Any lot of commercial feed not in compliance with the provisions of this article and regulations issued thereunder shall be subject to seizure on complaint of the commissioner to a court of competent jurisdiction in the area in which said commercial feed is located. In the event the court finds the said commercial feed to be in violation of this article and orders the condemnation of said commercial feed, it shall be disposed of in any manner consistent with the quality of the commercial feed and the laws of the state. Provided, that in no instance shall the disposition of said commercial feed be ordered by the court without first giving the claimant an opportunity to apply to the court for release of said commercial feed or for permission to process or relabel said commercial feed to bring it into compliance with this article.

§ 75-45-179. Acts prohibited

The following acts and the causing thereof within the State of Mississippi are hereby prohibited:

- (a) The manufacture or distribution of any commercial feed that is adulterated or misbranded.

- (b) The adulteration or misbranding of any commercial feed.

- (c) The distribution of agricultural commodities such as whole seed, hay, straw, stover, silage, cobs, husks and hulls, which are adulterated within the meaning of paragraph (a) of Section 75-45-165.

- (d) The removal or disposal of a commercial feed in violation of an order under Section 75-45-175 or 75-45-177.

(e) The failure or refusal to register in accordance with Section 75-45-159.

(f) The violation of Section 75-45-191.

(g) Failure to pay inspection fees and file reports as required by Sections 75-45-167 and 75-45-169.

(h) Failure to pay penalties assessed under Section 75-45-181 or any rules or regulations issued thereunder.

§ 75-45-181. Penalty for violation

Any person violating any of the provisions of this article or the rules and regulations made by the commissioner and State Chemist pursuant thereto is guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for a term not to exceed six (6) months, or both.

§ 75-45-182. Complaints and violations; administrative investigation and review procedures; appeals

(1) When a complaint is made against a person for violating any of the provisions of this article, or any of the rules and regulations promulgated hereunder, the Director of the Commercial Feed Division within 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 along with any supporting documents and a request for the accused to respond to the charges within thirty (30) days after service of the complaint upon 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 shall respond in the form of a written answer along with all supporting documents. Upon expiration of the thirty-day period, the reviewing officer shall examine all pleadings and documents filed in the case for the purpose of determining the merit of the complaint, or the lack thereof. No evidentiary hearing shall be held at this stage.

If the reviewing officer determines that the complaint lacks merit, he may dismiss same. If he finds that there is substantial evidence showing that a violation of this article or the rules and regulations promulgated hereunder has occurred, the reviewing officer may impose any or all of the following penalties upon the accused: (a) levy a civil penalty in an amount of no more than One Thousand Dollars (\$1,000.00) for each violation; (b) revoke or suspend any permit, license or registration issued to the accused under the terms of this article and accompanying regulations; (c) issue a stop sale order; (d) issue a "withdrawal from distribution" order; (e)

require the accused to relabel any product offered for sale which is not labeled in accordance with the provisions of this article; or (f) seize any product that is not in compliance with this article and destroy, sell or otherwise dispose of the product and apply the proceeds of any such sale to the costs herein and any civil penalties levied hereunder, with the balance to be paid according to the law. If any costs or penalties assessed hereunder have not been paid, they may be collected through a court system. A copy of the reviewing officer's decision shall be sent to the accused by certified mail. Either the accused or the department may appeal the decision of the reviewing officer to the commissioner by filing a notice of appeal with the department within thirty (30) days of receipt of the reviewing officer's decision. If no appeal is taken from the order of the reviewing officer within the allotted time, the order shall then become final.

(2) In the event of an appeal, the commissioner, or his designee, shall conduct a hearing relative to the charges. At the hearing before the commissioner, or his designee, the matter shall be heard de novo; the department shall have subpoena power, the witnesses shall be placed under oath and shall be subject to direct and cross examination and the testimony shall be recorded. Compliance with such subpoenas may be enforced by any court of general jurisdiction in this state. 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 his defenses.

Within a reasonable time after the hearing, the commissioner, or his designee, shall render an opinion, which either affirms, reverses or amends the order of the reviewing officer in whole or in part, and the order shall be final. A copy of the commissioner's order shall be sent to the accused by certified mail.

(3) Either the accused or the department may appeal the decision of the commissioner or his designee 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 obligation of having the record transcribed and filing same with the circuit court. The appeal shall otherwise be governed by all applicable laws and rules affecting appeals to the circuit court. If no appeal is perfected within the required time, the decision of the commissioner, or his designee, shall then become final.

(4) 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.

(5) When any violation of this article or the rules and regulations promulgated hereunder occurs or is about to occur that presents a clear and present danger to the public health, safety or welfare requiring immediate action, the commissioner or any of the department's field inspectors may issue an order to be effective immediately before notice and a hearing that imposes any or all of the following penalties upon the accused: (a) a stop sale order; (b) a "withdrawal from

distribution” order; (c) a requirement that the accused relabel a product that he is offering for sale which is not labeled in accordance with this article; or (d) the seizure of any product that is not in compliance with this article and the destruction, sale or disposal of the product and the application of the proceeds of such sale to the costs and civil penalties herein, with the balance to be paid according to law. The order shall be served upon the accused in the same manner that the summons and complaint may be served upon him. The accused shall then have thirty (30) days after service of the order upon him within which to request an informal administrative review before the reviewing officer. If the accused makes such a request within the required time, the reviewing officer shall provide an informal administrative review to the accused within ten (10) days after such request is made. If the accused does not request an informal administrative review within such time, then he will be deemed to have waived his right to same. At the informal administrative review, subpoena power shall not be available, witnesses shall not be sworn nor be subject to cross-examination and there shall be no court reporter or record made of the proceedings. Each party may present its case in the form of documents, oral statements or any other method. The rules of evidence shall not apply. The reviewing officer’s decision shall be in writing, and it shall be sent to the accused by certified mail. If either party is aggrieved by the order of the reviewing officer, he may appeal to the commissioner for a full evidentiary hearing in accordance with the procedures described in subsection (2) of this section, except that there shall be no requirement for a written complaint or answer to be filed by the parties. Such appeal shall be perfected by filing a notice of appeal with the commissioner within thirty (30) days after the order of the reviewing officer is served on the appealing party. The hearing before the commissioner, or his designee, shall be held within a reasonable time after the appeal has been perfected. Failure to perfect an appeal within the allotted time shall be deemed a waiver of such right.

§ 75-45-183. When enforcement discretionary

Nothing in this article shall be construed as requiring the commissioner or his representative to: (a) report for prosecution; (b) institute seizure proceedings; (c) issue a withdrawal from distribution order; or (d) hold an administrative hearing as a result of minor violations of this article, or when he believes the public interest will best be served by suitable notice of warning in writing.

§ 75-45-185. Responsibilities of prosecuting attorneys

It shall be the duty of each prosecuting attorney to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.

§ 75-45-187. Injunction

The commissioner is hereby authorized to apply for and the court to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this article or any rule or regulation promulgated under this article notwithstanding the existence of other remedies at law. Said injunction shall be issued without bond.

§ 75-45-191. Prohibitions against revelation of trade secrets

Any person who uses to his own advantage, or reveals to other than the commissioner and state chemist, or officers of the Mississippi Department of Agriculture and Commerce and Mississippi State Chemical Laboratory, or to the courts when relevant in any judicial proceeding, any information acquired under the authority of this article, concerning any method, record, formulation or process which as a trade secret is entitled to protection, is guilty of a misdemeanor and shall be punished according to law. In addition to the criminal remedy set forth herein, remedies for misappropriation of a trade secret shall be governed by the Mississippi Uniform Trade Secrets Act, Sections 75-26-1 through 75-26-19. This prohibition shall not be deemed as prohibiting the commissioner and state chemist, or their duly authorized agents, from exchanging information of a regulatory nature with duly appointed officials of the United States Government, or of other states, who are similarly prohibited by law from revealing this information.

§ 75-45-193. Cooperation with other agencies

The commissioner and state chemist may cooperate with and enter into agreements with governmental agencies of this state, agencies of the federal government, and private associations in order to carry out the purpose and provisions of this article.

§ 75-45-301. Short title

This article shall be known as the "Mississippi Grain Dealers Law of 1978."

§ 75-45-303. Definitions

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

(a) "Person" shall mean any person, firm, association or corporation.

(b) "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.

(c) "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.

(d) "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.

(e) "Department" shall mean the Mississippi Department of Agriculture and Commerce.

(f) "Commissioner" shall mean the Commissioner of the Mississippi Department of Agriculture and Commerce, or his designated representative.

§ 75-45-304. Necessity of license

No person shall operate as a grain dealer without first having obtained a license pursuant to this article; provided, however, that grain dealers licensed under the provisions of the United States Warehouse Act, as amended, or the Mississippi Grain Warehouse Law shall not be required to have a license issued pursuant to this article.

§ 75-45-305. Surety bond

(1) Every person licensed as a grain dealer shall have filed with the department a surety bond signed by the dealer as principal and by a responsible company authorized to execute surety bonds within the State of Mississippi. A grain dealer may file with the department, in lieu of a surety bond, a certificate of deposit or irrevocable letter of credit from any bank or banking corporation insured by the Federal Deposit Insurance Corporation, payable to the commissioner, as trustee. The principal amount of the certificate of deposit or the amount of the letter of credit shall be the same as that required for a surety bond under this article and the interest thereon shall be made payable to the purchaser thereof. Such bond shall be a principal amount (to the nearest One Thousand Dollars (\$1,000.00)) equal to ten percent (10%) of the aggregate dollar amount paid, by the dealer to producers for grain purchased from them during the dealer's last completed fiscal year or in the case of a dealer who has been engaged in business as a grain dealer for less than one (1) year or who has not theretofore engaged in such business, ten percent (10%) of the estimated aggregate dollar amount to be paid by the dealer to producers for grain purchased from them during the next fiscal year. Such bond shall not be less than Twenty-five Thousand Dollars (\$25,000.00) nor more than One Hundred Thousand Dollars (\$100,000.00), except as otherwise authorized by this article. The commissioner shall determine the sufficiency of any letter of credit.

(2) The commissioner may, when he questions a grain dealer's ability to pay producers for grain purchased, require a grain dealer to post an additional bond in a dollar amount deemed appropriate by the commissioner. Failure to post such additional bond or certificate of deposit or irrevocable letter of credit, constitutes grounds for suspension or revocation of a license issued under this article.

(3) Any required bond or bonds shall be executed by the grain dealer as principal and by a 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 representatives, attorneys or assigns, conditioned upon the faithful compliance by the grain dealer with the provisions of this article and the rules and regulations of the State Department of Agriculture and Commerce applicable thereto. The aggregate liability of the surety shall not exceed the sum of such bond. The bond may be cancelled at any time by the surety by giving written notice to the commissioner of its intention to cancel the bond and all liability thereunder shall terminate sixty (60) days after the mailing of such notice except that such notice shall not affect any claims arising under the bond, whether presented or not, before the effective date of the cancellation notice.

(4) Any grain dealer who is of the opinion that his net worth and assets are sufficient to guarantee payment to producers for grain purchased by him may request the commissioner to be relieved of the obligation of filing a bond in excess of the minimum bond of Twenty-five Thousand Dollars (\$25,000.00). Such request shall be accompanied by a financial statement of the applicant made within six (6) months of the date of such request certified by a certified public accountant. If such financial statement discloses net assets and a net worth of an amount equal to at least three (3) times the amount of the bond required by this article and the commissioner is otherwise satisfied as to the financial ability and resources of the applicant, the commissioner may waive that portion of the required bond in excess of Twenty-five Thousand Dollars (\$25,000.00). However, in the case of a grain dealer whose net worth is not equal to three (3) times the amount of bond required, the commissioner may allow such grain dealer to waive in One Thousand Dollar (\$1,000.00) increments a portion of the bond required in excess of Twenty-five Thousand Dollars (\$25,000.00). The percentage factor to be applied to the bond required in excess of Twenty-five Thousand Dollars (\$25,000.00) shall be determined by dividing actual net worth by the net worth required to waive all bond in excess of Twenty-five Thousand Dollars (\$25,000.00). If the result of this computation provides a percentage factor of eighty percent (80%) or greater, then that same percentage of the bond in excess of Twenty-five Thousand Dollars (\$25,000.00) may be waived. The grain dealer shall then provide to the commissioner a surety bond in the amount of Twenty-five Thousand Dollars (\$25,000.00) plus any additional bond required in excess thereof.

(5) Any grain dealer who purchases grain from producers only in connection with or as an incident to some other business and whose total purchases of grain from producers during any fiscal year do not exceed an aggregate amount of One Hundred Thousand Dollars (\$100,000.00) may satisfy the bonding requirements of this article by filing with the commissioner a bond, or certificate of deposit or irrevocable letter of credit from any bank or banking corporation insured by the Federal Deposit Insurance Corporation, at the rate of One Thousand Dollars (\$1,000.00) for each Ten Thousand Dollars (\$10,000.00) or fraction thereof of the dollar amount to be purchased, with a minimum bond, certificate of deposit or irrevocable letter of credit of One Thousand Dollars (\$1,000.00) and a current financial statement.

(6) Failure of a grain dealer to file a bond, or certificate of deposit, or letter of credit, and to keep such bond, certificate of deposit or line of credit in force, or to maintain assets adequate to assure payment to producers for grain purchased from them shall be grounds for the suspension or revocation of a license issued under this article.

(7) When the commissioner has determined that a grain dealer has defaulted payment to producers for grain which he has purchased from them, the commissioner shall determine through appropriate legal procedures the producers and the amount of defaulted payment and as trustee of the bond shall immediately after such determination call for the dealer's surety bond or bonds, or other pledged financial assets, to be paid to him for distribution to those producers who should receive the benefits. Should the defaulted amount owed the producers be less than the principal amount of the bond or bonds or pledged financial assets, then the surety bank, or banking corporation shall be obligated to pay only the amount of the default.

§ 75-45-307. Requirements for issuance and renewal of license

If the department is satisfied:

(a) that the applicant is of good business reputation,

(b) that the applicant has adequate bonding under Section 75-45-305,

(c) that the applicant maintains a permanent business location in this state, and

(d) that the applicant has sufficient financial resources to guarantee payment to producers for grain purchased from them, the commissioner shall issue a license to the applicant or shall renew the applicant's license. Licenses shall be issued or renewed annually for a period ending ninety (90) days after the last day of the applicant's fiscal year. The license or renewal thereof issued by the department under this section shall be posted in the principal office of the licensee in this state. A certificate shall be posted in each location listed on a licensee's application where he engages in the business of buying grain. In the case of a licensee operating a truck or tractor trailer unit the licensee is required to have a certificate that the license is in effect and that a bond or certificate of deposit has been filed and is carried in each truck or tractor trailer unit used in connection with the purchase of grain from producers. Upon request of a licensee and payment of the fee thereof, the commissioner shall issue to the licensee a certificate that a license has been issued or renewed and a bond filed as required by this article.

§ 75-45-309. Annual examinations; inspections; license revocation

(1) Every licensed grain dealer shall be examined by the commissioner each year. The cost of such examination shall be included in the annual license fee. The commissioner, at his discretion, may make additional examinations at any time. If any discrepancy is found as a result of additional examination, the cost of such examination is to be paid by the grain dealer.

(2) The commissioner may inspect the premises used by any grain dealer in the conduct of his business at any time and the books, accounts, records and papers of every such grain dealer shall at all times during business hours be subject to inspection by the commission. Each grain dealer may also be required to make such reports of his activities, obligations and transactions as deemed necessary by the commissioner to protect the producer as set forth in the rules and regulations.

(3) If a grain dealer violates any of the provisions of this article, his license and certificate of license may be removed from his premises by any department employee charged with the enforcement of this article and returned to the department. Such removal shall constitute a suspension of the license.

(4) The commissioner may upon his own motion, and shall upon the verified complaint in writing of any person setting forth facts which if proved would constitute grounds for refusal, suspension or revocation of a license under this article, investigate the actions of any applicant or any person or persons applying for, holding or claiming to hold a license.

(5) The commissioner within ten (10) days after removing and suspending a license as provided in this section or before refusing to issue or renew or before otherwise suspending or revoking a license shall set a date for a hearing thereon and at least ten (10) days prior to the date set for the hearing, shall notify in writing the applicant for or holder of a license, thereafter called the respondent, that a hearing will be held on the date designated to determine whether the respondent is privileged to hold such license and shall afford the respondent opportunity to be heard in person or by counsel in reference thereto. Such written notice may be served by personal service on the respondent or by mailing the same by registered or certified mail to the place of business last theretofore specified by the respondent in the last application or notification to the department.

(6) At the time and place fixed in the notice, the commissioner shall proceed to hear the matter and any charges made and both the respondent and any complainant shall be accorded opportunity to present in person or by counsel such statements, testimony, evidence and argument as may be pertinent to the matter or charges or to any defenses thereto. The commissioner may continue such hearing from time to time.

§ 75-45-311. Failure of grain dealer to pay producer

If a grain dealer should fail or refuse to make payment to a producer for grain purchased when such payment is requested by the producer and the request is made within one hundred sixty (160) days of the date of sale or the date of delivery of such grain to the dealer, whichever is later, but in case of deferred pricing, delayed pricing, priced-later, or similar contractual arrangements, no more than two hundred seventy (270) days after the date of delivery, the producer may notify the commissioner in writing, by certified mail when possible, of such failure or refusal within the period of one hundred sixty (160) days or ten (10) days thereafter. The commissioner upon receiving such notice shall take whatever action is necessary. The producer furnishing such written notice within the prescribed length of time is entitled to the benefits of the grain dealer's bond. However, if a producer fails to furnish written notice to the commissioner within the prescribed time, then such producer is not entitled to any benefits under the grain dealer's bond. Grain dealer liability under priced-later contracts, open-priced contracts, deferred price contracts, or similar agreements shall accrue under the bond in effect at the date of default as determined by the commissioner.

§ 75-45-313. Responsibilities of commissioner

The commissioner shall carry out and enforce the provisions of this article and is hereby empowered to promulgate rules and regulations to carry out necessary inspections and to appoint and fix the duties of his personnel and provide such equipment as may be necessary to assist him in enforcing the provisions thereof.

§ 75-45-315. Penalties for prohibited acts; injunctions

(1) Any person who engages in business as a grain dealer without securing a license or who does not have a valid license or is in violation of this article or the rules and regulations promulgated thereunder, or who shall impede, obstruct, hinder or otherwise prevent or attempt to prevent the commissioner or his duly authorized agent in performance of his duty in connection with this article or its rules and regulations, or any grain dealer who refuses to permit inspection of his premises, books, accounts or records as provided in this article shall, upon conviction thereof, be guilty of a misdemeanor and be punished by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for the first violation, and not less than two hundred dollars (\$200.00) nor more than one thousand dollars (\$1,000.00) for each subsequent violation or imprisoned in a penal institution other than the state penitentiary for not more than six (6) months, or both. In case of a continuing violation or violations, each day and each violation occurring constitutes a separate and distinct offense.

(2) It shall be the duty of the Attorney General to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. Before the commissioner reports a violation for prosecution he may give the grain dealer an opportunity to present his views at an informal hearing.

(3) The commissioner may apply for and the circuit court may grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this article or any rules and regulations promulgated under the article notwithstanding the existence of other remedies at law. Any such injunction is to be issued without notice and without bond.

(4) The commissioner may apply for, and the appropriate chancery court may grant, a temporary or permanent injunction restraining a grain dealer from disposing of any grain owned, in whole or in part, or held, or in his possession, whether owned in whole or in part, or from anyone removing any grain in which the grain dealer or producers from which he has purchased grain have an interest, in violation of any of the provisions of this article. Such injunction is to be issued without notice and without bond.