

Title 19: Department of Insurance

Part 1: General

Part 1 Chapter 15: Rules of Practice and Procedure before the Mississippi Insurance Department and State Fire Marshal's Office.

Rule 15.01 Statutory Authority

This Regulation is promulgated by the Commissioner of Insurance pursuant to the requirements of *Miss. Code Ann.* §25-43-5 and in accordance with the Mississippi Administrative Procedures Law. Some provisions of this Regulation are promulgated pursuant to the requirements of *Miss. Code Ann.* §25-61-5.

Source: *Miss. Code Ann.* § 25-61-5; § 83-5-1 (Rev. 2022)

Rule 15.02 Purposes

Miss. Code Ann. §25-43-5, the "Administrative Procedures Law", requires each agency of state government to adopt as a rule a description of its organization, stating the general course and method of its operations and the methods whereby the public may obtain information or make submissions or requests, and adopt rules of practice setting forth the nature and requirements of all formal and informal procedures available, including all requirements respecting the filing of applications for any license and the licensing procedure employed by the agency and the method whereby persons desiring notice pending applications may obtain such notice and request an opportunity to be heard.

The purpose of this Regulation is to comply with the requirements of the Administrative Procedures Law. Some provisions of the Regulation also comply with the requirements of *Miss. Code Ann.* §25-61-5 of the Mississippi Public Records Act of 1983, as amended.

Source: *Miss. Code Ann.* § 25-61-5 (Rev. 2021) § 83-5-1 (Rev. 2022)

Rule 15.03 Applicability

This Regulation shall be of general applicability and shall apply in all cases except to the extent a statute of the State of Mississippi provides otherwise.

Source: *Miss. Code Ann.* § 25-61-5 (Rev. 2021)

Rule 15.04 Definitions

- A. Department – The Insurance Department of the State of Mississippi.

- B. State Fire Marshal's Office – a division of the Department that is tasked with coordinating and assisting Mississippi fire and law enforcement services in order to protect life and property from fire and related perils.
- C. Commissioner – The Insurance Commissioner and State Fire Marshal of the State of Mississippi.
- D. Person – Any individual, partnership, corporation, association, reciprocal, exchange, inter-insurer, fraternal benefit society, insurer, company, society, syndicate, business trust, or any public or private organization of any character.
- E. Party – Any person named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party, in any Department proceeding.
- F. Rule – Any Department statement of general applicability and effect that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice of the Department.
- G. Rule-Making – The process for the formulation, amendment, or repeal of a rule.
- H. Order – The final disposition of the Department in any matter other than rule-making in which the Department is required by law to make its determination and, unless otherwise provided in law, after notice and hearing.
- I. Adjudication – A ruling or judgment on a matter that is under the jurisdiction of the Department of Insurance.
- J. Hearing – A proceeding for consideration or presentation of evidence, facts and matters for adjudication and decision regarding a matter that is under the jurisdiction of the Department of Insurance.
- K. License – Any Department permit, certificate, approval, registration or similar form of permission or record required by law, except a charter, an insurance producer's certificate of authority. For the purposes of this regulation, a license shall also include any permit, certificate of compliance or license issued by the State Fire Marshal's Office.
- L. Licensing – The Departmental process respecting the grant, denial, renewal, revocation, suspension, probation, withdrawal, or amendment of a license.
- M. Application – The request for authority for an action or an issuance by the Commissioner or the Department.
- N. Charter – The corporate charter of any corporation formed under the laws of Mississippi for the purpose of becoming an Insurer.

- O. Certificate Of Authority – When used with respect to an insurance producer, a certificate issued by the Commissioner pursuant to *Miss. Code Ann.* Section 83-17-5. When used with respect to a foreign insurer, a certificate issued by the Commissioner pursuant to *Miss. Code Ann.* §83-21-1.
- P. Insurance – A contract of insurance as defined in *Miss. Code Ann.* §83-5-5.
- Q. Insurer – A “company” or “insurance company” as defined in *Miss. Code Ann.* §83-5-5.
- R. Examination – A test, whether oral, written, or both, to determine the capacity of an applicant to be an insurance producer, broker, solicitor or adjuster.
- S. Insurance Code – Mississippi Code Annotated, Title 83.
- T. Certificate Of Compliance – A certificate issued by the Commissioner in his role as State Fire Marshal that a person or entity has met all necessary requirements and is in acting in accordance with any statute, rule or regulation under the jurisdiction of the State Fire Marshal.
- U. Website – The Department hosts a public website wherein Department information, notices, bulletins and regulations, among other documents and information, are posted. The Department’s website address is www.mid.ms.gov .

Source: *Miss. Code Ann.* §§ 83-5-1, et seq. (Rev. 2022)

Rule 15.05 General Matters.

- A. Description of Department –The Insurance Department generally regulates all insurance companies and their agents doing business in the State of Mississippi. The Department’s responsibilities include, but are not limited, to the following: granting or withholding of charters, issuing certificates of authority; issuing licenses; approving policies, proxies, and advertising material; conducting hearings on rates; and any other matters affecting the regulation of the insurance industry in this state; administering and collecting surplus lines premium taxes; receiving and examining reports and financial statements from all insurance companies authorized to do business in this state; and preparing annual reports of the Insurance Commissioner.

The Commissioner has the further responsibility for the promulgation of rules and regulations concerning the activities of insurance companies and insurance producers engaged in the business of insurance in this State. The Department is composed of several divisions that deal directly with the public including, but not limited to:

- Producer Licensing;
- Financial and Market Regulation;
- Life and Health Actuarial;
- Consumer Services;

- Investigations and Consumer Protection; Property and Casualty Rating;
- Legal.

The Insurance Department of the State of Mississippi also houses the State Fire Marshal's Office. The Commissioner of Insurance is by virtue of his office the State Fire Marshal and conducts investigations into all fires of a suspicious nature; ensures compliance with the Mississippi Fire Prevention Code, provides fire safety education, and regulates manufactured housing, liquefied compressed gas, electronic alarms, pyrotechnics and elevators/escalators.

- B. Office and Hours -The Office of the Department is located at Suite 1001, 501 N. West Street, Woolfolk State Office Building, in Jackson, Mississippi. The office shall be open during business hours each day, Saturday, Sunday, and holidays excepted. The mailing address of the Department is P. O. Box 79, Jackson, Mississippi 39205, and its telephone number is (601) 359-3569.
- C. Custody Of Records – The Commissioner shall have custody of the Seal and records of the Department including the transcripts of testimony and exhibits with all papers and requests filed in proceedings, the minutes of all actions taken by the Department and all of its findings, determinations, reports, opinions, orders, rules, regulations, and approved forms.
- D. Public Records – Except as limited by *Miss. Code Ann.* §§25-61-9 and 25-61-11, and any other applicable statutory restriction, all public records of the Department are available to the public and may be inspected or copied at the office of the Department.
- Records Request - A public records request may be made by using the Department's online public records request system, which can be found at the Department's website: www.mid.ms.gov , or it may be made by written request or by telephone. If a request is made verbally, the requestor may be asked to also submit a written request.
 - Copies of Records - Copies may be requested and shall be made under the supervision of Department personnel. Records may also be provided by e-mail or by providing scanned copies on a compact disc. The Department may not be able to produce the records in any other type of requested format, such as an electronic format. The Department shall prepare an invoice pursuant to the Public Access Information Fee Schedule located on the Department's website. The fees shall be collected by the Department in advance of complying with the request pursuant to *Miss. Code Ann.* §25-61-7.
 - Production Schedule - Pursuant to *Miss. Code Ann.* §25-61-5, the Public Records Request will be fulfilled within seven (7) working days of the submission of the request. After seven (7) working days, MID will either produce the requested documents, will request an additional seven (7) working days, or another date that is mutually agreed upon by the parties .Denials by the Department for a request for

access to or copies of public records shall be in writing and shall contain a statement of the specific reasons for the denial. Some information produced may contain publicly identifiable information or exempted information that is not subject to disclosure. MID will redact that information before producing the public documents as provided in *Miss. Code Ann.* §§25-61-9 and 25-61-11.

- E. Computation Of Time – In computing the time period within which an act must be performed, the first day shall be excluded and the last day shall be included, but if the last day shall fall on a Saturday, Sunday or a legal holiday, then the next business day shall be construed as the last day.

Source: *Miss. Code Ann.* § 25-61-1, et seq. (Rev. 2021); 83-5-1 (Rev. 2022)

Rule 15.06 Licensing of Insurance Producers:

- A. License Required - All insurance producers and business entities must be properly licensed before engaging in the business of insurance in this state. All applicants must have complied with the licensing laws prior to receiving a license to engage in the business of insurance in the State of Mississippi.
- B. Major Lines of Authority -Insurance producer licenses are issued in the following major lines of authority:
 - 1. Life
 - 2. Accident and Health
 - 3. Property
 - 4. Casualty
 - 5. Variable Life and Variable Annuity, and
 - 6. Personal Lines
- C. Limited Lines of Authority - Limited lines producer licenses are issued in the following limited lines of authority:
 - 1. Industrial Fire
 - 2. Surety
 - 3. Title
 - 4. Trip Accident and Baggage
 - 5. Industrial Life and Accident & Health
 - 6. Car Rental
 - 7. Crop Insurance
 - 8. Travel; and
 - 9. Storage
- D. Initial and Renewal Applications - License applications and renewal applications shall be made through the Department's online licensing portal, which may be found at the Department's website; www.mid.ms.gov .

- E. Licensure Period – An insurance producer’s license will continue until such time as the licensure period elapses without timely renewal, or an administrative action is taken by the Department resulting in the revocation of the insurance producer’s license.
- F. Continuation of License during Proceeding - When an insurance producer has made a timely and sufficient application for renewal of a license, certificate of authority, with reference to any activity of a continuing nature, the license, certificate of authority does not expire until the administrative action is completed. When a renewal application is denied or an administrative hearing is set to review the licensure status of an insurance producer, or the terms of a certificate of authority are limited, then the license or certificate of authority expires upon the issuance of an Administrative Order by the Commissioner

Source: *Miss. Code Ann.* §§ 27-15-87 and 27-15-91 (Rev. 2021); 83-17-1, et seq.; 83-17-55, et seq.; 83-17-217 (Rev. 2022)

Rule 15.07 Licensing of Insurers

- A. Authority and Control – The Department has the sole authority and control over the issuance, grant, denial, refusal, suspension, revocation, expiration, termination, continuance, and renewal of licenses and certificates of authority for all insurers.
- B. License Forfeited – Upon the revocation or forfeiture of a license or certificate of authority, said license shall be considered forfeited and no longer valid.
- C. Notice and Hearing– Notice and hearing in accordance with this Regulation are required before the suspension or revocation of a license or certificate of authority. Suspension, refusal or revocation of a license or certificate of authority must be for certain statutory causes.
- D. License Expiration– The license of an insurer is of a continuing nature, and shall only expire upon the suspension, revocation or forfeiture of an insurer’s license. When administrative action is taken to suspend or revoke an insurer’s license or certificate of authority, then the license or certificate of authority expires the last day for review of any Department Order or at a later date if so fixed by a court.
- E. Domestic Insurers— Domestic insurers may become licensed and obtain a certificate of authority by complying with all statutory requirements, including but not limited to those of Title 83, Chapter 19 of the Code of Mississippi, completing and filing with the Department all necessary forms and providing any other information required by the Department. Copies of such forms and instructions regarding required information may be obtained at the Department’s website; www.mid.ms.gov .
- F. Foreign Insurers— Foreign insurers may become licensed and obtain a certificate of authority by complying with all statutory requirements, including but not limited to those of Title, 83, Chapter 21 of the Code of Mississippi, and completing and filing with the

Department all necessary forms and providing any other information required by the Department. Copies of such forms and instructions regarding required information may be obtained at the Department's website; www.mid.ms.gov .

G. Non-Admitted And Alien Insurers – Insurers may be considered for placement on the Department's eligible list of non-admitted insurers by complying with all statutory requirements, including but not limited to *Miss. Code Ann.* §83-21-17, and completing and filing with the Department all necessary forms and providing any other information required by the Department. Copies of such forms and instructions regarding required information may be obtained at the Department's website; www.mid.ms.gov .

H. Annual Filings – Admitted insurers must annually complete and file with the Department all necessary forms and any other information required by the Department. Copies of such forms and instructions regarding required information may be obtained at the Department's website; www.mid.ms.gov-.

Source: *Miss. Code Ann.* § 83-19-1, et seq.; § 83-21-1, et seq. (Rev. 2022)

Rule 15.08 Administrative Hearings

A. Notices issued by the Department - Notices shall be effective only when in writing, signed by the Commissioner, his designee, or his attorney.

1. Every notice shall state its effective date.
2. Every notice shall concisely state;
 - a. Its intent and purpose;
 - b. The grounds on which it is based; and
 - c. The provisions of the statutes pursuant to which action is taken or proposed to be taken; but failure to so designate all applicable provisions shall not deprive the Commissioner of the right to rely thereon.
3. A notice may be given by service upon or delivery to the person to be notified or by mailing it, postage prepaid, addressed to such person at his home or at his principal place of business as last on record in the Department, or by electronic delivery with a delivery receipt, if an electronic mail address has been provided.

B. Notice of Hearing – Prior to any hearing regarding an administrative action the Department may be taking against any licensee under the jurisdiction of the Department, the Department shall provide the following notice.

1. Notice of at least twenty (20) days before hearing unless a different time period is specified by law.

2. Notice shall include a statement of the terms or substance of the intended action or a description of the subjects and issues involved, and the time, the place and the manner in which interested persons may present their views thereon.
- C. Hearing - In every case of adjudication in cases of a denial, revocation or suspension of any license or certificate of authority, and in cases of rule-making, where rules must be made after a hearing, and in all cases where required by the Insurance Code, a hearing shall be conducted either in-person, or by telephone or videoconference.
- D. Right to Counsel – Any person appearing before the Department or any of its representatives shall have the right to be retain their own counsel for representation during the administrative process.
- E. Exhibits and Evidence: The parties shall communicate and pre-file documentary evidence and/or exhibits with the Commissioner or the Hearing Officer, if one has been designated, not less than three (3) days prior to the hearing date.
1. Parties shall file exhibits electronically when possible.
 2. Absent good cause, exhibits that are not pre-filed will not be admitted into the record.
- F. Presentation of Evidence– Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.
- G. Settlement- Nothing in these rules shall prohibit informal disposition by stipulation, settlement, or consent order.
- H. Default – If, after proper notice and service, a person fails to appear before the Department for an administrative hearing, a default may be entered against that person, and a final order may be entered by the Commissioner.
- I. Record – The record shall include:
1. All pleadings, motions, and intermediate rulings;
 2. All evidence received or considered, including on request of any party a transcript of all proceedings or any part;
 3. A statement of matters officially noticed;
 4. Offers of proof, objections and rulings;
 5. Proposed findings and exceptions; and,

6. A final order entered into the matter.
- J. Findings of Fact – Findings of fact shall be based exclusively on the evidence received or on matters officially noticed by the Commissioner through his personal knowledge and expertise.
- K. Relevant Materials - The Commissioner or his designee has the authority to exclude data or materials deemed to be improper or irrelevant. Formal rules of evidence shall not apply.
- L. Court Reporter - The Department does not provide a court reporter for administrative hearings; the Department will make and preserve a record of an administrative hearing through the use of audio or video recording. A party wishing to have a court reporter present for an administrative hearing will need to make their own arrangements to retain a court reporter.
- M. Service of Process - Parties shall be served either personally or by mail, postage prepaid, addressed to such person at his home or at his principal place of business as last on record in the Department, or by electronic delivery with a delivery receipt, if an electronic mail address has been provided, with a copy of any notice of hearing, decision or order.
- N. Impartiality – Every member of the Department present shall conduct himself in an impartial manner and the presiding official may withdraw if he deems himself disqualified. Any party may file an affidavit of personal bias or disqualification, which shall be ruled upon by the Department, may be granted if it is timely and sufficient, and filed in good faith.
- O. Power and Duties of Presiding Official – The presiding officer of the hearing shall be either the Commissioner or his designee, and shall have the power to:
1. Maintain order;
 2. Rule on all questions arising during the course of the hearing;
 3. Permit discovery by deposition or otherwise;
 4. Hold conferences for the settlement or simplification of the issues;
 5. Make or recommend findings;
 6. Generally, regulate and guide the course of the proceedings.
- P. Burden of Proof – the proponent of a rule or order shall have the burden of proof.
- Q. Evidence –The Commissioner or his designee has the authority to exclude data or materials deemed to be improper or irrelevant. Irrelevant, immaterial, and unduly repetitious evidence shall be excluded. Any other evidence, oral or documentary, not privileged, may be

received if it is a type commonly relied upon by reasonably prudent men in the conduct of their affairs. The Formal Rules of Evidence shall not apply.

- R. Objections – Objections to the introductions of evidence may be made and shall be noted of record.
- S. Evidence may be Written – When a hearing can be so expedited (and the interests of the parties will not be prejudiced) any part of the evidence may be received in written form.
- T. Cross-Examination – Parties shall have the right to conduct such cross-examination as may be required for a full, true disclosure of the facts.
- U. Official Notice – Official notice may be taken of judicially cognizable facts and of generally recognized technical or scientific facts peculiarly within the Department’s specialized knowledge. Parties shall be notified of material so noticed (including any staff memoranda or data). Parties shall be afforded a reasonable opportunity to show the contrary.
- V. Continuation of License during Proceeding - When an insurance producer has made a timely and sufficient application for renewal of a license or certificate of authority, with reference to any activity of a continuing nature, the license or certificate of authority does not expire until the administrative action is completed. When a renewal application is denied or an administrative hearing is set to review the licensure status of an insurance producer, or the terms of a certificate of authority are limited, then the license or certificate of authority expires upon the issuance of an Administrative Order by the Commissioner.

Source: *Miss. Code Ann.* § 25-43-1.106 (Rev. 2021) and § 83-18-21 (Rev. 2022)

Rule 15.09: Administrative Orders

- A. Notice and Hearing – Unless otherwise provided in statutory law, any administrative action of the Commissioner shall only be made after notice and hearing to the respondent.
- B. Written Orders – Orders of the Commissioner shall be effective only when in writing.
- C. Order Formulated Upon Adjudication – There shall be an order formulated upon each adjudication made by the Department or the Commissioner, or his deputy or employee.
- D. Effective Date – Each order shall contain its effective date and shall concisely state its intent or purpose and the grounds and pertinent provision of law on which it is based.
- E. Publication of Order– An order may be given by service upon or delivery to the person ordered by mail, postage prepaid, addressed to the person at his home or at his principal place of business as last of record in the Department, or by electronic delivery with a delivery receipt, if an electronic mail address has been provided. Furthermore, the Commissioner has the discretion to post said Order on the Department’s website.

Source: *Miss. Code Ann.* § 83-5-1 (Rev. 2022)

Rule 15.10. Bulletins.

The Department may issue Bulletins, which are considered guidance and explanatory in nature, without notice and hearing, and without public participation. Upon adoption of a Bulletin by the Commissioner, the a copy of the Bulletin shall be placed on the Department website, and electronically mailed to all persons who may have made timely request of the Commissioner for notice of adoption of any rule.

Source: *Miss. Code Ann.* § 83-5-1 (Rev. 2022)

Rule 15.11 Regulations.

- A. The Department shall comply with the Mississippi Administrative Procedures Act, *Miss. Code Ann.* §§25-43-1, et. seq., in the establishment the rules and regulations of the Department.
- B. Notice– Prior to adoption, amendment or repeal of any regulation, the Department shall give the following notice.
 - 1. Notice of at least twenty-five (25) days of the intended action is required
 - 2. Notice shall include a statement of the terms or substance of the intended action or a description of the subjects and issues involved, and the time, the place and the manner in which interested persons may present their views thereon.
 - 3. Notice shall be filed with the office of the Secretary of State of the State of Mississippi, placed on the Department website, and electronically mailed to all persons who may have made timely request of the Commissioner for advance notice of rule-making proceedings.
 - 4. Notice may be published in such newspapers of general daily circulation and in such insurance publications as selected by the Department.
- C. Emergency Regulations –If the Commissioner finds that an imminent peril to the public health, safety or welfare require adoption of a rule upon fewer than twenty-five (25) days notice and states in writing its reasons for that finding, the Commissioner may proceed without prior notice of hearing or upon an abbreviated notice and hearing that it finds practicable to adopt an emergency rule, pursuant to the provisions provided in *Miss. Code Ann.*, §25-43-3.108.
- D. Written Comments – Written comments will be accepted on all proposed regulations, except for emergency or temporary regulations. The Department’s website will provide interested parties with the information on when and how a written comment may be submitted regarding the adoption of the proposed regulation.

E. Oral Hearing - If an oral hearing is held regarding the adoption of a regulation, the following provision, in addition to any statutory requirements, shall apply:

1. The time and place of the public hearing shall be posted on the Department's website.
2. The public hearing shall be presided over by the Commissioner or his designee.
3. The Commissioner or his designee shall determine all procedural questions not governed by the Administrative Procedures Act, may limit the number of witnesses and to impose such time and presentation limitations as deemed reasonable. Any public hearing held will be a non-adversary, fact-finding proceeding, and any rule action taken need not be based exclusively on the record of such hearing.
4. Any person interested may attend the hearing, with or without counsel. Any hearing participant may introduce oral testimony through such witnesses as the presiding representative shall permit.
5. The obtaining and use of witnesses is the responsibility of the parties attending the hearing. All witnesses shall be present on their own volition, but any person appearing as a witness may be questioned by any hearing participant and the presiding representative.
6. The Commissioner or his designee have the authority to exclude data or materials deemed to be improper or irrelevant. Formal rules of evidence shall not apply.

F. Written and Oral Comments - All timely written and/or oral comments will be considered before taking any final rule action. All rule actions proposed pursuant to this regulation shall be effective upon the Department's provision of the final version of the rule or statement of repeal thereof to the office of the Secretary of State. However, no rule shall become effective prior to the time limits imposed by the Administrative Procedures Act. Any party having timely commented adversely to the proposed rule action may seek review of the final rule action in a court of proper jurisdiction.

G. Post-Adoption Actions - Any person aggrieved by any act of the Commissioner with regard to the adoption, amendment or repeal of any rule, may file a petition for review of an adverse ruling within five (5) days after receipt of notice thereof in the case of those interested persons who have made timely requests of the Insurance Department for advance notice of the Insurance Department's rule-making procedure and ten (10) days for all other interested persons.

Source: *Miss. Code Ann.* § 25-43-3.101, et seq. (Rev. 2021)

Rule 15.12 Declaratory Opinions

Pursuant to *Miss. Code Ann.* §25-43-2.103, any person with a substantial interest in the subject matter may make a written request of an agency for a declaratory opinion as to the applicability to specified circumstances of a statute, rule or order within the primary jurisdiction of the agency.

- A. Request for a Declaratory Order—Any request for a declaratory opinion must be made in writing and shall be directed to the Department’s Legal Division. Such petition shall be promptly considered and a prompt disposition shall be made.
- B. Response - The Department shall provide a written response to the request for a declaratory opinion to the requesting party within forty-five days of receipt of said request, providing either a declaratory opinion, an agreement to issue an opinion within ninety days, or decline to issue a declaratory opinion.

Source: *Miss. Code Ann.* §§25-43-2.103; (Rev. 2021) 83-5-1 (Rev. 2022)

Rule 15.13: Effective Date

This Regulation shall become effective thirty (30) days after filing with the Office of the Secretary of State.

Source: *Miss. Code Ann.* § 25-43-3.106 (Rev. 2021)