

Subpart 3-Bureau of Plant Industry
Chapter 11-Regulation of Professional Services
Subchapter 01- Regulations Governing Commercial Insect, Rodent, Plant Disease, and Weed Control
Work

Definitions

- 100 For the purpose of these regulations, the following words, names and terms shall be construed within the meaning and purpose of *Miss. Code Ann.* Sections 69-19-1 through 69-19-11.
1. "Act" shall mean *Miss. Code Ann.* Sections 69-19-1 through 69-19-11.
 2. "Advisory Board" shall mean the board established under the provisions of *Miss. Code Ann.* Section 69-25-3.
 3. "Bona fide Employee" shall be a person who receives all or part of his salary, pay or commission from a licensee or the company employing a licensee and whose salary, pay or commission is regularly reported by the licensee or the company employing a licensee under the Federal Social Security and/or income tax laws. A bona fide employee must be under the direct supervision of a licensee or a permit holder.
 4. "Branch Office" shall mean any place of business other than the office, as defined in these regulations, that has at least one employee capable of answering questions and from which a pest control firm carries out its pest control activities. The maintenance of personnel, pesticides and equipment at these locations, where pest control activities are carried out, constitutes a branch office under this chapter. The branch office must be managed by a license holder or permit holder in which any type of pest control services are offered. A home office may be a branch office. A telephone answering service is not a branch office.
 5. "Bureau" shall mean the Bureau of Plant Industry of the Mississippi Department of Agriculture and Commerce created under the provision of *Miss. Code Ann.* Section 69-25-3.
 6. "Certification" shall mean the recognition by the Bureau that a person is competent and thus authorized to use or supervise the use of restricted use pesticides in the category or categories listed on said certificate.
 7. "Certified Applicator" shall mean a licensee or his employee who has met the requirements for certification.
 8. "Commissioner" shall mean the commissioner of the Mississippi Department of Agriculture and Commerce.
 9. "Competent" shall mean a person who is capable of performing the various functions associated with pesticide application and pest control; the degree of capability required being directly related to the nature of the activity and the associated responsibility.
 10. "Direct Supervision" shall mean daily or routine contact by a licensee or permit holder with all employees registered under his supervision. Supervision includes activities such as giving routine or special instructions, prescribing

- pesticides, calculating volume of pesticides to be applied, calibrating equipment and being physically available, whenever and wherever needed.
11. "Entomologist" shall mean a person skilled in the biology of, and remedial measures employed for the control of and eradication of insect pests or rodents.
 12. "Fumigation" shall mean the use of a substance or mixture of substances which exist in the gaseous state or from which a gas or gases are liberated or emitted, for the purpose of destroying pests. Aerosols are excluded from this definition.
 13. "Insect Pest" shall mean any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, usually winged forms, as for example, beetles, bugs, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as for example: spiders, mites, ticks, centipedes and millipedes.
 14. "License" shall mean a document issued by the Bureau which indicates that a person has met the requirements set forth in the Act and these rules and regulations to receive fees for services in the categories indicated on said document.
 15. "Mississippi Official Wood Destroying Insect Report" shall mean an inspection performed under subsection 117.01 and reported on the Mississippi Official Wood Destroying Insect Report form.
 16. "Office" shall mean the primary place of business managed by a license holder where any types of pest control services are performed.
 17. "Pathologist" shall mean a person knowledgeable in the biology of and skilled in the necessary remedial measures to apply for the control and eradication of plant diseases.
 18. "Permit" shall mean a document issued by the Bureau indicating that a person has thorough understanding of the pest or pests that a licensee is licensed to control and is competent to use or supervise the use of a restricted use pesticide under the categories listed on said document at any branch office. A permit is not a license.
 19. "Permit Holder" shall mean a bona fide employee of a license holder who has passed a permit examination for each category in which work is performed and is responsible for supervising the activities indicated on said permit at a branch office.
 20. "Person" shall mean any individual, partnership, corporation, association, company or organized group of persons whether incorporated or not.
 21. "Pest" shall mean any insect, rodent, nematode, fungus, weed, bacteria, virus, mycoplasma, viroid (except viruses, bacteria, or other microorganisms on or in living man or other living animals) that either compete with humans for natural resources or transmit disease to humans.
 22. "Plant Disease" shall mean the pathological condition in or on plants and plant products caused by fungi, bacteria, nematodes, viruses, mycoplasma and viroids.

23. "Professional Services" shall mean any of the professional services performed as designated by the various categories listed under subsection 104.04.
24. "Real Estate Transaction Inspection" shall mean the inspection of an existing structure for determining factors relating to termites and other wood destroying insects which is required as a condition of sale, financing or refinancing of property.
25. "Registered Technician" shall mean a bona fide employee of a license holder who has completed the verifiable training as described in subsection 114.02 of this chapter and who has obtained a registered technician identification card from the Bureau.
26. "Restricted Use Pesticides" shall mean a pesticide that is classified for restricted use by the Environmental Protection Agency or the Bureau.
27. "Status" shall mean death, retirement, prolonged illness, merger of companies, sale, change of ownership, etc. of a licensee or permit holder.
28. "Trainer" shall mean a licensed person or a registered technician who has been registered for at least the twelve previous months or a knowledgeable person approved by the Bureau.
29. "Weed" shall mean any plant which grows where it is not wanted.
30. "Weed Control Work" shall mean receiving fees for the actual spraying or other pesticide application methods used for the control or eradication of any weed.

(Amended May 20, 2010 and December 19, 2012)

Source: *Miss. Code Ann.* §69-19-1 & *Miss Code Ann.* §69-23-109.

Bona fide Employee

101 Services or work performed under any section of these regulations must be performed only by the licensee or his bona fide employee.

(Amended May 20, 2010)

Source: *Miss. Code Ann.* §69-19-1 & *Miss Code Ann.* §69-23-109.

Persons Required to Secure a License

102 Entomologists, Pathologists and persons performing weed control work must secure a license from the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce in accordance with *Miss. Code Ann.* Section 69-19-9. No person shall advertise in any manner to render professional services or solicit business, or receive a fee for performing these services within the meaning of the Act without first obtaining a license.

(Amended May 20, 2010)

Source: *Miss. Code Ann.* §69-19-1 & *Miss Code Ann.* §69-23-109.

License Application; Qualifications

103 Application for a license shall be submitted on a regular form furnished by the Bureau, in time to be approved ten (10) days prior to regular scheduled examinations. No application for a license shall be accepted unless the applicant shall furnish written proof that he meets one of the following requirements:

1. Must be graduated from a recognized college or university with at least 15 semester hours or the equivalent in the category for which applicant is requesting a license.
2. Must have no less than two years college or university training with special training in the category for which applicant is requesting a license.
3. Must be at least a high school graduate or equivalent and have had, in addition, at least four years experience with a licensed operator within the past six years, if qualifying for categories "Wood destroying insect control" or "General pest and rodent control" or "Fumigation pest control" as covered by subsection 104.04(1, 3, 7) of this chapter.
4. Must be at least a high school graduate or equivalent, and having had, in addition, at least one years experience with a licensed operator within the past two years, if qualifying for categories "Utility pole pest control" or "Orchard pest control" or "Mosquito and biting fly control" or "Horticultural pest control" or "Domestic animal pest control" or "Agricultural pest control" or "Agricultural weed control" or "Aquatic weed control" or "Right-of-way weed control" or Horticultural weed control" as covered by subsection 104.04(1, 2, 4, 5, 6, 8, 9,10,11,12) of this chapter.
5. If applicant is not a high school graduate or equivalent, proof of at least two years experience working with a licensed operator within the past three years is required if qualifying for categories "Agricultural weed control" or "Aquatic weed control" or "Right-of-way weed control" or "Horticultural weed control" as covered by subsection 104.04(9,10,11,12) of this chapter.
6. In special cases where an applicant can submit proof of education, relevant experience and training equal to or exceeding the requirements, as covered by this section, he shall be allowed to take the required examinations.

(Amended May 20, 2010 and December 19, 2012)

Source: *Miss. Code Ann.* §69-19-1 & *Miss Code Ann.* §69-23-109.

License; Examination; Categories

104.01 Each person required to secure a license in accordance with the Act shall be examined as follows: When the firm is under the control of one person who is solely responsible for the work, this person alone shall be required to pass the examination. When more than one person is responsible, then each shall be required to pass the examination. A person may designate an employee who is

regularly and actively in charge to take the examination and the license will be issued naming the employee as supervisor. Both the employee and the person to whom the license is issued will be held responsible for the professional services rendered.

104.02 The license applicant shall take and pass a written examination. This examination will cover the professional services designated in the application and include the general standards for certification of commercial applicators as set forth in the Environmental Protection Agency Code of Federal Regulations, Title 40, Section 171.4.

104.03 Examination dates. Examinations shall be offered either as computer-based at proctored testing centers in Mississippi or written. Written examinations shall be given at least once each quarter at Mississippi State, Mississippi. The dates for written examinations shall be the second Tuesday in January, April, July, and October of the calendar year. In the event any of these scheduled exams are unavailable, the applicant will be notified by the Bureau of Plant Industry at its earliest convenience. If the applicant fails the examination twice in consecutive attempts, the applicant shall wait a full year before taking the examination again. Applicants who have failed any licensing exam twice in consecutive attempts must submit a new application and meet the requirements of subsection 103 of this chapter.

(Amended June 27, 2008, November 9, 2020, and December 21, 2020)

104.04 Categories in which examinations are to be given and for which licenses will be issued:

1. Wood destroying insect control (WDIL) - This category includes persons engaged in control of termites, beetles, or other wood destroying insects in buildings and other structures, including homes, warehouses, stores, docks and/or other structures. Control of Formosan termites attacking trees is included in this category. An examination may be given and a license issued to include only control of insect pests of utility poles (UPL).
2. Orchard pest control (ORPL) - This category includes persons engaged in the control of insect pests, plant diseases or pest animals of various fruit and nut trees, brambles, vineyards and all plants normally classed as nut trees or fruit orchards.
3. General pest and rodent control (GRCL) - This category includes persons engaged in control of insect pests or pest animals which may invade homes, restaurants, stores and other buildings, attacking their contents or furnishings or being a general nuisance, but do not normally attack the building itself, as for example: roaches, silverfish, ants, flies, mosquitoes, carpet beetles, clothes moths, fleas, stored food insects, rats, mice, centipedes, etc. It includes services in the mosquito and biting fly category as set forth in subsection 104.04(4) of this chapter. Individuals issued the general pest and rodent control license may request MBFL as a separate license without taking the exam, PROVIDED, that the licensee submits an application that the license is

needed to operate a company solely for performing mosquito and biting fly control services.

4. Mosquito and biting fly control (MBFL) – This category includes persons engaged solely in control of mosquitoes and biting flies including mosquito misting systems and back pack applications.
5. Horticultural pest control (HCPL) - This category includes persons engaged in control of insect pests, plant diseases, or pest animals of ornamental plants, shade trees (which may include nut or fruit trees if used as ornamental plants or shade trees) and lawns in residential, commercial, public, industrial and manufacturing areas.
6. Domestic animal pest control (DAPL) - This category includes persons engaged in control of insect pests of domestic animals.
7. Fumigation pest control (FUMPL) - This category includes persons engaged in control of pests by fumigation. A person holding a license or permit shall be present at the time fumigant is released.
8. Agricultural pest control (AGPL) - This category includes persons engaged in control of insect pests, plant diseases, or animal pests of agricultural crops during production. This category includes anyone soliciting and/or receiving a fee for these services who utilize ground application equipment.
9. Agricultural weed control (AGWL) - This category includes control of weeds in field crops, vegetable crops, pastures and rangeland. This category includes anyone soliciting and/or receiving a fee for these services who utilize ground application equipment.
10. Aquatic weed control (AQWL) - This category includes control of weeds in and around edges of lakes, ponds and streams.
11. Right-of-way weed control (ROWL) - This category includes control of weeds of rights-of-way, forest lands and drainage ditches.
12. Horticultural weed control (HCWL) - This category includes control of weeds in ornamental plants and turf in residential, commercial, public, industrial and manufacturing areas.

(Amended May 20, 2010 and December 19, 2012)

Source: *Miss. Code Ann.* §69-19-1 & *Miss Code Ann.* §69-23-109.

Issuance of a License

105.01 If the qualifications and other requirements of the license applicant are satisfactory, the Bureau shall then require that said applicant submit a detailed statement of the methods he will employ. He must submit in writing his proposed company name for approval. No license shall be issued for two companies with the same or similar names. To avoid the likelihood of confusion, the following are examples of when a requested name will be considered “not distinguishable from” and therefore “same or similar with” regarding an existing name:

1. Names are not distinguishable if the only difference is “a,” “an,” or “the” at the beginning of the name. “The Kudzu Pest Control” is similar and not distinguishable from “Kudzu Pest Control.”

2. “&” and “and” do not make names distinguishable. “A & B Pest Control” is not distinguishable from “A and B Pest Control.” And “A and B Pest Control” or “A & B Pest Control” is not distinguishable from “AB Pest Control” or “A.B. Pest Control.”
3. Punctuation does not make names distinguishable. “A.B.C Pest Control” is not distinguishable from “ABC Pest Control.”
4. Plural forms of the same word do not make names distinguishable.
5. A suffix added to a word or any other deviation from or derivative of the same word does not make names distinguishable.
6. Names are not distinguishable if the only difference is the abbreviation of a word in the name. “MS Pest Control” is not distinguishable from “Mississippi Pest Control.”
7. Names are not distinguishable if the only difference is a phonetic spelling of the same word. “Boyz Pest Control” is not distinguishable from “Boys Pest Control.”
8. Names are not distinguishable if the only difference includes any of the following terms or combination of terms: “Pest,” “Control,” “Solutions,” “Management,” “Exterminating,” “Exterminator,” “Fumigator,” “Services,” or “Inc.,” “LLC or L.L.C.,” “LP.” “Mississippi Exterminating” is not distinguishable from “Mississippi Pest Control.”
9. Names shall not be considered too similar solely because they contain a name or term common to the Industry as long as they are accompanied by an identifiable term or name not related to the Industry. “Mosquito Joe,” “Mr. Mosquito,” “Mosquito ...,” “Trutech Wildlife Removal,” “Nations Wildlife Removal,” “Wildlife Removal Northeast Mississippi.”

If these are approved, said applicant shall then furnish a bond in the proper amount as set forth in subsection 112.01 of this chapter in conformity to *Miss. Code Ann.* Section 69-19-9. After all requirements have been met by the applicant for licensing, the Bureau shall then issue said applicant a license, PROVIDED, that no license shall be issued any person who fails to disclose to the Bureau the ingredients used in his practice, or who uses any material or method which has not been approved by the Bureau. A license is not transferable. When there is a change in a licensee’s status, ninety (90) days shall be allowed for a qualified person to meet the requirements of section 102 of this chapter. When the death or disability of a licensee occurs, the Bureau may extend the period for qualifying a new licensee an additional 90 days before revoking or canceling the work of the operation.

(Amended June 27, 2008, December 19, 2012, and December 21, 2020)

105.02 Persons requesting a license must have passed the required examination within the past year or have been actively engaged in related work with no regulatory violations since passing the examination, or be reexamined before the license can be issued or reissued.

105.03 An individual shall not have more than one (1) license to perform the same service at any given time.

105.04 When a license holder changes his mailing address, physical location, or company name, the Bureau must be notified in writing within ten (10) working days and required documents for reissuance of license must be submitted.

105.05 When the status of a license holder changes, the license shall be returned to the Bureau within ten (10) working days.

(Amended May 20, 2010, December 19, 2012, and December 21, 2020)

Source: *Miss. Code Ann.* §69-19-1 & *Miss Code Ann.* §69-23-109.

Persons Required to Secure a Permit

106 Each branch office shall have at least one license or permit holder for each category for which the licensee is soliciting and/or performing work. Any bona fide employee may hold a permit in one or all of the categories for which the said business is licensed.

(Amended May 20, 2010)

Source: *Miss. Code Ann.* §69-19-1 & *Miss Code Ann.* §69-23-109.

Permit; Application; Qualifications

107 Application for a permit shall be submitted on a regular form furnished by the Bureau in time to be approved ten (10) days prior to regular scheduled examinations. No permit application shall be accepted unless the applicant furnishes written proof that he is a bona fide employee of a person holding a license in one or more of the categories listed under subsection 104.04 of this chapter and holds a registered technician identification card.

(Amended May 20, 2010)

Source: *Miss. Code Ann.* §69-19-1 & *Miss Code Ann.* §69-23-109.

Permit Examination; Categories

108.01 The permit applicant shall take a written examination. This examination will cover the professional services designated in the application and include the general standards for certification of commercial applicators as set forth in the Environmental Protection Agency Code of Federal Regulations, Title 40, Section 171.4.

108.02 Examination dates. Examinations shall be offered either as computer-based at proctored testing centers in Mississippi or written. Written examinations shall be given at least once each quarter at Mississippi State, Mississippi. The dates for written examinations shall be the second Tuesday in January, April, July, and

October of the calendar year. In the event any of these scheduled exams are unavailable, the applicant will be notified by the Bureau of Plant Industry at its earliest convenience.

(Amended June 27, 2008 and December 21, 2020)

108.03 Categories in which examinations are to be given and for which permits will be issued are the same as the license categories set forth in subsection 104.04 of this chapter, except a permit exam for control of pests of utility poles will not be given.

(Amended May 20, 2010)

Source: *Miss. Code Ann.* §69-19-1 & *Miss Code Ann.* §69-23-109.

Issuance of a Permit

109.01 After all requirements have been met by the applicant for a permit, the Bureau shall then issue said applicant a permit. A permit is not transferable. When there is a change in the status of the person holding a permit who is supervising a business location, the license holder shall be allowed ninety (90) days in order to have another bona fide employee meet the requirements of section 106 of this chapter.

(Amended June 27, 2008)

109.02 Persons requesting a permit must have passed the required examination within the past year or have been actively engaged in the work since passing the examination, or be reexamined before his permit can be issued or reissued.

109.03 An individual shall not have more than one (1) permit at any given time.

109.04 When a permit holder changes his mailing address or physical location, the Bureau must be notified in writing within ten (10) working days and required documents for reissuance of permit must be submitted.

109.05 When the status of a permit holder changes, the permit shall be returned to the Bureau within ten (10) working days.

(Amended May 20, 2010)

Source: *Miss. Code Ann.* §69-19-1 & *Miss Code Ann.* §69-23-109.

Expiration of a License or a Permit and Conditions for Renewal

110.01 All licenses and permits shall expire thirty-six months from the date of issuance. To renew said license or permit, the holder of same shall submit a request for renewal on a form prescribed by the Bureau and show that he is knowledgeable of current control recommendations, techniques and abreast of changing technology and pesticide usage. To meet these requirements, the licensee or permit holder

shall have attended a training course approved by the Bureau within the past twelve (12) months or successfully complete an examination administered by the Bureau. It is the responsibility of the licensee or permit holder to know when his/her license or permit expires and to get the license or permit renewed prior to the expiration date.

(Amended May 20, 2010 and December 19, 2012)

Source: *Miss. Code Ann.* §69-19-1 & *Miss Code Ann.* §69-23-109.

Denial, Suspension or Cancellation of a License, Permit or Identification Card;
Refusal to Issue or Renew Same

111.01 Where the holder of a license, permit or identification card commits any of the following acts or omissions, it shall be grounds to suspend, modify, deny, cancel or revoke such license, permit or identification card, in addition to those grounds set forth in *Miss. Code Ann.* §69-19-9, §69-25-51, to-wit:

1. Made false or fraudulent claims through any media misrepresenting the effect of materials or methods to be used;
2. Operated in a faulty, careless or negligent manner or knowingly operated faulty or unsafe equipment in a manner as to cause damage to property or person;
3. Refused, or after notice neglected to comply with the provisions of the Act, the regulations adopted hereunder or any lawful order of the commissioner;
4. Refused, or neglected to keep and maintain, or failed to make available to the Bureau, records required by the Act or to make reports when required;
5. Made false or fraudulent records, invoices or reports;
6. Used fraud or misrepresentation in making application for a license or permit;
7. Aided or abetted any person in evading the provisions of the Act, allowed one's license to be used by an unlicensed person;
8. Impersonated any state or federal official;
9. Convicted in a court of law of a violation under the Federal Insecticide, Fungicide and Rodenticide Act;
10. Convicted in a court of law for using any pesticide in a manner which is determined to be inconsistent with its labeling;
11. Misrepresented for the purpose of deceiving or defrauding;
12. Made a false statement with knowledge of its falsity for the purpose of inducing others to act thereon to their detriment;
13. Performed work in a category for which the licensee does not hold a license;
14. If repeated inspections by inspectors of the Bureau reveal that the licensee is not performing services in a manner consistent with the Act and these regulations;
15. Failed to register agents or solicitors or failure to make reports within the time specified in these regulations;
16. Convicted in any of the courts of this state of a violation of the Act or these rules and regulations;
17. Refused to yield a pesticide sample to an employee of the Bureau;

18. Failed to correct work not performed in accordance with the Act and these rules and regulations after sufficient notice;
19. Failed to maintain in force or renew the insurance policy or bond required in subsections 112.01, 112.02 and 112.03 of this chapter.
20. Failed to renew a license or permit prior to the expiration date.
21. The licensee ceases to personally supervise and be in direct charge of business operations.

111.02 During the time a license, permit or identification card of an individual is under suspension or has been cancelled, another license, permit or identification card shall not be issued to such individual merely because he becomes employed by a different company or other licensed entity.

111.03 During the time a license holder has his license under suspension; he shall not solicit any new business or perform any new work. He shall be allowed to inspect and/or retreat all properties on which he has current contracts.

111.04 When a license or permit has been cancelled, the bonding and insurance companies shall be notified in writing.

(Amended May 20, 2010 and December 19, 2012)

Source: *Miss. Code Ann.* §69-19-1 & *Miss Code Ann.* §69-23-109.

Bond and Insurance Requirements

112.01 Before a license shall be issued or reissued to engage in the control of any kind of pests, a surety bond must be furnished on a form provided by the Bureau. This bond shall be conditioned so that the principal therein named shall conduct honestly such business in accordance with the laws and regulations of this state, and shall faithfully perform all his professional service contracts. Bonding requirements are based on the category of pest control to be performed. For categories involving insect, rodent and plant disease control work this bond shall not be less than \$5,000. For categories involving weed control work this bond shall not be less than \$2,500.00. If insect, rodent, plant disease and weed control work are to be performed the bond shall not be less than \$5,000. No surety bond shall be accepted except from companies approved by the Commissioner of Insurance of Mississippi.

112.02 Insurance is not required for licensees engaged in the control of weeds. Before a license shall be issued or reissued to engage in the control of insect, rodent and plant diseases, proof of general liability insurance must be furnished on a form provided by the Bureau. This insurance shall insure against negligent or careless acts of the insured. This insurance shall not be less than \$100,000.00 per occurrence, with a minimum annual aggregate of \$200,000.00 for all occurrences. No insurance shall be accepted except from companies admitted to do business in Mississippi, companies that are non-admitted but approved to do business in

Mississippi, or risk retention and purchasing groups registered by the Commissioner of Insurance of Mississippi. This \$200,000.00 minimum coverage shall include coverage for pollution and contamination, property damage, personal injury and errors and omissions. Those licensed for wood destroying insect control as defined by subsection 104.04(1) of this chapter shall have insurance to include (1) errors and omissions on Mississippi Official Wood Destroying Insect Reports as defined by subsection 100(15) of this chapter and (2) damages caused by structural pests.

112.03 Bonds and insurance shall expire at the same time. The license to engage in such professional services shall be invalid upon expiration of bond and insurance. (Amended May 20, 2010 and December 19, 2012)

Source: *Miss. Code Ann.* §69-19-1 & *Miss Code Ann.* §69-23-109.

Recordkeeping, Record access, Pesticide Storage and Transport, Pesticide Tank-mix Sample Tolerances

113.01 Licensed operators shall keep complete and accurate records of all work performed including copies of contracts issued for as long as they are current and for two (2) years after their expiration. Such records shall be available for examination by employees of the Bureau during reasonable business hours. No records shall be maintained at an out-of-state location unless the licensee submits a plan of access for such records on a form prescribed by the Bureau and that plan is approved by the Bureau. Such records shall include location, kind of services performed, date performed, the pest controlled, brand name and EPA registration number of pesticide used, total amount of product used, the pesticide dilution rate, the total volume of diluted pesticide applied, and where applicable, sufficient information to determine termiticide volume and such other information as may be necessary for a complete record.

113.02 The commissioner or his representative may enter upon public or private premises at reasonable times for the purpose of enforcing the Act and these regulations and may investigate complaints of injury or accidents resulting from use of pesticides.

113.03 Persons licensed in accordance with these regulations shall use all pesticides in a manner consistent with the label and consistent with the Environmental Protection Agency and Bureau's rules, notices and guidelines.

113.04 Labeling of Pesticides - It shall be illegal to store or transport any pesticide chemicals, except those in application devices, unless the containers for such chemicals are labeled to show:

1. The name, address, and telephone number of the user's firm;
2. The product name;
3. The Environmental Protection Agency registration number of the pesticide;

4. Name and percentage of active ingredients; and
5. Signal word from the registered label.

113.05 Pesticide Tank Mix Sample Tolerances: Values above or below the tank mix concentration stated by the applicator that do not fall within the acceptable range listed in Section 113.06 shall be a use unsuitable, unsafe, or inconsistent with the label. Concentrations and their acceptable ranges are based on Association of American Pesticide Control Officials current guidelines for active ingredients in pesticide formulations and may be subject to change. Concentrations and their acceptable ranges not listed shall be determined through mathematical interpolation from known data points.

113.06 The values expressed shall establish the maximum and minimum tolerance for the analysis of pesticide tank mix samples.

1. Stated concentration is 0.001%.
Acceptable range is 0.00066% to 0.00168%
2. Stated concentration is 0.005%.
Acceptable range is 0.0037% to 0.0077%.
3. Stated concentration is 0.010%.
Acceptable range is 0.0076% to 0.0148%.
4. Stated concentration is 0.06%
Acceptable range is 0.049% to 0.082%
5. Stated concentration is 0.10%
Acceptable range is 0.083% to 0.13%
6. Stated concentration is 1.0%.
Acceptable range is 0.88% to 1.24%.
7. Stated concentration is 6.0%.
Acceptable range is 5.45% to 7.10%.
8. Stated concentration is 10.0%.
Acceptable range is 9.15% to 11.70%.
9. Stated concentration is 25.0%.
Acceptable range is 23.15% to 28.70%.
10. Stated concentration is 50.0%.
Acceptable range is 46.67% to 56.66%.

113.07 Agricultural Exemption.

Any operation, business, or individual shall be required to keep records as required by the Commissioner of Agriculture and Commerce under *Miss. Code Ann.* §69-19-3 and shall keep the required records under subsection 113.01 as it relates to *Miss. Code Ann.* §69-19-5 (a), (b) and (e).

(Adopted June 27, 2008; Amended May 20, 2010 and November 9, 2020)

Source: *Miss. Code Ann.* §69-19-1 & *Miss Code Ann.* §69-23-109.

Identification; Operators; Employees; Equipment

114.01 Identification.

1. All non-licensed owners or employees of a business soliciting pesticide work or who are involved in pesticide application or conduct service inspections must qualify for a registered technician identification card to be obtained from the Bureau. The license or permit holder shall request in writing all identification cards. He shall provide an application, approved by the Bureau.
2. The identification card shall be in the possession of the individual at all times when performing work or soliciting business and shall be presented on request to the person or persons for whom business is performed or solicited.
3. When an identification card holder resigns or is discharged the license or permit holder shall return the identification card to the Bureau for cancellation.
4. No person employed by a license holder shall solicit work, apply pesticides, or conduct service inspections prior to obtaining a registered technician identification card unless he is in the physical presence of a license or permit holder or a registered technician who has held a registered technician identification card for twelve continuous months prior to working with said person.
5. No person shall have more than one identification card at any given time.
6. An identification card will not be issued to any person who has been employed by another operator until his previous card has been returned to the Bureau for cancellation, or the Bureau has been notified in writing by the former employer that the person is no longer employed and that the card was not retrieved from the former employee. Notification to the Bureau must be made within ten (10) working days of person's final date of employment.

(Amended June 27, 2008)

114.02 Registered Technician Training Standards.

Applicants qualifying for a registered technician identification card in the categories "Wood destroying insect control" or "General pest and rodent control" or "Fumigation pest control" as covered by subsection 104.04(1,3, 7) must:

1. Receive training of at least eight hours of verifiable classroom training for general pesticide use and eight hours of verifiable classroom training for each category in which the technician is to obtain an identification card which shall include the following:
 - a. Eight hours general training:
 - i. Pesticide laws and regulations
 - ii. Pesticide labels and label comprehension
 - iii. Pesticide safety, handling, storage, disposal, emergency procedures, and cleanup
 - b. Eight hours specific to the category:
 - i. Biology, control, and recognition of pests and pest damage
 - ii. Pesticides and specific labels for pest covered by the category
 - iii. Pesticide application techniques and equipment

- iv. Environmental and health protection
2. Receive at least 40 hours of verifiable on the job training for each category under the direct supervision, direction and control of a trainer. During the application of pesticides a trainer must be on the job site. This training must include a variety of different types of application situations in each category which the trainee will be registered to perform.
3. The license or permit holder shall verify on an approved form to the Bureau that each applicant for a registered technician identification card has satisfactorily completed the required training and demonstrated competency in each of the subject areas.
4. The licensee shall maintain the training records for as long as the individual is employed and for at least one year after termination of employment. The training records shall be kept on a form approved by the Bureau.
5. Additional training based on need of position and need of registered technician shall be conducted by a trainer.
6. It shall be a violation of these rules and regulations for a license holder to allow any person to perform unsupervised work in a category in which he does not have a registered technician identification card.
7. Licensees and permit holders are exempted from the training requirement of subsection 114.02.

114.03 Equipment - All vehicles and mobile equipment used by persons while engaged in professional services covered by the Act and these regulations shall be marked for easy identification. This marking shall contain the company name.

114.04 Expiration of a Registered Technician and Conditions for Renewal.

Registered technicians holding the category “Wood destroying insect control” or “General pest and rodent control” or “Fumigation pest control” shall expire thirty-six months from the date of issuance. To renew said technician card, the licensee or permit holder is responsible for ensuring his/her technician attends an approved training within twelve (12) months of the expiration date. All renewal forms must be maintained by the licensee or permit holder and provided upon request. Failure to attend an approved training will void the registered technician identification card.

(Amended May 20, 2010 and November 12, 2019)

Source: *Miss. Code Ann.* §69-19-1 & *Miss Code Ann.* §69-23-109.

Section 115-120 applicable to wood destroying insect licenses and permits, only.

115 Contracts

1. Persons holding a license in the category "Wood destroying insect control" as covered by subsection 104.04(1) of this chapter shall enter into a written

- contract with the person employing him. Work performed under the contract shall comply with the regulations set forth in subchapter 01 of this chapter.
2. A contract shall not be issued unless an approved termite treatment is performed, except as covered in subsection 115(15) of this chapter.
 3. Said contract for control of and protection from termites and/or other structural pests shall guarantee the performance of the work to the original owner and subsequent owners for at least one year after initial date of contract to the original owner and that said property meets the minimum standards set forth in these regulations for such work, unless an exception of the minimum standards is clearly set forth in a separate statement on the face of the contract. Exceptions of the minimum standards shall not exclude treatment requirements, as stated on the product use label, of the pesticide being used. Exceptions of the minimum standards for such work are limited to structures where treatment is not possible because an area of the structure is inaccessible and/or treatment will result in defacement to the actual structure that is unacceptable to the owner of the property. Exceptions of the minimum standards for such work shall not be allowed unless the owner of the property signs in a space next to each exception on the face of the contract acknowledging that the work is not being performed to minimum standards. Exceptions of the minimum standards do not eliminate the requirement for termite treatment to be performed.
 4. A copy of a work order covering a complete plot or diagram showing the location of visible damage and an outline of the work to be carried out shall be given to the property owner and one copy shall be maintained by the operator with a copy of the contract for as long as the contract is in force.
 5. The contract must clearly state in bold letters on the face of the contract if damage repairs are included or if only retreatment is provided.
 6. The contract issued for pretreatment for termite control, as covered by subsection 118.05 of this chapter, shall clearly state in bold letters on the face of the contract that damage repairs are included and the perimeter treatment, as covered by subsection 118.05(1) of this chapter, is required to be completed within one (1) year of completion of the horizontal barrier treatment.
 7. Before the expiration date of said contract and annually thereafter, the operator shall re-examine the property treated for termites and/or beetles and a written report of the reexamination showing the condition of the property with respect to the presence or absence of termites and/or beetles shall be filed with the owner of the property and a copy maintained in the operator's file.
 8. The annual reexamination must include an exterior inspection and interior inspection of the structure. However, where the efforts of the pest control operator to schedule an inspection have been unsuccessful because the customer has failed to respond to the pest control operator or to make their premises available for an inspection, the pest control operator shall be relieved of the responsibility to perform the inspection provided the pest control operator has made reasonable efforts to perform the inspection and notified the customer in writing the inspection was not performed. A copy of this notification shall be maintained in the pest control operator's customer file.

9. All subsequent inspections, as provided by the terms of the contract, shall be regularly made by the operator who shall report the results to the homeowner and make them available to the Bureau if such information shall be requested.
10. When a termite control pretreat contract is issued, an inspection before the contract expires is required.
11. A complete plot or diagram giving the dimensions and shape of the property pretreated shall be given to the structure owner and one copy shall be maintained by the licensee.
12. Annual re-treatment of a structure, covered by a contract, is prohibited unless there is clear documented site evidence that re-infestation and/or treatment zone disruption has occurred.
13. When a pest control operator elects not to renew a structural contract, the owner must be notified in writing at least thirty (30) days prior to the contract expiration date. A copy of this notification shall be maintained in the pest control operator's customer file.
14. For control systems other than a soil barrier, a contract must be issued at the time of initial installation of the system and reported to the Bureau on the monthly report. The contract must specify product, the procedure, a graph of sites of infestation and damage, placement, and frequency of inspections to be performed. This contract must be in force to the original owner and subsequent owners for at least one (1) year after initial date of contract to the original owner.
15. Licensed companies acquiring a termite control and protection soil barrier contract from another company must honor the terms of the acquired contract, whether or not a new contract is issued, until the acquired contract expiration date and are required, at no cost to the property owner, to treat the structure identified in the contract to Mississippi's minimum requirements, if there is evidence this was not done. Upon expiration of an acquired soil barrier contract, a new soil barrier contract may be issued. To avoid over-treatment of a previously treated structure, it is prohibited to apply a new soil barrier treatment to the structure named in the acquired contract, unless at least one of the following occurs: there is clear documented site evidence that re-infestation has occurred; there is clear documented site evidence of treatment zone disruption; there is clear documented evidence of pesticide degradation below acceptable efficacy levels; there is relevant published research data that the pesticide may have degraded below acceptable efficacy levels.

(Amended June 27, 2008, May 20, 2010, December 19, 2012, and January 14, 2014)

Source: *Miss. Code Ann.* §69-19-1 & *Miss Code Ann.* §69-23-109.

116. Reporting

1. Persons operating under a license in the category "Wood destroying insect control" as covered by subsection 104.04(1) of this chapter shall by the 20th day of each month remit to the Bureau a report, on forms approved by the Bureau, of structural pest treatments applied during the previous calendar month. Reports

must be accurate and legible including the property owner's or contractor's name, the physical address of the treated property (including subdivision name, lot number, and city for pre-construction), the type of treatment and such other information as required by the Bureau. Preventive treatments for all pre-construction (defined as structure under construction up to and including the installation of the final grade) and preventive and curative treatments for all post-construction (defined as after the final grade and not part of the construction process) must be reported. Reporting of work for pre-construction treatments must be done upon completion of treatment of each construction phase (e.g., treatment of footing, treatment of horizontal barrier, treatment of dried in phase, treatment of exterior perimeter). Reporting of work for post-construction treatments must be done upon completion of treatment. A report shall be filed each month even though no work is performed.

(Amended June 27, 2008; May 20, 2010; December 19, 2012; November 9, 2020; December 9, 2022.)

Source: *Miss. Code Ann.* §69-19-1 & *Miss Code Ann.* §69-23-109.

117.01 Wood Destroying Insect Report.

1. All inspection reports issued regarding the presence or absence of termites and other wood destroying insects in connection with a real estate transaction shall be made on a form prescribed and officially adopted by the Bureau. All inspections associated with a real estate transaction shall be performed by an individual licensed for "Wood destroying insect control" as covered by subsection 104.04(1) of this chapter or a bona fide employee under his direct supervision.
2. The Mississippi Official Wood Destroying Insect Report form is adopted by reference, and may be examined in the office of the Bureau of Plant Industry, and copies of the form may be obtained for reproduction and use from the Bureau of Plant Industry, Stone Boulevard, Mississippi State, MS 39762.
3. The inspection shall be based on a thorough visual inspection of accessible areas and provide accurate written disclosure of presence, absence, previous infestation and damage caused by subterranean termites, drywood termites and wood borer beetles and other wood destroying insects such as carpenter ants and carpenter bees. The structures inspected must be clearly identified. Structures which are attached to or contiguous with the structure are considered to be a part of the structure and must be inspected and included in the report.
4. Conditions conducive to wood destroying insect infestations must be noted.
5. Obstructed or inaccessible areas not covered by the inspection must be listed.
6. There is no warranty, express or implied, related to the Mississippi Official Wood Destroying Insect Report form.
7. Any Mississippi Official Wood Destroying Insect Report issued that is not in compliance with the Regulations shall be deemed inaccurate, misleading, or fraudulent. The licensee and bona fide employee completing the inspection shall be in violation for failure to perform a proper inspection.

8. Consumer complaints about alleged inaccurate, misleading or fraudulent inspections may be investigated by the Bureau. Alterations made to structures that expose insect damage or infestation, or consumer delay in notification to the Bureau of alleged inaccurate, misleading or fraudulent inspections may prevent the Bureau from determining if an inspection is inaccurate, misleading or fraudulent.
9. For each inspection, copies of the completed form shall be prepared for the:
 - a. Person who ordered the inspection
 - b. Title company or mortgagee and
 - c. Business files of inspecting company
10. Upon completion of a real estate transfer inspection, the inspector shall post a durable sign adjacent to the water heater, access opening to crawl space, or beneath the kitchen sink giving the name and address of the licensee, the date of the inspection or treatment, and a statement that the notice should not be removed. It will be a violation of this section for any licensee or their employees to remove or deface a posted inspection notice.

(Amended June 27, 2008)

117.02 Whenever a licensee performs a wood infestation inspection in connection with a real estate transaction, he is required to make a written report on the Mississippi Official Wood Destroying Insect Report form and provide copies to the mortgagee, the seller, the buyer, and the realtor, if these are known. A licensee may refuse to complete the Mississippi Official Wood Destroying Insect Report form after performing an inspection, provided no fee is assessed.

(Amended June 27, 2008, May 20, 2010)

Source: *Miss. Code Ann.* §69-19-1 & *Miss Code Ann.* §69-23-109.

Approved Pesticides; Minimum Requirements

118.01 Acceptable pesticides for control and/or prevention of pests.

1. All pesticides recommended by the USDA Forest Service, Wood Products Insect Research Unit at Starkville, Mississippi, and registered by the Bureau will be acceptable for use in structural pest control work performed under these regulations.
2. Pesticides applied for control and/or prevention of termites and other structural pests shall be applied in accordance with the label.
3. Pesticides applied for control and/or prevention of termites and other structural pests shall not be applied at concentrations or volumes less than specified on the label of the pesticide product being applied. Special exceptions may be made with prior approval of the Bureau.

118.02 Treatment Requirements - Subterranean Termites - Pier-Type (Crawl Space) Construction

1. Remove all cellulose-bearing debris such as scrap wood, wood chips, paper, stumps, dead roots, etc., from underneath buildings. Large stumps or roots

that are too sound to be removed may be trenched, drilled or rodded and treated provided they are six inches or more from foundation timbers.

2. Remove all wooden contacts between building and soil, both inside and outside. Wooden supports under buildings must rest on a concrete footing, a brick capped with concrete, or other non-cellulose materials. The top of the brick or footing should not be less than six inches above the ground. This includes but is not limited to wood steps, skirting and lattice work, form boards, piers and stiff legs. (Pressure treated piling foundations are exempt from this requirement.)
3. Termite tunnels - Scrape off all termite tunnels from foundation walls and pillars.
4. Trenches - Cut trenches a minimum of four inches wide and deep, but not below top of footing, in contact with masonry around all exterior and interior foundation walls and pillars and apply pesticide according to label directions. Soil injection techniques will be accepted by the Bureau when they are used in accordance with label directions.
5. Pipes - Pipes underneath the structure should be treated by rodding or trenching according to label directions. All non-metal packing around pipes should be saturated with an approved pesticide.
6. Treatment of Masonry and Voids - Approved pesticides shall be applied to porous areas, cracks and voids in foundation walls, piers, chimneys, step buttresses and other structures likely to be penetrated by termites. (1) Flood all cracks in concrete. (2) Drill mortar joints on all two course brick formations such as piers, foundation walls, chimneys, step buttresses, etc., in a horizontal line at sufficient intervals to provide thorough saturation of wall voids but in no case shall the distance between holes exceed 24 inches. Holes shall be deep enough to reach the center mortar joint and shall be flooded under sufficient pressure to flood all cracks and voids therein. Drilling shall not be required when solid concrete footing extends above grade level or when wall is capped with solid concrete. (3) Drill mortar joints on all brick formations with three or more courses of brick on each side of formation at the end of every other brick but with the locations of the holes on each side of the formation alternating as much as is practicable and flood under pressure all cracks and voids therein. Where the outside finish of a three course brick wall makes drilling from each side of wall impractical, this wall can be drilled from one side by extending holes two bricks deep. (4) Drill into the center of each vertical core in a complete row of hollow concrete (or other light weight aggregate) blocks in construction using this type of building material and apply an approved pesticide into the openings. In hollow concrete block construction, drilling will not be required where accessibility to the opening is already available through construction.
7. Dirt Fills - All dirt filled structures such as concrete slab porches, steps, chimneys, porch columns, etc., shall be treated by excavating, trenching, and applying pesticides in the same manner as around pillars and foundations.
EXCEPTION: If due to construction, it is impractical to break into and

excavate dirt filled areas, a method acceptable to the Bureau such as drilling, flooding or rodding may be employed.

8. Beetles - Approved controls must be applied in accordance with subsections 119.01, 119.02 and 119.03 of these regulations for beetles in timbers, walls and flooring, if beetles are present, unless contract states that protection against beetle injury is not included.

118.03 Existing Slab - Type Construction-

1. Treat the entire perimeter of the slab foundation.
2. Treat all traps, foundation walls, and other openings in the slab.
3. Treat all expansion joints, visible cracks and other voids in slab by rodding under or drilling through slab and thoroughly saturating the area beneath the slab where the above stated conditions exist. When the foundation wall or slab is drilled or rodded, the holes must not be more than 24 inches apart along the above stated areas.
4. Remove all non-pressure treated wood contacting soil and building.

118.04 Use of baiting systems in lieu of chemical barrier for control of subterranean termites shall be in accordance with label specifications of product used. All products must be registered by the United States Environmental Protection Agency and the Bureau.

118.05 Pretreatment For Termite Control -

1. All pretreats shall be made in accordance with label directions as specified on the label of the pesticide being used. All perimeter treatments must be performed within one year of treatment of the horizontal barrier. Upon completion of a perimeter treatment, the technician shall post a weather resistant durable sign to the exterior electrical meter box attached to the structure that was treated. The sign shall be a minimum size of 3.5 inches by 1 inch and give company name, company address, name of licensee or permit holder, the date of the perimeter treatment and a statement that the notice should not be removed. It will be a violation of this section for any licensee or their employees to remove or deface a posted notice.

(Amended December 04, 2008)

2. Wood treatment alone shall not be used for the only termite pretreatment protection. Wood treatment may be used with horizontal barrier, vertical barrier and critical areas soil treatment, or when used as specified in subsection 118.06(3) of this chapter.

(Amended December 04, 2008)

3. Termite bait as a stand-alone pretreatment is only permitted after a written request is received by a licensed structural pest operator from the resident purchaser. A copy of the written request must be retained in the files of the pest control operator.

118.06 Alternative treatments

1. Spot Treatment- for existing structures.

Spot or localized area treatment is allowed for all construction types, provided the purchaser requests in writing to the licensee this type of treatment prior to the termiticide application. A copy of the customer's request shall be maintained in the pest control operator's customer file. The licensee shall write on the face of the contract "Spot Treatment" and clearly define area treated on the graph. The contract must guarantee the area treated for one year. The monthly structural report shall state "Spot Treatment".

2. Fipronil Exterior Perimeter/Localized Interior (EP/LI)

Post Construction Structural Treatment-

Fipronil EP/LI treatment may be performed on existing structures according to the product label instructions. Subsections 118.02 (1), (2), (3), (5) and/or 118.03 (4) of these regulations must be followed. The face of the contract shall specify "trade name of product Exterior Perimeter/Localized Interior" and the areas treated and the application methods used shall be clearly defined on the graph and application records. Known termite activity at time of treatment must be clearly noted on the graph. The monthly structural report shall state "trade name of product EP/LI." Proof of licensee training in the use of the approved Fipronil labeled for EP/LI, as approved by the Bureau, is required prior to the initial use of the approved Fipronil labeled as an EP/LI treatment.

3. Bora-Care[®] shall be applied, in accordance with product label directions, as a subterranean termite preventative treatment for new slab-type, crawl-space or basement construction. A supplemental exterior soil applied perimeter treatment must be performed within one year of the Bora-Care[®] treatment. Only EPA registered termiticides with 24(c) supplemental labels approved for this use in Mississippi may be used.

4. Imidacloprid Insecticide in Water Soluble Packets Exterior Perimeter/Interior Spot Treatment (EP/IST)

Post Construction Structural Treatment-

Imidacloprid Exterior Perimeter/Interior Spot Treatment may be performed on existing slab type construction according to the Imidacloprid label instructions. For pier-type crawl space construction, treat according to label instructions; except all piers and plumbing and utility penetrations entering soil in accessible crawl spaces must be treated by trenching and rodding into the trench or trenching, even if there is no termite infestation. Subsections 118.02 (1), (2), (3), (5) and/or 118.03 (4) of these regulations must be followed. The face of the contract shall specify "Imidacloprid Exterior Perimeter/Interior Spot Treatment" and the areas treated and the application methods used shall be clearly defined on the graph and application records. Known termite activity at time of treatment must be clearly noted on the graph. The monthly structural report shall state "trade name of product EP/IST." Proof of licensee training in the use of Imidacloprid EP/IST, as approved by the Bureau, is required prior to the initial use of Imidacloprid as an EP/IST application.

(Adopted December 04, 2008; amended December 19, 2012 and January 14, 2014)

118.07 Special Cases. In special cases, where it is apparent that these specifications are either insufficient or more than sufficient to insure adequate protection, the operator shall consult the Bureau for advice before treatment is started.
(Amended May 20, 2010)

Source: *Miss. Code Ann.* §69-19-1 & *Miss Code Ann.* §69-23-109.

Wood Destroying Beetles; Requirements

119.01 When Treatment Will Be Permitted - After it is determined that an active infestation exists, treatment will be permitted for the control or prevention of reinfestation of the families of beetles which are known to reinfest seasoned wood, i. e., Anobiidae, Lyctidae, Bostrichidae, Cerambycidae (old house borer and flat oak borer only) and Curculionidae. Preventative treatment in the absence of an infestation is not recommended and is prohibited without approval of the Bureau. Treatment is expressly prohibited for the control or prevention of other beetles that may cause damage to seasoned wood in structures such as Ambrosia beetles, Bark beetles, Flat headed borers, long-horned borers, Metallic wood borers, Pin worms, Roundheaded borers other than old house and flat oak borers, Timber beetles, and the Siricidae (woodwasps) or Marine borers except with prior approval of the Bureau and specification of the organism involved on the treatment or service proposal.

119.02 Determining Active Infestations-

1. Determining the activity of Anobiidae (anobiid powder-post) beetles in sub-structures, attached garages or other outbuildings, and stored lumber.
 - a. The presence of frass the color of fresh cut wood will be acceptable as evidence of an active infestation of the Anobiidae.
 - b. The presence of holes alone or holes and dull-colored frass will not be acceptable evidence of an active infestation of the Anobiidae except in such cases where live larvae and pupae are found in wood members.
NOTE: Where numerous holes alone and/or dull-colored frass are found in wood members, this should encourage the licensee or his representative(s) to check the upper living areas for infestation and to recheck the property during the optimum time for frass production by Anobiidae (March 15 to July 15). It should be pointed out that Anobiidae beetles usually infest products older than ten years and most infestations are confined to softwoods such as pine, whereas the Lyctidae only actively infest recently processed hardwoods such as domestic oak and pecan or foreign woods such as banak, meranti and obeche.

- c. Numerous other beetles may cause damage in the products that the Anobiidae and Lyctidae infest. Identification aids for these beetles are: (1) timber beetles and pin worms - no frass in tunnels, tunnel walls stained darker than surrounding wood, no activity in products older than five years, and (2) bark beetles or bostrichids in softwoods - holes few in number in or near bark, larval tunnels beneath bark scoring bark and wood, some of the frass is same color as inner bark.
- 2. Determining the activity of powderpost beetles (*Lyctidae*) infestations is not required if infested products are less than ten years old. Otherwise, fresh frass and/or live larva or pupae in wood will be acceptable evidence of activity.
- 3. Determining the activity of old house borer (*Hylotrupes bajulus* L.) infestations.
 - a. The presence of adult beetles and oval exit holes with fresh sawdust-like frass in southern pine, Douglas fir, or spruce wood will be evidence of an active infestation of the old house borer.
 - b. The presence of live larvae or pupae in the above softwoods will be evidence of an active old house borer infestation, if the frass is sawdust-like.
 - c. NOTE: It should be pointed out that other long-horned borers, flat-headed borers, Siricid woodwasps, and marine borers sometimes damage softwood used in building construction. These other long-horned borers produce loosely packed fibrous tobacco like frass, the flat headed borers make tunnels three times wider than high, whereas old house borer tunnels are less than three times wider than high, Siricids make perfectly circular exit holes, and marine borer excavations usually contain whitish calcium deposits but no frass.

119.03 Treatment Procedures –

- 1. When wood-destroying beetles are present at or below the subfloor level, then control measures should be applied from underneath the structure using an approved pesticide in accordance with label directions.
- 2. If there is evidence to indicate or reasonable cause to suspect that a substantial active infestation of wood-destroying beetles exists above the subfloor level, then fumigation with an approved fumigant is permitted, provided the property owner has been informed of other alternative treatments such as removal and replacement of infested wood members or treatment of the sub-structure only if it is actively infested. At least 48 hours prior to the scheduled release of the fumigant, the licensee must notify the Bureau of the location and time of treatment and the type of infestation present.

(Amended May 20, 2010)

Source: *Miss. Code Ann.* §69-19-1 & *Miss Code Ann.* §69-23-109.

Pest Control Advisory Council

120.01 Purpose - To advise the Bureau on matters concerning rules and regulations regarding persons licensed in categories (1) and (3) in subsection 104.04 of this chapter.

(Adopted June 14, 2001)

120.02 Members –

1. This advisory council shall consist of five persons, elected as provided for in subsection 120.03, licensed in categories (1) and (3) under subsection 104.04 of this chapter. Also, one alternate to serve in the absence of another member.
2. Members of the council shall be elected one each from the three Supreme Court districts as set forth in *Miss. Code Ann.* 9-3-1, two from the state at large and one alternate. Each member of the council shall be elected to serve a two-year term. The council members elected to represent districts two and three and the alternate council member shall be elected during every odd-numbered year by the Mississippi Pest Control Association at an appropriate assembly as set forth in subsection 120.03 below. The council members elected to represent district one and the two at large shall be elected during each even numbered year by the Mississippi Pest Control Association at an appropriate assembly as set forth in subsection 120.03 below.
3. In the event that one of the council members is removed pursuant to subsection 120.05 below, or is otherwise unable to fulfill the two-year term, then in that event the alternate will permanently replace the council member so removed for the remainder of the replaced members term. The Board of Directors of the Mississippi Pest Control Association shall replace the alternate and fill any additional vacancies beyond the alternate that may have occurred.
4. The council shall elect officers among its members at the regularly scheduled first quarter meeting.

(Adopted June 14, 2001. Amended June 27, 2008)

120.03 Election of Members - Members shall be elected to represent the following areas, one from each of the three Supreme Court Districts in the State and two from the State at large. Elections will be conducted by the Mississippi Pest Control Association at an appropriate assembly open to all license holders. Persons holding a valid license in categories (1) and (3) of subsection 104.04 of this chapter shall have one vote. Nominations shall be made by the nominating committee named by the Board of Directors of the Mississippi Pest Control Association. Nomination notices shall be sent to all license holders requesting any additional nominations who are qualified and willing to serve. Election results shall be based on popular votes.

(Adopted June 14, 2001)

120.04 Meetings - Will be held quarterly and special meetings as needed.

(Adopted June 14, 2001)

120.05 Conduct. Members may not disclose any names of individuals, companies or situations that might expose those involved in discussions in meetings or information supplied by the Bureau. All members are required to meet at least three of the four meetings each year. Any absence beyond one shall automatically remove the member from the council. No member may succeed himself in consecutive terms but may be re-elected after a one year absence.
(Adopted June 14, 2001; Amended May 20, 2010)

Source: *Miss. Code Ann.* §69-19-1 & *Miss Code Ann.* §69-23-109.

(NOTE: Subchapter 01 was adopted on March 29, 1977. The department amended this subchapter 01 on September 18, 1979, June 25, 1980, December 18, 1984, March 30, 1989, April 3, 1991, March 19, 1993, May 12, 1995, June 5, 1998, July 25, 2000, June 14, 2001, September 1, 2004, April 4, 2005, July 26, 2005, July 5, 2007, July 27, 2008, December 4, 2008, May 20, 2010, December 19, 2012, January 14, 2014, December 20, 2019, and November 9, 2020.)

Subpart 3-Bureau of Plant Industry
Chapter 11 – Regulation of Professional Services
Subchapter 02 – Regulations Governing Entomological, Plant Pathological and Weed Control Consultants

Definitions

- 200 For the purpose of these regulations, the following words, names and terms shall be construed within the meaning and purpose of *Miss. Code Ann.* §§ 69-25-3 and 69-19-1 through 69-19-11.
1. “Act” shall mean Sections *Miss. Code Ann.* 69-19-1 through 69-19-11.
 2. “Advisory Board” shall mean the board established under the provisions of *Miss. Code Ann.* Section 69-25-3.
 3. “Bonafide Employee” shall be a person who receives all or part of his/her salary, pay or commission from a licensee or the company employing a licensee and whose salary, pay or commission is regularly reported by the licensee or the company employing a licensee under the Federal Social Security and/or income tax laws. A bona fide employee must be under the direct supervision of a license holder.
 4. “Commissioner” shall mean the Commissioner of the Mississippi Department of Agriculture and Commerce.
 5. “Bureau” shall mean the Bureau of Plant Industry of the Mississippi Department of Agriculture and Commerce as set forth under the provisions of *Miss. Code Ann.* §69- 25-3.
 6. “Entomological Work” shall mean receiving fees for advice or prescriptions for the control or eradication of any insect pest or rodent.
 7. “Insect Pests” shall mean any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, usually winged forms,

as for example, beetles, bugs, flies and to other allied classes or arthropods whose members are wingless and usually have more than six legs, as for example, spiders, mites, ticks, centipedes and millipedes.

8. "Licensee" shall mean the person who shall be responsible for fulfillment of professional services to be rendered covered by the Act and these regulations.
9. "Person" shall mean any individual, partnership, corporation, association, company or organized group of persons whether incorporated or not.
10. "Plant Disease" shall mean the pathological condition in or on plants and plant products caused by fungi, bacteria, nematodes, mycoplasma, viroid and viruses.
11. "Plant Pathological Work" shall mean receiving fees for advice or prescriptions for the control or eradication of any plant disease.
12. "Professional Services" shall mean any of the professional services performed as designated by the various categories under Section 203 of this chapter.
13. "Rodent" shall mean any animal belonging to the order Rodentia (such as mice, rats, squirrels and beavers).
14. "Weed" shall mean any plant which grows where not wanted.
15. "Weed Control Work" shall mean receiving fees for advice or prescriptions for control or eradication of any weed.

(Rev. 2008)

Source: *Miss. Code Ann.* §69-19-1 & *Miss. Code Ann.* §69-25-7

Persons Required to Secure a License

- 201 Entomological, plant pathological and weed control consultants must secure a license from the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, in accordance with *Miss. Code Ann.* Sections 69-19-1 and 69-19-9. No person shall advertise in any manner to render professional services or solicit business as entomological, plant pathological and weed control consultants within the meaning of the Act without first obtaining a license.

(Rev. 2008)

Source: *Miss. Code Ann.* §69-19-1 & *Miss. Code Ann.* §69-25-7

License Application; Qualifications

- 202 Application for a license shall be submitted on a form furnished by the Bureau. No application for a license shall be accepted unless the applicant shall furnish written proof that he/she meets one of the following requirements; provided that in extraordinary cases, these requirements may be waived by the Advisory Board.

1. Masters or Ph.D. degree from an accredited college or university in the field for which a license is requested.
2. Bachelors degree from an accredited college or university in the field for which a license is requested and one (1) year's experience in said field.

3. Must be graduated from an accredited college or university with at least fifteen (15) semester hours or the equivalent in the field for which a license is requested and one (1) year's experience in said field.

(Rev. 2008)

Source: *Miss. Code Ann. §69-19-1 & Miss. Code Ann. §69-25-7*

Examinations; License Categories

203.01 Each person to secure a license in accordance with the Act and this regulation shall be examined as follows: When the firm is under the control of one person who is solely responsible for all recommendations, this person alone shall be required to pass the examination. When more than one person is responsible, then each shall be required to pass the examination.

203.02 The applicant shall take an examination which shall be written and, in general, cover the subject of the professional services designated in the application.

203.03 Examination Dates. Examinations shall be offered either as computer-based at proctored testing centers in Mississippi or written. Written examinations shall be given once each quarter at Mississippi State, Mississippi. The dates for written examinations shall be the second Tuesday in January, April, July, and October of the calendar year. In the event any of these days are unavailable, the applicant will be notified of the rescheduled date at least one (1) testing quarter in advance. If the applicant fails the examination for the first time, the applicant may take the examination again after a period of at least ninety (90) days. If the applicant fails the examination the second time, the applicant shall wait a full year before taking the examination the third time.

(Amended December 21, 2020)

203.04 Categories in which examinations are to be given and for which licenses will be issued:

1. Entomological Consultant. Categories are as follows:
 - a. Agricultural Entomology – Crops – Giving advice or prescriptions for the control of insects or rodents of field crops, vegetable crops, pastures and rangeland.
 - b. Forest Entomology – Giving advice or prescriptions for the control of forest insects or rodents.
 - c. Household, Structural and Industrial Entomology – Giving advice or prescriptions for the control of household insects or rodents, structural insects (such as termites, powder post beetles, etc.) and industrial insects or rodents (such as insects or rodents in stores, warehouses and transportation facilities including trucks, railroad cars, etc.).
 - d. Medical, Veterinary and Public Health Entomology – Giving advice or prescriptions for the control of insects or rodents affecting man and other animals.

- e. Orchard and Nut Tree Entomology – Giving advice or prescriptions for the control of insects or rodents injurious to fruit and nut tree orchards and/or groves.
 - f. Ornamental Entomology – Giving advice or prescriptions for the control of insects or rodents injurious to ornamentals, lawns, turf and shade trees.
2. Plant Pathological Consultant. Categories are as follows.
- a. Agricultural Plant Pathology – Giving advice or prescriptions for the control of diseases on field crops, vegetable crops, pastures and rangeland.
 - b. Forest Plant Pathology – Giving advice or prescriptions for the control of diseases injurious to forest plants.
 - c. Orchard and Nut Tree Plant Pathology – Giving advice or prescriptions for the control of diseases injurious to fruit and nut tree orchards and/or groves.
 - d. Ornamental and Shade Tree Plant Pathology – Giving advice or prescriptions for the control of diseases injurious to ornamentals, lawns and shade trees.
3. Weed Control Consultants. Categories are as follows:
- a. Agricultural Weed Control – Giving advice or prescriptions for the control of weeds in field crops, vegetable crops, pastures and rangeland.
 - b. Aquatic Weed Control – Giving advice or prescriptions for control of weeds in and around edges of lakes, ponds and streams.
 - c. Forest and Right-of-Way Weed Control – Giving advice or prescriptions for the control of weeds on rights-of-way, forest lands and drainage ditches.
 - d. Ornamental and Turf Weed Control – Giving advice or prescriptions for control of weeds in ornamental plants, lawns, golf courses, cemeteries and similar areas.
 - e. Industrial or Commercial Site Weed Control – Giving advice or prescriptions for control of weeds growing in industrial or commercial sites, such as oil tank storage areas and other areas deemed advisable.

(Rev. 2008, 2010 and 2020)

Source: *Miss. Code Ann.* §69-19-1 & *Miss. Code Ann.* §69-25-7

Issuance of a License

204 If the qualifications and other requirements of the applicant are satisfactory, the Bureau shall then issue a license which shall expire on December 31, following date of issue unless suspended or revoked for cause.

(Rev. 2008)

Source: *Miss. Code Ann.* §69-19-1 & *Miss. Code Ann.* §69-25-7

Denial, Suspension or Cancellation of a License; Refusal to Issue or Renew Same

205.01 Where the holder of a license commits any of the following acts or omissions, it shall be grounds to suspend, modify, deny, cancel or revoke such license, in addition to those grounds set forth in *Miss. Code Ann.* §69-19-9, §69-25-51, to wit:

1. Misrepresentation for the purpose of deceiving or defrauding.
2. Making of a false statement with knowledge of its falsity for the purpose of inducing others to act thereon to their detriment.
3. Failure of the licensee to supply the Bureau or its authorized representative, upon request, with true and accurate information concerning methods and materials used, or work performed, or other information essential to the administration and enforcement of the Act or these regulations.
4. Performing work in a category for which the licensee does not hold a license.
5. If repeated inspections by inspectors of the Bureau of Plant Industry reveal that the licensee is not performing services in a satisfactory manner.
6. Conviction in any of the courts of this state of a violation of the Act or these rules and regulations.
7. Intentional misrepresentation in any application for a license.

Conditions for Renewal of License

206 In order for a license to be renewed each year, the licensee must submit a request for renewal on a form prescribed by the Bureau and show proof that he/she is knowledgeable of current control recommendations and techniques by either attending an approved training course or passing an examination. No license shall be renewed if the licensee has not engaged in the professional services for a period of three years unless he/she is re-examined.

(Rev. 2008)

Source: *Miss. Code Ann.* §69-19-1 & *Miss. Code Ann.* §69-25-7

Records

207 Licensee shall keep complete and accurate records of all services performed including recommendations for which fees are received and for two (2) years after their expiration. Such records shall be available for examination by employees of the Bureau during reasonable business hours.

(Amended 2008 and December 21, 2020)

Source: *Miss. Code Ann.* §69-19-1 & *Miss. Code Ann.* §69-25-7

Bonafide Employee

208 Services performed under any section of these regulations must be performed only by the licensee or his/her bonafide employee.

(Rev. 2008)

Source: *Miss. Code Ann.* §69-19-1 & *Miss. Code Ann.* §69-25-7

(Subchapter 02 amended Aug. 12, 2010 and Nov. 9, 2020)

Subpart 3-Bureau of Plant Industry

Chapter 11-Regulation of Professional Services

Subchapter 03-Regulations Governing Commercial Weed Control Work

(NOTE: Subchapter 03 was adopted on March 29, 1977. The Department amended subchapter 03 on September 18, 1979, May 12, 1995, June 5, 1998. The Department repealed subchapter 03 on May 21, 2010.)

Subpart 3-Bureau of Plant Industry

Chapter 11- Regulation of Professional Services

Subchapter 04 - Regulations Governing Landscape Horticulturist

Definitions

400 For the purpose of these regulations, the following words, names and terms shall be construed within the meaning and purpose of *Miss. Code Ann.* Sections 69-19-1 through 69-19-11.

1. "Act" shall mean *Miss. Code Ann.* Sections 69-19-1 through 69-19-11.
2. "Bonafide Employee" shall be a person who receives all or part of his salary, pay or commission from a license holder and whose salary, pay or commission is regularly reported under Federal Social Security and/or income tax laws.
3. "Bureau" shall mean the Bureau of Plant Industry of the Mississippi Department of Agriculture and Commerce created under the provision of *Miss. Code Ann* Section 69-25-3.
4. "Executive Secretary and/or State Entomologist" shall mean the executive secretary and director and/or state entomologist of the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, as set forth in *Miss. Code Ann* Section 69-25-5.
5. "Horticulturist and/or floriculturist" shall mean a person receiving fees for landscaping and setting of plants or for the sale of any plants for which the seller contracts to render future services.
6. "Licensed operator" shall mean the person who shall be responsible for fulfillment of all services to be rendered by a company licensed to perform professional services covered by these regulations.
7. "Person" shall mean any individual, partnership, corporation, association, company or organized group of persons whether incorporated or not.
8. "Professional Services" shall mean any of the professional services performed as designated by the category listed under Subsection 403.02 of this chapter.

Source: *Miss. Code Ann.* §69-19-1.

Persons Required to Secure License

401 Horticulturists and/or floriculturists must secure a license from the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, in accordance with *Miss. Code Ann* Section 69-19-9. No person shall advertise in any manner to render professional services or solicit business within the meaning of the Act without first obtaining a license.

Source: *Miss. Code Ann.* §69-19-1.

License Application; Qualifications

402 Application for license shall be submitted on a regular form furnished by the Bureau in time to be approved ten (10) days prior to regularly scheduled examinations. No application for a license shall be accepted unless the applicant shall furnish written proof that he meets one (1) of the following requirements:

1. Must be graduated from an accredited college or university with at least 15 semester hours or the equivalent in the field for which he is requesting a license;
2. Must have not less than two (2) years college or university training with special-training in the field for which he is requesting a license;
3. Must be at least a high school graduate and have had, in addition, at least one (1) year's experience with a licensed operator within the past two (2) years; or
4. If the applicant does not have a high school education or its equivalence, he must be able to furnish proof that he has had at least two (2) year's experience with a licensed operator within the past three (3) years.

Source: *Miss. Code Ann.* §69-19-1.

Examinations; License Categories

403.01 Each person required to secure a license in accordance with the Act shall be examined as follows: When the firm is under the control of one person who is solely responsible for the work, this person alone shall be required to pass the examination. When more than one person is responsible, then each shall be required to pass the examination. A person may designate an employee who is regularly and actively in charge to take the examination, and the license will be issued naming the employee as supervisor. Both the employee and the person to whom the license is issued will be held responsible for the professional services rendered.

403.02 The applicant shall take an examination which shall be written and, in general, cover the subject of the professional services designated in the application. The examination may be waived if the applicant is already licensed to perform the same professional services in a state with standards equal to those of Mississippi and, provided further, that said state recognizes such examinations given by

Mississippi or if he is licensed as a landscape architect in Mississippi in accordance with *Miss. Code Ann.* Sections 73-2-1 through 73-2-25.

403.03 Examination dates: Examinations shall be given once each quarter at Mississippi State, Mississippi. The dates for written examinations shall be the second Tuesday in each quarter of the calendar year. Applicants not passing the examination may take it on the next regularly scheduled examination date.

403.04 Category in which the examination is given and for which a license will be issued: Horticultural and floricultural work - "Landscape Horticulturist" - This category includes persons engaged in advertising landscaping services and setting plants for which the seller contracts or agrees to render future services.

Source: *Miss. Code Ann.* §69-19-1.

Plant Act Compliance

404 No license will be issued to a person to practice the professional services defined in Section 69-19-5 of the Act unless the provisions of *Miss. Code Ann.* Sections 69-25-1 through 69-25-47, have been complied with relative to horticultural and/or floricultural plants and plant products being moved and sold under proper certificate tags issued by the Bureau.

Source: *Miss. Code Ann.* §69-19-1.

Issuance of License

405.01 If the qualifications and other requirements of the applicant are satisfactory, the Bureau shall then require that the applicant furnish a bond in the proper amount as set forth in Section 407 of this chapter in conformity to Section 69-19-9, Mississippi Code 1972. The Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, shall then issue a license which shall expire three (3) years from date of issuance unless suspended or revoked for cause.

405.02 A license is not transferable. When there is a change in the status of a license holder due to uncontrollable circumstances, a reasonable period of time shall be allowed for a qualified person to meet the requirements of Section 401 of this chapter.

405.03 A license shall expire three (3) years from date of issuance; renewal shall be on a form provided by the Bureau. Failure of the licensee to notify the Bureau of an address change will invalidate the license.

Source: *Miss. Code Ann.* §69-19-1.

Denial, Suspension or Cancellation of a License

406.01 The commissioner with the approval of the advisory board may suspend for not more than thirty (30) days, and then after opportunity for a hearing may deny, suspend, cancel or modify the provisions of any license issued under the Act if he finds that the applicant or licensee has committed any of the following applicable to him, each of which is declared to be a violation of the Act and these regulations.

1. Made false or fraudulent claims through any media misrepresenting the effect of materials or methods to be used;
2. Operated in a faulty, careless or negligent manner or knowingly operated faulty or unsafe equipment in a manner as to cause damage to property or person;
3. Refused or, after notice, neglected to comply with the provisions of the Act, the regulations adopted hereunder or any lawful order of the commissioner;
4. Refused or neglected to keep and maintain records required by the Act or to make reports when required;
5. Made false or fraudulent records, invoices or reports;
6. Used fraud or misrepresentation in making application for a license or renewal;
7. Aided or abetted any person in evading the provisions of the Act;
8. Allowed one's license to be used by an unlicensed person;
9. Impersonated any state or federal official;
10. Misrepresented for the purpose of deceiving or defrauding;
11. Made a false statement with knowledge of its falsity for the purpose of inducing others to act thereon to their detriment;
12. Performed work in a category covered by the Act for which the licensee does not hold a license;
13. Repeated inspections by inspectors of the Bureau of Plant Industry reveal that the licensee is not performing services in a satisfactory manner;
14. Failed to register agents or solicitors;
15. Convicted in any of the courts of this state of a violation of the Act or these rules and regulations;
16. Failed to correct substandard work; or
17. Failed to renew the bond that is required in Section 407 of this chapter.

406.02 Any person who is denied a license or whose license is suspended, canceled or modified by the commissioner shall be afforded an opportunity for a fair hearing before the advisory board in connection therewith upon written application to the commissioner within thirty (30) days after receipt of notice from the commissioner of such denial, suspension, cancellation or modification. The commissioner shall set a time and place for such hearing and shall convene the board within ten (10) days following receipt of the written application for a hearing. The board shall receive evidence and affirm, modify or reverse the determination of the commissioner within five (5) days.

406.03 Any person aggrieved by the determination of the board may petition the Chancery Court of the county of residence of such person or the Chancery Court of Hinds County for a review with supersedeas. The chancellor shall grant a hearing on said petition and may grant such review with supersedeas; the applicant may be required to post bond with sufficient sureties in an amount to be determined by the chancellor. Upon the review of any such decision, additional evidence may be received and considered but any record made or evidence heard before the board or commissioner may be submitted. Any such petition by either party from the determination of the chancellor shall proceed as otherwise provided by law.

406.04 A license shall automatically become invalid should the licensed operator whose name appears on the license ceases to personally supervise and be in direct charge of operations. The license shall remain invalid until some other person having been examined in accordance with these rules and regulations becomes certified as the licensed operator in his stead, except as provided for in Section 404 of this chapter.

406.05 When a license has been canceled, the licensee shall be notified in writing. If the licensee is bonded, the bonding company shall be notified of the action taken, but revoking a license shall in no way invalidate the bond for the duration of the contract entered into by the licensee.

Source: *Miss. Code Ann.* §69-19-1.

Bond

407.01 The bond furnished the Bureau by any licensee as provided for in *Miss. Code Ann.* Section 69-19-9, shall be conditioned so as to insure to the purchaser of services from said licensee the fulfillment of any contract or guarantee made by the licensee. No surety bond shall be accepted except from companies approved by the Insurance Department of Mississippi.

407.02 Persons engaged in horticultural and floricultural work (landscaping and setting of plants) may be exempt from bond requirements unless such person contracts or agrees to render future service.

407.03 An annual bond of \$1,000 shall be required of any person who shall guarantee his work or contract to render service, and said bond shall be conditioned as to be valid and effective for the maximum time for which the licensee shall issue guarantees or contracts to render future service.

Source: *Miss. Code Ann.* §69-19-1.

Inspections; Records; Reporting; Contracts

408 Licensed operators shall keep complete and accurate records of all work performed including copies of contracts issued for at least two (2) years. Such records shall be available for examination by employees of the Bureau during reasonable business hours. Such records shall include location, kind of services performed, date performed, materials used if there be any, and such other information as may be necessary for a complete record.

Source: *Miss. Code Ann.* §69-19-1.

Identification; Operators; Employees; Equipment

409.01 Operators - All operators or owners engaged in soliciting horticultural and floricultural work or dealing with the public must be provided with an identification card to be obtained from the Bureau of Plant Industry. The licensee shall submit an I.D. card application provided by the Bureau.

409.02 Employees –

1. All employees of licensed operators who solicit business or otherwise represent the operator in dealing with the public must be provided with an identification card to be obtained from the Bureau. An employee of an operator considered as a laborer shall have an I.D. card or be accompanied by an employee who holds a valid I.D. card.
2. The operator shall submit an I.D. card application provided by the Bureau requesting I.D. cards for his employees and himself.
3. When an operator or his employee resigns or is discharged, the licensee shall return the I.D. card to the Bureau for cancellation.
4. The I.D. card shall be in the possession of the operator and his employee at all times when performing or soliciting business and will be presented on request to the person or persons for whom business is performed or solicited.
5. An I.D. card will not be issued to any person who has been employed by another operator until his previous card has been returned to the Bureau for cancellation.

409.03 Equipment - All vehicles and mobile equipment engaged in professional services covered by the Act and these regulations shall be marked for easy identification.

Source: *Miss. Code Ann.* §69-19-1.

Bonafide Employee

410 Services or work performed under any section of these regulations must be performed only by the licensee or his bonafide employee.

Source: *Miss. Code Ann.* §69-19-1.

Exemptions

411 Persons licensed under the "Mississippi Landscape Architectural Practice Law" are exempt from the examination requirement of Subsection 403.01 of this chapter.

Source: *Miss. Code Ann.* §69-19-1.

Effective Date

412 These regulations are effective following approval by the Bureau of Plant Industry Advisory Board, adoption by the Commissioner and filing with the Secretary of State.

(Subchapter 04 adopted March 29, 1977; amended September 18, 1979; May 13, 1994; and May 12, 1995; amended Aug. 12, 2010)

Source: *Miss. Code Ann.* §69-19-1.

Subpart 3-Bureau of Plant Industry
Chapter 11-Regulation of Professional Services
Subchapter 05-Regulations Governing Tree Surgeons

Definitions

500 For the purpose of these regulations, the following words, names and terms shall be construed within the meaning and purpose of *Miss. Code Ann* Sections 69-19-1 through 69-19-11.

1. "Act" shall mean *Miss. Code Ann.* Sections 69-19-1 through 69-19-11.
2. "Bonafide Employee" shall be a person who receives all or part of his salary, pay or commission from a licensee or the company employing a licensee and whose salary, pay or commission is regularly reported by the licensee or the company employing a licensee under the Federal Social Security and/or income tax laws. A bonafide employee must be under the direct supervision of a license holder.
3. "Bureau" shall mean the Bureau of Plant Industry of the Mississippi Department of Agriculture and Commerce created under the provision of *Miss. Code Ann* Section 69-25-3.
4. "Executive Secretary and/or State Entomologist" shall mean the executive secretary and director and/or state entomologist of the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, as set forth in *Miss. Code Ann* Section 69-25-5.
5. "Licensed Operator" shall mean the person who shall be responsible for fulfillment of all services to be rendered by a company licensed to perform any or all of the professional services covered by these regulations.
6. "Ornamental Trees and Shrubs" shall mean a plant grown for the beauty of its form, foliage, flowers or fruit, rather than for food, fiber or other uses.

7. "Person" shall mean any individual, partnership, corporation, association, company or organized group of persons whether incorporated or not.
8. "Professional Services" shall mean the professional services performed as designated by the category listed under Subsection 503.02 of this chapter.
9. "Registered Technician" shall mean a bona fide employee of a license holder as described in subsection 509.02 of this chapter and who has obtained a registered technician identification card from the Bureau.
10. "Tree Surgeon" shall mean a person who advertises in a local phone book, newspaper, newsletter, bulletin, the internet or other prominently displayed sign as a licensed or insured tree surgeon and receives compensation for any work or consultation relative to the care, pruning, cabling, bracing, topping, trimming, fertilizing, cavity work and removal of ornamental trees and shrubs in any manner. Nothing shall prevent any person from performing such services as long as their advertising does not include the description licensed or insured.
11. "Status" shall mean death, retirement, prolonged illness, merger of companies, sale, change of ownership, etc. of a license holder.

Source: *Miss. Code Ann.* §69-19-1.

Persons Required to Secure License

501 Tree surgeons must secure a license from the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, only if they advertise as licensed or insured in accordance with *Miss. Code Ann.* Sections 69-19-1 through 69-19-11.

Source: *Miss. Code Ann.* §69-19-1.

License Application; Qualifications

502 Application for license shall be submitted on a regular form furnished by the Bureau in time to be approved ten (10) days prior to regularly scheduled examinations. No application for a license shall be accepted unless the applicant shall furnish written proof that he meets one (1) of the following requirements:

1. Must be graduated from an accredited college or university with at least 15 semester hours or the equivalent in the field for which he is requesting a license,
2. Must have not less than two years college or university training with special training in the field for which he is requesting a license,
3. Must be at least a high school graduate and have had, in addition, at least one year's experience with a licensed operator within the past two years,
4. Holds a valid arborist certification issued by the International Society of Arboriculture, and

5. If the applicant does not have a high school education or its equivalency, he must be able to furnish proof that he has at least two year's experience with a licensed operator within the past three years.

Source: *Miss. Code Ann.* §69-19-1.

Examinations; License Categories

503.01 Each person required to secure a license in accordance with the Act shall be examined as follows: When the firm is under the control of one (1) person who is solely responsible for the work, this person alone shall be required to pass the examination. When more than one person is responsible, then each shall be required to pass the examination. A person may designate an employee who is regularly and actively in charge to take the examination, and the license will be issued naming the employee as supervisor. Both the employer and the person to whom the license is issued will be held responsible for the professional services rendered.

503.02 The applicant shall take an examination which shall be written and, in general, cover the subject of the professional services designated in the application. The examination may be waived if the applicant is already licensed to perform the same professional services in a state with standards equal to those of Mississippi and, provided further, that said state recognizes such examinations given by Mississippi.

503.03 Examination dates: Examinations shall be given once each quarter at Mississippi State, Mississippi. The dates for written examinations shall be the second Tuesday in each quarter of the calendar year. Applicants not passing the examination may take it on the next regularly scheduled examination date.

503.04 Category in which the examination is to be given and for which a license will be issued:

Tree Surgery – This category includes a person who advertises in a local phone book, newspaper, newsletter, bulletin, the internet or other prominently displayed sign as a licensed or insured tree surgeon and receives compensation for any work or consultation relative to the care, pruning, cabling, bracing, topping, trimming, fertilizing, cavity work and removal of ornamental trees and shrubs in any manner. Nothing shall prevent any person from performing such services as long as their advertising does not include the description licensed or insured.

Source: *Miss. Code Ann.* §69-19-1.

Issuance of License

504.01 After all qualifications and requirements have been met, said applicant must furnish proof of insurance in the proper amount as set forth in Section 507 of this

chapter in conformity to *Miss. Code Ann* Section 69-19-9. The Bureau shall then issue a license which shall be valid for an indefinite period unless suspended or revoked for cause.

504.02 A license is not transferable. When there is a change in the status of a license holder due to uncontrollable circumstances, a reasonable period of time shall be allowed for a qualified person to meet the requirements of Section 501 of this chapter. Failure of the licensee to notify the Bureau of an address change will invalidate the license.

504.03 A person requesting a license must have passed the required examination within the past year or have been actively engaged in the work since passing the examination or be reexamined before his license can be issued.

Source: *Miss. Code Ann.* §69-19-1.

Denial, Suspension or Cancellation of a License; Refusal to Issue or Renew Same

505.01 Where the holder of a license, permit or identification card commits any of the following acts or omissions, it shall be grounds to suspend, modify, deny, cancel or revoke such license, permit or identification card, in addition to those grounds set forth in *Miss. Code Ann.* §69-19-9, §69-25-51, to wit:

1. Made false or fraudulent claims through any media misrepresenting the effect of materials or methods to be used;
2. Operated in a faulty, careless or negligent manner or knowingly operated faulty or unsafe equipment in a manner as to cause damage to property or person;
3. Refused or, after notice, neglected to comply with the provisions of the Act, the regulations adopted thereunder or any lawful order of the commissioner;
4. Refused or neglected to keep and maintain records required by the Act or to make reports when required;
5. Made false or fraudulent records, invoices or reports;
6. Used fraud or misrepresentation in making application for a license or renewal of a license;
7. Aided or abetted any person in evading the provisions of the Act;
8. Allowed one's license to be used by an unlicensed person;
9. Impersonated any state or federal official;
10. Misrepresented for the purpose of deceiving or defrauding;
11. Made a false statement with knowledge of its falsity for the purpose of inducing others to act thereon to their detriment;
12. Performed work in a category covered by the Act for which the licensee does not hold a license;
13. When repeated inspections by Inspectors of the Bureau of Plant Industry reveal that the licensee is not performing services in a satisfactory manner;
14. Failed to register agents or solicitors;

15. Convicted in any of the courts of this state of a violation of the Act or these rules and regulations;
16. Failed to correct substandard work; or
17. Failed to renew the insurance that is required in Section 507 of this chapter.

505.02 When a license has been canceled, the insurance company shall be notified in writing.

Source: *Miss. Code Ann.* §69-19-1.

Insurance

506 Before a license shall be issued or reissued to engage in tree surgery, proof of insurance must be furnished on a form provided by the Bureau. This insurance shall be conditioned as to insure against negligent or careless acts. This insurance shall not be less than \$100,000.00. No insurance shall be accepted except from companies admitted to do business in Mississippi, companies that are non-admitted but approved to do business in Mississippi, or risk retention and purchasing groups registered by the Commissioner of Insurance of Mississippi. Those currently licensed to perform tree surgery must obtain the required insurance not to exceed twelve months.

Source: *Miss. Code Ann.* §69-19-1.

Inspections; Records; Reporting; Contracts

507 Licensed operators shall keep complete and accurate records of all work performed including copies of contracts issued for at least two (2) years. Such records shall be available for examination by employees of the Bureau during reasonable business hours. Such records shall include location, kind of services performed, date performed, materials used if there be any, and other information as may be necessary for a complete record.

Source: *Miss. Code Ann.* §69-19-1.

Identification; Licensed Operators; Employees; Equipment

508.01 Licensed Operators - All licensed operators or owners of firms engaged in tree surgery soliciting work or dealing with the public must be provided with an identification card to be obtained from the Bureau. The licensee shall submit an I.D. card application provided by the Bureau.

508.02 Employees -

1. All employees of licensed operators who solicit business or otherwise represent the licensed operator in dealings with the public must be provided

with a registered technician identification card to be obtained from the Bureau. An employee of a licensed operator considered as a laborer shall have a registered technician identification card or be accompanied by an employee who holds a valid registered technician identification card.

2. The licensed operator shall submit a registered technician identification card application provided by the Bureau requesting registered technician identification cards for his employees.
3. When a licensed operator or an employee resigns or is discharged, the licensee shall return the license or registered technician identification card to the Bureau for cancellation.
4. The registered technician identification card shall be in the possession of the licensed operator and his employees at all times when performing work or soliciting business and will be presented on request to the person or persons for whom business is performed or solicited.
5. The registered technician identification card will not be issued to any person who has been employed by another licensed operator until his previous card has been returned to the Bureau for cancellation.

508.03 Equipment - All vehicles used by persons engaged in professional services covered by the Act and these regulations shall be marked for easy identification to include the company name and license number.

Source: *Miss. Code Ann.* §69-19-1.

Bonafide Employee

509 Services or work performed under any section of these regulations must be performed only by the licensee or his bonafide employees.

Source: *Miss. Code Ann.* §69-19-1.

Effective Date

510 These changes will become effective after adoption by the Commissioner, approval of the Advisory Board and appropriate filing with the Secretary of State.

Source: *Miss. Code Ann.* §69-19-1.

Waiver

511 The Bureau, in cases of natural disaster, may waive any and all provisions of this chapter.

(Subchapter 05 amended August 12, 1994 and May 12, 1995; Amended Aug. 12, 2010)

Source: *Miss. Code Ann.* §69-19-1.

Subpart 3-Bureau of Plant Industry
Chapter 11-Regulation of Professional Services
Subchapter 06-Regulations Governing Soil Classifying Work

Definitions

- 600 For the purpose of these regulations, the following words, names and terms shall be construed within the meaning and purpose of *Miss. Code Ann* Sections 69-19-1 through 69-19-11.
1. "Act" shall mean *Miss. Code Ann* Sections 69-19-1 through 69-19-11.
 2. "Bonafide Employee" shall be a person who receives all or part of his salary, pay or commission from a licensee or the company employing a licensee and whose salary, pay or commission is regularly reported by the licensee or the company employing a licensee under the Federal Social Security and/or income tax laws. A bonafide employee must be under the direct supervision of a license holder.
 3. "Soil Classifying Work" shall mean receiving compensation for plotting the boundaries of soils and describing and evaluating the kinds of soil as to their behavior and response to management under various uses.
 4. "Commissioner" shall mean the commissioner of the Mississippi Department of Agriculture and Commerce.
 5. "Competent" shall mean a person who is capable of performing the various functions associated with soil classifying; the degree of capability required being directly related to the nature of the activity and the associated responsibility.
 6. "Soil Classifier" shall mean a person skilled in plotting the boundaries of soils and describing and evaluating the kinds of soil as to their behavior and response to management under various uses.
 7. "Division" shall mean the Division of Plant Industry of the Mississippi Department of Agriculture and Commerce created under the provision of Section 69-25-3, Mississippi Code 1972.
 8. "Division of Plant Industry Advisory Board" shall mean the advisory board created by *Miss. Code Ann* Section 69-25-3.
 9. "Executive Secretary and/or State Entomologist" shall mean the executive secretary and/or state entomologist of the Division of Plant Industry, Mississippi Department of Agriculture and Commerce as set forth in *Miss. Code Ann* Section 69-25-5.
 10. "License" shall mean a document issued by the Division which indicates that a person has met the requirements set forth in the Act and these rules and regulations to receive fees for services as indicated on said document.
 11. "Person" shall mean any individual, partnership, corporation, association, company or organized group of persons whether incorporated or not.
 12. "Professional Services" shall mean receiving fees for performing various functions associated with soil classifying work.

Source: *Miss. Code Ann.* §69-19-1.

Persons Required To Secure a License

601 Soil Classifiers must secure a license from the Division of Plant Industry, Mississippi Department of Agriculture and Commerce in accordance with Sections 69-19-1 through 69-19-9, Mississippi Code 1972. No person shall advertise in any manner to render professional services or solicit business within the meaning of the Act without first obtaining a license.

Source: *Miss. Code Ann.* §69-19-1.

License Application; Qualifications

602 Application for license shall be submitted on a regular form furnished by the Division, in time to be approved ten (10) days prior to regular scheduled examinations. The applicant shall furnish the name of one (1) reference as to his character and names of two (2) professional soil classifiers having personal knowledge of his soil classifying experience. No application for a license shall be accepted unless the applicant shall furnish written proof that he has one year's experience in the field of soil classifying in the last five (5) years and that he meets one of the following requirements; provided that in extraordinary cases these requirements may be waived by the Professional Soil Classifiers Advisory Committee.

1. Must have a Bachelor of Science degree in a soil science curriculum from an accredited college or university with at least 15 semester hours or the equivalent in soil science, and 30 semester hours or the equivalent in related agricultural, natural resources, or land use planning courses.
2. Must hold a license for the practice of soil classifying on the basis of comparable qualifications issued to him by a proper authority of another state, possession, or territory of the United States and, in the opinion of the Division, meets the requirements of these regulations.

Source: *Miss. Code Ann.* §69-19-1.

Examinations; License; Categories

603.01 Each person required to secure a license in accordance with the Act shall be examined as follows: When the firm is under the control of one person who is solely responsible for the work, this person alone shall be required to pass the examination. When more than one person is responsible then each shall be required to pass the examination.

(Adopted December 18, 1979.)

603.02 The applicant shall take an examination which shall be written and, in general, cover the subject of the professional services designated in the application. The

examination may be waived if the applicant is already licensed to perform the same professional services in a state with standards equal to those of Mississippi. (Adopted December 18, 1979.)

603.03 Examination Dates: Examinations shall be given once each quarter at Mississippi State, Mississippi. The dates for written examinations shall be the second Tuesday in each quarter of the calendar year. Applicants not passing the examination may take it on the next regularly scheduled examination date. (Adopted December 18, 1979.)

Source: *Miss. Code Ann.* §69-19-1.

Issuance of License

604 If the qualifications and other requirements of the applicant are satisfactory, the Division shall issue a license which shall expire three years (36 months) from the date of issue. (Adopted December 18, 1979.)

Source: *Miss. Code Ann.* §69-19-1.

Denial, Suspension Or Cancellation of a License; Refusal To Issue Or Renew Same.

605.01 Where the holder of a license, permit or identification card commits any of the following acts or omissions, it shall be grounds to suspend, modify, deny, cancel or revoke such license, permit or identification card, in addition to those grounds set forth in *Miss. Code Ann.* §69-19-9, §69-25-51, to wit:

1. Made false or fraudulent claims through any media misrepresenting the effect of methods to be used;
2. Refused, or after notice, neglected to comply with the provisions of the Act, the regulations adopted hereunder, or any lawful order of the commissioner;
3. Used fraud or misrepresentation in making application for a license or renewal;
4. Aided or abetted any person evading the provisions of the Act;
5. Allowed one's license to be used by an unlicensed person;
6. Impersonated any state or federal official;
7. Misrepresented for the purpose of deceiving or defrauding;
8. Made a false statement with knowledge of its falsity for the purpose of inducing others to act thereon to their detriment;
9. Convicted in any of the courts of this state of a violation of the Act or these rules and regulations;

(Adopted December 18, 1979.)

Source: *Miss. Code Ann.* §69-19-1.

Conditions For Renewal of License

606 In order for a license to be renewed, the licensee must submit a request for renewal on a form prescribed by the Division and show proof that he is knowledgeable of current technology by either attending a training course conducted by a qualified agency or organization or passing an examination administered by the Professional Soil Classifiers Advisory Committee.

(Adopted December 18, 1979.)

Source: *Miss. Code Ann.* §69-19-1.

Identification

607 All licensees engaged in or soliciting professional services covered by these regulations shall have in their possession while performing said professional services a valid identification card issued by the Division. A recent picture of the licensee shall be permanently attached to the I.D. card.

(Adopted December 18, 1979.)

Source: *Miss. Code Ann.* §69-19-1.

Penalties

608 Any person violating any of the provisions of this chapter or the rules and regulations made by the commissioner pursuant thereto shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than five hundred dollars (\$500.00), or by imprisonment for not more than six months, or by both such fine and imprisonment at the discretion of the court having jurisdiction.

(Adopted December 18, 1979.)

Source: *Miss. Code Ann.* §69-19-1.

Exemptions

609 This act shall not be construed to prevent or affect:

1. The practice of officers and employees of the government of the United States, the State of Mississippi, or of any research or teaching branch of any university in the State of Mississippi while engaged in activities coming within the scope of duties of a "soil classifier."
2. The practice of soil classifying by any person regularly employed to perform soil classifying services solely for his employer or a subsidiary or affiliated corporation of his employer providing the soil classifying performed is in connection with the property or products of his employer.

(Adopted December 18, 1979.)

Source: *Miss. Code Ann.* §69-19-1.

Professional Soil Classifiers Advisory Committee

610.01 This committee shall be composed of:

1. A licensed soil classifier in Mississippi elected at large by the Professional Soil Classifiers Association of Mississippi.
2. The State Soil Survey Leader of the Mississippi Agricultural and Forestry Experiment Station
3. The president of the Professional Soil Classifiers Association of Mississippi

(Adopted December 18, 1979.)

610.02 The duties of this committee shall consist of preparing and rendering the examination for applicants; to screen applicants and make recommendations to the Division of Plant Industry Advisory Board, and to make recommendations on other matters as deemed appropriate by the Division.

(Adopted December 18, 1979.)

Source: *Miss. Code Ann.* §69-19-1.