SUBPART 3-BUREAU OF PLANT INDUSTRY
CHAPTER 11-Regulation of Professional Services
SUBCHAPTER 01- Regulations Governing Pest Control Operators

Definitions

100 For the purpose of these regulations, the following words, names and terms shall be construed within the meaning and purpose of Sections 69-19-1 through 69-19-11 and Sections 69-23-101 through 69-23-133, Mississippi Code 1972.

1. "Act" shall mean Sections 69-19-1 through 69-19-11 and Sections 69-23-101 through 69-23-133, Mississippi Code 1972.
2. "Advisory Board" shall mean the board established under the provisions of Section 69-25-3, Mississippi Code 1972, as amended.
3. "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 by the licensee under the Federal Social Security and/or income tax laws. A bonafide 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 is managed by a license holder or permit holder in which any type of pest control services are offered.
5. "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.
6. "Certified Applicator" shall mean a licensee or his employee who has met the requirements for certification.
7. "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.
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. "Bureau" shall mean the Bureau of Plant Industry of the Mississippi Department of Agriculture and Commerce created under the provision of Section 69-25-3, Mississippi Code 1972.
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. "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 Section 69-25-5, Mississippi Code 1972.

13. "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.
14. "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.
15. "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.
16. "Mississippi Official Wood Destroying Insect Report" shall mean an inspection performed under subsection 112.07 and reported on the Mississippi Official Wood Destroying Insect Report form.
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 bonafide 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. "Plant Disease" shall mean the pathological condition in or on plants and plant products caused by fungi, bacteria, nematodes, viruses, mycoplasma and viroids.
22. "Professional Services" shall mean any of the professional services performed as designated by the various categories listed under subsection 105.02.
23. "Registered Technician" shall mean a bonafide employee of a license holder who has completed the verifiable training as described in subsection 113.02 of this chapter and who has obtained a registered technician identification card from the Bureau.
24. "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.
25. "Restricted Use Pesticides" shall mean a pesticide that is classified for restricted use by the Environmental Protection Agency or the Bureau.

26. "Direct Supervision" shall mean physical contact as needed 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 available, whenever and wherever needed.
27. "Office" shall mean the primary place of business managed by a license holder where any type of pest control services are performed.

Persons Required to Secure a License

101 Entomologists and Pathologists must secure a license from the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce in accordance with Section 69-19-9, Mississippi Code 1972. 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.

Persons Required to Secure a Permit

102 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 bonafide employee may hold a permit in one or all of the categories for which the said business is licensed.

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. The applicant shall furnish names of several references as to his character and a satisfactory credit report. 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 he is requesting a license.
2. Must have no less than two years college or university training with special training in the category for which he 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; PROVIDED, that in special cases where an applicant can submit proof of education, experience and training equal to or exceeding these requirements he shall be allowed to take the required examinations.

Permit; Application; Qualifications

104 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 bonafide employee of a person holding a license in one or more of the categories listed under subsection 105.02 of this chapter and holds a registered technician identification card.

License; Examination; Categories

105.01 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.

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

105.03 Examination dates. Examinations shall be given at least once each quarter at Mississippi State, Mississippi. The dates for written examinations shall be the second Tuesday in each quarter of the calendar year. 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.

105.04 Categories in which examinations are to be given and for which licenses or permits will be issued:

1. Control of termites and other structural pests - 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.
2. Control of pests of orchards - 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. An examination may be given and a license issued to include only control of pests of pecan orchards.
3. Control of pests in homes, businesses and industries - This category shall include 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.

4. Control of pests of ornamental plants, shade trees and lawns - 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.
5. Control of pests of domestic animals - This category includes persons engaged in control of insect pests of domestic animals.
6. Control of pests by fumigation - 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.
7. Control of Agricultural Pests - This category shall include 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.

Permit Examination; Categories

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

106.02 Examination dates: Examinations for a permit shall be given at least once each quarter at Mississippi State, Mississippi. The dates for written examinations shall be the second Tuesday in each quarter of the calendar year.

106.03 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 105.02 of this chapter.

Issuance of a License

107.01 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. If these are approved, said applicant shall then furnish a bond in the proper amount as set forth in subsection 111.01 of this chapter in conformity to MISS. CODE ANN. §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 the status of a license holder due to uncontrollable circumstances, ninety (90) days shall be allowed for a qualified person to meet the requirements of section 101 of this chapter.

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

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

107.04 When a license 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 license must be submitted.

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

Issuance of a Permit

108.01 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 bonafide employee meet the requirements of section 102 of this chapter.

108.02 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.

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

108.04 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.

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

Expiration of a License or a Permit and Conditions for Renewal

109 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.

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

110.01 The commissioner, with the approval of the advisory board may suspend for not more than thirty days and then after opportunity for a hearing may deny, suspend, cancel or modify the provisions of a license, a permit, or an identification card if he finds that a person holding a license, a permit, or an identification card 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, 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. Failure to renew the insurance and bond required in subsections 111.01, 111.02, and 111.03 of this chapter means automatic cancellation.
20. Failure to renew a license or permit prior to the expiration date.

110.02 During the time a license, a permit or an identification card has been suspended or canceled, they shall not be reissued for another company.

110.03 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.

110.04 Any person who is denied a license or a permit or whose license or permit 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 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 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 days.

110.05 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 review with supersedeas. The chancellor shall grant a hearing on said petition and may grant such review with supersedeas; the appellant may be required to post bond with sufficient sureties in an amount to be determined by the chancellor. Upon the review of any such decision, additional evidence may be received and considered 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.

110.06 Any person who is refused a license or a permit or whose license or permit is not renewed, or when the Bureau contemplates invalidation of said license or permit, shall have the right of a hearing by filing a written request for a hearing with the Bureau by registered or certified mail. The person requesting the hearing may appear in person or be represented by an attorney on the date and at the place set by the Bureau.

110.07 When a license has been canceled, the licensee shall be notified in writing. The bonding and insurance companies shall be notified of the action taken, but revoking a license shall in no way invalidate the bond and insurance for the

duration of the contract entered into by the licensee. When a permit has been canceled, the person holding said permit shall be notified in writing.

110.08 A license shall automatically become invalid when the person whose name appears on the license ceases to personally supervise and be in direct charge of operations and shall remain invalid until some other person, having met the requirements and been examined in accordance with these rules and regulations becomes licensed in his stead; except as provided for in subsections 107.01-107.05 of this chapter.

110.09 Nothing in these rules and regulations shall be construed as requiring the commissioner to report for prosecution or for the institution of libel proceedings of minor violations of the Act or these rules and regulations whenever he believes that the public interest will best be served by a suitable notice of warning in writing.

Bond and Insurance

111.01 Before a license shall be issued or reissued to engage in the control of any kind of pests, a bond must be furnished on a form provided by the Bureau. This bond 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 and that the principal therein named shall conduct honestly such business. This 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.

111.02 Before a license shall be issued or reissued to engage in the control of any kind of pests, 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 per occurrence, with a minimum annual aggregate of $200,000 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 minimum coverage shall include coverage for pollution and contamination, property damages, bodily injury, errors, and omissions. Those licensed for structural pest control as defined by subsection 105.02(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(16) of this chapter and 2. damages caused by structural pests.

111.03 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.

Inspections; Records; Reporting; Contracts

112.01 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.

Additional information required if termiticide pretreat applications are being performed includes: beginning time of application, ending time of application, vehicle identification number (VIN) of vehicle(s) used to transport application equipment to termiticide pretreat site, application volume per minute, application tank(s) size(s), application nozzle type and size, application psi and total volume of diluted termiticide applied.

Records, providing proof of purchase of EPA registered products must be maintained for two (2) years after purchase date on invoices.

112.02 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.

112.03 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.

112.04 Contracts.

1. Persons holding a license in the category "Control of Termites and Other Structural Pests" as covered by subsection 105.02(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. A contract shall not be issued unless an approved termite treatment is performed, except as covered in subsection 112.04(4) of this chapter. 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. 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. 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. The contract issued for pretreatment for termite control, as covered by subsection 114.05 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 114.05(1) of this chapter, is required to be completed within one (1) year of completion of the horizontal barrier treatment. 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. 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 by certified mail the inspection was not performed. A copy of this notification shall be maintained in the pest control operator's customer file. 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. When a termite control pretreat contract is issued, an inspection before the contract expires is required. 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. 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.

2. When a pest control operator elects not to renew a structural contract, the owner must be notified by certified mail at least thirty (30) days prior to the contract expiration date.
3. 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 two (2) years after initial date of contract to the original owner and renewable by agreement unless subsequent owners request in writing that the contract be cancelled.
4. 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.

112.05 Persons operating under a license in the category "Control of Termites and Other Structural Pests" as covered by subsection 105.02(1) of this chapter shall by the 20th day of each month remit to the Bureau a report for each property on which a contract has been issued during the previous calendar month on forms furnished or approved by the Bureau. A report shall be filed each month even though no work is performed. If on inspection by the Bureau, it is found that a contract has not been fulfilled, the licensee shall be notified by the Bureau and shall be allowed fifteen calendar days in which to apply such remedial measures as are necessary and shall notify the Bureau in writing that the work has been performed. Additional regulatory action by the Bureau may be taken against the licensee.

112.06 Persons licensed for "Control of Pests in Homes, Businesses and Industries" as covered by subsection 105.02(3) of this chapter shall by the 20th day of each month remit to the Bureau a report for each property treated the previous month for the first year after the license is issued. After a year's satisfactory work in this state, he shall not be required to file reports; PROVIDED, that the Bureau may request a record of all work at any time. A report shall be filed each month even though no work is performed.

112.07 Inspection Reports, Copies, Business Files.

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 "Control of Termites and Other Structural Pest" as covered by subsection 105.02(1) of this chapter or a bonafide 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 and clearly marked on the graph. Examples of conditions considered conducive to infestation include visible wood to ground contact, form boards left in place, excessive moisture, debris under or around structure, grade level too high, insufficient clearance in crawl space, expansion joints or cracks in slab, wood rot/wood fungus, heavy foliage, visible plants abutting structure or under foundation, planter boxes abutting structure, poor drainage, insufficient ventilation, and such other conditions conducive to infestation.
5. Obstructed or inaccessible areas not covered by the inspection must be listed. Examples include but are not limited to interiors of hollow walls, floors, or ceilings, structural segments that cannot be accessed without defacing or tearing out lumber, masonry, or finished work, areas behind appliances, furniture, built in cabinets, insulation or floor coverings, unfloored attics, areas that are locked, insufficient clearance in crawl space and such other areas that are obstructed or inaccessible.
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 bonifide 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.

112.08 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 accessed.

Identification; Operators; Employees; Equipment

113.01 Identification.

1. All license holders, permit holders, owners or employees of a pest control business soliciting 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 two small recent pictures, and an application approved by the Bureau verifying the applicants training.
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.

113.02 Registered Technician Standards.

In order to qualify for a registered technician identification card, a person 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.

113.03 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.

Approved Pesticides; Minimum Requirements

114.01 Acceptable pesticides for control and/or prevention of termites and other structural pests.

1. All pesticides recommended by the Southern Forest Experiment Station, Forest Insect Laboratory at Gulfport, Mississippi, and registered by the Bureau will be acceptable for use in structural pest control work performed under these regulations.
2. 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 rules, notices and guidelines.
3. Pesticides applied for control and/or prevention of termites and other structural pests shall be applied in accordance with the label and 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.

114.02 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 Section 16 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.

114.03 Existing Slab - Type Construction-

1. Rod or trench and 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.

114.04 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.

114.05 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.

2. Wood treatment alone shall not be used for the only termite pretreatment protection. Wood treatment may be used with soil treatment.
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.

114.06 Alternative treatments

1. Spot Treatment- for existing structures.
   "Spot Treatment" shall not be done except with permission of the Bureau for residential structures. Existing commercial slab-type construction may be "Spot Treated" when it is impractical to treat the entire slab and where the property owner requests this type of treatment. The face of the contract shall specify "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". If a "Spot Treatment" is requested in association with a wood infestation report, the purchaser must request in writing permission to "Spot Treat".
2. Termidor® 80WG & SC Exterior Perimeter/Localized Interior (EP/LI) Post Construction Structural Treatment-
   Termidor® EP/LI treatment may be performed on existing structures according to the Termidor® label instructions. Subsections 114.02 (1), (2), (3), (5) and/or 114.03 (4) of these regulations must be followed. The face of the contract shall specify "Termidor® 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 "Termidor® EP/LI." Proof of licensee training in the use of Termidor® EP/LI, as approved by the Bureau, is required prior to the initial use of Termidor® as an EP/LI treatment.

114.07 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.

<u>Wood Destroying Beetles; Requirements</u>

115.01 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.

115.02 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.

115.03 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.

Bonafide Employee

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

Pest Control Advisory Council

117.01 Purpose - To advise the Bureau on matters concerning rules and regulations regarding persons licensed in categories (1) and (3) in subsection 105.02 of this chapter.
(Adopted June 14, 2001.)

117.02 Members –

1. This advisory council shall consist of five persons, elected as provided for in subsection 118.03, licensed in categories (1) and (3) under subsection 105.02 of this chapter. Also, one alternate to serve in the absence of another member.
2. During the year 1990 council members representing districts two and three will be elected to serve a two year term as set forth below. During the year 1991 the council member from district one and two at large council members shall be elected for a two year term as set forth below. During the year 1991 the alternate council member will be elected to serve a one year term. After the elections of 1991 this subsection shall stand repealed and the council members will be elected to serve two year terms as set forth in the following paragraph.
3. Members of the council shall be elected one each from the three Supreme Court districts as set forth in Mississippi Code 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 118.03 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 118.03 below.

4. In the event that one of the council members is removed pursuant to subsection 118.05 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.
5. The council shall elect officers among its members at the regularly scheduled first quarter meeting.

(Adopted June 14, 2001.)

117.03 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 (2) of subsection 105.02 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.)

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

(Adopted June 14, 2001.)

117.05 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.)

PESTICIDE TANK MIX SAMPLE TOLERANCES

118.01 Pesticide Tank Mix Samples: Values above or below the tank mix concentration stated by the applicator that do not fall within the acceptable range listed in Section 118.02 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.

118.02 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%.

(Subchapter 02 adopted March 29, 1977, amended September 18, 1979, June 25, 1980, December 18, 1984, March 30, 1989, April 3, 1991, March 19, 1993, January 1, 1995, May 12, 1995, June 5, 1998, July 25, 2000, June 14, 2001, September 1, 2004, April 4, 2005, July 26, 2005, July 18, 2007.)