

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.

Source: *Miss. Code Ann.* §69-19-1 & *Miss. Code Ann.* §69-25-7 (Rev. 2008).

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.

Source: *Miss. Code Ann.* §69-19-1 & *Miss. Code Ann.* §69-25-7 (Rev. 2008).

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.

Source: *Miss. Code Ann.* §69-19-1 & *Miss. Code Ann.* §69-25-7 (Rev. 2008).

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 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. 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.

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.

Source: *Miss. Code Ann.* §69-19-1 & *Miss. Code Ann.* §69-25-7 (Rev. 2008).

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.

Source: *Miss. Code Ann.* §69-19-1 & *Miss. Code Ann.* §69-25-7 (Rev. 2008).

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.

Source: *Miss. Code Ann.* §69-19-1 & *Miss. Code Ann.* §69-25-7 (Rev. 2008).

Records

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

Source: *Miss. Code Ann.* §69-19-1 & *Miss. Code Ann.* §69-25-7 (Rev. 2008).

Bonafide Employee

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

(Subchapter 02 amended Aug. 12, 2010.)

Source: *Miss. Code Ann.* §69-19-1 & *Miss. Code Ann.* §69-25-7 (Rev. 2008).

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 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.
 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.
 9. "Registered Technician" shall mean a bona fide employee of a license holder as described in subsection 409.02 of this chapter and who has obtained a registered technician identification card from the Bureau.
 10. "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

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; Refusal to Issue or Renew Same

- 406.01 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 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 When a license has been canceled, the bonding company shall be notified in writing.

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; Licensed Operators; Employees; Equipment

409.01 Licensed Operators - All licensed 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 licensed operator in dealing 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 his 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 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. 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.

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.

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 holder and whose salary, pay or commission is regularly reported by the licensee or the company employing a licensee under the fFederal sSocial sSecurity 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.

Source: *Miss. Code Ann.* §69-19-1 & *Miss. Code Ann.* §69-25-7 (Rev. 2008).

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.

Source: *Miss. Code Ann.* §69-19-1 & *Miss. Code Ann.* §69-25-7 (Rev. 2008).

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.

Source: *Miss. Code Ann.* §69-19-1 & *Miss. Code Ann.* §69-25-7 (Rev. 2008).

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 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. 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.

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.

Source: *Miss. Code Ann.* §69-19-1 & *Miss. Code Ann.* §69-25-7 (Rev. 2008).

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.

Source: *Miss. Code Ann.* §69-19-1 & *Miss. Code Ann.* §69-25-7 (Rev. 2008).

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

205.01 ~~Acts which shall be grounds for invalidation or non-renewal of a license shall include but shall not be limited to the following:~~ 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.

205.02 ~~When a person is refused a license, or when a license is not renewed, or when the Bureau contemplates invalidation of a license, the applicant or licensee shall have the right to a hearing by filing a written request for a hearing with the Bureau by registered or certified mail. The applicant or licensee requesting the~~

~~hearing may appear in person or be represented by an attorney before the Advisory Board on the date and at the place set by the Bureau. When a license has been revoked, the licensee shall be notified in writing.~~

Source: *Miss. Code Ann.* §69-19-1 & *Miss. Code Ann.* §69-25-7 (Rev. 2008).

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.

Source: *Miss. Code Ann.* §69-19-1 & *Miss. Code Ann.* §69-25-7 (Rev. 2008).

Records

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

Source: *Miss. Code Ann.* §69-19-1 & *Miss. Code Ann.* §69-25-7 (Rev. 2008).

Bonafide Employee

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

(Subchapter 02 amended Aug. 12, 2010.)

Source: *Miss. Code Ann.* §69-19-1 & *Miss. Code Ann.* §69-25-7 (Rev. 2008).

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 licensee or the company employing a licensee holder 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.
 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.
 9. "Registered Technician" shall mean a bona fide employee of a license holder as described in subsection 409.02 of this chapter and who has obtained a registered technician identification card from the Bureau.
 10. "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

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~~

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

- 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:~~ 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 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.~~

~~406.05² When a license has been canceled, the licensee shall be notified in writing. If the licensee is bonded, the bonding company shall be notified in writing 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~~
Identification; Licensed Operators; Employees; Equipment

409.01 Licensed Operators - All licensed 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 licensed operator in dealing with the public must be provided with ~~an a~~ a registered technician identification card to be obtained from the Bureau. An employee of ~~an a~~ a licensed operator considered as a laborer shall have ~~an I.D.~~ a registered technician identification card or be accompanied by an employee who holds a valid ~~I.D.~~ registered technician identification card.
2. The licensed operator shall submit ~~an I.D.~~ a registered technician identification card application provided by the Bureau requesting ~~I.D.~~ registered technician identification cards for his employees, ~~and himself.~~
3. When ~~an a~~ a licensed operator or his employee resigns or is discharged, the licensee shall return the license or registered technician identification ~~I.D.~~ card to the Bureau for cancellation.
4. The ~~I.D.~~ registered technician identification card shall be in the possession of the licensed 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.~~ 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.

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 holder 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.
 910. "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 bonded~~ 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

~~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: 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.

~~506.02 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.~~

~~506.03 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 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 by 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.~~

~~506.04 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 qualified as the licensed operator in his stead; except as provided for in Section 504 of this chapter.~~

~~5065.052~~ When a license has been canceled, the insurance company licensee shall be notified in writing.

Source: *Miss. Code Ann.* §69-19-1.

Insurance

~~5076~~ 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

~~5087~~ 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; Operators; Employees; Equipment~~
Identification; Licensed Operators; Employees; Equipment

5098.01 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.

5098.02 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 ~~an a~~ registered technician identification card to be obtained from the Bureau. An employee of ~~an a~~ licensed operator considered as a laborer shall have ~~an I.D. a~~ registered technician identification card or be accompanied by an employee who holds a valid ~~I.D. registered technician identification~~ card.
2. The licensed operator shall submit ~~an I.D. a~~ registered technician identification card application provided by the Bureau requesting ~~I.D. registered technician identification~~ cards for his employees, ~~and himself.~~
3. When ~~an a~~ licensed operator or an employee resigns or is discharged, the licensee shall return the ~~I.D. license or registered technician identification~~ card to the Bureau for cancellation.
34. ~~An I.D. 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.
45. ~~An I.D. 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.

5098.03 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

54009 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

~~544~~10 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

~~542~~11 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 holder 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 ~~The commissioner with the approval of the Division of Plant Industry 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. 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.)

~~605.02 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 Division of Plant Industry 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 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.~~
(Adopted December 18, 1979.)

~~605.03 Any person aggrieved by the determination of the Division of Plant Industry Advisory 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 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 Division of Plant Industry Advisory 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.~~
(Adopted December 18, 1979.)

~~605.04 A license shall automatically become invalid should the licensee whose name appears on the license, cease to personally supervise, and be in direct charge of operations and shall remain invalid until some other person, having been examined in accordance with these rules and regulations becomes certified.~~
(Adopted December 18, 1979.)

~~605.05 When a license has been canceled, the licensee shall be notified in writing.~~
(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