

**RULES
OF
THE DEPARTMENT OF COMMERCE AND INSURANCE
DIVISION OF REGULATORY BOARDS**

**CHAPTER 0780-05-06
SOIL SCIENTISTS**

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0780-05-06-.01 PURPOSE. The rules in this chapter implement the Tennessee Soil Scientist Licensure Act of 2009, Tennessee Code Annotated, Title 62, Chapter 18.

Authority: T.C.A. § 62-18-211. **Administrative History:** Original rule filed April 20, 2011; effective July 19, 2011.

0780-05-06-.02 DEFINITIONS.

Definitions for this chapter shall be as follows:

- (1) "Inactive" means a professional soil scientist who has obtained inactive status from the commissioner and is not required to comply with continuing education requirements as prescribed herein. A professional soil scientist in inactive status may not engage in the practice of soil science;
- (2) "Retired" means a professional soil scientist who has obtained retired status from the commissioner and is not required to comply with continuing education or renewal requirements or pay renewal fees as prescribed herein. A retired professional soil scientist may not engage in the practice of soil science and a license in retired status may not be reactivated.

Authority: T.C.A. § 62-18-211. **Administrative History:** Original rule filed April 20, 2011; effective July 19, 2011. Repeal and new rule filed July 25, 2014; effective October 23, 2014.

0780-05-06-.03 APPLICATION FOR LICENSE.

- (1) Any person who seeks to be licensed as a professional soil scientist shall complete an application on a form prescribed by the commissioner and submit such application to the commissioner accompanied by the required fee and additional documentation.
- (2) Applications for licensure are available upon request from the commissioner.
- (3) Any application submitted which is deficient or fails to meet all application requirements for licensure will be returned to the applicant with written notification of the nature of the deficiencies and will be placed in "pending" status. Satisfactory completion of application must be made within sixty (60) days from the date of initial application. If satisfactory completion is not made within this period the application will be deemed denied; however, the applicant may submit a new application and fee.

(Rule 0780-05-06-.03, continued)

- (4) Any application submitted may be withdrawn; however, any submitted application fee will not be refunded.

Authority: T.C.A. § 62-18-211. **Administrative History:** Original rule filed April 20, 2011; effective July 19, 2011.

0780-05-06-.04 APPLICATION REQUIREMENTS.

- (1) Any person who desires to obtain a license as a professional soil scientist shall submit an application to the commissioner, along with the required application fee and all required documentation, including proof that the applicant:
 - (a) Has graduated from an accredited college or university with a Bachelor of Science degree or higher in soils, agronomy or a closely related field. The applicant shall have successfully completed a minimum of fifteen (15) semester hours of course work in soil science as required by T.C.A. 62-18-208(a)(1);
 - (b) Has at least three (3) years of soil science professional experience. Any combination of the following kinds of education and experience qualify towards accumulating the required (3) years:
 1. Masters of science degree in soils, agronomy or a closely related field and two (2) years of professional experience;
 2. Doctorate degree in soils, agronomy or a closely related field and one (1) year of professional experience; or,
 3. Each year of teaching or soil science research by persons teaching upper-level soil science courses at the college or university levels; provided, that such teaching or research can be demonstrated to be of a sufficiently responsible nature to be equivalent to a year of professional experience.
 - (c) Has passed the fundamentals and professional practice soil science examinations administered by the Council of Soil Science Examiners (CSSE).

The commissioner shall waive the examination requirement for licensure as a soil scientist for an applicant who makes written application to the commissioner not later than July 1, 2011 and who otherwise meets the requirements of this rule.

Authority: T.C.A. §§ 62-18-208 and 62-18-211. **Administrative History:** Original rule filed April 20, 2011; effective July 19, 2011. Amendment filed July 25, 2014; effective October 23, 2014.

0780-05-06-.05 RENEWAL REQUIREMENTS.

- (1) A professional soil scientist license issued pursuant to this chapter shall expire two (2) years from the date of its issuance and shall become invalid on that date unless renewed.
- (2) In order to renew his or her license, a licensee shall submit a renewal application with the appropriate renewal fee and any other prerequisites for renewal.
- (3) A licensee who fails to pay the renewal fee or fails to comply with any of the prerequisites for renewal of a license before the expiration date of the license will have six (6) months after the expiration date of the license to renew the license upon payment of the renewal fee, payment of a late penalty of twenty-five dollars (\$25.00) for each month or fraction of a month that renewal is late, and submission of proof of compliance with any other prerequisites to renewal.

(Rule 0780-05-06-.05, continued)

- (4) Any person seeking renewal of a license more than six (6) months after the expiration date of the license is required to reapply for licensure and fulfill all of the requirements for initial licensure.

Authority: T.C.A. § 62-18-211. **Administrative History:** Original rule filed April 20, 2011; effective July 19, 2011. Repeal and new rule filed July 25, 2014; effective October 23, 2014.

0780-05-06-.06 RETIRED OR INACTIVE STATUS.

- (1) A licensee may request to place his or her license in inactive or retired status by:
 - (a) Submitting a written request to place his or her license in inactive or retired status to the commissioner; and
 - (b) Paying an inactive or retirement fee.
- (2) A licensee may request to have his or her license reinstated after it has been placed in inactive status by:
 - (a) Submitting a written request to have his or her license returned to active status;
 - (b) Paying a reinstatement fee; and
 - (c) Submitting evidence satisfactory to the commissioner that the licensee has completed twelve (12) hours of continuing education in the two (2) years immediately preceding the date of the request for reinstatement.
- (3) A retired professional soil scientist may not engage in the practice of soil science and a license in retired status may not be reinstated.

Authority: T.C.A. § 62-18-211. **Administrative History:** Original rule filed April 20, 2011; effective July 19, 2011. Repeal and new rule filed July 25, 2014; effective October 23, 2014.

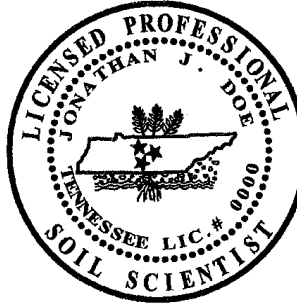
0780-05-06-.07 FEES.

- (1) Nonrefundable application fee \$100.00
- (2) The examination fee will be set by the entity designated by the State to administer the examination.
- (3) Initial license and renewal fee for active license \$.400.00
- (4) Renewal fee for inactive license \$200.00
- (5) Inactive or retirement status fee \$25.00
- (6) Reinstatement to active status fee \$25.00
- (7) The late renewal penalty fee is \$25.00 per month for each month or fraction of a month that a renewal is late.
- (8) Duplicate license fee because license is lost, destroyed, or mutilated \$25.00

Authority: T.C.A. §§ 62-18-209 and 62-18-211. **Administrative History:** Original rule filed April 20, 2011; effective July 19, 2011.

0780-05-06-.08 SEALS.

- (1) The design of a licensee's seal required by T.C.A. §62-18-211(2) shall be two inches in diameter and, regardless of whether it is applied to documentation through physical or electronic means, shall appear as follows:



- (2) The licensee shall affix his or her seal to all original sheets of any bound or unbound plans, plats, drawings, reports or other soil scientist papers or documents involving soil science work developed by the licensee or under the licensee's responsible charge of work.
- (3) The licensee shall superimpose his or her signature and date of signature across the face and beyond the circumference of the seal on the documents listed in subsection (2) above.
- (4) The licensee shall superimpose his or her signature and date of signature across the face and beyond the circumference of the seal on the documents listed in subsection (2) above.
- (5) Any portions of plans, plats, drawings, reports, or other soil science papers or documents involving soil science work prepared in part by a licensee operating as a consultant on a project shall place his or her signature on the pages of the document for which the licensee is responsible.
- (6) No licensee shall affix his or her seal or signature to plans, plats, drawings, reports or other soil science papers or documents developed by others not under the licensee's responsible charge of work as defined by T.C.A. §62-18-203(6).
- (7) Responsible Charge of Work.
 - (a) Plans, plats, drawings, reports or other soil science papers or documents involving soil science work prepared in part or in whole by a licensee or the licensee's subordinate will be deemed to have been prepared under the responsible charge of the licensee only when:
 1. The client or employer requesting preparation of plans, plats, drawings, reports or other soil science papers or documents makes the request directly to the licensee or to the licensee's subordinate at the time initial client or employer contact is made, so long as the licensee has the right to control and direct the subordinate in the material detail of how the work is to be performed;
 2. The licensee supervises and is involved in the preparation and approval of the plans, plats, drawing, reports or other soil science papers or documents and has input into and full knowledge of their preparation prior to their completion;

(Rule 0780-05-06-.08. continued)

3. The licensee reviews the final plans, plats, drawings, reports or other soil science papers or documents; and
 4. The licensee has the authority to, and does, make any necessary and appropriate changes to the final plans, plats, drawings, reports or other soil science papers or documents.
- (b) Any changes made to the final plans, plats, drawings, reports or other soil science papers or documents after final revision and sealing by the licensee are prohibited by any person other than the licensee.
 - (c) The mere review of work prepared by another person, even if that person is the licensee's subordinate, does not constitute responsible charge of work unless the licensee has met the criteria set out above.

Authority: T.C.A. § 62-18-211. **Administrative History:** Original rule filed April 20, 2011; effective July 19, 2011. Repeal and new rule filed July 25, 2014; effective October 23, 2014.

0780-05-06-.09 CIVIL PENALTIES.

- (1) With respect to any licensed professional soil scientist, the commissioner may, in addition to or in lieu of any other lawful disciplinary action, assess a civil penalty against a licensee for each separate violation of a statute, rule, or commissioner's order pertaining to licensed professional soil scientists, in accordance with the following schedule:

Violation	Penalty
T.C.A. §62-18-207	\$100 - \$1,000
T.C.A. §62-18-217	\$100 - \$1,000
Rule 0780-05-06-.08	\$100 - \$1,000
Rule 0780-05-06-.10	\$100 - \$1,000
Commissioner's order	\$100 - \$1,000

- (2) With respect to any other person required to be licensed in this state as a licensed professional soil scientist, the commissioner may assess a civil penalty against such person for each separate violation of statute in accordance with the following schedule:

Violation	Penalty
(a) T.C.A. §62-18-204	\$100 - \$1,000

- (3) Each day of continued violation may constitute a separate violation.
- (4) In determining the amount of any civil penalty to be assessed pursuant to this rule, the commissioner may consider factors including, but not limited to, the following:
 - (a) Whether the amount imposed will be a substantial economic deterrent to the violator;
 - (b) The circumstances leading to the violation;
 - (c) The severity of the violation and the risk of harm to public;
 - (d) The economic benefits gained by the violator as a result of noncompliance; and
 - (e) The interest of the public.

(Rule 0780-05-06-.09. continued)

Authority: T.C.A. § 62-18-211 and 62-18-219. **Administrative History:** Original rule filed April 20, 2011; effective July 19, 2011. Repeal and new rule filed July 25, 2014; effective October 23, 2014.

0780-05-06-.10 CODE OF ETHICS.

- (1) Licensees shall uphold the public health, safety and welfare in the performance of professional services.
- (2) Licensees shall observe and comply with all federal, state and local building, fire, safety, real estate, or mining codes, as well as other laws, codes, ordinances, or regulations pertaining to the practice of soil science.
- (3) Licensees shall not undertake any type of work that he or she is not competent to undertake unless the licensee discloses his or her lack of training, experience, or education in writing to all appropriate parties prior to undertaking the work.
- (4) Licensees shall not affix their signatures and/or seal any plans, plats, drawings, reports, or other soil science papers or documents with subject matter in which they lack competence acquired through education or experience, nor shall licensees affix their signatures and/or seal plans, plats, drawings, reports or other soil science papers or documents that were not prepared or reviewed by the licensee or the licensee's subordinate and approved by the licensee.
- (5) Opinions expressed by licensees for any purpose in the course of his or her professional practice shall only be based on their education and experience.
- (6) Licensees shall not disclose any information about the lawful business affairs or technical processes of a client or employer without the approval of the client or employer, or the client's/employer's designated representative, unless required by subpoena or in response to a complaint filed by the commissioner.
- (7) Licensees shall not participate in any illegal activities, or knowingly permit the publication of his or her plans, plats, drawings, reports, or other soil science papers or documents for illegal purposes.
- (8) Licensees shall not issue false or misleading information or statements to a client.
- (9) No licensee shall accept compensation or any other consideration from more than one (1) interested party for the same service without the written consent of all interested parties.
- (10) No licensee shall accept or offer commissions or allowances, directly or indirectly, from third parties dealing with the client or employer in connection with work for which the licensee is in responsible charge.
- (11) Before the execution of a contract to perform soil science services, a licensee shall disclose to the client or employer any actual or potential conflicts of interest that might affect the licensee's ability to serve the client or employer.
- (12) Licensees shall not engage in false or misleading advertising or otherwise misrepresent any matters to the public.
- (13) Licensees shall respond to all of the commissioner's written requests for information within the time frame specified on the written request.

Authority: T.C.A. § 62-18-211 and 62-18-215. **Administrative History:** Original rule filed April 20, 2011; effective July 19, 2011. Repeal and new rule filed July 25, 2014; effective October 23, 2014.

0780-05-06-.11 CONTINUING EDUCATION.

- (1) "Continuing education hours" means an hour consisting of not less than fifty (50) minutes of instruction or presentation acceptable to the commissioner or as otherwise noted in this rule. Continuing education hours received through post-secondary education institutions will be awarded according to the following table:
 - (a) One (1) university semester hour of credit..... 15 continuing education hours
 - (b) One (1) university quarter hour of credit.....10 continuing education hours
- (2) A licensee seeking regular biennial renewal shall, as a prerequisite for renewal, show that he or she has completed no less than twelve (12) hours of continuing education during the two (2)-year period immediately preceding renewal.
- (3) One (1) of the twelve (12) continuing education hours each licensee obtains for renewal shall be in ethics.
- (4) Activities eligible for continuing education hours include:
 - (a) Professional meetings (no maximum), including short courses, workshops, clinics, conferences, symposia, seminars, field days, scientific presentations and distance education.
 - (b) Self-directed study, including reading of scientific journals and books with a 2,500-word professional article equaling one continuing education hour. Self-directed study may account for a maximum of three (3) continuing education hours per two (2)-year period.
 - (c) Soil science-related community service (2 continuing education hours maximum per renewal period), including serving on committees and community service related to the profession of soil science. Such service shall be deemed to be equal to two (2) continuing education hours per two (2)-year period.
 - (d) Authoring or preparation of educational materials; this credit may be claimed only on the renewal period on which the educational materials are initially prepared and/or presented. Such work shall be deemed to be equal to two (2) continuing education hours per two (2)-year period.
- (5) Each licensee shall, when making application for renewal, submit on the prescribed form a signed statement setting forth the number of continuing education hours that he or she has completed during the reporting period. Licensees shall retain documentation evidencing their continuing education hours for at least five (5) years subsequent to the date of submission.
- (6) The commissioner may verify information licensees submit under this rule at the commissioner's discretion upon written notice to the licensee.
- (7) If any continuing education hours claimed in a statement submitted by a licensee pursuant to paragraph (5) of this rule are disapproved, the commissioner shall notify the licensee of the reason for disapproval. The commissioner may allow a specified period of time, up to six (6) months, for correction of the deficiencies noted.

Authority: T.C.A. § 62-18-211. **Administrative History:** Original rule filed April 20, 2011; effective July 19, 2011. Repeal and new rule filed July 25, 2014; effective October 23, 2014.

0780-05-06-.12 RECIPROCITY.

Pursuant to T.C.A. § 62-18-212, the commissioner may grant a license as a professional soil scientist to an individual who holds a like, unexpired license as a professional soil scientist issued by another state, territory, or possession of the United States, the District of Columbia, or any foreign country if such jurisdiction's examination and requirements for licensure are of a standard substantially equal to those required by the commissioner for initial licensure in Tennessee. Such applicant shall file with the commissioner the required application and fee, along with proof that the applicant holds a current, valid license as a professional soil scientist and the requirements necessary for obtaining such license.

Authority: T.C.A. § 62-18-211. **Administrative History:** Original rule filed April 20, 2011; effective July 19, 2011. Repeal and new rule filed July 25, 2014; effective October 23, 2014.