

**CHAPTER 5E-14**  
**ENTOMOLOGY – PEST CONTROL REGULATIONS**

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**5E-14.102 Definitions.**

In addition to those terms contained in Section 482.021, F.S., the following terms shall mean:

- (1) "Application of fumigant(s)" – Release of fumigant(s) into structure or enclosed space.
- (2) "Fumigation operation" – All details prior to application of fumigant(s), the application of fumigant(s), fumigation period and post fumigation details as herein outlined.
- (3) "Fumigation period" – Period of time from application of fumigant(s) until the ventilation of structure is completed, and the structure is declared safe for occupancy.
- (4) "General fumigation" – Application of fumigant(s) to one (1) or more rooms or their contents in a structure or to entire structure; or to commodities under gas-tight sheets or tarpaulins.
- (5) "Preventive treatment" – Application of measures for the purpose of preventing infestation(s) or infection(s) of structures by wood-infesting organisms.
- (6) "Residential area" – Any area other than an agricultural area or as otherwise specifically exempted by Chapter 482, F.S.
- (7) "Spot fumigation" – Application of fumigant to localized harborage or infestation within, on or under a structure or enclosed space, or to a lawn under tarpaulins.
- (8) "Spot treatment" – Treatment restricted to specific area(s) of a structure to control or prevent pests.
- (9) "Multi-Unit structure" – A structure, consisting of one or more stories, composed of functionally distinct units, such as stores, offices, apartments, townhouses, and condominiums, in which units share a common wall of wood or metal studs or single masonry walls, including fire walls.
- (10) "Classroom" – A student or students studying a subject in a setting conducive to learning, other than field training as required by Section 482.091(3), F.S., with an instructor or other multimedia instructional tools, computer instruction, or correspondence courses.
- (11) "Multi-unit dwelling" is defined as a multi-unit structure whose primary function is to serve as living quarters for people, such as apartment buildings, condominiums, duplexes, and townhomes.
- (12) "Direct Supervision" requires the personal presence of either the certified fumigation operator or his or her special fumigation identification cardholder at the fumigation job site.

(13) “Breathing Zone” is defined as the area of space in each room of a fumigated structure located anywhere between the floor and ceiling.

(14) “Secondary Locking Device” is defined as any device, method or barricade, in addition to existing locking mechanisms, that is demonstratively effective in preventing an exterior door or entrance from being opened or entered by normal means by anyone other than the certified operator in charge or his special fumigation identification cardholder.

(15) “Barricade and Barring” is defined as the use of any material(s) that would physically prevent a person’s access to the structure by way of any entrance or opening by normal means.

(16) “Access device” is defined as a lockbox or other on-site device that stores the key to the fumigated structure.

(17) “Connected Structure” is defined as any structure physically connected with the structure to be fumigated by construction elements that contain voids (e.g. pipes, conduits, drains, ducts, etc.) which may allow transfer of fumigant between the structures.

*Rulemaking Authority 482.051 FS. Law Implemented 482.051(1) FS. History—New 1-1-77, Amended 6-27-79, 6-22-83, Formerly 10D-55.102, Amended 8-11-93, 6-12-02, 4-17-03, 9-17-08.*

#### **5E-14.103 Licensee Identification – Vehicles, Equipment.**

To assist the Department in enforcement of Chapter 482, F.S., and all regulations thereunder, the licensee shall identify all units or equipment used by him or in his behalf for pest control as follows:

(1) All motor vehicles and all trailers used in behalf of or by any licensee or licensee’s employees in the conduct of pest control shall be marked for easy identification with the licensee’s name or trade name, as registered with the Department. Vehicles shall be permanently marked except as provided below. The term “permanently marked” shall mean paint or decals applied to the vehicle body itself. Only those vehicles used exclusively for the purpose of sales and soliciting of business may be temporarily marked, including the use of magnetic signs, provided that no pesticides or pesticide application equipment are carried in the vehicle. All vehicles used in the conduct of pest control that carry or contain pesticides or pesticide application equipment, shall be permanently marked.

(2) The licensee’s name or trade name shall appear conspicuously on both sides of each motor vehicle and each trailer, and shall be in bold lettering at least one and one-half (1 1/2) inches high, distinctly contrasting in color with the background, and shall be in plain view of the public.

Exception: Personal motor vehicles of principal owner(s) and of certified operator(s) in charge of pest control activities of a licensee, as registered with the Department are exempt from the requirements of subsections 5E-14.103(1) and (2), F.A.C., when such vehicles are not actively, constantly and regularly used in the conduct of pest control for the licensee.

*Rulemaking Authority 482.051(2) FS. Law Implemented 482.051(2), 482.161, 482.191 FS., Section 1, Chapter 92-203, Laws of Florida. History—New 1-1-77, Joint Administrative Procedures Committee Objection Withdrawn – See FAW Vol. 3, No. 30, July 29, 1977, Amended 6-27-79, Formerly 10D-55.103, 6-2-04.*

#### **5E-14.104 Prohibited Acts.**

(1) In solicitation of pest control business, no licensee or its employees shall claim that inspections or treatment are required, authorized or endorsed by the Department.

(2) No reference shall be made in any manner suggesting approval, endorsement or recommendation by the Department.

(3) No licensee, certified operator or identification card holder shall advertise or hold himself out in any manner in connection with pest control as an entomologist, horticulturist, public health engineer, sanitarian, and the like, unless such persons qualified in such field by required professional and educational standards for the title used.

(4) No licensee or its employees shall represent to any property owner or occupant of any structure that any specific pest is infesting said property, structure, or lawn or ornamental thereof, or that it requires a specific treatment for pest control when an infestation, or strongly supporting evidence of such infestation, does not exist. Exception: This prohibition shall not apply to bona fide preventive treatments which imply no infestation per se.

(5) Pesticides shall not be given or sold to the public except in unbroken, original and labelled containers in accordance with Section 487.031, F.S.

(6) No employee of a licensee shall perform pest control or “moonlight” pest control independently.

*Rulemaking Authority 482.051 FS. Law Implemented 482.021(13),(15), 482.051(1), 482.071, 482.091, 482.111, 482.152, 482.161, 482.191,*

**5E-14.105 Contractual Agreements in Public's Interest – Control and Preventive Treatment for Wood-Destroying Organisms.**

(1) Each licensee must enter into a written contract with the property owner or his authorized agent for each treatment for control or prevention of wood-destroying organisms.

(2) Such contract, except as provided in subsection (3) of this section, or an exact facsimile thereof must be given to the property owner or his authorized agent for acceptance or rejection before any portion of the work is done and before payment, in part or in full, is received by the licensee. The contract shall clearly set forth the following information:

(a) The complete name and address of the property owner or authorized agent and the complete address of the property to be treated.

(b) All buildings or structures on the property to be included for treatment.

(c) The complete name and business address of the licensee.

(d) The date upon which the written contract is entered into, the period of time covered by the contract, and renewal option, if any.

(e) The complete common name(s) of the wood-destroying organism(s) to be controlled or for which preventive treatment is intended under the contract. Any contract issued after the effective date of this amendment for the treatment or prevention of termites must clearly state on the first page if the contract covers subterranean termites, dry wood termites, or both. If Formosan termites (*Coptotermes formosanus*) are to be excluded from coverage, this species must be named as excluded.

(f) Whether the treatment is for control of existing infestation or prevention of infestation.

(g) Whether or not reinspections are to be made under the contract and, if so, approximate time intervals between reinspections, and fees other than renewal fees for same, if any.

(h) The conditions under which retreatments (for reinfestation) will be made; and conditions under which repairs will be made, if any.

(i) The total maximum price to be charged for treatment service, the exact annual renewal fees to be charged under the contract, if any; and the total maximum price to be charged for structural repairs, if any, shown separately.

(j) If the performance of the work is guaranteed by any type or form of bond, the obligations of the bond shall be set forth specifically: i.e., necessary retreatments, repairs, etc. in wording identical to that in the bond itself.

(k) The signature of the licensee or his authorized representative, and the signature of the property owner or authorized agent.

(3) Contracts covering treatments for the prevention of subterranean termites for new construction:

(a) Shall clearly set forth that additional treatment(s) shall be performed to control an infestation should subterranean termite infestation occur to the structure treated during the warranty period. The warranty shall show either the date of initial or final treatment and shall be issued to the property owner or agent within 30 days of the date of initial or final treatment, whichever is specified on the contract, and shall be for a period no less than one year from date of treatment specified on the contract, and

(b) The property owner at the time of each renewal, if a previous renewal was purchased, shall have the option of extending the warranty annually after the first year for no less than 4 additional years. The contract shall conform with Section 482.227, F.S., and contain information required by paragraphs 5E-14.105(2)(a), (b), (c), (d), (e), (f), (g), (h), (i), and (j), F.A.C., and

(c) For treatment of multiple properties for a single owner, if individual contracts are not issued prior to treatment, a licensee shall either enter into a master agreement with the owner or authorized agent prior to treatment that provides for the fulfillment of the requirements of paragraphs (a) and (b) above, or issue an assignable contract on the property on completion of the treatment.

(d) This section applies only to treatment for the prevention of subterranean termites for new construction which does not physically attach to or adjoin existing structures.

(4) In contracts covering spot treatments for wood-destroying organism(s), the requirements of subsections 5E-14.105(1) and (2), F.A.C. shall apply. In addition to these, specific areas in, on or under the structure to be treated shall be listed in the written contract and a statement that a spot treatment only was performed shall be made on the treatment notice posted as required by Section 482.226(5), F.S.

(5) If no responsibility is to be assumed by the licensee for retreatment of the specific area(s) of a structure where spot treatment is to be made, the licensee shall furnish the property holder or his authorized agent with a signed statement to this effect, prior to treatment.

(6) When periodic reinspections are specified in wood-destroying organisms preventive or control contracts, the licensee shall furnish the property owner or his authorized agent, after each reinspection, a signed report of the condition of the property with respect to presence or absence of wood-destroying organisms covered by the contract and whether retreatment was made. A copy of the inspection report shall be retained by the licensee for a period of not less than three (3) years.

(7) A structure shall not be knowingly placed under a second contract for the same wood-destroying organism control or preventive treatment in disregard of the first contract, without first obtaining specific written consent signed by the property owner or authorized agent using DACS form 13671 (10/08) Consumer Consent Form, which is hereby adopted and incorporated by reference and available on the department's website under the header "Forms" at <http://www.doacs.state.fl.us/onestop/aes/pestcont.html>.

(8) Each licensee shall comply with the terms of each pest control contract it issues. Within one year of the effective date of this rule, all contracts for wood destroying organism protection must comply with the following:

(a) A licensee must inspect for an infestation that is the subject of a re-treatment provision of a contract within thirty calendar days of written notification by the property owner or agent to which the contract applies, and must perform a re-treatment required under a contract within ninety days of discovery of an infestation subject to the re-treatment provision of a contract, unless;

1. Access to the property is prevented by the property owner, or
2. The treatment is waived or postponed in writing by the property owner or agent, or
3. The subject property is a commercial or multiunit structure, in which case, the treatment must be performed within 180 days, unless subparagraph 1. or 2. above applies.

(b) In the event a contract expires before a re-treatment, subject to paragraph (8)(a) above can be accomplished, the licensee shall make a written offer to perform the re-treatment in accordance with the terms of the contract within ninety days at no additional cost.

(c) A licensee may not use a limitation, exclusion, or condition clause of a contract to deny treatment of a termite infestation or repair of termite damage to the holder of a contract, unless the termite infestation or damage was primarily caused by the subject of the limitation, exclusion, or condition clause in the contract, and, if the licensee was aware of the condition that is subject to a limitation, exclusion, or condition clause in the contract, the licensee provided written notice to the property owner or agent of that condition within sixty days of discovery and provided the property owner the opportunity to correct that condition. If the property owner did not correct the condition within sixty days of the written notice, then the licensee may use the limitation, exclusion, or condition clause in the contract to deny repair or re-treatment.

(9) A licensee acting as a primary contractor who may subcontract the performance of the work to another licensee shall notify the customer that the performance of the work may be assigned to another licensee other than the primary contractor. This written notification shall be part of the contract as a separate statement itself or attached to the contract as a separate document, and must be signed or initialed by the consumer.

*Rulemaking Authority 482.051 FS. Law Implemented 482.051(3) FS. History—New 1-1-77, Joint Administrative Procedures Committee Objection Withdrawn – See FAW Vol. 3, No. 30, July 29, 1977, Amended 6-27-79, 10-25-90, Formerly 10D-55.105, Amended 8-11-93, 4-17-03, 6-1-06, 9-17-08, 11-26-08.*

#### **5E-14.106 Use of Pesticides – Labels, Limitations, Precautions.**

(1) Only those pesticides having federal or state label registration clearance shall be used. It shall be unlawful to use any registered pesticide in a manner inconsistent with its label and labeling, except as provided by the United States Environmental Protection Agency, the United States Department of Agriculture, or the Department.

(2) Licensees and certified operators shall maintain at the licensed business locations specimen copies of current registered labels for all pesticides used in their pest control operations which labels shall be available for inspection upon request.

(3) All pesticide concentrates used in the field shall be kept under lock when in unattended service vehicles. They shall be kept in leakproof containers legibly tagged or labelled for identification and providing information required by EPA regulations or recommendations.

(4) Pesticides kept in containers other than application equipment shall be accurately identified by permanent, durable label or tag, showing the common or chemical name(s) of principal active ingredient(s) and providing information required by EPA regulations or recommendations.

(5) Spray tanks in which pesticides are mixed or from which pesticides are dispensed in pest control operations and to which water is added shall not be filled through direct fill-pipe or hose connections protruding into the spray tank. Fill-pipes or hoses must

terminate at least two inches above spray tank intake fill opening or be equipped with an effective anti-siphoning device to prevent back siphonage into water supply.

(6) Pesticides used as the primary treatment for the prevention of subterranean termites for new construction shall be applied in the specific amounts, concentration, and treatment areas designated by the label.

(7) Each pesticide used for the primary preventive treatment of new construction for the prevention of subterranean termites, in its original formulation, shall be mixed at the treatment site immediately prior to application.

(8) For each pesticide used for preventive treatment for new construction, a copy of the label of the registered pesticide being used shall be carried in the vehicle from which the application is performed. The licensee shall maintain records for 3 years of each treatment for the prevention of subterranean termites for new construction indicating the date of treatment, address of property treated, total square footage of structure treated, pesticide used, percent concentration of mixture applied and total volume applied as well as maintaining records of all termiticides purchased, obtained, or available for its use; the total amount of the area treated; and the total number of sites treated using this and any other method of treatment for the prevention of subterranean termites.

(9) When a pesticide registered as a preventive treatment for new construction has been applied as the primary preventive treatment for a structure in accordance with subsection 5E-14.106(6), F.A.C., or will be applied prior to completion of construction, a secondary treatment using a second pesticide registered for preventive treatment for new construction may be applied in accordance with label directions.

*Rulemaking Authority 482.051 FS. Law Implemented 482.051(1) FS., P. L. 92-516, Section 1, Chapter 92-203, Laws of Florida. 482.051(5) FS., as amended July 1, 2006, ch. 2006-289. History—New 1-1-77, Amended 6-27-79, 6-22-83, 10-25-90, Formerly 10D-55.106, Amended 7-5-95, 4-17-03, 6-30-05, 7-11-07.*

#### **5E-14.108 Fumigation Requirements - General Fumigation.**

(1) Each general fumigation (subsection 5E-14.102(4), F.A.C.) shall be personally directed, supervised and performed by a certified fumigation operator or personally by a special fumigation identification card holder authorized by the Department and designated by and under the direction and supervision of the certified fumigation operator in charge (Section 482.151, F.S.). Such certified fumigation operator or his designated special fumigation identification card holder shall be available and on call at all times during the fumigation period (subsection 5E-14.102(3), F.A.C.) of each general fumigation (subsection 5E-14.102(4), F.A.C.) job in progress.

(2) During a general fumigation, whenever the presence of two (2) persons trained in the use of the fumigant is required by the fumigant label, at least one of these persons must be either the certified operator in charge of fumigation or his designated special fumigation cardholder, and the second trained person can be a certified fumigation operator, a special identification cardholder or an identification cardholder. Two (2) trained persons shall be present at each fumigation site for the introduction of the fumigant, entry during fumigation and from the start of aeration (first opening of the seal) until the active aeration period with all operable doors and windows open, if required by the fumigant label, is completed and the structure is secured for the remaining aeration period. The certified operator in charge of fumigation or his designated special identification cardholder shall be present at those times required by the fumigant label or by subsections 5E-14.108(1), 5E-14.111(4), 5E-14.112(1), and 5E-14.113(1) and (2), F.A.C.

(3) It shall be the duty of the certified operator in charge of fumigation to carry out the following:

(a) Train and/or verify training to each special fumigation identification cardholder in proper fumigation procedures as required by regulations and fumigant label directions, and to know the location, purpose, use and maintenance of personal protective equipment and fumigant detection and safety devices and when and how to use this equipment.

(b) Train each identification cardholder, assigned to fumigation work, in basic fumigation procedures, SCBA (self contained breathing apparatus) use and the proper use of fumigant safety equipment and to report immediately to the certified operator in charge or his special fumigation identification cardholder any irregularities or emergencies.

(4) The Department shall issue an immediate stop-use or stop-work order, DACS 13659 (03-02), incorporated by reference, for fumigation performed in a manner that presents an immediate serious danger to the health, safety or welfare of the public. Fumigant use or work cannot be resumed until corrections are made, verified and the release section of the stop order is completed by Department personnel.

(5) Fumigators must have in their possession any keys or an access device necessary to gain the immediate access to a structure, including secondary locking devices, during the entire time that the structure is under fumigation (fumigant release, exposure period, aeration and until properly determined clear of all fumigant), unless a waiver is issued for specialized structures by the Department

of Agriculture and Consumer Services.

(6) When crew members are present on the fumigation site, two properly functioning, positive pressure, self-contained breathing apparatus (SCBA) must be available at the fumigation site at all times when the structure is under fumigation (fumigant release, exposure period, aeration and at other times when state law or the fumigant label requires the use or presence of a SCBA). Two SCBA do not need to be present at the fumigation site for activities that do not involve worker exposure to fumigant concentrations above thresholds permitted by the fumigant label. Such activities could include, but would not be limited to, remote monitoring, using a Fumiscope, TIF leak detection, job site cleanup, DACS inspections, and Quality Assurance Reviews.

(7) Each business licensee location performing fumigation must possess and maintain at least two, label-approved, clearance devices so that at least one is properly functioning at all times in accordance with either the device manufacturer or the fumigant label directions, whichever is more restrictive.

*Rulemaking Authority 482.051 FS. Law Implemented 482.021(7), (25), 482.051(1), 482.152 FS. History—New 1-1-77, Amended 6-22-83, Formerly 10D-55.108, Amended 7-5-95, 6-12-02, 4-17-03.*

#### **5E-14.110 Fumigation Requirements – Notices.**

(1) Each licensee, before performing general fumigation, shall notify the department at least twenty four (24) hours in advance of the fumigation period. Notification shall be made utilizing the department's electronic fumigation notification website <http://app1.flaes.org/fumigation> or by submitting by facsimile, a completed DACS Form 13667, Notification of Fumigation, Rev. 04/10. The notice shall state the following:

- (a) Company name and business location address.
- (b) Accepted common or trade name and active ingredients of fumigant to be used.
- (c) Name of certified operator in charge or the designated certified operator(s) or special fumigation identification card holder(s) for the fumigation, together with her or his day and night telephone numbers.
- (d) Location (address), county, and type of structure (single family, multi-family, commercial, or other) to be fumigated.
- (e) Date of fumigation.

(2) Any change(s) in information required in notices by this regulation shall be reported via the electronic submission website or in writing via facsimile in advance of the fumigation period.

(a) Exceptions: In authentic and verifiable emergencies only, when twenty-four (24) hours advance notification is not possible, advance electronic submission via <http://app1.flaes.org/fumigation> or facsimile notice shall be given.

(b) This notice shall be immediately followed by written confirmation stating the required information. The written confirmation may be made by electronic mail to [bepcfumigation@doacs.state.fl.us](mailto:bepcfumigation@doacs.state.fl.us).

(3) A licensee that performs chamber or vault fumigations on the premises of the licensee's licensed business location shall notify the department annually in writing. Information required in the written notification shall include the type of chamber being used on the property (such as shipping containers, trucks, PODS, tarpaulin areas, etc.) and the days of the week and hours during which these fumigations may be performed during the year of notification. The licensee shall provide the department at least 24 hours notice of any changes in the days of the week and hours during which fumigations may be performed.

(4) All forms and filing specifications contained in this rule are hereby adopted and incorporated by reference and may be obtained from the Florida Department of Agriculture and Consumer Services, Bureau of Entomology and Pest Control, 1203 Governors Square Boulevard, Suite 300, Tallahassee, Florida 32301-2961, (850) 921-4177 or by visiting the Department's website at <http://www.doacs.state.fl.us/onestop/aes/pestcont.html>.

*Rulemaking Authority 482.051 FS. Law Implemented 482.051(4) FS. History—New 1-1-77, Amended 6-27-79, 6-22-83, 10-25-90, Formerly 10D-55.110, Amended 7-5-95, 9-17-08, 9-6-10.*

#### **5E-14.111 Fumigation Requirements – Application; Restrictions and Precautions.**

(1) For purposes of fumigation "structure" shall mean: any building including its foundation, walls and roof but excluding any surfacing portions such as driveways or walkways that merely lie on the land and provide no means for a fumigant to pass outside of the fumigation seal.

(2) Neither the structure nor enclosed space to be fumigated nor any part or parts thereof shall be occupied by persons during the fumigation period. In addition, structures or enclosed spaces which are physically connected with the structure to be fumigated shall not be occupied by persons during the fumigation period. (See subsections 5E-14.111(3) and (4), F.A.C.)

(3) In the event one or more units in a multi-unit structure (see subsection 5E-14.102(9), F.A.C.) are to be fumigated, the entire multi-unit structure must be vacated prior to fumigation and individually tested for clearance in accordance with label instructions following fumigation. If these requirements cannot be met, the fumigation shall not be performed.

(4) It shall be the duty of the certified operator in charge or his designated special fumigation identification card holder to be present and personally make a careful examination of all parts of the structure to be fumigated, such as locked rooms, compartments, closets, enclosed spaces and any connected structures, to verify that no persons have remained therein.

(5) Fumigation of structures shall be performed in strict accordance with the registered label and labeling directions and precautions for the intended use and type of structure, provided there is sufficient distance along the entire length of the passageway between the structure(s) to be fumigated and all adjacent occupied structure(s) to allow visible inspection, with or without egress, for connected structures as defined in subsection 5E-14.102(17), F.A.C., and inspection for and sealing of exterior openings, such as vents, windows, etc., that require sealing for adequate fumigant confinement. If these requirements cannot be met, the fumigation shall not be performed unless the adjacent structure(s) is vacated.

(6) When fumigating structures with methyl bromide, sulfuryl fluoride or any other relatively odorless gas, technical chloropicrin shall be used separately as a warning agent immediately prior to release of the relatively odorless gas at the rate of not less than one fluid ounce per 15,000 cubic feet of space to be fumigated or as otherwise directed by fumigant label.

Exceptions: This section shall not apply to the fumigation of common carriers (trucks, box cars, refrigerator cars), the fumigation of tobacco warehouses and factories, the fumigation in tanks, vaults or chambers, or the fumigation of commodities in industrial areas when it has been determined by prior inspection by the certified operator in charge that no danger to human life or health exists unless required by the fumigant label.

(7) The structure or enclosed space must be made as gas-tight as is practicable. Structures or enclosed spaces which cannot be made reasonably gas-tight by sealing or tenting shall not be fumigated.

*Rulemaking Authority 482.051 FS. Law Implemented 482.051(1), 482.152, 482.241 FS. History—New 1-1-77, Amended 6-27-79, 6-22-83, Formerly 10D-55.111, Amended 8-11-93, 9-17-08, 9-6-10.*

#### **5E-14.112 Fumigation Requirements - Prefumigation Inspections, Evacuation, Warning Notices (Signs), Special Safety Precautions and Responsibilities.**

(1) Final pre-application of fumigant and evacuation inspection: Before the fumigant(s) is to be applied, the certified operator in charge or his designated special fumigation identification card holder must make a final, personal inspection of the structure and shall ensure that:

(a) All preparations for fumigation as directed by the label have been completed.

(b) No unauthorized person is present within the structure or enclosed space to be fumigated or in any adjacent structures or spaces that are required by these regulations to be vacated because of danger from the fumigation operation.

(c) No open fires, flames, pilot lights or oil lamps are burning.

(d) The final inspection must be conducted immediately before the fumigant is to be applied, unless the structure is a multi-unit dwelling, in which case, the following special provision shall apply:

On multi-unit dwellings, the certified fumigation operator in charge and/or his designated special fumigation identification cardholder shall conduct a thorough, systematic inspection of each room in every unit to ensure that all provisions specified above have been completed. Then, exterior doors and/or entrances of each inspected unit shall be secured against unauthorized re-entry while preparations and inspection of other units or areas of the structure are completed. This may require the temporary use of secondary locks on entrances that are to be left unattended between the time of inspection and the introduction of the fumigant. If an individual unit or units cannot be safely secured while preparations of other areas are taking place, then those units must be re-inspected immediately before the fumigant is to be applied.

(2) Prior to the application of fumigant(s), suitable warning signs of stiff, weather-proof material must be securely affixed and conspicuously posted as follows:

(a) In tape-and-seal fumigation operations: at or on all doors and entrances to the structure or enclosed space, and at least one (1) warning sign on all sides of the structure or enclosed space not having a door or entrance;

(b) In tent fumigation operations and also including commodity fumigations: at least one (1) warning sign posted at or on all doors and entrances to the structure or enclosed space and at least one (1) warning sign on all sides of the outside of the tents or sealing covers of the structure, enclosed space or commodities being fumigated;

- (c) At all doors and entrances to common carriers or enclosed space fumigated;
  - (d) Upon all gangplanks, ladders, etc. from the dock, pier or land to vessel.
  - (e) On multi-unit dwellings, warning signs must be posted at or on all exterior doors or entrance(s) of the structure which, depending on construction, might require sign(s) on all exterior doors or entrances of each individual unit or apartment.
- (3) Warning signs shall conform in design and information set forth as follows:

(Skull and Crossbones Symbol)	<b>DANGER</b> <b>FUMIGATING WITH</b> (Accepted common name of Fumigant) <b>DEADLY POISON</b> <b>ALL PERSONS ARE WARNED TO</b> <b>KEEP AWAY</b>	(Skull and Crossbones Symbol)
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Date and time fumigant was introduced \_\_\_\_  
 Company Name \_\_\_\_  
 Company Business Address \_\_\_\_  
 Certified Operator in Charge \_\_\_\_  
 Fumigant Introduced by \_\_\_\_  
 Day Telephone \_\_\_\_  
 Night Telephone \_\_\_\_

(4) Signs required must be printed, painted or made in indelible red ink or paint insoluble in water, on white background. The words “DANGER” and “DEADLY POISON” shall be in block lettering at least two (2) inches high. The name of the fumigant shall be at least five-eighths (5/8) inch high. The skull and crossbones symbol shall be at least one (1) inch high. All other lettering on the sign must be not less than one-half (1/2) inch high.

(5) All information displayed on warning signs must be accurate and legible. The name and day and night telephone number of the certified operator in charge of fumigation, or a certified fumigation operator, or a special fumigation identification cardholder who introduced the fumigant at the fumigation site must be displayed on the warning sign. Additional numbers and other contact information may be placed on the sign. All emergency phone numbers must be a phone number, mobile/cell phone number or beeper number in the possession of a person familiar with the job and trained to respond to fumigation emergencies and equipped with label required respiratory protection and gas detection equipment. Answering machines, beepers or voice mail systems that do not provide a mechanism for immediate notification to an individual as described above are prohibited. A 24 hour manned answering service that can immediately contact a certified fumigation operator or a special fumigation identification cardholder of the company who can respond to the emergency is acceptable.

(6) Such warning signs posted on the outside of tents or sealing covers shall not be removed prior to commencement of ventilation: and such warning signs posted on or at entrances to the structure (itself), enclosed space or commodities being fumigated shall not be removed until the end of the fumigation period, when ventilation has been completed and the premises declared safe for reoccupancy as required by subsections 5E-14.113(1) and (2), F.A.C. Ventilation shall be conducted with due regard for the public safety.

(7) Special safety precautions, responsibilities.

(a) When conditions involving abnormal hazards exist, it shall be the responsibility of the person exercising direct and personal supervision of the fumigation operation to take such safety precautions additional to those prescribed by this chapter as are reasonably necessary to protect the public health and safety.

(b) All exterior doors and entrances to the fumigated structure(s) shall be posted with a warning sign on or at each door or entrance prior to the release of the fumigant, locked, and secured with a secondary locking device(s) or barred or otherwise secured against entry until the end of the exposure period, then opened for ventilation and relocked, barred or otherwise secured against reentry, including the reinstallation of the secondary locking device(s), until declared to be safe for reoccupancy by the person exercising direct and personal supervision of the fumigation operation as required by subsections 5E-14.113(1) and (2), F.A.C. A door or entrance, that, once locked from the interior with a lock that is not accessible from the exterior, does not require a secondary



locking device or barricade.

(c) Entrances which do not have existing locking mechanisms or are inoperable must still be secured with a secondary locking device.

(d) If multi-unit dwellings with internal stairwells accessing each floor can be secondarily locked or secured, barred or barricaded at all ground level entrances, then no other secondary locking devices are necessary, provided that the requirements of subsection 5E-14.112(1), F.A.C., are met. Multi-unit dwellings with exterior stairwells or fire escapes must be secured or otherwise barricaded or barred to prevent entry from both ground and first floor levels and from any entrance to the structure accessed from the stairwell or fire escape. If neither of these conditions can be met, then all entrances to individual units and all exterior entrances must be locked or secured, barricaded or barred with secondary locking devices.

*Rulemaking Authority 482.051 FS. Law Implemented 482.051(1), 482.152 FS. History—New 1-1-77, Amended 6-27-79, Formerly 10D-55.112, Amended 4-17-03, 9-17-08.*

#### **5E-14.113 Fumigation Requirements – Final Post-fumigation Clearance Inspection.**

(1) The certified operator in charge or his designated special fumigation identification card holder shall personally determine by using label-approved gas-detecting devices, verified and/or calibrated as required by either the device manufacturer or the fumigant label directions, whichever is more restrictive, that the entire structure or enclosed space fumigated, and also including beds and bedding therein, has been safely ventilated as required by fumigant label directions, to permit safe human entry and occupancy or reoccupancy. No person, other than the certified fumigation operator in charge, his designated special fumigation identification cardholder, or trained identification cardholder, utilizing the label-approved respiratory protective equipment or gas detecting device, may enter, occupy or reoccupy the fumigated structure for any reason prior to completion of the aeration procedure(s) and declaration of clearance. All warning agent containers shall be removed from the structure. In no instance shall ventilation or aeration time be less than that recommended by manufacturer of fumigant on the registered label.

(2) Declaring structure or enclosed space fumigated safe for entry and occupancy or reoccupancy: The certified operator in charge or his designated special fumigation identification card holder shall not permit or allow any unauthorized person to enter or occupy or reoccupy the structure or enclosed space fumigated until the aeration procedures as required by the fumigant product label are completed, and he has personally checked the breathing zone of each room within the fumigated structure for fumigant levels with suitable gas-detecting equipment or device required by the fumigant label and found the structure to be safe for human entry and occupancy, and he shall personally certify by his own signature as a result of his final personal inspection and monitoring examination of the entire structure or space fumigated that the same and adjacent vacated structures are safe for human entry, occupancy or reoccupancy. Such notice of clearance shall be in writing and shall be conspicuously posted by the certified fumigation operator in charge or his designated special fumigation identification cardholder on all entrances of the fumigated structure or enclosed space. Clearance notices may not be posted prior to performing the clearance inspection with the label required gas-detection equipment. The signature of the certified operator in charge or his designated special fumigation identification card holder and the exact date and hour of release for reentry and reoccupancy shall be set forth in all notices. In no case shall the notice of clearance be post-dated.

*Rulemaking Authority 482.051 FS. Law Implemented 482.051(1), 482.152 FS. History—New 1-1-77, Formerly 10D-55.113, Amended 4-29-02, 4-17-03.*

#### **5E-14.117 Application for Examination for Pest Control Operator's Certificate and Special Identification Card and Limited Certificate for Urban Landscape Commercial Fertilizer Application.**

(1) An applicant for examination for a pest control operator's certificate and special identification card shall complete and submit the following:

(a) DACS 13607, Pest Control Examination Application, Rev. 05/08,

(b) DACS 13627, Employment Service, Rev. 08/08,

(c) DACS 13653, Documented Pesticide Application for Certification Exam Qualification, Rev. 09/08,

(d) A passport type and quality, full-face photograph of the applicant at least one and one-half inches by one and one-half inches in size

The above referenced forms are hereby adopted and incorporated by reference and available on the Department's website at <http://www.doacs.state.fl.us/onestop/aes/pestcont.html>.

- (2) Each applicant shall submit affidavits documenting qualifications for examinations as provided by Section 482.132, F.S.
- (3) An applicant having three years documented service employment with a licensee who performs pest control in all categories is qualified for examination in all categories, provided however that:
- (4) The applicant must have a minimum of nine (9) months service employment in each category for which he makes application for examination.
- (5) An applicant having three years service employment with a licensee who performs pest control in less than all categories is qualified for the examination in those categories only, provided however, that:
- (6) An applicant may qualify for examination in an additional category after having nine (9) months service employment with a licensee who performs pest control in such additional category.
- (7) A Department identification card held for three years as a service employee will constitute proof of experience with respect to the time requirement. Documented out-of-state experience claimed will be credited on an equivalent basis.
- (8) Any applicant for examination whose license, identification card, pest control operator's certificate or special identification card has been denied (issuance stopped), is under suspension, revocation or probation by the Department, shall not be permitted to take any examination while under such denial, suspension, revocation or probation.
- (9) Applicants may be examined for certification in one or more of the following categories of pest control:
- (a) Fumigation;
  - (b) General household pest control, which includes rodent control;
  - (c) Termite or other wood-infesting organism control;
  - (d) Lawn and ornamental pest control.
- (10) Prior to application for examination, an applicant for examination for Termite/Wood Destroying Organism Pest Control, Lawn and Ornamental Pest Control, or General Household Pest Control certification must participate in a minimum of 45 jobs in Florida under the supervision of a certified operator in each category that the applicant seeks certification. An applicant for the Fumigation certification and a Special Identification Card must participate in a minimum of 15 jobs in Florida under the supervision of a certified operator prior to application for examination. An applicant for Termite/Wood Destroying Organism Pest Control, Lawn and Ornamental Pest Control, or General Household Pest Control certification shall document all 45 jobs on DACS 13653 and the supervising certified operator shall certify that the documented jobs were participated in by the applicant under his supervision and that the applicant has demonstrated the requisite knowledge to perform and supervise such work. An applicant for the Fumigation certification and a Special Identification Card examination shall document their participation in 15 general fumigations (as defined by subsection 5E-14.102(4), F.A.C.) on DACS 13653 and the supervising certified operator shall certify that the documented jobs were participated in by the applicant under his supervision and that the applicant has demonstrated the requisite knowledge to perform and supervise such work.
- (11) Applicants for limited certification in Commercial Landscape Maintenance shall submit an examination fee of \$150. The annual recertification fee shall be \$75.
- (12) Applicants shall be examined for special identification card in fumigation pursuant to Section 482.151(3), F.S.
- (13) Each applicant for examination shall submit evidence of having participated in as many general fumigation operations as possible but not fewer than 15 general fumigation operations within this state under the supervision of a certified operator certified in fumigation.
- (14) Applicants for special identification card examination are not required to be high school graduates.
- (15) Each applicant for special identification card examination must submit proof to the department that he is not under the disabilities of minority and is qualified to be a special identification cardholder with safety to persons and property.
- (16) An applicant who fails to pass one or more category or special identification card examinations may reapply for examination upon filing the prescribed application accompanied by a fee of \$300 for each category examination or \$200 for each special identification card examination.
- (17) Applicants for limited certification for governmental pesticide applicators or private applicators shall submit an examination fee of \$150.
- (18) Beginning January 21, 2014, any person applying commercial fertilizer to an urban landscape must have a limited certification for urban landscape commercial fertilizer as provided herein. Applicants for limited certification for urban landscape commercial fertilizer must submit a copy of the training certificate issued pursuant to Section 403.9338 F.S., with their completed

Application for Limited Certification for Urban Landscape Commercial Fertilizer, DACS 13677 (Rev. 08/09) and the application fee of \$25.00. The renewal fee for the limited certificate for urban landscape commercial fertilizer is \$25.00.

(19) All forms and filing specifications contained in this rule are hereby adopted and incorporated by reference and may be obtained from the Florida Department of Agriculture and Consumer Services, Bureau of Entomology and Pest Control, 1203 Governors Square Boulevard, Suite 300, Tallahassee, Florida, 32301-2961; (850) 921-4177; or by visiting the department's website at <http://www.doacs.state.fl.us/onestop/aes/pestcont.html>.

*Rulemaking Authority 482.051, 482.1562 FS. Law Implemented 482.131, 482.132, 482.141, 482.151, 482.152, 482.156, 482.1562 FS. History—New 1-1-77, Amended 6-27-79, 6-22-83, 10-25-90, Formerly 10D-55.117, Amended 8-11-93, 7-5-95, 5-28-98, 4-29-02, 7-11-07, 2-24-09, 5-12-10.*

#### **5E-14.123 Examinations.**

(1) Regular written examinations will commence on the second Monday in March, June, September and December annually.

(2) The official application for admission to the examination shall be completed and submitted to the Department, by mail, postmarked not later than the second Monday in April for admission to the June examination, and not later than the second Monday in October for admission to the December examination; not later than the second Monday in July for the September examination and not later than the second Monday in January for the March examination.

(3) Applications and fees received by the Department postmarked after the deadline date will not be accepted and will be returned to the applicant.

(4) An examination fee of \$300 for each category of pest control in which the applicant desires to be examined must be paid by each applicant at the time he submits his application. Checks or money orders shall be made payable to the Department. Applications received without the required fees will be considered incomplete and will not be processed. Checks returned by the bank will invalidate the application for non-payment of fees.

(5) The fee for special identification card examination shall be \$200 for each category in which the applicant desires to be examined.

(6) Four (4) hours will be allotted for completing examinations in each category.

(7) Three (3) hours will be allotted for completing special identification card examinations.

(8) All examinations shall consist of theoretical questions, and practical questions. All applicants for examination for certification or special identification card will be examined on or required to demonstrate satisfactory knowledge of the following:

(a) Pest Control Act, Chapter 482, F.S.

(b) Rules of the Department, Chapter 5E-14, F.A.C., Pest Control Regulations, Parts No. 1 through 6.

(c) Precautions necessary and required by law, rules and good industry practice for the safeguard of life, health and property in the conduct of pest control.

(d) Pests, their habits, recognition of damage caused, and identification by accepted common names.

(e) Building construction terminology.

(f) Accepted good industry methods and practices founded upon recognized publications of the industry.

(9) In order to receive a passing grade on any examination, the following must be attained:

A total point score, equal to or exceeding seventy-five (75) percent of the total number of examination questions.

(10) Examinations shall be hand or machine scored and graded by or under the direction of the Department, and examinees notified by mail that they either passed or failed.

(11) Any applicant who fails to pass one or more particular examination(s) shall be permitted to review such examination(s) upon making written application to the Department within fifteen (15) days from date of written notice of examination results.

(12) Only those persons who failed to pass such examination(s) shall be admitted to the review and only in the categories failed.

*Rulemaking Authority 482.051 FS. Law Implemented 482.141(2), 482.151(4) FS. History—New 1-1-77, Formerly 10D-55.123, Amended 8-11-93, 7-5-95, 5-28-98, 4-29-02, 4-17-03, 8-4-08.*

#### **5E-14.132 Certificate Issuance and Renewal Fees.**

(1) Each certified pest control operator shall be certified as provided by this rule. Application shall be made and the issuance fee paid to the Department for the original certificate within 60 days from the date of written notification of passing examination. During a period of 30 calendar days following expiration of the 60-day period, an original certificate may be issued; however, a late issuance charge of \$50 shall be assessed and paid in addition to the issuance fee. No original certificate shall be issued after

expiration of the 30-day period without reexamination.

(2) Each individual issued a pest control operator's certificate shall apply to the Department for renewal of his certificate on or before June 1 of each year on Department of Agriculture and Consumer Services form DACS 13638, Rev. 3/02, entitled "Renewal Notice", which is incorporated by reference, and mailed by the Department. After a grace period of 30 calendar days following the anniversary date of each year, there shall be a late renewal charge of \$50 which shall be assessed and paid in addition to the renewal fee. Unless renewed as provided by this section, each certificate shall automatically expire 180 calendar days after the renewal date. Subsequent to such expiration, a certificate may be issued only upon successful reexamination and upon payment of examination and issuance fees due as provided by this rule.

(3) The fee for issuance of each original certificate, and the fee for renewal thereof, shall be \$150.

(4) Standards for approval of continuing education providers:

(a) Providers seeking approval shall apply to the department on Forms 1557, 1557A, 1557B, Dec. 92, which are incorporated by reference and obtained from the department.

(b) All education offerings conducted by the provider shall contain one or more of the topics set forth in Section 482.111(10), F.S.

(c) All offerings shall be at least 50 minutes in length or one contact hour. Partial contact hours will not be accepted.

(d) Providers shall adhere to the numbering system and guidelines established by the department to include verification of attendance.

(e) There shall be a tangible plan for ongoing evaluation of program content, teaching staff, learning process and evaluation tools.

(f) Records of individual offerings shall be maintained by the department for one year after the next certificate renewal date.

(g) Providers shall furnish each participant with an authenticated individual certificate of attendance. It shall be the participants responsibility to store his individual attendance record for each offering until his or her renewal time. The attendance records will then be submitted with the renewal and fee.

(h) Providers shall designate a person to be responsible for the continuing education program.

(i) Provider approval shall be subject to periodic review and shall be withdrawn if adherence to standards and guidelines is not maintained or if information submitted by the provider is found to be a material misrepresentation of fact.

(j) Contact hours for continuing education offerings outside of Florida will be awarded following a review of the verification of attendance and a program which outlines the content of and period of time covered by each offering.

(5) On or before April 1 of each year the Department shall mail to each certified operator, at his last known address of record, a renewal form, DACS 13638, Rev. 3/02, incorporated by reference, for use in applying for renewal of his certificate. Not less than 60 days prior to the expiration of a certificate a final renewal notice shall be mailed to each certified operator who has not renewed his certificate. Mailing of these forms shall be the only notice of renewal issued by the Department. Copies may be obtained from the Bureau of Entomology and Pest Control, 1203 Governors Square Boulevard, Suite 300, Tallahassee, Florida 32301-2961.

*Rulemaking Authority 482.051 FS. Law Implemented 482.111(1), (3), (7), (10), 482.132(1) FS. History--New 1-1-77, Amended 6-27-79, 6-22-83, 1-20-87, Formerly 10D-55.132, Amended 8-11-93, 7-5-95, 5-28-98, 4-29-02.*

#### **5E-14.136 Special Identification Card Issuance, Renewal Fees, Forms, and Duties.**

(1) There shall be one category of special identification card, to wit: fumigation.

(2) Application shall be made and the issuance fee paid to the Department for the original special identification card within 60 days from the date of written notification of passing examination. During a period of 30 days following the expiration of the 60 day period, an original special identification card may be issued, however, a late issuance charge of \$25 shall be assessed and paid in addition to the issuance fee. Further, no original special identification card shall be issued after expiration of the 30 day period without reexamination.

(3) Application to the Department for renewal of each special identification card shall be made on or before June 1 of each year. The issuance fee for each special identification card and for each renewal there of shall be \$100. After a grace period of 30 calendar days following the anniversary date of each year, there shall be a late renewal charge of \$25, which shall be assessed and paid in addition to the renewal fee. Unless timely renewed, each special identification card shall automatically expire 180 calendar days after the renewal date. Subsequent to such expiration, a special identification card may be issued only upon successful reexamination and upon payment of examination and issuance fees due, as provided by this rule.

(4) On or before April 1 of each year the Department shall mail to each special identification cardholder at his last known address of record, a renewal form, DACS 13641, Rev. 3/02, incorporated by reference, for use in applying for renewal of his special identification card. Copies may be obtained from the Bureau of Entomology and Pest Control, 1203 Governors Square Boulevard, Suite 300, Tallahassee, Florida 32301-2961.

(5) Each special identification cardholder shall notify the Department in writing within ten (10) days of any change of his employment status or mailing address.

(6) No person shall use a special identification card in any category for which the certified operator in the charge of the pest control activities of the licensee is not properly certified.

(7) While performing pest control duties a special identification cardholder shall carry on his person a special identification card issued by the Department.

(8) A special identification cardholder shall always perform his functions under the direction and supervision of his certified operator. No special identification cardholder shall perform any pest control work independently of or without the knowledge and direction of his certified operator.

*Rulemaking Authority 482.051 FS. Law Implemented 482.151 FS., History—New 1-1-77, Formerly 10D-55.136, Amended 7-5-95, 5-28-98, 4-29-02.*

#### **5E-14.140 Emergency Pest Control Certificate - Qualifications, Applications, Restrictions.**

(1) An emergency pest control certificate, if issued, shall take effect on the exact date the loss or other emergency occurred.

(2) An initial 30 day emergency certificate shall be issued by the department upon verbal or written request of a licensee or his duly authorized agent. Requests for issuance of additional emergency certificates for periods not to exceed 30 days must be made in writing.

(3) For the purpose of this chapter “loss of a certified operator in charge or other emergency” means the unforeseen and unplanned parting or separation of his services from the licensee. The intentional or forced transfer or shifting of a certified operator in charge from one licensed business location to another owned by the same licensee shall not constitute a “loss of a certified operator in charge or other emergency.”

(4) No emergency certification referred to in this chapter shall carry with it authorization for use of restricted-use pesticides. Restricted-use pesticides may only be used under emergency certification where one or more individuals have taken and passed the examination for certification of applicators to apply restricted-use pesticides, as may be given by the Cooperative Extension Service, Institute of Food and Agricultural Sciences, University of Florida, or an equivalent examination given by the Department.

(5) An emergency certificate shall not be issued in the category of fumigation.

(6) In issuing an emergency certificate or renewal thereof, the Department may require interim reports from the licensee at reasonable intervals and also including but not limited to what specific action is being taken to fill the vacancy.

*Rulemaking Authority 482.051 FS. Law Implemented 482.051(1), 482.111(9) FS., Section 1, Chapter 92-203, Laws of Florida. History—New 1-1-77, Amended 6-27-79, 6-22-83, 10-25-90, Formerly 10D-55.140.*

#### **5E-14.142 Responsibilities and Duties – Records, Reports, Advertising, Applications.**

(1) Records: Pest control records of the licensee pertaining to pest control activities and including contracts shall be kept at the licensed business location or at the exact Florida address specified in the application for business license for inspection by Department inspectors. Additionally, routine operational records shall be available for inspection by appropriate state officials during normal business hours. Routine operational records containing information on pesticides, amounts, uses, dates, and places of application shall be maintained for a period of at least two years. Licensees operating in the category of fumigation shall record this information along with the individual fumigant cylinder identification number utilized to fumigate a structure.

(2) Reports:

(a) Each licensee shall immediately notify the Department in writing of any loss or change of certified operator in charge of pest control activities, giving effective date. This shall also include notification of change while operating under an emergency certificate.

(b) Each licensee shall notify the Department in writing within ten (10) working days of any change in firm name, business address, mailing address, telephone number, ownership status, termination or suspension or resumption of business activities, sale or transfer of any valid pest control contract(s) and change of certified operator’s home address or telephone number.

(c) Termite or other wood-destroying organism inspection report:

Pursuant to Sections 482.226(1), (2), (4) and (5), F.S., each licensee having a certified operator certified in the category of termite or

other wood-destroying organism control and who makes and reports the findings of a wood-destroying organism inspection in writing shall provide the party requesting the inspection with the inspection findings on the Wood-Destroying Organisms Inspection Report prescribed by the Department and furnished by the licensee, DACS 13645, Rev. 05/08, which is incorporated by reference and available on the department's website under the header "Forms" at <http://www.doacs.state.fl.us/onestop/aes/pestcont.html>. The licensee shall not place any disclaimers or additional language on the Wood-Destroying Organisms Inspection Report. The licensee shall inspect for all wood-destroying organisms as defined in Section 482.021(28), F.S., in accordance with the following inspection standards:

1. The inspection will include all areas accessible by normal means but does not cover those areas that are enclosed or inaccessible, areas concealed by wall coverings, floor coverings, furniture, equipment, stored articles, insulation, or any portion of the structure in which inspection would necessitate removing or defacing any part of the structure.

2. The inspection will be visual but may include probing and sounding of structural members as deemed necessary by the inspector, based upon a preliminary finding of visual evidence of infestation or damage.

3. The inspection shall include an examination for visual evidence of wood-decaying fungi and damage caused by wood-decaying fungi. Wood-decaying fungi are fungi that can cause damage to wood, such as those that produce white rot, brown rot, poria, and cubical rot, but not surface molds that do not cause damage to sound wood.

(3) Advertising:

(a) Pest control advertising on service vehicles, in telephone directories or other advertising media shall in all cases be factual and shall be set forth only under the licensee's name or trade name registered with the Department. Unregistered fictitious names are prohibited.

(b) All pest control telephone directory advertising, including long distance lines shall in all cases show the licensee's name or trade name registered with the Department, complete licensed business location address from where services will be performed and telephone numbers.

(c) Solicitation and acceptance of pest control must be performed by an identification card holder whether performed in person or by telephone.

(4) Notice of relocation, change of business address:

(a) A licensee shall notify its contract holders of any change in business location within thirty (30) days after the change and a sample copy of such notice shall be furnished the Department.

(b) When a licensee acquires and becomes responsible for the pest control contracts of another licensee or former licensee he shall give written notice to all such contract holders within thirty (30) days, and shall furnish the Department with a list of the individual contracts acquired, or if applicable, a statement that all contracts of the other licensee or former licensee have been acquired.

(5) Business license application: In accordance with Section 482.071(1), F.S., the following information shall be submitted on, attached to, and made a part of the Department's pest control business license application form, DACS 13605, Pest Control Business License Application, Rev. 09/08, which is hereby adopted and incorporated by reference and is available on the department's website under the header "Forms" at <http://www.doacs.state.fl.us/onestop/aes/pestcont.html>.

(a) Correct legal business name or trade name, complete business mailing address, including the street or rural route, city and county, complete mailing address and telephone number of licensed business location.

(b) Complete name and address of all owners or corporation officers.

(c) Complete name, home address, residence telephone number, certificate number, categories in which certified, primary occupation, and date of birth of each certified operator attached to the licensee.

(d) The categories of pest control which each certified operator will be in charge of and in which the licensee will be active, when one or more than one certified operator is attached to and in charge of various categories of pest control to be performed by the licensee.

(e) The complete name, residence address, date of birth, and primary duty of each employee (identification card and special identification card holders) engaging in or performing pest control in any form for the licensee.

(f) The exact location address where the licensee's records, including contracts, for pest control work are kept and the exact location address of storage of chemicals.

(g) A statement signed by the certified operator(s) in charge that all information given in Department business license application is true and correct and that he will promptly notify the Department in writing of any subsequent changes thereof, except

change of home address and primary duty of identification card holders other than certified operators.

(h) The issuance fee for each original license shall be \$300. An applicant may request his application to be immediately expedited and processed by paying a special handling fee in the amount of \$50.

(i) The renewal fee for each original license shall be \$300.

(6) Any licensee who performs wood-destroying organism inspections in accordance with Sections 482.226(1) and (6), F.S. shall show proof of meeting minimum financial responsibility at the time of license application or renewal thereof. Documented proof shall be in the form of an insurance certificate showing coverage for professional liability (errors and omissions), specifically covering wood-destroying organism inspection reports, in an amount no less than \$50,000 in the aggregate and \$25,000 per occurrence or proof of bond on a form acceptable to the State of Florida in an amount no less than \$50,000 in the aggregate and \$25,000 per occurrence or a certified public accountant's notarized statement that a review or audit was performed on the licensee within one year of the license application and that the licensee's net worth or equity on the date of the audit or review was no less than \$100,000. No licensee shall perform wood-destroying organism inspections in accordance with Sections 482.226(1) and (6), F.S. without meeting the required financial responsibility.

(7) Personal protective measures: All licensees shall provide their employees with personal protective clothing and equipment as directed on the registered label, and shall instruct employees to use such clothing and equipment while engaged in the application of pesticides.

(8) During the temporary absence of the certified operator currently in charge, the licensee may designate another certified operator, certified in the same categories as the certified operator in charge, to perform the duties that require the physical presence of a certified operator for a period of time not to exceed thirty (30) days. For the purpose of this chapter, temporary absence shall mean any absence whereupon the certified operator in charge would reasonably be expected to return to his duties. The licensee shall notify the department in writing of any such temporary absence giving the name of the substituting temporary certified operator jointly responsible with the licensee, and the dates of the temporary absence.

*Rulemaking Authority 482.051 FS. Law Implemented 482.021(21), 482.061, 482.071, 482.091, 482.111(5), (9), 482.161(1)(g), (h), 482.226(1), (6) FS. History—New 1-1-77, Amended 6-27-79, 6-22-83, 1-20-87, 10-25-90, Formerly 10D-55.142, Amended 8-11-93, 5-28-98, 4-29-02, 4-17-03, 6-2-04, 6-1-06, 7-23-08, 9-17-08, 9-17-08, 1-4-09.*

#### **5E-14.1421 Identification Card – Training Verification.**

(1) The licensee shall maintain written training records for both the initial 5 day (40 hour) training required in Section 482.091(3), F.S., and the continuing training required in Section 482.091(10), F.S., on all identification cardholders within their employ and make those records available during routine inspection or upon request of the Department. Licensees must maintain the training record for at least a two year period. The training required for Section 482.091(3), F.S., must be conducted by a certified operator or a person under the supervision of the certified operator in charge who has been designated in writing as responsible for training. The 40 hour initial training shall be verified by:

(a) Completion of DACS form 13665, Verification Record of Initial Employee Training, Rev. 05/08, which is hereby adopted and incorporated by reference and available on the department's website at: [www.doacs.state.fl.us/onestop/aes/pestcont.html](http://www.doacs.state.fl.us/onestop/aes/pestcont.html); or

(b) A written record of 40 hours of attendance in a training course with a written course syllabus and copies of all training materials used in the course available for Department inspection.

(2) The Department will accept either of the following as documentation of verifiable training as required under Section 482.091(10), F.S.:

(a) Written record of attendance on a form prescribed by the Department and furnished by the licensee or trainer, DACS 13662 (03-02), which is incorporated by reference, with a complete copy of all training materials used during the training session that covers the training topics required by Section 482.091(10), F.S.; or

(b) Written record of attendance at a Department approved certified operator continuing education course on the form prescribed by the Department and furnished by the trainer, DACS 13325 (01-02), which is incorporated by reference, provided the course content covers the training topics as required by Section 482.091(10), F.S.

(3) For the purposes of complying with Section 482.091(10), F.S., each classroom training session shall be at least 50 minutes in length or one contact hour. Partial contact hours will not be accepted. "Pesticide safety" deals with any aspect of pesticide formulation, handling and use. Example topics would include: pesticide types and formulations, human poisoning symptoms, routes of exposure and protective equipment, pesticide storage, transport and use, spray drift and groundwater runoff. "Integrated pest

management” deals with any aspect of pest management. Example topics would include: inspection (locating and monitoring pests), establishing treatment thresholds, sanitation/habitat modification, trapping, biological and use of pesticides, and pesticide application equipment. “Applicable federal and state laws and rules” deal with any aspect of government regulation of the pest control industry. Example topics would include: reviewing federal FIFRA requirements, reviewing or discussing modifications to Chapter 482, F.S., and/or Chapter 5E-14, F.A.C., and reviewing other regulatory agencies or legislative bodies regulations dealing with pesticide use, hazardous waste storage/disposal and/or transportation.

*Rulemaking Authority 482.051, 482.091(10) FS. Law Implemented 482.091, 482.151 FS. History--New 6-12-02, Amended 2-24-09.*

#### **5E-14.147 Notice of Pesticide Application.**

(1) In accordance with Section 482.2265(2), F.S., a notice shall be posted in a conspicuous location at the time of application of a pesticide to a lawn or to exterior foliage. The following example represents the required physical makeup of the notice.

#### **SEE FLORIDA ADMINISTRATIVE CODE FOR “SIGN**

(2) In addition to the example of notice the following requirements shall apply:

- (a) Minimum size 4" · 5".
- (b) Constructed of rigid durable weatherproof material.
- (c) Background and lettering shall be of contrasting color.
- (d) The size of print and symbol shall be in conformity with the example.
- (e) The business name of the licensee making the pesticide application shall be clearly set forth on the notice.
- (f) The notice may be made part of a larger sign containing additional information.

*Rulemaking Authority 482.051, 482.2265(2) FS. Law Implemented 482.2265(2) FS., Section 1, Chapter 92-203, Laws of Florida. History--New 10-25-90, Formerly 10D-55.147, Amended 8-11-93.*

#### **5E-14.149 Enforcement and Penalties.**

(1) List of Penalties. The Department will apply one or more of the following penalties for violation of Chapter 482, F.S., or Chapter 5E-14, F.A.C., or as provided in Section 482.161, F.S.

- (a) Denial of an application for licensure or license renewal and/or permits or refusal of a pest control registration, license, and/or permit.
- (b) Revocation or Suspension of any license including permits.
- (c) Warning Letter.
- (d) Probation for a specified period of time not to exceed two years subject to conditions.
- (e) Administrative fine not to exceed \$5,000 for each violation.
- (f) Criminal prosecution by referral to the State Attorney under Sections 775.082 and 775.083, F.S.
- (g) Injunctive relief.
- (h) Issuance of a Cease and Desist Order, Immediate Stop Use or Stop Work Orders.
- (i) Institution of an action under Chapter 501, Part II, Sections 501.204, .207, .2075, .2077, .209, .211, .2105, .212, and .213, F.S., for violations involving deceptive and unfair trade practices where the legal remedies provided under Chapter 501, Part II, F.S., are needed to further protect consumers or recover damages associated with identified violations.

(2) Violation and Repeat Violation. Each and every breach of Chapter 482, F.S., and related rules, or part thereof, is a violation. A repeat violation is a violation for which the person has been previously disciplined within the last three (3) years.

(3) Category of Violations. Minor violations are all violations other than those classified as major violations. Major violations are violations where:

(a) Death or serious bodily harm requiring medical attention to humans or veterinary attention to animals occurs as a result of misuse of a pesticide or mismanagement of another pest control method, and the injury or death is attributable to the misuse or mismanagement.

(b) Misuse of a highly toxic pesticide (Category I, Danger signal word) as established in 40 CFR 156.64(a), is documented and such a misuse could result in death or serious bodily harm to humans or animals, but where the death or injury did not occur.

(c) The licensee, certificate holder, permit holder or applicator causes serious harm to an ecological system, or contamination of



water or soil requiring corrective action or monitoring to protect human or animal health or the environment as a result of misuse of a pesticide or mismanagement of another pest control method.

(d) The licensee, certificate holder, permit holder or applicator deliberately makes false or fraudulent claims with respect to pest control, deliberately misrepresents the effects of materials or methods used in pest control, or deliberately fails to use materials or methods suitable for the pest control undertaken.

(e) The licensee, certificate holder, permit holder or applicator performs pest control in a manner that causes harm due to carelessness or failure to exercise proper care in the use of a pesticide or other pest control technique; fails to comply with subsection 5E-14.106(6), (7), or (8), F.A.C.; or uses a fumigant in a manner that is inconsistent with its label directions or the requirements of Rules 5E-14.108, .110, .111, .112, or .113, F.A.C.

(f) The licensee, certificate holder, permit holder or applicator fails to give the Department or representative true information in response to a written request within 14 business days regarding methods and materials used, work performed, or other information essential to the administration of Chapter 482, F.S.

(g) The licensee, certificate holder, permit holder or applicator performs or causes fraudulent or misleading advertising relative to pest control or advertises in an unauthorized category of pest control.

(h) The licensee, certificate holder, permit holder or applicator misuses a pesticide, performs a faulty inspection for wood destroying organisms, or fails to comply with the terms of a wood destroying organism protection contract, and such action results in property damage exceeding \$2,500.

(i) The licensee, certificate holder, permit holder or applicator violates any Immediate Final Order, Emergency Suspension Order, Stop Use, Stop Work, Settlement Agreement, Consent Order, Final Order, or any other order of the Department, issued under the authority of Chapter 120 or 482, F.S., or Chapter 5E-14, F.A.C.

(j) The licensee, certificate holder, permit holder or applicator commits fraud or deceptive trade practices.

(k) An individual or business performs pest control without holding a valid license from the Department.

(l) A licensee or certified operator fails to comply with Section 482.091(1) or (2), F.S.

(4) Stop Use or Stop Work Orders.

(a) Use of Stop Use, Stop Work Orders shall be issued in accordance with subsection 5E-14.108(4), F.A.C., for:  
Fumigation activities performed in violation of fumigant label requirements or department rules, or in a manner that presents an immediate serious danger to the health, safety, or welfare of the public, including but not limited to, failure to use required personal protective equipment, failure to use required warning agent, failure to post required warning signs, failure to secure a structure's usual entrances as required, or using a fumigant in a manner that will likely result in hazardous exposure to humans, animals, or the environment.

(b) The Department shall issue a release of a Stop Use or Stop Work Order when the deficiencies cited have been corrected and the violator is in compliance with the provisions of Chapter 482, F.S., and associated rules.

(5) Default. A violator's failure to respond to an administrative complaint may result in a waiver of rights to a hearing and the Department may enter a Final Order imposing up to the maximum penalties as authorized by Florida law, including suspension of the violator's license and/or permit.

(6) Denial. The Department will deny application for licensure if:

(a) A person fails to comply with the licensing and/or permit requirements of Chapter 482, F.S., or Chapter 5E-14, F.A.C., or

(b) All outstanding fines owed to the Department are not paid in full, or

(c) A person has been convicted of any felony under state or federal law involving robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, murder, rape, assault with intent to kill, assault that inflicts grievous bodily injury, kidnapping, prostitution, child abuse, child pornography, sexual assault or indecent exposure. If civil rights have been restored, the Department will not deny licensure based on conviction for these crimes.

(7) Warning Letters. For first time, non-major violations, the Department will issue a Warning Letter that is the equivalent of a Notice of Noncompliance. These will be automatically imposed if persons fail to respond to the administrative complaint issuing the warning letter.

(8) Fines. For repeat non-major violations, multiple violations including at least one major violation, and all major violations, including those violators who do not respond to an administrative complaint, the Department will impose an administrative fine not to exceed \$5,000 per violation plus any other penalty allowed by law including suspension or revocation. When imposing a fine, the Department will consider the degree and extent of harm, or potential harm, that was or could have been caused by the violation, the

cost of rectifying the damage minus the actions taken by the licensee or certified operator or applicator to correct the violation or remedy complaints, whether the violation was committed willfully, the compliance record of the violator, and the costs to the Department of investigating the violation. The Department will use the attached Fine Guide to assist it in determining the appropriate amount of the fine.

(9) Suspension and Revocation.

(a) Suspension will be imposed when:

1. The violation results in death of humans or domestic animals or pets, or injury requiring hospitalization to humans.
2. The violation results in serious harm to an ecological system, or contamination of water or soil requiring corrective action or monitoring to protect human health or the environment.
3. The compliance record of the violator shows two or more prior violations for similar major violations within the last three (3) years.
4. The licensee, certificate holder, permit holder or applicator has habitual intemperance or addiction to narcotics to the extent that it contributes substantially to the occurrence of violations of Chapter 482, F.S.
5. The licensee, certificate holder, permit holder or applicator has obtained licensure under Chapter 482, F.S., and the Department subsequently determines that the licensee, certificate holder, permit holder or applicator is or has been convicted in any state or federal court of a felony involving robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, murder, rape, assault with intent to kill, assault that inflicts grievous bodily injury, kidnapping, prostitution, child abuse, child pornography, sexual assault or indecent exposure, unless civil rights have been restored.
6. A licensee or certificate holder has been found by the Department to be in violation of Section 482.121, F.S.
7. When a permit holder pursuant to Section 482.0815(4) or (6), F.S., meets the conditions therein.

(b) Revocation will be imposed when a violator does not comply with a suspension order, or if a licensee or certificate holder has been suspended twice in three years.

(10) Quarterly List. All disciplinary actions taken by the Department pursuant to Chapter 482, F.S., or the rules adopted pursuant to it, shall be published in the next available quarterly list published as required in Section 482.161(9), F.S., and on the Department's website and shall include the identity of each individual or entity against which disciplinary action was taken, and a brief description of the offense and the disciplinary action, whether it was a warning letter, fine, probation, suspension or revocation. If the violator operated an unlicensed pest control business the name of the unlicensed business will also be listed.

(11) Resolution of Violations, Settlement, and Additional Enforcement Remedies. The Department and the violator may agree to resolve violations prior to administrative action, or to enter into settlement pursuant to Section 120.57(4), F.S. The willingness of a violator to resolve violations prior to initiation of administrative action, or to settle will be considered in determining the appropriate penalty because early resolution of violations furthers compliance and results in savings of time, costs, and expenses for the Department. The Department will enforce a failure to comply with an agreement to resolve violations or a settlement agreement with the penalties and remedies provided in the agreement as authorized by law. These enforcement guidelines shall not be construed to limit the authority of the Department to resolve violations prior to or after initiation of any administrative action or to settle with any party. The Department may utilize all available remedies to ensure voluntary compliance including administrative action, civil actions, referrals for criminal prosecution, and deceptive and unfair trade practices actions pursuant to Chapter 501, F.S.

(12) Follow-Up Compliance Inspections. If the violator agrees to corrective actions and subsequent inspection reveals that corrective actions have not been taken or that good faith efforts to undertake these corrective actions have not been made, then the Department will enforce the penalties and remedies provided in the agreement and as authorized by law.

(13) Notification of Licensees, Certificate Holders, and Identification Card Holders of Complaint. When the Department receives a written complaint from a consumer regarding a licensee, certificate holder, permit holder or applicator, the Department will send a notice to the responsible person and to the licensee, stating the complaint, identifying the complainant and requesting a written response within 10 working days.

(14) Fine Guide. FINE GUIDE = A(B+C+D+E+F)G. This guide shall apply for each violation for which a fine is imposed. The maximum fine is \$5,000 per violation. The terms and values used in the fine guide calculation shall be:

A = Degree & Extent of Harm – Human, animal and environmental hazards occur as a result of pesticide misuse or mismanagement of another pest control method:

1 Human, animal or environmental harm not identified

5 Death of animals or injury to humans or animals requiring hospitalization, or serious harm to an ecological system, or

contamination of water or soil requiring corrective action or monitoring to protect human health or the environment

7 Human death

B = Toxicity of the pesticide for which a pesticide misuse or violation, of label directions which could result in human or animal hazards:

0 No pesticide involved in complaint

1 Category III or IV – Signal Word “Caution”

2 Category II – Signal Word “Warning”

3 Category I – Signal Word “Danger”

C = Estimated cost of rectifying the damage to consumer minus any mitigation provided by the violator

1 Unknown or under \$1,000

2 Over \$1,000 and under \$5,000

3 Over \$5,000 and under \$10,000

4 Over \$10,000

D = Whether the violation was committed deliberately

1 No evidence violation was committed deliberately

5 Evidence violation was committed deliberately

E = Compliance record of the violator

0 No prior violations

1 One prior violation for a dissimilar violation

2 Two or more prior violations dissimilar to current violation

3 One prior violation for a similar violation

4 Two or more prior violations for similar violations

F = Investigative Costs

0 Routine investigation or Payment of all investigative costs

2 Violation documented as a result of more than one inspection or requiring investigation by multiple inspectors, or by department personnel outside of the division of Agricultural Environmental Services

G = Entity Category

500 Business licensee responsible for violation, or person operating a pest control business without a valid business license

250 Certified Operator or Special Identification Cardholder responsible for violation

100 All others

Compliance record. The compliance record is established by prior disciplined violations, within the three (3) years preceding the date of the current violation, of Chapter 482, F.S., or of Chapter 5E-14, F.A.C., or of federal or other Florida law addressing pest control or pesticide use or disposal. Violations will be considered final on acceptance of the applicable penalty, or the date of final agency action or the conclusion of any appeals thereof.

*Rulemaking Authority 482.051, 570.07(23) FS. Law Implemented 482.161, 482.163 FS. History—New 7-13-06, Amended 7-11-07, 8-4-08.*