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RULES AND REGULATIONS FOR THE ENFORCEMENT OF THE SOUTH CAROLINA PESTICIDE CONTROL ACT

Statutory Authority: Chapter 13 of Title 46 of the 1976 Code

27-1070. Definitions.

A. “Director” means the Director of the Division of Regulatory and Public Service Programs, Clemson University.

B. “Department” is the Department of Pesticide Regulation, a department within the Division of Regulatory and Public Service Programs, Clemson University, and the successor to the Department of Fertilizer and Pesticide Control and the Plant Pest Regulatory Service.

C. “Business” means any person, as defined in the Pesticide Control Act, engaging in activities regulated by the Act for hire or remuneration of any kind, including trade or barter, on the property of another. “Business activity” includes performing structural pest control activities, as defined below.

D. Performing “structural pest control activities” includes, but is not limited to, the use of any pesticide in, on, under, or immediately adjacent to any structure with the intent to prevent, destroy, repel or otherwise mitigate any pest or engaging in any other activities intended or claimed to mitigate pests in structures including the installation of devices. Structural pest control activities also includes the soliciting, advertising, or making of sales proposals in any form for any services involving the use of pesticides in, on, under, or immediately adjacent to any structure with the intent to prevent, destroy, repel, or otherwise mitigate any pest. (Licensing is mandatory in this category as per Section 27-1085 L, below.)

1) The use of EPA-registered disinfectants for ordinary or disaster-recovery cleaning purposes is not a structural pest control activity, provided that no claims are made for the control of pests in the structure.

2) The application of EPA-registered cleaning agents to the interior of ductwork as part of an ordinary cleaning process is not a structural pest control activity, provided that no claims are made for the control of pests in the structure or in the ductwork.

3) The installation of animal traps in structures for the control of nuisance vertebrate pests other than commensal rodents (e.g., rats and mice) is not a structural pest control activity.

4) Making an inspection for or issuing the Official South Carolina Wood Infestation Report, which must be issued by a licensed applicator as detailed below, is a structural pest control activity

5) Making pesticide treatment recommendations is a structural pest control activity.

6) The inspection of a structure for the purposes of rendering an opinion as a consultant or expert regarding structural damage due to insects or other organisms, the adequacy of previous treatment or inspection, or similar issues regulated under these Regulations is not a structural pest control activity.

E. “Warranty sales” means the sale of renewable or non-renewable warranty coverage or contracts against structural pests, excluding guarantees of accuracy associated with the issuance of the Official S.C. Wood Infestation Report, which are not supported by any treatment or control measures. The re-issuance of warranties in the purchasing company’s name following the purchase of one company by another is not a warranty sale, nor is the reinstatement of warranties on previously treated structures.

F. “Branch office” means any physical location at which business records are maintained separate from the main business office, or, if no records are maintained there, any location which three (3) or more employees utilize as their base of daily activities.

G. “Termiticide” means any pesticide or treated article intended to protect a structure against subterranean termites. The definition includes baits, all conventional soil-applied termiticides regardless of their mode of action, wood-treatment products such as borates when applied during or after construction, and construction materials impregnated with insecticides and intended to protect the structure from attack. It also includes stainless steel mesh, uniform-size sand or gravel materials, or other physical barriers for which termite control, termite detection, or termite mitigation claims are made.

H. “Pretreat” and “pretreatment” refer to the subterranean termite control treatment performed on a building while it is under construction. This treatment is normally performed in several stages as the building is completed.

1) For liquid treatments a pretreat is considered to begin on the day that the first application of chemical is made.

2) For pretreatments performed with bait systems or physical barriers the treatment is considered to have begun when bait or monitoring stations are first installed.

3) For pretreatments conducted with borate or other wood-treatment products the treatment is considered to have begun at the time the first application to the structure is made.

I. “Pesticide use” means the distribution, holding for distribution or sale, sale, mixing, loading, transportation, application, or storage of any material for which pesticidal claims are made.

J. Performing public health pest control activities includes, but is not limited to, the use of any pesticide with the intent to prevent, destroy, repel, or otherwise mitigate any pest of public health significance or engaging in any other activities intended or claimed to mitigate pests of public health significance for compensation or as a government employee on the property of another, including the installation of devices. Public health pest control activities also includes the soliciting, advertising, or making of sales proposals in any form for any services involving the use of pesticides or devices with the intent to prevent, destroy, repel or otherwise mitigate any pest of public health significance. (Licensing is mandatory in this category as per Section 27-1085 L, below.)

- 1) The use of EPA-registered disinfectants for ordinary or disaster-recovery cleaning purposes is not a public health pest control activity regulated by this Section.
- 2) The installation of animal traps in or around privately-owned structures for the control of vertebrate pests of public health significance (e.g., rats and mice) is not a public health pest control activity regulated by this Section.
- 3) The installation of animal traps and the distribution of poisons intended to control rat and mouse populations in or around municipal streets, utilities, and public buildings or in other public areas such as recreational and industrial parks, schools, public hospitals, and similar areas is a public health pest control activity regulated by this Section.
- 4) The installation of ultraviolet flying insect traps, air curtains, screens, and similar devices is not a public health pest control activity regulated by this Section unless the devices emit or employ pesticides or public health protection claims are made.

K. Performing turf and ornamental pest control activities includes, but is not limited to, the use of any pesticide with the intent to prevent, destroy, repel or otherwise mitigate any pest of publicly or privately owned turf or ornamental plantings for compensation or as a government employee on the property of another, including the installation of devices. Turf and ornamental pest control activities also includes the soliciting, advertising, or making of sales proposals in any form for any services involving the use of pesticides or devices with the intent to prevent, destroy, repel, or otherwise mitigate any pest of turf or ornamental plantings. (Licensing is mandatory in this category as per Section 27-1085 L, below.)

- 1) The application of pesticides to ornamental plants in a greenhouse or nursery is not a turf and ornamental pest control activity regulated by this Section.
- 2) The installation of irrigation systems and similar devices, including chemigation systems, is not a turf and ornamental pest control activity regulated by this Section.
- 3) The application of fertilizers not mixed with pesticides or herbicides is not a turf and ornamental pest control activity regulated by this Section, nor is the spray or broadcast application of grass seed, mulch, or mixtures not containing materials registered as pesticides or for which pesticidal claims are made.
- 4) Maintenance activities such as mowing, trimming, watering, and landscaping are not turf and ornamental pest control activities regulated by this Section, even if claims of weed reduction or plant health and growth are made.

L. Performing aquatic pest control activities includes, but is not limited to, the use of any pesticide with the intent to prevent, destroy, repel or otherwise mitigate any pest of publicly or privately owned waters, including ponds, lakes, oceans, rivers, streams, reservoirs, and impoundments, whether or not they are navigable, for compensation on the property of another or as a government employee, including the installation of devices. Aquatic pest control activities also includes the soliciting, advertising, or making of sales proposals in any form for any services involving the use of pesticides or devices with the intent to prevent, destroy, repel, or otherwise mitigate any pest of publicly or privately owned waters, including ponds, lakes, oceans, rivers, streams, reservoirs, and

impoundments, whether or not they are navigable, for compensation on the property of another. (Licensing is mandatory in this category as per Section 27-1085 L, below.)

1) The application of pesticides to ornamental aquatic plants in a greenhouse or nursery is not an aquatic pest control activity regulated under this Section.

2) The installation of aeration systems and similar devices or the use of mechanical harvesters to remove vegetation is not an aquatic pest control activity regulated under this Section.

3) The application of fertilizers not mixed with pesticides or herbicides is not an aquatic pest control activity regulated under this Section, nor is the use of dyes to suppress the growth of aquatic vegetation.

4) The installation of devices to exclude, prevent, destroy, repel or otherwise mitigate aquatic pest animals is not an aquatic pest control activity regulated under this Section.

M. “Structure” and “building” mean any edifice to which activities regulated under these regulations are applied or proposed to be applied, including the area underneath and immediately adjacent to the foundation.

N. All pronouns and any variations thereof in these Regulations shall be deemed to refer to the masculine, feminine, neuter, singular, or plural, as the identity of the person or entity may require.

27-1071. Registration of Pesticides.

A. All pesticide products must be registered with the Department for the period in which the products are offered for sale or distribution within the State.

1) Registrations must be maintained for a period of two (2) years after the last shipment of product into the State in order to support materials remaining in the channels of trade after registration ceases. This requirement includes products distributed in bulk but does not include technical-grade pesticide material used for formulation into other pesticide products or pesticides distributed under an experimental use permit.

2) Unregistered products must be removed from the retailer’s shelves. The Director may, however, allow a reasonable period of time for the retailer to dispose of existing stocks of pesticides after the manufacturer or distributor has ceased to register the product with the State. The method of disposal shall be determined by the Director after appropriate consultations with the affected parties or their representatives.

B. The recipient of a Federal experimental use permit must notify the Director in writing of each experimental use permit issued to them under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, for pesticides to be used in the State. The notification must be furnished within thirty (30) days after their receipt of the federal permit. The following information must be provided:

- 1) A copy of the label accepted by the U. S. Environmental Protection Agency in connection with the permit. The accepted chemical name(s) of the active ingredients must appear on the label.
- 2) A copy of the Experimental Use Permit issued by EPA, including the permit's identification number.
- 3) A copy of the EPA letter establishing any relevant temporary tolerances.
- 4) The location and acreage of each site within the State where the product will be used and the total amount of the product expected to be applied in the State.
- 5) The crops or sites involved and the intended purpose or pest targeted by the applications.

C. The State hereby adopts the same requirements for labeling as established by the U. S. Environmental Protection Agency.

- 1) The Department will normally accept a copy of the latest label accepted by the EPA for federal registration of the product, provided the label has been fully corrected with respect to changes requested by the EPA and provided the label is in compliance with the labeling requirements in existence at the time the label is submitted to the Department.
- 2) Notwithstanding the above, the existence of Federally-accepted labeling does not obligate the Department to register any product for use in the State.
- 3) The Director may refuse to register a product if in his opinion there is insufficient credible evidence regarding the formulation, efficacy, or suitability for use in South Carolina of the product.
- 4) Before registering a product for use in South Carolina, the Director may require the submission of data satisfactory to him from the registrant specifically supporting any claims made through labeling or any other media about the efficacy, formulation, or suitability for use in South Carolina of the product.

27-1072. Special Permits.

A. Special permits may be granted by the Director for the use of certain pesticides within the State under specific circumstances. These permits will be in the form of either a South Carolina registration to meet certain special local needs or a South Carolina experimental use permit to allow the gathering of data needed to obtain a State registration for a special local need.

B. State registrations for special needs are authorized under Section 24(c) of Public Law 92-516, and State experimental use permits are authorized under Section 5(f) of Public Law 92-516. The Director shall adhere to the requirements established by pertinent Federal regulations relative to these two sections when issuing such State registrations or State experimental use permits.

C. Basic criteria for initial consideration of products for State registrations and State experimental

use permits will be the following:

1) That there is a special local problem within the State which has created the requirement for the new product or for the amended labeling of a registered product and;

2) That the essential purpose of the request appears to the Director to be to fulfill the special local need rather than circumvent the normal process of obtaining a Federal registration or a Federal experimental use permit.

D. State registrations may be issued for a period of one (1) year or less and shall be subject to the prescribed registration fee. State registrations may be renewed annually upon written application to the Director. These applications will be reviewed annually by the Department to ensure that the use of the product still meets the basic criteria set forth in paragraphs B and C above.

E. State experimental use permits shall be issued for a specified period of time, are not subject to a registration fee, and may be extended at the discretion of the Director after appropriate consultations with the affected parties or their representatives.

27-1073. Coloration and Discoloration.

A. The Director shall use the Munsell Book of Color as a color standard as described in the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136, et seq.).

27-1074. Pesticide Samples.

A. Authorized agents of the Division of Regulatory and Public Service Programs are authorized to collect official samples of pesticide products manufactured, distributed, sold, or held for sale within the State.

B. Authorized agents of the Division of Regulatory and Public Service Programs are authorized to collect official samples of pesticides and pesticide residues from known or suspected application sites, adjacent areas, application equipment, containers, service containers, or other locations reasonably expected to contain such pesticides, pesticide use dilutions, or pesticide residues within the State.

C. The samples will be collected and transported by a standard procedure outlined by the Director, in order to promote uniformity of the samples.

D. Samples taken will be analyzed for deficiencies and adulteration, or for other purposes as deemed appropriate by the Director.

E. The results of the analysis of samples obtained under the above provisions may be used as the basis for regulatory action initiated under the provisions of the South Carolina Pesticide Control Act.

27-1075. Restricted Use Pesticide Classifications.

A. The State may adopt the same list of restricted use pesticides and use patterns established by the U. S. Environmental Protection Agency.

B. The pesticides and use patterns restricted in the State are those so classified by the U. S. Environmental Protection Agency or so established at the discretion of the Director after appropriate consultations with the affected parties or their representatives.

C. Micro-encapsulated agricultural insecticides are especially toxic to honeybees and other pollinators. For the purposes of this section, a micro-encapsulated insecticide is any insecticide labeled or formulated for agricultural use, the active ingredient of which is micro-encapsulated in whole or in part. Such insecticides must be classified as Restricted Use and are subject to the following conditions:

1) Micro-encapsulated insecticides formulated or labeled for agricultural use may be sold, offered for sale, distributed, or transferred only by licensed pesticide dealers.

2) Micro-encapsulated insecticides formulated or labeled for agricultural use may be sold, distributed, or offered for sale only to persons who possess a current certified applicator's license and a permit to possess and apply such insecticide.

3) Except as otherwise provided by law, no person shall possess or apply micro-encapsulated insecticides formulated or labeled for agricultural use to their own lands unless they possess a current private applicator's license and a valid permit to possess and apply such insecticides.

4) Except as otherwise provided by law, no person shall apply micro-encapsulated insecticides formulated or labeled for agricultural use to the lands of another unless they possess a commercial applicator's license and a valid permit to possess and apply such insecticides.

5) Any person desiring a permit to possess and apply micro-encapsulated insecticides formulated or labeled for agricultural use must submit on forms approved by the Department a request for such a permit. Such permit will incorporate the terms and conditions of issuance. Failure to comply with such terms and conditions will result in appropriate enforcement action.

6) A person holding a valid Pesticide Dealer License is authorized by the terms of his license to possess micro-encapsulated insecticides formulated or labeled for agricultural use.

7) Violations of this section shall be punished in accordance with Section 46-9-90, S. C. Code of Laws (1976) as amended.

D. The presence of descriptive phrases with a legally defined meaning on a pesticide label are enforceable restrictions on the distribution, sale, storage, and use of the affected product. Descriptions such as "certified applicator" or "pest control operator," for example, mean that the product can be distributed to or used by certified applicators only.

1) It is a violation of this Section to sell or otherwise distribute products with restrictive label language to persons not meeting the qualifications specified by the label description.

2) It is a violation of this Section for persons not meeting the qualifications specified on the product label to apply or otherwise use such products.

27-1076. Licensing of Pesticide Dealers and Dealer Records Maintenance.

A. No person younger than eighteen (18) years-old will be licensed as a pesticide dealer.

B. Pesticide dealers must pass a written examination, unless already certified as commercial applicators.

C. Pesticide dealers must complete an application form published by the Department.

D. The prescribed fee must accompany the application.

E. The dealer's license cannot be substituted for any part of an applicator's license, nor does the obtainment of a dealer's license reduce an applicant's obligation to pass examinations or pay the full fees for an applicator's license.

F. Pesticide dealer's licenses shall expire on December 31st. Licenses may be renewed annually prior to January 1st by application to the Director and payment of the annual fee. A 25% penalty will be charged for renewal applications filed on or after January 1st. Licenses that are not renewed by April 1st of the calendar year following their expiration, may not be renewed without the applicant's passing another examination and re-applying for the license.

G. There must be a separate individual licensed as a dealer for each store, sales location, or branch sales yard, including multiple sales locations owned by the same person, which sell restricted use pesticides.

H. Pesticide dealers must maintain records of all sales or other distributions of Restricted Use Pesticide for a period of two (2) years after the date of such sale or distribution. Records must include at a minimum the name and pesticide applicator's license number of the individual to whom the sale or distribution was made. These records must be presented to the Director or his agents for review and duplication upon request at the expense of the Department.

27-1077. Certification and Licensing of Private Applicators.

A. No person younger than eighteen (18) years-old will be licensed as a private applicator. In hardship cases, however, persons under the age of eighteen (18) may be licensed at the discretion of the Director after appropriate consultations with the affected parties or their representatives.

B. Private applicators are not required to demonstrate financial responsibility.

C. Persons holding a private applicator's license may use or directly supervise the use of a pesticide

which is classified for restricted use, but only for the production of an agricultural commodity on property owned or rented by them or their employer. Private applicators may apply pesticides on the property of another person only if the application is performed without compensation, or if the only compensation provided is the trading of personal services between producers of agricultural commodities.

D. Private applicators must accomplish all of the following prior to being certified and licensed:

- 1) Complete an application form published by the Department.
- 2) Complete a prescribed training program and pass an exam dealing with pesticides.
- 3) Pay the pro-rated portion of the prescribed normal fee for the remainder of the licensing period in which the license is issued.

E. Persons holding valid commercial and noncommercial applicator licenses, if they desire, may obtain a private applicator's license simply by submitting the proper application form and the prorated fee for the remainder of the licensing period to the Director. Additional training is not required.

F. Private applicator licenses are issued in five (5) year licensing periods or "recertification blocks." Blocks end in 2004, 2009, 2014, etc. Licenses are pro-rated and expire at the end of the block in which they are issued. During each recertification block after the one in which the license is issued each private applicator must successfully complete five (5) Continuing Certification Hours of training. Alternatively, the private applicator may complete the initial licensing requirements and re-apply to the Director for a license. All Continuing Certification Hours must be approved in advance by the Department.

G) All applications of Restricted Use Pesticides to any crop or commodity while it is held in a commercial storage or processing facility must be made by or under the direct supervision of a commercial applicator certified in Category 1C.

27-1078. Certification and Licensing of Commercial Applicators.

- A. No person younger than eighteen (18) years-old will be licensed as a commercial applicator.**
- B. Commercial applicators must demonstrate to the Director the financial responsibility required by law, before the Director may issue a license.**
- C. Continuous financial responsibility is an on-going responsibility of the commercial applicator, and no commercial applicator may receive, purchase, apply, use, supervise, or conduct other application-related activities without the required financial responsibility in place.**
 - 1) Category 3, 5, and 8 applicators must maintain financial responsibility in the amount of \$50,000 with an annual aggregate claims limit of not less than \$100,000.00 before performing any pest control activities, including advertising, as specified in Section 27-1085 L, below.

2) Category 7 applicators must maintain comprehensive general liability financial responsibility of not less than \$100,000.00 combined single limit liability coverage, which must include both bodily injury and property damage coverage.

3) Failure to maintain the requisite financial responsibility in any category shall cause the immediate and automatic suspension of the commercial applicator's license until such time as current financial responsibility is satisfactorily demonstrated to the Director. If the applicator fails to re-instate their financial responsibility within three months, or if their license expires sooner, the license is automatically revoked and must not be restored until the applicator has again completed the certification process, including the exams.

D. The insurance or surety company must be one licensed to do business in South Carolina, and must give at least ten days written notice by certified mail to the Department as a condition precedent to the cancellation by the surety or insurer, material change, or cancellation by the insured.

E. The above notwithstanding, commercial applicators are not relieved from liability for damages to persons or property caused by pesticides applied by or under the supervision of the licensee whether or not such use conforms to the requirements of the product label and the rules and regulations promulgated by the Director.

F. Financial Responsibility may be demonstrated by:

1) A current public liability and property damage insurance policy and or certificate of insurance (issued by an insurance company). Binders are not acceptable.

2) A certificate of self-insurance issued by the Workman's Compensation Commission. (Although this certificate is specifically designed to cover workman's compensation claims, the Department considers this certificate indicates sufficient assets to cover the liability requirements of the law).

G. All commercial applicators must provide a phone number where the commercial applicator can normally be reached during normal working hours. If this number changes, the Department must be notified within three (3) working days.

H. Persons holding a commercial applicator's license may use restricted use pesticides, but only for work in the specific categories in which the commercial applicator has demonstrated competence. Commercial applicator's licenses will be issued for the following categories of commercial pesticide-application operations:

1) Agricultural Pest Control (Category 1).
(a) Plant (Category 1A).
(b) Animal (Category 1B).
(c) Stored Product Pest Control (Category 1C).

2) Forest Pest Control (Category 2).

3) Ornamental and Turf Pest Control (Category 3).

- 4) Seed treatment (Category 4).
- 5) Aquatic Pest Control (Category 5).
- 6) Right-of-way Pest Control (Category 6).
- 7) Industrial, Institutional, Structural and Health-Related Pest Control (Category 7).
 - (a) General (Category 7A).
 - (b) Fumigation (Category 7B).
- 8) Public Health Pest Control (Category 8).
- 9) Regulatory Pest Control (Category 9).
- 10) Demonstration and Research Pest Control (Category 10).
- 11) Aerial Applicator (Category 11).
- 12) Miscellaneous (Category 12).
 - (a) Wood Preservative Treatment (Category 12A).
 - (b) Anti-fouling paint (TBT) Application (Category 12B).
 - (c) Small Animal Pest Control (Category 12C).
 - (d) Sewer Line Pest Control (Category 12D).

I. Commercial applicators must accomplish the following prior to being certified and licensed:

- 1) Pass the Core examination, a basic test dealing with the minimum amount of subject matter considered essential to the safe use of restricted use pesticides.
- 2) Pass a separate Category examination for each of the practice areas listed above.
Note: passing the core exam without passing a category exam does not entitle the applicant to use or supervise the use of Restricted Use Pesticides or perform pest control activities in categories for which licensing is required.
- 3) Complete an application form published by the Department.
- 4) Fees for the examinations, licensing, and for certification in additional categories beyond the initial category of certification shall be as prescribed.

J. Aerial Applicators.

- 1) All aerial applicators of pesticides (including transient aircraft pilots) are subject to the same requirements outlined in paragraph D (1) above. All aerial applicators must be certified and licensed by the Department before applying restricted use pesticides by air within the State.
- 2) These regulations concerning aerial applicators do not in any way negate the regulations promulgated by the Aeronautics Division of the SC Department of Commerce or its successors.

3) Aircraft must be secured against theft and tampering in a manner as prescribed by the Director after appropriate consultations with the affected parties or their representatives.

4) Chemicals, use-dilutions, and their containers both on and off the aircraft must be secured in a manner as prescribed by the Director after appropriate consultations with the affected parties or their representatives.

K. Commercial applicator licenses shall expire on December 31st of each year.

L. Commercial applicator licenses are renewable annually by re-application to the Director prior to January 1st and payment of the prescribed annual fee. A 25% penalty will be charged for renewal applications filed after January 1st. Reexamination is not required for licenses renewed before April 1st as long as the recertification requirements of Paragraph 6, below, and continuous financial responsibility has been maintained as per Section 27-1078 C, above.

M. Commercial applicators holding valid licenses who desire to have a private applicator's license may submit the proper application form and the prescribed fee to the Director. A private applicator license will be issued with no additional training required.

N. Recertification periods for commercial applicators are five (5) year periods, beginning January 1st of 1994 and ending on December 31st of 1998, 2003, 2008, and every five (5) years thereafter. During each recertification period after the one in which the license is issued each Commercial Applicator must successfully complete ten (10) Continuing Certification Hours of training. Alternatively the applicator may complete the initial licensing requirements and re-apply to the Director for a license. All Continuing Certification Hours must be approved in advance by the Department.

27-1079. Certification and Licensing of Noncommercial Applicators.

A. No person younger than eighteen (18) years-old will be licensed as a noncommercial applicator.

B. Noncommercial applicators are not required to demonstrate the same financial responsibility required of commercial applicators.

C. Persons holding a noncommercial applicator's license may use restricted use pesticides, but only for work in the specific categories, as outlined for commercial applicators, in which the applicator has demonstrated competence. These licenses are issued to permit qualified governmental employees to perform their official duties on the job.

(1) Noncommercial applicators must submit an application form published by the Department and must pass the same set of examinations required of the commercial applicators.

(2) Noncommercial applicators are exempt from the fee requirements imposed on commercial applicators.

(3) Noncommercial applicators' licenses shall expire on December 31st of each year.

(4) Noncommercial applicators' licenses are renewable annually by re-application to the Director prior to January 1st. Reexamination is not required for licenses renewed before April 1st as long as the recertification requirements of Paragraph 6, below, are complied with.

(5) Noncommercial applicators holding valid licenses who desire to have a private applicator's license may submit the proper application form and the prescribed fee to the Director. A private applicator license will be issued with no additional training required.

(6) Recertification periods for noncommercial applicators are five year periods, beginning January 1st of 1994 and ending on December 31st of 1998, 2003, 2008, and every five (5) years thereafter. During each recertification period after the one in which the license is issued each Noncommercial Applicator must successfully complete ten (10) Continuing Certification Hours of training. Alternatively the applicator may complete the initial licensing requirements and re-apply to the Director for a license. All Continuing Certification Hours must be approved in advance by the Department.

27-1080. Exemptions from the Requirement of a License and of Certification.

A. Doctors of veterinary medicine applying pesticides to animals during the normal course of their practice are exempt from the requirements of certification and licensing provided that they are not regularly engaged in the business of applying pesticides for hire as their principal or regular occupation.

B. Medical personnel (both private and government) applying pesticides to man during the normal course of medical practice are exempt from the requirements of certification and licensing.

27-1081. Safe Handling, Storage, Display and Distribution of Pesticides.

A. The distribution of pesticides which have been classified for restricted use must be made only to the following:

(1) Licensed pesticide dealers;

(2) Licensed certified applicators; and

(3) Persons exempt from the requirements of licensing and certification.

B. Storage of pesticides in quantity (both general use (except as listed in paragraph D below) and restricted use items) by certified applicators, wholesalers, dealers and retailers must comply with the following:

(1) All pesticides stored in quantity must be stored in securely locked well ventilated rooms, well away from all food or feed items. The pesticides should be stored in such manner as to

prevent fumes from contaminating food or feed.

(2) Pesticides should be separated during storage, preferably in bins, depending upon the type of pesticide. Each type of pesticide, i.e., herbicides, insecticides, fungicides, et cetera, must be stored separately from each other.

(3) Herbicides must not be stored in a bin on top of, or located above, any other type of pesticide, to preclude accidental contamination of other pesticides by leakage or spillage.

(4) Any pesticide container which is leaking or otherwise damaged must be immediately removed to an area where its contents will be fully contained in the event that its condition deteriorates further. The use of "overpack" containers or similar devices is sufficient to meet this requirement. Any pesticide material spilled or otherwise allowed to move outside of the container must be immediately cleaned up by an appropriate decontamination method. The location where any pesticide material has been spilled must likewise be immediately decontaminated by a method appropriate to the material spilled.

C. Display of pesticides (both general use and restricted use items) by dealers and retailers must comply with the following:

(1) All pesticides offered for sale must be in the registrant's approved container with the appropriate labeling from the registrant permanently attached.

(2) All restricted use pesticides must be separated from general use pesticides in displays of pesticides offered for sale to the general public.

(3) Herbicides must be separated from all other types of pesticides when displayed for sale to the general public. Furthermore, herbicides must not be displayed in a position above other types of pesticides, to prevent accidental contamination of other pesticides by leakage or spillage.

(4) All pesticides (either general use (except as listed in paragraph D below) or restricted use items) on display to the general public, should be displayed at a minimum distance of twenty-five (25) feet from all fresh, soft, loosely packaged or other types of food or feed items that can or may absorb odors from the pesticides. Examples of such food items would be bread, pastries, potatoes, fresh meats, cheese, macaroni and candy. All pesticides must be displayed at a minimum distance of four feet from canned foods or any other type of food or edible item.

(5) Any pesticide container which is leaking or otherwise damaged must be immediately removed from the display area to a location where its contents will be fully contained in the event that its condition deteriorates further. The use of "overpack" containers or similar devices is sufficient to meet this requirement. Any pesticide material spilled or otherwise allowed to move outside of the container must be immediately cleaned up by an appropriate decontamination method. The location where any pesticide material has been spilled must likewise be immediately decontaminated by a method appropriate to the material spilled.

D. The following types of pesticides are exempt (unless classified as restricted use pesticides) from storage and display requirements of paragraphs B and C (2) through C (4) above. They are still

subject to the requirement of paragraph C above.

- 1) Bleach products.
- 2) Disinfectant products.
- 3) Pet animal and tropical fish treatment products.
- 4) Sink drain and toilet bowl products.
- 5) Paint products other than TBT paints.
- 6) Additional exemptions may be granted by the Director upon special request, if warranted.

E. All aircraft pesticide loading zones must be adequately delimited and posted with signs indicating that the area is used as a pesticide loading zone for aircraft. For mobile support vehicles (e.g., trucks supplying fuel and chemical for helicopter applications) the placement of equivalent signage on the truck shall be sufficient to comply with this Section. Conformance with the requirements of this Section does not relieve any person from liability for injury or damage to another person caused by the pesticides, either while being stored or after spillage on the ground.

F. All pesticides distributed in bulk must be registered both with the U. S. Environmental Protection Agency and with the State.

- 1) Any firm distributing or selling bulk pesticides within the State must notify the Department of such practice on January 1st of each year.
- 2) A copy of the accepted label for the product must be attached to the shipping papers, and left with the consignee at the time of delivery.
- 3) Pesticide products stored in bulk containers, whether mobile or stationary, which remain in the custody of the user, must bear a copy of the accepted label or labeling, including all appropriate directions for use, securely attached to the container in the immediate vicinity of the discharge control valve.
- 4) The appropriate provisions of Title 49 of the Code of Federal Regulations, as administered by the U. S. Department of Transportation, concerning the transportation of hazardous materials must be adhered to by any person transporting pesticide products within the State.
- 5) All containers (both holding tanks of the formulator and the customers' stationary containers) must be provided with suitable sample points to permit withdrawal of samples by personnel of the Department. Samples obtained by Departmental personnel in this manner must be accepted without reservation as being representative of the material in the container and described on its label.

G. All persons engaged in pesticide operations using compressed gas tanks or cylinders must ensure that all propellant supplies for pesticides used in fumigations or other pesticide applications are

equipped with properly functioning back flow prevention devices which will prevent the entry of pesticide into the compressed gas tank or cylinder.

- 1) No person shall operate any compressed gas tank or cylinder in pesticide operations unless a back flow prevention device is installed and properly functioning.
- 2) The back flow prevention device must be placed between the tank/cylinder regulator and the pesticide system.
- 3) Pesticide operations must cease prior to the tank/cylinder pressure falling below twice the pesticide system operating pressure, or 200 psi, whichever is greater.

27-1082. Disposal of Pesticides and Pesticide Containers.

Unwanted pesticides and pesticide containers must be disposed of in accordance with the regulations promulgated by the South Carolina Department of Health and Environmental Control.

27-1083. Pesticide Application Assurance, Vehicle Identification, Applicator Records Maintenance, and Direct Supervision.

A. At each customer's request, all licensed commercial and non-commercial pesticide applicators are hereby required to provide the following information:

1) Structural and general household pest control operations:

(a) Provide all customers at their request with a completed, fully legible, statement with respect to any application of pesticides on property under their ownership or control.

(b) The statement must contain at a minimum the following information:

(1) The name of the company or firm and their address.

(2) The pest or pests to be controlled.

(3) The common chemical name of the active ingredient(s) (not the brand name) of the pesticide applied.

(4) The name of responsible licensed applicator.

(c) If pest-control services are being provided under a continuing contract (i.e., monthly, quarterly, or otherwise other than a one-time treatment) for general household insect control other than wood-destroying insects or rats and mice, then more general terms may be used relative to the name of the pest and several alternate chemicals may be listed. In this event all of the above requirements for record maintenance and disclosure must also be complied with.

2) Aerial applicators.

(a) Provide all customers at their request with a completed fully legible statement with respect to any application of pesticides.

(b) The statement must contain the following information, as a minimum:

(1) Company or firm name and address.

(2) The pest or pests to be controlled, or purpose of the pesticide application.

(3) The chemical or common name of the active ingredient(s) (not the brand name) of the pesticide applied.

(4) Name of responsible licensed applicator.

3) Custom ground applicators. (This group includes commercial agricultural applicators, lawn, golf course, ornamental plant and tree pesticide applicators, mosquito control pesticide applicators, wood preservative applicators, and all other types of commercial and non-commercial pesticide applicators.)

(a) Provide all customers at their request with a completed, fully legible, statement with respect to any application of pesticides.

(b) The statement must contain the following information, as a minimum:

(1) Company or firm name and address.

(2) The pest or pests to be controlled, or purpose of the pesticide application.

(3) The chemical or common name of the active ingredient(s) (not the brand name) of the pesticide applied.

(4) Name of responsible licensed applicator.

4) For non-commercial applicators only, or for commercial applicators making applications for and under the direct supervision of a governmental entity, the disclosure requirements of the above Sections may be met by announcement or publication of the nature and timing of pesticide applications in the appropriate mass media outlets not less than 24 hours prior to the application.

B. All vehicles used by licensed commercial and non-commercial pesticide applicators to transport pesticides to and from the application site, or used in the actual application of pesticides, must bear an identification symbol, furnished by the Department, on both the right and left sides of the vehicle. All boats used in commercial and non-commercial pesticide applications must bear the same symbol on both the right and the left side of the vessel. Aircraft are identified by their registration number and thus will not be required to bear the State identification symbol.

1) The symbol must be maintained clean and recognizable from a minimum distance of one hundred feet.

2) State identification symbols are not required on every piece of small equipment used by a licensed applicator, nor on every automobile or truck owned by a company, firm, or applicator. Symbols are required only on the actual transport, service and application vehicles.

C. Applicator records maintenance.

1) Records must be maintained by each company or firm employing licensed commercial or noncommercial pesticide applicators, each licensed commercial applicator if self-employed, and by the employer of each licensed noncommercial applicator, of all pesticides used.

2) The record must include the quantity of each pesticide used, received, or purchased, the common chemical name of the active ingredient(s) (not the product name), the pest or purpose for which the pesticide was applied, and the date and place of application. It is not necessary to list the pests involved for general household insect control or for general insect control measures in commercial and industrial establishments. In these cases the record may indicate merely "household pests" or "general insect control."

3) Records of pesticide applications must be maintained by the company, firm, or licensed commercial or noncommercial applicator as detailed below:

a) For pre-construction termite-control treatments ("pretreats"), including the installation of bait systems and baits containing active ingredients, records of termiticide application must be maintained for a period of five (5) years or as long as a continuing warranty or contract exists, whichever is longer, and must be made available to the Director or his designee for review and duplication upon request at the expense of the Department.

b) For post-construction termite-control treatments, including the installation of bait systems and baits containing active ingredients, records of termiticide application must be maintained for a period of two (2) years from the date of application or as long as a continuing warranty or contract exists, whichever is longer, and must be made available to the Director or his designee for review and duplication upon request at the expense of the Department.

c) Records of pesticide applications other than termiticides must be maintained for a period of two (2) years from the date of the application.

4) The Director may request records of all pesticides used by any applicator. This includes application records as well as any records of or related to pesticides purchased or otherwise received by the applicator. The expense of copying or duplicating those records shall be paid by the Department.

D. Direct Supervision: The level of direct supervision required for certain pest control activities will vary according to the nature of the application.

1) Unless the label of the product being applied requires a licensed applicator on site, Licensed Commercial and non-commercial applicators whose business location is not within the boundaries of the State of South Carolina must have a licensed applicator within 30 (thirty) minutes of the application site by ordinary ground transportation and immediately available by telephone or radio.

2) For Licensed Commercial and non-commercial applicators whose business location is within the boundaries of the State of South Carolina:

(a) The use of all fumigants will require an applicator holding a valid Commercial Applicators License in Category 7B, Category 1C, or other appropriate category as determined by the Department, to be physically present on site and supervising the application at all times when pesticide is being applied.

(b) The use of any pesticide classified as restricted use by the EPA or the Department, regardless of the signal word, will require the supervising licensed applicator (licensed in the proper category), to be within 30 (thirty) miles by ordinary ground transportation of the application site and immediately accessible by telephone or radio.

(c) For categories of use in which licensing is mandatory, the use of any pesticide which has the signal word “danger” or “warning” will require the licensee supervising the application to be within 60 (sixty) miles by ordinary ground transportation of the application site and immediately accessible by telephone or radio.

(d) For categories of use in which licensing is mandatory, the use of any pesticide which has the signal word “Caution” will require the licensee supervising the application to be within 100 (one-hundred) miles by ordinary ground transportation of the application site and immediately available by telephone or radio.

27-1084. Denial, Suspension or Revocation of a License or Certification; Assessment of Criminal Penalties.

A. Each of the following acts shall be considered a violation of the South Carolina Pesticide Control Act, in addition to those mentioned in the Act, and shall constitute grounds for denial, suspension or revocation of a license or certification:

(1) Use of a pesticide in a manner inconsistent with the labeling accepted by the U.S. Environmental Protection Agency or the South Carolina registration for that pesticide. The term “use” shall include distribution, application, mixing, loading, storage and disposal.

(2) Making false, fraudulent or inadequate records, invoices or reports, or failing to keep the records required by the Act.

(3) Committing an act resulting in assessment of a civil or criminal penalty under 7 U.S.C. Section 136-1, as amended.

B. Any person who commits any of the above acts shall be deemed guilty of a misdemeanor and criminal penalties may be assessed pursuant to Section 18 of the South Carolina Pesticide Control Act.

27-1085. Standards for Prevention or Control of Wood-destroying Organisms. (Statutory Authority: 1976 Code Section 46-13-55)

A. Every person performing either preventive measures against or control measures for termites and other wood-destroying organisms (both insects and fungi) on the property of another must follow at a minimum the methods and procedures specified in the following codified paragraphs of this regulation.

B. Control measures used must be appropriate for the type of termite or other wood-destroying organisms present.

1) For other than subterranean termite treatments, if no wood-destroying organism is actually present then this fact and the preventative nature of the proposed treatment must be disclosed to the consumer in writing before the work begins.

2) Treatment and inspection must be performed in accordance with these regulations and with the terms of the written agreement or contract for as long as the contract is valid.

3) Copies of the warranty, treatment records, waivers issued, and inspection records must be maintained by the firm for a period of five (5) years or for the duration of the warranty, whichever is longer, and must be presented to the Director or his authorized representatives for review and duplication upon their request at the expense of the Department.

4) The presence of Formosan subterranean termites (*Coptotermes formosanus* Shiraki) must be disclosed when an active infestation has been found in a structure. The documentation provided with any subterranean termite control contract or warranty must specify whether coverage for Formosan subterranean termites is included and the nature of that coverage (i.e. whether coverage is for retreatment only or includes the repair of damages due to the Formosan subterranean termite infestation).

C. Treatment for each property must be made to the entire structure and must meet the standards outlined in these Regulations unless structural or physical characteristics of the property or the stipulations of the property owner or their agent make adherence to these standards unnecessarily difficult or costly. In such cases, an Official Waiver of Standards Form clearly identifying the standard(s) not performed must be executed and acknowledged in writing by the property owner before work begins.

1) The Waiver form must be the most recent version published by the Department and must be provided by the pest control operator. A signed copy of the waiver must be supplied to the property owner. A signed copy of the waiver must be maintained by the pest control operator for as long as the property is covered by the warranty based on the treatment for which the waiver was issued.

2) Due to the accessibility of the various construction elements during construction and prior to completion of the buildings, waivers must not be issued during preconstruction treatments unless the applicator has requested and received permission in writing from the Director or his authorized representative. This prohibition does not include those situations that are out of the control of the applicator such as wooden decks added after the completion of the final grade, step down footers, or similar items.

3) All waivers issued must meet the intent of this Section and must not be used to create an opportunity to sell a treatment using less labor or termiticide.

a) Multiple structures may be included on the same waiver form only if there is a common authorized agent for or owner of the structures and the same treatment standards are being waived on each building. In this case each structure or building where treatment standards are being waived must be identified on the waiver form.

b) Where the two conditions identified in paragraph “a” above are not both met, a separate and unique waiver must be properly executed for each structure where treatment standards will not be completed.

4) Waivers are not required for retreatments performed under an existing contract, booster treatments performed to continue coverage under an existing contract, or partial treatments performed to re-instate a contract that has lapsed for less than one (1) year.

D. The chemicals, methods, and systems permitted in the control of termites or other wood-destroying organisms shall be only those pesticides which are registered in South Carolina for that use. The chemical and control methods must be used in the proper proportions and in the quantities and manner directed on the label or in these Standards.

1) No application of termiticides may be made for any purpose using a rate or volume lower than that specified in the labeling of the product as accepted in South Carolina.

2) If the State has accepted the labeling of a termiticide product that allows the structure to be protected by completion of less than a full conventional liquid termiticide treatment as described in these Standards, then only those standards that apply to the treatment actually performed shall be required to be completed.

a) Excepting the standards noted in Section (3) below, waivers as detailed in Section C above need not be completed for standards not required to be completed by the termiticide label.

b) This provision only applies to post construction treatments.

3) For every termite-control treatment performed in the State, regardless of the method of control employed or whether the treatment is conducted during construction or as a post-construction treatment, the following Standards detailed in Section 27-1085 G (2) (a), (b), and (c) must be completed or waived if they are appropriate to the structure. These Standards require, respectively, the removal of cellulose debris and other debris that may interfere with inspection and treatment, the correction of wood-to-ground contact,

including expanded-foam insulation materials, and the removal of subterranean termite shelter tubes on both masonry and wooden foundation elements. Section 27-1085 G (2) (g), which requires the installation of at least one square foot of ventilator for every 150 (one-hundred fifty) square feet of crawlspace area, must be completed or waived on post-construction treatments.

4) Termite control products or devices (e.g. barriers, wood treatments) must be properly registered with the Department before they can be used.

a) Before a licensed applicator can employ, install, or supervise the use of any termite control product or device not applied to the soil the registrant of that product or device must certify to the Department in writing that the applicator has been properly trained in the product's use and management. Use, installation, or supervision of the use of these products by a licensed applicator for whom certification has not been received by the Department at the time of the installation, use, or supervision is a violation of this Section.

b) Registrants must not provide materials or devices referenced under this section to an applicator who has not been properly trained.

5) The Standards referenced in Section (3) above must be completed for all bait and wood-treatment termite-control methods unless an Official Waiver of Standards Form or the equivalent documentation published by the Department is properly executed. This form must be completed and signed by the property owner or their agent before the work begins. The Waiver must be maintained by the firm for a period of five (5) years or for the duration of the warranty, whichever is longer, and must be presented to the Director or his authorized representatives for review and duplication upon their request at the expense of the Department. The termiticide residue requirements referenced in this Section cannot be waived.

6) All applications of termiticides, including re-treatments and supplemental or "booster" treatments, must be properly recorded on the Record of Termiticide Use form published by the Department or in an alternative manner acceptable to the Department. These record-keeping requirements for termiticide applications apply to bait installations and wood-treatment methods as well as to liquid termiticides. These records must be maintained by the firm as specified in Section 27-1083 C, above, and must be presented to the Director or his authorized representatives for review and duplication upon their request at the expense of the Department. Record-keeping requirements do not apply to the installation of devices intended only to monitor or reveal subterranean termite populations.

E. Periodic inspections may be made by Department employees to ensure that all structural pest control activities are performed in compliance with these regulations and the treatment standards. Soil, use-dilution, or other appropriate samples may be drawn during these inspections. The Department shall develop sampling protocols and threshold residue levels for each registered termiticide which reflect the minimum amount of termiticide residue expected to be present within an appropriate period of time after a proper treatment. Termiticide applications which do not meet or exceed these residue levels are in violation of this Section.

F. Discrepancies in treatment procedures found during any inspection, including minor violations

as determined by the inspector and identified in writing by the Department, must be corrected within a period of time as specified by the Director, after written notification to the applicator. The Department may base formal enforcement actions on these discrepancies. Failure to correct these discrepancies within the period of time specified may result in additional civil/criminal penalties. Corrections must be made so long as the property is under the ownership of the individuals who initially contracted for the subterranean termite treatment, their heirs or estate, whether or not the property remains under contract with the applicator at the time the notification is given.

G. Only pesticides properly labeled for subterranean termite control and registered for use in South Carolina shall be used.

1) Where the Federal labeling accepted in the State requires more thorough treatment (e.g. closer spacing of drill holes or more volume of termiticide) than the treatment standards listed below the Federal labeling shall have precedence. Where the State standards require more thorough treatment the State standards must be followed.

2) On each initial Subterranean Termite Control Treatment the Pest Control Operator must perform a complete treatment as detailed in these Regulations, except as provided for in Section D (2) above, and must provide the following minimum service:

(a) Remove from crawl spaces all cellulose debris (wood, paper, stumps, cloth, cotton, or other similar materials) and any other debris or rubble which would interfere with effective treatment and inspection. Remove all form boards which are in contact with the soil or are less than eight (8) inches from the soil.

(b) In the structure being treated, all wood contacting the ground must be of the proper grade of treated lumber as specified in the current edition of the appropriate Building Code. Where the proper grade of treated wood is not used in a ground contact situation the ground contact must be broken by setting the affected part of the building on a solid concrete base or other such base which is impervious to termites or must otherwise be altered so that there is no direct contact with the ground. Rigid foam-board insulation of polystyrene insulation or similar materials, including the various synthetic stucco systems, are susceptible to subterranean termite attack and must be treated the same as untreated wood in contact with the ground. These requirements cannot be met solely by treatment of the soil immediately adjacent to and in contact with the untreated wood, rigid-foam insulation, or similar material.

(c) Scrape off all visible and accessible termite shelter tubes, including those on the wood. Because the presence of intact subterranean termite shelter tubes is presumptive evidence of the presence of an active infestation of subterranean termites, all subterranean termite shelter tubes must be removed at the time of the first inspection following the initial treatment. Subterranean termite shelter tubes must also be removed following any retreatment of the structure. Breaking gaps into the shelter tubes is not sufficient to meet this requirement.

(d) For conventional liquid treatments, treat all soil adjacent to foundation walls, pillars, and other supports by forming a narrow trench at the base of each side and flooding it with termiticide in accordance with label directions. Back-fill placed in

the trench must also be treated in accordance with the label directions. Where footings are not covered by soil the trench may follow the edge of the footing. The soil around locations where pipes enter the soil must be treated in the same manner as foundation supports. When pipes are covered with insulating material, soil or insulation should be removed so that the insulation stops at the soil and the area should be thoroughly treated as previously described. In no case should termiticide be applied to soil in contact with ventilation ducts.

(e) All cavities and voids within hollow masonry units (except bricks), between courses of masonry units, or within or between construction elements that are in contact with the soil must be drilled at intervals of no more than 16 (sixteen) inches or as prescribed by the product label if the label requires closer spacing of drill holes and treated with termiticide as per the label instructions. Voids must be treated as low as practical. Voids that have been filled with concrete need not be treated but should be test-drilled to verify their condition.

(f) Soil areas beneath attached concrete slabs (earth-fill porches, patios, carports, garages, walkways, etc.) which are less than 18 (eighteen) inches below the sill or plate line of the structure must be treated by one of the following methods:

(1) By cutting access openings and removing soil adjacent to the foundation and below the expansion joint the length of the fill at least six (6) inches deep below the bottom of the slab and six (6) inches wide and applying chemical as specified on the label.

(2) Or by drilling vertically and applying chemical from the top of the slab at not more than twelve (12) inch intervals parallel to and not more than twelve (12) inches away from the foundation wall or expansion joint.

(3) Or by rodding from the side(s) and applying the permitted chemical beneath the slab along the length of the expansion joint (“long-rodding”) in a continuous barrier not more than six (6) inches from foundation walls.

(4) Or by drilling from the crawl space or basement side and through the foundation wall immediately beneath the slab at no more than twelve (12) inch intervals and treating the soil beneath the slab.

(5) The void in the double brick perimeter walls of earth-filled and suspended porches must be drilled and treated at intervals of no more than sixteen (16) inches if the superstructure above the porch rests on wooden supports such as posts, columns, railings, or similar elements. If there are no wooden supports the voids in the side walls perpendicular to the main structure must be drilled and treated to a distance of 4 feet from the main structure at intervals of no more than sixteen (16) inches.

(g) Install foundation vents to meet the following requirements:

(1) One square foot of ventilator must be present for each 150 (one-hundred fifty) square feet of crawl space area.

(2) There must be no “dead ends” or other areas left unventilated.

(h) In the crawl space remove enough soil to give sufficient space between the wooden substructure and the soil for access for visual inspection and for the application of proper control measures. In any case, minimum clearance between untreated wood and soil must be at least eight (8) inches.

(i) In treating structures built on a concrete slab or on the ground (including basements), soil beneath all points of potential termite entry, such as expansion joints, plumbing pipes, and similar areas must be saturated with termiticide by treating from above or by horizontally drilling or rodding at no more than twelve (12) inch intervals, immediately beneath the slab. Treatment from above must consist of vertically drilling the slab no more than twelve (12) inches from the potential point of termite entry. Open bath traps must be treated by cutting an access opening to permit the application of termiticide or by a comparable method.

(j) Inspections must be conducted as per the terms of the warranty or the termiticide label, whichever results in more frequent inspection of the structure.

H. Subterranean Termite Control Pretreatment of Structures.

1) In new construction treatment, the approved liquid termiticide must be applied in accordance with label instructions to cavities in pillars, tiles, brick or concrete block walls, voids between brick and block walls, or other cavities likely to be penetrated by wood destroying organisms by flooding the voids before they are covered.

2) Soil surfaces to be covered by slabs must be treated with a liquid termiticide or other approved appropriate technology before the slab is poured. If treatment is not performed before the slab is poured then the slab must be treated as per Section G (2) (f) or G (2) (i), or both if both are applicable, above.

(a) Within ninety (90) days after the transfer of the property to the first deeded owner or notification that the final outside grade has been completed, whichever occurs first, treat the soil that is adjacent to the outside foundation wall with an approved liquid termiticide or approved alternative technology.

(b) If another technology is used to protect the slab, such as barriers or termiticide baits, the alternative technology must be used in strict accordance with the accepted South Carolina labeling for the product. All applicators or installers of alternative technology must be trained and certified as per the requirements of Section D (3) above.

3) For crawlspace foundations the pretreatment must comply with the provisions of Section D (4) above. Except as provided for by the label provisions noted in Section D (3) all applicable treatment Standards detailed in Section G (2) must be properly completed or waived.

4) Warranty.

(a) For new single family residential construction the Pest Control Operator (PCO) will provide to the Builder (or the owner, if known at time of treatment) a one year transferrable warranty covering the repair of damage due to subterranean termites and retreatment of the infested portions of the property. The warranty period begins the day the first chemical application is made. The licensed pest-control business must offer to transfer the warranty to the first deeded owner of the property or to any person who purchases the property within five (5) years of the initial treatment date provided that the warranty has remained in effect through each owner of the property. The licensed pest-control business must offer each owner of the property the opportunity to renew the warranty on the same terms and conditions the business offers renewals of the regular termite treatment contracts for the first five (5) years after the initial treatment date. Failure of the homeowner to renew in any one year relieves the business of any future responsibility for renewals, based upon this section. The renewal warranty must at a minimum offer retreatment coverage but may also offer damage-repair coverage, at the option of the business.

(b) The requirement to issue warranty coverage shall not extend to:

- (1) Violations of the appropriate Building Code by the builder or the first property owner after the builder which are installed after the completion of the pretreatment.**
- (2) Structures with rigid foam board insulation material of any kind extending below the exterior grade.**
- (3) Structures with untreated wood or with inadequately treated wood extending below the exterior grade.**
- (4) Structures with inadequate ground clearance or other design features which preclude the proper completion of the minimum treatment standards referenced in these Regulations.**
- (5) Structures to which additional rooms or other features have been added after the completion of the pretreat but without the applicator having the opportunity to treat the additions.**
- (6) Structures where remodeling or landscaping after the completion of the pretreat has resulted in a degree of soil disturbance that could reasonably be expected to have significantly affected the termite treatment.**
- (7) Other situations as determined on a case-by-case basis by the Department's field inspectors. In these cases the Department will provide a written explanation of its determination.**

(c) Because of the ease of access to all construction features, waivers may not be issued for treatment standards during pretreats without the express written consent of the Department. If waivers are issued both the waiver and the written

memorandum from the Department authorizing the waiving of treatment standards on that specific structure must be delivered to the first property owner after the builder.

(d) The Director may require that deficiencies in pretreatments that cannot be corrected as detailed in Section 27-1085 G 2 above because of the completion of that stage of construction be corrected by the treatment of the structure with another appropriate technology.

I. Control measures are not normally necessary for infestations of wood-destroying organisms which are not capable of reinfesting structural lumber or other properly seasoned wood except as provided below.

1) Control measures may be performed for non-reinfesting wood-destroying pests at the customer's request. In such cases the applicator shall provide to the customer before the work begins a statement to the effect that the infestation is not capable of re-infesting seasoned lumber and that the treatment is being performed at the customer's request.

2) Rustic structures and modern log homes may be initially infested with large numbers of buprestid and cerambycid beetles. Control measures may be proposed and performed in these situations even though these insects normally do not re-infest, subject to the identification and disclosure requirements of this Section.

3) Structural infestations of other wood-destroying organisms will be identified and disclosed as follows:

a) An infestation of old house borers (*Hylotrupes bajulus* L.) will be reported by either its scientific name or the common name "old house borer."

b) Powder post beetles for which control strategies are very similar such as the families Lyctidae, Anobiidae, and Bostrichidae will be reported by either their family names or as "powder post beetles."

c) The specific cause of damage due to non-reinfesting beetles does not have to be identified. This does not relieve the applicator of the responsibility to disclose that damage when required (as on the Official South Carolina Wood Infestation Report).

d) Wood-decay fungi and surface molds and mildews may be identified and disclosed as such without further detail.

e) Drywood termites may be disclosed as such without further detail.

4) Before treatment is recommended, infestations of other wood-destroying organisms capable of reinfesting structural lumber or seasoned wood must be determined to be active.

(a) The following criteria will be used to determine the activity of these infestations.

(1) Drywood termites: The emergence of live insects inside the structure, the repeated presence of swarmers (alive or dead) inside the structure, or a repeated accumulation of fecal pellets in an area are all reasonable

indications of an active infestation of drywood termites. Preventative treatments for these insects are not normally warranted in South Carolina due to the slow rate at which their damage accumulates.

(2) Powder Post Beetles (Anobiidae, Lyctidae, Bostrichidae, and related beetles): The presence of a trail or “stream” of fresh frass (the color of fresh-cut wood) stuck to the wood below emergence holes or piled beneath emergence holes indicates an active infestation of powder post beetles. Emergence holes alone do not indicate activity nor does the presence of old dingy frass in emergence holes, galleries, or protected locations.

(3) Old House Borer: (*Hylotrupes bajulus* L.). A live adult or larval specimen must be collected from the wood to demonstrate activity of this insect in a structure. Alternatively, the presence of the distinctive larval gnawing noises can be used to establish activity. The presence of ragged oval exit holes or fresh-appearing frass is not sufficient to indicate activity in the absence of specimens or noises.

(b) Treatment: All beetle frass must be removed from treated vertical surfaces during a localized treatment. During a fumigation frass must be removed from at least two readily-accessible areas to allow the determination of the success of the fumigation. If streaming frass is observed during the next season of activity the infestation must be considered to have remained active. Treatments, especially fumigations, may be proposed and conducted only when there is conclusive evidence of an active infestation, or with the specific written consent and acknowledgment of the lack of activity on the part of the property owner or their agent.

J. Moisture Control.

1) Excessive moisture conditions are present any time wood moisture content readings reach or exceed 20% or standing water is present in the crawlspace or around the foundation. Wood-decay fungi become active, and decay damage occurs, at wood moisture-content levels of 28% and above. Reports of excessive moisture conditions and active decay fungi must follow these guidelines.

2) Correction of excessive wood moisture levels is normally accomplished by the installation of a polyethylene vapor barrier over the crawlspace soil or the installation of additional foundation vents. Excessive moisture conditions caused by poor drainage and the constant influx of water into the crawlspace soil may require the installation of a sump pump and drain system. The application of fungicidal sprays to the substructure for the control of wood-destroying fungi may not be performed until the physical correction of the excessive moisture conditions has been accomplished. Sump pumps may not be installed without an accompanying drain or trench system sufficient to carry water to the pump.

K. Wood Infestation Report.

1) Any wood infestation report issued for the purpose of describing the apparent absence of wood-destroying organisms from a building or structure in connection with a sale or mortgage of real property must be issued by an individual currently licensed in Category

7A, Industrial, Institutional, Structural, and Health-Related Pest Control and covered under a valid Pest Control Business License issued by the Department. The report must be signed by the licensed individual and include their applicator and business license number.

2) The inspection must be reported on the most current Official South Carolina Wood Infestation Report Form as published by the Department. The form for this report shall be furnished by the licensee.

3) The inspection for the Wood Infestation Report must include at a minimum:

(a) A visual inspection of all accessible portions of the interior and exterior of the structure, including crawlspaces, utility areas, and attics.

(b) Careful sounding and probing of all areas where damage is visible.

(c) Representative wood moisture-content readings around the interior perimeter of the crawlspace and in the accessible portions of the center of the crawlspace.

(d) The determination of the nature and activity of all visible and accessible wood-destroying insect infestations in the structure.

(e) The determination of the nature and cause of all visible and accessible wood-destroying insect damage in the structure.

(f) The determination of the nature and activity of all wood-destroying fungi, including decay damage whether active or not, present in the structure below the level of the first main living-area floor. The first main living-area floor of the house is the first floor above the basement or crawlspace, or the elevated living-area floor in houses raised upon pilings. The phrase “below the level of the first main living-area floor” also includes the substructure below the first main living floor of the house. Decay damage in the upper portions of exterior siding, fascia and trim boards, chimneys, eaves, soffits, and similar areas is beyond the scope of the Wood Infestation Report. Decay damage in the lower portions of exterior doors, door jambs and frames, and similar construction elements, however, must be reported.

4) The Wood Infestation Report is in no way a report of the presence or absence of health-related fungi or conditions conducive to their presence or development in the structure.

5) The Wood Infestation Report must at a minimum disclose:

(a) All inaccessible parts of the structure.

(b) The apparent presence or absence of all visible insect-related damage in all accessible areas of the structure. The reporting of a “previous infestation” of a particular insect is not sufficient to meet this requirement to report insect damage.

(c) The apparent presence or absence of all visible active and previous wood-destroying insect infestation in all accessible areas of the structure.

(d) The wood moisture-content readings obtained in the substructure, as well as any decay damage, active wood-destroying decay fungi, or excessive moisture conditions in visible and accessible areas below the level of the first main floor. Decay damage must be reported as such.

(e) The specific location and approximate extent of all damages, active infestations, previous infestations, and excessive moisture conditions. These items may be reported as “widespread,” “throughout the substructure,” or in similar terms only if their extent and occurrence justifies such broad language.

(f) All damage must be reported whether or not it requires or may require repair or further inspection by another professional. Damage remaining in areas that have previously been repaired must also be reported.

6) The Wood Infestation Report is not a warranty against future infestation, nor does it place any obligation for the correction of reported damage or infestation upon the applicator or business issuing the report.

7) In determining whether an infestation of insects or decay fungi is active in a structure the inspector must use the criteria set forth in Sections I and J, above. Inspectors must fully explain on the reverse of the form the basis for their determination of whether an infestation of insects or decay fungi is or is not active in the structure.

L. Any person performing any of the activities listed below on the property of another must be licensed in the category indicated by the Department or must work under the direct supervision of one so licensed.

1) Any person performing a structural pest control activity as defined in Section 27-1070 D of these Regulations. Persons performing structural pest control activities in or adjacent to property rented, leased, or otherwise occupied by unrelated persons (in schools, apartment or condominium complexes, hospitals, and similar situations) are not exempt from these requirements.

2) Any person performing a public health pest control activity as defined in Section 27-1070 J of these Regulations.

3) Any person performing a turf and ornamental pest control activity as defined in Section 27-1070 K of these Regulations.

4) Any person performing an aquatic pest control activity as defined in Section 27-1070 L of these Regulations.

M. No main business office where records are kept or branch office must engage in structural pest control activities in the State without first obtaining a Pest Control Business License from the Department.

1) A Business License will be issued only when the location has appointed a Designated Certified Applicator in charge (DCA). The DCA must be licensed by the Department in Category 7A and permanently assigned to that specific location on a full time basis while

the business is operating. The DCA must be present during the normal operation of the business, except for normal sick or annual leave and training days away from the office. No individual may be designated as the DCA for more than one location from which pesticide applications are made.

(a) Application must be made to the department on the Business License application form and must include copies of the proposed DCA's Category 7A applicator's current license and proof of financial responsibility statement.

(b) All applicants must demonstrate to the satisfaction of the Department that the DCA is duly licensed and operates from the applicant's location. Additionally the DCA must possess either a four-year college degree in the natural sciences or two years of verifiable experience in pest control. The Director may waive the experience requirement upon written application by the business licensee. In appointing a DCA the Director will consider, among other factors, the enforcement histories of the business and the proposed DCA, the record of Continuing Certification Hours, and past examination results.

(c) No business whose business license has been revoked or suspended may circumvent this suspension or revocation by applying for a new "Business License" under another name or in the name of another business. This prohibition exists for the duration of the suspension or revocation period. Sale of the business to a separate party is not prohibited by this section provided it is not an attempt to circumvent appropriate enforcement action against the business.

(d) The annual Business License fee shall be as prescribed. The Business License is valid from January 1st through December 31st unless suspended or revoked.

(e) Changes of material information such as, but not limited to, the name or license status of the certified Category 7A applicator, the financial responsibility status of that applicator, or any change in the location of the facility must be reported to the Department within ten (10) days.

(f) Violations of the South Carolina Pesticide Act that occur as a result of activities generated at or by a location may result in sanctions against the Business License as well as or in lieu of sanctions against the individual licensee. Such sanctions may include penalties up to \$1000 (one-thousand dollars) and / or modification, suspension, or revocation of the license. Suspension or revocation of the Business License will be reserved for serious or repeated violations. All suspensions or revocations are subject to a hearing upon request.

(g) For each termite treatment performed, the business licensed to perform structural pest control must record, on the Record of Termiticide Use form published by the Department or in a similar manner acceptable to the Department, at least the following information:

1) The address of the structure and the nature of the treatment (e.g., pretreat, existing structure, retreatment due to infestation, bait installation).

2) The applicator making the actual treatment and his license number if he is licensed.

3) Whether an Official Waiver of Standards was issued.

4) The brand name, quantity, and dilution rate of the termiticide applied, if applicable.

5) The treatment technique (trenching, void treatment, pretreat, bait station installation, wood treatment, etc.)

6) This information must be maintained by the business as detailed below:

a) For pre-construction termite-control treatments (“pretreats”), including the installation of bait systems and baits containing active ingredients, records of termiticide application must be maintained for a period of five (5) years or as long as a continuing warranty or contract exists, whichever is longer, and must be made available to the Director or his designee for review and duplication upon request at the expense of the Department.

b) For post-construction termite-control treatments, including the installation of bait systems and baits containing active ingredients, records of termiticide application must be maintained for a period of two (2) years from the date of application or as long as a continuing warranty or contract exists, whichever is longer, and must be made available to the Director or his designee for review and duplication upon request at the expense of the Department.

(h) If a DCA can no longer be present at a business location due to unforeseen circumstances, the business must appoint another applicator licensed in Category 7A and employed by the business to serve as DCA. If no new DCA is appointed within 30 (thirty) days of the departure of the previous DCA the Business License must be surrendered to the Department. The Business may petition the Director in writing for a “hardship” stay of the surrender of the Business License. The duration of the stay will be determined by the Director but in normal circumstances will not extend beyond the next available examination date. No structural pest control activities may be performed during the stay.

2) Business licenses must be prominently displayed at each location.

3) Each vehicle which transports pesticides used in structural pest control activities must display the appropriate Department, the business license number, and the company name. This information must be in letters one (1) inch in height or greater, on a contrasting background, and placed on each side on the front half and above the mid-line of the vehicle. If a vehicle is used at more than one location, it should bear the business license number of its primary location.

4) All pest control personnel performing structural pest control activities must carry (not display) on their person an official identification card which demonstrates verifiable training in the area of pest control in which they operate and provides the business and appropriate commercial license number, technician's name, or other pertinent information, as designated by the department. This identification must be presented upon request, and failure to do so shall constitute a violation of this Section. The card shall remain the property of the Department and must be surrendered when the cardholder employment ceases. Office personnel who do not conduct inspections or apply pesticides are not subject to this provision.

5) Warranty sales are prohibited unless exempted in writing by the Director. This does not preclude a company from reinstating an expired warranty or contract on a structure that it has previously treated.

