

Rules and Regulations for the Enforcement of the South Carolina Pesticide Control Act

Statutory Authority:

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and

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Regulatory and Public Service Programs

Department of Pesticide Regulation

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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 1967 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 Fertilizer and Pesticide Control, a department within the Division of Regulatory and Public Service Programs, Clemson University, and the successor to 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.
- D. "Activities" means engaging in structural pest control and includes but not limited to: soliciting, advertising, or performing pesticide applications, and sales proposals for such pest control.
- E. "Warranty Sales" means the sale of warranties, excluding warranties issued in conjunction with the Official South Carolina Wood Infestation Report, and/or contracts for structural pest control which is not supported by any treatment or control measure.
- F. "Branch Office" means any physical location maintained by a business in which records are kept or in which three or more employees utilize as their base of activities, other than the main office.

27-1071 Registration of Pesticides.

A. Registration. All pesticide products (including products distributed in bulk) except technical grade pesticide material (which is for the express purpose of formulation of pesticide products) and pesticides distributed under an experimental use permit, shall be registered with the State for the period in which the products are offered for sale or distribution within the State. Unregistered products shall be removed from the retailer's shelves, provided that the Director may 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.

B. Federal experimental use products. The permittee shall notify the Director in writing of each experimental use permit issued under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, whereunder pesticides are to be used in the State. The notification shall be furnished within thirty days after issuance of the federal permit. A copy of the label accepted by the U.S. Environmental Protection Agency in connection with the permit, a copy of the Experimental Use Permit issued by EPA, and a copy of the EPA letter establishing any relevant temporary tolerances shall also be furnished to the Director with the notification. The Director requires as a minimum: the EPA permit number, information on the locations within the State where the product will be used, the name(s) of the active ingredient(s), the total amount of the pesticide to be applied in the State, the crops or sites involved, and the intended purpose.

C. Labeling.

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

(2) The Department of Fertilizer & Pesticide Control 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 of Fertilizer & Pesticide Control.

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 state registration to meet certain special local needs or a state 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:

(1) that there is a special local problem within the state which has created the requirement for the particular new product or for the amended labeling of a registered product, and

(2) 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 year, or less if warranted, and shall be subject to the registration fee. State registrations may be renewed annually upon written application to the Director. These applications will be subject to annual review to ensure that the request still meets the basic criteria set forth in paragraph C above, as well as federal requirements. 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.

27-1073 Coloration and Discoloration.

A. The Director shall use the Munsell Book of Color as a color standard.

B. White pesticides hereinafter named and white products containing a substantial quantity of these pesticides shall be colored or discolored in accordance with this section.

(1) Coloring agent. The coloring agent must produce a uniformly colored product not subject to change beyond the minimum requirements specified in the regulations in this part during ordinary conditions of marketing or storage and must not cause the product to be ineffective or result in its causing damage to nontarget organisms when used as directed.

(2) Arsenicals and barium fluosilicate. Standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, and barium fluosilicate shall be colored any hue, except the yellow-reds and yellows, having a value of not more than 8 and a chroma of not less than 4, or shall be discolored to a neutral lightness value not over 7.

(3) Sodium fluoride and sodium fluosilicate. Sodium fluoride and sodium fluosilicate shall be colored blue or green having a value of not more than 2 and a chroma of not less than 4, or shall be discolored to a neutral lightness value not over 7.

(4) Exceptions.

(a) Notwithstanding the provisions of paragraphs (2) and (3) of this section, the Director, after opportunity for hearing, may permit other hues to be used for any particular purpose if the Director determines that use of the prescribed hues is not feasible for such purpose and is not necessary for the protection of health and the environment.

(b) Any pesticide specified in this section which is intended solely for use by a textile manufacturer or commercial laundry, cleaner or dryer as mothproofing agent, and which would not be suitable for such use if colored and which will not come into the hands of the public except when incorporated into a fabric may be exempted by the Director from the requirements of this section.

(c) The pesticide sodium fluoride shall be exempt from the requirements of paragraph (3) of this section when:

(1) It is intended for use as a fungicide solely in the manufacture or processing of rubber, glue, or leather goods;

(2) Coloration of the pesticide in accordance with said requirements will be likely to impart objectionable color characteristics to the finished goods;

(3) The pesticide will not be present in such finished goods in sufficient quantities to cause injury to any person;

(4) The pesticide will not come into the hands of the public except after incorporation into such finished goods.

27-1074 Pesticide Samples.

- A. Inspectors and other authorized personnel of the Division of Regulatory and Public Service Programs shall collect official samples of pesticide products manufactured, distributed, sold or held for sale, and in certain instances about to be used within the state. The samples will be collected by a standard procedure outlined by the Director, in order to promote uniformity of the samples.
- B. Samples taken will be analyzed for deficiencies and adulteration or for other purposes as deemed appropriate by the Director.
- C. Samples taken and subsequently analyzed may be used as the basis for regulatory action initiated under the provisions of the South Carolina Pesticide Control Act where warranted.

27-1075 Restricted Use Pesticide Classification.

- A. The State may adopt the same list of restricted use pesticides and use patterns established by the U.S. Environmental Protection Agency. If EPA does not establish a list of this nature, then such a list may still be established for the State at the discretion of the Director. (The Director may also add additional pesticides or use patterns to, or otherwise augment, established EPA lists.) Statutory authority: Section 46-13-30B(6) of Act 220.
- B. Restricted use pesticides. The pesticides and use patterns restricted in the State are those so classified by the U. S. Environmental Protection Agency and as provided in the following table, which forms a part of these regulations.

State Restricted Use Pesticides Regulation 27-1075B Appendix A		
ACTIVE INGREDIENT	FORMULATION	USE PATTERN
chlordane	All formulations	All uses
aldrin	All formulations	All uses
endrin	All formulations	All uses
heptachlor	All formulations	All uses
dieldrin	All formulations	All uses

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

- A. Age limit. No person younger than eighteen years old will be licensed as a pesticide dealer.
- B. Pesticide dealers shall pass a written examination, unless already certified as commercial applicators.
- C. Pesticide dealers shall complete an application form supplied by the Department of Fertilizer & Pesticide Control.
- D. A fee of twenty-five dollars shall accompany the application.
- E. The pesticide dealer's license and fees are not a substitute for the restricted use pesticides applicator's license, certification, and fees. The dealer's license does not allow the licensee to apply restricted use pesticides or allow a reduction of the fees necessary for an applicator's license.
- F. Pesticide dealer's licenses shall expire on December thirty-first. Licenses may be renewed annually prior to January first by application to the Director and payment of the annual fee.
- A twenty-five percent penalty will be charged for renewal applications filed on or after January first. If any license is not renewed by the end of the calendar year following its expiration, such licensee will be required to take another examination.
- G. There shall 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.

27-1077 Certification and Licensing of Private Applicators.

- A. Age limit. No person younger than fifteen years old will be licensed as a private applicator; however, in hardship cases persons under the age of fifteen may be licensed at the discretion of the Director.
- B. Financial responsibility. Private applicators are not relieved from liability for damage to the person or lands of another caused by the use of pesticides applied by them (or under their direction) even though such use conforms to the rules and regulations promulgated by the Director, and even though they are not required by law to demonstrate the same financial responsibility required of commercial applicators.
- C. Classification of license. Persons holding a private applicator's license may use or supervise the use of a pesticide which is classified for restricted use, but only for purposes of producing an agricultural commodity, including forestry products, on property owned or rented by him or his employer or (if applied without compensation other than trading of personal services between producers of agricultural commodities) on the property of another person.
- D. Requirements for certification and licensing.

(1) Private applicators shall accomplish all of the following prior to being certified and licensed:

- (a) Complete an application form supplied by the Department of Fertilizer & Pesticide Control.
- (b) Complete a prescribed training program dealing with pesticides.
- (c) Pay a fee of one dollar per year for each year the license is valid.

(2) Private applicator licenses shall expire on December thirty-first of the year they are dated to expire.

(3) Private applicator licenses are renewable annually by reapplication to the Director prior to January first and payment of the one dollar fee per valid year. A twenty-five percent penalty will be charged for renewal applications filed after January first. Retraining will not be required annually, however, it may be required at times in the future to present information on new pesticides, techniques or other pertinent advances in the various pesticide-related sciences.

(4) 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 proper fee to the Director. Additional training is not required.

E. Recertification. Recertification periods for private applicators are five year periods, beginning January 1, 1995, ending December 31, 1999, and every five years thereafter. A private applicator who, for the first time, receives his private applicator's license during a given recertification period is not required to complete any recertification credit during that period. However, the private applicator must successfully complete five (5) Continuing Certification Hours of training during the next succeeding recertification period before his private applicator's license will be renewed. Alternatively the applicator may complete the initial licensing requirements. All Continuing Certification Hours must be approved in advance by the Department.

27-1078 Certification and Licensing of Commercial Applicators.

- A. Age limit. No person younger than eighteen years old will be licensed as a commercial applicator.
- B. Financial responsibility.

(1) Commercial applicators must demonstrate to the Director financial responsibility required by law before the Director may issue a license.

(2) Financial responsibility is an on-going responsibility of the commercial applicator. No commercial applicator may apply any pesticide without the required financial responsibility. Failure to maintain the requisite financial responsibility shall cause the immediate suspension of the commercial applicator's license, until such time as financial responsibility is satisfactorily demonstrated to the Director.

(3) The insurance or surety company shall give at least ten days written notice by certified mail to the Department of Fertilizer and Pesticide Control, Clemson University, Clemson, SC 29634 as a condition precedent to the cancellation by the surety or insurer,

material change, or cancellation by the insured; and, if such condition is not satisfied, any cancellation or attempted cancellation shall be null, void, and of no effect.

(4) Furthermore, the above notwithstanding, commercial applicators are still not relieved from liability for damage to the person or lands of another caused by the use of pesticides applied by them (or under their direction) even though such use conforms to the rules and regulations promulgated by the Director.

(5) Financial Responsibility may be demonstrated by:

(a) A current liability insurance policy

(b) A current bond

(c) 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).

(d) Other financial instruments on a case-by-case basis as finally determined by the Department. These instruments must be submitted to the Department at least thirty (30) days prior to the expiration of the current financial responsibility or the anticipated "begin" date of such coverage.

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

C. Classification of license.

(1) 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.

(2) Commercial applicator's licenses will be issued for the following twelve specific categories of commercial pesticide operations:

(a) Category 1 Agricultural Pest Control

1. (A) Plant

2. (B) Animal

(b) Category 2 Forest Pest Control

(c) Category 3 Ornamental and Turf Pest Control

(d) Category 4 Seed Treatment

(e) Category 5 Aquatic Pest Control

(f) Category 6 Right-of-Way Pest Control

(g) Category 7 Industrial, Institutional, Structural and Health-Related Pest Control

1. (A) General

2. (B) Fumigation

(h) Category 8 Public Health Pest Control

(i) Category 9 Regulatory Pest Control

(j) Category 10 Demonstration and Research Pest Control

(k) Category 11 Aerial Applicator

(l) Category 12 Miscellaneous

D. Requirements for certification and licensing.

(1) Commercial applicators shall accomplish the following prior to being certified and licensed:

(a) Pass a basic examination, known as the core examination, dealing with the minimum amount of subject matter considered essential to the use of restricted use pesticides.

(b) Pass a separate specific examination on each particular classification category of certification for which the applicant has applied.

(c) Complete an application form supplied by the Department of Fertilizer & Pesticide Control.

(d) Pay a fee of twenty-five dollars. In instances where more than one commercial applicator works for a commercial firm or an organization and they all work out of the same office location and the firm or organization chooses to pay the license fee for the individuals, then the total fees will be twenty-five dollars for the first individual irrespective of the number of classification categories plus five dollars for each additional individual certified in any one category. An additional fee of five dollars is hereby established for the licensing of all individuals above the initial licensee, for each classification category above their first category, up to a maximum of twenty-five dollars per person.

(2) Aerial Applicators.

(a) All aerial applicators of pesticides (including transient aircraft pilots) are subject to the same requirements outlined in paragraph D (1) above. All pesticide applicators (including aerial applicators) shall either be certified and licensed by the Department of Fertilizer & Pesticide Control or shall work under the direct supervision of a certified licensed applicator in order to apply restricted use pesticides within the State.

(b) The term "Under the Direct Supervision of a Certified Applicator" is hereby expanded. The availability of the certified applicator shall be directly related to the hazard of the situation. In many situations, where the certified applicator is not required to be physically present, "direct supervision" shall include verifiable instruction to the competent person, as follows: (1) detailed guidance for applying the pesticide properly, and (2) provisions for contacting the certified applicator in the event the applicator is needed. In other situations, and as required by the label, the actual physical presence of a certified applicator may be required when application is made by a non-certified applicator.

(c) The term "Contractor," as defined in the regulations of the South Carolina Aeronautics Commission, will be considered equivalent to any other commercial pest control firm or organization, and the contractor may pay the fees for his certified and licensed commercial applicators (aircraft pilots) in accordance with paragraph D (1) (d) above, but only for those pilots who fly aircraft owned by the contractor and who are actually employed by the contractor under bona fide employment agreements. Pilots who merely use the contractor's facilities and are not bona fide employees of the contractor, and pilots who fly their own aircraft (if said aircraft is designed or equipped for aerial application of pesticides) on the job for the contractor shall be considered to be self-employed commercial applicators and each shall pay the full twenty-five dollar license fee.

(d) These regulations concerning aerial applicators do not in any way negate the regulations promulgated by the South Carolina Aeronautics Commission.

(3) Commercial applicator licenses shall expire on December thirty-first of each year.

(4) Commercial applicator licenses are renewable annually by reapplication to the Director prior to January first and payment of the annual fee. A twenty-five percent penalty will be charged for renewal applications filed after January first. Reexamination will not be required annually if licenses are renewed before December thirty-first of the following year, however, may be required at times in the future if training is offered to present information on new pesticides, techniques, or other pertinent advances in the various pesticide-related sciences. If any license is renewed after December thirty-first of the following year, such licensee shall be required to take another examination.

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

E. Recertification. Recertification periods for commercial applicators are five year periods, beginning January 1, 1994 and ending December 31, 1998, and every five years thereafter. A commercial applicator who, for the first time, receives his applicator's license during a given recertification period is not required to complete any recertification credit during that period. However, the commercial applicator must successfully complete ten (10) Continuing Certification Hours of training during the next succeeding recertification period before his commercial applicator's license will be renewed. Alternatively the applicator may complete the initial licensing requirements. All Continuing Certification Hours must be approved in advance by the Department.

27-1079 Certification and Licensing of Noncommercial Applicators.

A. Age limit. No person younger than eighteen years old will be licensed as a noncommercial applicator.

B. Financial responsibility. Noncommercial applicators are not relieved from liability for damage to the person or lands of another caused by the use of pesticides applied by them (or under their direction) even though such use conforms to the rules and regulations promulgated by the Director, and even though they are not required by law to demonstrate the same financial responsibility required of commercial applicators.

C. Classification of license. 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 various qualified governmental employees to perform their official duties on the job without payment of a fee.

D. Requirements for certification and licensing.

(1) Noncommercial applicators shall submit an application form supplied by the Department of Fertilizer & Pesticide Control and shall pass the same set of examinations required of the commercial applicator.

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

(3) Noncommercial applicators' licenses shall expire on December thirty-first of each year.

(4) Noncommercial applicators' licenses are renewable annually by reapplication to the Director prior to January first. Reexamination will not be required annually if licenses are renewed before December thirty-first of the following year, however, may be required at times in the future to present information on new pesticides, techniques, or other pertinent advances in the various pesticide-related sciences. If any license is renewed after December thirty-first of the following year, such licensee shall be required to take another examination.

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

E. Recertification. Recertification periods for noncommercial applicators are five year periods, beginning January 1, 1994 and ending December 31, 1998, and every five years thereafter. A noncommercial applicator who, for the first time, receives his applicator's license during a given recertification period is not required to complete any recertification credit during that period. However, the noncommercial applicator must successfully complete ten (10) Continuing Certification Hours of training during the next succeeding recertification period before his noncommercial applicator's license will be renewed. Alternatively the applicator may complete the initial licensing requirements. 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 they are not regularly engaged in the business of applying pesticides for hire as a 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. Sales of pesticides which have been classified for restricted use shall be made only to the following:

- (1) Licensed pesticide dealers,
- (2) Licensed certified applicators,
- (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 wholesalers, dealers, and retailers.

(1) All pesticides stored in quantity shall be stored in 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, should be stored separately from each other.

(3) Herbicides shall 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.

C. Display of pesticides (both general use and restricted use items) by dealers and retailers.

(1) All pesticides offered for sale shall be in the registrant's original container.

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

(3) Herbicides shall be separated from all other types of pesticides when displayed for sale to the general public. Furthermore, herbicides shall not be displayed in a position above other types of pesticides, to preclude 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 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 shall be displayed at a minimum distance of four feet from canned foods or any other type of food or edible item.

D. Exemptions to the storage and display requirements.

(1) 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 (1) above.

- (a) Bleach products
- (b) Disinfectant products
- (c) Pet animal and tropical fish treatment products
- (d) Sink drain and toilet bowl products
- (e) Paint products

(2) Additional exemptions may be granted by the Director upon special request, if warranted.

E. Aircraft loading zones.

(1) All aircraft pesticide loading zones shall be adequately delimited and posted as a general warning to the public that toxic

and dangerous pesticides (or their empty containers) may be stored in the area and especially that pesticides may have been spilled on the ground in the area.

(2) Conformance with the requirements of paragraph E (1) above 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. Bulk distribution and storage of pesticides.

(1) All pesticides distributed in bulk shall be registered both with the U.S. Environmental Protection Agency and with the State. Furthermore, any firm distributing or selling bulk pesticides within the State shall notify the Department of Fertilizer & Pesticide Control of such practice on January first of each year.

(2) A copy of the accepted label for the product shall 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, shall 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 40 CFR Parts 170-189, administered by the U.S. Department of Transportation, concerning the transportation of hazardous materials, shall be adhered to by any person transporting pesticide products within the State.

(5) All containers (both holding tanks of formulator and customers' stationary containers) shall be provided with suitable sample points to permit withdrawal of samples by personnel of the Department of Fertilizer & Pesticide Control; such samples to be accepted, without reservation, as being representative of the material therein and described on the label attached.

27-1082 Disposal of Pesticides and Pesticide Containers.

Unwanted pesticides and pesticide containers shall 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, and Applicator Records Maintenance.

A. Pesticide applicator assurance. The following is hereby required of all licensed commercial pesticide applicators during certain phases of their commercial operations.

(1) Structural and general household pest control operations.

(a) Provide all customers with a completed, fully legible statement with respect to any application of restricted use pesticides.

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

(1) Company or firm name and address.

(2) The pest or pests to be controlled.

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

(4) Name of responsible licensed applicator.

(c) Requirements of paragraph A (1) (b) above may be modified, per the next sentence, for operations which are limited to general household insect control for cockroaches, ants, fleas, ticks, stored products, insects, centipedes, spiders, et cetera, or rats and mice, either for residential or commercial type operations, if the service is being performed under a routine yearly service contract. If under a yearly contract, then more general terms may be used relative to the name of the pest and several alternate chemicals may be listed. The requirements are still in effect for structural pest control operations and for wood boring insects of any kind. Also, all requirements for record maintenance still apply.

(2) Aerial applicators.

(a) Provide all customers with a completed, fully legible statement with respect to any application of restricted use pesticides.

(b) The statement shall 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 restricted use pesticides applied.

(4) Name of responsible licensed applicator.

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

(a) Provide all customers with a completed, fully legible statement with respect to any application of restricted use pesticides.

(b) The statement shall 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 restricted use pesticides applied.

(4) Name of responsible licensed applicator.

B. Vehicle identification. All land vehicles and boats used by licensed commercial pesticide applicators to transport restricted use pesticides to and from the application site, or used in the actual application of restricted use pesticides, shall bear an identification symbol, furnished by the Department of Fertilizer & Pesticide Control, on both the right and left sides of the vehicle or boat. This requirement also applies to tractor drawn spray equipment or to large self-propelled spray equipment used by the commercial applicator. [Aircraft will be identified by their registration number, therefore will not be required to bear the state identification symbol.]

(1) The symbol shall 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 shall be maintained by each company or firm using restricted use pesticides through a licensed commercial applicator, or by each licensed commercial applicator if self-employed, and by each licensed noncommercial applicator, of all restricted use pesticides used.

(2) The record shall include the quantity of each restricted use pesticide used, the chemical or common name of the active pesticidal ingredient(s) (not the product name), the pest or purpose for which the pesticide was applied, and the date and place of application. It will not be 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) The above records shall be maintained by the company, firm, or licensed commercial or noncommercial applicator for a period of two years and shall be made available to the Director or his designee upon written request.

(4) Each company, firm, or licensed commercial or noncommercial applicator whose normal location of business is outside the State shall submit a report, on letterhead paper, to the Department of Fertilizer & Pesticide Control, listing the recorded information required to be maintained by paragraphs C (1) and C (2) above, on all restricted use pesticides applied in the State by the firm or commercial or noncommercial applicator.

(a) This reporting requirement shall apply to out-of-state aerial applicators as well as to firms or persons performing occasional pest control operations within the state.

(b) The report shall be submitted by calendar quarters, within thirty days after the end of each quarter, for and only for any quarter in which restricted use pesticides were applied within the state, provided that aerial applicators performing seasonal agricultural type operations may submit their complete report for the season not later than November 30 of that year.

27-1084 Denial, Suspension or Revocation of a License or Certification; Assessment of Criminal Penalties and Civil 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 that is inconsistent with the labeling of the U.S. Environmental Protection Agency or the South Carolina state registration for that pesticide. The term "use" shall have the same broad meaning, including application, mixing, loading, storage and disposal, as that defined in 40 C.F.R. s 162.3(o);

(2) Making false, fraudulent or inadequate records, invoices or reports, or failure to keep required records;

(3) Committing an act resulting in assessment of a civil or criminal penalty under 7 U.S.C. s 136(L), 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.

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 shall follow the methods and procedures specified in the following codified paragraphs of this regulation.

B. Control measures used shall be appropriate for the type of termite or other wood-destroying organisms present or for preventative purposes as previously determined by inspection and in accordance with the written agreement or contract for as long as the contract is valid.

C. Treatment for each property shall meet the standards outlined herein unless structural or physical characteristics of the property or the stipulations of the property owner or his agent make adherence to these standards difficult or unnecessarily costly. In such cases, waivers clearly identifying the standard(s) not performed must be developed and acknowledged in writing by the property owner before work begins. Waiver Form to be published by the Division of Regulatory and Public Service Programs and furnished by the pest control operator. A copy of the waiver must be supplied to the property owner. A copy of the waiver must be maintained by the pest control operator.

D. The chemicals permitted in the control of termites or other wood-destroying organisms shall be only those pesticides which are labeled for the use desired. The chemicals shall be used in the proper proportions and in the quantities and manner directed on the label and herein.

E. Periodic inspections may be made by the Department of Fertilizer & Pesticide Control employees to ensure that standards are being met by all applicators. Soil samples may be drawn. One hundred (100) parts per million shall be the minimum acceptable termiticide residues for a soil sample taken within one (1) year of the treatment.

F. Discrepancies in treatment procedures found during any inspection shall be corrected within thirty (30) days of written notification to the applicator. The Department may base formal enforcement actions on these discrepancies. Failure to correct these discrepancies within the thirty (30) day period may result in additional civil/criminal penalties.

A minor violation, as determined in writing by the Department, which does not result in formal enforcement action, must also be corrected. A minor violation is a single deviation in treatment standards with minor impact, including but not limited to: (1) small

amount of cellulose debris; or (2) small area not properly drilled; or (3) shelter tubes not completely scraped down; or (4) other violations as determined on a case-by-case basis.

G. Subterranean Termite Control of Existing Structures.

(1) Only pesticides properly labeled for subterranean termite control shall be used.

(2) On each subterranean termite control treatment the pest control operator shall give the following minimum services:

(a) Remove from crawl spaces all cellulose debris (wood, paper, stumps, cloth, cotton or other similar materials) and any other debris which would interfere with effective treatment and inspection. Remove all form boards which 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 Standard Building Code. Where the proper grade of treated wood is not used in a ground contact situation wooden steps, support piers, window frames, trellises, lattice work and other such wooden parts of the building shall be set on a solid concrete base or other such base which is impervious to termites, or shall otherwise be altered so that there is no direct contact with the ground. This requirement cannot be met solely by treatment of the soil immediately adjacent to and in contact with the untreated wood.

(c) Scrape off all visible and accessible termite shelter tubes, including those on the wood.

(d) Rod and/or cut a narrow trench on the inside of foundation walls in all soil in contact with foundation walls, pillars and supports. Where footings are not covered by soil, rod and/or cut a narrow trench adjacent to footings but not below bottom of footing. Apply termiticide solution to the trenches and to the backfill. Trenching and backfilling or rodding, spacing the rod at not more than 12 inch intervals, is required along the outside foundation walls. The soil immediately around the point where pipes enter the soil shall be saturated with an approved termiticide. When pipes are covered with insulating material, care shall be taken that the soil treatment is sufficient to insure penetration in the soil below the depth to which such covering extends.

(e) Drill and flood, at no more than sixteen (16) inch intervals, the cavities in hollow pillars, tile, brick, concrete block or other cavity type walls, chimneys or other construction features likely to be penetrated by termites. If walls or pillars are capped by a solid one-piece masonry unit with no cracks or mortar joints, drilling and treatment of the hollow void is not mandatory. A block wall capped by solid concrete blocks has numerous mortar joints in that cap, and is not considered a solid masonry unit. If blocks are open at the top and accessible, treat these open voids or drill and treat.

(f) Soil areas beneath attached concrete slabs (porches, patios, carports, garages, walkways, etc.) which are less than 18 inches below the sill or plate line of the structure should be treated:

(1) By cutting access openings and removing soil adjacent to the foundation the length of the fill at least six (6) inches deep below the bottom of the slab and six (6) inches wide 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 twenty-four (24) inch intervals parallel to and not more than twelve (12) inches away from the foundation wall.

(3) Or by rodding and applying the permitted chemical beneath the slab 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 twenty-four inch intervals and treating the soil beneath the slab.

(g) Provide adequate ventilation. Normally this will require approximately one 8 by 16 inch foundation ventilator per 150 square feet of crawl space making certain that no "dead ends" or corners are left unventilated.

(h) In the crawl space remove enough soil to give sufficient space between wood substructure and the soil for the application of proper control measures. In any case, minimum clearance between untreated wood and soil shall be 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 shall be saturated with termiticide by treating from

above or by horizontally drilling or rodding at no more than twenty-four (24) inch intervals, immediately beneath the slab. Treatment from above shall consist of vertically drilling the slab no more than twelve (12) inches from the potential point of termite entry.

H. Subterranean Termite Control Pretreatment of Structures.

(1) In new construction treatment, the approved termiticide shall 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 may be treated before the slab is poured, otherwise drilling will be necessary. Within ninety (90) days after the outside grade has been completed, treat the soil that is adjacent to the outside foundation wall.

(3) Crawl space foundation areas are to be pretreated as set forth in Section G (2).

(4) Warranty.

(a) For new single family residential construction not otherwise covered by a federal warranty requirement, the Pest Control Operator (PCO) will provide to the Builder (or owner, if known at time of treatment) a one year transferrable warranty, which shall cover repair of damage and retreatment. The warranty period begins the day pretreatment is billed. This warranty must be transferred to any owner within the original one year warranty period, by notification from the new or the old owner to the Pest Control Operator by certified mail, return receipt. The PCO must offer the homeowner the opportunity to renew the warranty on the same terms and conditions the PCO offers renewals of the regular termite treatment contracts for 4 consecutive years. Failure of the homeowner to renew any one year relieves the PCO of any future responsibility for renewals, based upon this section. The renewal warranty must, as a minimum, extend to retreatment, but may by mutual agreement, be extended and/or enlarged.

(b) The PCO's original warranty shall not extend to:

(1) Violations of the Standard Builder's Code by the owner/builder which occur after the completion of the pretreatment (stucco or styrofoam sheeting, or similar material which extends below grade, inadequate ground clearance, etc.)

(2) Additions not treated by the PCO.

(3) Remodeling/landscaping which occurs after pretreatment is complete and which entails considerable disturbance of the treated soil area.

(4) Conditions for which a waiver has been approved prior to the commencement of the pretreatment.

(c) A copy of the warranty and a copy of waivers, if any, shall be delivered to the purchaser of the treatment prior to closing. The warranty shall clearly state its transferability, renewability and the requirements therefore.

I. Other Wood-Destroying Insects.

(1) Infestations of beetles which are not capable of reinfesting seasoned wood normally do not require treatment. Rustic dwellings (log homes) initially infested with large numbers of Buprestidae and structures with infestations in wood with more than 20% wood moisture content may be the exception.

(2) Before treatment is recommended, infestations of beetles capable of reinfesting seasoned wood must be determined to be active infestations. To determine if the infestation is active, the following criteria will apply:

(a) Drywood termites--Where prior localized treatment or fumigation is known to have occurred, the presence of the distinctive frass, damage, or dead Drywood termites normally is insufficient to justify a treatment. In all cases, the presence of live workers, soldiers or swarmers shall constitute an active infestation. In most cases, localized treatment is sufficient for control. Because of the slow rate at which damage accumulates from these insects, fumigation is rarely necessary.

(b) Powder Post Beetles (Anobiidae, Lyctidae, and Bostrichidae): Frass the color of fresh-cut wood streaming out of emergence holes or piled beneath emergence holes. Emergence holes alone do not indicate activity nor does the presence of old frass in emergence holes or galleries.

(c) Old house borer (*Hylotrupes bajulus*): Oval exit holes with powdery frass the color of fresh cut wood and live adult or larval specimens constitute an active infestation. The detection of gnawing noises shall be considered comparable to live larvae.

(d) Treatment: Wood-destroying beetles may have localized activity, and local treatments may be sufficient. All beetle frass from vertical and horizontal surfaces must be removed. Widespread and inaccessible infestations may require fumigation. Preventative treatments for powder post beetles or old house borers are not normally warranted but are not totally prohibited where the situation warrants preventative measures.

J. Moisture Control.

(1) Fungal growth under structures can be controlled by controlling the source of moisture. Sprays to kill fungi occurring on the wood substructure are not normally effective. If it is impracticable to prevent moisture problems due to drainage problems, the property owner must be notified in the contract.

(2) If moisture condensation of soil moisture is occurring on the substructure wood, it can be prevented by installing a vapor barrier. An adequate barrier can be made by covering the soil under the structure with polyethylene sheets. Normally not more than 70% to 80% of the crawl space soil should be covered. Note, subfloor and finished floors swelled by excessive moisture may crack or be damaged if the moisture is dried out beyond the equilibrium content. To prevent this, wood in most old structures must be kept somewhat more moist than wood in new buildings.

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 shall be issued by an individual currently licensed under Industrial, Institutional, Structural and Health-Related Pest Control, subcategory 7A: General. This report shall be signed by the individual currently licensed issuing the report and shall be given to each party of the realty transaction.

(2) This inspection shall be conducted as prescribed below and the findings reported on Form CL-100, Wood Infestation Report, or a later form approved by the Division of Regulatory and Public Service Programs. The form for this report shall be furnished by the licensee.

Scope of the Inspection

The inspection shall be conducted by a careful visual inspection of the readily accessible areas of the structure and sounding or probing those areas showing visible indication of wood-destroying organisms. The inspection and report thereon for fungi and fungi damage is limited to the area below the floor level of the first main floor. This Wood Infestation Report cannot be viewed as a structural damage report. If visual evidence of wood-destroying organisms or damage is noted in this report, further investigation for structural damage by qualified building experts is recommended. This report is not a warranty as to the absence of wood-destroying organisms; rather, it is a report of the apparent absence of wood-destroying organisms at the time of the inspection. Any warranty or guarantee must be obtained from a pest control operator who has treated the premises.

(3) The following items must be reported:

(a) Termite infestations:

- (1) Active infestation of termites.
- (2) Previous infestations of termites.
- (3) Termite damage.

(b) Other wood-destroying insect infestations:

- (1) Active infestation of other wood-destroying insects.
- (2) Previous infestation of other wood-destroying insects.
- (3) Other wood-destroying insect damage.

(c) Decay fungi conditions:

- (1) Decay fungi.
- (2) Excessive moisture conditions.
- (3) Fungi damaged wood.
- (4) Mold or sap stain fungi.

This report does not place the responsibility of correction of reported damage upon the person issuing the report unless separate contracts to this effect are in force.

L. Structural Pest Control Activities.

(1) "Structural Pest Control Activity" means the use of any pesticide in, on, under or immediately adjacent to any structure intended for preventing, destroying, repelling or mitigating any pest, including but not limited to termites, roaches, fleas, wood-destroying organisms, rats, mice and others.

(2) Any individual performing any one or more structural pest control activity for hire on the property of another shall be licensed in Category 7A by the Department of Fertilizer & Pesticide Control, or the individual must work under the direct supervision of one so licensed.

M. Business License

(1) No main business office where records are kept or branch office shall engage in structural pest control activities in the State without first obtaining a "Business License" from the Department of Fertilizer & Pesticide Control. Such "Business License" shall be required for a specific location and issued only when such location has a certified applicator in charge, licensed by the department in Category 7A, and permanently assigned to that specific location on a full time basis while the business is operating and present, subject to normal sick/annual leave and training days away from the office. It is acknowledged that he will, as needed, supervise "field" pesticide applications of technicians. The name and applicator license number of the certified applicator in charge shall appear on the license. No individual may appear on a license as the certified applicator in charge for more than one location, except when one location is strictly the business office, i.e. no pesticide applications are being directly supervised from that office.

(a) Application shall be made to the department on the "Business License" application form and shall include copies of the certified 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 certified category 7A applicator in charge 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, demonstrating an emergency, unforeseen situation for which there is no other reasonable solution. 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" 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) Business license fee shall be \$75.00 per year and the license valid from January 1 through December 31, unless the license is 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 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

\$1600.00 and/or modification, suspension, or revocation of license privileges. 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, in a manner acceptable to the Department, such treatment and structure information as prescribed by the Department, including but not limited to: address of treatment site; applicator/technician making actual treatment; waivers; brand name of termiticide; quantity of pesticide used; dilution rate; and treatment technique (rod, trench, both, pretreat, slab, etc.) The information will be retained by the business location (or branch office) where the records are kept. These records, and other records as duly prescribed by the Department, shall be retained for a period of two years after the date of treatment and shall be presented for examination and duplication upon request by departmental agents.

(h) If a certified Category 7A applicator in charge is no longer present at a business location due to unforeseen circumstances, the business may petition the Director for an emergency stay of the "Business License" provision. The duration of the stay will be determined by the Director. The stay under normal circumstances will not be granted beyond the next available examination date. Under all other circumstances if the certified applicator in charge leaves the designated office or branch office, the "Business License" may be transferred, authorized by the department, to another qualified applicator within thirty (30) days of departure. In all other cases, it shall be surrendered.

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

(3) Each vehicle which transports pesticides used in structural pest control activities must display in a prominent place, as designated by the department, the appropriate Department of Fertilizer & Pesticide Control decal, business license number, and company name. This information should be in one (1) inch or greater letters displayed against a contrasting background. If a vehicle is used at more than one (1) location, it should bear the business license number of its primary location.

(4) All pest control personnel, except office personnel, and/or certified applicators performing structural pest control activities shall carry (not display) on his/her person an official identification card which demonstrates verifiable training in his area of pest control and provides the business and appropriate commercial license number, technician's name, or other pertinent information, as designated by the department. This identification shall be presented upon request. Failure to present this card is a violation of the Act. The card shall remain the property of the department and shall be surrendered when such activities cease, or when, if the person is licensed, that license is suspended or revoked.

(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 previously treated.