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Document No. 4284

**CLEMSON UNIVERSITY**

**STATE CROP PEST COMMISSION**

CHAPTER 27

Statutory Authority: 1976 Code Section 46-9-40

27-1078. Certifications and Licensing of Commercial Applicators

27-1085. Standards for Prevention or Control of Wood-destroying Organisms**Synopsis:**

The State Crop Pest Commission proposes to amend certain sections of Article 17, specifically Regulation 27-1078 and Regulation 27-1085, to include a Limited Herbicide Applicators license. This will apply to landscapers using herbicide containing glysophosate as the sole active ingredient and with “Caution” as the signal word, working with terrestrial landscape weed control. This Limited Herbicide Applicators license would relieve the burden on commercial applicators using a less toxic herbicide than those commercial applicators using more environmentally severe herbicides. Notice of Drafting was published in the *State Register* on January 27, 2012. No comments were received. The proposed amendments create a limited herbicide applicators license.

**Instructions:**

27-1078. Print as shown below.

27-1085. Print as shown below.

**Text:**

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).

(d) Soil Fumigation (Category 1D).

(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).

(e) Limited Herbicide Application (Category 12E).

 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 Section N, 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 applicators 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 accumulate no less than the number of Continuing Certification Units (CCUs) specified below for each category in which they are licensed, up to a maximum of 24 CCUs. Alternatively the applicator may complete the initial licensing requirements and re-apply to the Director for a license.

(1) All courses of study for which CCUs are requested must be submitted to the Department at least fifteen business days in advance of the date of the training. On-line, correspondence, or other self-study programs must be submitted for approval at least fifteen business days before being offered to participants. Submission of a program to the Department does not guarantee that it will receive CCUs.

(2) CCUs will be awarded as either category-specific or core-competency CCUs. Licensed applicators in categories in which licensing is mandatory must accumulate category-specific CCUs as indicated below before renewing their licenses. Licensed applicators holding certification in more than one category in which licensing is mandatory must accumulate the required number of category-specific CCUs for each mandatory category, up to a maximum of 24, as above.

(3) Once the required number of category-specific CCUs has been accumulated, either core-competency CCUs or additional category-specific CCUs may be used to fulfill the remaining CCU requirements.

(4) The Department will award CCUs based on its evaluation of the content of the course of study.

(5) Applicators certified in Category 7A must accumulate 20 CCUs in each recertification period, no less than 12 of which must be specific to Category 7A.

(6) Applicators certified in Category 7B must accumulate 10 CCUs in each recertification period, no less than 3 of which must be specific to Category 7B.

(7) Applicators certified in Category 3, 5, or 8 must accumulate 10 CCUs in each recertification period, no less than 3 of which must be specific to each category.

(8) Applicators certified in other categories must accumulate 10 CCUs in each recertification period.

(9) Applicators may obtain no more than one-half of the total number of required category-specific CCUs and no more than one-half of the core-competency CCUs during the last year of any recertification block. Applicators may "carry over" to the next recertification block any CCUs they obtain in excess of the minimum required, both category-specific and core-competency, during the final year of any recertification block.

O. The Department may at its discretion place a license into an inactive status at the request of the license holder for a period of not more than 5 years. During the inactive period the license holder is relieved of the requirement to show financial responsibility.

(1) Holders of inactive licenses must meet the recertification requirements set forth above, and must renew their licenses annually.

(2) No pesticide use or other activities regulated by this Section may be conducted or supervised using an inactive license.

 P. Limited Herbicide Application (Category 12 E).

(1) Treatment of turf and ornamental plantings with a herbicide containing glyphosate as the sole active ingredient with “Caution” as the signal word, when performed as part of terrestrial landscape weed control for compensation on the property of another, requires only a Category 12E Limited Herbicide Application license provided that applications are performed using portable backpack and hand-held compressed-air sprayers, each of which is of no more than 5 gallons total capacity per applicator per site .

(2) Category 12E Limited Herbicide Application license holders may not use any other herbicides, rodenticides, miticides, fumigants, nematicides, insecticides, fungicides, Restricted Use Pesticides, any products with a “Warning” or “Danger” signal word, or products with restrictive label language, except under the direct supervision of a Category 3 or other appropriate license holder. The presence of any rodenticides, miticides, fumigants, nematicides, insecticides, fungicides, Restricted Use Pesticides, any products with a “Warning” or “Danger” signal word, or products with restrictive label language as detailed in Section 27-1075 D above, on a vehicle or in application equipment under the control of a Category 12E Limited Herbicide Application licensee is also a violation of this Section.

(3) Applicators certified in Category 12E Limited Herbicide Application must accumulate 5 Continuing Certification Units in each five-year recertification block.

(4) Persons holding only a Category 12E Limited Herbicide Application certified commercial applicator license may provide direct supervision, in accordance with Section 27-1083D, to unlicensed applicators, but only for applications of herbicides containing glyphosate as the sole active ingredient with “Caution” as the signal word.

(5) Applicators seeking certification in Category 12E Limited Herbicide Application are required to pass a 50 question examination, designed for this specific area of pest control.

(6) All other regulations in this Chapter apply to Category 12E Limited Herbicide Application license except that, where more stringent regulations regarding the certification examination and recertification occur in this Chapter, this Section shall take precedence for those certified in the Category 12E Limited Herbicide Application license.

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 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.

(5) Any person applying only a glyphosate herbicide on turf or ornamentals for compensation on the property of another, as defined in Section 27-1078 P.

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.

**Fiscal Impact Statement:**

There will be no increased costs to the state or its political subdivisions.

**Statement of Rationale:**

The rationale for this regulation is to encourage the use of less toxic herbicides in commercial applications.