

**Title 7**  
**AGRICULTURE AND ANIMALS**  
**Part XXV. Structural Pest Control**

**<sup>1</sup>Chapter 1. Structural Pest Control Commission**

**§101. Definitions**

- A. The definitions in R.S. 3:3362 are applicable to this Part.
- B. The following words and terms are defined for the purposes of this Part.

*Act*—the Structural Pest Control Law, which is currently Part VII of Chapter 20 of Title 3 of the Louisiana Revised Statutes of 1950, (R.S. 3:3301 et seq.).

*Adjudicatory Proceeding*—an open public hearing by the commission to determine whether violations of the Act or these rules and regulations have occurred.

*Applicant*—any person making application for a license to engage in operations coming under the provisions of this Part.

*Availability* [with reference to *direct supervision*]*—*that the licensee must be able to reach the job site within three hours after receipt of a call or have established another licensee to supervise his operations (see definition of *direct supervision* in §101).

*Bond*—a written instrument issued or executed by a bonding, surety or insurance company licensed to do business in this state, guaranteeing the fulfillment of the agreement between the licensee or business entity and his customer and insuring against fraudulent practices by the licensee or business entity.

*Branch Office*—any site, i.e., office, store, warehouse, etc., where any kind of structural pest control services are offered to the general public.

*Business*—either a single person or a group of persons organized to carry on the business of structural pest control.

*Certified Applicator* (for purposes of these regulations)—any person who holds a valid license as herein provided or otherwise known as licensee.

*Certified Fumigation Technician*—a technician qualified to perform the following:

- a. *Structural Fumigation*—apply fumigants to and clear fumigants from structures under the supervision of a licensed fumigator.
- b. *Ship Fumigation*—shall only add additional fumigants to a ship fumigation after the initial amount of fumigants has been applied, under the supervision of a licensed fumigator.
- c. *Commodity Fumigation*—apply fumigants to and clear fumigants from commodities under the supervision of a licensed fumigator.

*Chain Wall*—any wall constructed of any material that supports or skirts a structure.

*Commodity Fumigation*—the fumigation of food or non-food items stored in stacks, rail cars, containers, trucks, barges, boxes, bins, etc. that are not normally occupied by humans. No living quarters shall be in any of the above.

*Construction*—the act of building a structure from the start of the first stage of physical work until completion which is when either the structure is ready to be inhabited, final inspection and approval by an appropriate building inspector, or completion of the final grade.

*Containment Pad*—a containment structure that:

a. for new and existing containment structures, meets the design, construction materials and capacity requirements of 750 gallons or 100 percent of the capacity of the largest container/equipment used on the pad (whichever is less); and

b. accommodates pesticide spills or leaks in dispensing areas at bulk facilities.

*Containment Structure or Structure*—new and existing structures at bulk facilities that meet the design, construction materials and capacity requirements used to contain spills or leaks from stationary pesticide containers or pesticide dispensing activities.

a. An existing containment structure is a structure for which installation began on or before July 1, 2011.

b. A new containment structure is a structure for which installation began after July 1, 2011 if certain conditions regarding permits, construction and contracts are met.

*Contract*—a written agreement between two or more persons, one of whom is a pest control operator for services for the provision of a specific pest control service. Contracts for subterranean termites, dry wood termites, power post beetles or old house borers shall be approved by the commission prior to use.

*Curtain Wall*—any non-supporting wall constructed of any material that skirts a structure.

*Department*—the Louisiana Department of Agriculture and Forestry.

*Direct Supervision*—physical contact at least twice within five consecutive working days by a licensee with all employees registered under his supervision, including giving routine and/or special instructions, prescribing pesticides, calculating volume of pesticides to be applied, calibrating equipment and being available, whenever and wherever needed, to handle any emergency situations which might arise (see definition of *availability* in §101).

*Director*—the director of the Division of Pesticide and Environmental Programs or his duly authorized representatives acting at his direction.

*Division*—the Department's Division of Pesticide and Environmental Programs.

*Employee*—any person employed by a permittee and working under the supervision of licensee with the exceptions of clerical, janitorial or office maintenance employees or those employees performing work completely disassociated with the use of pesticides, the control and inspection of insects, pests, rodents and the control and inspection for wood-destroying insects.

*Fumigation*—the application of a fumigant in residential and commercial structures, ships, railcars, trucks, commodities such as dunnage on wharves, silos or conveyors, vaults or the like.

*Gas*—matter in a vapor state which diffuses readily and is capable of indefinite expansion in all directions moving from an area of high concentration toward an area of lower concentration. Aerosols should not be confused with gas as they are particulate suspensions.

*Household Pest*—all species of insects and other pests which infest residences and other types of buildings and their immediate premises, such as cockroaches, flies fleas, mosquitoes, clothes moths, spiders, carpenter ants, carpenter bees, rodents and so forth, but does not include wood-destroying insects.

*Label*—the written, printed or graphic matter on or attached to a pesticide or device or any of its containers or wrappers.

*Labeling*—all labels and other written, printed or graphic matter:

a. accompanying a pesticide or device at any time; or

b. to which reference is made on the label or in literature accompanying the pesticide or device, provided that the term does not apply to current official publications of the EPA; the U.S. Departments of Agriculture, Interior or Health, Education and Welfare; state experiment stations; state agriculture colleges; and other similar federal and state institutions and agencies authorized by law to conduct research in the field of pesticides.

*License*—a document issued by the commission which authorizes the practice and/or supervision of one or more phases of structural pest control work as follows:

a. *General Pest Control*—the application of remedial or preventive measures to control, prevent or eradicate household pests by use of pesticides used as sprays, dusts, aerosols, thermal fogs, barriers, traps and baits. Residential rodent control will be limited to the use of anticoagulant rodenticide and traps;

b. *Commercial Vertebrate Control*—the application of remedial or preventive measures to control, prevent or eradicate vertebrates, including baits, chemicals, barriers, gases and traps, in nonresidential establishments, but not including tarpaulin fumigation;

c. *Termite Control*—the application of remedial or preventive measures for the control, prevention or eradication of termites and other wood-destroying insects and the inspection of structures for wood-destroying insects;

d. *Fumigation*—the use of lethal fumigants and/or rodenticides in a gaseous form for the control, prevention or eradication of insect pests, rodents, or other pests in a sealed enclosure with or without a tarpaulin;

e. *Wood Destroying Insect Report (WDIR) Inspector*—the application of remedial or preventive measures for the control, prevention or eradication of termites and other wood-destroying insects and the inspection of structures for wood-destroying insects.

*Licensee*—the person who holds a valid license as herein provided.

*Material Safety Data Sheet (M.S.D.S.)*—a document which states chemical characteristics and safety precautions regarding a specific chemical.

*Non-Residential Establishment*—includes, but shall not be limited to, hotels, motels, schools, hospitals and nursing homes.

*Permittee*—any person who holds a place of business permit issued by the commission.

*Pest Control Operator*—any person conducting or performing structural pest control.

*Place of Business*—the entire premises to which the public generally is expressly or impliedly invited for the purpose of transacting business with the owner and is simply a location where business is transacted, or a shop, office, warehouse or commercial establishment, and shall be indicated on the application and the permit and any license issued for that place of business.

*Registered Employee*—an employee registered as provided by this Chapter.

*Registered Wood Destroying Insect Report (WDIR) Technician*—an employee qualified to conduct wood destroying insect report inspections.

*Registration Certificate*—a document issued by the commission staff to a non-licensed employee of a business engaged in structural pest control work.

*Repellents*—substances, not fumigants, under whatever name known, which may be toxic to insects and related pests, but generally employed because of their capacity for preventing the entrance or attack of pests.

*Residential Structure*—any structure, movable or immovable, permanent or temporary, that is adapted for both human residence and lodging whether occupied or not, such as, single-family homes, multi-family, apartments, townhouses, condominiums, and/or co-ops but excludes any structure built for the temporary residence of a human such as hotels, motels.

*Rule*—as defined in R.S. 49:951(6).

*Secretary or Secretary of the Commission*—the assistant commissioner of Agricultural and Environmental Sciences (assistant commissioner).

*Ship Fumigation*—the fumigation of a vessel capable of transporting or housing people and/or products. It is normally self-powered and shall have a crew or living quarters.

*Spot Treatment* (when used in reference to termite control work)—a localized application of chemicals or other substances to control, prevent or eradicate termites in a residence or other structure that is not under a current contract.

*Structural Fumigation*—the fumigation by covering or sealing churches, schools, homes or any other buildings in which people are normally housed or work or is frequented by people. This also includes the covering or sealing of small boats or ships under 100 feet.

*Termites*—all species of the order *Isoptera* which infest timbers and/or other materials containing cellulose in buildings and/or contents thereof, subdivided into two groups according to their habits, as follows:

a. *Subterranean Termites*—all species of termites which make tubes, but not pellets, and normally require contact with soil; especially species of the genera *reticulitermes* and *coptotermes*;

b. *Dry-Wood Termites*—all species of termites which make pellets, but not tubes, and do not require contact with damp soil; especially species of the genera *kaloterms*, *cryptotermes* and *incisitermes*.

*Termiticide*—any substance applied to buildings, wood products or soil for the treatment of termites.

*Termiticide Treatment*—application of a termiticide.

a. *Pre-Construction Treatment*—a termiticide treatment for subterranean termites made with a commission approved termiticide prior to the stage of construction where a slab or concrete is poured or piers are being built or placed into position. Borate treatments during any stage of construction shall be considered a pre-construction treatment.

b. *New-Construction Treatment*—a termiticide treatment made with any commission approved termiticide(s) or baiting system that meets minimum specification requirements for that type of treatment and which is applied or installed during or after the stage of construction where a slab or concrete is poured or piers are being built or placed into position and up to 12 months after completion of construction. New-construction treatments are to be made in accordance with the post-construction treatment section of termiticide labels.

c. *Post-Construction Treatment*—a termiticide treatment made with any commission approved termiticide(s), using the post construction section of a label, which is applied after the time frame of new-construction.

*Vertebrate*—those pests, such as rodents, bats and birds, belonging to the phylum vertebrata.

*Violation*—any act which is prohibited by the Act or any of these rules and regulations. Violations shall be classified in accordance with degree of severity, as follows:

a. *Minor Violation*—any act prohibited by the Act or these rules and regulations which does not result in danger to human health or damage to personal property, including, but not limited to, clerical errors or failure to make timely reports to the commission;

b. *Moderate Violation*—any act of negligence in meeting the guarantees of an agreement for structural pest control work in the licensure phase where the violation occurs, such as failure to apply chemicals in accordance with label and labeling requirements and minimum specifications:

c. *Major Violation*—any act which may adversely affect human health and safety. Any act performed without having the proper permit, license, or registration; any intentional misrepresentation of any matter involved in or related to structural pest control work; or any false or misleading statement knowingly made in a wood-destroying insect report or any failure to timely pay any civil penalty imposed by the commission or any failure to timely pay any fee collected by the department.

*Wood Destroying Insect Report (WDIR)*—a document approved by the Structural Pest Control Commission issued by a pest control operator only for inspections made to determine the presence of wood destroying insects for acts of sale or refinance of structures. A wood destroying insect report shall not be renewable or issued for any other purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3362 and R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:323 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission LR 15:954 (November 1989), 17:251 (March 1991), LR 23:855 (July 1997), LR 30:1143 (June 2004), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 31:26 (January 2005), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 32:796 (May 2006), repromulgated LR 32:1015 (June 2006), amended LR 33:39 (January 2007), LR 35:204 (February 2009), LR 35:1468 (August 2009), LR 37:272 (January

2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:300 (February 2013).

**§103. Administration of the Affairs of the Commission; Adoption of Rules and Regulations**

- A. As provided by R.S. 3:3364, the commissioner or his designee shall serve as permanent chairman of the commission.
- B. The assistant commissioner shall serve as secretary of the commission.
- C. In the absence of the chairman, the secretary shall preside at meetings of the commission.
- D. The chairman shall designate a hearing officer, who may or may not be a member of the commission, to preside at all adjudicatory proceedings of the commission.
- E. The commission shall serve as the hearing body in all adjudicatory proceedings and shall make the final decision with regard to the disposition of matters coming to adjudication.
- F. The commission shall hold regular meetings at least once during each quarter.
- G. Meetings of the commission shall normally be held in the domicile of the commission.
- H. Meetings may be held at locations other than the domicile of the commission upon the determination of the chairman or at the written request of any three members of the commission.
- I. Special meetings of the commission may be called at any time by the chairman.
- J. Whenever at least three members of the commission desire to call a special meeting, the three members shall so advise the chairman in writing and the chairman shall call a special meeting to be held within 30 days after receipt of the members' request.
- K. If the chairman fails or refuses to call a special meeting upon the proper request of three members, the members may convene a special meeting of the commission by written notice to the remaining members.
- L. The secretary shall notify each member of the commission by in writing or by electronic means of any regular or special meeting at least one week prior to the meeting date.
- M. The secretary shall provide clerical and other support services as may be required by the commission and shall maintain and distribute appropriate minute records of all meetings of the commission.
- N. There shall be no voting by proxy.
- O. Three members of the commission shall constitute a quorum, and no action shall be taken without three votes in accord.
- P. Rules and regulations of the commission, and amendments thereto, shall be noticed, adopted and promulgated as required by the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3363, R.S. 3:3364 and R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:325 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 20:644 (June 1994), LR 35:204 (February 2009), LR 37:275 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:300 (February 2013).

**§105. Permit for Operation of Structural Pest Control Business; Changes in Structural Pest Control Business**

- A. Every place of business engaged in structural pest control work shall:
  - 1. obtain a permit for operation from the commission prior to engaging in structural pest control work.
  - 2. provide a certificate of insurance on a document provided by the department including but not limited to the following information:
    - a. not less than \$250,000, general liability coverage, per occurrence for the following:
      - i. all work performed under specific structural pest control license phases;
    - b. not less than \$100,000 coverage for property damage;

- c. or combined single limits of \$350,000;
- d. definitions for purposes of this Section:
  - i. *Public Liability*—general liability;
  - ii. *Accident*—occurrence;
- e. provide at least 10 days prior written notice to the commission before cancellation and 10 days written notice to the commission when paid claims reach or exceed the aggregate limit.

3. Provide evidence of a surety or fidelity bond on a form provided by the department covering the business with which the applicant is connected, issued by a bonding, surety or insurance company authorized to do business in Louisiana, in the amount of \$2,000, of tenor and solvency satisfactory to a majority of the commission. An applicant who is not connected with a business covered by the required surety or fidelity bond shall secure the appropriate coverage prior to issuance of the license.

B. No permit for operation shall be issued by the commission unless there is a licensee for each phase of structural pest control work being conducted who is domiciled and designated as the primary licensee at the business location for which the permit is sought.

C. Each permit for operation shall be renewed annually, on or before June 30 of each year.

D. The fee for issuance of a permit for operation shall be \$125 for firms which employ two or less employees and \$175 for firms which employ three or more employees.

E. When two or more businesses which are separate legal entities, even though owned by the same individual or the same legal entity, are operated at one physical location, each separate entity shall obtain a permit for operation.

F. Whenever a license is suspended or revoked under §131, the commission may also revoke the permit to operate. In such cases, the commission shall recall the permit and require the licensee to immediately return the permit to the commission.

G. Whenever a permit is recalled by the commission as provided in §105.F, no structural pest control work of any kind shall be provided by persons domiciled at the location for which the recalled permit has been issued.

H. Except as provided in this Subsection, any change in the status of a permittee (e.g., death, retirement, prolonged illness, merger, sale, change of ownership, etc.) shall be reported to the commission, in writing, within 14 days after the change in status occurs.

1. If the change in the permittees status would result in the non-renewal of the place of business permit or would require the commission to issue a new place of business permit, then the notice shall be accompanied by the following information:

- a. the reason for the change in the status and the effective date of the change;
- b. the status of all licensee(s) and registered and certified technicians;

I. If a permittee sells or otherwise transfers any wood destroying insects contract then the commission and each customer whose contract was sold or transferred shall receive the following written notification.

1. The selling or transferring permittee and the person purchasing or receiving the wood destroying insects contract shall each provide the commission in writing the following information and statements.

a. If all the wood destroying insects contracts of the permittee selling or transferring such contracts are being purchased or transferred then a statement that all wood destroying insects contracts are being sold or transferred and that all the contracts shall remain in full force and effect in accordance with the terms and conditions of the customers' contracts shall be sufficient.

b. If all the wood destroying insects contracts are not being sold or transferred then the information provided to the commission shall include:

- i. a statement that all wood destroying insects contracts are being sold or transferred except for the specific contracts listed;
- ii. a list of the specific contracts that are not being sold or transferred;

iii. for each contract being sold or transferred, a statement that all contracts being sold or transferred shall remain in full force and effect in accordance with the terms and conditions of the customers' contracts.

2. The person acquiring a wood destroying insects contract by a sale or transfer shall notify the customer in writing, within 30 days after the sale or transfer of:

- a. the effective date of the sale, transfer, or change in status; and
- b. the name, address, and telephone number of the person acquiring the customer's wood destroying insects contract;
- c. a statement that the customer's contract shall remain in full force and effect in accordance with the terms and conditions of the contract.

J. A permittee who is closing his business or is otherwise not going to honor or service existing wood destroying insects contracts shall, within 14 days of the time of the close of business or ceasing to honor or service existing wood destroying insects contracts shall provide certified written notification of the decision to affected customers along with the following information:

1. the commission's address and telephone number;
2. the date of closure or last date the contract will be honored or serviced;
3. a statement of bond coverage; and
4. the bond company's name, address, telephone number, and contact person.

K. Any person who fails to comply with the provisions of this Section shall personally come before the commission prior to that person being granted a registration, certification, license, or permit, or renewal thereof. The commission may deny or defer action on a request to grant a registration, certification, license or permit, or renewal thereof. The commission may deny a renewal or impose civil penalties for violation of this Section only after the person has been brought to an adjudicatory proceeding and found guilty of violating the provisions of this Section.

L. All information and all documents relating to written contracts transmitted to the commission in accordance with the requirements of this Section shall be confidential and shall be exempt from the Public Records Law, R.S. 44:1 et seq., as provided in R.S. 3:3370(E).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:325 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:954 (November 1989), LR 33:40 (January 2007), LR 37:275 (January 2011).

#### **§107. License to Engage in Structural Pest Control Work Required**

A. No person shall perform structural pest control work until licensed and permitted to do so by the commission.

B. Each applicant for license shall possess one of the following qualifications in order to take the examination(s):

1. general pest control, commercial vertebrate control and fumigation:
  - a. a degree from an accredited four-year college or university with a major in entomology; or
  - b. a degree from an accredited four-year college or university with at least 12 semester hours or the equivalent in quarter hours of course work in entomology and at least one year of experience as a registered technician under the supervision of a licensee in the licensee phase for which the applicant desires to take the examination; or
  - c. four years of experience as a registered technician under the supervision of a licensee in the licensee phase for which the applicant desires to take the examination; or
  - d. four years of experience as a technician under the supervision of a structural pest control operator in another state in the licensee phase for which the individual desires to take the examinations. Experience with an out-of-state structural pest control operator shall be substantiated by evidence acceptable to the commission;

2. termite control:

a. a degree from an accredited four-year college or university with a major in entomology and complete a commission approved comprehensive termite program; or

b. a degree from an accredited four-year college or university with at least 12 semester hours or the equivalent in quarter hours of course work in entomology and at least one year of experience as a registered technician under the supervision of a licensee in the licensee phase for which the applicant desires to take the examination and complete a commission approved comprehensive termite program; or

c. four years of experience as a registered technician under the supervision of a licensee in the licensee phase for which the applicant desires to take the examination and complete a commission approved comprehensive termite program; or

d. four years of experience as a technician under the supervision of a structural pest control operator in another state in the licensee phase for which the individual desires to take the examinations and complete a commission approved comprehensive termite program. Experience with an out-of-state structural pest control operator shall be substantiated by evidence acceptable to the commission.

C. Each applicant for a ship fumigation license shall possess one of the following qualifications in order to take the examination:

1. a degree from an accredited four-year college or university with a major in entomology and 200 jobs in ship fumigation working under the supervision of a licensed ship fumigator; or

2. a degree from an accredited four-year college or university with at least 12 semester hours or the equivalent in quarter hours of course work in entomology and at least one year of experience as a registered technician under the supervision of a licensee in ship fumigation; or

3. four years of experience as a registered technician under the supervision of a licensee in ship fumigation; or

4. experience as a certified ship fumigation technician having completed 200 jobs in ship fumigation working under the supervision of a licensed ship fumigator; or

5. four years of experience as a technician under the supervision of a structural pest control operator in another state in ship fumigation. Experience with an out-of-state structural pest control operator shall be substantiated by evidence acceptable to the commission; or

6. 200 jobs in ship fumigation that the applicant has worked as a registered technician in ship fumigation working under the supervision of a licensed ship fumigator, during a two-year period.

D. Each applicant for licensure shall also demonstrate the following competencies:

1. knowledge of the practical and scientific facts underlying the practice of structural pest control, control of wood-destroying insects and/or fumigation; and

2. knowledge and ability to recognize and control hazardous conditions which might affect human life or health.

E. Each applicant shall successfully complete the appropriate examination for certification prior to issuance of the structural pest control license.

F. In addition to the qualifications required by §107.B-C, each applicant for licensure ~~must~~ shall:

1. submit a complete application for examination as required by §109 hereof;

2. be approved by the commission to take the examination for licensure;

3. have successfully completed a written examination for licensure no more than two years prior to the date of issuance of the license;

G. Out-of-state applicants for licensure shall meet the educational requirements shown in Paragraph B.1 or produce evidence satisfactory to the commission of four years of experience under the supervision of a recognized and reputable pest control operator. Experience in pest control work in another state will be verified with the appropriate regulatory agency of the other state before out-of-state applicant will be allowed to take the examination for licensure in Louisiana.

H. The commission shall consider each application for examination for licensure in open session. The commission may verify the contents of any application prior to taking final action to approve/disapprove the applicant to take the examination. The commission may disapprove an applicant, or defer action on the application to take the examination, in any instance when the contents of the application cannot be verified. Action to grant/deny approval for the applicant to take the examination shall be taken only upon the affirmative vote of three members of the commission. No license shall be issued until the commission has approved the application.

I. All applicants who are approved by the commission will, upon successfully completing the examination for licensure as set forth in §109 hereof, receive a single license to engage in structural pest control work, which license shall specify on the face thereof the specific phase or phases of structural pest control work for which the license is issued, as follows:

1. general pest control;
2. commercial vertebrate control;
3. termite control;
4. structural fumigation;
5. ship fumigation;
6. commodity fumigation.

J. A license to engage in structural pest control work is permanent unless suspended or revoked by the commission as provided in §131.

K. A licensee shall perform or supervise structural pest control work only in the phase or phases of the license for which he is licensed by the commission.

L. Each license is personal to the holder and shall not be transferred to another for any purpose or for any period of time and may not be utilized in any way by any person other than the licensee whose name appears on the face of the license.

M. All licenses shall be displayed at the place of business at all times.

N. The commission may deny a license to any person proven to have committed any of the violations set forth in §127 hereof.

O. A licensee approved in one phase of pest control work may be licensed in additional phases by successfully completing the examination for the additional phase. However, the license for additional phase or phases of structural pest control work shall not be issued until the commission approves the licensee to take the examination for the additional phase or phases.

P. Any permittee/licensee desiring to utilize a telephone answering service other than at locations holding a place of business permit shall submit a written department.

Q. A licensee shall only have one license with all phases for which he possesses issued at one place of business.

R. When a license phase has not been recertified, the licensee shall comply with all requirements for initial licensing contained in §107 and §109 or in a written request to the department to retest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and 3:3368.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:326 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:955 (November 1989), LR 19:1009 (August 1993), LR 23:855 (July 1997), LR 23:1493 (November 1997), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 31:2761 (November 2005), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 32:796 (May 2006), repromulgated LR 32:1016 (June 2006), amended LR 37:276 (January 2011).

#### **§109. Application for Examination; Contents of Application**

A. An application for examination for licensure may be made at any time by filing a complete application, on forms provided by the commission.

B. A complete application for examination shall be filed in the commission office at least 30 working days prior to any scheduled meeting of the commission to be routinely placed on the agenda for consideration by the commission.

C. Each applicant for examination shall pay a nonrefundable fee of \$50 per examination upon the commission's approval of the applicant's application for examination.

D. Each application for examination shall contain the following information:

1. business name, address and phone number of the business domicile of the applicant;
2. name and residence address of the applicant;
3. educational qualifications. For applicants seeking licensure on the basis of educational qualifications, a certified copy of the applicant's college or university transcript shall be provided;
4. proof of practical experience in pest control work:

a. upon request of the commission, the applicant shall submit from the said supervising licensee, a written statement that the jobs have been participated in by the applicant under his supervision and that the applicant has demonstrated the requisite knowledge to perform and supervise such work;

b. experience in pest control work. Information to be provided includes, but is not limited to, business name and address where employed under supervision, name of the licensee providing supervision to the applicant and evidence of registration while in the claimed employment. Applicants seeking licensure on the basis of experience shall provide a notarized statement from the licensee who supervised the applicant, attesting to the period of supervised employment and the capacity in which the applicant was employed, said affidavit to be executed on a form to be provided by the department;

c. if at the time of application, the licensee who provided supervision is deceased, his whereabouts are unknown, or fails or refuses to supply the statement, affidavit, or both, required under Subparagraphs a and b above, then the commission may waive the requirements for such statement, affidavit, or both upon:

i. submission by the applicant of a notarized statement signed by the applicant that the licensee who provided supervision is deceased, his whereabouts are unknown, or fails or refuses to supply the statement, affidavit, or both, required under Subparagraphs a and b above, and

ii. verification by the department to the commission of the applicant's experience in pest control work.

E. Any applicant who is not approved by the commission to take the examination will be notified of the commission's decision. An applicant who has not been approved by the commission to take an examination will not be admitted to the examination.

F. Copies of applications for examinations may be provided to the commission members for informational purposes during the interim between commission meetings.

G. Examinations will be given once during each quarter of the year by the director or the secretary only at the times or places which have been previously announced for each quarter.

H. The written examination shall be supplemented by oral examination and/or visual identification of specific pests and insects.

I. The minimum score required for successful completion of the examination is 70 percent.

J. An applicant shall be disqualified from completing an examination or taking any other examination administered under these rules and regulations if the applicant is caught or found to be cheating on an examination or using any written materials, electronic devices, or other means during an examination, which have not been authorized or allowed by the director or person administering the examination.

1. Any such applicant shall not be allowed to finish the examination and shall receive a score of zero. If an applicant finished the examination prior to the discovery of the cheating or use of unauthorized written materials, electronic devices, or other means the applicant's examination shall be voided and the applicant shall receive a score of zero.

2. Any applicant who is not allowed under this Subsection J to finish an examination, or whose examination is voided, or who is disqualified from taking the examination or any other examination administered under these rules and regulations may appeal the action to the commission.

i. The appeal shall be in writing, state the grounds for the appeal, and filed with the director or secretary within 30 days of the date of the action complained of.

ii. The appeal will be placed on the agenda for the next meeting of the commission and the applicant will be notified of the date and place of the next meeting.

iii. The appeal will be decided by the commission. The decision of the commission shall be the final administrative decision in the matter.

iv. An appeal from the decision of the commission shall be in accordance with the Administrative Procedure Act.

v. The action or administrative decision shall become final if no appeal is timely filed at any step in the proceedings or if the action is upheld on appeal.

3. During the pendency of any appeal or during the time limit for the filing of any appeal the applicant shall not be allowed to take any examination administered under these rules and regulations.

4. If the action or administrative decision is not appealed or is upheld on appeal then the applicant shall not be allowed to take or re-take the examination or any other examination administered under these rules and regulations for a period of three years from the examination date without the approval of the commission given at a meeting of the commission.

K. Each applicant shall be sent written notification of his or her examination results within 30 days after completing of the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and 3:3368.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:326 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:955 (November 1989), LR 35:206 (February 2009), LR 37:278 (January 2011).

#### **§111. Certified Fumigation Technician**

A. A mandatory two-year registered technician in the fumigation phase under a licensed fumigator, as is required. After the two years, the licensed fumigator would have to submit a list of the following:

1. six jobs in structural fumigation that this particular applicant has worked from start to finish;
2. six jobs in commodity fumigation that this particular applicant has worked from start to finish;

B. Having met these requirements in §111.A, the applicant would be qualified to take a written test administered by the commission to demonstrate that the person has the necessary knowledge in the phase(s) for which application is made. The minimum score required for successful completion of the examination is 70 percent.

C. The certified fumigation technician shall maintain his registration in current status by:

1. attending a continuing education program at least once every three years;
2. the continuing education program shall contain a minimum of six hours of technical training for the phase of fumigation;
3. shall attend the entire approved continued education program for technicians, otherwise the certified fumigation technician would not maintain his registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and 3369.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Structural Pest Control Commission, amended LR 17:251 (March 1991), LR 19:1010 (August 1993), LR 37:279 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:300 (February 2013).

**§113. Registration of Employees; Duties of Licensee and Registered Employee with Respect to Registration**

A. The permittee shall register, on a form to be provided by the commission, every employee under the supervision of a licensee with the commission within 30 days after the commencement of the employee's employment and shall test as required by R.S. 3:3369.H.

B. The registration application of each employee shall contain the following information:

1. name and address of the business location where the employee is domiciled;
2. name, address and phone number of the licensee providing supervision over the employee;
3. name and residence address of the employee to be registered;
4. phase(s) of pest control work in which the employee will work and be supervised;
5. date of employment of the employee;
6. one photograph of the employee; and
7. date of birth.

C. The fees for the registration of technician shall be as follows.

1. The fee of the administrative processing of the registration certificate shall be \$20. This fee shall be paid at the time of initial registration.

2. The administrative processing of change of registration each time a registered technician is employed by a different pest control operator shall be \$10.

3. The fee for the examination for the technician registration shall be \$25.

D. An employee's registration certificate shall be issued within 20 working days after the department receives the completed registration form or the technician has successfully passed the examination, whichever is later.

E. The requirements for the examination are as follows.

1. Each employee requesting to take the examination will be notified by the department of the date, time, and location of the next available examination.

2. The minimum score required for successful completion of the examination is 70 percent.

3. The consequences and procedures that apply as a result of cheating on an examination or using any written materials, electronic devices, or other means during an examination, which have not been authorized or allowed by the director or person administering the examination are the same as are provided for in §109.J of this Chapter.

4. Each employee who did not successfully pass the examination will be notified of the results in writing within twenty working days after the examination.

F. Each registration certificate is personal to the holder and shall not be transferred to another for any purpose or for any period of time and shall not be utilized in any way by any person other than the registered employee whose name appears on the certificate.

G. A registration certificate is valid only while the registered employee remains under the supervision of a licensee at this place of business.

H. The permittee\licensee shall require the registered employee to sign the registration certificate, in his presence, within five days after the permittee\licensee receives the registration certificate.

I. A registered employee shall have his registration certificate in his possession at all times while engaging in pest control work and shall display his registration certificate upon reasonable request by any employee of the department and to any person for whom pest control work is being performed.

J. A registered employee shall perform pest control work only in the phase of pest control work for which he is registered.

K. Upon termination of a registered employee, the licensee shall secure the employee's registration certificate, notify the department of the employee's termination and return the registration certificate to the department within five working days after the termination.

L. If the licensee is unable to retrieve the registration certificate of a terminated employee, the licensee shall notify the department of the employee's termination within five working days after the termination and provide written reasons for the failure to retrieve the terminated employee's registration certificate.

M. Each employee and/or registered technician shall remit to each employer all funds collected in connection with structural pest control work performed by the employee within 10 calendar days.

N. Each employer shall pay each employee and/or registered technician in accordance with the terms of the employment agreement between them.

O. Each employer shall keep complete records at the place of business establishment of all structural pest control work performed for a period of at least two years. These records shall include the address of the structure treated, the name of the technician who performed the treatment, the name of the person for whom the treatment was performed, and the common name of the pesticide applied.

P. Each registered technician shall participate in an entire continuing education program as a condition of maintaining his or her status as a registered technician at least once annually (July 1 to June 30).

1. Each continuing education program, minimum of four hours of technical training, shall be approved in advance by the department.

2. Each continuing education program shall be a minimum of one hour in length per phase.

3. Documentation of the technician attendance and participation shall be forwarded to the department and a copy retained at the technician's place of employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366, 3368 and 3369.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 11:327 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:956 (November 1989), LR 32:797 (May 2006), repromulgated LR 32:1016 (June 2006), amended LR 35:207 (February 2009), LR 37:279 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:301 (February 2013).

#### **§115. Certified WDIR Technician**

A. Requirements of a Certified WDIR technician, prior to conducting WDIR inspections, are as follows:

1. shall be registered as a termite technician; and
2. complete department approved WDIR training; and
3. pass WDIR technician test with a score of 70 or greater; and
4. pay the fee for the examination for the WDIR technician registration which shall be \$25; and
5. complete application form provided by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and 3:3369.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 23:855 (July 1997), amended LR 32:797 (May 2006), repromulgated LR 32:1016 (June 2006), amended LR 37:280 (January 2011).

#### **§117. Obligations of the Licensee\Permittee**

A. The permittee or the primary licensee shall keep the bond and general liability insurance required under §107.F in full force and effect at all times.

B. The permittee or the primary licensee shall renew the permit for operation for each business location annually prior to June 30.

C. The permittee or the primary licensee shall apply for a registration certificate for each employee under his supervision within 30 days after the employee is hired and shall comply with all other requirements pertaining to registration of employees set forth in §113.

D. The primary licensee shall be responsible for training the employee in the kind of work which he will perform.

E. Maintenance of a commercial applicator certification by a licensee

1. A licensee shall maintain his commercial applicator certification in current status by:

- a. attending a continuing educational program for recertification approved by the department;
- b. recertification at least once every three years; such recertification shall be completed by December 31 of the year preceding the third anniversary of either the original certification or the most recent recertification;
- c. a minimum of six hours of technical training which shall include but not limited to the phases of general pest control, termite control and commercial vertebrate control;
- d. a minimum of six hours of technical training for the phase of fumigation.

2. A licensee attending an approved recertification seminar shall attend the entire approved program; otherwise the licensee shall not be recertified at this approved seminar.

3. Time and location for each licensee recertification can be obtained by calling or writing to the department.

F. A licensee shall be available to provide direct supervision over all employees registered under his license on a regular, ongoing basis.

G. The permittee or the primary licensee shall report all termite contracts and all wood-destroying insect reports and pay all required fees as set forth in §119 hereof.

H. Any person applying pesticides for a fee and the permittee or the primary licensee shall maintain records according to LAC 7:XXV.117.H, at the physical address listed on the place of business permit of all applications of pesticides on a record keeping form or in a format approved by the director of Pesticide and Environmental Programs of the department. These records shall be retained for a period of two years after the date of the pesticide application for ship and commodity fumigation, general pest control and commercial vertebrate control and a period of two years after the expiration of applicable contracts for termite and other wood destroying insect control. The licensee shall make a copy of these records available to any employee of the department for inspection at a reasonable time during normal working hours.

1. Records for applications of pesticides for wood destroying insects shall contain the following information:

- a. place of business name, address, and number;
- b. primary licensee name, address, and department I.D. number;
- c. customer name and address;
- d. location of application;
- e. product\brand name;
- f. EPA registration number;
- g. restricted\general use pesticide;
- h. application date and time;
- i. target pest;
- j. type of application (pre-treat, post, spot, etc.);
- k. size of area treated (square feet or linear feet);
- l. mixture concentration;
- m. total amount of product mixture applied;
- n. applicator and department I.D. number;
- o. contract.

2. Record keeping for applications of pesticides in the general pest and commercial vertebrate phases shall contain the following information:

- a. place of business name address, and number;
- b. primary licensee name, address, and certification department I.D. number;
- c. customer name and address;
- d. location of application;
- e. product/brand name;
- f. EPA registration number;
- g. restricted/general use pesticide;
- h. application date and time;
- i. pest treated/type of application;
- j. mixture concentration (percent);
- k. applicator and department I.D. number.

3. Records for applications of pesticides in the fumigation phase shall contain the following information:

- a. place of business name, address, and number;
- b. primary licensee name, address, and department I.D. number;
- c. customer name and address;
- d. location of application;
- e. product/brand name;
- f. EPA registration number;
- g. restricted/general use pesticide;
- h. application date and time;
- i. pest treated;
- j. type of application (ship, structure, commodity);
- k. size of area treated (cubic feet);
- l. rate applied;
- m. total amount of product applied;
- n. applicator, department I.D. number.

4. Records for using bait and baiting systems shall contain the following information:

- a. place of business name, address, and phone number;
- b. primary licensee name, address, and department I.D. number;
- c. customer name and address;
- d. physical address of contracted structure;
- e. product\brand name;
- f. EPA registration number;
- g. restricted\general use pesticide;
- h. linear feet of perimeter of the treated structure(s):

- i. date each monitoring stations installed or inspected;
- j. date each ground bait station installed, inspected or replaced;
- k. date each above ground bait station installed, inspected or replaced;
- l. number of monitoring, ground and above ground bait stations inspected during each inspection;
- m. name and certification\registration number of person inspecting;
- n. inspection diagram;
- o. contract.

I. The licensee shall renew each phase in which he is licensed annually by June 30.

J. The annual fee for licensed pest control operators shall be \$5 for each phase in which the pest control operator is licensed.

K. The permittee or the primary licensee shall report to the department all termite contracts, termite perimeter applications and wood destroying insect reports completed each month on the form provided by the department. The reports listed above are due in Division of Pesticide and Environmental Programs office in Baton Rouge on or before the tenth of the month following the contract or application or report.

L. The fee for each standard contract and wood-destroying insect report that has been issued is \$8. All such fees are due and payable to the department at the time the reports required by §119.E are due.

M. The permittee or the primary licensee shall have provisions for spill control including materials and tools on every vehicle transporting pesticides.

#### N. Signage of Vehicles

1. General. A motor vehicle being operated by a place of business that is engaged in the transport or application of pesticides shall be marked as specified below:

- a. magnetic or removable signs may be used;
- b. size, shape, location and color of marking. The marking shall contain the following:
  - i. appear on both sides of the vehicle;
  - ii. be in letters that contrast sharply in color with the background;
  - iii. be readily legible during daylight hours;
  - iv. lettering shall be a minimum of 2 inches in height;
  - v. be kept and maintained in a manner that retains the legibility of the information required by §117.O.1.c;
- c. nature of marking. The marking shall display the following information:
  - i. the name or trade name of the place of business operating the vehicle.

O. No employee shall use a telephone number, advertise or solicit business unless approved, in writing, by the permittee or licensee and reported in writing to the department.

P. The pest control operator shall record the nature of the completion and the date of completion that construction of a structure is completed, as found in §101.B within the definition of *construction*, and maintain the date as part of the application records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and 3:3368.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:327 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:956 (November 1989), LR 21:930 (September 1995), LR 23:855 (July 1997), LR 26:2437 (November 2000), LR 29:1062 (July 2003), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 30:196 (February 2004), LR 31:2761 (November 2005), LR 35:1468 (August 2009), LR 37:280 (January 2011), LR 39:301 (February 2013).

**§119. Contracts for Termite Control Work**

A. The permittee or a licensee shall enter into a written contract for termite work with the property owner/agent employing him. The contract shall:

1. be in a form provided or approved by the commission;
2. guarantee performance for a period of not less than 1 year after the treatment is made;
3. guarantee treatment of the structure(s) in accordance with minimum specifications for termite control work set forth in §141 hereof;
4. provide for at least one inspection of all unobstructed or accessible areas outside of the structure(s) prior to expiration of the agreement;
5. include an inspection diagram;
6. provide for the treatment of all subterranean termites; and
7. include a damage repair warranty and be exclusive to the property owner for 5 years subject to the terms and conditions of the contract, if the contract is for pre construction or new construction termiticide treatment.

B. Each contract for termite control work shall cover only one unit or one individual property, provided that the contract may include a garage appurtenant to the unit or individual property.

C. Contracts for spot termite treatments shall guarantee the area treated for a period of one year.

D. The permittee or a licensee shall report to the commission, no later than the tenth day of each month, each termite contract and initial treatment for a pre-treatment contract for termite work which he has entered into, and performed or completed during the previous month. If no contracts were entered into or performed during the previous month, the permittee or a licensee shall report this fact to the commission no later than the tenth of each month.

E. A licensee or permittee shall pay to the department the required fee for each standard contract issued when the required monthly report is filed with the department.

F. Termite treatment contracts that include termite monitoring stations shall include a contract addendum that provides the number of monitoring station(s) and the frequency of inspection(s). The contract addendum shall be approved by the commission prior to its use.

G. A licensee or any technician working under the licensee's supervision shall enter into a written agreement for monitoring for subterranean termites with the structure owner\agent employing him\her, which agreement shall:

1. be in a form approved by the commission;
2. provide for the frequency of inspections that shall include at least one inspection of the structure prior to expiration of the agreement;
3. provide for the number of subterranean termite monitoring station(s);
4. provide for the owner name, address, city, state, zip code of the structure;
5. provide the name, address, city, state, zip code of the pest control company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and R.S. 3:3370.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:328 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:957 (November 1989), LR 26:2437 (November 2000), LR 27:1179 (August 2001), LR 27:2084 (December 2001), LR 28:1171 (June 2002), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 30:196 (February 2004), LR 30:1144 (June 2004), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 31:26 (January 2005), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 35:1468 (August 2009), LR 37:282 (January 2011).

**§121. Wood Destroying Insect Report**

A. A wood destroying insect report approved by the commission shall be issued only for inspections made to determine the presence of wood destroying insects for acts of sale or refinance of structures. A wood destroying insect report shall not be renewable or issued for any other purpose.

B. A wood destroying insect report shall be issued by a person who is licensed by the commission in termite control or a certified WDIR technician who is working under the supervision of a person who is licensed by the commission in termite control. The report shall carry a guarantee that the property will be treated without charge should live wood destroying insects covered by the report be found within 90 days from the date of inspection. The presence of frass will be acceptable as evidence of a live infestation of powder post beetles; however, frass shall be exuding or streaming from the holes on the outside of the wood.

1. A contract approved by the commission shall be issued on date of treatment.
2. This contract shall be reported to the commission and a fee paid as required by the Structural Pest Control Law.

C. Regulations for completing wood destroying insect reports LPCA-143 WDIR without the arbitration clause and 143 A. with the arbitration clause. The following numbered sections correspond to the numbered sections on WDIR Form LPCA 143 and 143 A. LPCA 143 and 143 A shall be completed as follows.

1. Enter HUD/FHA/VA Case number (if available).
2. Enter date of structure(s) inspection.
- 3.A. Enter name of inspection company.
- 3.B. Enter address (including street, city, state, and zip code) of inspection company.
- 3.C. Enter telephone number (include area code) of inspection company.
4. Enter pest control inspector license number.
- 5.A. Enter name and address of property owner/seller at the time of inspection.
- 5.B. Enter address of property inspected (including street, city, state, and zip code).
- 5.C. List only structures located at address in 5B that are part of this report.
- 5.D. Information only. This area shall not be checked, circled or marked in any way.
6. If any areas of the structure(s) were obstructed or inaccessible mark box YES. If no, mark box NO.
7. Check the appropriate block as to the construction of the structure(s) inspected. More than one block can be checked.
- 8.A. Check this block only when there is no visible evidence of wood destroying insects in accessible areas on the structure(s) inspected. Evidence includes but is not limited to: live or dead wood destroying insects, wood destroying insect parts, shelter tubes, shelter tube stains, frass, exit holes or damaged wood due to wood destroying insects.
- 8.B. Check this block if evidence of wood destroying insects is observed. Evidence includes but is not limited to: live or dead wood destroying insects, wood destroying insect parts, shelter tubes, shelter tube stains, frass, exit holes or evidence of damage due to wood destroying insects. If live wood destroying insects are observed, identify and list the insect(s) observed and the location(s) in this Section.
- 8.C. Check this box if visible evidence of damage due to wood destroying insects was observed. Evidence of damage is defined as obvious feeding or removal of wood by wood destroying insects including "etching" or "scabbing" marks on the wood surface(s). Identify the wood destroying insect and list the location(s) of evidence of damage caused by wood destroying insects in this Section.
- 8.D. Treatment was or will be performed by inspection company? YES or No; If YES, explain as follows:
  - a. Inspecting company with a current treatment contract on the structure(s) inspected: list the original treatment date for all structures treated and the contract type.
  - b. Inspecting company without a current treatment contract on the structure(s) inspected: list the structure(s) to be treated and the type of treatment and contract.
9. Additional comments (If necessary, continue on reverse side).
10. Make no marks in this section.
11. Do not mark in this section.
  - a. If any of the conditions listed in this paragraph on the WDIR (LPCA 143 & 143 A) are present under or to within 12 inches of the inspected structure(s), list them in section #10 of this report.
12. Signature and registration/license number of inspector conducting the inspection.
13. Enter date of inspector signature.
14. Enter name of person requesting the WDIR (if available).
15. Enter name of person WDIR received by (if available).
16. Title of person in Number 15 (if available).
17. Date of signature of Number 15 (if available).

D. Minimum Specifications for conducting a Wood Destroying Insect Report

1. No person shall conduct a WDIR inspection unless that person is properly licensed in termite control or is a certified WDIR technician.
2. Persons described in LAC 7:XXIII.121.D.1 shall inspect all unobstructed or accessible areas including but not limited to bath traps with visible access, crawl spaces of raised pier construction, and attics having a permanent ladder or staircase specifically to provide access to the attic.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and 3:3670.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 12:285 (May 1986), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 23:856 (July 1997), LR 24:631 (April 1998), LR 25:235 (February 1999), LR 25:829 (May 1999), amended by the Department of Agriculture and

Forestry, Office of Agriculture and Environmental Sciences, LR 31:26 (January 2005), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 32:797 (May 2006), repromulgated LR 32:1017 (June 2006), amended LR 37:282 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:301 (February 2013).

### **§123. Change in Status of Licensee**

A. Any change in a licensee's status (e.g., death, retirement, prolonged illness, merger of companies, sale, change of ownership, etc.) shall be reported to the commission, in writing, within 14 days after the change in status occurs by the permittee or primary licensee.

B. When any change in status occurs, provisions shall be made for supervision at any location where there is no licensee during the interim until another licensee is approved by the commission for examination. The person in charge of the permitted location where the change in status occurred shall notify the department, in writing, of the name and address of the licensee providing supervision during the interim within 14 days after the change occurs. Supervising licensee shall notify the department of his acceptance of this supervision within 14 days of his acceptance.

C. When the change in status results in no licensee being domiciled at a permitted location, an applicant who is eligible for licensure shall be approved by the commission for examination either:

1. at the next meeting of the commission after the change in status occurs; or
2. within 90 days after the change in status occurs, whichever is later. During this period no use of restricted-use pesticides is permitted.

D. When the change of status is within the same company, there is no grace period.

E. When the death or disability of a licensee occurs, resulting in no licensee being domiciled at the permitted location, the commission may extend the period for qualifying a new licensee for an additional 90 days before revoking or canceling the permit for operation.

F. During the temporary absence of the licensee, the permittee/licensee shall designate another licensee(s), certified in the same phases as the licensee, to perform the duties that require the physical presence of a licensee for a period of time not to exceed 30 days. For the purpose of this Chapter, temporary absence shall mean any absence where the licensee would reasonably be expected to return to his duties. The licensee shall notify the department in writing of any such temporary absence giving the name of the substituting licensee jointly responsible with the licensee, and the dates of the temporary absence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and 3:3368.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:328 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:957 (November 1989), LR 37:283 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:301 (February 2013).

### **§125. Inactive Status of License**

A. Upon written notice to the commission, any licensee may place his license on inactive status during any period of time when he will not be directly engaged in pest control work.

B. Notice to the commission shall include the period for which inactive status is requested and any information which may support the licensee's request for placement of his license on inactive status.

C. The license of any licensee which has been placed on inactive status shall be maintained in current status as provided in §117.F.

D. The commission may deny or defer action on a request to return a license to active status, regardless of the period of time when the license has been on inactive status, whenever the licensee on inactive status has been proven guilty in an adjudicatory proceeding of any of the violations.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 3:3366 and 3:3368.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:328 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:957 (November 1989), LR 37:283 (January 2011).

**§127. Adjudicatory Proceedings of the Commission; Violations**

A. The commission may place a licensee/registered employee on probationary status or suspend/revoke a license/registration certificate by holding an adjudicatory proceeding noticed and conducted in accordance with the requirements of the Administrative Procedure Act and the Structural Pest Control Law.

B. Whenever the commission has reason to believe that a licensee/registered employee has violated any provision of the Act or these rules and regulations, the commission shall notify the licensee/registered employee, by certified mail, at least 30 days prior to the scheduled hearing date.

C. In addition to providing all information required by the Administrative Procedure Act, the notice required in §125.B shall state that failure to appear at the scheduled hearing may result in the suspension or revocation of the license/registration certificate.

D. The commission may place a licensee/registered employee on probationary status or suspend/revoke his license/registration certificate when any of the following violations are sustained in a properly noticed adjudicatory proceeding:

1. misrepresentation for the purpose of defrauding;
2. deceiving or defrauding;
3. knowingly making false statements;
4. failure by a licensee to provide true and correct information to the commission;
5. failure to comply with any of the requirements of the Act or these rules and regulations;
6. failure to pay required fees;
7. intentional misrepresentation in an application for license and/or employee registration;
8. conviction in any court of law violations of the Act or of any felony;
9. knowingly permitting any person under the supervision of the offender to violate any provisions of the Act or these rules and regulations;
10. failure to enter into a written contract with the property owner employing the pest control operator for termite work;
11. failure to comply with the minimum specifications for termite control work set forth in §141;
12. failure to follow the label and labeling requirement in the application of any pesticide not specifically covered in §141;
13. failure to maintain required insurance coverages and fidelity or surety bonds in full force and effect;
14. failure to fulfill the terms of any written guarantees or agreements entered into;
15. failure to attend an approved training program for commercial applicator certification during any three-year period and failure to maintain current status as a commercial applicator;
16. knowingly making any false or misleading statement in a wood-destroying report;
17. gross negligence in conducting an inspection or failing to make an inspection prior to issuance of a wood-infestation report; or
18. conviction of a violation or assessment of a civil penalty under FIFRA or Louisiana Pesticide Law;
19. failure of a registered technician to attend an approved training program during any one-year period;
20. failure to maintain proper signage on vehicles or;
21. failure to keep records on all pesticide applications as required by §117.I;
22. operating faulty or unsafe equipment;
23. operating in a faulty, careless, or negligent manner;

24. the intentional misrepresentation is the misrepresentation or suppression of a substantial fact with the intent either to obtain an unjust advantage for any person or to cause a loss or inconvenience to any person. Intentional misrepresentation may occur through words or actions, or by silence or inaction. The following acts are illustrative of intentional misrepresentation:

a. failure of a registered technician to report structural pest control work performed by him or to remit any fees for structural pest control work collected by him, to his employer within 10 calendar days after performing the work or collecting the fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and 3:3672.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:328 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:957 (November 1989), LR 23:854 (July 1997), LR 37:284 (January 2011).

### **§129. Probationary Status of Licensee/Registered Employee**

A. A license or registration certification may be placed on probationary status only upon the affirmative vote of three members of the commission at an adjudicatory proceeding noticed and conducted as required under §127.

B. When a minor violation is sustained before the commission in an adjudicatory proceeding, a licensee or registered employee may be placed on probation for a period not to exceed six months.

C. When a moderate violation is sustained before the commission in an adjudicatory proceeding, the licensee or registered employee may be placed on probation for a period not to exceed one year.

D. When multiple violations (i.e., violations of more than one provision of the Act or these rules and regulations or more than one violation of the same provision of law or regulations) are sustained before the commission, the commission shall consider each separate violation and take appropriate action with respect thereto.

E. Whenever any licensee or registered employee is found in an adjudicatory proceeding to have committed a major violation or multiple violations of the Act or these rules and regulations, the commission may suspend or revoke the license/registration certificate without first imposing a period of probation.

F. Any violation of the Act or these rules and regulations during a period of probationary status will subject the offender to more severe penalties, including suspension and/or revocation of his license or registration certificate and/or the initiation of proceedings in a court of competent jurisdiction.

G. If the violations resulting in the imposition of probationary status are corrected during the period of probationary status, the probationary period shall automatically expire, without notice, at the end of the probationary period specified by the commission.

H. If the violations resulting in the imposition of the probationary status are not corrected during such period of probationary status, the commission may either:

1. renew the period of probationary status; or
2. suspend/revoke the license/registration certificate after an adjudicatory hearing noticed and conducted under §127.

I. The licensee/registered employee may continue to work during any period of probationary status.

J. The commission may place a licensee/registered employee on probationary status for one phase of pest control work for which he is licensed/registered without effect upon any other phase of pest control work for which he is licensed/registered.

K. The commission may place on probation all phases of pest control work for which the licensee/employee is licensed/registered for a violation occurring in only one phase of pest control work.

L. The commission shall notify the licensee/registered employee, in writing, of:

1. the nature of the violations sustained before the commission, including dates and places where the violations occurred;
2. the period of probationary status;
3. the phases of the license/registration certificate affected by the probationary status; and

4. any additional terms and conditions imposed by the commission.

M. A licensee/registered employee may be placed on probationary status for a cumulative total of no more than 24 months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and 3:3370.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:329 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 37:284 (January 2011).

### **§131. Suspension/Revocation of License/Registration**

A. A license/registration may be suspended/revoked by the commission:

1. only upon the unanimous vote of the commission; and
2. only for a violation of the Act or these rules and regulations sustained before the commission in an adjudicatory proceeding noticed and conducted as required under §127 hereof.

B. The commission may suspend/revoke a license/registration for any major violation without previously imposing a period of probationary status.

C. Any suspension of a license/registration shall be for a specific period of time, and the licensee/registered employee shall be notified in writing of the period of time and any conditions which may be imposed on the reinstatement thereof.

D. In addition to the period of suspension, the commission may impose additional terms and conditions which shall be met before the license/registration will be reinstated.

E. The licensee/registered employee shall not perform any work in any phase of pest control work, including in the case of licensees the supervision of registered employees, when his license/registration for that phase of pest control work has been suspended by the commission.

F. The commission may suspend the license/registration for one phase of pest control work without effect upon any other phase of pest control work for which the licensee/employee is licensed/registered.

G. The commission may suspend all phases of pest control work for which the licensee/employee is licensed/registered for a major violation occurring in only one phase of pest control work.

H. Upon provision of evidence acceptable to the commission, either before or at the expiration date for the period of suspension, that the violations which resulted in the suspension have been corrected, the suspension may be terminated by the commission.

I. When a license/registration certificate has been revoked by the commission, the license/registration certificate may not be reinstated until such time as the former licensee meets all requirements set forth in §§105, 107, 109 hereof and/or the former registered employee meets all requirements set forth in §113 hereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and 3:3370.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:329 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 37:285 (January 2011).

### **§133. Inspection, Taking of Samples**

A. During the course of their inspections, inspectors employed by the commission may take soil samples and/or chemical samples of tank mixes and/or rodenticide.

B. Soil and chemical samples shall be properly marked to preserve a chain of custody record and shall be submitted to the laboratory at Louisiana State University for analysis.

C. Results of laboratory analysis of soil and/or chemical samples may be used in adjudicatory proceedings and shall be made available to the pest control operator upon request after the analysis is completed.

D. Samples that are requested by any other person other than for enforcement by the department shall be paid for by the person requesting the chemical sample. The fee shall be \$500 per sample which includes one (1) analysis and the cost for obtaining the samples by the employee of the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:330 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:958 (November 1989), LR 37:285 (January 2011).

### **§135. Prohibitions**

A. A pest control operator shall not engage in any phase of structural pest control work for which he is not specifically licensed by the commission.

B. No person engaged in the sale of products for the eradication of household pests or wood-destroying insects shall demonstrate such products by applying the products to the premises of a customer without first obtaining a license from the commission.

C. No examination for licensure will be given if the applicant is not eligible for licensure on the basis of education and/or experience.

D. No person shall assign a registered licensee\employee to perform structural pest control work in any phase for which he is not licensed or registered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and 3:3371.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:330 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 37:285 (January 2011).

### **§137. Exceptions**

A. These rules and regulations do not apply to the application of pesticides for the control of agricultural pests.

B. These rules and regulations do not apply to any person, firm, partnership, corporation, association or other organization or combination thereof engaged in the manufacturing or selling of products to the general public for the control of household pests and termites, provided that such entities shall not apply such products, by way of demonstration or otherwise, to a customer's premises or offer any services connected with pest control unless licensed to do so by the commission.

C. These rules and regulations do not apply to persons who personally apply pesticides of any kind for the control of household pests or wood-destroying insects on property which they own, rent or lease.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and R.S. 3:3376.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:330 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 37:286 (January 2011).

### **§139. Complaints against Pest Control Operators**

A. Any citizen may file a complaint in writing against any pest control operator by contacting the commission's office.

B. Upon receipt of a written complaint, the commission staff shall:

1. conduct an investigation of the incident involved in the complaint; and
2. inform the pest control operator against whom the complaint has been lodged.

C. Upon completion of the investigation required under §139.B, the commission staff shall notify the complainant and the pest control operator of the results of its investigation when requested in writing.

D. The department may bring any matter arising from a citizen's complaint to an adjudicatory hearing if, in the judgment of the department, the facts established in the investigation required under §139.B warrant such action.

E. In any instance where a citizen feels that the facts of his complaint warrant an adjudicatory hearing by the commission, the citizen may request, in writing, that the matter be placed on the agenda for consideration at the next meeting of the commission, provided that the citizen shall appear and give sworn testimony at such hearing called at the request of the citizen. In any instance where a citizen has filed a written petition for an adjudicatory proceeding but fails to appear, upon proper notice, and give testimony, the commission may cancel such adjudicatory proceedings without action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:330 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 37:286 (January 2011).

#### **§141. Minimum Specifications for Termite Control Work**

A. All labels for products used for termite control work shall be registered by the EPA and the department and shall be approved by the commission prior to their use.

1. The department shall issue a listing of product labels approved by the commission for termite control work. The listing shall become effective upon approval by the commission. The list shall be published in the Potpourri section of the *Louisiana Register* and shall remain in effect until changed by the commission. The commission may add or delete any product labels from its list. The list shall be published in the Potpourri section of the *Louisiana Register*. Upon publication of the list all previous listings shall be repealed.

2. The commission's list of product labels shall also contain the chemical concentration at which each product label is approved for usage, and shall be applied in accordance with label and labeling requirements and shall not be applied at any less than label and labeling requirements.

#### B. Requirements for Trench and Treat

1. Calculations made for the rate and volume of the termiticide mixture being applied in all trenches shall be based on a minimum of one foot of depth.

2. All trenches shall be a minimum of four inches wide at the top angled toward the foundation and a minimum of six inches deep in order to permit application of the required chemical.

3. Application of the product mixture into the trench shall be made at the rate and manner prescribed on the label and labeling.

4. Rodding shall be acceptable only when trenching will damage irrigation equipment, flowers and/or shrubs.

#### C. Treatment of Existing Pier Type Construction

##### 1. Access Openings

a. Provide suitable access openings to all crawl-space areas and to all other areas requiring inspection and/or treatment for termites.

b. A minimum clearance of 12 inches from the bottom of the sill.

##### 2. Required Clean-Up

a. Remove all cellulose-bearing debris, such as scrap wood, wood chips, paper, etc., from underneath buildings.

b. Trench, rod and treat any large stumps or roots that are too sound to be removed, provided that such stumps or roots are at least 12 inches from the foundation timbers. Stumps or roots located less than 12 inches from foundation timbers shall be cut off to provide at least 12 inches clearance.

c. Remove all form boards that are not embedded in concrete.

##### 3. Elimination of Direct Contact of Wood with Ground

a. Piers and stiff legs shall have concrete or metal-capped bases extending at least 3 inches above the ground. Pressure-treated piling foundations are exempt from this requirement.

b. Wood parts which extend through concrete or masonry (such as posts, door frames or stair carriages) shall be cut off and set on metal or concrete bases at least three inches above ground level.

c. Wood steps shall be placed on concrete or masonry bases which extend at least 1 inch above ground level, and beyond the steps in all directions. Multiple-course masonry step supports shall be treated as required in §141.C.7.a, b, c and d.

##### 4. Pipes

a. Remove all packing around pipes for a distance of 3 inches above ground level and/or treat according to label and labeling.

5. Skirting and Lattice-Work

a. All skirting and lattice-work shall rest on solid concrete or brick extending at least 3 inches above the outside grade. This base will be trenched and treated.

b. All skirting and lattice-work resting on ground shall be treated by digging trenches below and under the edge of the skirting and lattice; or

c. There shall be at least 3 inches clearance above outside grade if skirting or lattice-work is suspended.

6. Stucco

a. Where stucco extends to or below grade, dig trenches below and under the edge of the stucco and apply chemical as required by label and labeling.

b. Where ground slabs prevent treatment as required in Subparagraph (a) above, drill and treat slab as required by label and labeling. Where slab is drilled the holes shall be no more than 18 inches apart (unless label requires closer distance).

7. Masonry. Apply chemical to all porous areas, visible cracks and accessible voids in foundation walls, piers, chimneys, steps, buttresses, etc., as follows:

a. treat all cracks in concrete;

b. drill holes every second mortar joint, a minimum of three holes, in all two-course brick foundations (piers, foundation walls, steps, buttresses, L-shaped and T-shaped piers, etc.) and thoroughly treat wall voids. Holes shall be deep enough to reach the center mortar joint and chemical shall be applied under sufficient time and pressure to treat all cracks and voids. Drilling is not required when solid concrete footing extends above grade level or when wall is capped with solid concrete;

c. drill holes in mortar joints of all three-course brick foundation walls at the end of every second brick to the depth of the end of the second brick. Apply chemical under sufficient time and pressure to treat all cracks and voids;

d. drill holes into each compartment of the lowest accessible block of hollow concrete (or other lightweight aggregate) blocks and apply chemical into the openings under sufficient time and pressure to treat the area of the bottom of the foundation. On T-shaped or L-shaped piers the connecting mortar joints (crotches) shall be drilled and treated. Drilling is not required if the opening in the block is accessible.

8. Ground treatment:

a. trench around each pier and/or foundation of the structure being treated;

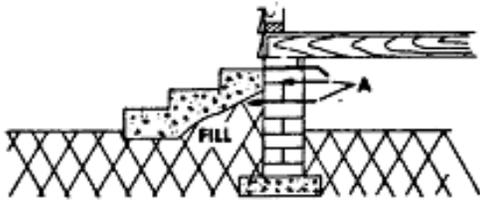
b. all trenches shall be approximately 4 inches wide at the top, angled toward the foundation and sufficiently deep (approximately 6 inches) to permit application of the required chemical. Apply the product mixture into the trench at a rate and manner prescribed on the label and labeling. Rodding will be acceptable where trenching will damage irrigation equipment, flowers and/or shrubs. Maximum distance between rod holes shall be 4 inches.

9. Dirt filled porches:

a. where the sill or other wood extends to, or below, the under side of the concrete slab, the dirt shall be excavated so as to leave a horizontal tunnel at the junction of slab and foundation wall. The tunnel shall extend the full length of the fill and be at least 12 inches deep (or down to grade) and 12 inches wide. Soil in the tunnel shall be treated with chemical at all points of contact with wall and slab. Supports for the slab shall be erected in the tunnel if necessary. Tunnel shall be well ventilated, but care shall be taken to assure that water does not run into those tunnels (see Figure 1);

Figure 1—Excavation of Dirt Filled Porches

Exception: If, due to construction, it is impractical to break into and excavate dirt-filled areas, a method of drilling, rodding and **Excavation of Dirt Filled Porches (Figure 1)**



flooding as outlined in §141.C.9.b.ii below, may be employed.

b. Where the sill or other wood does not extend to or below the underside of the concrete slab, the fills shall be drilled, rodded and flooded as follows.

i. Drill floor slab at intervals of not more than 18 inches (unless label requires closer distance) along the junction of the porch and the buildings: rod and treat the fill along the foundation wall of the building.

ii. When it is impossible to rod and treat fill because of broken concrete, rock or other non-porous material in the fill, drill the floor slab as outlined in §141.C.9.b.i and apply sufficient chemical to treat the surface areas beneath the floor slab. When non-porous materials are present in the fill, drill holes in a multi-course brick foundation at 8 inch intervals with every other hole extending into the fill. When there is a hollow-brick foundation, drill holes into the fill area every 16 inches along the foundation wall.

NOTE: This is in addition to drilling and treating voids as outlined below (see Figure 2 and 3).

Figure 2—Dirt Filled Porch (Hollow Block)

### Dirt Filled Porch - Hollow Block (Figure 2)

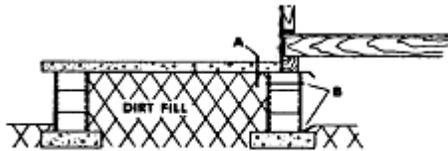
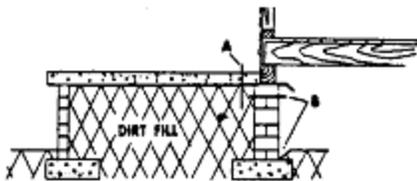


Figure 3—Dirt Filled Porch (Multi-Course Brick)

### Dirt Filled Porch - Multi-Course Brick (Figure 3)



c. When treating earth fills (drilling, rodding and excavation), porch foundation walls will be treated as follows.

i. Drill hollow-block walls and apply sufficient chemical to penetrate mortar joints and flow into the trench at the bottom of the foundation wall.

ii. Drill multi-course brick walls at intervals of every second brick and treat all voids, making certain that the chemical flows into the voids on both sides of the hole being treated.

10. Chimney Bases and Dirt Filled Steps. Chimney bases and dirt filled steps shall be treated by drilling the foundation walls as outlined in Step 2 for dirt filled porches, (see Figure 4 and 5).

Figure 4—Chimney Base

**Chimney Base (Figure 4)**

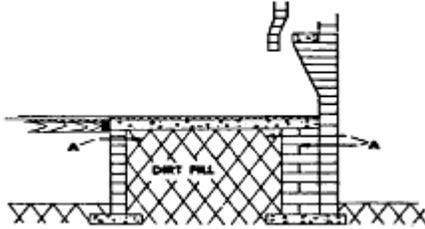
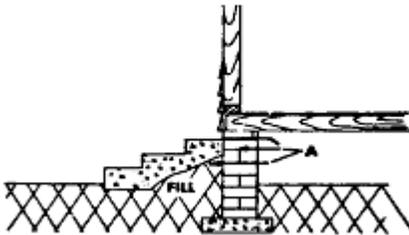


Figure 5—Dirt Filled Step

**Dirt Filled Step (Figure 5)**



**D. Treatment of Existing Slab-Type Construction**

**1. Ground Treatment**

- a. Trench around the entire perimeter of the structure being treated, adjacent to the foundation wall.
- b. All trenches shall be approximately 4 inches wide at the top, angled toward the foundation and sufficiently deep (approximately 6 inches) to permit application of the required chemical. Apply the product mixture into the trench at a rate and manner prescribed on the label and labeling. Rodding will be acceptable only where trenching will damage irrigation equipment, flowers and/or shrubs. Maximum distance between rod holes shall be 4 inches.

**2. Bath Traps**

- a. An access hole of a minimum of 6x8 inches shall be provided during the initial treatment to all bathtub plumbing.
- b. If the soil in a trap does not reach the bottom of the slab, the trap shall be filled to within 2 inches of the top of the slab with soil prior to initial treatment. Treat bath trap(s) as required by label and labeling.
- c. A tar filled bath trap shall also be drilled and treated as required by label and labeling.
- d. If bath trap is solid concrete pour, it shall be drilled and treated as close as practical to the bathtub plumbing.

**3. Other Openings in Slab**

- a. All showers shall be drilled and treated as close as practical to shower plumbing.

b. Rod under or drill through the slab and treat all areas beneath expansion joints and cracks in the slab as per label and labeling instructions. When the slab is drilled, the holes shall be no more than 18 inches (unless label requires closer distance) apart along the above stated areas.

c. All other openings (plumbing, etc.) shall be treated during the initial treatment as required by label and labeling.

d. Treat all visible cracks in slab.

4. Eliminate direct contact of wood with ground.

a. Remove all cellulose debris, such as scrap wood, vines, etc., from the foundation level of the structure or above the slab.

b. Trench, rod and treat any large stumps or roots that are too sound to be removed, provided that such stumps or roots are at least 12 inches from the foundation timbers. Stumps or roots located less than 12 inches from foundation timbers shall be cut off to provide at least 12 inches clearance.

c. Remove all form boards that are not embedded in concrete.

#### E. Pre-Treatment of Slabs

1. The permittee or primary licensee shall report the completion of the application to the outside of the foundation to the department on the termite perimeter application form. Within 12 months after initial treatment, the outside perimeter of the foundation will be treated as follows:

a. trench around the entire perimeter of the structure being treated, adjacent to the foundation wall. All trenches shall be approximately 4 inches wide at the top, angled toward the foundation and sufficiently deep (approximately 6 inches) to permit application of the required chemical. Apply the product mixture into the trench at a rate and manner prescribed on the label and labeling. Rodding will be acceptable where trenching will damage irrigation equipment, flowers and/or shrubs. Maximum distance between rod holes shall be 4 inches;

b. rod under or drill through any slab(s) adjoining or abutting the initial pre-treated slab and treat all areas beneath adjoining or abutting slab(s) as per label and labeling instructions. When any slab(s) is drilled, the holes shall be no more than 18 inches (unless label requires closer distance) apart along the above stated areas.

2. If, during the treatment of any area which will be beneath a slab foundation, the operator shall leave the site for any reason prior to the completion of the application, the operator shall prominently display a poster, approved by the department, which states that the treatment of the area under the slab is not complete.

3. All pre-treatment of slabs shall be called or faxed to the department's district office in which the pretreat occurs, a minimum of 1 hour prior to beginning the application of termiticides. The information provided shall include treatment company name; treatment structure street address, city, parish; directions to the property being pre-treated; date and time of beginning the application of termiticides to the property; square or linear footage of each structure to be treated; and number of structures. All pest control operators shall keep a log of all pretreats including the information noted. The following is a list of parishes in each of the department's seven district offices. Pre-treatments in a parish shall be called into the corresponding district office.

a. Shreveport District—Caddo, Bossier, Webster, Claiborne, Bienville, Red River, and Desoto.

b. Monroe District—Union, Morehouse, West Carroll, East Carroll, Madison, Richland, Ouachita, Lincoln, Jackson, Winn, Caldwell, Franklin, Tensas, Concordia, and Catahoula.

c. Alexandria District—Sabine, Natchitoches, Grant, LaSalle, Avoyelles, Rapides, and Vernon.

d. Crowley District—Beauregard, Allen, Acadia, Jefferson Davis, Cameron, Calcasieu.

e. Opelousas District—Evangeline, St. Landry, St. Martin, Iberia, St. Mary, Vermilion, and Lafayette.

f. Baton Rouge District—Pointe Coupee, West Feliciana, East Feliciana, St. Helena, Tangipahoa, Washington, St. Tammany, Livingston, St. James, Lafourche, Terrebonne, Assumption, Ascension, Iberville, West Baton Rouge, and East Baton Rouge.

g. New Orleans District—St. John the Baptist, St. Charles, Jefferson, Orleans, St. Bernard, and Plaquemines.

#### F. Spot Treatment

1. Spot treatments shall not be done on pier-type or slab construction except where a waiver of minimum specifications has been obtained from the owner of the property. All buildings that can not be treated according to the minimum specifications shall have a waiver of the item or items signed by the owner prior to the treatment. A copy of the signed waiver shall be filed with the department with the monthly Termite Eradication Report.

2. Treatment will be allowed to any additions to the main structure or exterior slab enclosures and a fee shall be paid and a contract issued on this addition unless the main structure is under contract with the firm performing the treatment on this addition.

3. Each spot treatment reported on the Wood-Destroying Insect Eradication Report shall include a waiver of minimum specifications and a complete diagram of the area(s) treated.

#### G. Infested Properties

1. Whenever any agent of the department finds that any property is infested with termites, the pest control operator who treated the property or who has a current contract shall retreat within 30 days after receipt of notification from the department.

2. When the pest control operator completes the re-treatment, he shall notify the department within 5 working days.

#### H. Responsibility of Pest Control Operator

1. The pest control operator shall notify the property owner/agent of the presence of any visible insect damage found in portions of the building that are accessible for inspection.

2. The pest control operator shall provide for an air space or a backflow preventer on the water hose used in supplying water to the chemical tank.

#### I. Waiver of Requirements of Minimum Specifications for Termite Control Work

1. A pest control operator may request from the owner/agent of the structure(s) to be treated, a waiver of the requirements set out in these regulations whenever it is impossible or impractical to treat one or more areas of the structure in accordance with these minimum specifications for initial treatment. The waiver shall be signed by the owner/agent of the structure(s) to be treated prior to or during treatment. A signed copy of the waiver shall be given to the owner/agent and shall be sent to the department with the company's monthly eradication report. The waiver shall include, but not be limited to, the following information:

- a. a graph identifying the structure and the specific area(s) where treatment is waived;
- b. a description of each area where treatment is waived; and
- c. for each area, the reason treatment is being waived.

2. A pest control operator may request, from the owner/agent of the structure(s) to be treated, a waiver of the requirements set out in these regulations whenever it is impossible or impractical to treat one or more areas of the structure in accordance with these minimum specifications for retreat(s). The waiver shall be signed by the owner/agent of the structure(s) to be treated prior to or during treatment. A signed copy of the waiver shall be given to the owner/agent and shall be made available to the department upon reasonable request. The waiver shall include, but not be limited to, the following information:

- a. a graph identifying the structure and the specific area(s) where treatment is waived;
- b. a description of each area where treatment is waived; and
- c. for each area, the reason treatment is being waived.

3. The requirements specified in §141.B.1-3 shall not be waived.

#### J. Requirements for Baits and Baiting Systems

1. Any licensee or any person working under the supervision of a licensee, who applies baits and/or baiting systems, shall be certified in the use of the baits and baiting systems, by the manufacturer of the product, prior to

any application of the bait or baiting system. Manufacturer certification and training programs shall have department approval of the agenda prior to the program presentation.

2. All baits and baiting systems applications shall be contracted and reported according to R.S.3:3370 and LAC7:XXV.119. D and pay the fee as described in LAC 7:XXV.119.E.

3. Bait and baiting systems shall be used according to label and labeling.

4. Above-ground bait stations shall be used according to their label and labeling when the presence of subterranean termites are detected in the contracted structure and shall be monitored not less than quarterly.

5. All bait stations, except those products in the pilot project, shall be monitored\inspected according to the label and labeling.

6. Monitoring and ground bait stations shall surround the contracted structure and shall not be more than 20 feet apart, where soil is available unless the label requires stations closer and\or does not allow for "where soil is available."

7. Monitoring and ground bait stations, where soil is available, shall be no further than 20 feet from the slab or pier's outside perimeter except for non-structural wood elements including but not limited to trees, stumps, wood piles, landscape timbers and detached fences.

8. Records of contracts, graphs, monitoring, and bait applications shall be kept according to LAC 7:XXV.117.I.

9. A consumer information sheet, supplied by the manufacturer and approved by the commission, shall be supplied to the registered pest control operator. The pest control operator shall, in turn, supply a copy of the consumer information sheet to all persons contracted.

10. All monitoring and bait stations shall be removed by the pest control operator from the contracted property within 30 days of the termination of the contract. In the event the bait and baiting system manufacturer stops the use by the pest control operator of their bait and baiting system; all monitoring and bait stations shall be removed by the pest control operator from the contracted property within 90 days of the stop use notification.

11. The commission hereby establishes a pilot program for the use of bait and baiting systems and shall include but not be limited to the following:

a. all baits and baiting systems products shall be subject to the pilot project for a period of a minimum of one year. The commission shall reevaluate the products in the pilot program prior to the end of the first quarter of every calendar year;

b. pilot project bait and baiting system products shall, upon approval of the commission, be listed in the *Louisiana Register*;

c. pilot project bait and baiting system products are subject to all regulations in LAC 7:XXV.141.J;

d. baits and baiting systems may be used as a stand-alone termite treatment only with written approval by LDAF;

e. baits and baiting systems may be used as a supplement to traditional ground termiticide treatments.

f. ground bait delivery shall begin when the presence of subterranean termites are detected in the monitoring station or if the label allows, Ground bait stations may be used as monitoring stations and inspected as required in LAC 7:XXV.141.J.11.

g. Ground monitoring and bait stations, used as monitors, shall be inspected monthly, not to exceed 35 days, from the date of installation or last inspection. When there is no termite feeding on any bait or monitoring station for 90 days from the date of installation or last inspection; monitor as required in LAC 7:XXV.141.J.11.

h. When there is termite feeding on any bait and/or monitoring station(s) at the contracted structure; all above ground bait stations and ground monitoring and bait stations shall be inspected monthly, not to exceed 35 days from the date of installation or last inspection and such inspections shall continue until there is no termite feeding on any bait and\or monitoring station, in any station, at the contracted structure for 90 days from the date of installation

or last inspection; When there is no termite feeding on any bait or monitoring station for 90 days from the date of installation or last inspection; monitor as required in LAC 7:XXV.141.J.11.

i. When there is no termite feeding on any bait or monitoring station for 90 days from the date of installation or last inspection; monitoring shall resume at regular intervals, not to exceed 90 days from the date of the last inspection; when termites are detected again, monitoring and/or baiting shall follow the requirements set forth in LAC 7:XXV.141.J.11.

j. pilot project bait and baiting system products are subject to all regulations in LAC 7:XXV.141.J;

#### K. Requirements for Combination Liquid Spot and Baits and Baiting Systems Treatments

1. Any licensee or any person working under the supervision of a licensee, who applies a combination liquid spot and baits and/or baiting systems treatments, shall be certified in the use of the baits and baiting systems, by the manufacturer of the product, prior to any application of the bait or baiting system.

2. Combination of liquid spot and bait and baiting systems treatments shall be used according to label and labeling. Above-ground bait stations shall be monitored not less than quarterly.

3. All combination liquid spot and baits and baiting systems treatments shall be contracted and reported according to R.S. 3:3370 and LAC 7:XXV.119.E and pay the fee as described in LAC 7:XXV.119.F.

4. Records of contracts, graphs, monitoring (if required), and applications shall be kept according to LAC 7:XXV.117.I. At termination of the contract, the pest control operator shall remove all components of bait and baiting systems.

5. All structures that cannot be treated according to the combination liquid spot and bait and baiting systems treatment minimum specifications shall have a waiver of the listed item or items signed by the owner prior to the baiting treatment. A copy of signed waiver shall be filed with the department with the monthly termite eradication reports.

6. A bait and baiting systems consumer information sheet, supplied by the manufacturer and approved by the commission, shall be supplied to the registered pest control operator. The pest control operator shall, in turn, supply a copy of the consumer information sheet to all persons contracted.

7. Combination liquid spot and bait and baiting systems treatment of existing slab-type construction shall bait following the label and labeling and liquid spot treat to the following minimum specifications:

a. Trench and treat 10 feet on both sides of live subterranean termite infestation site(s) around the perimeter of the structure, adjacent to the foundation wall. All trenches shall be approximately 4 inches wide at the top, angled toward the foundation and sufficiently deep (minimum 6 inches) to permit application of the required chemical. Apply the emulsion into the trench at a rate and manner prescribed on the label and labeling. Rodding will be acceptable only where trenching will damage irrigation equipment, flowers and/or shrubs. Maximum distance between rod holes shall be 4 inches.

b. Rod under or drill through abutting slab(s) and treat all areas in the abutting slab(s) within the 20 feet as required in LAC 7:XXV.141.K.7.a. When the abutting slab is drilled, the holes shall be no more than 18 inches apart, unless label requires closer distance along the above stated areas.

c. Treat bath trap(s) as per label and labeling. Bath trap(s) access hole of a minimum of 6 x 8 inches shall be provided to all bathtub plumbing.

i. If the soil in a trap does not reach the bottom of the slab, the trap shall be filled to within 2 inches of the top of the slab with soil prior to treatment. Treat bath trap(s) as required by label and labeling.

ii. A tar filled bath trap shall also be drilled and treated as required by label and labeling.

iii. If bath trap is solid concrete pore, it shall be drilled and treated as close as practical to the bathtub plumbing.

d. All showers shall be drilled and treated as close as practical to shower plumbing according to label and labeling.

e. All other openings (plumbing, etc.) shall be treated as required by label and labeling.

8. Combination liquid spot and bait and baiting systems treatments of existing pier-type construction with live subterranean termite infestation(s) shall bait following the label and labeling and liquid treat to the following minimum specifications.

a. Trench and treat 10 feet on both sides of infestation site(s) on brick\block chain wall(s) and all piers within 10 feet of an infested pier or chain wall. Trench, drill, and treat as required in LAC 7:XXV.141.

b. Above-ground bait stations shall be monitored not less than quarterly.

9. Combination liquid spot and bait and baiting systems treatment of existing slab-type construction and pier-type construction without live subterranean termite infestation(s) shall bait following the label and labeling and liquid treat as required in LAC 7:XXV.141.K.7.c-e.

10. Whenever any property under a combination liquid spot and bait and baiting systems treatment contract becomes infested with subterranean termites, the operator shall treat the property according to the minimum specifications as stated in LAC 7:XXV.141.K.

#### L. Requirements for Retreats

1. Retreatment of existing slab-type construction shall treat following the label and labeling and the following minimum specifications.

a. Trench and treat 10 feet on both sides of live subterranean termite infestation site(s) and/or a breach(s) in the treated zone around the perimeter of the structure, adjacent to the foundation wall. All trenches shall be approximately 4 inches wide at the top, angled toward the foundation and sufficiently deep (minimum 6 inches) to permit application of the required chemical. Apply the emulsion into the trench at a rate and manner prescribed on the label and labeling. Rodding will be acceptable only where trenching will damage irrigation equipment, e flowers and/or shrubs. Maximum distance between rod holes shall be 4 inches.

b. Rod under or drill through abutting slab(s) and treat all areas in the abutting slab(s) within the 20 feet as required in LAC 7:XXV.141.L.1.a. When the abutting slab is drilled, the holes shall be no more than 18 inches apart along the above stated areas unless the label requires closer distance.

c. Treat bath trap(s) as per label and labeling when live subterranean termites or a breach(s) in the treated zone occur. Bath trap(s) access hole of a minimum of 6 x 8 inches shall be provided to all bathtub plumbing.

i. If the soil in a trap does not reach the bottom of the slab, the trap shall be filled to within 2 inches of the top of the slab with soil prior to treatment. Treat bath trap(s) as required by label and labeling.

ii. A tar filled bath trap shall also be drilled and treated as required by label and labeling.

iii. If bath trap is solid concrete pour, it shall be drilled and treated as close as practical to the bathtub plumbing.

2. Retreatments of existing pier-type construction with a live subterranean termite infestation(s) and/or a breach(s) in the treated zone shall liquid treat to the following minimum specifications.

a. Trench and treat 10 feet on both sides of a breach(s) in the treated zone or an infestation site(s) on chain wall(s) and all piers within 10 feet of an infested or breached pier or chain wall. Trench, drill, and treat as required in LAC 7:XXV.141.

3. Minimum specification treatments shall not include areas properly waived in initial treatment contract.

#### M. Requirements for Borates Pre-Construction Treatments

1. Treat according to the borate label.

2. A perimeter soil treatment shall be applied within 12 months after initial treatment, the outside perimeter of the foundation, shall be treated as follows:

a. trench around the entire perimeter of the structure being treated, adjacent to the foundation wall. All trenches shall be approximately 4 inches wide at the top, angled toward the foundation and sufficiently deep (approximately 6 inches) to permit application of the required chemical. Apply the product mixture into the trench at a rate and manner prescribed on the label and labeling. Rodding will be acceptable where trenching will damage flowers and/or shrubs. Maximum distance between rod holes shall be 4 inches;

b. rod under or drill through any slab(s) adjoining or abutting the slab and treat all areas beneath adjoining or abutting slab(s) as per label and labeling instructions. When any slab(s) is drilled, the holes shall be no more than 18 inches (unless label requires closer distance) apart along the above stated areas;

3. treat bath traps as per termiticide label and labeling or as follows:

a. if the soil in a trap does not reach the bottom of the slab, the trap shall be filled to within 2 inches of the top of the slab with soil prior to treatment. Treat bath trap(s) as required by label and labeling;

b. a tar filled bath trap shall also be drilled and treated as required by label and labeling;

c. if bath trap is solid concrete pour, it shall be drilled and treated as close as practical to the bathtub plumbing;

4. if, during the treatment of any area, the operator shall leave the site for any reason prior to the completion of the application, the operator shall prominently display a poster at the treatment site, which states that the treatment of the area is not complete;

5. the treatments of structures required in this section shall be called or faxed to the department's district office in which the treatment occurs, a minimum of one hour prior to beginning the application of termiticides. The information provided shall include: treatment company name; treatment structure street address, city, parish; directions to the property being pre-treated; date and time of beginning the application of termiticides to the property; square or linear footage of the each structure to be treated; and number of structures. Permittees or licensees shall keep a log of all pretreats including the information noted. The following is a list of parishes in each of the department's seven district offices. Treatments in a parish shall be called into the corresponding district office:

a. Shreveport District—Caddo, Bossier, Webster, Claiborne, Bienville, Red River, and Desoto;

b. Monroe District—Union, Morehouse, West Carroll, East Carroll, Madison, Richland, Ouachita, Lincoln, Jackson, Winn, Caldwell, Franklin, Tensas, Concordia, and Catahoula;

c. Alexandria District—Sabine, Natchitoches, Grant, LaSalle, Avoyelles, Rapides, and Vernon;

d. Crowley District—Beauregard, Allen, Acadia, Jefferson Davis, Cameron, Calcasieu;

e. Opelousas District—Evangeline, St. Landry, St. Martin, Iberia, St. Mary, Vermilion, and Lafayette;

f. Baton Rouge District—Pointe Coupee, West Feliciana, East Feliciana, St. Helena, Tangipahoa, Washington, St. Tammany, Livingston, St. James, Lafourche, Terrebonne, Assumption, Ascension, Iberville, West Baton Rouge, and East Baton Rouge;

g. New Orleans District—St. John the Baptist, St. Charles, Jefferson, Orleans, St. Bernard, and Plaquemines;

6. all borate treatments shall be contracted and reported as provided by R.S. 3:3370 and §119.E of this Part and the fee for each such contract shall be paid in accordance with §119.F of this Part;

7. records of contracts, graphs, monitoring (if required), and applications shall be kept as required by §117.I;

8. all retreatments shall be as required by §141.L of this Part;

9. the permittee or licensee shall report the completion of the application to the outside of the foundation to the department on the termite perimeter application form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:330 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:958 (November 1989), LR 20:644 (June 1994), LR 21:931 (September 1995), LR 23:1285 (October 1997), LR 25:235 (February 1999), LR 25:1620 (September 1999), LR 26:2437 (November 2000), LR 27:1180 (August 2001), LR 29:1063 (July 2003), LR 30:1145 (June 2004), repromulgated LR 30:1614 (August 2004), amended LR 35:207 (February 2009), LR 35:1469 (August 2009), repromulgated LR 35:1872 (September 2009), amended, LR 37:286 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:301 (February 2013), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:1413 (June 2013).

### **§143. Termiticide Foam Applications**

A. Termiticide foam applications may be used as a supplemental treatment to approved liquid applications on treatments for the control, prevention or eradication of termites and other wood destroying insects.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 19:1010 (August 1993), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 37:292 (January 2011).

### **§145. Wood-Destroying Beetles**

A. An active infestation of wood destroying beetles, as described below, shall be found by the pest control operator prior to recommending entering into a contract, applying a treatment, or performing a service to control or eradicate the infestation.

1. Powder Post Beetle (Anobiidae, Bostrichids and Lyctidae)

a. Powder post beetle frass shall be exuding or streaming from the holes on the outside of the wood or live larvae or pupae are found in the wood members.

2. Old House Borer (*Hylotrupes bajulus*)

a. The presence of live larvae or pupae, adult beetles or oblong exit holes with frass in pine or other softwoods will be evidence of active infestation of the old house borer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:332 (April 1985), amended LR 35:1470 (August 2009), LR 37:292 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:302 (February 2013).

### **§147. Fumigation**

A. General

1. This rule governs all fumigation of residential and commercial structures, ships, railcars, trucks, commodity containers and vaults within the state of Louisiana, including ships at anchor in rivers within the borders of Louisiana and ships at anchor within a 3-mile limit off the coast of Louisiana.

2. The licensee shall not only comply with the Structural Pest Control Commission rules and regulations but shall follow all other applicable state and federal rules and regulations.

3. The licensee is responsible for compliance with all label and labeling requirements.

4. The licensee is responsible for giving any notice to law enforcement and/or fire protection agencies required by any governing body of the locality in which the fumigation will take place.

5. The licensee shall make certain that personal protection equipment for the fumigant being used is immediately accessible where the fumigation is being done.

6. The licensee or his certified fumigation technician shall remove all signs, fumigation containers and/or materials, and any other debris which accumulated as a direct result of the fumigation.

B. Requirements for Structural Fumigation

1. The permittee or primary licensee shall give notice, in writing, to be received by the department at least 24 hours prior to structural fumigation. Notice to the department shall include the following items:

- a. time and place where the fumigation will take place;
- b. name, address and emergency phone number of the licensee;
- c. name of the fumigant to be used;
- d. a brief description of the property to be fumigated;
- e. target pest;
- f. location of target pest; and

g. other information the commission requests.

2. When notice cannot be given as required by §147.B.1, notice shall be given by phone but shall be confirmed in writing, to be received by the commission within 24 hours after the telephone notice.

3. A licensed fumigator shall personally inspect all structures that are to be fumigated while they are being tented or sealed after the structure has been evacuated.

4. A licensed fumigator or his certified fumigation technician shall seal or supervise the sealing of the area to be fumigated and assure that there is proper and secure sealing to confine the fumigant to the area that is to be fumigated, prior to the release of the fumigant.

5. A licensed fumigator or his certified fumigation technician shall see that a sign or signs of sufficient size as to be conspicuous and bearing the word "poison" and the skull-and-crossbones symbol, is prominently displayed at all entrances to the area being fumigated continuously from the time the area is sealed until ventilation is completed.

6. When tarp fumigation is being used, in addition to the signs on each entrance of the building, there shall be at least one sign on each side of the exterior tarp. If any side of the building exceeds 35 feet, additional signs will be added. The maximum distance between signs of any side of a building will be 60 feet.

7. Two test lines with at least 1/4 inch outside diameter shall be appropriately located on the first floor of the structure(s) being fumigated to permit sufficient readings of the fumigant concentration to determine its efficacy in destroying insects. They shall be on opposite sides of the building. In multi-story buildings the lines shall be on different floors. A written record of fumigant level readings shall be maintained during progress of job and will become part of job file.

8. A licensed fumigator shall post a guard(s) to prevent entry by an unauthorized person into the area being fumigated. The guard is not required to be a licensed pest control operator or registered employee.

9. Whenever one unit of a complex containing more than one unit is to be fumigated, all units of the building to be fumigated shall be evacuated during fumigation and until such time as the fumigated area is declared safe for occupancy. A licensed fumigator shall inspect all units of a complex.

10. A licensed fumigator or his certified fumigation technician shall be present when the fumigant is released and immediately prior to the time when the fumigated area is declared safe for occupancy. At least one other person, trained in fumigation in addition to the above, ~~must~~ shall be present when the fumigant is released and immediately prior to the time when the fumigation area is declared safe for occupancy.

11. A licensed fumigator or his certified fumigation technician shall personally inspect the area which was fumigated when ventilation is completed to assure that the fumigated area, and adjacent areas as appropriate, is safe for occupancy.

#### C. Requirements for Shipboard Fumigation

1. A licensed fumigator shall be present for the initial application of fumigant.
2. A licensed fumigator is responsible to declare the ship safe for occupancy.

#### D. Requirements for Commodity Fumigation. A licensed fumigator or certified fumigation technician shall:

1. check inside the container along the junctures to be sealed before fumigation;
2. all openings in vehicles being fumigated must be sealed;
3. inside and outside warning signs shall be posted as required by labeling and label requirements;
4. after releasing the fumigant, check for leakage and repair any leaks which occur;
5. the permittee or licensed fumigator licensee shall notify the consignee, in writing, of the fumigant being used, antidotes and the proper procedures for handling any vehicle(s) or commodity container(s) which is shipped under gas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 11:332 (April 1985), amended LR 17:251 (March 1991), LR 37:293 (January 2011).

**§149. Repeal of Prior Rules and Regulations of the Commission**

A. Upon promulgation of these rules and regulations, all rules and regulations of the commission adopted prior to the effective date of these rules and regulations shall be repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:334 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 37:294 (January 2011).

**§151. General Requirements for Pesticide Waste**

A. All permittees, licensees, or registered persons shall implement a containment system for reuse or apply a pesticide waste immediately to a site of application per label and labeling.

B. Handling Spills by Applicators

1. All spills of more than 1 gallon liquid or 4 pounds dry weight shall be reported to the director by the applicator, primary licensee or permittee within 24 hours by telephone and by written notice within 3 days.

2. The permittee is responsible for the cost of cleanups resulting from pesticide spills in their operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 12:285 (May 1986), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 37:294 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:302 (February 2013).

**§153. Handling of Pesticide Containers by Structural Pest Control Operators**

A. Storage Areas for Full or Partially Full Pesticides Containers

1. Pesticide containers shall be stored in a secure enclosure.

2. Pesticide containers shall be free of leaks.

3. The storage area shall be maintained in good condition, without unnecessary debris.

B. Transportation of full or partially full pesticide containers shall be secure and not accessible by the general public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 12:285 (May 1986), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 37:294 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:302 (February 2013).

**§155. Rinsate from Pesticide Containers**

A. Pesticide containers shall be cleaned and disposed of according to the product label.

B. Pesticide containers, ready for disposal, shall be stored in a secured area and shall be kept for no more than 90 days or 180 days if held for recycling.

C. Rinsate from pesticide container cleaning shall be used in the following manner:

1. in subsequent applications of the pesticide; or

2. placed in a rinsate collection system dedicated to that pesticide and used according to the label and labeling and shall be removed from the system in less than 30 days after deposit therein; or

3. disposed in a permitted waste facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:302 (February 2013).

**§157. Containment Structures**

A. Containment structures shall meet all of the following requirements:

1. shall be constructed of steel, reinforced concrete or other rigid material capable of withstanding the full hydrostatic head and load of any substances, equipment and appurtenances placed on the structure;
2. shall be compatible with the pesticides stored within the structure;
3. shall be liquid-tight with cracks, seams and joints sealed;
4. shall not be constructed of natural earthen material, unfired clay and asphalt;
5. shall protect appurtenances and containers against damage from personnel and moving equipment;
6. shall seal appurtenances, discharge outlets or drains through the base or wall of existing containment structures, except direct connections between containment structures;
7. shall not configure appurtenances, discharge outlets or drains through the base or wall of new containment structures, except direct connections between containment structures;
8. shall control stormwater in all containment structures by constructing with sufficient freeboard to contain precipitation and prevent water and other liquids from seeping into or flowing onto them from adjacent land or structures.

B. Containment structures for new and existing secondary containment shall meet the following requirements.

1. Liquid pesticide stationary containers shall be anchored or elevated to prevent flotation.
2. Dry pesticide stationary containers shall:
  - a. be protected from wind and precipitation; and
  - b. be on pallets or raised concrete; and
  - c. have a floor that extends completely beneath the pallets or raised concrete platforms; and
  - d. be enclosed by a curb a minimum of 6 inches high that extends at least 2 feet beyond the perimeter of the container.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 12:285 (May 1986), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 37:294 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:303 (February 2013).

**§159. Containment Pads**

- A. Existing containment pads shall:
  1. intercept leaks and spills; and
  2. have enough surface area to extend under containers on it; and
  3. accommodate at least the portion of the vehicle where the hose or device couples to it, for transport vehicles delivering pesticide; and
  4. allow for removal/recovery of spilled, leaked or discharged material and rainfall; and
  5. have no automatic pumps without overflow cutoffs.
- B. New containment pads to be designed and constructed shall:
  1. intercept leaks and spills; and
  2. have enough surface area to extend under containers on it; and
  3. accommodate at least the portion of the vehicle where the hose or device couples to it, for transport vehicles delivering pesticide; and
  4. allow for removal/recovery of spilled, leaked or discharged material and rainfall; and
  5. have no automatic pumps without overflow cutoffs; and

6. have their surface sloped toward an area where liquids can be collected for removal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:303 (February 2013).

### **§163. Donation of Structural Pest Control Work**

A. Structural pest control operators licensed by the commission may donate, in accordance with this Section, structural pest control work to eligible individuals or organizations who otherwise could not afford such services in order to improve living conditions and their quality of life.

B. The commission, at the request of the Louisiana Pest Control Association or any other state or local not-for-profit association of pest control operators, may approve a plan for the donation of structural pest control work to individuals or organizations that are in need of, but unable to afford such services.

C. Any plan submitted to the commission shall state:

1. the purpose of the plan;
2. the organization(s) or group(s) of persons receiving such services;
3. the nature of the services to be provided;
4. the location(s) at which the services are to be provided;
5. the length of time the program is to run;
6. the licensed pest control operators who are expected to participate;
7. any other information the commission may deem necessary to properly evaluate the plan.

D. Upon approval of any such plan by the commission, the department shall suspend:

1. the fee for termite contracts required under §117.M of this Part; and
2. the requirements of §119 of this Part pertaining to contracts.

E. The rules and regulations suspended by Subsection D above are waived only for the duration of the program and only in connection with structural pest control work performed by participating licensed pest control operators on buildings and structures at the specific locations listed in the approved plan.

F. The month of June is the Louisiana Pest Control Month. All programs for the donation of pest control work shall begin in June and end at the time specified in the plan that is submitted and approved by the Structural Pest Control Commission. The commissioner may, for exceptional circumstances, approve a plan to begin in a month other than June.

G. A copy of the approved plan, showing the list of specific eligible locations and the beginning and ending dates of the program shall be published in the potpourri Section of the *Louisiana Register* at least 30 days prior to the beginning of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 24:1262 (July 1998), amended LR 37:295 (January 2011).

### **§165. Requests for Adoption, Amendment, or Repeal of a Rule**

A. Any interested person may, pursuant to R.S. 49:953(C), request the commission to adopt, amend, or repeal a rule (rule change) that the commission has the authority to make.

B. A request for a rule change shall be in writing and shall contain the following information:

1. a draft of the proposed wording of the requested rule change or a statement detailing the content of the requested rule change;
2. the name, address, telephone number, fax number and e-mail address of the requesting party.

C. The request for a rule change shall be addressed to the commission and shall be mailed or delivered to 5825 Florida Boulevard, Baton Rouge, LA 70806.

D. The commission shall consider the request as follows.

1. A request for rule change shall be considered by the commission within a reasonable time, not to exceed 90 days.

a. Notice of the meeting at which the request is to be considered shall be provided to the person submitting the request.

b. Failure of the requesting party to attend the meeting for purposes of discussing the proposed rule change may be cause for the request to be denied by the commission.

c. The request, with the consent of the requesting party, may be taken under consideration or action deferred pending further information. If the matter is taken under consideration or action is deferred then it will be taken up again at the next regularly scheduled meeting of the commission or at a special meeting.

E. Any decision by the commission shall be in writing and shall state the reasons for the denial or action. Such notice may be delivered by hand, mail, electronically or by any other means reasonably assured to provide notice to the requesting party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and R.S. 49:953(C).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:303 (February 2013).

#### **§167. Procedure for Declaratory Orders and Rulings**

A. This rule provides for the filing and prompt disposition of requests for declaratory orders and rulings as to the applicability of any statutory provision or as to the applicability of any rule or order of the commission, as required by R.S. 49:962 and 49:963(D).

B. A request for a declaratory order or ruling shall be in writing and shall contain the following information:

1. a citation to the specific statutory provision, rule or order that will be the subject of the declaratory order or ruling;

2. a concise statement of why the declaratory order or ruling is being requested;

3. a list of all persons that the requesting party may call to testify and a list of all documents that may be submitted as evidence, if a hearing is called to take evidence;

4. the name, address, telephone number, fax number and e-mail address of the requesting party, either printed or written in legible form.

C. The request for a declaratory order or ruling shall be addressed to the commission and shall be mailed or delivered to 5825 Florida Boulevard, Baton Rouge, LA 70806.

D. The commission shall consider the request as follows.

1. The request shall be considered by the commission within a reasonable time, not to exceed 90 days.

2. Notice of the meeting at which the request is to be considered shall be provided to the person submitting the request.

E. The commission's decision shall be sent to the requesting party either by certified mail, return receipt requested; hand delivery; or commercial courier.

F. Failure of the requesting party, after notice, to attend any hearing or meeting regarding the request may be cause for the request to be denied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366, R.S. 49:962 and R.S. 49:963(D).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:304 (February 2013).